

1986

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

**DISABILITY SERVICES (TRANSITIONAL PROVISIONS
AND CONSEQUENTIAL AMENDMENTS) BILL 1986**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Community
Services, Senator the Hon Don Grimes)

DISABILITY SERVICES (TRANSITIONAL PROVISIONS
AND CONSEQUENTIAL AMENDMENTS) BILL 1986

OUTLINE

The purposes of this Bill are -

- (a) to amend the following Acts to make consequential amendments to the Disability Services Bill 1986:
- . Handicapped Persons Assistance Act 1974;
 - . Social Security Act 1947;
 - . Compensation (Commonwealth Government Employees) Act 1971;
 - . Defence (Re-establishment) Act 1965;
 - . Re-establishment and Employment Act 1945;
 - . Veterans' Entitlements Act 1986; and
 - . Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986; and
- (b) to make transitional arrangements in relation to certain provisions of the Handicapped Persons Assistance Act 1974 and the Social Security Act 1947 repealed by this Bill as a consequence of the Disability Services Bill 1986.

The more important amendments are outlined below.

Handicapped Persons Assistance Act 1974.

The Bill would provide for the repeal of Parts II to VI of this Act from the date of commencement of Part II of the Disability Services Bill.

The repeal of these Parts would prevent the making of any further grants under this Act in relation to capital projects, maintenance or rent of premises, acquisition of equipment, and the provision of recurrent funding in relation to staff.

The Bill would retain the current funding arrangements under this Act in relation to -

- . handicapped children's benefit (paid to an eligible organisation that provides approved residential accommodation for handicapped children);
- . training fees for eligible organisations providing sheltered employment (a one-off payment of \$500 to an organisation for each sheltered employee who successfully moves to open employment); and
- . open employment incentive bonus (a one-off payment of \$500 to a sheltered employee who successfully moves to open employment).

These arrangements will be retained until 30 June 1992, after which no further payments may be made under this Act. This is the date after which no further funding will be payable to prescribed services existing at the date of commencement of the Disability Services Act.

Social Security Act 1947

The Bill would repeal those provisions of Part VIII of this Act made obsolete by Part III of the Disability Services Bill, from the date of commencement of that Bill.

Rehabilitation allowance, paid in relation to certain persons undertaking a rehabilitation program under Part III of the Disability Services Act, would continue to be paid under Part VIII of the Social Security Act 1947.

FINANCIAL IMPACT STATEMENT

This Bill is expected to involve no significant expenditure or savings. The net financial impact is expected to be neutral.

DISABILITY SERVICES (TRANSITIONAL PROVISIONS
AND CONSEQUENTIAL AMENDMENTS) BILL 1986

PART I - PRELIMINARY

Clause 1: Short Title

This clause would provide that the Act could be cited as the Disability Services (Transitional Provisions and Consequential Amendments) Act 1986.

Clause 2: Commencement

This clause provides for the dates on which various provisions of the Bill would come into operation.

Clause 2(1) provides that the Bill (other than Part II and section 15) would come into operation on the day fixed by proclamation for the purposes of sub-section 2(1) of the Disability Services Act 1986.

Clause 2(2) provides that Part II and section 15 would come into operation on the day fixed by proclamation for the purposes of sub-section 2(2) of the Disability Services Act 1986.

PART II - AMENDMENTS OF THE HANDICAPPED
PERSONS ASSISTANCE ACT 1974

Clause 3: Principal Act

This clause would provide that the Handicapped Persons Assistance Act 1974 would be referred to as the Principal Act in this Part.

Clause 4: Repeal of Sections 3 to 7 (inclusive)

Section 3 of the Principal Act provides definitions of terms used in, and a rule for the interpretation of the Principal Act.

Section 4 to 7 provide for the approval of services in relation to which the Minister can make grants under Parts II to V of the Principal Act and payments under Part VI of the Principal Act.

With the repeal of Parts II to VI, these sections are no longer necessary and can also be repealed.

This clause would repeal sections 3 to 7 of the Principal Act.

Clause 5: Repeal of Parts II to VI (inclusive)

Part II of the Principal Act enables the Minister to make capital grants for approved projects.

Part III of the Principal Act enables the Minister to make grants for the maintenance of prescribed premises.

Part IV of the Principal Act enables the Minister to make grants for the rent of approved premises.

Part V of the Principal Act enables the Minister to make grants for the acquisition of approved equipment.

Part VI of the Principal Act enables the Minister to provide recurrent funding to organisations for staffing costs.

These Parts of the Principal Act would become obsolete with the commencement of Part II of the Disability Services Act 1986.

This clause would repeal Parts II to VI (inclusive) of the Principal Act.

Clause 6: Interpretation

This clause would amend section 22 of the Principal Act which provides definitions of terms used in Part VII of that Act by inserting the definitions of "approved residential accommodation" and "eligible organisation". Both these definitions are to have the same meaning they had immediately before the commencement of Part II of the Disability Services Act 1986.

Part VII provides for the payment of handicapped children's benefit to eligible organisations providing approved residential accommodation for handicapped children. With the repeal of section 3 of the Principal Act, it is necessary to insert these definitions in section 22. The new definitions will have the effect of restricting payment of benefit to residential accommodation approved before the commencement of Part II of the Disability Services Act 1986.

Clause 7: Repeal of section 27 and substitution of new section

Section 27 of the Principal Act provides a definition of "normal employment" for the purposes of Part VIII of that Act. That Part provides training fees for eligible organisations providing sheltered employment (a one-off payment of \$500 to an organisation for each sheltered employee who successfully moves to employment).

This clause would repeal section 27 and insert a new section which retains the definition of "normal employment" and inserts new definitions of "eligible organisation" and "sheltered employment" as a consequence of the repeal of section 3 of the Principal Act. The new definition would have the effect of confining the payment of training fees to sheltered employment approved before the commencement of Part II of the Disability Services Act 1986.

Clause 8: Repeal of section 29A and substitution
of new section

Section 29A of the Principal Act provides a definition of "normal employment" for the purposes of Part VIIIA.

That Part provides for the payment of open employment incentive bonus (a one-off payment of \$500 to a sheltered employee who successfully moves to normal employment).

With the repeal of section 3 of the Principal Act, it is necessary to provide definitions of "eligible organisation" and "sheltered employment".

This clause would repeal section 29A and substitute a new section which would provide that the terms "eligible organisation", "normal employment" and "sheltered employment" would have the same respective meanings as they have in Part VIII.

Clause 9: Repeal of sections 30 to 32 (inclusive)
and substitution of new section

Section 30 of the Principal Act provides a definition of "grant" for the purposes of Part IX of the Principal Act.

Section 31 of the Principal Act enables grants to be made upon terms and conditions.

Section 31A of the Principal Act enables the Minister to enter into agreements with transferees of land or buildings.

Section 32 of the Principal Act enables grants to be made at such time or by such instalments as are agreed between the Minister and the eligible organisation.

Clause 9(1) would repeal sections 30 to 32 as they become unnecessary with the repeal of Parts II to VI, and substitute a new section 30.

New section 30 would prevent any further payments under the Principal Act after 30 June 1992.

Clauses 9(2) to (5) are savings and transitional provisions. Under sub-section 31(2) of the Principal Act, the Minister may require an eligible organisation to enter into an agreement before making a grant to the organisation.

Clause 9(2) is a savings provision which would preserve agreements entered into under sub-section 31(2) as if the Principal Act continued in force.

Sub-section 31(4) of the Principal Act provides that where a grant under sub-section 31(1) has been made on terms and conditions, the Minister may, with the agreement of the organisation, vary those terms and conditions, and any agreement under sub-section 31(2) is to be taken to be varied accordingly.

Clause 9(3) would preserve the operation of sub-section 31(4) in relation to grants made under the Principal Act, and agreements entered into under sub-section 31(2) as if section 31 were not repealed by clause 9(1).

Sub-sections 31A(1) and (2) of the Principal Act provide a mechanism for entering into agreements with transferees of land and buildings in relation to which a capital grant was made under the Act.

Clause 9(4) is a savings provision which would preserve the operation of any such agreements.

Clause 9(5) would preserve the operation of section 31A of the Principal Act in relation to capital grants under section 10 and any agreements entered into with transferees under sub-section 31A(2).

Clause 10: Repeal of Part X

Part X of the Principal Act provides for the repeal of and savings provisions in relation to earlier Acts or parts of earlier Acts superceded by the Principal Act. These provisions are no longer necessary.

This clause would repeal Part X of the Principal Act.

PART III - AMENDMENTS OF THE SOCIAL SECURITY ACT 1947

Clause 11: Principal Act

This clause would provide that the Social Security Act 1947 would be referred to as the Principal Act in this Part.

Clause 12: Interpretation

Section 6 of the Principal Act provides definitions of terms used in, and rules for the interpretation of, the Principal Act.

This clause would make 2 changes to the definition of "income" and substitute a new definition of "Secretary" in sub-section 6(1).

Clause 12(a) would omit the reference to the value of any treatment, training or goods provided under the Principal Act in paragraph (a) of the definition of "income". With the commencement of the Disability Services Act 1986, these matters would be provided under a rehabilitation program under Part III of that Act.

Clause 12(b) would insert a new paragraph (da) in the definition of "income" to cover a payment under Part III of the Disability Services Act 1986 (ie training allowance and living-away-from-home allowance) or the value of any rehabilitation program provided under that Part.

Clause 12(c) would omit the current definition of "Secretary" in sub-section 6(1) and substitute a new definition. The new definition is considerably simplified as the changes to Part VIII of the Principal Act will remove the need for the Principal Act to be administered partly by the Minister for Community Services.

Clause 13: Certain persons to be disregarded for certain purposes

This clause would omit the reference to section 135D in paragraph 6A(3)(b) of the Principal Act as a consequence of the repeal of section 135D by clause 23.

Clause 14: Secrecy

This clause would amend the secrecy provision in section 17 of the Principal Act.

Clause 14(a) would amend sub-section 17(2) of the Principal Act to enable information to be disclosed for the purposes of the administration of the Disability Service Act 1986. This would enable the Department of Social Security to inform the Department of Community Services that a person undergoing a rehabilitation program is receiving a rehabilitation allowance.

Clause 14(b) would make an amendment to sub-section 17(3) consequential to the amendment in clause 14(a).

Clause 15: Incentive allowance

Section 26 of the Principal Act provides the eligibility criteria for payment of an incentive allowance. Under paragraph 26(1)(b), one of the eligibility criteria is that a person be undertaking training at an activity therapy centre or an adult training centre.

The concepts of activity therapy and adult training do not appear in the Disability Services Bill, but are replaced by independent living training services. However, activity therapy centres and adult training centres may continue to receive funding as prescribed services under clause 13 of that Bill for a maximum period of 5 years. This clause would amend section 26 to ensure that persons receiving training at the new independent living training centres as well as existing activity therapy centres and adult training centres are eligible to receive incentive allowances.

Clause 15(a) would amend paragraph 26(1)(b) to enable a person undertaking independent living training to receive an incentive allowance.

Clause 15(b) would omit the definition of "activity therapy centre" and "adult training centre" under sub-section 26(2) and substitute new definitions of these terms, as well as new definitions of "approved activity therapy", "approved training" and "independent living training".

Clause 16: Persons eligible to receive allowance

This clause would omit the reference to section 135D in sub-paragraph 85(1)(a)(i) as a consequence of the repeal of section 135D by clause 23.

Clause 17: Eligibility for mobility allowance

This clause would omit the reference to training provided under Part VIII of the Principal Act in sub-sub-paragraph 133RB(1)(b)(i)(B) of the Principal Act and substitute a reference to training provided as part of a rehabilitation program or follow-up program under Part III of the Disability Services Bill. This amendment is consequential to the changes to Part VIII.

Clause 18: Heading to Part VIII

This clause would omit the heading to Part VIII of the Principal Act and substitute a new heading.

Clause 19: Interpretation

Section 134 of the Principal Act provides definitions of terms used in Part VIII of that Act.

With the repeal of a substantial part of Part VIII by clauses 20, 23 and 24, a number of the definitions become unnecessary.

This clause would omit the definitions of "trainee", "training", "training allowance", "treatment", "vocation" and "vocational training".

Clause 20: Repeal of sections 135 and 135A

Sections 135 and 135A of the Principal Act provide for the provision of treatment and training and the eligibility criteria for such treatment and training.

With the provision of rehabilitation services by the Commonwealth under Part III of the Disability Services Bill, those provisions in Part VIII of the Principal Act which relate to the Commonwealth Rehabilitation Service can be repealed.

Clause 20(1) would repeal sections 135 and 135A of the Principal Act.

Clause 20(2) is a transitional provision which would provide that where a person was receiving or eligible to receive treatment or training under Part VIII of the Principal Act otherwise than under sub-section 135Q(5) of the Principal Act, the provision of a rehabilitation program under the Disability Services Act 1986 consisting of the remaining part of the treatment or training shall be deemed to be validly approved for the person.

Sub-section 135Q(5) of the Principal Act enables the Secretary to provide additional treatment after treatment and training under the Principal Act has been discontinued.

Clause 20(3) is a transitional provision which would provide that where a person was receiving treatment under Part VIII of the Principal Act in the form of additional treatment under sub-section 135Q(5), the provision of a follow-up program under the Disability Services Act 1986 consisting of the remaining part of the treatment shall be deemed to be validly approved.

Clause 21: Repeal of section 135B and substitution of new section

Section 135B of the Principal Act provides the eligibility criteria for the payment of a rehabilitation allowance. One of the criteria is eligibility to receive treatment or training.

With the replacement of the provision of treatment and training under Part VIII of the Principal Act by the provision of rehabilitation programs under the Disability Services Act 1986, it is necessary to recast section 135B.

This clause would repeal section 135B of the Principal Act and substitute a new section 135B.

Clause 22: Rate of rehabilitation allowance

This clause would omit unnecessary words from sub-paragraphs 135BA(1)(b)(i) and (ii) of the Principal Act.

Clause 23: Repeal of sections 135C to 135L (inclusive)

This clause would repeal sections 135C to 135L (inclusive) of the Principal Act, which are made unnecessary by the provisions of Part III of the Disability Services Bill.

Clause 24: Repeal of sections 135Q, 135R and 135S

Clause 24(1) would repeal sections 135Q, 135R and 135S of the Principal Act, which are made unnecessary by the provisions of Part III of the Disability Services Bill.

Clause 23 of the Disability Services Bill provides for the recovery of costs of rehabilitation programs where the client is entitled to receive compensation or damages. Clause 24(1) would repeal the current cost recovery provision (section 135R).

Clause 24(2) is a transitional provision included to enable the recovery of the cost of treatment or training provided under Part VIII of the Principal Act under clause 23 of the Disability Services Bill.

Clause 24(3) would make provision for certain matters to aid the application of clause 24(2).

Under section 135S, the Secretary may enter into certain arrangements. Clause 24(1) would repeal section 135S and the provision would be replaced by clause 25 of the Disability Services Bill.

Clause 24(4) would provide that any arrangement in force under section 135S of the Principal Act has effect after the commencement of the Disability Services Act 1986 as if it had been made under section 25 of that Act.

Clause 25: Payment and calculation of instalments
of certain pensions, &c.

This clause would omit the reference to sub-section 135D from sub-section 135TBA(11) of the Principal Act, consequent to the repeal of section 135D of the Principal Act by clause 23.

Clause 26: Power to obtain information, &c

This clause would omit the reference to section 135R of the Principal Act in sub-section 135TF(1) of the Principal Act consequent to the repeal of section 135R by clause 24.

Clause 27: Cancellation, suspension or variation of pension, &c.

This clause would omit the reference to section 135D in paragraph 135TJ(1A)(a) of the Principal Act consequent to the repeal of section 135D by clause 23.

Clause 28: Appropriation

This clause would omit references to several provisions from section 136 of the Principal Act consequent to the repeal of those provisions by clauses 20 and 23.

**PART IV - AMENDMENTS OF THE COMPENSATION
(COMMONWEALTH GOVERNMENT EMPLOYEES) ACT 1971**

Clause 29: Principal Act

This clause would provide that the Compensation (Commonwealth Government Employees) Act 1971 would be referred to as the Principal Act in this Part.

Clause 30: Interpretation

Section 5 of the Principal Act provides definitions of terms used in, and rules for the interpretation of the Principal Act.

This clause would make minor amendments to the definition of "medical treatment" in sub-section 5(1) of the Principal Act, to include medical treatment provided as part of a rehabilitation program or follow up program under Part III of the Disability Services Act 1986 within that definition.

Clause 31: Provision of rehabilitation programs

Clause 31(a) would amend sub-section 38(1) of the Principal Act to substitute a reference to a rehabilitation program under Part III of the Disability Services Act 1986 for the current reference to vocational training in accordance with Part VIII of the Social Security Act 1947.

Clause 31(b) would omit sub-sections 38(2) and (3) of the Principal Act and substitute a new sub-section 38(2). The new sub-section would correspond to the current sub-section 38(3), but would refer to a rehabilitation program under Part III of the Disability Services Act 1986 and a payment under section 24 of that Act.

**PART V - AMENDMENTS OF THE DEFENCE (RE-ESTABLISHMENT)
ACT 1965**

Clause 32: Principal Act

This clause would provide that the Defence (Re-establishment) Act 1965 would be referred to as the Principal Act in this Part.

Clause 33: Interpretation

This clause would insert a new definition in section 46A of the Principal Act for ease of reference to the Disability Services Act 1986.

Clause 34: Application of Part III of Disability
Services Act 1986

This clause would omit sub-section 47(1) of the Principal Act and substitute a new sub-section which would extend the operation of Part III of the Disability Services Act 1986 to certain persons under the Principal Act.

Clause 35: Payments during rehabilitation programs

This clause would make the following minor amendments to section 48 of the Principal Act: _

- (a) the reference in sub-section (1) to Part VIII of the Social Security Act 1947 will be changed to Part III of the Disability Services Act;
- (b) omitting an unnecessary reference to "supplementary assistance" in sub-section (2);
- (c) omitting a second unnecessary reference to "supplementary assistance" in sub-section (2);
- (d) changing a reference in sub-section (3) to the appropriate reference under the Disability Services Act;
- (e) changing a reference in paragraph (3)(a) consequent upon the repeal of section 135D of the Social Security Act 1947;
- (f) changing a reference in paragraph (3)(b) consequent upon the repeal of section 135D of the Social Security Act 1947;

- (g) also changing a reference in paragraph (3)(b) consequent upon the repeal of section 135D of the Social Security Act 1947;
- (h) omitting an unnecessary reference to "supplementary assistance" in sub-section (4); and
- (j) omitting a second unnecessary reference to "supplementary assistance" in sub-section (4).

Clause 36: Interpretation

This clause would insert a new definition in section 49A of the Principal Act for ease of reference to the Disability Services Act 1986.

Clause 37: Repeal of section 49B and substitution of new section

This clause would repeal section 49B of the Principal Act and substitute a new section 49B which would refer to Part III of the Disability Services Act.

Clause 38: Payments during rehabilitation programs

This clause would make the following minor amendments to section 49C of the Principal Act:-

- (a) the reference in sub-section (1) to Part VIII of the Social Security Act 1947 will be changed to Part III of the Disability Services Act;
- (b) omitting an unnecessary reference to "supplementary assistance" in sub-section (2);

- (c) omitting a second unnecessary reference to "supplementary assistance" in sub-section (2);
- (d) changing a reference in sub-section (3) to the appropriate reference under the Disability Services Bill;
- (e) changing a reference in paragraph (3)(a) consequent upon the repeal of section 135D of the Social Security 1947;
- (f) changing a reference in paragraph (3)(b) consequent upon the repeal of section 135D of the Social Security Act 1947;
- (g) also changing a reference in paragraph (3)(b) consequent upon the repeal of section 135D of the Social Security Act 1947;
- (h) omitting an unnecessary reference to "supplementary assistance" in sub-section (5); and
- (j) omitting a second unnecessary reference to "supplementary assistance" in sub-section (5).

**PART VI - AMENDMENTS OF THE RE-ESTABLISHMENT AND
EMPLOYMENT ACT 1945**

Clause 39: Principal Act

This clause would provide that the Re-establishment and Employment Act 1945 would be referred to as the Principal Act in this Part.

Clause 40: Extension of Part III of the Disability Services Act to certain members of the Forces

This clause would omit sub-sections 150(1) and (2) of the Principal Act and substitute a new sub-section 150(1) which would extend the operation of Part III of the Disability Services Act 1986 to certain persons under the Principal Act.

Clause 41: Rehabilitation allowance during rehabilitation programs

This clause would make the following amendments to section 151 of the Principal Act -

- (a) changing a reference from "receiving treatment under Part VIII of the Social Security Act 1947" to "undertaking a rehabilitation program under Part III of the Disability Services Act 1986"; and
- (b) inserting a reference.

PART VII - AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986

Clause 42: Principal Act

This clause would provide that the Veterans' Entitlements Act 1986 would be referred to as the Principal Act in this Part.

Clause 43: Interpretation

This clause would make minor amendments to sub-section 35(1) of the Principal Act in the definition of "income".

Section 35 of the Principal Act provides definitions of terms used in, and rules for the interpretation of, Part III of the Principal Act.

This clause would make 2 changes to the definition of "income" in sub-section 35(1).

Clause 43(a) would omit the reference to the value of any treatment, training or goods provided under the Social Security Act 1947 in paragraph (a) of the definition of "income". With the commencement of the Disability Services Act 1986, these matters would be provided under a rehabilitation program under Part III of that Act.

Clause 12(b) would insert a new paragraph (da) in the definition of "income" to cover a payment under Part III of the Disability Services Act 1986 (ie training allowance and living-away-from-home allowance) or the value of any rehabilitation program provided under that Part.

Clause 44: Special temporary allowance

This clause would omit the reference to sub-section 135B(3) of the Social Security Act 1947 from the definition of "pensioner" in sub-section 65(1) of the Principal Act and substitute the correct reference. This amendment is consequent to the recasting of section 135B by clause 21.

PART VIII - AMENDMENTS OF THE VETERANS'
ENTITLEMENTS (TRANSITIONAL PROVISIONS AND
AND CONSEQUENTIAL AMENDMENTS) ACT 1986

Clause 45: Principal Act

This clause would provide that the Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986 would be referred to as the Principal Act in this Part.

Clause 46: Child of a person

This clause would make minor amendments to section 23 of the Principal Act consequent upon the recasting of section 135B of the Social Security Act 1947 by clause 21.







