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Disability Services Amendment (Improved Quality Assurance) Bill 2002

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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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No. 90 2001-02

Disability Services Amendment (Improved Quality Assurance) Bill 2002

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12 March 2002

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Disability Services Amendment (Improved Quality Assurance) Bill 2002

Date Introduced: 13 February 2002

House: Senate

Portfolio: Family and Community Services

Commencement: On Royal Assent apart from Schedule 1, items 2 to 52, which commence on 1 July 2002

Purpose

This Bill amends the *Disability Services Act 1986* in order to establish a new quality assurance system in relation to specialist disability employment services¹ and rehabilitation programs.²

Background

The 2001 Bill

The Bill is substantially the same as the *Disability Services Amendment (Improved Quality Assurance) Bill 2001*, which was discussed in detail in Bills Digest No. 54 of 2001-02 (<http://www.aph.gov.au/library/pubs/bd/2001-02/02bd054.htm>).

In sum, the 2001 Bill represented the Government's response to the 1997 recommendations of the Disability Quality and Standards Working Party,³ which was set up pursuant to the announced intention of the Government in its 1996/7 Budget to reform the quality assurance process for disability employment assistance services.⁴

The funding of those services is provided under the *Disability Services Act 1986*, section 14K of which requires the monitoring of service quality against the Disability Services Standards. Those standards, which were introduced in 1993 by the then Labor Government, set out eleven areas of service quality that consumers are entitled to expect, in relation to: service access; individual needs; decision making and choice; privacy, dignity and confidentiality; participation and integration; valued status; complaints and disputes; service management; employment conditions; employment support; and employment skills development. To date, compliance with these standards has been

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monitored by a combination of annual self-assessment by the service provider and an audit of the service provider by the Department of Family and Community Services (FaCS). Widespread concern that this regime has not ensured service provision of adequate quality, as measured against the Disability Services Standards, provided the impetus for the legislative reform proposed in the 2001 Bill.

The core of that proposed reform⁵ was the introduction of a system of accreditation and certification for service providers, involving audit teams whose competence and impartiality would be monitored by the Joint Accreditation System of Australia and New Zealand (JAS-NAZ).⁶ Each audit team would include a person with a disability. The audit teams would assess disability employment services for accreditation against new standards (based on the existing Disability Services Standards) and 30 associated Key Performance Indicators (KPIs). After a transition period ending in December 2004, service providers unable to satisfy the accreditation process would lose government funding.

The 2001 Bill lapsed at the time Parliament was prorogued prior to the recent Federal election.

The Senate Community Affairs Legislation Committee

The Senate Community Affairs Legislation Committee received twenty written submissions on the 2001 Bill and took verbal evidence at a hearing in September 2001. At that hearing, evidence was given by representatives of ACROD Ltd (the peak body for disability service providers in Australia) and the National Caucus of Disability Consumer Associations (NCDCA; the key consumer representative body in this area), as well as officers of FaCS.

Issues raised at the hearing included the following:

- The likely impact of the Government's proposed reforms on the provision of services to people with disabilities.

ACROD expressed support for the 2001 Bill in this respect. Its CEO stated his belief that 'it will make a very significant contribution to improving the quality of employment services provided to people with disabilities and will improve the consistency of those services across the country.'⁷ He also stated that: 'It may be that after that three-year period there are some that cannot reach the required standards. The bottom line as far as ACROD is concerned is not the survival of any one organisation but the survival of a service to people with disabilities. So there may be a reconfiguration of some organisations.'⁸ He was also of the opinion that services in more isolated rural areas might be more vulnerable in this respect than others.

NCDCA expressed support for the framework of reform proposed in the 2001 Bill, namely, the framework of accreditation, certification, standards, KPIs, external auditors, and the inclusion of an auditor who has a disability. Its representative questioned,

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however, whether that framework necessarily would produce better outcomes unless appropriate rules of compliance were in place.

FaCS emphasised that the three-year implementation period proposed in the 2001 Bill would be sufficient to allow service providers to put in place necessary changes to enable them to meet the quality levels required in the new accreditation system. FaCS also emphasised that the quality assurance system proposed in the 2001 Bill is 'an integral plank in a broader reform agenda for the disability employment system,' the other components of which will include 'establishing an independent eligibility assessment and referral process; trialing the linking of funding to individual needs and outcomes; and contestability for rehab[ilitation].'⁹

- The role of people with disabilities in the industrial relations system.

The payment of award-based (rather than award) wages, the mooted implementation of the supported wage system, and the special difficulties faced by disabled people in negotiating and understanding workplace agreements were discussed - including in relation to proposed standards 5 and 9 and accompanying KPIs. ACROD, NCDCA and FaCS expressed widely different views on these matters.

- The Government's consultative process in relation to the 2001 Bill.

FaCS described the development of the system proposed in the 2001 Bill as 'a highly consultative process, with consumer and industry representatives involved throughout.'¹⁰ NCDCA raised some concerns about that process.

- The mechanism in the 2001 Bill for approval of KPIs.

The 2001 Bill provided for the standards, but not the KPIs, to be disallowable instruments. Discussion of this issue indicated some concern about the implications of this, including in relation to the development of KPIs for standards 5 and 9. NCDCA was strongly of the view that the Bill should be amended so that the KPIs become disallowable instruments.

The 2002 Bill

As noted earlier, the new Bill is substantially the same as the 2001 Bill.

The 2002 Bill does include some minor changes. The main effect of these changes is that the KPIs will be disallowable instruments.

Main Provisions

Bills Digest No. 54 of 2001-02 explains the relevant provisions.

The provisions of the 2002 Bill are in the main identical to those in the 2001 Bill, except that they are numbered slightly differently due to the insertion of some new items.

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Substantive differences between the 2001 Bill and 2002 Bill include:

- New **Item 1 in Schedule 1** introduces a new definition of 'officer' into the *Disability Services Act 1986*, for limited purposes relating to the delegation of the Minister's powers under the Act. Currently 'officer' is defined as an officer of the Department of FaCS. The new definition includes APS employees in CRS Australia. The Explanatory Memorandum to the 2002 Bill says this change '[gives] effect to a recent government decision to move the administration of CRS Australia to the Department of Health and Ageing. As a result of this amendment, the powers under Part III relating to the provision of rehabilitation services can also be delegated to APS employees in CRS Australia employed by another department.'
- New **Item 47 in Schedule 1**, which inserts new **paragraph 31(1)(ab)**, has the effect of making KPIs approved by the Minister disallowable instruments.
- New **Item 51 in Schedule 1** amends subsection 34(1) of the *Disability Services Act 1986* to prevent delegation by the Secretary of the power to approve an accrediting authority.

Endnotes

- 1 The *Explanatory Memorandum* states that employment services of this kind are mainly provided by charitable, non-profit agencies that are contracted by the Department of Family and Community Services (FaCS). FaCS currently funds 435 organisations to provide more than 870 specialist employment services, which are used by 49, 285 people with disabilities. \$279 million was allocated to these programs in 2000-1.
- 2 The *Explanatory Memorandum* states that FaCS provides vocational rehabilitation through 160 Commonwealth Rehabilitation Service Australia outlets at an annual cost of \$101.9 million (2000-1).
- 3 The Working Party's report, *Assuring Quality*, was delivered in April 1997.
- 4 The Hon. Judi Moylan, 'Increase benefits for people with a disability,' *Press Release*, 20 August 1996.
- 5 See further Bills Digest No 54 of 2001-02, pp. 2-4.
- 6 JAS-ANZ is a government entity, a not-for-profit, self-funding organisation, established under Treaty between Australia and New Zealand in 1991. It is the peak accreditation body for the certification of various systems, products and sector-specific schemes.
- 7 Transcript of the Senate Community Affairs Legislation Committee, 25 September 2001, p. 1.
- 8 *Ibid*, p. 2.
- 9 *Ibid*, p. 11.
- 10 *Ibid*, p. 11.

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