Home and Community Care Act 1985

No. 184 of 1985

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About this compilation

This compilation

This is a compilation of the *Home and Community Care Act 1985* that shows the text of the law as amended and in force on 1 November 2025 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to financial assistance to the States and to the Northern Territory in connection with the provision of home and community care services

1 Short title

This Act may be cited as the *Home and Community Care Act 1985*.

2 Commencement

This Act shall come into operation, or shall be deemed to have come into operation, on the day on which the *Home and Community Care (Miscellaneous Amendments) Act 1985* receives or received the Royal Assent.

3 Grants for home and community care services

(1) Where an agreement has, whether before or after the commencement of this Act, been entered into between the Commonwealth and a State, being an agreement that is substantially in accordance with the form set out in the Schedule, the Minister may, by writing, authorise payments (including advances) to be made to that State, by way of financial assistance to that State, in accordance with that agreement.

(2) A reference in subsection (1) to an agreement that has been entered into between the Commonwealth and a State includes a reference to that agreement as varied, in accordance with the provisions of that agreement, by a further agreement a copy of which has been laid before each House of the Parliament as required by the first-mentioned agreement.

(3) An amount repayable by a State to the Commonwealth in accordance with a provision of an agreement referred to in subsection (1) is a debt due by the State to the Commonwealth.

(4) In this section, ***State*** includes the Australian Capital Territory and the Northern Territory.

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4 Appropriation

Payments (including advances) under this Act shall be made out of money appropriated from time to time by the Parliament for the purpose.

5 Delegation

(1) The Minister may, by writing, either generally or as otherwise provided by the instrument of delegation, delegate to any officer of the Department or to a person performing the duties of an office in the Department all or any of the Minister's powers under this Act, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegation of a power under this section does not prevent the exercise of the power by the Minister.

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Schedule

Subsection 3(1)

AN AGREEMENT made the day of
One thousand nine hundred and eighty-five between—

the COMMONWEALTH OF AUSTRALIA
(in this Agreement called "the Commonwealth")
of the one part, and

the STATE OF
(in this Agreement called "the State")
of the other part.

WHEREAS—

(A) for many years, the States, local governments and community organisations have been providing and funding a range of home and community care services;

(B) the Commonwealth has been providing financial assistance and subsidies in respect of the provision of certain home and community care services pursuant to—

the Home Nursing Subsidy Act 1956,

the States Grants (Paramedical Services) Act 1969,

the States Grants (Home Care) Act 1969, and

the Delivered Meals Subsidy Act 1970

of the Commonwealth Parliament;

(C) the Commonwealth and the State wish—

(i) to develop a comprehensive range of integrated home and community care services for frail or at risk aged persons and younger disabled persons in order to facilitate the maintenance of those persons in their own homes; and

(ii) to provide moneys, on a co-ordinated basis, to assist in the provision of those services,

NOW IT IS HEREBY AGREED as follows:

PART I—OPERATION OF AGREEMENT

1. This agreement shall be deemed to have come into force on 1 July 1985 and shall continue in force until terminated in accordance with clause 31.

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2. Acts or things consistent with the provisions of this agreement which have been done by or on behalf of a party in anticipation of its coming into force shall be regarded as having been done under this agreement and in accordance with its provisions.

PART II—INTERPRETATION

3. (1) In this agreement—

"Commonwealth Minister" means the Minister of State of the Commonwealth for the time being responsible for the administration of this agreement for the Commonwealth; and

"State Minister" means the Minister of State of the State for the time being responsible for the administration of this agreement for the State, or when there is more than one such Minister, means the Minister having for the time being responsibility for the matter or class of matters in respect of which the relevant provision or provisions of this agreement is or are being applied.

(2) A reference in this agreement to a Minister includes a Commonwealth Minister or other member of the Federal Executive Council or Minister of the State, as the case may require, for the time being acting for or on behalf of the Minister referred to.

4. (1) In this agreement, unless the contrary intention appears—

"approved project" means a project that is eligible for funding in accordance with clause 8;

"base year" means the financial year that began on 1 July 1984;

"Commonwealth base" means the unadjusted amount referred to in paragraph 13(1)(a);

"community organisation" means—

(a) an organisation (other than an organisation conducted or controlled by, or by persons appointed by, the Government of the Commonwealth or of the State) that is carried on otherwise than for the purpose of profit or gain to its individual members and is—

(i) a religious organisation;

(ii) an organisation the principal objects or purposes of which are charitable or benevolent; or

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(iii) any other organisation agreed upon by the Commonwealth Minister and the State Minister for the purpose of this subparagraph;

(b) the trustee or trustees for the time being under a trust established by an organisation referred to in paragraph (a) or by a local government;

(c) a corporation established by an organisation referred to in paragraph (a) or by a local government;

(d) the trustee or trustees for the time being under a trust established for charitable or benevolent purposes agreed upon by the Commonwealth Minister and the State Minister for the purpose of this paragraph; or

(e) such other organisation as is agreed upon by the Commonwealth Minister and the State Minister;

"financial assistance" means financial assistance provided pursuant to this agreement;

"financial year" means a period of 12 calendar months beginning on 1 July;

"first grant year" means the financial year commencing on 1 July 1985;

"former Commonwealth-funded project" means a project that, immediately prior to this agreement being signed, was approved for funding under an Act referred to in recital (B);

"grant year" means—

(a) the first grant year;

(b) the second grant year;

(c) the third grant year; or

(d) the financial year commencing on 1 July 1988 or any subsequent financial year while this agreement remains in force;

"guidelines" means (other than in clause 10 and subclauses 11(2) and (3)) guidelines referred to in clauses 10 and 11;

"joint body" means any two or more of the following acting jointly—

(a) the State;

(b) a local government; and

(c) a community organisation;

"local government" means a local governing body established by or under a law of the State;

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"long term residential care" includes long term care provided in a hospital or other institution, or in an approved residential care home (within the meaning of the *Aged Care Act 2024*);

"program" means the Home and Community Care Program established pursuant to clause 5;

"second grant year" means the financial year commencing on 1 July 1986;

"State base" means the unadjusted amount referred to in paragraph 14(a);

"target population" means the persons referred to in paragraph 6(a); and

"third grant year" means the financial year commencing on 1 July 1987.

(2) In this agreement, unless a contrary intention appears—

(a) a reference (other than in this paragraph) to this agreement or to a part or provision of this agreement includes, where the agreement is varied, a reference to this agreement or that part or provision as varied;

(b) a reference to a clause is to the relevant clause of this agreement;

(c) a reference to a subclause is to the relevant subclause of the clause in which the reference appears;

(d) a reference to a paragraph, if no clause is specified, is to the relevant paragraph of the clause in which the reference appears, and a reference to a subparagraph, if no paragraph is specified, is to the relevant subparagraph of the paragraph in which the reference appears;

(e) words in the singular include the plural and words in the plural include the singular; and

(f) words importing a gender include every other gender.

PART III—THE PROGRAM AND THE OBJECTIVE

5. (1) The Commonwealth and the State shall jointly establish a Home and Community Care Program which shall be administered in accordance with the provisions of this agreement and within available resources and which shall have the following principles and goals—

(a) to promote the provision of a comprehensive and integrated range of home and community care designed to provide basic maintenance and support services, both directly and through their carers, to persons within the target population and thereby to assist them to enhance their independence in the community and avoid their premature or inappropriate admission to long term residential care;

(b) to expand and develop home and community care services through the joint co-operation of the Commonwealth, the State, local governments

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and community organisations representing both service providers and users under a single cost-shared arrangement;

(c) to ensure access to home and community care among all groups within the target population, including migrants, aboriginals, persons suffering from brain failure and financially disadvantaged persons;

(d) to ensure that, within available resources, priority is directed to persons within the target population most in need of home and community care;

(e) to provide for persons within the target population an effective and integrated means of assessment of the need for and referral to home and community care services;

(f) to ensure that, within available resources, home and community care services are provided equitably between regions and are responsive to regional differences;

(g) to ensure that home and community care services are delivered in a manner that is cost-effective, achieves integration, promotes independence and avoids duplication;

(h) to enable the testing and evaluation of new and differing approaches to planning, co-ordination and service delivery;

(i) to enable regular and systematic client focussed monitoring of the effectiveness and efficiency of the program and the assessment of priorities;

(j) to promote an integrated and co-ordinated approach between the delivery of home and community care and related health and welfare programs, including programs providing residential or institutional care;

(k) to facilitate the involvement of community organisations representing both service providers and users in the provision of advice to the Commonwealth Minister and the State Minister on needs and priorities under the program;

(l) to develop a home and community care information system suitable for agency use that will facilitate planning and evaluation of the program at national, State and regional levels; and

(m) to ensure that effective planning and co-ordination arrangements are established that enable the above principles and goals to be achieved in a co-operative manner.

(2) The objective of this agreement is the provision of moneys by the Commonwealth and the State—

(a) to assist the State, local governments and community organisations to develop, through the rationalisation and expansion of existing services

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and the development of new services, a comprehensive range of integrated home and community care for persons within the target population where possible and appropriate; and

(b) to facilitate the maintenance of those persons in their own homes, and avoid their premature or inappropriate admission to long term residential care and thereby improve their quality of life.

6. The program shall be directed towards assisting—

(a) persons living in the community who, in the absence of basic maintenance and support services provided or to be provided within the scope of the program, are at risk of premature or inappropriate long term residential care, including—

(i) frail or at-risk aged persons, being elderly persons with moderate or severe disabilities;

(ii) younger disabled persons, being persons with moderate or severe disabilities; and

(iii) such other classes of persons as are agreed upon by the Commonwealth Minister and the State Minister; and

(b) the carers of those persons.

7. (1) Subject to subclauses (3) and (4), a service is within the scope of the program if it provides or will provide basic maintenance and support to persons within the target population, being a service that provides or will provide one or more of the following—

(a) home help or personal care (or both);

(b) home maintenance or modification (or both);

(c) food;

(d) community respite care;

(e) transport;

(f) a community paramedical service;

(g) community nursing;

(h) assessment or referral (or both);

(i) education or training for service providers and users (or both);

(j) information;

(k) co-ordination; or

(l) such other service as is agreed upon by the Commonwealth Minister and the State Minister.

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(2) A capital facility is within the scope of the program if it is used or to be used for or in connection with the provision of any service within the scope of the program pursuant to subclause (1).

(3) A service of the following kind shall be outside the scope of the program—

(a) the provision of accommodation (including rehousing and supported accommodation) or a related support service; or

(b) the provision of an aid or appliance.

(4) A service of the following kind shall be within the scope of the program but only to the extent and for the period that it is eligible for funding by virtue of subclause 8(2)—

(a) a rehabilitative service directed primarily towards increasing a person's level of functioning;

(b) a service providing direct treatment for acute illness (including a convalescent or post-acute care service);

(c) a service designed specifically for persons with the same disability other than a service provided to persons within the target population suffering from brain failure;

(d) a service primarily for families in crisis; or

(e) a palliative care service.

PART IV—PROJECTS

8. (1) Subject to subclause (2), a project shall be eligible for funding pursuant to this agreement if it is—

(a) a service or capital facility that is—

(i) within the scope of the program;

(ii) provided or to be provided by or on behalf of the State, a local government, a community organisation or a joint body;

(iii) provided or to be provided to persons within the target population; and

(iv) approved for funding pursuant to clause 9; or

(b) a former Commonwealth-funded project.

(2) A project referred to in subclause 7(4), being a former Commonwealth-funded project, shall be eligible for funding pursuant to this agreement but only—

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(a) to the extent that is necessary in order to maintain the project at the activity level at which it was provided prior to this agreement coming into force; and

(b) while no alternative arrangements for the funding of the project have been made pursuant to subclause (3).

(3) By the end of the third grant year, the Commonwealth Minister and the State Minister shall jointly review the continued funding under this agreement of all projects to which subclause (2) applies and, if they think fit, make alternative arrangements for funding. If no such alternative arrangements are made for their funding, those projects shall continue to be eligible for funding to the extent referred to in subclause (2).

9. (1) The Commonwealth Minister and the State Minister shall jointly from time to time, but at least annually, consider which projects (if any), that are not already approved projects should be approved for funding in accordance with this agreement and, subject to the availability of funds for the purpose, they may jointly approve such projects for the purposes of subparagraph 8(1)(a)(iv) and for such period as is specified in the approval.

(2) The State Minister shall, in consultation with the Commonwealth Minister, review the operation and level of funding of—

(a) approved projects eligible for funding pursuant to paragraph 8(1)(a) during the period for which approval under subclause (1) has been given; and

(b) approved projects eligible for funding pursuant to paragraph 8(1)(b) annually.

(3) The Commonwealth Minister and the State Minister may at any time jointly revoke or vary an approval given under subclause (1), and may at any time jointly agree that an approved project eligible for funding pursuant to paragraph 8(1)(b) is no longer eligible for funding or that the approved project as varied is eligible for funding for the purpose of this agreement.

(4) In taking action under subclause (1), (2) or (3), the Commonwealth Minister and the State Minister respectively shall have regard to—

(a) the objective and the principles and goals set out in clause 5 and any guidelines; and

(b) the views of local governments, community organisations and service users on needs and priorities under the program.

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(5) The Commonwealth Minister and the State Minister shall, unless they otherwise agree, jointly announce action taken pursuant to subclause (1) and may jointly announce action taken by them pursuant to subclauses (2) or (3).

10. The Commonwealth Minister from time to time may, after consultation with the State Minister and, where appropriate, local governments and community organisations and service users, give national program guidelines by notice published in the Commonwealth Gazette including guidelines relating to the scope and setting standards and the level of provision of services within the scope of the program. The Commonwealth Minister and the State Minister will agree on the application of the guidelines in the State.

11. (1) Subject to this agreement, the State will be responsible for the management of the program, in accordance with the guidelines and any administrative arrangements approved pursuant to subclause (2).

(2) The Commonwealth Minister and the State Minister shall jointly approve and may from time to time vary—

(a) arrangements for the planning and administrative machinery necessary for the effective management of the program, such machinery to allow for participation of representatives of both the Commonwealth and the State;

(b) arrangements for consultative processes whereby local governments, community organisations and service users are consulted on needs and priorities under the program; and

(c) priorities and sub-program guidelines.

(3) Until such time as the Commonwealth Minister and the State Minister jointly approve sub-program guidelines pursuant to subclause (2), the provisions of an Act referred to in recital (B) shall, in relation to a service or facility provided for under this agreement similar in kind to a service or facility to which that Act applied, be sub-program guidelines.

(4) As soon as practicable after this agreement is signed the Commonwealth Minister and the State Minister shall make arrangements for the transfer to the State during the first 3 grant years of the Commonwealth's responsibilities in relation to former Commonwealth-funded projects and such arrangements may include the provision of assistance to the State as a means of facilitating the transfer of responsibility.

PART V—FUNDING—COMMONWEALTH FINANCIAL ASSISTANCE AND STATE EXPENDITURE

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12. In order to assist the State in the achievement of the objective of this agreement, the Commonwealth will, upon and subject to the provisions of this agreement and to the appropriation by the Commonwealth Parliament of funds for the purpose, provide to the State in respect of each grant year financial assistance to meet or reimburse expenditure incurred for any purpose related to the provision of approved projects, by way of interest free non-repayable grant.

13. (1) Subject to clauses 15 and 19, the Commonwealth will provide base financial assistance to the State in respect of the first and second grant years of an amount equal to the sum of—

(a) the amount expended by the Commonwealth in the State in respect of the base year, by way of financial assistance or subsidy, in relation to the provision of—

(i) former Commonwealth-funded projects; and

(ii) other projects that, by the commencement of the grant year, become approved projects,

adjusted in accordance with clause 17; and

(b) such other amounts expended by the Commonwealth in the State in respect of that first or second grant year (as the case may be) as the Commonwealth Minister and the State Minister agree should be taken into account for the purpose of this paragraph.

(2) In addition to the amount payable under subclause (1), the Commonwealth will provide in respect of the first grant year an amount equal to the balance (if any) remaining unexpended at 30 June 1985 of the amount allocated to the State of $10 million of the amount appropriated for payments under the Home and Community Care Program by the *Appropriation Act (No. 2) 1984-85* of the Commonwealth Parliament.

14. Subject to clauses 15 and 19, the State will provide from its own resources and apply, or cause local governments and community organisations to provide from their own resources and to apply, for expenditure in relation to approved projects in respect of the first and second grant years an amount equal to the sum of—

(a) amounts expended in respect of the base year—

(i) by the State, local governments and community organisations in relation to the provision of former Commonwealth-funded projects; and

(ii) by the State and, to the extent determined by the State, local governments and community organisations in relation to the

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provision of other projects that, by the commencement of that first or second grant year (as the case may be), become approved projects,

adjusted in accordance with clause 17; and

(b) such other amounts expended by the State, local governments and community organisations in respect of that first or second grant year (as the case may be) as the Commonwealth Minister and the State Minister agree should be taken into account for the purposes of this paragraph.

15. (1) Where a former Commonwealth-funded project ceases to be provided in the first or second grant year, the State may reduce the State base in that grant year and, if that grant year is the first grant year, in the second grant year by an amount not exceeding the amount of expenditure in relation to the project included in the State base that was incurred otherwise than by the State.

(2) Where, pursuant to subclause (1) the State reduces the State base, the Commonwealth may reduce the Commonwealth base by an amount not exceeding the amount of any matching funds provided by the Commonwealth in respect of the expenditure referred to in subclause (1).

(3) Where, pursuant to subparagraph 14(a)(ii) the State elects to include expenditure incurred by local governments and community organisations in relation to a particular project then the expenditure for the purpose of that subparagraph in relation to that project shall be the amounts expended in respect of that project in respect of the base year by the State, local governments and community organisations adjusted in accordance with clause 17.

16. (1) The Commonwealth will provide, in addition to base financial assistance pursuant to clause 13, the following financial assistance—

(a) in respect of the first grant year—$3 for every $1 of eligible State expenditure incurred by the State in respect of the grant year, up to the maximum amount specified in relation to the State for that grant year in the Schedule or such other amount as may be paid by virtue of the operation of paragraph 3(b); or

(b) in respect of the second grant year—

(i) $2 for every $1 of eligible State expenditure incurred by the State in respect of the grant year, up to the maximum amount specified in relation to the State for that grant year in the Schedule or such other amount as may be paid by virtue of the operation of paragraph 3(b); and

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(ii) an amount that may be paid in respect of that grant year by virtue of the operation of paragraph 3(a).

(2) A reference in subclause (1) to the eligible State expenditure incurred by the State in respect of a grant year shall be read as a reference to an amount equal to the sum of—

(a) the amount expended in respect of the grant year by—

(i) the State from its resources in relation to the provision of approved projects;

(ii) local governments and community organisations from their own resources in relation to the provision of former Commonwealth-funded projects; and

(iii) local governments and community organisations in relation to the provision of approved projects referred to in subparagraph 14(a)(ii) where the State elects to include such expenditure pursuant to that subparagraph,

in excess of the amount that is so expended pursuant to clause 14; and

(b) such other amounts, including additional administrative expenses incurred by the State, as are agreed upon for the purposes of this paragraph by the Commonwealth Minister and the State Minister.

(3) In the event that—

(a) the eligible State expenditure incurred by the State in respect of the first grant year is less than the amount that would be required to be expended in order to attract the maximum amount of financial assistance payable in respect of that grant year pursuant to paragraph (1)(a), then, if the Commonwealth Minister is satisfied that the State has a firm program in place for the expenditure and that the cause of the short-fall in expenditure lies generally outside the State's control, the Commonwealth may provide additional financial assistance in respect of the second grant year of an amount not exceeding the unexpended balance of the maximum amount, upon the same terms as to matching as apply in respect of the first grant year; or

(b) the whole amount specified in the Schedule as the maximum amount of additional financial assistance that may be paid by the Commonwealth in respect of the first or second grant year to another State or the Northern Territory does not become payable to that State or the Northern Territory, whether pursuant to an agreement made by the Commonwealth with that State or the Northern Territory in terms similar to this agreement or where there is no such agreement, the

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Commonwealth Minister may, by agreement between the Commonwealth Minister and the State Minister, increase the maximum amount payable to the State in respect of that grant year pursuant to subclause (1) by the amount determined by the Commonwealth Minister to be the State's share of the unexpended balance of the amount specified in relation to that other State or the Northern Territory.

17. (1) In this clause—

"Commonwealth grant" means the Commonwealth grant referred to in subclause (5);

"provisional Commonwealth grant" means the provisional Commonwealth grant referred to in subclause (6);

"provisional State expenditure" means the provisional State expenditure referred to in subclause (6);

"State expenditure" means the State expenditure referred to in subclause (5);

"agreed index in respect of the provisional Commonwealth grant" and "agreed index in respect of the provisional State expenditure" means for the first or second grant year the figure ascertained in accordance with the formula—

$$0.75\frac{(E)}{(F)} + 0.25\frac{(G)}{(H)}$$

where—

(a) $\frac{\mathbf{E}}{\mathbf{F}}$ is the estimate agreed between the Commonwealth Minister and the State Minister of the movement between the month of March of the grant year and the month of March of the preceding financial year in the index of weekly award rates of pay for adult wage and salary earners for all industries in Australia; and

(b) $\frac{\mathbf{G}}{\mathbf{H}}$ is the estimate agreed between the Commonwealth Minister and the State Minister of the movement between the March quarter of the grant year and the March quarter of the preceding financial year in the All Groups Consumer Price Index for the weighted average of 8 capital cities;

"agreed index in respect of the Commonwealth grant" and "agreed index in respect of the State expenditure" means for the first or second grant year, the figure ascertained in accordance with the formula—

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$$0.75\frac{(A)}{(B)} + 0.25\frac{(C)}{(D)}$$

where—

(a) $\frac{\mathbf{A}}{\mathbf{B}}$ is the movement between the month of March of the grant year and the month of March of the preceding financial year in the index of hourly award rates of pay for adult wage earners for the Community Services Industry in the State as provided by the Australian Statistician in relation to the series entitled "Award Rates of Pay Indexes, Australia"; and

(b) $\frac{\mathbf{C}}{\mathbf{D}}$ is the movement between the March quarter of the grant year and the March quarter of the preceding financial year in the All Groups Consumer Price Index Excluding Hospital and Medical Services for the State Capital City as provided by the Australian Statistician in relation to the series entitled "Consumer Price Index".

(2) If the reference base for the Consumer Price Index, weekly award rates of pay or hourly award rates of pay is changed, then, for the purpose of applying a formula referred to in this clause after the change is made, regard shall be had only to the index number provided in terms of the new reference base.

(3) Where the figure in respect of the first or second grant year, as ascertained in accordance with the definitions of "agreed index in respect of the Commonwealth grant" and "agreed index in respect of the State expenditure" in subclause (1), would, but for the operation of this subclause, be less than one, that figure shall be taken to be one.

(4) For the purposes of any formula specified in this clause—

(a) agreed index in respect of the provisional Commonwealth grant and the provisional State expenditure shall be denoted by—

(i) in relation to the first grant year—a_1; or

(ii) in relation to the second grant year—a_2; and

(b) agreed index in respect of the Commonwealth grant and the State expenditure shall be denoted by—

(i) in relation to the first grant year—b_1; or

(ii) in relation to the second grant year—b_2.

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(5) There shall in respect of the first and second grant years be determined, in accordance with the provisions of this agreement, figures which shall be agreed upon in writing between the Commonwealth Minister and the State Minister, to be known respectively as the Commonwealth grant and the State expenditure.

(6) There shall be calculated as soon as practicable in relation to the first and second grant years, figures which shall be agreed upon in writing between the Commonwealth Minister and the State Minister to be known, with respect to that grant year, as the provisional Commonwealth grant and the provisional State expenditure respectively, being estimates of the Commonwealth grant and the State expenditure respectively.

(7) The Commonwealth Minister and the State Minister may adjust the provisional Commonwealth grant and the provisional State expenditure at any time prior to their becoming a Commonwealth grant and the State expenditure respectively to accord with variations in estimates or with the terms of any relevant agreement between the Commonwealth Minister and the State Minister.

(8) When the agreed index in respect of the Commonwealth grant and in respect of the State expenditure may be calculated in respect of the first or second grant year, the provisional Commonwealth grant and the provisional State expenditure shall be considered by the Commonwealth Minister and the State Minister for the purposes of them agreeing, as required by subclause (5), upon the Commonwealth grant and the State expenditure in respect of that grant year.

(9) Any financial adjustment arising from differences between the provisional Commonwealth grant and the Commonwealth grant, and between the provisional State expenditure and the State expenditure for the first or second grant year shall, except where otherwise agreed between the Commonwealth Minister and the State Minister, be effected in the following grant year.

(10) For the purposes of determining the Commonwealth grant and the State expenditure in respect of the second grant year there shall be taken into account any adjustments agreed by the Commonwealth Minister and the State Minister in respect of the preceding grant year.

(11) The provisional Commonwealth grant and the provisional State expenditure shall comprise—

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(i) in respect of the first grant year—an amount ascertained in accordance with the formula $(x_1a_1) + y_1 + z_1$; or

(ii) in respect of the second grant year—an amount ascertained in accordance with the formula $[(x_2b_1)\ a_2] + y_2 + z_2$,

where—

(a) x_1 and x_2 are the Commonwealth bases or the State bases (as the case may be) in respect of the first and second grant years, respectively;

(b) y_1 and y_2 are the amounts (if any) referred to in paragraph 13(1)(b) or 14(b) (as the case may be) in respect of the first and second grant years, respectively; and

(c) z_1 and z_2 are the amounts of any additional Commonwealth financial assistance or eligible State expenditure referred to in clause 16 (as the case may be) in respect of the first and second grant years, respectively.

(12) The Commonwealth grant and the State expenditure shall comprise—

(i) in respect of the first grant year—an amount ascertained in accordance with the formula $(x_1b_1) + y_1 + z_1$; or

(ii) in respect of the second grant year—an amount ascertained in accordance with the formula $[(x_2b_1)\ b_2] + y_2 + z_2$,

where—

(a) x_1 and x_2 are the Commonwealth bases or the State bases (as the case may be) in respect of the first and second grant years, respectively;

(b) y_1 and y_2 are the amounts (if any) referred to in paragraph 13(1)(b) or 14(b) (as the case may be) in respect of the first and second grant years, respectively; and

(c) z_1 and z_2 are the amounts of any additional Commonwealth financial assistance or eligible State expenditure referred to in clause 16 (as the case may be) in respect of the first and second grant years, respectively.

18. (1) Subject to subclause (4), the Commonwealth will provide financial assistance to the State in respect of each grant year following the second grant year of an amount equal to the sum of—

(a) the amount that is the product of the indexation factor and the amount of financial assistance paid to the State in the immediately preceding grant year; and

(b) such other amounts as are agreed upon for the purposes of this paragraph by the Commonwealth Minister and the State Minister.

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(2) Subject to subclause (4), the State will provide from its own resources and apply, or cause local governments and community organisations to provide from their own resources and apply, for expenditure in relation to approved projects in respect of each grant year following the second grant year of an amount equal to the sum of—

(a) the amount that is the product of the indexation factor and the amount expended by the State, local governments and community organisations in relation to approved projects in the immediately preceding grant year; and

(b) such other amounts as are agreed upon for the purposes of this paragraph by the Commonwealth Minister and the State Minister.

(3) For the purposes of paragraphs (1)(a) and (2)(a), the indexation factor is—

(a) in respect of the third grant year—a number not exceeding 1.2 agreed upon in writing between the Commonwealth Minister and the State Minister in the second grant year or within such longer period as is agreed upon by the Commonwealth Minister and the State Minister; or

(b) in respect of a grant year following the third grant year—the number 1.2 unless the Commonwealth Minister and the State Minister agree in writing in the immediately preceding grant year upon a different number.

(3A) Where a different number is agreed upon in accordance with paragraph (3)(b), that number shall, for the purposes of the operation of paragraphs (1)(a) and (2)(a), be substituted for the number 1.2 in respect of the first-mentioned grant year.

(4) In the event that the parties fail to agree on the continued operation of this agreement consequent upon a review conducted in the third or any subsequent grant year (in this subclause referred to as the "relevant grant year") pursuant to clause 31 then, in respect of each of the following 2 grant years—

(a) the Commonwealth will provide financial assistance of an amount equal to the sum of—

(i) the amount that is—

(A) where the grant year is the first succeeding grant year after the relevant grant year—the product of the adjustment factor and the amount of financial assistance paid to the State in the relevant grant year; or

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(B) where the grant year is the second succeeding grant year after the relevant grant year—the product of the adjustment factor and the amount calculated in accordance with sub-subparagraph (4)(a)(i)(A); and

(ii) such other amounts as are agreed upon for the purposes of this subparagraph by the Commonwealth Minister and the State Minister; and

(b) the State will provide from its own resources and apply, or cause local governments and community organisations to provide from their own resources and apply, for expenditure in relation to approved projects in an amount equal to the sum of—

(i) the amount that is—

(A) where the grant year is the first succeeding grant year after the relevant grant year—the product of the adjustment factor and the amount expended by the State, local governments and community organisations in relation to the provision of approved projects in the relevant grant year; or

(B) where the grant year is the second succeeding grant year after the relevant grant year—the product of the adjustment factor and the amount calculated in accordance with sub-subparagraph (4)(b)(i)(A); and

(ii) such other amounts as are agreed upon for the purposes of this subparagraph by the Commonwealth Minister and the State Minister.

(5) For the purposes of subparagraphs (4)(a)(i) and (4)(b)(i), the adjustment factor in respect of each of the 2 grant years following the grant year during which the parties fail to agree is a number calculated in accordance with the formula—

$$0.75\frac{(A)}{(B)} + 0.25\frac{(C)}{(D)}$$

where—

(a) $\frac{\mathbf{A}}{\mathbf{B}}$ is the movement between the month of March of the first preceding grant year and the month of March of the second preceding grant year in the index of hourly award rates of pay for adult wage earners for the Community Services Industry in

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the State as provided by the Australian Statistician in relation to the series entitled "Award Rates of Pay Indexes, Australia"; and

(b) $\frac{\mathbf{C}}{\mathbf{D}}$ is the movement between the March quarter of the first preceding grant year and the March quarter of the second preceding grant year in the All Groups Consumer Price Index Excluding Hospital and Medical Services for the State Capital City as provided by the Australian Statistician in relation to the series entitled "Consumer Price Index".

(6) Where the adjustment factor, as ascertained in accordance with subclause (5), would, but for the operation of this subclause, be less than one, that factor shall be taken to be one.

(7) If the reference base for the Consumer Price Index or hourly award rates of pay index is changed, then, for the purpose of applying the formula referred to in subclause (5) after the change is made, regard shall be had only to the index number provided in terms of the new reference base.

19. (1) In calculating expenditure incurred by the State, local governments and community organisations for the purposes of clauses 14, 16 and 18—

(a) allocations by the State from the following sources may be included—

(i) loan funds;

(ii) trust funds and other special accounts in the public account of the State to the extent that those funds have been financed from State resources, including deposits with the State Treasury;

(iii) borrowing by instrumentalities of the State under the terms of the Commonwealth-State arrangements associated with the Financial Agreement and known as the Gentlemen's Agreement;

(iv) appropriations from surpluses of authorities and instrumentalities of the State; and

(v) other sources at any time agreed upon by the Commonwealth Minister and the State Minister; and

(b) the following amounts may not be included—

(i) amounts of expenditure that have been used to match or attract financial assistance provided by the Commonwealth otherwise than under this agreement;

(ii) amounts expended that are recovered or recoverable by means of user charges, service related donations or a payment by way of compensation; and

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(iii) amounts expended in providing a home or community care service to a person who is eligible to receive a payment by way of compensation in respect of a disability that gives rise to the need for such a service.

(2) A reference in subclause (1) to a payment by way of compensation shall be read as a reference to—

(i) a payment by way of damages;

(ii) a payment under a scheme of insurance or compensation provided for by a law of the State, including payment under a contract entered into in pursuance of such a scheme;

(iii) a payment, whether with or without admission of liability, in settlement of a claim for damages or of a claim under a scheme referred to in subparagraph (ii); or

(iv) any other payment that, in the opinion of the Commonwealth Minister, is a payment in the nature of compensation or damages, other than a payment for which the person who is eligible to receive the payment has made contributions.

PART VI—FINANCIAL ASSISTANCE ARRANGEMENTS AND CONDITIONS

20. Within 3 months of the date this agreement is signed or within such longer period as is agreed upon by the Commonwealth Minister and the State Minister—

(a) the State shall furnish to the Commonwealth—

(i) particulars of expenditure incurred by the State, local governments and community organisations in relation to the provision of former Commonwealth-funded projects in respect of the base year, showing separately in respect of each of those projects the amounts so expended by the State, local governments and community organisations; and

(ii) details of the projects, other than former Commonwealth-funded projects, in relation to which the State, local governments and community organisations incurred expenditure in respect of the base year and in respect of which the State proposes to seek approval under subclause 9(1), showing separately in respect of each of those projects the amounts so expended by the State, local governments and community organisations; and

(b) the Commonwealth shall furnish to the State—

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(i) particulars of expenditure incurred by the Commonwealth in relation to the provision of former Commonwealth-funded projects; and

(ii) details of projects, other than former Commonwealth-funded projects, in relation to which the Commonwealth incurred expenditure in respect of the financial year beginning on 1 July 1984 and in respect of which the Commonwealth proposes to seek approval under subclause 9(1).

21. Within 3 months of the date this agreement is signed (in respect of the first grant year) and by 1 March preceding the beginning of each succeeding grant year (other than the 2 grant years following a failure to agree as provided in clause 31), the State shall inform the Commonwealth, in a form agreed upon by the Commonwealth Minister and the State Minister, of the amounts of financial assistance that the State wishes the Commonwealth to provide to it in respect of the next 3 succeeding grant years and at the same time provide estimates of financial performance and planned programs for those grant years and revised estimates of that performance and those programs for the then current grant year.

22. (1) Subject to subclauses (2) and (3), the Commonwealth Minister and the State Minister shall, in respect of each grant year, jointly approve, in accordance with the objective, principles and goals set out in clause 5, the allocation among approved projects of the total amount of financial assistance to be provided by the Commonwealth and the total amount of expenditure to be incurred by the State in respect of that grant year.

(2) The Commonwealth Minister and the State Minister may, in accordance with the objective, principles and goals set out in clause 5, jointly approve the allocation to an approved project of financial assistance to be provided by the Commonwealth and of expenditure to be incurred by the State in respect of two or more grant years.

(3) The State Minister may approve non-significant increases or decreases in the allocation of funds in respect of an approved project during the period in respect of which an allocation has been approved.

23. Financial assistance in respect of a grant year is to be provided by regular quarterly instalments unless otherwise agreed between the Commonwealth Minister and the State Minister, such instalments to be calculated in respect of the first and second grant years on the basis of the provisional Commonwealth grant in respect of the grant year, ascertained in accordance with clause 17.

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24. (1) Subject to subclause (2), the Commonwealth Minister may, at such times and in such amounts as the Commonwealth Minister thinks fit, make advances on account of financial assistance that may become payable to the State under this agreement.

(2) Where in respect of a grant year the State makes advances from its own resources for the purpose of meeting or reimbursing expenditure for approved projects, the Commonwealth will make advances of the same amounts as to matching as would apply if the advances by the State were expenditure by the State from its own resources pursuant to clauses 14 and 16 or clause 18 (as the case may be) and the advances by the Commonwealth were financial assistance pursuant to clauses 13 and 16 or clause 18 (as the case may be) in respect of that grant year.

(3) The amount or part of the amount of an advance made by the Commonwealth may be deducted from a payment of financial assistance that subsequently becomes payable.

(4) The State shall ensure that an advance made by the Commonwealth is not used or applied except for the purpose of meeting or reimbursing, as the case may be, the expenditure to which the advance relates.

25. During the first 3 grant years the Commonwealth Minister and the State Minister shall jointly develop standard terms and conditions to be attached by the State to payments made pursuant to this agreement to local governments and community organisations, which terms and conditions shall include the manner in which the approved project is to be provided, so as to ensure that the approved project meets its objective.

26. (1) Financial assistance is granted upon the condition that the State will—

(a) apply the financial assistance provided to it for the purpose of meeting or reimbursing expenditure incurred by the State in relation to the provision of approved projects in accordance with this agreement;

(b) subject to paragraph (c), without undue delay pay to the local government or community organisation that is providing or sponsoring an approved project an amount equal to the amount of financial assistance provided to the State for expenditure in respect of that approved project;

(c) not pay an amount to a local government or a community organisation unless the local government or community organisation accepts the amount upon the terms and conditions developed pursuant to clause 25

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or (if no terms and conditions have been developed) upon the terms and conditions attached to the provision of financial assistance under this agreement;

(d) expend or cause to be expended, in respect of each grant year, not less than the amount calculated in accordance with clause 14 or clause 18 (as the case may be);

(e) not permit its expenditure under this agreement, vis-a-vis local governments and community organisations, to diminish unless otherwise agreed by the Commonwealth Minister and the State Minister; and

(f) pay to the Commonwealth an amount that becomes payable pursuant to subclause (2).

(2) In the event that property of a non-expendable nature that was acquired by the State, a local government or a community organisation wholly or partly with financial assistance provided in respect of an approved project—

(a) is disposed of;

(b) ceases to be used in relation to the approved project or another approved project; or

(c) is destroyed,

the State shall pay to the Commonwealth the Commonwealth's share of the value of the property at the date of the happening of the event unless the Commonwealth Minister and the State Minister otherwise agree or unless, in the case where the property was acquired by a local government or community organisation, the State is unable to recover that share from the local government or community organisation.

(3) For the purpose of subclause (2)—

"the value of the property" means the amount agreed upon by the Commonwealth and the State or, in the absence of agreement the amount determined by a qualified valuer nominated by the Commonwealth Minister, as the value of the property; and

"the Commonwealth's share" means the amount that bears to the value of the property the same proportion as the amount expended in relation to the acquisition of the property attributable to financial assistance bears to the total cost of acquiring the property.

27. By the thirtieth day of November next occurring after the end of each grant year the State Minister will furnish to the Commonwealth Minister in

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respect of that grant year, in a form agreed upon by the Commonwealth Minister and the State Minister—

(a) a statement giving particulars of the expenditure of financial assistance and of expenditure incurred by the State, local governments and community organisations, accompanied by a certificate of a person authorised by the State Minister and agreed upon by the Commonwealth Minister, certifying that—

(i) in relation to expenditure incurred by the State, the authorised person is of the opinion that the amounts shown as expended by the State were expended in accordance with this agreement;

(ii) in relation to expenditure incurred by local governments and community organisations, the authorised person has received a certificate from a qualified accountant stating that the qualified accountant is of the opinion that amounts shown as expended by a local government or community organisation were expended by it in accordance with this agreement;

(b) a statement specifying—

(i) the operation of this agreement;

(ii) the provision of approved projects; and

(iii) the manner in which financial assistance and State expenditure has been applied.

28. If, following consultation with the State Minister, the Commonwealth Minister, in writing under the Commonwealth Minister's hand, informs the State Minister that the Commonwealth Minister is satisfied that the State has failed to ensure that an amount of financial assistance provided to the State has been applied for the purposes and in the manner provided for by this agreement with respect to that financial assistance, the State will repay the amount or such part of that amount as the Commonwealth Minister thinks reasonable to the Commonwealth.

29. If, following consultation with the State Minister, the Commonwealth Minister is of the opinion that it is appropriate to do so, the Commonwealth Minister may withhold payment in whole or in part of financial assistance to the State where the State fails to comply with any of the conditions attached to the grant of financial assistance until the State remedies that failure.

PART VII—SUPPLY OF INFORMATION

30. (1) As soon as practicable after this agreement enters into force, the Commonwealth Minister and the State Minister shall make arrangements for the

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development during the first 3 grant years of a home and community care information system (including the development of standard definitions of services and collection methods) for the purpose of effective planning and management of the program which can meet operating agency requirements.

(2) Having regard to clauses 10 and 11, the State shall collect and provide such information as the Commonwealth Minister and the State Minister agree is necessary for the operation of the information system.

(3) Pending the establishment of the information system, each party shall furnish to the other party such available information as the other party from time to time requires for the purposes of monitoring and reviewing the operation of the program.

(4) The Commonwealth Minister may make arrangements with the State Minister for the Commonwealth to provide assistance to the State in the collection and provision of information.

(5) In specifying the Commonwealth requirements for data collection and the development of an information system, the Commonwealth Minister shall have regard to the administrative practices and procedures of the State and shall ensure that collection requirements and provision of data by the State are kept to a minimum.

(6) In developing an information system pursuant to subclause (1) and in arranging for the collection and provision of information pursuant to subclause (2), the Commonwealth Minister and the State Minister shall have regard to the views of local governments and community organisations involved in service delivery and users in the design and implementation of the system and ensure that, where appropriate, information so collected is made available to those bodies.

PART VIII—REVIEW AND VARIATION

31. The operation of this agreement may be reviewed at any time (other than during the first 2 grant years) agreed upon by the Commonwealth Minister and the State Minister but, in any event, it shall be reviewed during every third grant year. If, upon undertaking a review, the parties agree to vary the operation of the agreement, then the agreement may be varied in the manner provided in clause 32, but should the parties fail to agree on the continued operation of this agreement then this agreement shall terminate at the end of the second succeeding grant year.

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32. (1) The provisions of this agreement may be varied at any time by a further agreement in writing.

(2) A copy of an agreement or copies of the documents which constitute an agreement under subclause (1) shall be tabled in the Parliament of the Commonwealth within 15 sitting days from the date upon which the agreement is made.

PART IX—REPRESENTATION AND COMMUNICATIONS

33. (1) The Commonwealth shall, subject to subclause (2), be represented for the purposes of this agreement by the Department of Community Services and the Commonwealth Minister shall notify the State Minister of the address of that Department and of any change at any time of that address.

(2) In the event that the administration of this agreement for the Commonwealth is allocated to a Minister other than the Minister for Community Services, the Commonwealth shall be represented by the Department administered by that other Minister and that other Minister shall notify the State Minister of the address of that Department.

34. The State shall be represented for the purposes of this agreement by the Department nominated by the State Minister and the State Minister shall notify the Commonwealth Minister of the address of that Department and of any change at any time of the Department or of the address.

35. (1) A notice or other communication under or in connection with this agreement shall be duly given if it is in writing signed by or on behalf of, or attributed to, the head or other authorised officer of the Department by which it is given and addressed to or delivered at the address of the Department to which it is directed.

(2) For the purposes of this clause writing includes a teleprinter or facsimile message and the address for such a message shall be the teleprinter or facsimile address of the receiving Department.

(3) A notice or other communication shall be given under this clause when it is received in the appropriate form by the Department to which it is directed.

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SCHEDULE

Clause 16

	First Grant Year	Second Grant Year
	$	$
New South Wales	8,717,000	10,461,000
Victoria	6,562,000	7,875,000
Queensland	4,018,000	4,821,000
Western Australia	2,218,000	2,661,000
South Australia	2,180,000	2,616,000
Tasmania	702,000	843,000
Northern Territory	218,000	261,000

IN WITNESS WHEREOF this agreement has been signed for and on behalf of the parties hereto respectively as at the day and year first above written.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

C[x] = Compilation No. x

ch = Chapter(s)

cl = clause(s)

cont. = continued

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

Ord = Ordinance

orig = original

p = page(s)

para = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

pt = Part(s)

r = regulation(s)/Court rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s) /rule(s)/subrule(s)/order(s)/suborder(s)

sch = Schedule(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

sub ch = Sub-Chapter(s)

sub div = Subdivision(s)

sub pt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act (Register ID)	Number and year	Assent	Commencement	Application, saving and transitional provisions
Home and Community Care Act 1985 (C2004A03223)	184, 1985	16 Dec 1985	16 Dec 1985 (s 2)	
Community Services and Health Legislation Amendment Act (No. 2) 1988 (C2004A03748)	155, 1988	26 Dec 1988	sch (pt 1): 26 Dec 1988 (s 2(1))	—
Aged Care (Consequential Provisions) Act 1997 (C2004A05208)	114, 1997	7 July 1997	sch 5 (item 29): 1 Oct 1997 (s 2(1))	—
Statute Update (A.C.T. Self-Government (Consequential Provisions) Regulations Act 2017 (C2017A00013)	13, 2017	22 Feb 2017	sch 1 (item 22): 22 Mar 2017 (s 2(1) item 2)	—
Aged Care and Other Legislation Amendment Act 2025 (C2025A00045)	45, 2025	19 Sep 2025	sch 3 (item 210): 1 Nov 2025 (s 2(1) item 6)	—

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Endnote 4—Amendment history

Provision affected	How affected
s 3.....	am No 13, 2017
s 5.....	am No 155, 1988
Schedule	
Schedule.....	am No 114, 1997; No 45, 2025

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