

Child Care

No. 121 of 1972

An Act to provide for Assistance by the Commonwealth in respect of Places where Children under School Age may be Cared for during the Day and in respect of Research in connexion with the Care of Children, and for related purposes.

[Assented to 2 November 1972]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Child Care Act 1972*.

Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Commencement.

3. This Act is divided into Parts, as follows:—

Parts.

Part I.—Preliminary (Sections 1–4).

Part II.—Capital Grants.

Division 1.—Approved Projects (Sections 5–7).

Division 2.—Approved Equipment (Sections 8–10).

Part III.—Recurrent Grants (Sections 11–12).

Part IV.—Research Grants (Section 13).

Part V.—Advisory Committees.

Division 1.—Establishment of Committees (Sections 14–16).

Division 2.—General (Sections 17–19).

Part VI.—Miscellaneous (Sections 20–25).

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

Interpretation.

“child care” means the care of pre-school aged children at a time or times during the day when they are not being cared for in their own homes or in the homes of other persons;

“child care centre” means a place where child care is provided for only those children who are residing in their own homes;

“eligible organization” means—

- (a) an organization (other than an organization conducted or controlled by, or by persons appointed by, the Government of the Commonwealth or of a State) that is carried on otherwise than for the purpose of profit or gain and is determined by the Minister to be an eligible organization for the purposes of this Act;
- (b) a local governing body; or
- (c) the trustees for the time being under a trust established for charitable or benevolent purposes, being a trust in relation to which the Minister has determined that the trustees constitute an eligible organization for the purposes of this Act,

and includes—

- (d) the trustee or trustees under a trust established by an organization referred to in paragraph (a) of this definition or by a local governing body; and
- (e) a corporation established by such an organization or by a local governing body;

“home” does not include an orphanage or like institution;

“local governing body” means a local governing body established by or under a law of a State or Territory of the Commonwealth;

“organization” includes a society and an association;

“pre-school aged child” means a child who has not attained the age at which he is required by law to attend school;

“the Child Care Standards Committee” means the committee established under section 14 of this Act.

(2.) A reference in this Act to a child, in relation to the attendance or enrolment of that child at a child care centre, is a reference to a pre-school aged child.

PART II.—CAPITAL GRANTS.

Division 1.—Approved Projects.

5.—(1.) In this Division, unless the contrary intention appears—

“alteration”, in relation to a building or other improvement on land, includes an addition to the building or improvement;

“approved project” means the purchase or proposed purchase of land, or the construction or alteration or proposed construction or alteration of a building or other improvement on land, approved under the next succeeding section;

“building” includes a part of a building and an addition to a building;

Interpretation
of Division 1.

“ the capital cost ”, in relation to an approved project, means—

- (a) where the approved project is the purchase or proposed purchase of land, the sum of—
 - (i) such amount in respect of the land, not including any buildings or other improvements on the land, as the Minister determines;
 - (ii) such amount in respect of any buildings or other improvements on the land (being buildings or improvements that the Minister is satisfied are used, or are to be used, for or in connexion with a child care centre) as the Minister considers represents that part of the cost of purchasing the land that is attributable to those buildings or improvements; and
 - (iii) such amount as the Minister is satisfied is the cost of making any alterations to any building or other improvements on the land that the Minister is satisfied are necessary for or in connexion with the provision of a child care centre; or
- (b) where the approved project is the construction or alteration of a building or other improvement on land, such amount as the Minister is satisfied is the cost of constructing or altering the building or other improvement.

(2.) For the purposes of this Division, the cost of constructing, altering or adding to a building includes the cost of installing such fixtures (including the cost of the fixtures) as the Minister approves.

(3.) Where—

- (a) an approved project is the construction or alteration, by an eligible organization, of a building or other improvement on land; and
- (b) the land on which the building or other improvement is or is to be constructed was purchased by the eligible organization before the sixteenth day of August, One thousand nine hundred and seventy-two,

the Minister may, in his discretion, direct that there shall be added to the amount that is the capital cost of the project for the purposes of this Act such amount in respect of the whole or a part of the land as the Minister determines.

6.—(1.) Subject to this section, where the Minister is satisfied that— Approval of projects.

(a) an eligible organization—

- (i) has purchased, or proposes to purchase, any land, including land on which buildings or other improvements are constructed; or

(ii) has constructed or altered, or proposes to construct or alter, a building or any other improvement on any land; and

(b) the land purchased or proposed to be purchased, or the building or improvement constructed or altered or proposed to be constructed or altered, is used, or is to be used, permanently by or on behalf of the organization for or in connexion with a child care centre,

the Minister may, in his discretion, approve, for the purposes of this Division, the purchase or proposed purchase or the construction or alteration or the proposed construction or alteration, as the case may be.

(2.) Where an eligible organization has, before the commencement of this Act, purchased any land, or constructed or altered or commenced to construct or alter a building or any other improvement on land, the Minister shall not approve the purchase, or the construction or alteration, as the case may be, under the last preceding sub-section unless the purchase was made on or after the sixteenth day of August, One thousand nine hundred and seventy-two, or the construction or alteration was commenced on or after that date or was commenced, but was not completed, before that date.

Grants for approved projects.

7.—(1.) The Minister may, in his discretion, on behalf of the Commonwealth, make a grant to an eligible organization of an amount not exceeding the capital cost of an approved project.

(2.) A grant under this section in respect of an approved project shall not be made except to a corporation in which, or to trustees in whom, there is vested or to be vested—

- (a) where the approved project is the purchase or proposed purchase of land—that land; or
- (b) where the approved project is the construction or alteration, or proposed construction or alteration, of a building or other improvement—the land on which the building is situated or is to be constructed.

Division 2.—Approved Equipment.

Interpretation of Division 2.

8. In this Division, unless the contrary intention appears—

“ approved equipment ” means equipment approved under the next succeeding section;

“ the cost ”, in relation to the purchase by an eligible organization of approved equipment, means the sum of the amount that the Minister is satisfied is the cost of purchasing the equipment and such amount (if any) in respect of altering, adding to or installing the equipment as the Minister determines.

9. Where—

- (a) an eligible organization proposes to purchase equipment; and
- (b) the Minister is satisfied that the equipment is to be used for the purposes of a child care centre,

the Minister may, in his discretion, approve that equipment for the purposes of this Division.

Approval of equipment.

10. The Minister may, in his discretion, on behalf of the Commonwealth, make a grant to an eligible organization of an amount not exceeding the cost of the purchase by the organization of approved equipment.

Grants for approved equipment.

PART III.—RECURRENT GRANTS.

11.—(1.) The Minister may, in his discretion, on behalf of the Commonwealth, make a grant of moneys to an eligible organization, in respect of each child care centre operated by the organization, at the rate ascertained in accordance with this section.

Grants in respect of staff.

(2.) The rate of a grant payable under this section in respect of a child care centre is an amount per quarter equal to the sum of the following amounts:—

- (a) in respect of each ten places or part of ten places at that child care centre filled on the specified day in that quarter by children under the age of three years—an amount equal to the prescribed proportion of the amount of salary or wages payable during that quarter to one nurse who is employed at that child care centre and is specified by that child care centre for the purposes of this paragraph;
- (b) in respect of each twenty places, or part of twenty places, in excess of the first twenty places at that child care centre filled on the specified day in that quarter by children of or above the age of three years—an amount equal to the prescribed proportion of the amount of salary or wages payable during that quarter to one nurse who is employed at that child care centre and is specified by that child care centre for the purposes of this paragraph;
- (c) if fifteen or more places at that child care centre are filled on the specified day in that quarter by children of or above the age of three years—an amount equal to the prescribed proportion of the amount of salary or wages payable during that quarter to one teacher who is employed at that child care centre and is specified by that child care centre for the purposes of this paragraph;
- (d) if more than the prescribed number of places at that child care centre are filled on the specified day in that quarter by children of or above the age of three years and the Minister, in his discretion, determines that an amount should be payable under this paragraph—an amount equal to the prescribed proportion of the amount of salary or wages payable during that quarter to so many of the teachers who are employed at that child care centre as the Minister determines.

(3.) Notwithstanding anything in the last preceding sub-section, for the purposes of calculating an amount under that sub-section in respect of a quarter, the salary or wages payable to a particular nurse or teacher shall not be taken into account more than once in respect of that quarter.

(4.) For the purposes of this section, the number of places at a child care centre filled by children on a day shall be calculated by ascertaining the number of hours during which each of those children attends at that child care centre on that day, by adding together the numbers so ascertained and by dividing the result by eight.

(5.) In this section—

“nurse” means a person who has—

- (a) the prescribed qualifications and experience in connexion with nursing; or
- (b) such qualifications and experience as, in the opinion of the Minister, are equivalent to the qualifications and experience so prescribed;

“quarter” means the period of three months commencing on the first day of January, the first day of April, the first day of July or the first day of October in any year;

“salary or wages”, in relation to a nurse or a teacher, means salary or wages at the rate fixed by an award, order, determination or agreement made or having effect under a law of the Commonwealth or of a State or, if no such rate is applicable, the rate of salary or wages determined by the Minister;

“teacher” means a person who has such qualifications as are recognized by the Australian Pre-school Association as being sufficient for a pre-school teacher;

“the specified day”, in relation to a quarter, means a day in that quarter specified by the Minister, not being a day that is a public holiday or a school holiday.

12.—(1.) In this section—

“child in special need” means—

- (a) a child other than a child who normally resides with both parents in the same household;
- (b) a child either of whose parents commenced to reside permanently in Australia for the first time within three years before the date of the application for the enrolment of the child at the child care centre concerned;
- (c) a child either of whose parents is a contributor in respect of whom section 82s of the *National Health Act 1953–1971*

applies or is a person in respect of whom a determination under section 82U of that Act is in force; or

(d) a child either of whose parents is sick or incapacitated;

“parent”, in relation to a child who has a step-parent, foster-parent or adoptive parent, includes that step-parent, foster-parent or adoptive parent, but does not include the corresponding natural parent.

(2.) The Minister may, in his discretion, on behalf of the Commonwealth, make a grant of moneys to an eligible organization, in respect of each child care centre operated by that organization, at the rate of an amount per week ascertained in accordance with the formula $ab + cd$, where—

- a* is an amount determined by the Minister in relation to children who have not attained the age of three years, not exceeding the prescribed amount;
- b* is a number calculated by ascertaining the number of hours during which each child in special need, being a child who has not attained the age of three years, attends at the child care centre during that week and by adding together the numbers so ascertained;
- c* is an amount determined by the Minister in relation to children who have attained the age of three years, not exceeding the prescribed amount; and
- d* is a number calculated by ascertaining the number of hours during which each child in special need, being a child who has attained the age of three years, attends at the child care centre during that week and by adding together the numbers so ascertained.

(3.) Where the number of hours during which children attend at a child care centre during a week is reduced by reason of that week not being a full working week, the amount of the grant payable under this section in respect of that child care centre in respect of that week is the amount that was so payable in respect of the last full working week before that week.

(4.) In the last preceding sub-section, “full working week” means a week that does not include a day that is a public holiday or a school holiday.

PART IV.—RESEARCH GRANTS.

13.—(1.) The Minister may, in his discretion, on behalf of the Commonwealth, make a grant of moneys to any person for purposes of or relating to—

Grants for research, &c.

- (a) research in child care and related matters; and
- (b) the initiation and development of methods of child care.

(2.) In the last preceding sub-section, “child care” includes the care in any circumstances of children of any age.

PART V.—ADVISORY COMMITTEES.

Division 1.—Establishment of Committees.

Child Care
Standards
Committee.

14.—(1.) The Minister may establish a committee, to be known as the Child Care Standards Committee, which shall consist of such number of members as the Minister thinks fit.

(2.) The functions of the Committee are—

- (a) to give advice to the Minister and to eligible organizations in relation to standards to be maintained in the construction and equipment of child care centres and in the service provided in child care centres; and
- (b) to give advice to the Minister on any other matter referred to the Committee by him in connexion with the administration of this Act.

Chairman of
Child Care
Standards
Committee.

15.—(1.) The Minister shall appoint one of the members of the Child Care Standards Committee, not being an officer of the Public Service of the Commonwealth, to be Chairman.

(2.) The Chairman shall be paid such salary as the Parliament provides, but, until the thirty-first day of December, One thousand nine hundred and seventy-three, the salary shall be as prescribed.

(3.) The Chairman shall be paid such allowances (not including an annual allowance) as are prescribed.

Other
committees.

16. In addition to the Child Care Standards Committee, the Minister may establish such other committees as he thinks fit for the purposes of this Act.

Division 2.—General.

Definition of
"committee".

17. In this Division, "committee" means a committee established under this Part.

Appointment
of members of
committees.

18. A member of a committee shall be appointed by the Minister and holds office during the Minister's pleasure.

Remuneration
and allowances
for members of
committees.

19.—(1.) This section does not apply in relation to the Chairman of the Child Care Standards Committee or a person who is an officer of the Public Service of the Commonwealth.

(2.) A member of a committee shall be paid—

- (a) the prescribed fee in respect of each day on which he attends a meeting of the committee; and
- (b) the prescribed fee in respect of each day on which he is engaged, with the approval of the committee, on business of the committee.

(3.) A member of a committee shall be paid such allowances (not including an annual allowance) as are prescribed.

PART VI.— MISCELLANEOUS.

20.—(1.) A grant under this Act may be made upon such terms and conditions, not inconsistent with this Act, as the Minister thinks fit.

Conditions relating to grants.

(2.) Before a grant is made under this Act, the Minister may require the grantee to enter into an agreement with respect to the terms and conditions upon which the grant is to be made and to give security for the carrying out of the agreement.

(3.) An agreement under the last preceding sub-section may include provision for the repayment of the whole or part of the grant to the Commonwealth in the event of a breach of the agreement.

(4.) An agreement under this section relating to a grant under Part II. or Part III. shall include a condition that the child care centre in respect of which the grant is payable—

(a) shall accept applications for the enrolment of—

- (i) children in special need, within the meaning of section 12 of this Act; and
- (ii) children whose circumstances are such that, in the opinion of the Minister, the children are in special need of child care,

in priority to applications relating to other children; and

(b) shall provide child care on such days and during such hours as the Minister determines.

21.—(1.) The Minister may, either generally or otherwise as provided by the instrument of delegation, by writing under his hand, delegate to the Secretary to the Department of Labour and National Service all or any of his powers under this Act, except this power of delegation.

Delegation.

(2.) A power so delegated may be exercised by the Secretary in accordance with the instrument of delegation and, when so exercised, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Minister.

(4.) Nothing in this section empowers the Secretary to make a grant under section 7 of this Act in respect of an approved project the capital cost of which is an amount exceeding Twenty-five thousand dollars.

(5.) In sub-sections (1.) and (2.) of this section, a reference to this Act includes a reference to an agreement entered into under this Act.

22. A determination under this Act shall be in writing.

Determinations to be in writing.

23. A grant under this Act shall be made at such time as is, or by such instalments and at such times as are, determined by agreement between the Minister and the eligible organization concerned or, in the absence of such an agreement, by the Minister.

Manner of payment of grants. ¶

Moneys to be appropriated.

24.—(1.) Grants under this Act are payable out of moneys appropriated by the Parliament for the purposes of this Act.

(2.) For the purposes of the last preceding sub-section, the moneys specified in Division 882 of the Second Schedule to the *Appropriation Act (No. 2) 1972-73* shall be deemed to be moneys appropriated by the Parliament for the purposes of this Act.

Regulations.

25. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
