



Disability Services and Inclusion (Consequential Amendments and Transitional Provisions) Act 2023

No. 103, 2023

**An Act to deal with repeals, consequential
amendments and transitional matters arising from
the enactment of the *Disability Services and
Inclusion Act 2023*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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**An Act to deal with repeals, consequential
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[Assented to 28 November 2023]

The Parliament of Australia enacts:

No. 103, 2023

*Disability Services and Inclusion (Consequential Amendments
and Transitional Provisions) Act 2023*

1

1 Short title

This Act is the *Disability Services and Inclusion (Consequential Amendments and Transitional Provisions) Act 2023*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 November 2023
2. Schedules 1 to 3	At the same time as the <i>Disability Services and Inclusion Act 2023</i> commences. However, the provisions do not commence at all if that Act does not commence.	1 January 2024

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 2—Consequential amendments

Aged Care Act 1997

1 Subsection 86-3(4) (paragraph (f) of the definition of receiving Commonwealth body)

Omit “*Disability Services Act 1986*”, substitute “*Disability Services and Inclusion Act 2023*”.

Aged Care Quality and Safety Commission Act 2018

2 Subsection 61(3) (paragraph (e) of the definition of receiving Commonwealth body)

Omit “*Disability Services Act 1986*”, substitute “*Disability Services and Inclusion Act 2023*”.

Age Discrimination Act 2004

3 Paragraph 41(1)(f)

Repeal the paragraph, substitute:

(f) the *Disability Services and Inclusion Act 2023*; or

Australian Hearing Services Act 1991

4 Subsection 8(3)

Omit “any principles, objectives and guidelines formulated under section 5 of the *Disability Services Act 1986*”, substitute “the objects of the *Disability Services and Inclusion Act 2023* and the principles set out in section 4 of that Act”.

Child Support (Registration and Collection) Act 1988

5 Subsection 16AB(3) (paragraph (f) of the definition of designated program Act)

Repeal the paragraph, substitute:

(f) the *Disability Services and Inclusion Act 2023*; or

Freedom of Information Act 1982

6 Schedule 3

Omit:

Disability Services Act 1986, subsections 28(2) and (6)

substitute:

Disability Services and Inclusion Act 2023, section 28

Hearing Services Administration Act 1997

7 Paragraph 5(2)(g)

Omit “the provision of a service under a rehabilitation program under Part III of the *Disability Services Act 1986*”, substitute “the provision of an employment service under Part II of, or the provision of a service under a rehabilitation program under Part III of, the former *Disability Services Act 1986*”.

Human Services (Centrelink) Act 1997

8 Subsection 40A(3) (paragraph (f) of the definition of *designated program Act*)

Repeal the paragraph, substitute:

(f) the *Disability Services and Inclusion Act 2023*; or

Human Services (Medicare) Act 1973

9 Subsection 43A(3) (paragraph (f) of the definition of *designated program Act*)

Repeal the paragraph, substitute:

(f) the *Disability Services and Inclusion Act 2023*; or

Income Tax Assessment Act 1997

10 Section 53-10 (table item 2)

After “Part III of the”, insert “former”.

Military Rehabilitation and Compensation Act 2004

11 Subsection 409(5) (paragraph (f) of the definition of receiving Commonwealth body)

Omit “*Disability Services Act 1986*”, substitute “*Disability Services and Inclusion Act 2023*”.

Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

12 Subsection 151A(4) (paragraph (f) of the definition of receiving Commonwealth body)

Omit “*Disability Services Act 1986*”, substitute “*Disability Services and Inclusion Act 2023*”.

Social Security Act 1991

13 Paragraph 8(8)(f)

After “Part III of the”, insert “former”.

14 After paragraph 8(8)(f)

Insert:

(fa) the value of supports or services that are specified in an instrument under subsection (8AAAB) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*;

15 Before subsection 8(8AAA)

Insert:

(8AAAB) The Secretary may, by legislative instrument, specify supports or services for the purposes of paragraph (8)(fa). The supports or services must be employment supports or services within the meaning of the *Disability Services and Inclusion Act 2023*.

16 Subsection 23(1) (paragraph (b) of the definition of *program of assistance*)

After “section 7 of the”, insert “former”.

17 Subsection 23(1) (paragraph (a) of the definition of *rehabilitation program*)

After “of the”, insert “former”.

18 Subparagraph 23(4B)(a)(ii)

After “rehabilitation program”, insert “or from the provision of supports or services specified in an instrument under subsection (4BA) and provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*”.

19 After subsection 23(4B)

Insert:

(4BA) The Secretary may, by legislative instrument, specify supports or services for the purposes of subparagraph (4B)(a)(ii). The supports or services must be employment supports or services within the meaning of the *Disability Services and Inclusion Act 2023*.

20 Paragraph 31(a)

After “of the”, insert “former”.

21 Paragraph 33(1)(a)

After “administering the”, insert “former”.

22 Subsection 94E(2)

Repeal the subsection, substitute:

- (2) A person is covered by a participation exemption for a period if the person is throughout the period:
- (a) in employment that is supported by supported employment services within the meaning of section 7 of the former *Disability Services Act 1986*; or
 - (b) in employment that is supported by supports or services that are specified in an instrument under subsection (3) of this

section and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*.

- (3) The Secretary may, by legislative instrument, specify supports or services for the purposes of paragraph (2)(b). The supports or services must be employment supports or services within the meaning of the *Disability Services and Inclusion Act 2023*.

23 Subparagraph 1035(1)(h)(ii)

After “vocational rehabilitation program”, insert “or the person is being provided with supports or services that are specified in an instrument under subsection (2A) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*”.

24 Subsection 1035(2)

Omit “undertaking”.

25 Paragraph 1035(2)(a)

Before “gainful”, insert “undertaking”.

26 Paragraph 1035(2)(b)

Before “vocational”, insert “undertaking”.

27 Paragraph 1035(2)(c)

Before “job”, insert “undertaking”.

28 Paragraph 1035(2)(d)

Before “voluntary”, insert “undertaking”.

29 Paragraph 1035(2)(e)

Before “a”, insert “undertaking”.

30 At the end of paragraph 1035(2)(e)

Add “or being provided with supports or services that are specified in an instrument under subsection (2A) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*”.

31 After subsection 1035(2)

Insert:

- (2A) The Secretary may, by legislative instrument, specify supports or services for the purposes of subparagraph (1)(h)(ii) or paragraph (2)(e). The supports or services must be employment supports or services within the meaning of the *Disability Services and Inclusion Act 2023*.

32 Subsection 1035(3) (definition of *vocational rehabilitation program*)

After “of the”, insert “former”.

33 Subsection 1035(3) (definition of *vocational training*)

Repeal the definition, substitute:

vocational training means vocational training within the meaning of section 19, other than training provided as:

- (a) part of a rehabilitation program or follow-up program under Part III of the former *Disability Services Act 1986*; or
- (b) part of supports or services that are covered by an instrument in force under subsection (2A) of this section and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*.

34 Paragraph 1035A(8)(c)

After “of the”, insert “former”.

35 After paragraph 1035A(8)(c)

Insert:

- (ca) the work is not performed by the person in the course of employment that is supported by supports or services that are specified in an instrument under subsection (10) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*; and

36 Paragraph 1035A(9)(e)

After “of the”, insert “former”.

37 After paragraph 1035A(9)(e)

Insert:

- (ea) the work has not been performed by the person in the course of employment that is or was supported by supports or services that are specified in an instrument under subsection (10) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*; and

38 At the end of section 1035A

Add:

- (10) The Secretary may, by legislative instrument, specify supports or services for the purposes of paragraph (8)(ca) or (9)(ea). The supports or services must be employment supports or services within the meaning of the *Disability Services and Inclusion Act 2023*.

39 At the end of subparagraph 1046(2)(b)(vi)

Add “or to be provided with supports or services that are specified in an instrument under subsection (2AA) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*”.

40 After subsection 1046(2)

Insert:

- (2AA) The Secretary may, by legislative instrument, specify supports or services for the purposes of subparagraph (2)(b)(vi). The supports or services must be employment supports or services within the meaning of the *Disability Services and Inclusion Act 2023*.

41 Subsection 1046(6) (definition of *vocational rehabilitation program*)

After “of the”, insert “former”.

42 Subsection 1046(6) (definition of *vocational training*)

Repeal the definition, substitute:

vocational training means vocational training within the meaning of section 19, other than training provided as:

- (a) part of a rehabilitation program or follow-up program under Part III of the former *Disability Services Act 1986*; or
- (b) part of supports or services that are covered by an instrument in force under subsection (2AA) of this section and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*.

Veterans' Entitlements Act 1986

43 Paragraph 5H(8)(m)

After "Part III of the", insert "former".

44 After paragraph 5H(8)(m)

Insert:

- (maa) the value of supports or services that are specified in an instrument under subsection 8(8AAAB) of the Social Security Act and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*;

45 Section 131 (paragraph (g) of the definition of *receiving Commonwealth body*)

Omit "*Disability Services Act 1986*", substitute "*Disability Services and Inclusion Act 2023*".

46 Saving provisions

- (1) Paragraph 41(1)(f) of the *Age Discrimination Act 2004*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to anything done by a person in direct compliance with the *Disability Services Act 1986* (as its application is continued by Schedule 3 to this Act).
- (2) Section 16AB of the *Child Support (Registration and Collection) Act 1988* applies on and after the commencement of this item as if a reference in paragraph (f) of the definition of ***designated program Act*** in subsection 16AB(3) of that Act to the *Disability Services and*

Inclusion Act 2023 included a reference to the former *Disability Services Act 1986*.

- (3) Section 38 of the *Freedom of Information Act 1982*, and Schedule 3 to that Act, apply on and after the commencement of this item as if a reference in that Schedule to section 28 of the *Disability Services and Inclusion Act 2023* included a reference to subsections 28(2) and (6) of the former *Disability Services Act 1986*.
- (4) Section 40A of the *Human Services (Centrelink) Act 1997* applies on and after the commencement of this item as if a reference in paragraph (f) of the definition of **designated program Act** in subsection 40A(3) of that Act to the *Disability Services and Inclusion Act 2023* included a reference to the former *Disability Services Act 1986*.
- (5) Section 43A of the *Human Services (Medicare) Act 1973* applies on and after the commencement of this item as if a reference in paragraph (f) of the definition of **designated program Act** in subsection 43A(3) of that Act to the *Disability Services and Inclusion Act 2023* included a reference to the former *Disability Services Act 1986*.

Schedule 3—Application and saving provisions

Part 1—Preliminary

1 Definitions

In this Schedule:

commencement day means the day the new Act commences.

new Act means the *Disability Services and Inclusion Act 2023*.

2 Section 7 of the Acts Interpretation Act 1901

This Schedule does not limit the effect of section 7 of the *Acts Interpretation Act 1901* as it applies in relation to the repeals and amendments made by this Act.

Part 2—Operation of new Act

3 Application provision—funding arrangements and grants

The new Act applies in relation to arrangements, and grants of financial assistance, made under Part 2 of the new Act on or after the commencement day.

Note: The effect of this item is to make clear that the new Act does not apply in relation to (and cannot be used to vary or administer) arrangements or grants of financial assistance made under the former *Disability Services Act 1986*, section 32B of the *Financial Framework (Supplementary Powers) Act 1997* or any other law of the Commonwealth.

Part 3—Operation of old Act

4 Saving provisions—grants of financial assistance and agreements

- (1) Despite the repeal of the *Disability Services Act 1986* made by Schedule 1, Part II of that Act, as in force immediately before the commencement day, continues to apply on and after that day in relation to the following:
- (a) approvals of the making of grants of financial assistance (including transitional grants), where the approvals were made under Part II of that Act before that day;
 - (b) grants of financial assistance (including transitional grants), made under that Act before, on or after that day in connection with such approvals;
 - (c) agreements entered into under Division 4 of Part II of that Act before, on or after that day in connection with such approvals.

Note: The effect of this subitem is to make clear that grants of financial assistance made under Part II of that Act before, on or after the commencement day, in connection with such approvals, can continue to be administered under that Act on and after that day.

- (2) An instrument in force for the purposes of paragraph (h) of the definition of **research or development activity** in section 7 of the *Disability Services Act 1986* immediately before the commencement day continues in force on and after that day in relation to the continued application of Part II of that Act on and after that day.
- (3) An instrument in force under section 9, 9A or 9B of the *Disability Services Act 1986* immediately before the commencement day continues in force on and after that day in relation to the continued application of Part II of that Act on and after that day.

5 Saving provision—principles, objectives, guidelines and standards

An instrument in force under section 5 or 5A of the *Disability Services Act 1986* immediately before the commencement day continues in force on and after that day in relation to the continued application of Parts II and III of that Act on and after that day.

6 Saving provisions—accreditation and certificates of compliance

- (1) An approval in force under section 6B of the *Disability Services Act 1986* immediately before the commencement day continues in force on and after that day in relation to the continued application of Parts II and III of that Act on and after that day.
- (2) An accreditation in force under Part IA of the *Disability Services Act 1986* immediately before the commencement day continues in force on and after that day in relation to the continued application of Parts II and III of that Act on and after that day.
- (3) Sections 6D, 6DA and 6E of the *Disability Services Act 1986*, as in force immediately before the commencement day, continue to apply on and after that day in relation to the continued application of Parts II and III of that Act on and after that day.

7 Saving provisions—Disability Standards Review Panels

- (1) A Disability Standards Review Panel for a State or Territory that was established under section 14B of the *Disability Services Act 1986* before the commencement day and that was in existence immediately before that day continues in existence on and after that day in relation to grants of financial assistance (including transitional grants) made under that Act before, on or after that day.
- (2) An instrument in force under section 14F of the *Disability Services Act 1986* immediately before the commencement day continues in force on and after that day in relation to the continued application of Part II of that Act on and after that day.
- (3) Divisions 3A and 3B of Part II of the *Disability Services Act 1986*, as in force immediately before the commencement day, continue to apply on and after that day in relation to the following:
 - (a) a Disability Standards Review Panel for a State or Territory continued in existence by this item;
 - (b) an instrument in force under section 14F of that Act immediately before that day.

8 Saving provisions—provision of rehabilitation services by the Commonwealth

- (1) Despite the repeal of the *Disability Services Act 1986* made by Schedule 1, Part III of that Act, as in force immediately before the commencement day, continues to apply on and after that day in relation to measures taken, or arrangements entered into, under section 20 of that Act before that day to provide rehabilitation programs or follow-up programs.

Note: The effect of this subitem is to make clear that those measures or arrangements can continue to have effect on and after the commencement day.

- (2) An instrument in force under subsection 24(2) of the *Disability Services Act 1986* immediately before the commencement day continues in force on and after that day in relation to the continued application of Part III of that Act on and after that day.
- (3) Section 25 of the *Disability Services Act 1986*, as in force immediately before the commencement day, continues to apply on and after that day in relation to an arrangement entered into before, on or after that day in relation to the continued application of Part III of that Act on and after that day.
- (4) Section 26 of the *Disability Services Act 1986*, as in force immediately before the commencement day, continues to apply on and after that day in relation to a decision made under Part III of that Act before, on or after that day.
- (5) Section 27 of the *Disability Services Act 1986*, as in force immediately before the commencement day, continues to apply on and after that day in relation to a notice served on a person before, on or after that day in relation to the continued application of Part III of that Act on and after that day.
- (6) Section 28 of the *Disability Services Act 1986*, as in force immediately before the commencement day, continues to apply on and after that day in relation to the making of a record of information, or the divulging of information, before, on or after that day that is with respect to the affairs of a person acquired in the performance of duties or exercise of powers under Part III of that Act before, on or after that day.

9 Saving provision—delegations

An instrument in force under section 33 or 34 of the *Disability Services Act 1986* immediately before the commencement day continues in force on and after that day in relation to the continued application of Parts II and III of that Act on and after that day.

10 Transitional rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to:
 - (a) the enactment of the *Disability Services and Inclusion Act 2023*; or
 - (b) the amendments or repeals made by Schedule 1 or 2.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
- (3) Items 4 to 9 of this Part do not limit the rules that may be made for the purposes of subitem (1) of this item.

Part 4—Transitional code of conduct

11 Transitional code of conduct

- (1) The Minister may, by legislative instrument, make rules that make provision for or in relation to a code of conduct that, on and after the commencement of this item, applies to the following:
- (a) an eligible organisation (within the meaning of the *Disability Services Act 1986* as in force immediately before that commencement), where:
 - (i) before that commencement, the Minister approved the making of a grant of financial assistance to the organisation under Part II of that Act; and
 - (ii) immediately before that commencement, an agreement with the organisation under section 15 of that Act is in effect in connection with that approval;
 - (b) a person or body that is a party to an arrangement that was entered into under Part III of the *Disability Services Act 1986* before that commencement and that is in effect immediately before that commencement;
 - (c) a person to whom money is paid before, on or after that commencement under an arrangement made before that commencement under section 32B of the *Financial Framework (Supplementary Powers) Act 1997*, where the arrangement:
 - (i) is in effect immediately before that commencement; and
 - (ii) is for the purposes of a program, or part of a program, that is specified in the rules;
 - (d) a person to whom a grant of financial assistance is made before, on or after that commencement under section 32B of the *Financial Framework (Supplementary Powers) Act 1997*, where:
 - (i) immediately before that commencement, an agreement between the person and the Commonwealth is in effect in connection with that grant; and
 - (ii) the grant is for the purposes of a program, or part of a program, that is specified in the rules.

Schedule 3 Application and saving provisions

Part 4 Transitional code of conduct

- (2) For the purposes of subparagraph (1)(c)(ii) or (d)(ii), the program must be a program specified in regulations under the *Financial Framework (Supplementary Powers) Act 1997*.
- (3) Without limiting subitem (1), rules made for the purposes of that subitem may make provision for circumstances in which an eligible organisation, person or body breaches the code of conduct because of an act, or an omission to perform an act, by:
- (a) a member of the key personnel (within the meaning of the *Disability Services and Inclusion Act 2023*) of the eligible organisation, person or body; or
 - (b) another person who is employed, or otherwise engaged, by the eligible organisation, person or body.
- (4) To avoid doubt, the rules may not do the following:
- (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
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[*Minister's second reading speech made in—
House of Representatives on 14 September 2023
Senate on 15 November 2023*]

(114/23)
