

**2002**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**SENATE**

**DISABILITY SERVICES AMENDMENT  
(IMPROVED QUALITY ASSURANCE) BILL 2002**

**EXPLANATORY MEMORANDUM**

(Circulated by authority of the Minister for Family and Community Services,  
Senator the Hon Amanda Vanstone)

**DISABILITY SERVICES AMENDMENT  
(IMPROVED QUALITY ASSURANCE) BILL 2002**

**OUTLINE AND FINANCIAL IMPACT STATEMENT**

Outline

The *Australians Working Together* package announced in the Government's 2001-02 Budget includes a measure, *A Better Deal for People with Disabilities*, which will improve outcomes for people with disabilities through better access to education and training, better assessment of people's work capacities, better access to employment assistance services and quality assurance of available employment services and rehabilitation programs.

This Bill gives effect to the component of this measure that aims at improving the quality of Commonwealth-funded employment services and rehabilitation programs provided to people with disabilities. The measure establishes a new quality assurance system in relation to the provision of those services, based on certification of the services against disability employment standards, or rehabilitation program standards, by industry-based certification bodies accredited for this purpose by an internationally recognised accrediting authority.

The amendments in this Bill make funding of employment services, and the approval of rehabilitation programs, dependent on a service provider being certified as meeting the relevant standards. After a transition period ending in December 2004, only those existing employment services that fully meet the disability employment standards will be funded by the Commonwealth, and only those rehabilitation programs the provision of which fully meets the rehabilitation program standards will be approved.

During the transitional period, existing employment services will be funded if they comply with the standards that currently apply to them and notify the Minister of their intention to seek to obtain a certificate of compliance within the time specified by the Minister.

New employment services will have up to twelve months to become certified.

The measure commences on 1 July 2002.

The legislation affected is the ***Disability Services Act 1986***.

Financial impact

Future expenditure for the quality assurance measure is estimated at \$4.7 million in 2002-03, \$5.2 million in 2003-04 and \$5.3 million in 2004-05.

**DISABILITY SERVICES AMENDMENT  
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**REGULATION IMPACT STATEMENT**

**New Quality Strategy for Commonwealth Funded Disability Employment  
Services**

**The problem**

*What is the problem being addressed?*

There is a concern that the current system of quality assurance for Commonwealth funded disability employment services is not effective in assuring quality in a consistent and independent way.

The Commonwealth helps people with disabilities to find and maintain employment either through the Department of Employment, Workplace Relations and Small Business programs or employment assistance programs funded by the Department of Family and Community Services (FaCS). FaCS' programs typically provide employment support for people with more severe disabilities through either open or supported employment services. These services are mainly charitable, non-profit agencies that are contracted by FaCS to provide employment support. Many agencies are likely to be funded from a number of sources.

FaCS funds 435 organisations to provide more than 870 specialist employment services, which are used by 49,285 people with disabilities. \$279 million has been allocated to these programs in 2000-2001. FaCS also provides vocational rehabilitation through 160 CRS Australia outlets at a cost of \$101.9 million (2000-2001). The new quality strategy will be applied to both vocational rehabilitation and FaCS funded disability employment assistance programs.

These disability employment and rehabilitation providers are funded under the ***Disability Services Act 1986*** (the Disability Services Act). This legislation marked a turning point in the Commonwealth's legislative regulation of services for people with a disability. The Act was a result of a review of the ***Handicapped Persons Assistance Act 1974*** which concluded that although people with disabilities wanted to participate in community and economic life, they were often prevented from doing so by prevailing attitudes amongst service providers and sectors of the broader community.

The Disability Services Act came into operation in 1987. It provided all the then funded services with five years to meet the higher standard of service embodied in the objects, and the principles and objectives of the Disability Services Act. This five-year period ended on 30 June 1992.

Although significant achievements had been made, it became clear that for many services this five-year period was not long enough to deal with the complexity of change required.

In 1992 the Disability Services Act was amended to remove the sunset clause.

In March 1993, the Government adopted the Disability Services Standards that were developed in consultation with service providers and consumer bodies, unions and State/Territory Governments. They set out eleven areas of service quality that consumers are entitled to expect. They cover:

- service access
- individual needs
- decision making and choice
- privacy, dignity and confidentiality
- participation and integration
- valued status
- complaints & disputes
- service management
- employment conditions
- employment support
- employment skills & development

In 1993 the Disability Services Standards (Standards) were introduced with a plan to move services through a three tiered process of service improvement to fully meet the Standards.

This process of change has met with limited success – many of the supported employment services (many of which are the traditional sheltered workshops) have not made the expected improvements to meet the highest level of Standards. Currently, 341 services (39% of funded services) meet the Disability Services Standards at the minimum level.

Current monitoring of service quality against the Disability Services Standards is required under Section 14K of the Disability Services Act, and involves:

- an annual self-assessment process undertaken by each service in consultation with its consumers. The Government funds a Consumer Training and Support Program to provide independent training and support for consumers in this process. Independent consumer support is expected to continue to be provided.
- the Department conducts an audit of each service at least every five years, to verify compliance against the Standards.

This new quality assurance system will address concerns raised by a review of the current system conducted by representatives of the disability sector - *Assuring Quality by the Disability Standards Review and Quality Assurance Working Party (April 1997)*. The review concluded that 'there is no formal accreditation system which provides assurance of service quality for consumers or for the government as the purchaser'. Other major concerns were that the current system provided poor measures of quality, little incentive for improvement and an ad hoc complaints and referral system.

*Why is Government action needed to correct the problem?*

There has been a loss in confidence in the ability of the current system to ensure that disability employment services meet quality standards – the Disability Services Standards.<sup>1</sup>

Explicit government regulation of quality is warranted to ensure service providers meet the highest level of quality standards. Without regulation there is a high risk that the quality standards will not be fully met and substandard support services will be provided to people with a disability potentially placing them at risk.

To support the development and introduction of the quality assurance system a Disability Quality and Standards Working Party was established. This Working Party represented key stakeholders from the disability employment sector – disability employment service providers, consumers and government (including state/territory governments).

The Disability Quality and Standards Working Party reached consensus that the existing system of quality assurance required significant change to improve its independence, efficiency and effectiveness (Assuring Quality, April 1997). It agreed that the existing Standards should be retained to provide the core values for the new quality assurance system, with the addition of two new Standards on:

- staff recruitment, employment and training; and
- protection of human rights and freedom from abuse and neglect.

*Key question to be addressed by Regulation Impact Statement*

The key question that will be addressed by this regulation impact statement is:

*“Does the proposed new quality assurance system address quality concerns disability employment assistance services in a cost effective way.”*

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<sup>1</sup> *Assuring Quality*, A Report by the Disability Standards Review and Quality Assurance Working Party, April 1997

## **Objectives**

### *Government Objectives for the Program*

In June 1997, the then Minister for Family Services approved the following objectives for the new quality assurance/accreditation system:

- provide people with disabilities with an improved level of confidence in the quality of service delivery;
- treat all service providers equally (in both the government and non-government sectors);
- make assessment of quality more objective & measurable;
- link quality assurance to funding through an accreditation process which would provide the purchaser with confidence in the quality of service delivery and outcomes for individuals; and
- reduce government intervention in the day to day operation of services.

### *Regulation currently in place*

The current system provides for service performance to be measured against 11 Disability Services Standards and 101 supporting standards with examples of good practice. Each service lodges annual self-assessment for scrutiny by FaCS. FaCS also undertakes five yearly audits against the Standards.

### *Government commitment for change*

The Government announced its commitment to reform the quality assurance process for disability employment assistance services in the 1996/97 Budget.

This new quality assurance system provides the platform for further reform to better link funding to individual need and quality outcomes.

## **Description of Options**

There are three options that should be assessed by this RIS:

1. the Status-quo;
2. a JAS-ANZ system of accreditation; and
3. a disability specific system of accreditation.

The Disability Quality and Standards Working Party agreed that the existing Standards should be retained with some changes to provide the core values for the new quality assurance system. Changes included the amalgamation of two existing Standards, the addition of two new Standards and some minor wording changes. The Working Party deliberations were informed by an independent study of the disability sector's views on the overall effectiveness of the Standards<sup>2</sup>. Of the 11 existing Disability Services Standards, it is proposed to amalgamate two standards and include two additional standards on training and human rights. There will be 12 Disability Services Standards and 30 associated Key Performance Indicators.

### *1. Status-quo*

Under the current arrangements, officers from the Commonwealth Department of Family and Community Services audit employment services against 11 Disability Services Standards every five years. This is in accordance with the requirements of section 14K of the Disability Services Act. In addition, the service provider is required to assess their service against the Standards annually and to lodge this assessment with FaCS for scrutiny.

The current system recognises three levels of performance against the existing Disability Services Standards - minimum, enhanced and eligible levels. Initially, financial incentives were provided to encourage services to improve through the three tiers and reach the eligibility classification level.

The Disability Services Standards require each service to provide internal complaints mechanism for consumers to raise issues and have them resolved. A Disability Services Review Panel (DSRP) can also be established as required, to review services and advise the Minister in cases where sanctions are being considered against services for not meeting the Standards.

The Government funds the current system of Departmental audits, which is estimated at approximately \$1.3 million per annum. There is an additional \$1.2 million per annum currently allocated for the Consumer Training and Support Program which provides independent training and support to consumers during the annual self-assessment process. This support is required irrespective of the system chosen.

### *2. JAS-ANZ System*

This proposed quality assurance system is based on a system of accreditation/certification that is well-established in Australian industry, based on international standards of best practice tailored to the requirements of people with disabilities and promoted by the disability sector. It involves the use of skilled audit teams whose competence and impartiality will be monitored by an independent, internationally recognised accreditation agency, the Joint Accreditation System of Australia and New Zealand (JAS-ANZ).

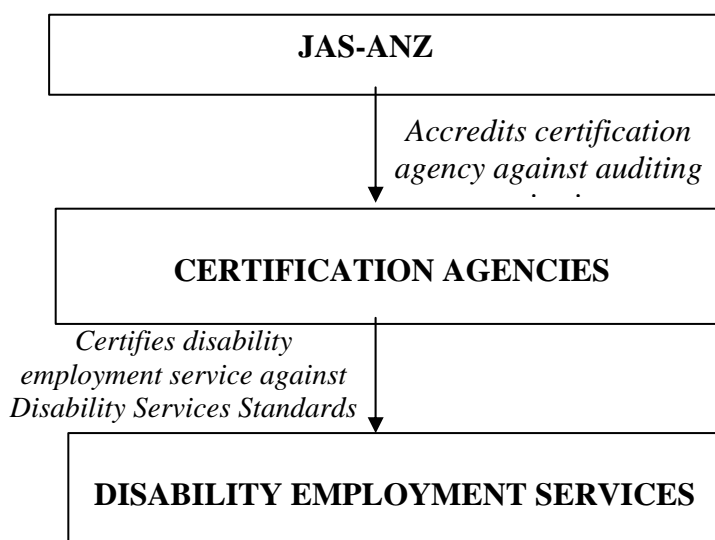
The Australian and New Zealand Governments established JAS-ANZ as a non-profit organisation to ensure that the certification agencies responsible for providing independent auditors are competent and impartial.

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<sup>2</sup> *Evaluation of the Barriers to Implementing the Disability Standards: Final Report. 1997*

The certification agencies are responsible for putting together audit teams that will meet the skills and competencies outlined in the *General Criteria and Guidelines for Bodies Operating Assessment and Certification of Disability Employment Services* (Procedure 18 of the JAS-ANZ Auditing Criteria). Each audit team is to include a person with a disability, either as a lead auditor or a technical expert. All audit teams require technical expertise and a detailed understanding of the Disability Services Standards, industry practices and high-level communication skills to engage and draw feedback from consumers of disability employment services. A person with a disability provides critical insights about the experience of the consumers.

### **Certification Process**



Accredited certification agencies will assess disability employment services against the Disability Services Standards – quality standards that have been established by the disability sector. Service providers will be able to choose from a range of accredited certification agencies that best address their particular requirements.

Under this proposed system, a service’s certification status will, after an expected transition period ending in December 2004, be linked to funding. Those services not certified after the transition period will not be funded. Service providers wishing to enter the disability employment assistant market place, to qualify to receive referrals of eligible jobseekers from Centrelink, would need to be certified within a prescribed period.

To assist providers meet the new framework there will be a range of continuous improvement initiatives to encourage and support service improvement during and after the transition period. A key priority for the continuous improvement program will be to assist those service providers that do not have any quality management systems currently in place.



The development and implementation of an independent, consumer complaint handling mechanism will also be an important component of the Commonwealth's quality strategy for disability employment assistance. This mechanism complements the JAS-ANZ complaints system that allows review of any accreditation and certification decisions or processes. The Disability Services Standards continue to require each service to provide internal complaints mechanism for consumers to raise issues and have them resolved.

The Government proposes to contribute to the accreditation/certification costs during the transition period that will end in December 2004. Towards the end of this period, the system will be reviewed to determine whether funded organisations will be able to meet the certification/accreditation costs under an outcome based funding system.

During the transition phase, the average cost per year is estimated at approximately \$5.1 million per year. This includes accreditation /certification costs (\$2.4 million), continuous improvement activities (\$0.6 million per annum), implementation and ongoing maintenance of an independent complaints and referral system (\$1.5 million per annum) and departmental expenses (\$0.6 million per annum). An additional \$1.2 million each year is required to continue to provide independent consumer training and support.

If after the transition period it is determined that services can fully self-fund certification/accreditation costs then the overall costs of the quality strategy could be scaled back to \$2.7 million per year to cover continuous improvement, implementation and ongoing maintenance of the independent complaints and referral system and departmental expenses.

### *3. Disability Specific System*

The disability specific option would involve the establishment of a disability specific accreditation authority with powers under Commonwealth legislation to accredit service providers for funding purposes similar to arrangements that apply to Aged Care facilities.

The new authority would employ contract auditors to audit service providers for compliance with the Disability Services Standards as measured against performance indicators specified by the Commonwealth in legislation. The authority would make the decision to accredit a service provider on the basis of the audit. Service providers wishing to enter the disability employment assistant market place, to qualify to receive referrals of eligible jobseekers from Centrelink, would contact the authority to seek an audit.

The new authority would require a board of management, offices and administrative staff. The authority would be responsible for training and contracting qualified auditors. There would be an independent consumer complaints and referral system. It is assumed that all infrastructure costs of the new accreditation authority would be borne by the Commonwealth and that service providers would pay for audits on a fee for service basis.

This system would be very similar to the Aged Care Standards and Accreditation Agency, which was established in October 1997 as a Commonwealth company limited by guarantee. By 1 January 2001 ('accreditation day'), every residential aged care service in Australia in receipt of Commonwealth funding had to be accredited for at least three years in order to continue to receive that funding.

The Aged Care Standards and Accreditation Agency is responsible for assessing and accrediting Australia's 3000 residential aged care services, which provide residential care for 135,000 people at a cost to the Commonwealth of \$11.7 million for 2000/01. Expenditure estimates used in this Regulation Impact Statement are from the 1999/2000 Annual Report for the Aged Care Standards and Accreditation Agency available on their internet website address.

Expenditure of \$11.7 million in 2000/01 covered the following activities:

- managing accreditation and ongoing monitoring;
- sending suitability qualified teams to check service quality against the Aged Care Standards; and
- investigating complaints that have been referred from the Department of Health and Aged Care.

Services of 20 beds or more are to pay a fee of between \$3,050 and \$9,500 (depending on the size of service) to the Aged Care Standards and Accreditation Agency to cover assessment and accreditation costs. The Government will pay the full accreditation fee for smaller facilities with less than 20 beds and for those facilities between 20 and 25, a tapered subsidy will apply. In 2000-2001, the Accreditation Agency anticipates it will receive \$13.6 million in fees and charges from services.

In the 2000-2001 Budget, the Government announced that an additional \$6.4 million would be provided over four years for the subsidisation of accreditation fees to ensure that fees remain at less than one percent for all facilities.

The total government outlays for the quality assurance process for 3000 aged care facilities (135,000 people) in 2000-2001 is approximately \$26.9 million which includes \$13.6 million paid by services in accreditation fees and charges. It does not include the Departmental staffing resource to support the system.

Disability employment services involve 49,285 people, which is 36.5% of the aged care population in residential aged care facilities. Using this as a benchmark, we could assume that the disability specific accreditation agency for 880 services (49,285 people) will cost approximately \$9.8 million plus Departmental staffing resources which are estimated at \$1.9 million per year, resulting in a total of \$11.7 million per annum. Also there would be some significant initial infrastructure costs not reflected in this figure. An additional \$1.2 million would continue to be required to provide independent training and support.

## Assessment of Options

### Option 1 - Current System

	Benefits	Costs
<b>Consumers</b>	<ul style="list-style-type: none"> <li>Government funds a Consumer Training and Support Program which informs consumers about the Standards</li> </ul>	<ul style="list-style-type: none"> <li>Current measures of service quality are unreliable and process focused.</li> <li>Little transparency for consumers and community on service quality.</li> <li>Ineffective integration of consumer views on a service's quality (<i>Evaluation of Consumer Training and Support Program, 1999</i>).</li> <li>Lack of independent complaint system.</li> </ul>
<b>Business (ie service providers)</b>	<ul style="list-style-type: none"> <li>No cost apart from the time involved in undertaking the external audits and self-assessment process</li> </ul>	<ul style="list-style-type: none"> <li>Inefficient and ineffective - too much time spent on a system that is process focused and administratively burdensome with little real benefits (<i>Assuring Quality, 1997</i>).</li> <li>Unreliable and inconsistently applied measures of quality.</li> <li>Little incentive and guidance on how to improve service quality.</li> <li>No appeals system for audit process/decisions apart from the Ministerial appointed Disability Standards Review Panel (which is rarely used).</li> <li>System has little relevance to current business practice. Currently, over 30% of service providers already have an ISO based quality system that use JAS-ANZ accredited Certification Agencies and would like to adopt a similar system for the Disability Standards.</li> </ul>
<b>Government</b>	<ul style="list-style-type: none"> <li>Quality standards are currently monitored.</li> <li>There are core quality standards that apply to all Government funded disability services across Commonwealth and State/Territory Government jurisdictions.</li> </ul>	<ul style="list-style-type: none"> <li>The Government funds the current system of Departmental audits which is estimated at approximately \$1.3 million per annum</li> <li>Currently, there is no effective incentive for service providers to perform above the regulated minimum.</li> <li>Commonwealth rehabilitation services are not audited against the Standards and are treated quite differently from service providers in the non-government sector.</li> <li>Lack of consistency and independence raises credibility issues for Government. The critical nature of funding decisions requires a more credible system.</li> </ul>

**Option 2 - Assessment of JAS-ANZ System**

	<b>Benefits</b>	<b>Costs</b>
<b>Consumers</b>	<ul style="list-style-type: none"> <li>• System can be adjusted to ensure the effective participation of people with disabilities in the accreditation/certification process at all levels.</li> <li>• There are a range of checks and balances in this system that promote consumer confidence.</li> <li>• Greater transparency of service quality.</li> <li>• Less prescriptive, more outcomes focussed regime.</li> <li>• Access to an independent consumer complaints system.</li> <li>• Strategies and incentives for service improvement against the Standards.</li> </ul>	
<b>Business (service providers)</b>	<ul style="list-style-type: none"> <li>• A third of service providers are already using a JAS-ANZ system of quality certification.</li> <li>• Provides a universally recognised quality assurance badge.</li> <li>• Service providers can choose from a range of accredited certification bodies that best address their particular requirements.</li> <li>• Replaces an existing system, which many services regard as administratively burdensome with little overall value.</li> </ul>	<ul style="list-style-type: none"> <li>• Two thirds of services do not have experience with the proposed system.</li> <li>• The system requires a major assessment every three years with annual surveillance audits during the intervening years. This may be considered more resource intensive than the current system, which involves an external audit every five year with annual self-assessment.</li> <li>• Following the transition period ending in December 2004, service providers may be required to contribute toward or pay the full cost of certification depending on the findings of an 18-month Post Implementation Review. Costs beyond the first three years could average \$8,000 for the full assessment of a single site service and \$2,000 for the annual surveillance audits. There are additional auditing costs associated with rural and multi-site services. It is expected that service providers with an existing JAS-ANZ quality system should only pay an additional marginal cost for the disability specific system.</li> </ul>
<b>Government</b>	<ul style="list-style-type: none"> <li>• Certification is determined by an independent, non-government agency with particular expertise in quality assurance and the disability sector.</li> <li>• Allows Government to focus on outcomes rather than process. JAS-ANZ and the Certification Agencies are to perform in accordance with international quality practice and agreed auditing criteria.</li> <li>• Fewer infrastructure costs for Government because it builds on an existing system.</li> <li>• Increased frequency of audits provides greater accountability.</li> <li>• Service providers in the government and non-government sector are certified under the same system.</li> <li>• Core Disability Services Standards remain common across Commonwealth/State Government jurisdictions.</li> </ul>	<ul style="list-style-type: none"> <li>• Government has allocated more than \$17 million over four financial years to the quality assurance initiative from 1 January 2002. Of this, \$15 million will be used for implementation of this system from 1 July 2002.</li> <li>• The cost of conducting audits will increase if the inclusion of a person with a disability on the audit team results in a larger audit team.</li> </ul>

### Option 3 - Assessment of the Disability Specific System

	Benefits	Costs
<b>Consumers</b>	<ul style="list-style-type: none"> <li>• Greater transparency of service quality.</li> <li>• Access to an independent consumer complaints system.</li> <li>• Strategies and incentives for service improvement against the Standards.</li> </ul>	<ul style="list-style-type: none"> <li>• The accuracy and reliability of the audit results may be harder to maintain without an independent regulator (ie JAS-ANZ).</li> </ul>
<b>Business (service providers)</b>	<ul style="list-style-type: none"> <li>• Would be less prescriptive, more outcome focused than the current system.</li> </ul>	<ul style="list-style-type: none"> <li>• One-off nature of system may involve higher accreditation fees and charges.</li> <li>• Would require a single system to apply to all services irrespective of business structure or quality assurance environment (no opportunity to integrate it with an existing quality system).</li> </ul>
<b>Government</b>	<ul style="list-style-type: none"> <li>• Places both the accreditation and management of certification, with one independent, expert quality assurance agency.</li> <li>• Service providers in the government and non-government sector are accredited under the same system.</li> <li>• The system allows Government to focus on the outcomes rather than process.</li> </ul>	<ul style="list-style-type: none"> <li>• This system does not provide the level of independence of Option 2 (ie JAS-ANZ) to ensure the system adheres to international quality standards.</li> <li>• Building and maintaining this one-off system will be more expensive for Government compared to either of the other two systems.</li> <li>• Estimated financial cost approximately \$11.7 million per year compared to \$5.1 million of Option 2. If service providers fund the certification costs of the system in the longer term, the financial cost of both options could be scaled back by \$2.4 million to \$9.3 million for Option 3 and \$2.7 million for Option 2.</li> </ul>

### Impact Analysis

FaCS undertook a six-month trial of the preferred quality assurance option (the JAS-ANZ system) which was completed in December 2000. It involved certification audits of 22 disability services and accreditation of six potential certification bodies.

As part of the trial, the Department commissioned ARTD Management and Research Consultants to undertake an independent evaluation of the operational effectiveness of the proposed quality assurance option across the diversity of service types and arrangements. National consultations were also undertaken with service providers and 50 consumer focus groups to inform interested stakeholders of the outcomes of the evaluation and identify any outstanding issues and suggestions for improvement.

The evaluation found the trial had successfully demonstrated the new quality assurance system could provide a robust and credible system for measuring the extent to which disability employment services comply with the Disability Services Standards across a range of service types and arrangements. Copies of the relevant reports are available from the quality assurance website ([www.facs.gov.au/qa](http://www.facs.gov.au/qa)). It also demonstrated that the quality assurance system could accommodate any existing quality assurance system that disability employment services may have in place.

The evaluation found that trial participants supported the introduction of the new quality assurance system based on the JAS-ANZ system. Although the system involved a full assessment every three years instead of every five years with annual surveillance checks, it was more outcome focused with clearer benefits for all parties.

While trial participants were not required to pay for the certification costs of the trial, the trial evaluation did estimate an average of \$8,000 for the cost of a single site certification audit that would be required every three years. An annual surveillance audit for the two years in between was estimated to be between \$2,000 to \$3,000 per year.

The estimated cost of an additional site audit for a multi-site organisation was \$2,000 however not all sites would be audited every year. The number of sites required for audit is defined by an algorithm to select a representative sample to enable an evaluation to be made of precision and reliability. The number of sites per organisation (including CRS) are indicated in the following table commencing with the number of single site organisations at 274.

No of organisations	274	69	43	20	10	7	2	4	3	1	2	1	1
No of outlets/sites	1	2	3	4	5	6	7	9	10	12	17	38	160

Before the trial, FaCS undertook a survey, which showed a third of disability services are already certified under an ISO quality systems and are paying this order of certification costs. Another third of disability services indicated they were planning to adopt and pay for a quality assurance system.

Government will cover reasonable accreditation/certification costs for the first three years with any continuing funding based to be based on a review in 2003-2004 of sector's ability to fund their own certification/accreditation costs after 2004-05.

## **Consultation**

The Department has worked very closely with key representatives of the disability sector (via the Disability Quality and Standards Working Party, a sub-committee of the National Disability Advisory Council) to develop and trial the new quality assurance system.

The evaluation concluded that the JAS-ANZ system received 'strong support from service providers and consumers. The additional investment required by this system (over the status quo) could be easily justified on the basis of the added-value features of the new system, particularly the potential for greater:

- independence and professional objectivity through the use of accredited certification bodies;
- rigour and consistency between audits;
- involvement of consumers in the audit process;
- focus on service quality and outcomes; and
- fairness in the quality requirements for different service types ('level playing field').

At the same time, trial participants highlighted this added value will only be achieved if action is taken in the areas of improvement identified in the evaluation. Areas of improvement include developing a comprehensive communication strategy about the quality assurance initiative, refining the performance measures, supporting consumer participation and providing orientation training for auditors.

In 2000, there was a national round of public information sessions on the proposed quality assurance system for disability employment services and consumers. A further round of consultations with the sector was conducted in April 2001 on the findings of the evaluation and future directions. These sessions included 50 consumer focus groups organised and run by expert facilitators. A summary of the issues raised can be found on the quality assurance website ([www.facs.gov.au/qa](http://www.facs.gov.au/qa)).

There are two main areas where consensus between all stakeholders has not been able to be reached. The outstanding issues involve the performance indicators for two Disability Service Standards (Standards 5 and 9 – Integration and Employment Conditions) and the training requirements of the person with a disability on the audit team. All issues will be reassessed with a major review planned within 18 months of the introduction of any new system. Regular ongoing reviews involving consultation with the disability sector will also be required to confirm that the original objectives are being met and that the performance indicators are appropriate.

## **Conclusion and Recommendation**

The evaluation of the trial provides clear evidence that the proposed new quality assurance system (Option 2) does fully meet the objectives sought by government and provides the best value for money in terms of ensuring the quality of disability employment services. It is also broadly supported by the disability sector.

Both Options 2 and 3 will address to varying degrees, the Government's stated objectives specified for the new quality assurance system – objectives that are not being met by the current system (Option 1). Specifically, both Options 2 and 3 will:

- provide people with disabilities with an improved level of confidence in the quality of service delivery;
- treat all service providers equally (in both the government and non-government sectors);
- make assessment of quality more objective & measurable;
- link quality assurance to funding through an accreditation process which would provide the Government with confidence in the quality of service delivery and outcomes for individuals; and
- reduce government intervention in the day to day operation of services.

In addition, the two new systems will provide an independent complaint mechanism for consumers and provide a range of incentives for service providers to continue to improve the quality of their services. All parties maintain that these are both critical elements of any quality strategy for disability services.

Both Options 2 and 3 would involve a full assessment every three years with annual surveillance reviews by independent (non-Departmental) auditors. Both these options are likely to involve more resources for service providers than the current system of five-yearly Departmental audits and annual self-assessments. However, the prevailing view amongst service providers is that a more outcome-focused system of quality assurance (which Options 2 and 3 would be designed to deliver) would be worth the additional investment in time and effort. Whether they would be willing and able to pay certification costs under the Options 2 and 3 is, at this stage, unclear. In view of this uncertainty, the Government has agreed to pay for reasonable certification costs during the transition period ending in December 2004, during which the impact of self-funding certification costs, can be more carefully considered.

Also most service providers acknowledge that in this day and age, quality assurance is critical to improved service delivery and business practices. As more of Commonwealth funded employment services move to a more competitive business environment, there is a general recognition that they need to adopt more effective quality assurance systems.

Both Options 2 and 3 would provide both consumers (and government) with greater confidence in the quality of disability services because under both options only certified services would be funded (following a transition period). Certification would be based on more accurate and reliable assessment of quality compared to Option 1.



The existing system of FaCS Departmental audits is the cheapest alternative at an estimated audit cost of \$1.3 million per annum. It is estimated that the disability specific system (Option 3) will cost approximately \$11.7 million per year compared to \$5.1 million for the JAS-ANZ. In the longer term, service providers paying for the certification cost (estimated at \$2.4 million per annum) could reduce the cost to Government of both these Options. Potentially, Option 2 could be reduced to \$2.7 million per annum and Option 3 to \$9.3 million in the longer term. A reduction to Government outlay would result in increase costs to service providers. An additional \$1.2 million per annum for independent training and support for people with disabilities would need to be added to the cost to Government for all the Options.

Of the two new systems that have been proposed, the JAS-ANZ system is seen to be most cost-effective alternative.

- The JAS-ANZ system is more effective as it provides a more accurate and reliable assessment of quality with an independent regulator to assess the competence and impartiality of the audit teams and the subsequent audit results. The disability specific model lacks an independent regulator to ensure the competence and impartiality of the audit teams.
- The JAS-ANZ system is cheaper as it builds onto a system with an existing infrastructure that operates in a competitive environment.

Disability specific matters have been successfully integrated into the JAS-ANZ system. While there was an initial concern that the JAS-ANZ system may not be as responsive to disability issues as the disability specific system, all parties are now convinced that this is not the case. The JAS-ANZ procedures have been crafted to ensure that the system is knowledgeable and responsive to disability issues and concerns. For example, the JAS-ANZ procedures require that a person with a disability is to be included in audit teams as the technical expert. This person will be responsible for engaging consumers and ensuring that their feedback is fully considered by the audit team.

### **Implementation & Review**

The new system will commence on 1 July 2002. Existing disability employment services will have up to 31 December 2004 to achieve certification. After December 2004, only those existing disability employment assistance and rehabilitation services that are certified will receive Commonwealth funding under the Disability Services Act.

FaCS plans to undertake a post implementation review of the quality assurance initiative within eighteen months of its introduction. It will be designed to assess the impact of the quality assurance initiative, the capacity of disability employment services to fund the certification costs and review key performance indicators.

**DISABILITY SERVICES AMENDMENT  
(IMPROVED QUALITY ASSURANCE) BILL 2002**

**EXPLANATION OF CLAUSES**

**Clause 1** sets out how the amending Act is to be cited, that is, as the *Disability Services Amendment (Improved Quality Assurance) Act 2002*.

**Clause 2** provides for the commencement of the Act. Sections 1 to 3 commence on the day of Royal Assent. Schedule 1, item 1, commences on the day of Royal Assent and the remaining items of Schedule 1 commence on 1 July 2002.

**Clause 3** provides that each Act that is specified in a Schedule in the Bill is amended or repealed as set out in that Schedule.

## SCHEDULE 1 - AMENDMENT OF THE DISABILITY SERVICES ACT 1986

### Summary

Currently, Commonwealth assistance (grants) under Part II of the *Disability Services Act 1986* (the Disability Services Act) is available in respect of disability services classified as “eligible services”, “transitional services” and “prescribed services”. The making of grants for those services is dependent on the service being provided in accordance with the standards determined by the Minister. The Department of Family and Community Services assesses the compliance with the standards every five years and monitors annual self-assessments by service providers.

The standards determined by the Minister under the Disability Services Act do not apply to the provision of rehabilitation programs under Part III of the Act.

The Disability Services Act is amended to replace the current quality assessment system by a new industry-based quality assurance system. The new system will apply to those disability services that provide “employment services”. Prescribed services, transitional services and some of the eligible services fall in that category (notes on **item 11**, included under the heading *Employment services*, provide detailed information on the kinds of services defined as “employment services”). It will also apply to the provision of rehabilitation programs (rehabilitation services).

The new quality assurance system is based on a system of certification/accreditation that is well-established in Australia and based on international standards of best practice. It involves the use of skilled audit teams provided by accredited certification bodies whose competence and impartiality will be monitored by an independent, internationally recognised accreditation authority. Accredited certification bodies will be assessing disability employment services and the provision of rehabilitation programs against disability standards and new key performance indicators. The same standards will apply to employment services and the provision of rehabilitation programs (they are referred to in this Bill as disability employment standards and rehabilitation program standards, respectively).

The disability employment standards and rehabilitation program standards are based on the existing disability services standards with a few differences. These differences include the amalgamation of two existing standards and the addition of two new standards. The revised standards will be determined by the Minister in an instrument to be tabled in Parliament.

Key performance indicators have been developed in consultation with the disability sector and will be used by certification bodies to assess compliance with the standards. Key performance indicators and any changes to the indicators will be approved by the Minister following consultation with the disability sector. The approval will occur in the form of an instrument to be tabled in Parliament. It is expected that the key performance indicators will be reviewed periodically and amended in light of changing practice and community expectations.

Certification bodies will give service providers certificates of compliance in respect of a service that meets the standards. They will monitor the provision of certified services through annual surveillance audits and full assessment audits every three years.

Amendments to the Disability Services Act make a clear link between the certification and the provision of financial assistance by the Commonwealth. Generally, after a transition period ending in December 2004, grants under this Act will only be made in respect of certified employment and rehabilitation services. New employment services that are approved for funding after 1 July 2002 will only have up to twelve months to become certified. Services that are funded prior to this date will have time up to 31 December 2004 to achieve certification because of the significant changes some of the services will need to undergo. There will be a range of incentives and support to help services achieve certification during the transitional period.

During the transitional period, existing employment services will be funded if they comply with the standards that currently apply to them and notify the Minister of their intention to seek to obtain a certificate of compliance within the time specified by the Minister.

The existing disability services standards will continue to apply to the non-employment services. These services are referred to in this Bill as eligible services and the standards relevant to those services are referred to as eligibility standards (notes on **item 10**, included under the heading *Eligible services*, provide detailed information on the kinds of services defined as eligible services).

The current system of monitoring standards by the department will continue to apply to eligible services.

### **Background**

The Government announced its commitment to reform the quality assurance process for employment services in the 1996-1997 Budget.

To support the development and introduction of the quality assurance system, a sub-committee of the National Disability Advisory Council, the Disability Quality and Standards Working Party, was established. The Working Party included key representatives from the disability sector (disability employment service providers, the rehabilitation service provider - CRS Australia, consumers of disability employment services and state/territory governments). State and Territory governments have been included because they also use the existing disability services standards (the non-employment specific standards).

The Working Party agreed that the existing standards should largely be retained to provide the core values for the new quality assurance system. However, a number of changes were identified including the amalgamation of two existing standards, the addition of two new standards and some minor wording changes. Working Party deliberations were informed by an independent study of the disability sector's views

on the overall effectiveness of the Standards (*Evaluation of The Barriers to the Implementation of the Disability Services Standards Project, 1997*).

The two new standards relate to:

- staff recruitment, employment and training; and
- protection of human rights and freedom from abuse and neglect.

In its 1997 report, *Assuring Quality*, the Disability Quality and Standard Working Party raised concerns about the current system of quality assurance. The concerns included the lack of transparent and universally applied accreditation/certification system that would provide an assurance of service quality for consumers and the government, the lack of incentives for service improvement and an ad hoc complaints system. The new quality assurance system addresses these concerns.

In response to these concerns, the following objectives were formulated for the new quality assurance initiative:

- to provide people with disabilities with an improved level of confidence in the quality of service delivery;
- to treat all service providers equally (in both the government and non-government sectors);
- to make assessment of quality more objective and measurable;
- to link quality assurance to funding through an accreditation process which would provide the purchaser with confidence in the quality of service delivery and outcomes for individuals; and
- to reduce government intervention in the day to day operation of services.

Registration of services for the new system was introduced on a voluntary basis from 1 January 2002.

## **Explanation of changes**

In these notes, the reference to a section, Division or Part means a section, Division or Part of the Disability Services Act.

### **Amendments to Part I and Division 1 of Part II relating to employment services, eligible services, standards, accreditation and certification**

Currently, the Disability Services Act provides for making grants of financial assistance in relation to the provision of eligible services, transitional services and prescribed services.

Grants under section 10 are made in respect of eligible services meeting the eligibility standards (the highest standards). "Eligible services" are defined in section 7 by reference to section 9 and an instrument made under this section. These are services established since the introduction of the Disability Services Act in 1987. They include nine kinds of services: accommodation support services, advocacy services, competitive employment training and placement services, independent living training services, information services, print disability services, recreation services, respite care services and supported employment services.

Grants under sections 13 and 14 are made in respect of prescribed services meeting the minimum standards. "Prescribed services" are defined in section 7. They are essentially employment services, that is, services providing, or otherwise assisting with, obtaining paid employment for persons with disabilities.

Grants under sections 12A and 14 are made in respect of transitional services meeting the enhanced standards. "Transitional services" are defined in section 7. These are essentially prescribed services on their way to meeting the eligibility standards.

Prescribed services and transitional services are the services established before the introduction of the Disability Services Act in 1987.

The new system that makes funding for the provision of disability services dependent on the service provider holding a certificate of compliance with the standards issued by an accredited certification body will apply to those services that are referred to as "employment services". Essentially, they include transitional services, prescribed services, and two of the services currently included in the definition of eligible services, that is, competitive employment training and placement services and supported employment services. "Competitive employment training and placement services" are defined in section 7. Generally, these are services assisting persons with disabilities to obtain and/or retain paid employment. "Supported employment services" are defined in section 7 as, generally, services supporting the paid employment of persons with disabilities.

### *Employment services*

**Items 7, 11, 15, 19, 20, and 21** make amendments relevant to the definition of "employment service".

"Employment service" is currently defined in section 7 as, generally, a service that focus on obtaining paid employment by persons with disabilities. Currently, only prescribed services and transitional services fall into the ambit of that definition.

**Item 11** amends the definition of "employment service" in section 7 to specify that it includes competitive employment training and placement services, supported employment services, services that immediately before 1 July 2002 were transitional services or prescribed services and any service that the Minister determines for that purpose under new section 9A substituted by **item 21**.

New section 9A gives the Minister a discretionary power to approve an additional class of an employment service if the Minister is satisfied that the provision of services included in that class would further the objects of the Disability Services Act and its principles and objectives, and would comply with the relevant guidelines (the objects are set out in section 3, the principles and objectives are formulated in an instrument made under section 5 and the guidelines are formulated in an instrument made under section 5).

A minor amendment is made by **item 7** to the definition of "competitive employment training and placement services" to reflect the fact that those services are commonly referred to in the disability industry as "open employment services".

As the consequence of the amendments made by **item 11**, transitional services and prescribed services will be defined as employment services. The definitions of "transitional services" and "prescribed service" in section 7 are therefore no longer needed; they are repealed by **item 19** and **item 15**, respectively. Section 9B that provides for approval of a service as a prescribed service and section 9A that provides for approval of a prescribed service as a transitional service will no longer have any application; they are repealed by **item 21**. The definition of "transitional strategy" relevant to the approval under the repealed section 9A is repealed by **item 20**.

### *Eligible services*

**Items 10 and 21** make amendments relevant to the definition of "eligible service".

The inclusion in the definition of "employment service" of two types of services currently defined as eligible services (competitive employment training and placement services and supported employment services) necessitates a consequential amendment to the definition of "eligible service".

Section 7 defines "eligible service" as the service included in a class of services approved by the Minister under section 9. Section 9 gives the Minister a discretionary power to approve a class of services definition in section 7 if the Minister is satisfied that the provision of services included in that class would further

the objects of the Disability Services Act and its principles and objectives, and would comply with the relevant guidelines (the objects are set out in section 3, the principles and objectives are formulated in an instrument made under section 5 and the guidelines are formulated in an instrument made under section 5). Section 9 refers specifically (but not exclusively) to nine kinds of services the Minister may approve.

**Item 10** repeals the current definition of "eligible service" and substitutes a new definition. The new definition is reduced in scope and includes accommodation support services, advocacy services, independent living training services, information services, print disability services, recreation services, respite services and services included in a class of services approved for that purpose by the Minister under new section 9. New section 9 (substituted by **item 21**) gives the Minister a discretionary power to approve an additional class of eligible services if the Minister is satisfied that the provision of services included in that class would further the objects of the Disability Services Act and the principles and objectives, and would comply with the relevant guidelines (the objects are set out in section 3, the principles and objectives are formulated in an instrument made under section 5 and the guidelines are formulated in an instrument made under section 5).

The new quality assurance system that links financial assistance under the Disability Services Act with certification of services will not apply to eligible services. Current assessment system and grant conditions will continue to apply to those services.

### *Standards*

**Items 2, 3, 4, 8, 9, 10, 13, 21, 43 and 47** make amendments relevant to standards.

Currently, grants of financial assistance are made on the condition that the provision of an eligible service is meeting the eligibility standards, the provision of a transitional service is meeting the enhanced standards and the provision of a prescribed service is meeting the minimum standards. The Minister under section 9C determines the standards for service provision. The definitions of "eligibility standards", "enhanced standards" and "minimum standards" in section 7 cross-refer to the determination under section 9C.

With the transitional services and prescribed services being subsumed into the definition of employment services (amendments made by **items 11, 15 and 19** refer), the provisions relating to the standards relevant to transitional and prescribed services became obsolete. Consequently, **item 12** repeals the definition of "enhanced standards" and **item 13** repeals the definition of "minimum standards".

Section 9C providing for the determination by the Minister of the eligibility standards, enhanced standards and minimum standards is repealed by **item 21**. The power for the Minister to determine the eligibility standards for the provision of eligible services referred to in Part II of the Disability Services Act is relocated to new section 5A inserted by **item 2** (new paragraph 5A(1)(a) refers). Consequential amendment is made by **item 9** to the definition of "eligibility standards" in section 7 so it cross-refers to the eligibility standards determined under new paragraph 5A(1)(a).



Section 5A also includes the power for the Minister to determine disability employment standards for the provision of employment services referred to in Part II of the Disability Services Act (new paragraph 5A(1)(b) refers). It also requires the Minister to determine key performance indicators for the purposes of the assessment by a certification body whether the standards have been met (new subsection 5A(2) refers). **Item 8** inserts in section 7 a definition of "disability employment standards" cross-referring to standards made under new paragraph 5A(1)(b). "Key performance indicators" are defined in new section 6A (Definitions) inserted by **item 4** as the indicators approved under new subsection 5A(2).

The determination-making power under section 5A extends to determining rehabilitation program standards and key performance indicators relevant to the provision of rehabilitation programs referred to in Part III of the Disability Services Act (new paragraph 5A(1)(c) and subsection 5A(2) refer). **Item 43** inserts in section 17 a definition of "rehabilitation program standards" cross-referring to standards made under new paragraph 5A(1)(c). "Key performance indicators" are defined in new section 6A inserted by **item 4** as the indicators approved under new subsection 5A(2).

A determination under new subsection 5A(1) relating to standards and an approval under subsection 5A(2) relating to key performance indicators are disallowable instruments (**item 47** refers).

**Item 3** is a saving provision consequential on repeal, by **item 21**, of the power to determine the eligibility standards in paragraph 9C(a). **Item 3** ensures that the determination of the eligibility standards made by the Minister under paragraph 9C(a) before its repeal continues in force for the purposes of those services that fall within the definition of eligible services (as amended by **item 10**) and to which the current quality assurance system continues to apply.

## *Accreditation and certification*

**Item 4** inserts new Part IA into the Disability Services Act.

### ***New Part IA - Accreditation and certification for the purposes of certain services and programs***

New Part IA contains provisions establishing the main building blocks of the new accreditation and certification system, that is,

- the approval of an accrediting authority by the Secretary (new section 6B refers);
- accreditation of certification bodies by the accrediting authority (new section 6C refers);
- certification of States or eligible organisation by accredited certification bodies (new sections 6D and 6E refer).

### ***New section 6A - Definitions***

New section 6A includes definitions of expressions used in this Bill relevant to the accreditation and certification process.

"Accrediting authority" is defined as authority approved by the Secretary under new section 6B for the purpose of granting *accreditation* to *certification bodies* (new section 6B is explained in the notes on that section).

"Accreditation" is defined as accreditation under new Part IA. In this Part, new section 6C provides for accreditation of *certification bodies* by an accrediting authority (new section 6C is explained in the notes on that section).

"Certification body" is defined as the body that carries out *certifying functions*.

"Certifying functions" means two functions: assessing whether an employment services meets the disability employment standards, or the provision of rehabilitation programs meets the rehabilitation program standards, and giving *certificates of compliance* if the relevant standards are met. The definition stipulates that the assessment whether the standards are met is done with reference to *key performance indicators*.

"Certificate of compliance" is defined by reference to new sections 6D and 6E (new sections 6D and 6E are explained in the notes on those sections).

"Current certificate of compliance" means a certificate of compliance that is in force (new subsection 6D(4) specifies when a certificate of compliance is in force).

"Key performance indicators" means the indicators approved under new subsection 5A(2) (inserted by **item 2**).

"Accredited certification body" means a certification body that holds a *current accreditation*.

"Current accreditation" is an accreditation that has not been withdrawn (new subsection 6C provides for withdrawal of an accreditation).

"Person" is defined as including the Commonwealth and an authority of the Commonwealth. This definition only applies in relation to the provision of a *rehabilitation program*. "Rehabilitation program" is defined in section 17 as the program provided under Part III of the Disability Services Act.

### ***New section 6B - Secretary may approve accrediting authorities***

New section 6B provides the Secretary with a discretionary power to approve an authority that has the function of granting accreditation to certification bodies that the authority is satisfied will carry out certifying functions competently and impartially (new subsection 6B(1) refers). The Secretary will only approve an authority if the Secretary is satisfied that that the authority is internationally recognised as a suitable authority to grant accreditations and will perform its functions in an independent and impartial way (new subsection 6B(2) refers).

"Accreditation", "certification body" and "certifying functions" are defined in new section 6A.

Accreditation functions carried out by an accrediting authority are specified in new section 6C.

It is intended that the Joint Accreditation System of Australia and New Zealand (JAS-ANZ), an internationally recognised non-profit accreditation agency established by the Australian and New Zealand Governments, will be approved under this section to carry out accreditations.

The power in section 6B to approve an accrediting authority includes the power to revoke the approval.

### ***New section 6C - Accrediting authority may grant accreditation to certification bodies***

New section 6C deals with accreditation.

New subsection 6C(1) sets out the functions of an accrediting authority. It specifies two functions: assessing whether certification bodies will carry out certifying functions competently and impartially and, if so, granting accreditation to the body. The assessment is carried out in accordance with disability auditing criteria established by the accrediting authority and made publicly available.

"Accrediting authority", "certification body", "certifying functions" and "accreditation" are defined in new section 6A.

An accrediting authority will monitor whether accredited certification bodies carry out their certifying functions competently and impartially. New subsection 6C(2) imposes an obligation on the accrediting authority to withdraw the accreditation if the authority ceases to be satisfied that the accredited certification body carries out the certifying functions in the competent and impartial way. The body must be notified in writing about withdrawal of its accreditation.

The Secretary is to be notified by an accrediting authority, as soon as practicable, about the grant of accreditation to a certification body, the withdrawal of the accreditation, and the reasons for those decisions. This requirement, specified in new subsection 6C(3) ensures that information about the accreditation process is publicly available.

New subsection 6C(4) specifies when an accreditation is in force. An accreditation continues in force until it is withdrawn (under new subsection 6C(2)). If the accreditation is not withdrawn, but the Secretary has revoked an accrediting authority's approval, the accreditation continues in force until the end of a three-month period starting after the revocation of the approval.

JAS-ANZ provides a process to appeal against a decision of an accrediting authority to accredit (or not) a certification body. The process for decision making is also subject to appeal.

The JAS-ANZ complaints system will be complemented by an independent complaint mechanism for consumers and service providers to resolve issues and concerns about service quality and delivery.

***New section 6D - Accredited certification body may give certificates of compliance to States or eligible organisations***

New section 6D deals with certification of employment services.

New subsection 6D(1) specifies when an accredited certification body must give to the State or eligible organisation a certificate, called a certificate of compliance, stating that the employment service meets the disability employment standards. The certificate must be given on request of the State or eligible organisation, if the certification body is satisfied that the employment service provided by the State or organisation meets the relevant standards.

"State" is defined in section 7 as including the Northern Territory.

"Eligible organisation" is defined in section 7 as being, generally, a body corporate (non-profit), a State or Territory governing body, a tertiary institution or any other society, association or body approved by the Minister for the purpose of this definition.

"Accredited certification body" is defined in new section 6A and "disability employment standards" are defined in section 7 by reference to new paragraph 5A(1)(b).

The certification body that gave the certificate of compliance will carry out full three-yearly audits of the certified services, and annual surveillance audits, to ensure that only services that continue to meet the disability employment standards are certified. New subsection 6D(2) imposes an obligation on the accredited certification body to revoke the certificate if the certification body ceases to be satisfied that the service meets the disability employment standards. The State or eligible organisation must be notified in writing about the revocation of its certificate.

The Secretary is to be notified by a certification body, as soon as practicable, about the giving of a certificate of compliance to a State or eligible organisation, the revocation of the certificate, and the reasons for those decisions. This requirement, specified in new subsection 6D(3), ensures that information about the certification process is publicly available.

New subsection 6D(4) specifies when a certificate of compliance is in force. A certificate of compliance continues in force until it is revoked (under new subsection 6D(2)). If the certificate is not revoked, but the accreditation of the certification body has been withdrawn by an accrediting authority (under new subsection 6C(2)), the certificate continues in force until the end of a three-month period starting after the withdrawal of the accreditation.

The JAS-ANZ provides a process to appeal against a decision of a certification body to give (or not) a certificate of compliance to the State or an eligible organisation. The process for decision making is also subject to appeal.

The JAS-ANZ complaints system will be complemented by an independent complaint mechanism for consumers and service providers to resolve issues and concerns about service quality and delivery.

***New section 6E - Accredited certification body may give certificates of compliance to providers of rehabilitation programs***

New section 6E deals with certification of the provision of rehabilitation programs. It contains provisions similar to those applicable to certification of employment services in new section 6D.

New subsection 6E(1) specifies when an accredited certification body must give to a person a certificate, called a certificate of compliance, stating that the provision of rehabilitation programs by the person meets the rehabilitation program standards. The certificate must be given on request of the person, if the certification body is satisfied that the provision of rehabilitation programs by the person meets the relevant standards.

"Person" is defined in new section 6A as including the Commonwealth and an authority of the Commonwealth (currently, rehabilitation programs are provided by an authority of the Commonwealth, CRS Australia).

"Accredited certification body" is defined in new section 6A and "rehabilitation program standards" are defined in section 17 by reference to new paragraph 5A(1)(c).

The certification body that gave the certificate of compliance will carry out full three-yearly audits of the certified service, and annual surveillance audits, to ensure that only provision of rehabilitation programs that continue to meet the rehabilitation program standards are certified. New subsection 6E(2) imposes an obligation on the accredited certification body to revoke the certificate if the body ceases to be satisfied that the provision of rehabilitation programs meets the rehabilitation program standards. The person holding the certificate must be notified in writing about the revocation of the certificate.

The Secretary is to be notified by a certification body, as soon as practicable, about the giving of a certificate of compliance, the revocation of the certificate, and the reasons for those decisions.

New subsection 6E(4) specifies when a certificate of compliance is in force. A certificate of compliance continues in force until it is revoked (under new subsection 6E(2)). If the certificate is not revoked, but the accreditation of the certification body has been withdrawn by an accrediting authority (under new subsection 6C(2)), the certificate continues in force until the end of a three-month period starting after the withdrawal of the accreditation.

The JAS-ANZ provides a process to appeal against a decision of a certification body to give (or not) a certificate of compliance to the provider of rehabilitation programs. The process for decision making is also subject to appeal.

The JAS-ANZ complaints system will be complemented by an independent complaint mechanism for consumers and service providers to resolve issues and concerns about service quality and delivery.

## **Other amendments to interpretational provisions of Part I and Part II**

**Item 1** amends the definition of "officer" in section 4 (Interpretation). The amendment is explained in the notes on amendments made to sections 33 and 34 by **items 49, 50 and 51**. The notes are located under the heading 'Amendments to Part IV relating to disallowable instruments and delegation'.

**Item 5** makes a technical amendment to section 7 (Interpretation). Some of the expressions used in new Part IA inserted by **item 4** are defined in section 7 of Part II of the Disability Services Act as amended by this Bill (for example, "employment service" is used in new section 6D in new Part IA but is defined in section 7 of Part II that contains definitions). Section 7 currently provides that it applies to Part II only. **Item 5** amends section 7 so that the definitions contained in that section apply to all Parts of the Act. The definitions will therefore apply to expressions used in new Part IA.

**Item 6** amends the definition of "applicable standards". The amendment is explained in the notes on amendments to section 14C (Functions of Review Panels) made by **items 24 and 25**. The notes are located under the heading "Amendments to Division 3A of Part II relating to Disability Standards Review Panels".

**Item 14** inserts in section 7 a definition of "pre-2002-03 grant". The amendment is explained in the notes on new section 12AA inserted by **item 22**. The notes are located under the heading "Amendments to Part II relating to the making of grants for employment services".

**Item 16** inserts in section 7 a definition of "receiving a grant of financial assistance". This or similar expressions are used in various provisions. A State or organisation is taken to be receiving a grant of financial assistance from the time the grant is approved until immediately after payment, or payment of the last instalment of the grant, is made.

**Item 17** inserts in section 7 a definition of "transitional grant". The amendment is explained in the notes on amendments to new section 12AA inserted by **item 22**. The notes are located under the heading "Amendments to Part II relating to the making of grants for employment services".

**Item 18** inserts in section 7 a definition of "transitional period". The amendment is explained in the notes on amendments to new section 12AA inserted by **item 22**. The notes are located under the heading "Amendments to Part II relating to the making of grants for employment services".

## **Amendments to Part II relating to the making of grants for employment services**

**Item 22** inserts new Division 2A after Division 2 of Part II.

Part II of the Disability Services Act contains provisions relating to the approval of grants of financial assistance for the provision of services.

Division 2 of Part II (sections 10 and 12) deals with grants for eligible services and research and development activities. These provisions will continue to apply to the current and new grants of financial assistance in respect of the provision of eligible services as defined in section 7 (this definition is amended by **item 10**). The new quality assurance system based on certification will not apply to grants for eligible service.

New Division 2A deals with grants for employment services.

### ***New Division 2A - Grants for employment services***

New Division 2A is divided into the following three subdivisions:

- new Subdivision A (new sections 12AA and 12AB) contains provisions relating to approval of transitional grants;
- new Subdivision B (new sections 12AC and 12AD) contains provisions relating to approval of other than transitional grants; and
- new Subdivision C (new sections 12AE) contains provisions common to both transitional and other than transitional grants.

## ***New Subdivision A - Transitional grants***

### *Outline*

New Subdivision A contains provisions relating to approval of transitional grants, that is, grants of financial assistance approved during the transitional period (July 2002-December 2004) in respect of services that were funded for the financial year 2001-2002 (existing services). It provides for relaxed conditions under which such grants may be approved and paid, when compared with the conditions that apply to other grants (under new Subdivision B).

An existing service will need to meet two funding conditions during the transitional period:

- that the service provision complies with the standards that currently apply to the service; and
- that the State or organisation providing the service notifies the Minister of its intention to seek to obtain a certificate of compliance within the time specified by the Minister.

After the day specified by the Minister or after the transitional period, whichever occurs earlier, an existing service must be certified to be eligible for continued funding. It will also be subject to the conditions of grant specified in new Subdivision B.

### ***New section 12AA - Application of Subdivision***

New section 12AA is an application provision relating to transitional grants.

New subsection 12AA(1) specifies when and in respect of which employment services an approval may be given to the making of a transitional grant during the transitional period.

It provides that Subdivision A authorises the approval, during the transitional period, of grants to State or eligible organisation in respect of an employment service if a pre-2002-03 grant, that is, a grant in respect of the financial year 2001-2002, was approved for the service and at least one instalment of that grant was paid.

**Item 17** inserts in section 7 a definition of transitional grant. "Transitional grant" of financial assistance means a grant of financial assistance approved under Subdivision A of Division 2A of Part II.

The definition of "transitional period" inserted in section 7 by **item 18** specifies that it is the period that starts on 1 July 2002 and ends on 31 December 2004.

The definition of "pre-2002-03 grant" inserted in section 7 by **item 14** defines this term by reference to subsection 12AA(1).



A note at the end of subsection 12AA(1) informs the reader that, by virtue of the saving provision in **item 52**, the current provisions of the Disability Services Act continue in force in relation to grants that relate to the financial year that began on 1 July 2001.

A transitional grant cannot be approved if the pre-2002-03 grant was approved for the service but never paid or if the last grant for the service was approved in respect of the financial year earlier than 2001-2002.

New subsection 12AA(2) prevents in certain situations the approval of a transitional grant for a service for which a transitional grant could otherwise have been approved. A transitional grant cannot be approved if:

- at the time when the approval would be made, the State or eligible organisation holds a current certificate of compliance in respect of the service;
- at the time when the approval would be made, the State or eligible organisation does not hold a current certificate of compliance in respect of the service, but held such a certificate previously while receiving a grant other than transitional grant under new section 12AD;
- before the time when the approval would be made, the State or organisation received a grant other than the transitional grant under new section 122AD; or
- a transitional grant that the State or organisation was receiving previously was terminated.

“Current certificate of compliance” is defined in new section 6A inserted by **item 4** as a certificate of compliance that is in force. New subsection 6D(4) inserted by **item 4** specifies when a certificate of compliance is in force.

If a transitional grant cannot be approved in respect of a service, financial assistance for the service may be available via a grant other than transitional grant under new section 12AD.

### ***New section 12AB Transitional financial assistance for employment services***

New section 12AB sets out conditions of approval of a transitional grant for an employment service and conditions of the grant.

Under new subsections 12AB(1) and (2), all of the following conditions have to be met before a transitional grant may be approved in respect of a service:

- the service must be provided for persons in a target group (under section 8, the target group consists of persons with disability that is attributable to an intellectual, psychiatric, sensory or physical impairment or combinations of such impairments, is permanent or likely to be permanent and results in substantially reduced capacity for communication, learning or mobility and the need for ongoing support services) (new subsection 12AB(1) refers);
- the Minister must be satisfied that the making of the grant would further the object of the Disability Services Act set out in section 3 and the principles and objectives formulated in an instrument under section 5, and would comply with

- the relevant guidelines formulated in an instrument under section 5 (new paragraph 12AB(2)(a) refers);
- the Minister has determined a day by which the State or eligible organisation must obtain a certificate of compliance in respect of the service and the State or organisation has notified the Minister (by written notice given in accordance with the procedure set out in the guidelines formulated under section 5) that it intends to seek to obtain such a certificate (new paragraph 12AB(2)(b) refers);
  - the Minister is satisfied that the State or organisation is meeting the standards that were the applicable standards in respect of the service when the grant for the financial year 2001-2002 was paid for the service; depending on whether the service was before 1 July 2002 an eligible service or prescribed service or transitional service, the applicable standard for the same service for a transitional grant would be the eligibility standards or minimum standards or enhanced standards as applicable to the service before 1 July 2002 (new paragraph 12AB(2)(c) refers).

New subsection 12AB(3) authorises the Minister to make determinations, or their variations, to fix a day by which the State or organisation must obtain a certificate of compliance. The day cannot be later than 31 December 2004.

New subsection 12AB(4) specifies the following conditions of the grant for a service:

- the State or organisation must meet the relevant standards all the time before the State or organisation obtains a certificate of compliance in respect of the service or before the day specified by the Minister for obtaining the certificate, whichever is earlier; and
- the State or organisation holds a current certificate of compliance in respect of the service all the time after the day specified by the Minister for obtaining the certificate, or after the day such a certificate has been obtained, until the end of the period to which the grant relates.

Non-compliance with these conditions may result in sanctions under section 14G that include termination of the grant.

### ***New Subdivision B – Grants (other than transitional grants)***

#### *Outline*

New Subdivision B contains provisions relating to the making after 1 July 2002 of other than transitional grants for employment services.

New Subdivision B applies to services to which new section 12AA relating to transitional grants does not apply. Generally, new Subdivision B applies in respect of grants for a service for which a grant for the financial year 2001-2002 was not paid, for a service for which a transitional grant was paid but was terminated, or for a service in respect of which a certificate of compliance was obtained.

The main essential conditions of the grant under new Subdivision B is that a State or an eligible organisation holds a certificate of compliance in respect of the service.

There is a provision for making a grant, in certain situations, for a service that is not certified, providing the State or organisation notifies the Minister of its intention to obtain a certificate of compliance in respect of the service by the time determined by the Minister. The maximum time during which a grant under new Subdivision B may be paid to in respect of a service that is not certified is 12 months.

#### ***New section 12AC – Application of Subdivision***

This section provides that new Subdivision B authorise the approval, on or after 1 July 2002, of grants of financial assistance, other than transitional grants, to a State or organisation in respect of an employment service.

#### ***New section 12AD - Financial assistance for employment services***

New section 12 AD specifies the circumstances under which approval for the making of a grant may be made.

New subsections 12AD(1) and (2) specify the following conditions that have to be met before a transitional grant may be approved in respect of a service:

- the service must be provided for persons in a target group (under section 8, the target group consists of persons with disability that is attributable to an intellectual, psychiatric, sensory or physical impairment or combinations of such impairments, is permanent or likely to be permanent and results in substantially reduced capacity for communication, learning or mobility and the need for ongoing support services) (new subsection 12AD(1) refers); and
- the Minister must be satisfied that the making of the grant would further the object of the Disability Services Act set out in section 3 and the principles and objectives formulated in an instrument under section 5, and would comply with the relevant guidelines formulated in an instrument under section 5 (new paragraph 12AD(2)(a) refers); and
- the State or eligible organisation holds a current certificate of compliance in respect of the service (new subparagraph 12AD((2)(b)(i) refers).

If a State or organisation does not hold a current certificate of compliance in respect of the service for which a grant is sought, the grant may be approved if:

- the Minister has determined a day by which the State or organisation must obtain a certificate of compliance in respect of the service; and
- the State or organisation has notified the Minister (by written notice given in accordance with the procedure set out in the guidelines formulated under section 5) that its intend to seek to obtain such a certificate (new subparagraph 12AD(2)(b)(ii) refers).

The approval of a grant under the condition specified in new subparagraph 12AD(2)(b)(ii) (for a non-certified service) is available only in respect of a service that has not been funded before 1 July 2002 and only for the first grant approved in respect of the service after 1 July 2002 under new section 12AD. New subsection 12AD(3) provides for that restriction.

New subsection 12AD(4) authorises the Minister to make determinations, or their variations, to fix a day by which the State or organisation must obtain a certificate of compliance. The day cannot be later than 12 months after the approval of the grant.

New subsection 12AD(5) specifies the following conditions of a grant for a service:

- if the grant was approved for a certified service, the State or organisation must hold a current certificate of compliance in respect of the service all the time after the approval until the end of the period to which the grant relates;
- if the grant was approved for a service not certified at the time of the approval, the State or organisation must obtain a certificate of compliance in respect of the service before the day specified by the Minister for obtaining the certificate and continue to hold it until the end of the period to which the grant relates.

Non-compliance with these conditions may result in sanctions under section 14G that include termination of the grant.

***New Subdivision C – Provisions applicable in respect of all grants under this Division***

The provisions of new Subdivision C (new section 12AE) apply to grants made under Subdivision A (transitional grants) and to grants made under Subdivision B (other than transitional grants).

***New section 12AE - Ancillary provisions relating to grants in respect of employment services***

New section 12AE replicates, for the purposes of grants for employment services, the current ancillary provisions relating to grants for eligible services, prescribed services and transitional services. The same rules will continue to apply after 1 July 2002 to grants for eligible services.

New subsection 12AE(1) indicates that the Minister may approve the making of a grant for a service with respect to recurrent expenditure, cost of acquiring land, building cost and cost of equipment. This subsection is not intended to limit the application of new subsections 12AB(1) or 12AD(1) that provide for approval of grants for the provision of employment services.

New subsection 12AE(2) specifies the determinations the Minister must make if the Minister approves a grant under new section 12AB or 12AD. Following the approval, the Minister must determine the amount of the grant or the manner in which the grant is to be calculated, and the time at which, and the instalments (if any) in which, the grant is to be paid (new paragraphs 12AD(2)(a) and (b) refer).

The Minister must also specify any other terms and conditions of a grant (new paragraph 12AD(2)(c) refers). New subsection 12AE(3) specifies that those terms and conditions include terms and conditions with respect to:

- the purposes for which the grant may be applied;
- the amounts, and their source, to be applied by the relevant State or organisation for those or other purposes;
- the outcomes to be achieved by persons with disability using the service, and their rights in relation to the provision of the service or otherwise;
- the provision of information;
- the provision of certificates with respect to the fulfilment of terms and conditions;
- the repayment of grant;
- the giving of security for the fulfilment of terms and conditions; and
- the use and disposal of, and the recovery of the amounts that under the terms and conditions are to be taken as representing the Commonwealth's interest in land, buildings and equipment as a result of the application of the grant money or money that include the grant money.

The Minister may specify other terms and conditions.

New subsection 12AE(4) limits the time within which instalments of a grant are to be paid to maximum 5 years after the approval of the grant.

## **Amendment to Division 3 of Part II relating to transitional and prescribed services**

**Item 23** repeals Division 3 of Part II that provides for grants for transitional and prescribed services. This amendment is consequential on the amendment made by **item 11** that amends the definition of “employment service” to include services that immediately before 1 July 2002 were transitional and prescribed services. After 1 July 2002, grants for those services will be made under new Division 2A which provides for grants for employment services.

## **Amendments to Division 3A of Part II relating to Disability Standards Review Panels**

### *Amendments to section 14C (Functions of Review Panels)*

**Items 24 and 25** make amendments to section 14C that set out functions of Disability Standards Review Panels. In general, the function of the panels is to review and report to the Minister, at the Minister’s direction or at the request of an eligible organisation, on the performance of an eligible service, or a prescribed service or a transitional service for which a grant is paid. Specifically, the panels consider whether the standards relevant to a particular service (the “applicable standards”) are met. This function is exercised mainly (but not exclusively) in the situation where the Minister proposes to make, in respect of a service, a declaration under section 14G (declaration of failure to meet standard).

The function of the Disability Standards Review Panels is directly relevant to the current quality assurance system based on the departmental audit of services’ standards. The current quality assurance system, and the Disability Standards Review Panels, will continue to operate after 1 July 2002 in respect of eligible services and employment services receiving transitional grants (that is, services that have not yet been certified).

Paragraph 14C(1)(a) refers to “a transitional service or a prescribed service”. As those services will be defined from 1 July 2002 as employment services, **item 24** amends that paragraph to omit those references.

**Item 25** then amends the definition of “service” used for the purposes of the review provisions in section 14C so it means an eligible service and an employment service in respect of which a transitional grant is being received.

“Applicable standards” that the Panels review, as referred to in subsection 14C(3), are defined in section 7 as meaning: the eligibility standards – in case of an eligible service, the enhanced standards – in case of a transitional service, and the minimum standards - in case of a prescribed service. **Item 6** substitutes a new definition of applicable standards that the Panels will be able to review. Under the amended definition, applicable standards are: the eligibility standards – in case of an eligible service, and the standards referred to in paragraph 12AB(2)(c) – in case of an employment service in respect of which a transitional grant is being received (that is, the eligibility or the enhanced or the minimum standards, as the case may be).

## **Amendments to Division 3B of Part II relating to a declaration of failure to meet standards or hold a certificate of compliance**

### *Amendments to section 14G (Declaration of failure to meet standards)*

Division 3B contains provisions that apply when there is a failure to meet applicable standards in the provision of care. Specifically, it authorises the Minister to make a declaration of failure to meet applicable standards (section 14G refers) and specifies matters relevant to the making of such a declaration.

These provisions are relevant, and will continue to be relevant, to the services in respect of which grants are approved on the condition of meeting the applicable standards, that is, to eligible services. They will also be applicable to employment services receiving transitional grants before the day specified by the Minister as the day by which they must obtain a certificate of compliance or before the day they obtain the certificate, whichever occurs earlier.

Section 14G provides that if an eligible organisation is not meeting the applicable standards in the provision of an eligible service, or a transitional service or a prescribed service, the Minister may make a declaration stating so and stating that the organisation is in breach of the condition of the grant specified in the relevant grant provisions.

**Item 27** amends section 14G by repealing subsection (1) and substituting new subsections 14G(1) and 14G(1A).

New subsection 14G(1) provides for the application of section 14G if an organisation is not meeting the applicable standards and the organisation is:

- receiving a grant under Division 2 for an eligible service; or
- receiving a transitional grant for an employment service before the relevant time, being the day determined by the Minister under paragraph 12AB(2)(b) (the day by which a certificate must be obtained) or the day on which certificate was obtained.

New subsection 14G(1A) authorises the Minister to make a declaration stating that the organisation is not meeting the applicable standards and is breaching the conditions of the grant in subsection 10(3A) (conditions of the grant for an eligible service) or paragraph 12AB(4)(a) (conditions of the transitional grant for an employment service). The Minister may also specify in the declaration the actions that will be taken as a result of the failure.

**Items 28, 29 and 30** amend cross-references in subsection 14G(2), paragraph 14G(2)(a) and subsection 14G(3), respectively. These amendments are consequential on the amendments made by **item 27**.

**Item 31** inserts new section 14GA to provide for a declaration of failure to hold a certificate of compliance. This amendment reflects the fact that under new Division 2A (grants for employment services), it is a condition of grant of a certified service to hold a current certificate of compliance and it is a condition of grant of a service that is not certified to obtain a certificate by a specified day and then hold the current certificate.

***New section 14GA (Declaration of failure to hold a certificate of compliance)***

New section 14GA provides for making by the Minister of a declaration of failure to hold a certificate.

New subsection 14GA(1) provides for the application of section 14GA:

- if an organisation is receiving a grant for an employment service; and
- in respect of the service for which the grant is received, the organisation does not hold a current certificate of compliance after the day determined by the Minister under paragraph 12AB(2)(b) or 12AD(2)(b)(ii) (the day by which a certificate must be obtained) or, after the day on which certificate was obtained.

New subsection 14GA(2) authorises the Minister to make a declaration stating that the organisation does not hold a current certificate of compliance in respect of the service and therefore is breaching the conditions of the grant in paragraph 12AB(4)(b) (conditions of a transitional grant) or in subsection 12AD(5) (conditions of a grant other than transitional). The Minister may also specify in the declaration the actions that will be taken as a result of the failure.

New subsection 14GA(3) provides that the actions may be the actions (all or any) that have been specified in the terms and conditions of the grant and/or an action



taken under section 14J (Information about the Minister's declaration may be made available to the public).

New subsection 14GA(4) only allows actions to be taken that were specified in the Minister's declaration.

New subsection 14GA(5) requires the Minister to give a copy of the declaration to the eligible organisation to which the declaration relates.

As a consequence of the amendment made by **item 31**, **item 26** amends the heading to Division 3B from "Failure to meet applicable standards in the provision of a service" to "Failure to meet applicable standards or hold certificate of compliance".

*Amendments to sections 14H (Certain matters to occur before Minister makes a declaration or takes action) and 14J (Information about Minister's declaration may be made available to the public) as a result of the amendment made by **item 27***

Further technical amendments, consequential on the amendment made by **item 27**, are made to subsection 14H(1) and paragraph 14J(1)(a) by **items 32 and 33** to remove references to transitional and prescribed services from sections 14H (Certain matter to occur before Minister makes a declaration or takes action) and 14J (Information about Minister's declaration may be made available to the public) and to ensure that those sections apply to the relevant employment services.

*Amendments to section 14J (Information about Minister's declaration may be made available to the public) as a result of the amendment made by **item 31***

Section 14J authorises the Minister to make publicly available the information relating to a declaration of failure. **Items 34, 35 and 36** make consequential amendments to this section, to paragraphs 14J(1)(b), 14J(1)(e) and 14J(1)(f) and (g) respectively, to ensure that it applies to the declaration of failure to hold a certificate.

#### **Amendments to Division 4 of Part II relating to departmental review of services' performance and to agreements**

*Amendments to section 14K (Review of services funded under Part II)*

Section 14K requires the Minister to ensure at least a five-yearly review of the extent to which a State or eligible organisation fulfils the terms and conditions of its grants in respect of an eligible, transitional or prescribed service. The main emphasis of the review is the extent to which outcomes required by the terms and conditions have been achieved by the persons who receive the service, and the extent of compliance with the applicable standards.

From 1 July 2002, the requirement to conduct five-yearly review of the extent to which the terms and conditions are fulfilled will continue in respect of all services, that is, eligible services and employment services.

However, the review of the extent to which the standards are complied with, as part of the five-yearly review, will only be conducted in respect of grants made for eligible services and for employment services in respect of which transitional grants were paid. This is because the accreditation/certification process that provides for audits of standards by certification bodies will not apply to those grants. The standards of the employment services that receive other than transitional grants will be reviewed/audited by certification bodies, not by the Minister.

**Items 37, 38 and 39** amend section 14K accordingly.

The heading to section 14K is amended to reflect the changed scope of section 14K.

*Amendments to section 15 (Agreements in respect of terms and conditions of grants)*

Section 15 provides that a grant is not payable unless the Minister enters into an agreement with the eligible organisation containing the same terms and conditions on which the grant was approved. Subsection 15(4) allows variation of those terms and conditions if the Minister made a declaration of failure to meet standards. **Item 41** amends paragraph 15(4)(a) to ensure that the terms and conditions also may be varied if the Minister makes a declaration of failure to hold a current certificate of compliance. **Item 40** repeals subsection 15(2) that cross-refers to section 14A repealed by **item 23**.

**Amendments to Part III relating to the provision of rehabilitation services by the Commonwealth**

**Items 42 to 46** make amendments to Part III dealing with the provision of rehabilitation services by the Commonwealth.

Part II provides, among other things, for approval by the Secretary of the provision of a rehabilitation program to an individual in a target group (“target group” is defined for this purpose in section 18).

The new quality assurance system based on accreditation and certification will apply to the provision of rehabilitation programs. After a transitional period ending on 31 December 2004, the provider of rehabilitation programs (currently, the CRS Australia) is expected to be certified by a certification body.

*Amendment to section 19 (Exercise of powers)*

**Item 44** inserts new subsection 19(2) specifying that, on or after 1 January 2005, the Secretary must not approve the provision of rehabilitation programs for a person unless the provider of the rehabilitation program holds a current certificate of compliance in respect of the provision of rehabilitation programs.

New paragraph 19(2)(b) authorises the Secretary to approve, in exceptional circumstances of the individual to whom the program is to be provided, the provision of a rehabilitation program even though the provider does not hold a current certificate. This provision safeguards the position of the individual to whom the program is to be provided, so the individual is not disadvantaged by the failure of the provider to obtain a certificate, should it ever happen.

“Rehabilitation program” is defined in section 17 as, generally, a program under this Part (Part III).

To accommodate together the relevant rehabilitation programs definitions, **item 43** inserts a definition of “rehabilitation program standards” in section 17 (Interpretation). “Rehabilitation program standards” means the standards determined by the Minister under paragraph 5A(1)(c).

As the references to rehabilitation program standards occur in other Parts of the Disability Services Act, especially in new Part IA (Accreditation and certification for the purposes of certain services and programs) inserted by **item 4**, **item 42** makes a technical amendment to section 17 to ensure that the definitions included in this section apply for the purposes of the whole Act, unless the contrary intention appears.

*Amendment to section 22 (Cost of rehabilitation programs)*

Section 22 provides that if a person is a pensioner or a beneficiary, the cost of the determining whether a rehabilitation program should be approved for the person and the cost of the provision of the rehabilitation program are born by the Commonwealth. Subsection 22(4) defines “pensioner or beneficiary” by reference to specific pensions, allowances and benefits received under the specified Parts of the **Social Security Act 1991**. The references are largely outdated. **Item 45** corrects those references.

*Amendment to section 24 (Training allowance and living-away-from-home allowance)*

Section 24 provides for the approval in certain circumstances, by the Secretary, of the payment of training allowance and living-away-from-home allowance to a person undertaking a rehabilitation program. Subsection 24(6) specifies the provisions of the **Social Security Act 1991** that apply to those allowances, as they were an age pension. The references to the section numbers have become incorrect as a result of the amendments to the **Social Security Act 1991** made by the introduction of the **Social Security (Administration) Act 1999** and the amendments made by the **Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Act 2000**. **Item 46** amends subsection 24(6) to update those references.

### **Amendments to Part IV relating to disallowable instruments and delegation**

*Amendment to section 31(Principles etc. to be tabled in the Parliament and disallowable)*

Subsection 31(1) specifies which instruments made under the Disability Services Act are disallowable instruments for the purposes of section 48 of the **Acts Interpretation Act 1901**. **Item 47** amends this subsection to include references to a standard determined by the Minister under new subsection 5A(1) and to a key performance indicator approved by the Minister under new subsection 5A(2) (section 5A is inserted by **item 2**). **Item 48** amends this subsection to include a reference to an approval given under new sections 9 (approval of additional eligible services) and 9A (approval of additional employment services) (**item 21** substituted new sections 9 and 9A).

*Amendment to section 33 (Delegation by Minister)*

Subsection 33(1) authorises the Minister to delegate the Minister's powers under the Disability Services Act to an officer, which, in accordance with the definition of "officer" in section 4, means an officer of the Department of Family and Community Services. **Item 1** amends the definition of "officer" to give effect to a recent Government decision to move the administration of CRS Australia to the Department of Health and Ageing. As a result of the amendment, the powers under Part III relating to the provision of rehabilitation services can also be delegated to APS employees in CRS Australia employed by another department.

Subsection 33(1) specifies the Minister's powers that cannot be delegated. **Items 49 and 50** amend subsection 33(1) to ensure that the power to determine standards under new subsection 5A(1) (inserted by **item 2**), the power to approve key performance indicators under new subsection 5A(2) (inserted by **item 2**) and the power to give approvals under new sections 9 and 9A (as substituted by **item 21**) are exercised only by the Minister.

### *Amendment to section 34 (Delegation by Secretary)*

Subsection 34(1) authorises the Secretary to delegate the Secretary's powers under the Disability Services Act to an officer, which, in accordance with the definition of "officer" in section 4, means an officer of the Department of Family and Community Services. **Item 1** amends the definition of "officer" to give effect to a recent Government decision to move the administration of CRS Australia to the Department of Health and Ageing. As a result of the amendment, the powers under Part III relating to the provision of rehabilitation services can also be delegated to APS employees in CRS Australia employed by another department.

Subsection 34(1) specifies the Secretary's power that cannot be delegated. **Item 51** amends subsection 34(1) to ensure that the power under subsection 6B(1) to approve an accrediting authority (inserted by **item 4**) is exercised only by the Secretary.

### **Transitional – pre-2002-03 grants of financial assistance under Disability Services Act**

**Item 52** is a transitional provision. It preserves the operation of the provisions of the Disability Services Act as in force before 1 July 2002 in respect of the grants approved under that Act before 1 July 2002, that is, grants in respect of the financial year 2001-2002 and the earlier years. This is relevant to the services that at the time of the approval of such a grant were prescribed or transitional services. The provisions of the Disability Services Act as in force before 1 July 2002 will continue to apply to those grants after 1 July 2002.