

# Handicapped Children (Assistance)

No. 27 of 1970

An Act to provide for Assistance by the Commonwealth towards the provision of Training and Accommodation for Handicapped Children.

[Assented to 17 June 1970]

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

## PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Handicapped Children (Assistance) Act* 1970.

Commencement.

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

Parts.

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

Part I.—Preliminary (Sections 1–6).

Part II.—Grants in respect of Approved Projects (Sections 7–9).

Part III.—Grants in respect of Approved Equipment (Sections 10–12).

Part IV.—General (Sections 13–17).

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

Definitions.

“ approved training ” means training that is approved under section 6 of this Act;

“ eligible organization ” means—

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

- (i) a religious organization;
- (ii) an organization the principal objects or purposes of which are charitable or benevolent;
- (iii) an organization of former members of the Defence Force established in every State or a State Branch of such an organization; or
- (iv) an organization determined by the Minister to be an eligible organization for the purposes of this Act;

(b) a local governing body; or

(c) the trustees for the time being under a trust established for charitable or benevolent purposes, being a trust in relation to which the Minister has determined that the trustees constitute an eligible organization for the purposes of this Act,

and includes—

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

(e) a corporation established by such an organization or by a local governing body;

“ government authority ” means an authority established by or under a law of the Commonwealth, a State or a Territory of the Commonwealth, but does not include a local governing body;

“ handicapped child ” means a person who is suffering from a physical or mental disability and—

(a) has not attained twenty-one years of age; or

(b) has attained the age of twenty-one years but continues to receive approved training that the person commenced so to receive before he attained that age;

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

“ organization ” includes a society and an association;

“ the Director-General ” means the Director-General of Social Services;

“ training ” means vocational or other training, and includes general education.

**Administration.** 5. The Director-General has, subject to any directions of the Minister, the general administration of this Act.

**Approved training.** 6. Where the Director-General is satisfied that training is provided or proposed to be provided, at any premises, for handicapped children who, by reason of their handicap, are in need of training for which special facilities are required, and that the training so provided or proposed to be provided will meet that need, the Director-General may approve, for the purposes of this Act, the training so provided or proposed to be provided.

#### PART II.—GRANTS IN RESPECT OF APPROVED PROJECTS.

**Interpretation.** 7.—(1.) In this Part, unless the contrary intention appears—

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

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

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

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

(a) where the approved project is the purchase or proposed purchase of land, the sum of—

(i) such amount in respect of the land, not including any buildings or other improvements on the land, as the Director-General, in his discretion, determines;

(ii) such amount in respect of any buildings or other improvements on the land (being buildings or improvements that the Director-General is satisfied are used or are to be used for or in connexion with providing approved training or residential accommodation for handicapped children receiving approved training) as the Director-General considers represents that part of the cost of purchasing the land that is attributable to those buildings or improvements; and

(iii) such amount as the Director-General is satisfied is the cost of making any alterations to any building or other improvement on the land that the Director-General is satisfied are necessary for or in connexion

with providing approved training or residential accommodation for handicapped children receiving approved training; or

- (b) where the approved project is the construction or alteration, or proposed construction or alteration, of a building or other improvement on land, such amount as the Director-General is satisfied is the cost of constructing or altering the building or other improvement.

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

(3.) Where—

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

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

8.—(1.) Subject to this section, where the Director-General is satisfied that—

Approved projects.

- (a) an eligible organization—
- (i) has purchased, or proposes to purchase, any land, including land on which buildings or other improvements are constructed; or
- (ii) has constructed or altered, or proposes to construct or alter, a building or any other improvement on any land; and
- (b) the land purchased or proposed to be purchased, or the building or improvement constructed or altered or proposed to be constructed or altered, is used, or is to be used, permanently by or on behalf of the organization for or in connexion with providing approved training or residential accommodation for handicapped children receiving approved training,

the Director-General may, in his discretion, approve, for the purposes of this Part, the purchase or proposed purchase or the construction or alteration or the proposed construction or alteration, as the case may be.

(2.) Where an eligible organization had, before the commencement of this Act, purchased any land, or constructed or altered or commenced to construct or alter a building or any other improvement on land, the Director-General shall not approve the purchase, or the construction or

alteration, as the case may be, under the last preceding sub-section unless the purchase had been made on or after the twenty-seventh day of October, One thousand nine hundred and sixty-nine, or the construction or alteration had been commenced on or after that date or had been commenced, but had not been completed, before that date.

**Grants.**

9.—(1.) The Director-General may, in his discretion, on behalf of the Commonwealth, make a grant of moneys in accordance with this Act to an eligible organization as assistance towards meeting the capital cost of an approved project.

(2.) Subject to this section, the amount of a grant in respect of an approved project shall not exceed—

(a) two-thirds of the capital cost of the project; or

(b) twice the amount of the funds of the eligible organization available for expenditure towards the capital cost of the project,

whichever is the less.

(3.) For the purposes of the last preceding sub-section, the amount of the funds of an eligible organization available for expenditure towards the capital cost of an approved project shall be deemed to be the sum of the moneys (if any) expended, and the moneys presently available for expenditure, by the organization towards the capital cost of the project, being moneys that the Director-General is satisfied—

(a) did not become available as a result of the borrowing of those moneys or any other moneys by the organization, and were not received by the organization from the Government of the Commonwealth or of a State or from a government authority; and

(b) in the case of moneys received by the organization from a local governing body—were moneys that were not received by the local governing body from the Government of the Commonwealth or of a State or from a government authority.

(4.) The Director-General shall not make or agree to make a grant under this section to an eligible organization in respect of an approved project unless he is satisfied that the sum of the moneys (if any) expended, and the moneys presently available for expenditure, by the organization towards the capital cost of the project, together with the amount of the grant, will be not less than the capital cost of the project.

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

(a) where the approved project is the purchase or proposed purchase of land—that land; or

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

## PART III.—GRANTS IN RESPECT OF APPROVED EQUIPMENT.

**10.** In this Part, unless the contrary intention appears—

Definitions.

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

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

**11.** Where—

Approval of equipment.

(a) an eligible organization proposes to purchase any equipment; and

(b) the Director-General is satisfied that the equipment is to be used by handicapped children receiving approved training or is to be used otherwise for or in connexion with the provision of approved training,

the Director-General may, in his discretion, approve that equipment for the purposes of this Part.

**12.—(1.)** The Director-General may, in his discretion, on behalf of the Commonwealth, make a grant of moneys in accordance with this Act to an eligible organization as assistance towards meeting the cost of the purchase by the organization of approved equipment.

Grants.

(2.) The amount of a grant to an eligible organization under this section in respect of approved equipment shall not exceed—

(a) two-thirds of the cost of the purchase by the organization of the equipment; or

(b) twice the amount of the funds of the organization available for expenditure towards the cost of the purchase by the organization of the equipment,

whichever is the less.

(3.) For the purposes of the last preceding sub-section, the amount of the funds of an eligible organization available for expenditure towards the cost of the purchase by the organization of approved equipment shall be deemed to be the sum of the moneys (if any) expended, and the moneys presently available for expenditure, by the organization towards the cost of the purchase by the organization of the equipment, being moneys that the Director-General is satisfied—

(a) did not become available as a result of the borrowing of those moneys or any other moneys by the organization, and were not received by the organization from the Government of the Commonwealth or of a State or from a government authority; and

- (b) in the case of moneys received by the organization from a local governing body—were moneys that were not received by the local governing body from the Government of the Commonwealth or of a State or from a government authority.

PART IV.—GENERAL.

Terms and conditions of grants.

13.—(1.) A grant to an eligible organization under this Act may be made upon such terms and conditions, not inconsistent with this Act, as the Director-General thinks fit.

(2.) Before making a grant under this Act to an eligible organization, the Director-General may require the organization to enter into an agreement with him with respect to the terms and conditions upon which the grant is to be made.

(3.) An agreement under the last preceding sub-section may, if the Director-General considers the circumstances so require, include provision for the repayment of the grant to the Commonwealth in the event of a breach of the agreement, and for the giving of security for the carrying out of the agreement.

Grants to be made as agreed.

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

Moneys to be appropriated.

15. Grants under this Act are payable out of moneys appropriated by the Parliament for the purposes of this Act.

Delegation.

16.—(1.) The Director-General may, either generally or otherwise as provided by the instrument of delegation, by writing under his hand, delegate to the Deputy Director-General of Social Services, a First Assistant Director-General of Social Services, an Assistant Director-General of Social Services, a Director of Social Services or any other officer of the Department of Social Services all or any of his powers and functions under this Act except this power of delegation.

(2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Director-General.

Regulations.

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