



New South Wales

# **Disability Services Amendment (Residents' Amenities Accounts) Act 1995 No 24**

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New South Wales

# **Disability Services Amendment (Residents' Amenities Accounts) Act 1995 No 24**

Act No 24, 1995

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An Act to amend the *Disability Services Act 1993* so as to provide for the use of money in certain residents' amenities accounts established for residents of Government residential centres; and for related purposes.  
[Assented to 19 June 1995]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Disability Services Amendment (Residents' Amenities Accounts) Act 1995*.

**2 Commencement**

This Act commences on the date of assent.

**3 Amendment of Disability Services Act 1993 No 3**

The *Disability Services Act 1993* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 26A

Insert after section 26:

#### **26A Residents' amenities accounts held for certain residential centres**

Schedule 3 has effect.

### [2] Schedule 3

Insert after Schedule 2:

#### **Schedule 3 Residents' Amenities Accounts**

(Section 26A)

##### **1 Definitions**

In this Schedule:

*amenities* includes goods and services.

*Government residential centre* means:

- (a) Grosvenor Centre, Summer Hill, or
- (b) Kanangra Centre, Morisset, or
- (c) Macquarie Developmental Disability Service, North Ryde, or
- (d) Marsden Centre, Westmead, or
- (e) Peat Island Developmental Disability Service, Peat Island, or
- (f) Riverside Centre, Orange, or
- (g) Rydalmere Centre, Rydalmere, or
- (h) Stockton Centre, Stockton, or
- (i) Strathallan Centre, Goulburn, or
- (j) any other residential institution (whether still operating or not) that was operated by the Minister for Health before 1 July 1989 for the benefit of individual residents who had disabilities.

*resident* of a Government residential centre means a resident of the centre who has a disability.

*residents' amenities account*, in relation to a Government residential centre, means any account (whether called a residents' amenities account or not), or any fund, established in respect of the centre before 1 July 1989:

- (a) in which money is held for the purpose of providing funds for the provision of amenities to be used for the benefit of residents of the centre, and
- (b) in respect of which the money or some of the money held in the account or fund has been derived (whether in the form of income or capital gain) from the investment of money in accounts held on behalf of residents.

## **2 Use of money held in residents' amenities accounts where centre is still operating**

- (1) This clause applies in respect of a residents' amenities account maintained in respect of a Government residential centre if the centre is operating at the commencement of this Schedule and has not since ceased to operate.
- (2) The person in charge of a Government residential centre may from time to time use money held in a residents' amenities account to which this clause applies for the purpose of providing amenities for the benefit of the residents of the centre, but only in accordance with a scheme approved by the Minister under this clause from time to time.
- (3) Money held in a residents' amenities account may be used for the provision of amenities at the Government residential centre concerned even though the persons who will benefit from them may not have been residents of that centre when the money was originally credited to the account.

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- (4) A scheme for the use of money held in a residents' amenities account must specify:
- (a) the outcomes expected to be achieved from the use of the money, and
  - (b) the performance indicators to be used to determine whether or not those outcomes are achieved, and
  - (c) the period within which those outcomes are expected to be achieved.
- (5) The Minister may approve a scheme for the use of money under subclause (1) only:
- (a) after consultation with:
    - (i) persons who are residents of the residential centre concerned, or
    - (ii) persons who appear to the Minister to be concerned with the welfare of those residents and to represent the interests of some or all of those residents, and
  - (b) if satisfied that the use to which the money will be put is in conformity with the objects of this Act and the principles and applications of principles set out in Schedule 1.

### **3 Use of money held in residents' amenities accounts where centre no longer operates**

- (1) This clause applies to a residents' amenities account maintained in respect of a Government residential centre if the centre has ceased to operate since 30 June 1989, or ceases to operate after the commencement of this Schedule.
- (2) The Minister may, from time to time, pay money held in a residents' amenities account to which this clause applies:
- (a) to the person in charge of a Government residential centre that is still operating so that the money may be used in accordance with a scheme approved for the centre under clause 2, or

Schedule 1 Amendments

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- (b) to the person in charge of premises under the control of the Minister that are used for the purpose of providing accommodation, support or other services to residents of those premises who have disabilities so that the money may be used for the benefit of those residents.
- (3) The Minister may pay money under subclause (2) only if satisfied that the use to which the money will be put is in conformity with the objects of this Act and the principles and applications of principles set out in Schedule 1.
- (4) The Minister may impose conditions on the use of money paid to the person in charge of premises referred to in subclause (2) (b).
- (5) The person to whom money is paid under subclause (2) must ensure that the money is used only in accordance with the scheme approved for the residential centre concerned or with the conditions imposed on its use under subclause (4).

#### **4 Investment of money pending its use under this Schedule**

Pending its use in accordance with clause 2 or 3, money held in a residents' amenities account may be invested in any manner authorised for the investment of trust funds.

#### **5 Validation of actions of certain persons**

- (1) If, at any time before the commencement of this Schedule, money was held on behalf of residents of a Government residential centre, then all acts done or omitted to be done in good faith before that commencement by persons involved in the conduct of the centre, or by the Protective Commissioner, in connection with:

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- (a) holding, investing or otherwise dealing with the money, or
  - (b) if the money has been invested:
    - (i) paying the proceeds of the investment of the money into a residents' amenities account, or
    - (ii) applying those proceeds for the provision of amenities for the benefit of residents of the centre,
- are declared to have been lawfully done or omitted to be done.
- (2) In any legal proceedings relating to an act or omission referred to in subclause (1), a person is not liable to pay damages in connection with the act or omission, and no other remedy is available against the person in connection with the act or omission, unless it is proved in those proceedings that the act was not done or omitted to be done in good faith.
  - (3) Any person who, but for this Schedule, would or may have been entitled to money referred to in subclause (1) ceases to be so entitled on the commencement of this Schedule.

[Minister's second reading speech made in—  
Legislative Council on 24 May 1995  
Legislative Assembly on 31 May 1995]