

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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Presented and read a first time

*(Housing and Regional Development)*

**SUPPORTED ACCOMMODATION ASSISTANCE BILL 1994**

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## **A BILL**

FOR

**An Act relating to financial assistance to the States, the Australian Capital Territory and the Northern Territory in connection with the jointly-funded program known as the Supported Accommodation Assistance Program (“SAAP”), and for related purposes**

### **Preamble**

This Preamble sets out considerations taken into account by the Parliament of Australia in enacting the law that follows.

The Parliament recognises the need to redress social inequalities and to achieve a reduction in poverty and the amelioration of the consequences of poverty for individuals.

Homeless people form one of the most powerless and marginalised groups in society. Responses to their needs should aim to empower them and to maximise their independence. These responses should be provided in a way that respects their dignity as individuals, enhances their self-esteem, is sensitive to their social and economic circumstances, and respects their cultural backgrounds and their beliefs.

Australia has acted to protect the rights of all of its citizens, including people who are homeless or at risk of homelessness, by recognising international standards for the protection of universal human rights and fundamental freedoms through:

- (a) the ratification of the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights; and
- (b) the ratification of the Conventions on the Elimination of all Forms of Racial Discrimination, on the Elimination of all Forms of Discrimination against Women and on the Rights of the Child; and
- (c) the acceptance of the Universal Declaration of Human Rights; and
- (d) the enactment of legislation such as the *Human Rights and Equal Opportunity Commission Act 1986*.

Legislation relating to homeless people should include a focus on the provision of appropriate support to meet the individual needs of the clients of the Supported Accommodation Assistance Program ("SAAP") and on their right to an equitable share of the community's resources.

It is essential then that the community has the opportunity to be involved in the development of policies relating to, or impacting on, people who are homeless or at risk of homelessness. Accordingly, the Parliament intends that, under the law that follows, the Minister should establish an advisory committee drawn from members of the community with:

- (a) relevant expertise in, or experience of, homelessness; or
- (b) an understanding of the principal issues affecting homeless people;  
or
- (c) other relevant expertise or experience.

The Parliament intends that the Commonwealth Government should work co-operatively with State and Territory governments to ensure that people who are homeless or at risk of homelessness are given opportunities to redress their circumstances and that their universal human rights are not prejudiced by the manner in which services are provided to them.

The Parliament of Australia enacts:

## PART 1—PRELIMINARY

### Short title

5 1. This Act may be cited as the *Supported Accommodation Assistance Act 1994*.

### Commencement

2. This Act commences on the day on which it receives the Royal Assent.

### Definitions

3. In this Act:

10 “**CACH**” means the Commonwealth Advisory Committee on Homelessness established by section 20;

“**client**” means a person in receipt of services under SAAP;

“**participating State**” means a State in respect of which a SAAP agreement is in force;

15 “**people who are homeless**” includes people who are in crisis and at imminent risk of becoming homeless;

“**SAAP**” means the Supported Accommodation Assistance Program;

20 “**SAAP agreement**” means an agreement of the kind mentioned in subsection 17(2), and includes such an agreement as varied and in force from time to time;

“**service provider**” means a person or body that provides services under SAAP;

“**services**” includes, but is not limited to, accommodation;

25 “**State**” includes the Australian Capital Territory and the Northern Territory;

“**State Minister**” means:

(a) in relation to a State other than the Northern Territory or the Australian Capital Territory—the Minister of the Crown of the State who is responsible for the administration of SAAP in the State; or

30 (b) in relation to the Northern Territory—the Minister of the Northern Territory who is responsible for the administration of SAAP in the Northern Territory; or

35 (c) in relation to the Australian Capital Territory—the Minister of the Australian Capital Territory who is responsible for the administration of SAAP in the Australian Capital Territory.

### Definition of “homeless”

*When a person is homeless*

4.(1) For the purposes of this Act, a person is homeless if, and only if, he or she has inadequate access to safe and secure shelter.

*Inadequate access to safe and secure shelter*

(2) For the purposes of this Act, a person is taken to have inadequate access to safe and secure shelter if the only shelter to which the person has access:

- (a) damages, or is likely to damage, the person's health; or 5
- (b) threatens the person's safety; or
- (c) marginalises the person through failing to provide access to:
  - (i) adequate personal amenities; or
  - (ii) the economic and social supports that a home normally affords. 10

*Person living in SAAP accommodation*

(3) For the purposes of this Act, a person is taken to have inadequate access to safe and secure shelter if:

- (a) the person is living in accommodation provided under SAAP; and
- (b) the assessment of the person's eligibility for that accommodation was based on the application of subsection (1) or (2) (ignoring the effect of this subsection). 15

*Generality of subsection (1)*

(4) Subsections (2) and (3) do not limit the generality of subsection (1).

**Object** 20

*Funding of SAAP*

5.(1) The object of this Act is to grant financial assistance to the States to administer a program, to be known as the Supported Accommodation Assistance Program ("SAAP").

Note: A description of the aims etc. of SAAP is set out below. 25

*Aim of SAAP*

(2) The overall aim of SAAP is to help people who are homeless to achieve the maximum possible degree of self-reliance and independence. Within this aim, the goals are:

- (a) to resolve crisis; and 30
- (b) to re-establish family links where appropriate; and
- (c) to re-establish a capacity to participate fully in community life.

*How the aim of SAAP is to be achieved*

- (3) The aim of SAAP is to be achieved by:
  - (a) providing, or arranging for the provision of, services; and 35
  - (b) promoting access to services.

Services are said to be **provided under SAAP** if the provision of the services is covered by paragraph (a).

*Other key features of SAAP*

- (4) Other key features of SAAP are as follows:
- 5 (a) SAAP is to be implemented principally through common-form agreements between the Commonwealth and the States;
  - (b) the parties to such agreements are to endeavour to work together in a co-operative relationship where the contributions of each party are valued equally;
  - 10 (c) the parties to such agreements are to endeavour to work co-operatively with local government bodies and service providers in connection with the provision of services under SAAP;
  - (d) SAAP is to promote an image of people who are homeless that emphasises their human dignity and the fact that, irrespective of their
  - 15 current circumstances, they are entitled to opportunities that will enable them to participate fully in community life;
  - (e) SAAP is to encourage innovation in the provision of services to people who are homeless;
  - 20 (f) SAAP is to safeguard clients' rights and deal with clients' responsibilities through measures including, but not limited to:
    - (i) the development of grievance and appeals procedures; and
    - (ii) the development of charters of clients' rights and responsibilities.

**PART 2—SAAP AGREEMENTS**

25 *Division 1—Form of SAAP agreement*

**Form of SAAP agreement**

*Minister may specify form of agreement*

6.(1) For the purposes of this Act, the Minister may, by written instrument, specify a form of agreement dealing with SAAP.

30 *Variation or revocation*

(2) If the form is varied or revoked, the variation or revocation does not affect the validity of a SAAP agreement entered into before the variation or revocation took effect.

*Disallowable instrument*

35 (3) An instrument under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**Division 2—Matters dealt with by form of SAAP agreement**

**Responsibilities of service providers**

7. A form of agreement specified in an instrument under section 6 must include provisions that are directed towards assisting service providers, over time, to fulfil the following responsibilities: 5

- (a) to help people who are homeless to resolve crisis, and to achieve greater independence, through the following:
  - (i) case management;
  - (ii) assessment and referral;
  - (iii) if appropriate—early intervention and re-establishment of family links; 10
- (b) to further the integration into the community of people who are homeless by increasing access to the following:
  - (i) employment;
  - (ii) education and training; 15
  - (iii) health services (including mental health services);
  - (iv) disability and rehabilitation services;
  - (v) children’s support services;
  - (vi) income support;
  - (vii) other appropriate opportunities and resources; 20
- (c) to help people who are homeless to obtain long-term, secure and affordable housing and accommodation by providing access to a range of options suitable to their needs;
- (d) to complement other services available to people who are homeless.

**Key matters to be dealt with in form of agreement 25**

8. A form of agreement specified in an instrument under section 6 must deal with the following matters:

- (a) implementing case management;
- (b) developing assessment and referral mechanisms;
- (c) introducing early intervention and outreach; 30
- (d) enhancing the skill levels of the service provider work force compatible with core competencies;
- (e) strengthening the links between service sectors;
- (f) the efficiency and effectiveness of program management (including both Commonwealth and State planning, administration and advisory mechanisms); 35
- (g) establishing the means by which the civil, political, economic and social rights of people who are homeless may be preserved and protected by service providers;



- (h) ensuring that outcomes and/or targets in relation to people who are homeless are taken into account in the granting of financial assistance for the provision of services under SAAP;
- (i) establishing reporting and accountability arrangements;
- (j) establishing networks of support between service providers.

### Services dealt with by form of agreement

#### *Services may vary in type and duration*

9.(1) A form of agreement specified in an instrument under section 6 may provide that services under SAAP are to be of a varying duration, type and level according to the needs of individuals.

#### *Examples of service activities*

(2) The following are examples of service activities that may be dealt with by the form of agreement:

- (a) case management;
- (b) assessment and referral;
- (c) supported accommodation;
- (d) brokerage;
- (e) early intervention;
- (f) outreach;
- (g) mediation, including re-establishment of family links where appropriate;
- (h) counselling;
- (i) advocacy.

For this purpose, “service activity” means a particular type or kind of assistance to address the specific needs of individuals.

### Services not to be dealt with under SAAP

#### *No duplication of services*

10.(1) Except with the joint written consent of the Minister and the State Minister of each participating State, a form of agreement specified in an instrument under section 6 must provide that SAAP will not replace or duplicate a service that is already provided by, or is the responsibility of, any other government, program or organisation.

#### *Gazettal of consent*

(2) If a consent is given under this section, the Minister must cause a copy of the consent to be published in the *Gazette*.

**National SAAP Co-ordination and Development Committee***Establishment*

**11.(1)** A form of agreement specified in an instrument under section 6 must provide for the establishment of a committee, to be known as the **National SAAP Co-ordination and Development Committee.**

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*Representation on Committee*

**(2)** The form of agreement must provide that the Commonwealth and each participating State is to be represented on the National SAAP Co-ordination and Development Committee.

**National data collection system and national research program**

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*Data collection system and research program*

**12.(1)** A form of agreement specified in an instrument under section 6 must provide for the development of:

- (a) a national data collection system; and
- (b) a national research program;

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for the following purposes:

- (c) informing the development of policies relating to people who are homeless;
- (d) improving the management of SAAP;
- (e) measuring outcomes in SAAP.

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*Privacy*

**(2)** The form of agreement must include provisions directed towards ensuring that the national data collection system and the national research program safeguard the privacy of clients' personal information.

*Interpretation*

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**(3)** For the purposes of this section:

- (a) **“personal information”** has the same meaning as in the *Privacy Act 1988*; and
- (b) the meaning of **“privacy”** is to be determined having regard to the principles set out in that Act.

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**Services may be general or specific***Services*

**13.(1)** A form of agreement specified in an instrument under section 6 may deal with:

- (a) services provided generally to people who are homeless; or
- (b) services provided to meet the special needs of people who are homeless and who belong to any of the following groups:

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- (i) women;
- (ii) women and accompanying children;
- (iii) independent young people above the school-leaving age for the State concerned;
- 5 (iv) Aboriginal and Torres Strait Islander peoples;
- (v) people from non-English speaking backgrounds;
- (vi) families;
- (vii) single men;
- 10 (viii) single women;
- (ix) any other group specified in writing by the Minister and the State Minister of each participating State.

*Gazettal of specified group*

(2) If a group is specified under subparagraph (1)(b)(ix), the Minister must cause a copy of the specification to be published in the *Gazette*.

15 **Evaluation**

14. A form of agreement specified in an instrument under section 6 must contain provisions directed towards ensuring that the program performance of SAAP is evaluated at regular intervals. The intervals must not be longer than 5 years.

20 **Outcomes**

*Agreement may deal with outcomes*

15.(1) A form of agreement specified in an instrument under section 6 may deal with outcomes determined by the Minister under subsection (2) of this section.

25 *Minister may determine outcomes*

(2) The Minister may, by writing, determine outcomes for the purposes of SAAP agreements. A determination has effect accordingly.

*Minister to obtain the consent of State Ministers*

30 (3) Before making a determination under subsection (2), the Minister must obtain the written consent of the State Minister of each participating State.

*Disallowable instrument*

(4) A determination under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

35 **Division not to limit generality of section 6**

16. This Division does not, by implication, limit the generality of section 6.

**Division 3—SAAP agreements**

**SAAP agreements**

*When section applies*

**17.(1)** This section applies if an instrument (the “**disallowable instrument**”) is in force under section 6. 5

*Original SAAP agreement*

**(2)** The Commonwealth may enter into an agreement with a State substantially in accordance with the form set out in the disallowable instrument. The agreement is to be known as a **SAAP agreement**.

*Variation of SAAP agreement—further agreement* 10

**(3)** The Commonwealth may enter into a further agreement made under and varying a SAAP agreement. The varied SAAP agreement must be substantially in accordance with the form set out in the disallowable instrument.

**PART 3—GRANTS UNDER SAAP AGREEMENTS** 15

**Grants of financial assistance**

*When section applies*

**18.(1)** This section applies if a SAAP agreement is in force between the Commonwealth and a State.

*Minister may authorise payments* 20

**(2)** The Minister may authorise payments (including advances) to be made to the State, by way of financial assistance, in accordance with the SAAP agreement.

*Payments to be under an appropriation*

**(3)** Payments under this section are to be made out of money 25 appropriated by the Parliament for the purposes of this Act.

**Repayment of grants**

**19.** An amount repayable by a State to the Commonwealth under a SAAP agreement is a debt due by the State to the Commonwealth.

**PART 4—COMMONWEALTH ADVISORY COMMITTEE ON HOMELESSNESS** 30

**Commonwealth Advisory Committee on Homelessness**

*Establishment*

**20.(1)** The Minister may establish a committee, to be known as the **Commonwealth Advisory Committee on Homelessness (“CACH”)**. 35

*Qualifications of members*

(2) Before appointing a person as a member of CACH, the Minister must have regard to:

- (a) the person's expertise in, or experience of, homelessness; or
- 5 (b) the person's understanding of the principal issues affecting people who are homeless; or
- (c) such other expertise or experience of the person as the Minister considers relevant.

**Function of CACH**

10 *Function*

21.(1) The function of CACH is to advise the Minister about matters referred to it by the Minister.

*Matters that may be referred*

- (2) Each matter referred to CACH must be:
- 15 (a) a matter that relates to the operation of this Act or a SAAP agreement; or
- (b) a matter that relates to people who are homeless and is relevant to the powers of the Parliament or of the Commonwealth Government.

**Remuneration and allowances**

20 *Remuneration Tribunal to determine remuneration*

22.(1) A member of CACH is to be paid such remuneration (if any) as is determined by the Remuneration Tribunal.

*Minister to determine remuneration if no Remuneration Tribunal determination*

- 25 (2) If no determination of that remuneration by the Remuneration Tribunal is in operation, a member of CACH is to be paid such remuneration as is determined, in writing, by the Minister.

*Minister to determine allowances*

- 30 (3) A member of CACH is to be paid such allowances as the Minister determines in writing.

*Disallowable instrument*

(4) A determination under subsection (2) or (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

35 *Section has effect subject to the Remuneration Tribunal Act 1973*

(5) This section has effect subject to the *Remuneration Tribunal Act 1973*.

**Disclosure of interests at meetings**

*Member to disclose interests*

**23.(1)** A member of CACH who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by CACH must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of CACH. 5

*Disclosure to be recorded in minutes*

**(2)** A disclosure under subsection (1) must be recorded in the minutes of the meeting.

**Member's appointment to be terminated for non-disclosure of interests** 10

*Termination of appointment*

**24.(1)** The Minister must terminate the appointment of a member of CACH if the member fails, without reasonable excuse, to comply with section 23. 15

*Subsection (1) not to limit Minister's power to terminate*

**(2)** Subsection (1) does not, by implication, limit the Minister's power to terminate the appointment of a member of CACH.

**Resignation**

**25.** A member of CACH may resign from CACH by writing signed by the member and sent to the Minister. 20

**PART 5—REGULATIONS**

**Regulations**

**26.** The Governor-General may make regulations prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act. 25





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