

**Authorised Version**  
**Disability Amendment Act 2013**  
**No. 75 of 2013**

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**Authorised Version**



**Victoria**

# **Disability Amendment Act 2013<sup>†</sup>**

**No. 75 of 2013**

[Assented to 17 December 2013]

**The Parliament of Victoria enacts:**

## **1 Purpose**

The purpose of this Act is to amend the **Disability Act 2006** in relation to the review by VCAT of a decision of a disability service provider to issue a notice of a proposed increase in a residential charge.

## **2 Commencement**

This Act comes into operation on the day after the day on which it receives the Royal Assent.

See:  
Act No.  
23/2006.  
Reprint No. 1  
as at  
31 October  
2012  
and  
amending  
Act Nos  
20/2012,  
9/2013 and  
13/2013.  
LawToday:  
www.  
legislation.  
vic.gov.au

### 3 What can VCAT order on application under section 71?

- (1) In section 72(1) of the **Disability Act 2006**, for "On an application" **substitute** "Subject to section 72A, on an application".
- (2) In section 72(3) of the **Disability Act 2006**, for "it" **substitute** "the charge, as an annual amount,".
- (3) For section 72(5) of the **Disability Act 2006 substitute**—
  - "(5) Sections 50(3) and 51(1), (2) and (5) of the **Victorian Civil and Administrative Tribunal Act 1998** do not apply in relation to a proceeding for review of a decision to issue a notice of a proposed increase in a residential charge.
  - (6) Without limiting any other means of determining an amount for the purposes of subsection (3), the regulations may prescribe an amount by reference to any specified pension or allowance payable under Commonwealth law, including by use of a formula."

### 4 New section 72A inserted

After section 72 of the **Disability Act 2006 insert**—

#### **"72A VCAT must dismiss certain applications**

- (1) VCAT must dismiss an application under section 71 if the proposed charge—
  - (a) does not exceed the relevant prescribed amount referred to in section 72(3); and
  - (b) does not exceed the amount determined in accordance with the relevant formula.

(2) For the purposes of subsection (1)(b), the relevant formula is—

- (a) if the previous charge was a charge based on DSP only and the proposed charge is a charge based on CRA and DSP—

$$(PC \times (D_1 \div D_2)) + C$$

where—

**PC** is the previous charge;

**D<sub>1</sub>** is the maximum DSP on the day on which the notice is issued;

**D<sub>2</sub>** is the maximum DSP on the previous charge day;

**C** is the maximum CRA on the day on which the notice is issued multiplied by 26; or

- (b) if the previous charge was a charge based on CRA and DSP and the proposed charge is a charge based on CRA and DSP—

$$((PC - C_1) \times (D_1 \div D_2)) + C_2$$

where—

**PC** is the previous charge;

**C<sub>1</sub>** is the amount that was—

- (i) included in the previous charge; and

- (ii) determined on the basis of the whole or any part of Commonwealth rent assistance;

**D<sub>1</sub>** is the maximum DSP on the day on which the notice is issued;

**D<sub>2</sub>** is the maximum DSP on the previous charge day;

**C<sub>2</sub>** is the maximum CRA on the day on which the notice is issued multiplied by 26; or

(c) in any other case—

$$PC \times (D_1 \div D_2)$$

where—

**PC** is the previous charge;

**D<sub>1</sub>** is the maximum DSP on the day on which the notice is issued;

**D<sub>2</sub>** is the maximum DSP on the previous charge day.

(3) In determining whether to dismiss the application under this section, VCAT must not have regard to the matters referred to in section 72(2).

(4) In this section—

**charge based on CRA and DSP** means a residential charge—

(a) determined on the basis of—

(i) the whole or any part of Commonwealth rent assistance; and

(ii) the whole or any part of the Commonwealth disability support pension; and

(b) charged to a resident who receives Commonwealth rent assistance;

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***charge based on DSP only*** means a residential charge—

- (a) determined on the basis of the whole or any part of the Commonwealth disability support pension and not on the basis of the whole or any part of Commonwealth rent assistance; and
- (b) charged to a resident who does not receive Commonwealth rent assistance;

***Commonwealth disability support pension*** means an amount determined in accordance with Part 2.3 of the Social Security Act 1991 of the Commonwealth;

***Commonwealth rent assistance*** means an amount determined in accordance with Part 3.7 of the Social Security Act 1991 of the Commonwealth;

***maximum CRA*** means, in relation to a day, the maximum rent assistance, within the meaning of section 1070L of the Social Security Act 1991 of the Commonwealth as in force on that day, that applies to a person who is, within the meaning of that Act—

- (a) not a member of a couple; and
- (b) not a single person sharing accommodation;

***maximum DSP*** means, in relation to a day, the maximum basic rate, within the meaning of point 1064-B1 of the Social Security Act 1991 of the Commonwealth as in force on that day,

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that applies to a person who is not a member of a couple (within the meaning of that Act);

*previous charge* means the residential charge, as an annual amount, that a notice under section 66 proposes to increase;

*previous charge day* means the day on which the residential charge was set at, or increased to, the previous charge;

*proposed charge* means the residential charge, as an annual amount, that would result from the residential charge being increased as proposed by a notice under section 66."

## **5 Payment of increased amount pending VCAT decision**

In section 73(2) of the **Disability Act 2006**, for "section 72," **substitute** "section 72(1), other than an order dismissing the application,".

## **6 Repeal of amending Act**

This Act is **repealed** on the first anniversary of its commencement.

### **Note**

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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**ENDNOTES**

† *Minister's second reading speech—*

*Legislative Assembly: 30 October 2013*

*Legislative Council: 28 November 2013*

The long title for the Bill for this Act was "A Bill for an Act to amend the **Disability Act 2006** in relation to the review by VCAT of a decision of a disability service provider to issue a notice of a proposed increase in a residential charge and for other purposes."