**SOCIAL SERVICES AMENDMENT ACT 1977**

**No. 159 of 1977**

An Act relating to social services.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

**Short title, &c.**

**1.** (1) This Act may be cited as the *Social Services Amendment Act* 1977.

(2) The *Social Services Act* 1947 is in this Act referred to as the Principal Act.

**Commencement**

**2.** (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Sections 11, 12 and 24 shall come into operation on 1 November 1977 or, if this Act has not received the Royal Assent on or before that day, those sections shall be deemed to have come into operation on that day.

**3.** (1) Part IVaaa of the Principal Act is repealed and the following Part substituted:

“PART IVaaa—SUPPORTING PARENTS’ BENEFITS

**Interpretation**

“83aaa. (1) In this Part, unless the contrary intention appears—

‘beneficiary’ means a person in receipt of a benefit;

‘benefit’ means a benefit under this Part, and includes an allowance by way of supplementary assistance;

‘child’ means a child under the age of 16 years;

‘supporting father’ means a man (whether married or unmarried) who—

(a) has the custody, care and control of a child who has attained the age of 6 months, being a child—

(i) of whom that man is the father; or

(ii) in the case of a man who is a married man living apart from his wife or a man who has ceased to live with a woman as her husband on a *bona fide* domestic basis although not legally married to her—who was an adopted child of, or in the custody, care and control of, that man on the relevant date;

(b) is not living with, and for a period of at least 6 months has not been living with, a woman as her husband on a *bona fide* domestic basis although not legally married to her; and

(c) in the case of a married man—is living apart from his wife and has been so living apart for a period of at least 6 months,

but does not include a man who is qualified to receive a pension under Part III, or a benefit under Part VII, of this Act, a service pension under the *Repatriation Act* 1920 or an allowance under the *Tuberculosis Act* 1948 or is in receipt of a benefit provided by a State that, in the opinion of the Director-General, is similar to a benefit provided by the State that is an approved benefit within the meaning of the *States Grants (Deserted Wives) Act* 1968;

‘supporting mother’ means a woman (whether married or unmarried) who—

(a) has the custody, care and control of a child who has attained the age of 6 months, being a child who—

(i) was born of that woman; or

(ii) in the case of a woman who is a married woman living apart from her husband or a woman who has ceased to live with a man as his wife on a *bona fide* domestic basis although not legally married to him—was an adopted child of, or in the custody, care and control of, that woman on the relevant date;

(b) is not living with, and for a period of at least 6 months has not been living with, a man as his wife on a *bona fide* domestic basis although not legally married to him; and

(c) in the case of a married woman—is living apart from her husband and has been so living apart for a period of at least 6 months,

but does not include a woman who is qualified to receive a pension under Part III or IV, or a benefit under Part VII, of this Act, a service pension under the *Repatriation Act* 1920 or an allowance under the *Tuberculosis Act* 1948 or is in receipt of a benefit provided by a State that is an approved benefit within the meaning of the *States Grants (Deserted Wives) Act* 1968;

‘supporting parent’ means a person who is a supporting father or a supporting mother.

“(2) For the purposes of the definition of ‘supporting mother’ in sub-section (1)—

(a) the relevant date, in relation to a woman referred to in sub-paragraph (ii) of paragraph (a) of that definition, is whichever of the following dates is applicable to the woman or, if both dates are so applicable, the later date:

(i) the date on which the woman commenced to live apart from her husband;

(ii) the date on which the woman ceased, or last ceased, to live with a man as his wife on a *bona fide* domestic basis although not legally married to him; and

(b) a woman shall be deemed not to be, or not to have been, living with a man as his wife on a *bona fide* domestic basis although not legally married to him, being a man who has been convicted of an offence, during any period during which the man is, or was, imprisoned in connexion with the offence, being a continuous period of not less than 6 months, whether or not the period commenced before the conviction.

“(3) For the purposes of the definition of ‘supporting father’ in sub-section (1)—

(a) the relevant date, in relation to a man referred to in sub-paragraph (ii) of paragraph (a) of that definition, is whichever of the following dates is applicable to the man, or if both dates are so applicable, the later date:

(i) the date on which the man commenced to live apart from his wife;

(ii) the date on which the man ceased, or last ceased, to live with a woman as her husband on a *bona fide* domestic basis although not legally married to her; and

(b) a man shall be deemed not to be, or not to have been, living with a woman as her husband on a *bona fide* domestic basis although not legally married to her, being a woman who has been convicted of an offence, during any period during which the woman is, or was, imprisoned in connexion with the offence, being a continuous period of not less than 6 months, whether or not the period commenced before the conviction.

“(4) For the purposes of this Part, a child who is being maintained by a person shall be deemed to be a child of whom the person has, and had at any time when the person was maintaining the child, the custody, care and control.

“(5) In this Part—

(a) a reference to a woman who is living apart from her husband shall be read as a reference to a woman who is so living apart by reason that she and her husband are estranged; and

(b) a reference to a man who is living apart from his wife shall be read as a reference to a man who is so living apart by reason that he and his wife are estranged.

“(6) For the purposes of the application of a provision of Part IV in relation to a supporting parent in accordance with section 83aae or 83aag, that provision shall be read as if—

(a) the benefit of the supporting parent were a pension under that Part;

(b) any reference to sub-section (4) of section 59 were a reference to sub-section (4) of this section;

(c) any reference to section 59a were a reference to section 83aab;

(d) any reference in section 61 to sub-section (1) of section 60 were a reference to section 83aac;

(e) any reference to a payment under Part IV were a reference to a benefit; and

(f) any reference to sub-section (5) of section 74 included a reference to section 83aah.

“(7) A reference in this Part to a period of residence in Australia shall be read as including a reference to a period of residence in an area that was, at the time of the residence, an external Territory, other than Norfolk Island.

**Student children over the age of 16 years**

“83aab. Where a person (in this section referred to as ‘the dependant’) who is wholly or substantially dependent on another person (in this section referred to as ‘the parent’)—

(a) has attained the age of 16 years;

(b) is receiving full-time education at a school, college or university; and

(c) is not in receipt of an invalid pension under Part III,

this Part applies in relation to the parent as if the dependant—

(d) were a child;

(e) were in the custody, care and control of the parent; and

(f) had been in the custody, care and control of the parent at any time when the dependant was wholly or substantially dependent on the parent.

**Qualifications for benefit**

“83aac (1) Subject to this Part, a supporting parent is qualified to receive a benefit if the parent is residing in, and is physically present in, Australia on the date on which the supporting parent lodges a claim for the benefit and—

(a) in the case of a woman who is a supporting mother in relation to a child born of her—that child was born while she was residing in Australia;

(b) in the case of a man who is a supporting father in relation to a child of whom is he the father—that child was born in Australia and that man was residing in Australia at the time of that birth;

(c) in the case of a married person living apart from his or her spouse—the married person was residing in Australia immediately before he or she so commenced to live apart;

(d) in the case of a woman who has ceased to live with a man as his wife on a *bona fide* domestic basis although not legally married to him—she was residing in Australia immediately before she so ceased or last so ceased;

(e) in the case of a man who has ceased to live with a woman as her husband on a *bona fide* domestic basis although not legally married to her—he was residing in Australia immediately before he so ceased or last so ceased;

(f) the supporting parent has been continuously resident in Australia for a period of not less than 5 years immediately preceding the date on which the claim for the benefit is lodged; or

(g) the supporting parent has, at any time, been continuously resident in Australia for a period of not less than 10 years.

“(2) A reference in paragraph (a), (b), (c), (d) or (e) of sub-section (1) to residence in Australia shall be read as including a reference to residence in an area that was, at the time of the residence, an external Territory, other than Norfolk Island.

**Condition of grant of benefit**

“83aad. A benefit shall not be granted to a person who is a supporting parent unless the Director-General considers that it is reasonable that the supporting parent should have taken action to obtain maintenance from the person or persons who is or are the father or fathers, or the mother or mothers, as the case may be, of the child or children in relation to whom the first-mentioned person is the supporting parent and that that person has taken such action to obtain such maintenance as the Director-General considers reasonable.

**Rate of benefit**

“83aae. The rate of a benefit is a rate equal to the rate of the pension (excluding supplementary assistance) that would be payable under Part IV to the supporting parent if the supporting parent were a class A widow for the purposes of that Part.

**Date from which benefit is payable**

“83aaf. Where a benefit is granted, it shall be paid from a date determined by the Director-General, but the date so determined shall not be prior to the date on which the claim for the benefit was lodged or later than the day that, for the purposes of Part III, is the first pension pay-day occurring after the day on which the claim was lodged, except where the determination of the claim has been delayed by neglect or default on behalf of the claimant, in which case the Director-General shall fix such later date of commencement as he considers reasonable in the circumstances.

**Application of certain provisions of Part IV**

“83aag. Section 61 and Divisions 3a, 4, 5 (other than section 68), 6and 7 of Part IV apply in relation to a beneficiary as if the beneficiary were a widow for the purposes of that Part.

**Notification of change of circumstance**

“83aah. In the event of—

(a) a beneficiary, being a married person, ceasing to live apart from his or her spouse;

(b) a beneficiary, being a woman, commencing to live with a man as his wife on a *bona fide* domestic basis although not legally married to him; or

(c) a beneficiary, being a man, commencing to live with a woman as her husband on a *bona fide* domestic basis although not legally married to her,

the beneficiary shall, within 14 days after the occurrence of the event, notify a Director accordingly.

Penalty: $40.”.

(2) A benefit in force under Part IVaaa of the Principal Act immediately before the commencement of this section continues in force, after the commencement of this section, as if it had been granted under the Part substituted for that first-mentioned Part by sub-section (1) of this section.

**Interpretation**

**4**. Section 105h of the Principal Act is amended by inserting in sub-section (1), after the definition of “endowment period”, the following definition:

“‘handicapped child’ means a child who is not a severely handicapped child but who—

(a) has a physical or mental disability;

(b) by reason of that disability, needs care and attention only marginally less than the care and attention that he would need if he were a severely handicapped child; and

(c) is likely to need such care and attention permanently or for an extended period;”.

**5.** After section 105j of the Principal Act the following sections are inserted:

**Alternative qualifications for handicapped child’s allowance**

“105ja. The Director-General may grant a handicapped child’s allowance in respect of a handicapped child to a person having the custody, care and control of the child if the Director-General is satisfied that the person—

(a) provides, in a private home that is the residence of that person and of that child, care and attention in respect of that child only marginally less than the care and attention that the child would need if he were a severely handicapped child; and

(b) is, by reason of the provision of that care and attention, subjected to severe financial hardship.

**Director-General to indicate provision under which allowance is granted**

“105jb. Where the Director-General grants a handicapped child’s allowance to a person in respect of a child he shall inform the person, in writing, whether the allowance has been granted to the person in pursuance of section 105j or of section 105ja.”.

**6.** Sections 105l and 105m of the Principal Act are repealed and the following section is substituted:

**Rate of handicapped child’s allowance**

“105l. The rate of a handicapped child’s allowance in respect of a child is—

(a) where the allowance has been granted in pursuance of section 105j—$15 per week; or

(b) where the allowance has been granted in pursuance of section 105ja—such rate as the Director-General, in his discretion, from time to time, determines, but not exceeding the rate specified in paragraph (a).”.

**7.** After section 105n of the Principal Act the following section is inserted:

**Statement to be furnished when required**

“105na. A person to whom the Director-General has, in pursuance of section 105ja, granted a handicapped child’s allowance shall, whenever so required by the Director-General and within such time as the Director-General specifies, furnish to the Director-General a statement, in accordance with a form approved by the Director-General, relating to any matter referred to in the form, being a matter that might affect the payment to him of that allowance.

Penalty: $40.”.

**Obligation to notify**

**8.** Section 105p of the Principal Act is amended—

(a) by inserting “in pursuance of section 105j” after “allowance”;

(b) by omitting “Penalty: $40”; and

(c) by adding at the end thereof the following sub-section:

“(2) Where a child who is in the custody, care and control of a person who receives a handicapped child’s allowance in pursuance of section 105ja in respect of that child ceases to require care and attention of the standard that he required when the allowance was granted, that person shall, within 14 days of that child’s ceasing to require care and attention of that standard, notify a Director accordingly.

Penalty: $40.”.

**Cessation of handicapped child’s allowance granted under section 105j**

**9.** Section 105q of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) This section applies in relation to a handicapped child’s allowance granted in pursuance of section 105j.”.

**10.** After section 105q of the Principal Act the following section is inserted:

**Cessation of handicapped child’s allowance granted under section 105ja**

“105qa. If, at any time, after the grant to a person of a handicapped child’s allowance in pursuance of section 105ja, the Director-General considers that—

(a) having regard to the income of the person to whom the allowance has been granted;

(b) by reason of the failure of that person to comply with a requirement made of him under section 105na; or

(c) for any other reason,

the allowance should be cancelled, the Director-General may cancel the allowance.”.

**Married women**

**11.** Section 110 of the Principal Act is repealed.

**Income test**

**12.** Section 114 of the Principal Act is amended by omitting from sub-section (3) “, in the case of an unemployment benefit,”.

**Date from which benefit is to commence**

**13.** Section 119 of the Principal Act is amended—

(a) by omitting from sub-section (1) “An unemployment benefit” and substituting “Subject to sub-section (1a), an unemployment benefit”; and

(b) by inserting after sub-section (1) the following sub-section:

“(1a) Where—

(a) a claim for unemployment benefit is made by a person who has been unemployed for a continuous period of one or more days ending immediately before the claim is made; and

(b) the Director-General is satisfied that, during the whole of that period, or during a number of consecutive days in that period ending at the expiration of that period, the person was capable of undertaking and was willing to undertake work that, in the opinion of the Director-General, was suitable to be undertaken by that person and took reasonable steps to obtain such work,

the Director-General shall advance the day from and including which the benefit is payable by a number of days equal to the number of days in respect of which the Director-General is so satisfied or 7 days, whichever is the less.”.

**14.** After section 120 of the Principal Act the following section is inserted:

**Non-payment for 6 weeks of unemployment benefit in case of persons ceasing education**

“120a. (1) Subject to this section, where—

(a) a person who has ceased to be a full-time secondary school student makes a claim for unemployment benefit; or

(b) a person who has ceased to undertake a full-time course of study at an institution of tertiary education (not being a course of study that, in the opinion of the Director-General, was being undertaken for a post-graduate or higher degree or similar qualification) without having completed that course of study makes a claim for unemployment benefit and the person so ceased to undertake that course voluntarily without having a reason that, in the opinion of the Director-General, was good and sufficient,

unemployment benefit is not payable to the person in respect of any period of unemployment during the period of 6 weeks after the day on which the person so ceased to be a full-time secondary school student or to undertake that course, as the case may be.

“(2) A reference in this section to a full-time secondary school student shall be read as including a reference to a student undertaking a full-time course of secondary education provided by a correspondence school.

“(3) Where—

(a) a person is a full-time secondary school student undertaking a course of education at the end of which an examination or examinations is or are to be held, whether by the school at which the person is such a student or by another examining authority;

(b) the person has informed the school or authority that he proposes to be a candidate, or has not informed the school or authority in writing that he does not propose to be a candidate, at that examination or those examinations; and

(c) the person has completed, or substantially completed, that course of education apart from sitting for that examination or those examinations,

the person shall not be taken for the purposes of this section to cease to be a full-time secondary school student until that examination or the last of those examinations has been held.

“(4) In this section, ‘institution of tertiary education’ includes any institution that is a tertiary institution for the purposes of the *Tertiary Education Commission Act* 1977.”.

**Receipt of income, &c., to be notified**

**15.** Section 130 of the Principal Act is amended—

(a) by omitting from sub-sections (1), (1b) and (2) “within seven days” and substituting “immediately”; and

(b) by omitting from sub-sections (1a) and (1c) “within 7 days” and substituting “immediately”.

**16.** After section 130 of the Principal Act the following section is inserted:

**Engaging in employment, &c., to be notified**

“130a. A beneficiary who—

(a) commences to engage in paid employment (including casual employment) with an employer; or

(b) commences to carry on a profession, trade or business, whether on his own account or as a member of a partnership,

shall, immediately upon so commencing to engage in paid employment or to carry on the profession, trade or business, notify a Registrar accordingly.

Penalty: $40.”.

**Cancellation, &c., of benefit**

**17.** Section 131 of the Principal Act is amended by omitting from paragraph (b) “either of the last two preceding sections” and substituting “section 129, 130 or 130a”.

**18.** Section 132 of the Principal Act is repealed and the following section substituted:

**Benefits to be paid by instalments**

“132. (1) Benefits shall be paid by instalments in respect of such periods as the Director-General determines.

“(2) Instalments shall be paid at such times as the Director-General determines.

“(3) Where the period in respect of an instalment of a benefit is, or includes, a period of less than a week (in this sub-section referred to as ‘the relevant period’), the instalment, or that part of the instalment that relates to the relevant period, shall be an amount calculated at one-fifth of the weekly rate of the benefit for each day, not being a Saturday or Sunday, in the relevant period.”.

**Provision of treatment and training**

**19.** Section 135 of the Principal Act is amended by omitting paragraph (a) of sub-section (1) and substituting the following paragraph:

“(a) treatment and training of persons who are suffering from a physical or mental disability, being—

(i) pensioners and claimants for pensions, being persons who would be likely to derive substantial benefit from that treatment and training;

(ii) beneficiaries and claimants for benefits who, without that treatment and training, would be likely to become unemployable;

(iii) persons in respect of whom allowances are being paid under section 9 of the *Tuberculosis Act* 1948, being persons who would be likely to derive substantial benefit from that treatment and training;

(iv) persons who have attained the age of 14 years but have not attained the age of 16 years, being persons who, without that treatment and training, would be likely to become qualified to receive pensions on attaining the age of 16 years; and

(v) any other persons, being persons who have attained the age of 16 years but, being men, have not attained the age of 65 years or, being women, have not attained the age of 60 years, who would be likely to derive substantial benefit from that treatment and training; and

**Eligibility for treatment and training**

**20.** Section 135a of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) A person is not eligible to receive treatment or training unless the physical or mental disability from which he is suffering—

(a) appears likely to continue—

(i) where the disability has existed for a period of not less than 13 weeks—for a further period of not less than 13 weeks; or

(ii) in any other case—for a period of not less than 26 weeks from the date of commencement of the disability; and

(b) is, or is likely to be, a substantial handicap to—

(i) the person’s undertaking employment, whether full-time or part-time employment or sheltered employment;

(ii) the person’s undertaking or resuming household duties; or

(iii) the person’s leading an independent or semi-independent life in his own home.”.

**Payments during training**

**21.** Section 135d of the Principal Act is amended by adding at the end thereof the following sub-section:

“(6) This section does not apply in relation to a person referred to in sub-paragraph (v) of paragraph (a) of sub-section (1) of section 135 unless the Director-General otherwise directs.”.

**Persons becoming ineligible for pension or benefit during treatment or training**

**22.** Section 135p of the Principal Act is repealed.

**Completion of treatment and training**

**23.** Section 135q of the Principal Act is amended by omitting sub-section (5) and substituting the following sub-section:

“(5) The Director-General may permit a person whose treatment or training has been discontinued to receive such treatment as the Director-General determines for a period not exceeding 6 months commencing on the date on which the person’s treatment or training, as the case may be, was so discontinued.

**Postponement of application of amendment made by section 12**

**24.** (1) Subject to sub-section (4), this section applies to a sickness benefit if—

(a) the sickness benefit was in force immediately before 1 November 1977; and

(b) the effect of the application of the amendment made by section 12 in relation to the sickness benefit would be to reduce or cancel the sickness benefit with effect on and from that date.

(2) The amendment made by section 12 does not apply in relation to a sickness benefit to which this section applies.

(3) The rate of a sickness benefit to which this section applies—

(a) shall not be greater than the rate at which it was payable on 31 October 1977; and

(b) shall not be increased at any time by reason of a reduction in the income of the beneficiary.

(4) This section ceases to apply to a sickness benefit when the rate at which the sickness benefit would be payable but for this section is greater than the rate at which the sickness benefit is payable in accordance with this section.