

Social Services Amendment Act 1980

No. 130 of 1980

An Act to amend the *Social Services Act 1947* and for related purposes

[Assented to 19 September 1980]

BE IT ENACTED by the Queen, and the Senate and the 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 1980*.

(2) The *Social Services Act 1947*¹ is in this Act referred to as the Principal Act.

Commencement

2. (1) Sections 1, 2, 4, 5, 17 and 22 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act (other than section 3) shall come into operation on 1 November 1980.

(3) Section 3 shall come into operation on a date to be fixed by Proclamation.

Repeal

3. The *States Grants (Deserted Wives) Act 1968* is repealed.

Interpretation

4. Section 6 of the Principal Act is amended by adding at the end of subsection (1) the following definition:

“ ‘Reserve Forces’ means—

- (a) the Citizen Naval Forces;
- (b) the Naval Emergency Reserve Forces;
- (c) the Citizen Military Forces;
- (d) the Citizen Air Force;
- (e) the Air Force Emergency Force; and
- (f) the Regular Army Emergency Reserve.”

Interpretation

5. Section 18 of the Principal Act is amended by inserting after paragraph (h) of the definition of “income” the following paragraph:

“(ha) in the case of a member of the Reserve Forces, the pay and allowances paid to him as such a member (other than pay and allowances in respect of continuous full-time service) and, in the case of a member of a Force referred to in paragraph (b), (e) or (f) of the definition of “Reserve Forces” in sub-section (1) of section 6, any gratuity paid to him by reason of a calling out for continuous service of, or of part of, that Force;”.

Rate of age or invalid pension (including guardian’s allowance payable to an unmarried person)

6. Section 28 of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1AA) “Two hundred and eight dollars” and substituting “\$312”;
- (b) by omitting from paragraph (b) of sub-section (1AA) “Three hundred and twelve dollars” and substituting “\$416”;
- (c) by omitting from sub-section (1B) “\$390” and substituting “\$520”;
- (d) by omitting from sub-section (1F) “\$390” (wherever occurring) and substituting “\$520”;
- (e) by omitting from sub-paragraph (ii) of paragraph (a) of sub-section (3) “\$15” and substituting “\$20”; and
- (f) by omitting from sub-paragraph (ii) of paragraph (b) of sub-section (3)—

“ $2(2P + \$1,287)$ ”

26

and substituting:

“ $2(2P + \$1,417)$ ”

26

Wife’s pension not to be paid in certain circumstances

7. Section 33 of the Principal Act is repealed.

Suspension of pension of mental hospital patient

8. (1) Section 48 of the Principal Act is repealed.

(2) Where a person who was a mental hospital patient immediately before the commencement of this section ceases to be a mental hospital patient (otherwise than by reason of death) after the commencement of this section, the person is entitled to payment of pension in respect of each day in respect of which his pension was suspended under section 48 of the Principal Act.

(3) In sub-section (2), “day”, in relation to a mental hospital patient, means—

Social Services Amendment No. 130, 1980

- (a) where the mental hospital patient was an inmate of the mental hospital for a period not exceeding 84 days—any day in that period; or
 - (b) in any other case—any day included in the last 84 days of the period during which he was an inmate of the mental hospital.
- (4) For the purposes of sub-section (2)—
- (a) a day before the commencement of this section in respect of which a mental hospital patient is paid a pension after the commencement of this section shall be deemed not to be a day in respect of which his pension was suspended; and
 - (b) where a mental hospital patient has been absent from the mental hospital for a continuous period of 4 weeks or more, he shall be deemed to cease to be a mental hospital patient at the expiration of the period of 4 weeks commencing on the commencement of that absence.

Interpretation

9. (1) Section 59 of the Principal Act is amended—

- (a) by inserting at the end of paragraph (c) of the definition of “widow” in sub-section (1) “and”;
- (b) by omitting paragraph (d) of the definition of “widow” in sub-section (1); and
- (c) by omitting sub-section (3).

(2) Where a pensioner under Part IV of the Principal Act was, immediately before the commencement of this section, a person to whom paragraph (d) of the definition of “widow” in sub-section 59 (1) of the Principal Act applied, that paragraph continues in force, after the commencement of this section, in relation to that pensioner, until the husband of the pensioner ceases to be a mental hospital patient.

(3) For the purposes of sub-section (2), where the husband of a pensioner has been absent from the mental hospital for a continuous period of 4 weeks or more, he shall be deemed to cease to be a mental hospital patient at the expiration of the period of 4 weeks commencing on the commencement of that absence.

(4) Where a woman to whom sub-section (2) of this section applies would, but for that sub-section, be, or become, qualified for a grant of pension under Division 5 of Part III of the *Social Services Act 1947* at a rate greater than the rate of the pension payable to her under Part IV of that Act by virtue of sub-section (2) of this section, then—

- (a) sub-section (2) of this section does not prevent the making of that grant to her;
- (b) that grant may take effect on and from the date of commencement of this section or the date on which she became so qualified, whichever is the later date; and

- (c) if that grant is made to her, sub-section (2) of this section shall be deemed to have ceased to apply in relation to her on the date on which that grant takes effect.

Rate of widow's pension (including mother's allowance payable to class A widows)

- 10. Section 63 of the Principal Act is amended—
 - (a) by omitting from paragraph (a) of sub-section (1) "Two hundred and eight dollars" and substituting "\$312"; and
 - (b) by omitting from paragraph (aa) of sub-section (1) "Three hundred and twelve dollars" and substituting "\$416".

Date from which pension is payable

- 11. Section 68 of the Principal Act is amended—
 - (a) by inserting at the end of paragraph (a) of sub-section (2) "or";
 - (b) by omitting from paragraph (b) of sub-section (2) "or"; and
 - (c) by omitting paragraph (c) of sub-section (2).

Receipt of income or occurrence of an event to be notified

- 12. Section 74 of the Principal Act is amended by omitting from subparagraph (ii) of paragraph (a) of sub-section (5) "(d) or".

Suspension of pension of mental hospital patient

- 13. (1) Section 77 of the Principal Act is repealed.

(2) Where a person who was a mental hospital patient immediately before the commencement of this section ceases to be a mental hospital patient (otherwise than by reason of death) after the commencement of this section, the person is entitled to payment of pension in respect of each day in respect of which his pension was suspended under section 77 of the Principal Act.

(3) In sub-section (2), "day", in relation to a mental hospital patient, means—

- (a) where the mental hospital patient was an inmate of the mental hospital for a period not exceeding 84 days—any day in that period; or
 - (b) in any other case—any day included in the last 84 days of the period during which he was an inmate of the mental hospital.
- (4) For the purposes of sub-section (2)—
- (a) a day before the commencement of this section in respect of which a mental hospital patient is paid a pension after the commencement of this section shall be deemed not to be a day in respect of which his pension was suspended; and
 - (b) where a mental hospital patient has been absent from the mental hospital for a continuous period of 4 weeks or more, he shall be deemed to cease to be a mental hospital patient at the expiration of the period of 4 weeks commencing on the commencement of that absence.

Interpretation

14. Section 83AAA of the Principal Act is amended—

(a) by omitting the definitions of “supporting father” and “supporting mother” in sub-section (1) and substituting the following definitions:

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

(a) has the custody, care and control of a child, 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 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,

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*;

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

(a) has the custody, care and control of a child, 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 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,

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*;”;

- (b) by omitting from paragraph (b) of sub-section (2) "6 months" and substituting "14 days";
- (c) by omitting from paragraph (b) of sub-section (3) "6 months" and substituting "14 days"; and
- (d) by omitting sub-section (5) and substituting the following sub-section:
 - "(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 living apart by reason that—
 - (i) she and her husband are estranged; or
 - (ii) her husband has been convicted of an offence and is imprisoned in connection with the offence and has been so imprisoned for a continuous period of not less than 14 days, whether or not the period commenced before the conviction; 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—
 - (i) he and his wife are estranged; or
 - (ii) his wife has been convicted of an offence and is imprisoned in connection with the offence and has been so imprisoned for a continuous period of not less than 14 days, whether or not the period commenced before the conviction."

Rate of double orphan's pension

15. Section 105C of the Principal Act is amended by omitting "\$47.70" and substituting "\$55.70".

Rate of handicapped child's allowance

16. Section 105L of the Principal Act is amended by omitting from paragraph (a) "\$65" and substituting "\$73".

Interpretation

17. Section 106 of the Principal Act is amended by inserting after paragraph (e) of the definition of "income" in sub-section (1) the following paragraph:

- "(ea) in the case of a member of the Reserve Forces, the pay and allowances paid to him as such a member (other than pay and allowances in respect of continuous full-time service) and, in the case of a member of a Force referred to in paragraph (b), (e) or (f) of the definition of "Reserve Forces" in sub-section (1) of section 6, any gratuity paid to him by reason of a calling out for continuous service of, or of part of, that Force;"

Rate of unemployment and sickness benefit

18. Section 112 of the Principal Act is amended—

- (a) by omitting from paragraph (b) of sub-section (1) “\$51.45” and substituting “\$53.45”;
- (b) by omitting from sub-section (5) “\$7.50” and substituting “\$10”;
- (c) by inserting in sub-paragraph (iii) of paragraph (b) of sub-section (6) “, or of a supporting parent’s benefit under Part IVAAA,” after “Part IV”; and
- (d) by omitting from paragraph (c) of sub-section (6) “\$7.50” and substituting “\$10”.

Income test

19. Section 114 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-sections:

“(1) Where an unemployment benefit or a sickness benefit is payable to an unmarried person—

- (a) who has not attained the age of 18 years;
- (b) at least one of whose parents is residing in Australia; and
- (c) whose income exceeds \$3 per week,

the rate per week of that benefit shall be reduced—

- (d) where the income of the person does not exceed \$40 per week—by one-half of the amount by which that income exceeds \$3 per week; or
- (e) in any other case—by an amount equal to the sum of \$18.50 and the amount by which that income exceeds \$40 per week.

“(1A) Where an unemployment benefit or a sickness benefit is payable to a person (other than a person to whom sub-section (1) applies) whose income exceeds \$6 per week, the rate per week of that benefit shall be reduced—

- (a) where the income of the person does not exceed \$50 per week—by one-half of the amount by which that income exceeds \$6 per week; or
- (b) in any other case—by an amount equal to the sum of \$22 and the amount by which that income exceeds \$50 per week.

“(1B) Where the amount of a weekly rate of benefit that would, but for this sub-section, be payable under sub-section (1) or (1A) includes 0.5 cent, that first-mentioned amount shall be increased by 0.5 cent.”;

- (b) by omitting from sub-section (2) “the last preceding sub-section” and substituting “sub-sections (1) and (1A)”;
- (c) by omitting from sub-section (3) “sub-section (1)” and substituting “sub-section (1A)”;
- (d) by omitting from sub-section (5) “sub-section (1)” and substituting “sub-sections (1) and (1A)”.

20. (1) Section 133 of the Principal Act is repealed and the following section substituted:

Benefit not payable during period of imprisonment

“133. Benefit is not payable to a person in respect of any period during which the person is imprisoned following upon his conviction for an offence.”

(2) Where a person who was a mental hospital patient immediately before the commencement of this section ceases to be a mental hospital patient (otherwise than by reason of death) after the commencement of this section, sub-sections 133 (2) and (4) of the Principal Act apply in relation to that person notwithstanding the repeal effected by sub-section (1) as if he had lodged a claim for sickness benefit on so ceasing to be a mental hospital patient.

(3) For the purposes of sub-section (2), where a mental hospital patient has been absent from the mental hospital for a continuous period of 4 weeks or more, he shall be deemed to cease to be a mental hospital patient at the expiration of the period of 4 weeks commencing on the commencement of that absence.

Provision of vocational training for certain widows

21. Section 135T of the Principal Act is amended—

- (a) by omitting from sub-section (13) “sections 135D and 135E, sections” and substituting “sections 135D,”; and
- (b) by omitting from sub-section (13) “sub-sections (2), (3), (4) and” and substituting “sub-section”.

Application

22. (1) In so far as an amendment made by this Act affects instalments of pensions under Part III or Part IV or benefits under Part IVAAA of the *Social Services Act 1947*, then—

- (a) where the amendment is a prescribed amendment—the amendment applies in relation to an instalment of pension or benefit falling due on the day on which this Act receives the Royal Assent, if that day is a pension pay-day, or, if it is not, on the first pension pay-day after the day on which this Act receives the Royal Assent, and to all subsequent instalments; or
- (b) in any other case—the amendment applies in relation to an instalment of pension or benefit falling due on the first pension pay-day after 1 November 1980 and to all subsequent instalments.

(2) In so far as an amendment made by this Act affects payments of pensions or allowances under Part VIA or under Part VIB of the *Social Services Act 1947*, the amendment applies in relation to a payment of pension or allowance payable in respect of the endowment period commencing on 15 October 1980 and to all subsequent payments.

(3) In so far as an amendment made by this Act affects instalments of unemployment or sickness benefit, then—

Social Services Amendment No. 130, 1980

- (a) where the amendment is a prescribed amendment—the amendment applies in relation to every instalment of benefit that falls due on or after the day on which this Act receives the Royal Assent; or
 - (b) in any other case—the amendment applies in relation to every instalment of benefit that falls due on or after 1 November 1980.
- (4) In this section, “prescribed amendment” means an amendment made by section 4, 5 or 17.
-

NOTE

1. No. 26, 1947, as amended. For previous amendments, see Nos. 38 and 69, 1948; No. 16, 1949; Nos. 6 and 26, 1950; No. 22, 1951; Nos. 41 and 107, 1952; No. 51, 1953; No. 30, 1954; Nos. 15 and 38, 1955; Nos. 67 and 98, 1956; No. 46, 1957; No. 44, 1958; No. 57, 1959; No. 45, 1960; No. 45, 1961; Nos. 1 and 95, 1962; No. 46, 1963; Nos. 3 and 63, 1964; Nos. 57 and 152, 1965; No. 41, 1966; Nos. 10 and 61, 1967; No. 65, 1968; No. 94, 1969; Nos. 2 and 59, 1970; Nos. 16 and 67, 1971; Nos. 1, 14, 53 and 79, 1972; Nos. 1, 26, 48 and 103, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 2, 23 and 91, 1974; Nos. 34, 101 and 110, 1975; Nos. 26, 62 and 111, 1976; No. 159, 1977; No. 128, 1978; and No. 121, 1979.