

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984**

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - TABLE OF PROVISIONS**

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SCHEDULE

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 1.**

### **Short title.**

An Act relating to social security, repatriation and related matters

(Assented to 25 June 1984)

PART I-PRELIMINARY

Short title

1. This Act may be cited as the Social Security and Repatriation Legislation Amendment Act 1984.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 2.**

### **Commencement**

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

(2) Section 9 and sub-sections 10 (1) and 11 (1) shall be deemed to have come into operation on 1 May 1984.

(3) Section 46 shall be deemed to have come into operation on 27 October 1982.

(4) Part III shall be deemed to have come into operation on 24 October 1983.

(5) Section 71 shall be deemed to have come into operation on 10 May 1984.

(6) Sub-sections 10 (2), 11 (2) and 14 (2), section 19, sub-section 23 (2), sections 25 and 32, sub-sections 35 (2) and 36 (2) and sections 38, 43, 44, 47, 57 and 58 shall come into operation on 1 August 1984.

(7) Part V shall come into operation on such date as is fixed by the Minister by notice in the Gazette.

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## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 3.**

### **Principal Act**

#### PART II-AMENDMENTS OF THE SOCIAL SECURITY ACT 1947

3. The Social Security Act 1947\*1\* is in this Part referred to as the Principal Act.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 4.**

4. Sections 3 and 4 of the Principal Act are repealed and the following section is substituted:  
Saving of certain approvals

'4. For the purposes of this Act-

(a) every charitable institution or organization that, immediately prior to the commencement of this Act, was a charitable institution or organization approved by the Minister under the Child Endowment Act 1941 shall be deemed to have been approved by the Director-General under Part VI; and

(b) every friendly society that, immediately prior to the commencement of this Act, was a friendly society approved by the Director-General under the Unemployment and Sickness Benefits Act 1944 shall be deemed to have been approved by the Director-General under Part VII.''.



# SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 5.

## Interpretation

5. Section 6 of the Principal Act is amended-

(a) by inserting before the definition of 'Australia' in sub-section (1) the following definitions:

' 'absent resident' means a person outside Australia who is-

(a) a person whose domicile is in Australia, not being a person whom the Director-General is satisfied is a person whose permanent place of abode is outside Australia; or

(b) a person who is-

(i) an eligible employee for the purposes of the Superannuation Act 1976; or

(ii) the spouse of such an employee;

'adopted child' means a child adopted under the law of any place, whether in Australia or not, relating to the adoption of children;'';

(b) by inserting after the definition of 'Australia' in sub-section (1) the following definition:

' 'benevolent home' means a home conducted for benevolent purposes which is wholly or partly maintained by contributions from the Consolidated Revenue Fund of the Commonwealth or from the consolidated revenue of a State or of the Northern Territory and is approved by the Director-General for the purposes of this definition;'';

(c) by omitting from sub-section (1) the definition of 'friendly society';

(d) by inserting before the definition of 'medical practitioner' in sub-section (1) the following definition:

' 'Government rent' means-

(a) rent payable to any of the following authorities:

(i) The Housing Commission of New South Wales;

(ii) the Director, within the meaning of the Housing Act 1983 of the State of Victoria;

(iii) The Queensland Housing Commission;

(iv) The Corporation of the Director of Aboriginal and Islanders Advancement established by a law of Queensland;

(v) the South Australian Housing Trust;

(vi) The State Housing Commission established by a law of Western Australia;

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(vii) the Director-General of Housing and Construction holding office under a law of Tasmania;

(viii) the Northern Territory Housing Commission;

(b) rent payable to the Commonwealth in respect of any accommodation in Glebe in New South Wales; or

(c) rent payable to the Commonwealth in respect of any accommodation in the Australian Capital Territory or in the Jervis Bay Territory, other than rent of a kind specified by the Minister, by notice in writing published in the Gazette, for the purposes of this paragraph;'';

(e) by omitting from sub-section (1) the definitions of 'mental hospital' and 'mental hospital patient' and substituting the following definitions:

' 'mental hospital' means premises that the Director-General is satisfied are premises at which accommodation for mentally ill persons is provided and are declared by the Director-General, in writing, to be a mental hospital for the purposes of this definition;

'mental hospital patient' means-

(a) a person who has been admitted to a mental hospital as a patient of the hospital and is shown on the records of the hospital as a patient (other than an out-patient) of the hospital; or

(b) a person who is being transferred from one mental hospital to another mental hospital, being a person who, immediately before the transfer began, was a mental hospital patient within the meaning of paragraph (a) at the first-mentioned hospital and who is being so transferred in order to become a mental hospital patient, within the meaning of that paragraph, at that other hospital;'';

(f) by inserting after the definition of 'officer' in sub-section (1) the following definition:

' 'rent', in relation to a person, means rent, not being Government rent, in respect of premises, or a part of premises, occupied by the person as the home of the person and includes amounts payable by the person for-

(a) lodging or for board and lodging;

(b) the use of the site for-

(i) a caravan or other vehicle; or

(ii) a structure,

occupied by the person as the home of the person; or

(c) the right to moor a vessel that is occupied by the person as the home of the person;''; and

(g) by omitting sub-section (2) and substituting the following sub-section:

' (2) If a law of a State or of the Northern Territory alters the name of an authority referred to in the definition of 'Government rent' in sub-section (1), a reference to that authority in that definition shall be construed as a reference to the authority under the new name.' '.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 6.**

## **Extension of Act to Territory of Cocos (Keeling) Islands and application of**

### **Act in relation to external Territories**

6. Section 6C of the Principal Act is amended by adding at the end thereof the following sub-sections:

''(2) A reference in-

(a) Division 2 (other than section 21A) or Division 3 of Part III;

(b) Division 2 of Part IV; or

(c) Part IVAAA,  
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 residence, an external Territory, other than Norfolk Island.

''(3) In paragraph 25 (1) (b), a reference to Australia shall be read as

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including a reference to an area that was, at the time a claimant became permanently incapacitated for work or permanently blind, an external Territory, other than Norfolk Island.

''(4) For the purposes of Part III and sub-section 60 (1), continuity of residence of a claimant in Australia shall be deemed not to have been interrupted by absence of the claimant in an external Territory.

''(5) In paragraph 60 (1) (d), a reference to Australia shall be read as including a reference to an area that was, at the time of the occurrence of the event by reason of which the claimant became a widow, an external Territory, other than Norfolk Island.

''(6) A reference in any of the paragraphs of sub-section 83AAC (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.

''(7) In paragraph 83AD (1) (a), a reference to a person who formerly resided in Australia and who has returned to Australia shall be read as including a reference to a person who-

(a) formerly resided in an area that was, at the time of the residence, an external Territory;

(b) has never resided in Australia; and

(c) has arrived in Australia.''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 7.**

7. After section 15A of the Principal Act the following section is inserted:

Director-General may deem event to have occurred

'16. Where-

(a) the Director-General has, in pursuance of section 14 or 15, annulled a determination, direction, decision or approval; or

(b) the Administrative Appeals Tribunal has, in pursuance of section 43 of the Administrative Appeals Tribunal Act 1975, set aside a decision of the Director-General, the Director-General, if in his opinion it is reasonable to do so, may, for the purposes of this Act, deem an event to have occurred, being an event that, in the opinion of the Director-General, would have occurred but for the determination, direction, decision or approval having been made or given, as the case requires.''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 8.**

### **Repeal of section 17A**

8. Section 17A of the Principal Act is repealed.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 9.**

### **Interpretation**

9. Section 17B of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

'(2) For the purposes of this Part (other than paragraph 17C (3) (b)), where a person whose usual place of residence is situated in the remote area is absent from the remote area for a period, the person shall be taken to be physically present in the remote area during that period or during the first 8 weeks of that period, whichever is the shorter.'.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 10.**

### **Persons eligible for remote area allowance**

10. (1) Section 17C of the Principal Act is amended by adding at the end thereof the following sub-section:

'(3) Where a person whose usual place of residence is situated in the remote area-

(a) is in receipt of-

(i) a benefit under Part VII, or an allowance under Part VIII, the rate of which is increased by reference to paragraph 112 (2) (b) or sub-section 112 (4A); or

(ii) an allowance under Part VIIA or VIII, the rate of which is calculated having regard to an amount of wife's pension under Part III;

(b) is absent from the remote area for a period exceeding 8 weeks; and

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(c) has a spouse who is physically present in, and whose usual place of residence is situated in, the remote area, the person is eligible to receive a remote area allowance.''.

(2) Section 17C of the Principal Act is amended by omitting from sub-paragraph (3) (a) (i) 'paragraph 112 (2) (b) or sub-section 112 (4A)'' and substituting 'sub-section 112 (2)''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 11.**

### **Rate of remote area allowance**

11. (1) Section 17D of the Principal Act is amended-

(a) by omitting from paragraph (3) (a) 'sub-section 112 (2) or (4A)'' (wherever occurring) and substituting 'paragraph 112 (2) (b) or sub-section 112 (4A)'';

(b) by omitting from paragraph (3) (a) 'a rehabilitation'' and substituting 'an'';

(c) by omitting from sub-section (3) all the words after 'first-mentioned person'' and substituting:

'is-

(c) where sub-section 17C (1) applies-such amount exceeding \$12 per fortnight but not exceeding \$24 per fortnight; or

(d) where sub-section 17C (3) applies-such amount not exceeding \$14 per fortnight,

as the Director-General determines in writing.'';

(d) by omitting from paragraph (4) (a) 'a rehabilitation allowance under'';

(e) by omitting from sub-section (4) 'is \$24 per fortnight'' and substituting:

'is-

(d) where sub-section 17C (1) applies-\$24 per fortnight; or

(e) where sub-section 17C (3) applies-\$14 per fortnight.'';

(f) by inserting in sub-section (5) ''or (1F)'' after ''28 (1B)'';

(g) by omitting from sub-section (6) all the words after ''present in'' and substituting ''Australia''; and

(h) by inserting in paragraph (7) (a) ''or (1F)'' after ''28 (1B)''.

(2) Section 17D of the Principal Act is amended by omitting from paragraph

(3) (a) ''paragraph 112 (2) (b) or sub-section 112 (4A)'' (wherever occurring)

and substituting ''sub-section 112 (2)''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 12.**

### **Interpretation**

12. Section 18 of the Principal Act is amended-

(a) by omitting the definition of ''benevolent home'';

(b) by omitting the definitions of ''dependent female'' and ''Government rent'' and substituting the following definitions:

'' 'de facto spouse' means a person who is living with another person of the opposite sex as the spouse of that other person on a bona fide domestic basis although not legally married to that other person;

'' 'husband' includes a male de facto spouse;'';

(c) by omitting paragraph (e) of the definition of ''income'' and substituting the following paragraph:

''(e) a payment under this Act;'';

(d) by omitting ''(other than this Act)'' from paragraph (f) of the definition of ''income'';

(e) by omitting from paragraph (1) of the definition of ''income'' all the words after ''Forces'';

(f) by omitting the definition of ''rent''; and

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(g) by omitting the definition of ''wife'' and substituting the following definitions:

'' 'spouse' includes a de facto spouse;

' 'wife' includes a female de facto spouse.''.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 13.**

**Repeal of section 19**

13. Section 19 of the Principal Act is repealed.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 14.**

**Absence from Australia**

14. (1) Section 20 of the Principal Act is amended by omitting sub-section (3).

(2) Section 20 of the Principal Act is amended-

(a) by omitting sub-section (1); and

(b) by omitting paragraph (2) (b) and substituting the following paragraph:

' (b) while the person was an absent resident.''.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 15.**

**Repeal of section 22**

15. Section 22 of the Principal Act is repealed.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 16.**

**Conditions of grant of invalid pension**

16. Section 25 of the Principal Act is amended by omitting paragraph (1) (b) and substituting the following paragraph:

'(b) in the case of a claimant under section 24, unless he became permanently incapacitated for work or permanently blind while in Australia or during a temporary absence from Australia;''.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 17.**

**Rate of age or invalid pension**

17. Section 28 of the Principal Act is amended by omitting sub-paragraphs (1A) (a) (i) to (iv) (inclusive) and substituting the following sub-paragraphs:

- '(i) a pension under this Part;
- (ii) a benefit under Part VII;
- (iii) an allowance under Part VIIA;
- (iv) a rehabilitation allowance under Part VIII;
- (v) a service pension under the Repatriation Act 1920; or
- (vi) an allowance under section 9 of the Tuberculosis Act 1948''.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 18.**

**Supplementary assistance**

18. Section 30A of the Principal Act is amended-

(a) by omitting sub-section (3AB) and substituting the following sub-section:

'(3AB) An allowance under this section is not payable to a person during any period during which the spouse of the person, being a spouse who is living with the person in their matrimonial home, is entitled to receive an incentive allowance under section 26 or 133JA.''; and

(b) by omitting from sub-section (7) 'a dependent female and the husband



of a dependent female, but does not include a person (other than a dependent female or the husband of a dependent female)'' and substituting ''a de facto spouse, but does not include a person (other than a de facto spouse)''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 19.**

### **Repeal of sections 48A, 51 and 52**

19. Sections 48A, 51 and 52 of the Principal Act are repealed.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 20.**

### **Interpretation**

20. Section 59 of the Principal Act is amended-

(a) by omitting from sub-section (1) the definitions of ''benevolent

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home'', ''Government rent'' and ''rent''; and

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

''(5) For the purposes of this Part, where-

(a) a purported marriage that is void has taken place (whether before or after the commencement of this sub-section);

(b) the Director-General is of the opinion that the woman who was a party to the purported marriage believed, at the time when the purported marriage took place, that the purported marriage was valid; and

(c) the man who was a party to the purported marriage has deserted that woman for a period of not less than 6 months otherwise than in circumstances in which, if that man and that woman had been married, there would have been just cause for that man to desert that woman,

that woman shall be deemed to be a deserted wife.''

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 21.**

### **Repeal of section 59B**

21. Section 59B of the Principal Act is repealed.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 22.**

**Qualifications for widow's pension**

22. Section 60 of the Principal Act is amended-

(a) by omitting from paragraph (1) (d) 'or in an area that was, at the time of that occurrence, an external Territory, other than Norfolk Island'; and

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

'(1A) Where a woman ceases to be qualified to receive a widow's pension as a class A widow by virtue of the operation of sub-section 6A (1), this section applies in relation to that widow as if-

(a) she does not have the custody, care and control of a child; and

(b) she has ceased to be qualified to receive that pension by reason of the fact that she no longer has the custody, care and control of a child.'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 23.**

**Absence from Australia**

23. (1) Section 61 of the Principal Act is amended by omitting sub-section (3).

(2) Section 61 of the Principal Act is amended-

(a) by omitting sub-section (1); and

(b) by omitting paragraph (2) (b) and substituting the following paragraph:

'(b) while the person was an absent resident; or'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 24.**

**Computation of income**

24. Section 64 of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraph:

'(d) so much of any amount received by a widow for the maintenance of a child from-

(a) her husband or former husband; and

(b) the father or mother of the child,

as exceeds the rate of \$312 per annum shall be included.'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 25.**

**Repeal of sections 77A and 82**

25. Sections 77A and 82 of the Principal Act are repealed.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 26.**

**Interpretation**

26. Section 83AAA of the Principal Act is amended-

(a) by omitting from sub-section (1) the definition of 'adopted child';  
and

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(b) by omitting sub-section (7).

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 27.**

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

27. Section 83AAB of the Principal Act is amended by inserting in sub-section (1) '', being a person who is a parent or an adoptive parent of the dependant or a person who has, or but for the age of the dependant would have, the custody of the dependant,' after 'person' (second occurring).

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 28.**

### **Qualifications for benefit**

28. Section 83AAC of the Principal Act is amended by omitting sub-section (2).

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 29.**

### **Rate of benefit**

29. Section 83AAE of the Principal Act is amended by omitting paragraph (2) (b) and substituting the following paragraph:

'(b) the income of the supporting parent for the purposes of that Part shall be taken to include so much of any amount received by the supporting parent for the maintenance of a child from-

- (i) the spouse or former spouse of the supporting parent; and
- (ii) the father or mother of the child,

as exceeds the rate of \$312 per annum; and''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 30.**

### **Pension granted to former resident of Australia, &c.**

30. Section 83AD of the Principal Act is amended by omitting from paragraph (1) (a) all the words after ''Australia'' (second occurring).

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 31.**

**Family allowance not payable in respect of child in  
receipt of payments under**

**prescribed education scheme**

31. Section 95B of the Principal Act is amended by inserting in sub-section (2) ''and Youth Affairs'' after ''Education''.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 32.**

**Absence from Australia**

32. Section 104 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

''(2) A family allowance shall not be granted or paid by virtue of sub-section (1) unless the person to whom the family allowance is granted or paid is an absent resident.''

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 33.**

**Interpretation**

33. Section 105A of the Principal Act is amended by omitting from sub-section (1) the definition of ''adopted child''.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 34.**

**Interpretation**

34. Section 105H of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

''(2) Where a husband-

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

(b) is not living permanently apart from his wife, that child shall, except where a handicapped child's allowance is not payable to the wife in respect of that child by reason other than that she does not have custody, care and control of that child, be deemed, for the purposes of this Part, to be in the sole custody, care and control of the wife.''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 35.**

### **Interpretation**

35. (1) Section 106 of the Principal Act is amended-

(a) by inserting after the definition of 'claimant' in sub-section (1) the following definition:

' 'de facto spouse' means a person who is living with another person of the opposite sex as the spouse of that other person on a bona fide domestic basis although not legally married to that other person;'';

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(b) by omitting from sub-section (1) the definitions of 'dependent female' and 'friendly society' and substituting the following definitions:

' 'friendly society' means a society-

(a) registered or incorporated under a law of a State or of a Territory relating to friendly societies; and

(b) approved by the Director-General for the purposes of this definition,

and includes any other person who, or body that-

(c) in the opinion of the Director-General is similar in character to, and provides benefits similar in nature to the benefits provided by, a friendly society; and

(d) is approved by the Director-General for the purposes of this definition;

'husband' includes a male de facto spouse;'';

(c) by omitting paragraph (b) of the definition of 'income' in sub-section (1) and substituting the following paragraph:

'(b) a payment under this Act;'';

(d) by omitting '(other than this Act)' from paragraph (c) of the definition of 'income' in sub-section (1);

(e) by omitting from paragraph (i) of the definition of 'income' all the words after 'Forces';

(f) by omitting from sub-section (1) the definition of 'married person' and substituting the following definition:

' 'married person' includes a de facto spouse but does not include a person (other than a de facto spouse) who is-

(a) a widow;

(b) a widower; or

(c) a person whose marriage has been dissolved but who has not remarried,

and 'spouse' has a corresponding meaning;'';

(g) by omitting from sub-section (1) the definitions of 'rent' and 'Government rent';

(h) by adding at the end of sub-section (1) the following definition:

' 'wife' includes a female de facto spouse.''; and

(j) by inserting after sub-section (2) the following sub-section:

' (2A) Where a person-

(a) is qualified to receive a benefit under this Part; and

(b) is entitled to be paid a lump sum of money by the former employer of the person in consequence of the termination of the person's employment,

the person shall be deemed to have received the total amount of that lump sum on the date on which that person's employment with the employer was terminated.''.

(2) Section 106 of the Principal Act is amended by omitting ', (4A)' from the definition of 'dependant' in sub-section (1).

#### **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 36.**

Rate of unemployment and sickness benefits

36. (1) Section 112 of the Principal Act is amended by omitting from sub-paragraph (6) (b) (i) 'an age or invalid pension' and substituting 'a pension'.

(2) Section 112 of the Principal Act is amended-

(a) by omitting from paragraph (1) (b) 'a person' and substituting 'an unmarried person';

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(b) by omitting sub-section (2) and substituting the following sub-section:

' (2) Subject to sections 113 and 114, where a married person who is qualified to receive an unemployment benefit or a sickness benefit has a spouse who is resident in Australia and is, in the opinion of the

Director-General, dependent (whether substantially or less than substantially) on the married person, not being a spouse who is in receipt of a prescribed pension, the rate of the benefit applicable to the married person under sub-section (1) shall, by virtue of this sub-section, be increased by an amount per week equal to the amount per week specified in paragraph (1) (d) or, if the spouse is, in the opinion of the Director-General, less than substantially dependent on the married person, such amount (if any) per week as the Director-General considers reasonable in the circumstances but not exceeding the amount per week so specified.'';

(c) by omitting sub-section (4A); and

(d) by omitting sub-section (7) and substituting the following sub-section:

'(7) For the purposes of this section and section 114, 'prescribed pension' means-

(a) a benefit under Part IVAAA or this Part;

(b) a pension under Part III or IV;

(c) an allowance under Part VIIA;

(d) a rehabilitation allowance under Part VIII;

(e) a service pension under the Repatriation Act 1920; or

(f) an allowance under section 9 of the Tuberculosis Act 1948.''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 37.**

Supplementary allowance

37. Section 112A of the Principal Act is amended-

(a) by omitting 'other than a dependent female or the husband of a dependent female' from the definition of 'married person' in sub-section (1) and substituting 'other than a de facto spouse';

(b) by omitting all the words from and including 'exceeding \$10,' (second occurring) from the definition of 'prescribed period' in sub-section (1) and substituting 'exceeding \$10.'; and

(c) by omitting sub-section (3AA) and substituting the following sub-section:

'(3AA) An allowance under this section is not payable to a person-

(a) if the spouse of the person is receiving an incentive allowance under section 26 or 133JA and is living with the person in their matrimonial home; or

(b) in respect of any period during which the person is outside Australia.''.



**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 38.**

Income test

38. Section 114 of the Principal Act is amended-

(a) by omitting from sub-section (1) 'Where' and substituting 'Subject to sub-section (1A), where';

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

'(1A) Where the person referred to in sub-section (1) has a spouse-

(a) whose income is included in the income of the person under sub-section (3); and

(b) who is in receipt of a prescribed pension,

the rate per week of the benefit payable to the person shall be reduced by one half of the amount which, but for this sub-section, would have been the amount of the reduction under sub-section (1).'; and

(c) by omitting sub-section (5) and substituting the following sub-section:

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'(5) For the purposes of sub-section (1), the income of a person who is qualified to receive a sickness benefit, or of the spouse of that person, shall not include any amount received by that person from a friendly society in respect of the incapacity by reason of which the person is qualified to receive that sickness benefit.'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 39.**

Refusal of claim, &c.

39. Section 115B of the Principal Act is amended by omitting from sub-section (4) 'section 112A or 114' and substituting 'this Act'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 40.**

Waiting period

40. Section 119 of the Principal Act is amended-

(a) by omitting from paragraph (1) (a) 'to which paragraph (b) does not apply' and substituting 'where neither paragraph (b) nor (c) applies';

- (b) by omitting from paragraph (1) (a) 'or' (last occurring);
- (c) by omitting from paragraph (1) (b) 'on' (second occurring); and
- (d) by adding at the end of sub-section (1) the following word and paragraph:

''; and (c) in a case where the person-

(i) was eligible to receive a rehabilitation allowance under Part VIII immediately before becoming qualified to receive the unemployment benefit; and

(ii) lodged a claim for the benefit within 14 days of the day on which the person became so qualified,

from and including that day.''.

41. Section 120 of the Principal Act is amended by omitting from sub-section (2) 'less than 6 weeks or'.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 41.**

Postponement or cancellation of unemployment benefit in certain cases

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 42.**

Receipt of income, &c., to be notified

42. Section 130 of the Principal Act is amended-

(a) by omitting sub-section (1B); and

(b) by omitting from sub-section (1C) 'dependent female or the husband of a dependent female' (wherever occurring) and substituting 'de facto spouse'.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 43.**

Repeal of sections 133 and 133A

43. Sections 133 and 133A of the Principal Act are repealed.

44. Sections 133P and 133Q of the Principal Act are repealed and the

following section is substituted:

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 44.**

Allowance not payable to service pensioner

'133P. A sheltered employment allowance is not payable to a person in respect of any period in respect of which a service pension under the Repatriation Act 1920 is payable-

(a) to that person; or

(b) to another person by virtue of that other person being the spouse or child of the first-mentioned person.'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 45.**

Interpretation

45. Section 134 of the Principal Act is amended-

(a) by omitting from sub-section (1) the definition of 'child'; and

(b) by omitting sub-sections (2) and (3).

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 46.**

Rate of rehabilitation allowance

46. Section 135BA of the Principal Act is amended-

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(a) by inserting in paragraph (1) (b) 'and the amount (if any) per fortnight of pension that would from time to time be payable to another person under that Part if the first-mentioned person were an invalid pensioner for the purposes of that Part' after 'Part' (third occurring)'; and

(b) by omitting from sub-section (2) ' , supplementary allowance or incentive allowance' and substituting 'or supplementary allowance'.

47. Section 135BB of the Principal Act is repealed and the following sub-section is substituted:

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 47.**

Allowance not payable to service pensioner

'135BB. A rehabilitation allowance is not payable to a person in respect of any period in respect of which a service pension under the Repatriation Act 1920 is payable-

(a) to that person; or

(b) to another person by virtue of that other person being the spouse or child of the first-mentioned person.'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 48.**

Provision of replacements and aids

48. Section 135K of the Principal Act is amended by omitting from paragraph (a) 'such aids and appliances' and substituting 'aids'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 49.**

Payment of invalid pension subject to certain conditions

49. Section 135M of the Principal Act is amended by omitting sub-section (2).

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 50.**

Completion of treatment and training

50. Section 135Q of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:

'(3) Where, but for this sub-section, a rehabilitation allowance would cease to be payable to a person under sub-section (2) on a particular day, the Director-General may, in his discretion, pay a rehabilitation allowance to that person for a period or periods within the period of 6 months that

commenced on that particular day.''.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 51.**

Recovery of cost of treatment and training

51. Section 135R of the Principal Act is amended by adding at the end thereof the following sub-section:

'(9) In this section, 'State' includes the Northern Territory.'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 52.**

Repeal of section 135RA

52. Section 135RA of the Principal Act is repealed.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 53.**

Arrangements for treatment, &c., for other persons

53. Section 135S of the Principal Act is amended-

(a) by omitting from sub-section (3) '', 135R and 135RA'' and substituting ''and 135R''; and

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

'(4) In this section, 'State' includes the Northern Territory.'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 54.**

Repeal of section 135T

54. Section 135T of the Principal Act is repealed.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 55.**

Notification and review

55. Section 135TE of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-section:

'(4) The period for compliance specified in a notice given under this section shall be-

(a) in the case of a notice given under sub-section (1)-

(i) where the notice relates to the payment of a benefit under Part VII-immediately; or

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(ii) in any other case-not less than 14 days; or

(b) in the case of a notice given under sub-section (2)-not less than 14 days.'

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 56.**

Power to obtain information, &c.

56. Section 135TF of the Principal Act is amended by inserting in paragraph (3) (b) 'a' before 'material'.

57. After section 135TH of the Principal Act the following section is inserted:

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 57.**

Payment of pension, benefit, &c., during term of imprisonment

'135THA. (1) In this section-

'de facto spouse' means a person who is living with another person of the opposite sex as the spouse of that other person on a bona fide domestic basis although not legally married to that other person;

'spouse' includes a de facto spouse.

'(2) Where-

(a) a person would, but for this sub-section, be entitled to be paid-

(i) a pension under Part III or IV; or

(ii) a benefit under Part IVAAA;

(b) the person is imprisoned in connection with his or her conviction for an offence; and

(c) 2 or more pension pay days occur after the first day of the period of the imprisonment of the person and before the last day of that period, that entitlement ceases immediately after the earliest of those pension pay days and revives immediately before the last of those pension pay days.

''(3) Where-

(a) entitlement to a pension or benefit has ceased by virtue of sub-section (2); and

(b) the spouse of the person or child is dependent on the person, the Director-General may authorize the payment of the whole or any part of an instalment of that pension or benefit which, but for that sub-section, would have been payable to the person, to the spouse of the person or child, as the case may be, or to some other person approved by the Director-General for the benefit of that spouse or child.

''(4) Where-

(a) a person would, but for this sub-section, be entitled to be paid a benefit under Part VII; and

(b) the person is imprisoned in connection with his or her conviction for an offence, that benefit is not payable to that person in respect of the period during which the person is imprisoned.

''(5) Where-

(a) a person would be eligible to be paid an allowance under Part VIIA but for the imprisonment of the person in connection with his or her conviction for an offence;

(b) while undergoing a term of imprisonment, or within such period after the person ceases to be imprisoned as the Director-General, in special circumstances, approves, the person lodges a claim for a pension under Part III or IV; and

(c) the pension is granted, the Director-General may, notwithstanding anything contained in section 39 or 68, determine that the pension may be paid from a date before the date on which the claim for the pension was lodged but not before the date on which the person was imprisoned but, if the Director-General determines that pension may be paid from a date before the person ceases to be imprisoned,

sub-sections (2) and (3) apply in relation to the person as if the person had been entitled to be paid a pension immediately before the person was imprisoned.

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''(6) In this section, a reference to a person being imprisoned shall be read as including a reference to that person being lawfully detained in a place other than a prison and a reference to a term of imprisonment shall be construed accordingly.''

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 58.**

Cancellation, suspension or variation of pension, &c.

58. Section 135TJ of the Principal Act is amended-

- (a) by omitting from sub-sections (1) and (3) 'in writing'; and
- (b) by inserting after sub-section (1) the following sub-sections:

'(1A) Subject to sub-section (1B), where an allowance under section 9 of the Tuberculosis Act 1948 is payable to or in respect of a person-

(a) a pension under Part III or IV, a benefit under Part IVAAA or VII or an allowance under Part VIIA or VIII (other than under section 135D), is not payable to that person; and

(b) a pension under Division 5 or 6 of Part III is not payable to the spouse of that person,

in respect of any period in respect of which the first-mentioned allowance is payable.

'(1B) Sub-section (1A) does not apply in respect of a person who is in receipt of a pension under Part III and who-

(a) is permanently blind; or

(b) having attained the age of 70 years, is in receipt of a pension at a rate determined in accordance with sub-section 28(2AB) or (2AC).'

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 59.**

On death of married person, widow or widower to receive combined pensions for 12 weeks

59. Section 135U of the Principal Act is amended by inserting in sub-section (1) 'de facto spouse or a' before 'dependent' (wherever occurring).

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 60.**

Recovery of overpayments

60. (1) Section 140 of the Principal Act is amended-

- (a) by omitting from sub-section (1) ', endowment or benefit' and



substituting 'or benefit under this Act';

(b) by omitting from sub-section (2) '', endowment or benefit'' and substituting 'or benefit under this Act'; and

(c) by omitting sub-section (3) and substituting the following sub-sections:

'(3) Subject to sub-section (4), an amount referred to in sub-section (2) shall not be deducted from family allowance payable to a person under Part VI except with the consent of the person to whom that allowance is payable.

'(4) An amount referred to in sub-section (2) that has been paid to a person by way of-

(a) family income supplement under Part V;

(b) family allowance under Part VI;

(c) double orphan's pension under Part VIA; or

(d) handicapped child's allowance under Part VIB, may be deducted from family allowance payable under Part VI to the person.'.

(2) Notwithstanding the amendment of section 140 of the Principal Act made by sub-section (1), a reference in sub-section 140 (1) or (2) of the Principal Act as amended by sub-section (1) to allowance shall be read as including a reference to endowment.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 61.**

Evidence

61. (1) Section 143 of the Principal Act is amended by omitting from sub-section (2) '', endowment'' (wherever occurring).

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(2) Notwithstanding the amendment of sub-section 143 (2) of the Principal Act made by sub-section (1), a reference in sub-section 143 (2) of the Principal Act as amended by sub-section (1) to allowance shall be read as including a reference to endowment.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 62.**

Schedule

62. The Schedule to the Principal Act is repealed.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 63.**

Minor amendments

63. The Principal Act is amended as set out in the Schedule.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 64.**

Application

64. (1) An approval by the Director-General of a home as a benevolent home in force immediately before the commencement of paragraph 5 (b) of this Act under section 18 of the Principal Act shall, after the commencement of that paragraph, be deemed to be an approval made by the Director-General for the purposes of the definition of 'benevolent home' in sub-section 6 (1) of the Principal Act as amended by this Act.

PART III-AMENDMENTS OF THE SOCIAL SECURITY LEGISLATION AMENDMENT ACT

(2) A declaration by the Director-General of premises as a mental hospital in force immediately before the commencement of paragraph 5 (e) of this Act under section 17A of the Principal Act shall, after the commencement of that paragraph, be deemed to be a declaration made by the Director-General in writing for the purposes of the definition of 'mental hospital' in sub-section 6 (1) of the Principal Act as amended by this Act.

(3) An approval by the Director-General of a society as a friendly society in force immediately before the commencement of paragraph 35 (1) (b) of this Act for the purposes of the definition of 'friendly society' in sub-section 106 (1) of the Principal Act shall, after the commencement of that paragraph, be deemed to be an approval of a society by the Director-General for the purposes of the definition of 'friendly society' in sub-section 106 (1) of the Principal Act as amended by this Act.

(4) The amendments made by sub-sections 10 (2), 11 (2) and 35 (2) and paragraph 36 (2) (c) do not apply in relation to a benefit or an allowance payable to a person immediately before 1 August 1984 until the occurrence of an event that, under the Principal Act, would have resulted in the reduction or cancellation of that benefit or allowance.

(5) The amendments made by paragraphs 36 (2) (a), (b) and (d) and section 38 apply in relation to instalments of a benefit that fall due on or after 1 August 1984.

(6) An authorization or approval by the Director-General under sub-section 52 (2) or 82 (2) of the Principal Act as in force immediately before the commencement of section 57 of this Act shall, after the commencement of that last-mentioned section, be deemed to be an authorization or approval, as the case requires, under sub-section 135THA (3) of the Principal Act as amended by this Act.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 65.**

Principal Act

1983

65. The Social Security Legislation Amendment Act 1983\*2\* is in this Part referred to as the Principal Act.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 66.**

Commencement

66. Section 2 of the Principal Act is amended by omitting from sub-section (7) 'Parts III and' and substituting 'Part'.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 67.**

Sharing of allowance between 2 persons

67. Section 26 of the Principal Act is amended by omitting from sub-section (2) ''during any allowance period commencing on or after'' and substituting ''from''.

PART IV-AMENDMENTS OF THE REPATRIATION ACT 1920

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 68.**

Principal Act

68. The Repatriation Act 1920\*3\* is in this Part referred to as the Principal Act.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 69.**

Interpretation

69. Section 83 of the Principal Act is amended by omitting ''III'' from the definition of ''Benevolent home'' in sub-section (1) and substituting ''I''.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 70.**

Supplementary assistance

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70. Section 98A of the Principal Act is amended-

(a) by inserting in sub-section (3AB) ''or 133JA'' after ''26'';

(b) by omitting sub-paragraph (a)(ii) of the definition of ''Government rent'' in sub-section (11) and substituting the following sub-paragraph:

''(ii) the Director, within the meaning of the Housing Act 1983 of the State of Victoria;''

(c) by omitting sub-paragraph (ix) of the definition of 'Government rent' in sub-section (11);

(d) by omitting all the words after 'specified by' from paragraph (c) of the definition of 'Government rent' in sub-section (11) and substituting 'the Minister of Social Security by notice in writing in the Gazette for the purposes of paragraph (c) of the definition of 'Government rent' in sub-section 6 (1) of the Social Security Act 1947';

(e) by omitting from sub-section (11) the definition of 'rent' and substituting the following definition:

'rent', in relation to a person eligible to receive a service pension, means rent, not being Government rent, in respect of premises, or a part of premises, occupied by the person as the home of the person and includes amounts payable by the person for-

(a) lodging or for board and lodging;

(b) the use of the site for-

(i) a caravan or other vehicle; or

(ii) a structure,

occupied by the person as the home of the person; or

(c) the right to moor a vessel that is occupied by the person as the home of the person.'; and

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

'(12) If a law of a State or of the Northern Territory alters the name of an authority referred to in the definition of 'Government rent' in sub-section (11), a reference to that authority in that definition shall be construed as a reference to the authority under the new name.'.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 71.**

Remote area allowance

71. Section 98AA of the Principal Act is amended-

(a) by omitting sub-section (4) and substituting the following sub-section:

'(4) For the purposes of this section, where a person whose usual place of residence is situated in the remote area is absent from the remote area for a period, the person shall be taken to be physically present in the remote area during the period or during the first 8 weeks of that period, whichever is the shorter.';

(b) by inserting after sub-section (6) the following sub-section:

'(6A) For the purposes of sub-section (6), a person-

(a) in relation to whom a determination under sub-section 84 (2) or 85 (1AA) is in force; or

(b) who is the spouse of a person referred to in paragraph (a), shall be taken not to be a married person.'';

(c) by inserting after sub-section (7) the following sub-section:

'(7A) Where, but for this sub-section, an increase under sub-section (7) would be payable to 2 persons in respect of the same child, that increase is payable only if the Commission directs that the increase should be paid to a member.''; and

(d) by omitting from sub-section (8) all the words after 'present in' and substituting 'Australia'.

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PART V-AMENDMENTS OF THE AGED OR DISABLED PERSONS HOMES ACT 195

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 72.**

Principal Act

72. The Aged or Disabled Persons Homes Act 1954\*4\* is in this Part referred to as the Principal Act.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 73.**

Interpretation

73. Section 10A of the Principal Act is amended by adding at the end thereof the following definitions:

'prescribed period' means a period of 28 days that ends on a prescribed date;

'respite care bed' means a bed that is maintained by an approved organization for the purpose of providing respite care services and has been approved by the Director-General for the purposes of paragraphs 10C (1) (c) and (d);

'respite care services' means hostel care services, or hostel care services and personal care services, made available on a temporary basis to an eligible person, other than an eligible person in respect of whom a payment is being made under paragraph 10C (1) (a) or (b).'

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 74.**

Payments to approved organizations

74. Section 10C of the Principal Act is amended-

(a) by omitting from paragraph (1) (a) ''and'' (last occurring); and

(b) by adding at the end of sub-section (1) the following paragraphs:

''(c) an amount calculated at the rate of \$10 per week in respect of each respite care bed provided by that approved organization which is occupied by an eligible person on at least 1 day, but on not more than 14 days, during a prescribed period; and

(d) an amount calculated at the rate of \$50 per week in respect of each respite care bed provided by that approved organization which is occupied by an eligible person on more than 14 days during a prescribed period.''.

PART VI-AMENDMENTS OF THE COMPENSATION (COMMONWEALTH GOVERNMENT

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 75.**

Principal Act

EMPLOYEES) ACT 1971

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75. The Compensation (Commonwealth Government Employees) Act 1971 \*5\* is in this Part referred to as the Principal Act.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 76.**

Interpretation

76. Section 5 of the Principal Act is amended-

(a) by inserting ''father-in-law,'' after ''step-mother,'' in paragraph (a) of the definition of ''dependant'' in sub-section (1); and

(b) by omitting paragraph (c) of the definition of ''dependant'' in sub-section (1) and substituting the following paragraph:

''(c) a person of the opposite sex to the employee who, throughout the period of 3 years immediately before the date of the death of the employee, lived with the employee as the spouse of that employee on a bona fide domestic basis although not legally married to that employee,''.

77. After section 24 of the Principal Act the following section is inserted in Part II:

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 77.**

Officers to observe secrecy

'24A. (1) A person shall not, directly or indirectly, except in the performance of the duties, or in the exercise of the powers or functions, of the person under this Act, and while the person is, or after the person ceases to be, an officer, make a record of, or divulge or communicate to any person, any information with respect to the affairs of another person acquired by the first-mentioned person in the performance of the duties, or in the exercise of the powers or functions, of the first-mentioned person under this Act or under any Act repealed by this Act.

'(2) A person who is, or has been, an officer shall not, except for the purposes of this Act, be required-

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(a) to produce in court any document that has come into the possession, or under the control, of the person in the performance of duties or functions by the person under this Act or any Act repealed by this Act; or

(b) to divulge or communicate to a court any matter or thing that has come to the notice of the person in the performance of any such duties or functions.

'(3) Notwithstanding anything contained in the preceding provisions of this section, an officer may-

(a) if the Minister or the Commissioner certifies that it is necessary in the public interest that any information acquired by the officer in the performance of the duties of the officer, or in the exercise of the powers or functions of the officer, under this Act or under any Act repealed by this Act, should be divulged, divulge that information to such person as the Minister or the Commissioner directs;

(b) divulge any such information to any prescribed authority or person; or

(c) divulge any such information to a person who, in the opinion of the Commissioner, is expressly or impliedly authorized by the person to whom the information relates to obtain it.

'(4) An authority or person to whom information is divulged under sub-section (3), and any person or employee under the control of that authority or person, shall, in respect of that information, be subject to the same rights, privileges, obligations and liabilities under sub-sections (1) and (2) as if the authority or the person, as the case may be, were a person performing duties under this Act and had acquired the information in the performance of those duties.

'(5) This section shall not be taken to be an enactment for the purposes of section 38 of the Freedom of Information Act 1982.

'(6) In this section, 'officer' means a person performing duties, or exercising powers or functions, under, or in relation to this Act and includes the Commissioner and a person who has performed duties, or exercised powers or functions, under, or in relation to, any Act repealed by this Act.'

78. Section 45 of the Principal Act is amended-



**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 78.**

Compensation payable in respect of injuries resulting in total incapacity

(a) by inserting 'father-in-law,' after 'step-mother,' in sub-paragraph (b) (i) of the definition of 'prescribed person' in sub-section (10); and

(b) by omitting paragraph (10) (c) and substituting the following paragraph:

'(c) a person of the opposite sex to the employee who, throughout a period of 3 years ending on or after the date of commencement of the incapacity of the employee, lived with the employee as the spouse of that employee on a bona fide domestic basis although not legally married to that employee.'

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT  
ACT 1984 No. 78, 1984 - SECT. 79.**

Compensation payable where damages recoverable

79. (1) Section 99 of the Principal Act is amended by adding at the end thereof the following sub-section:

'(11) Where an employee, or a dependant of an employee, establishes, to the satisfaction of the Commissioner, that the whole or part of the damages referred to in sub-section (1) recovered by the employee or by, or on behalf of, the dependant, as the case may be, did not relate to an injury, a loss, or damage, in respect of which compensation is payable under this Act, this section has effect, in relation to that employee or that dependant, as the case may be, as if the amount of the damages recovered by that employee or that dependant was an amount equal to so much (if any) of the amount of the damages as did relate to an injury, a loss, or damage, in respect of which compensation is payable under this Act to that employee or that dependant, as the case may be.'

80. Before section 115 of the Principal Act the following section is inserted in Part IX:

(2) The amendment made by sub-section (1) applies only in relation to an injury sustained by a person after that sub-section comes into operation.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 -  
SECT. 80.**

Indictable offence

'114. (1) An offence against sub-section 24A (1) is an indictable offence and, subject to sub-section (3), is punishable on conviction by a fine not

exceeding \$5,000 or imprisonment for a period not exceeding 2 years.  
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'(2) Notwithstanding that the offence referred to in sub-section (1) is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of that offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

'(3) Where, in accordance with sub-section (2), a court of summary jurisdiction convicts a person of the offence referred to in sub-section (1), the penalty that the court may impose is a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months.'

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 81.**

### Double benefits

81. (1) Section 121 of the Principal Act is amended-

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

'(1) In this section-

'relevant compensation' means compensation recoverable under a law of a State or of a Territory, or of a country other than Australia, relating to workers' compensation;

'employer' means the Commonwealth or a prescribed authority of the Commonwealth.';

(b) by inserting in sub-section (3) 'relevant' before 'compensation' (second occurring);

(c) by omitting from sub-section (3) 'under a law of a State or Territory or of a country other than Australia';

(d) by omitting from sub-section (4) 'compensation is paid under a law of a State or Territory or of a country other than Australia' and substituting 'relevant compensation is paid';

(e) by inserting in sub-section (5) 'relevant' before 'compensation' (second occurring); and

(f) by omitting from sub-section (5) 'under a law of a State or Territory, or under a law of a country other than Australia,'.

82. (1) After section 121 of the Principal Act the following section is inserted:

(2) The amendments made by sub-section (1) apply only in relation to an injury, loss or damage sustained by a person after those amendments come into operation.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 82.**

Compensation where prescribed compensation payable

'121A. (1) In this section-

'prescribed compensation' means compensation recoverable under a prescribed law;

'prescribed law' means a law of a State or of a Territory that provides for the payment of compensation, other than workers' compensation, and is declared by the regulations to be a prescribed law for the purposes of this Act;

'workers' compensation' means compensation payable to workers under a law of a State or of a Territory for injuries arising out of, or in the course of, their employment.

'(2) If-

(a) an employee recovers prescribed compensation in respect of an injury to the employee or in respect of the loss of, or damage to, property used by the employee; or

(b) prescribed compensation is recovered by, or for the benefit of, a dependant of a deceased employee, the succeeding provisions of this section have effect.

'(3) Subject to this section, the compensation that is payable under this Act to the employee in respect of the injury, loss or damage or for the benefit of the dependant in respect of the injury that resulted in the death, as the case may be, is so much (if any) of the compensation under this Act that, but for this section, would be so payable as exceeds the amount of

prescribed compensation recovered by the employee or by, or for the benefit of, the dependant, as the case may be.

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'(4) Subject to this section, if, before the recovery of prescribed compensation by or for the benefit of the employee or dependant, compensation under this Act was paid to the employee in respect of the injury, loss or damage or for the benefit of the dependant in respect of the injury that resulted in the death, as the case may be, the employee or dependant is liable to pay to the Commonwealth the amount of the compensation paid under this Act to that employee or for the benefit of that dependant, or, if the amount of the prescribed compensation recovered by the employee or for the benefit of the dependant is less than the amount of the compensation paid under this Act, the amount of that prescribed compensation.

'(5) Where-

(a) a person is liable to pay an amount to the Commonwealth under this section; and

(b) the Commissioner or any other person holds on behalf of the first-mentioned person-

(i) moneys being compensation payable under this Act for the benefit, or prescribed compensation payable to, the first-mentioned person; or

(ii) investments acquired out of moneys of a kind referred to in sub-paragraph (i), the Commissioner or other person shall deduct from the moneys held by that person, or shall realize the investments held by that person and deduct from the proceeds of the realization, an amount not exceeding the amount that the first-mentioned person is liable to pay to the Commonwealth under this section and shall pay the amount so deducted to the Commonwealth, and the payment of that amount is, to the extent of the amount paid, a discharge of the liability of the first-mentioned person to the Commonwealth and of the Commissioner or

other person to the first-mentioned person.

'(6) A reference in sub-section (4) to compensation under this Act that was paid for the benefit of a dependant does not include a reference to compensation paid under sub-section 43 (5) or (7).

'(7) Where an employee, or a dependant of an employee, establishes, to the satisfaction of the Commissioner, that the whole or part of the prescribed compensation referred to in sub-section (2) recovered by the employee or by, or on behalf of, the dependant, as the case may be, did not relate to an injury, a loss, or damage, in respect of which compensation is payable under this Act, this section has effect in relation to that employee or that dependant, as the case may be, as if the amount of the prescribed compensation recovered by that employee or that dependant was an amount equal to so much (if any) of the amount of the prescribed compensation as did relate to an injury, a loss, or damage, in respect of which compensation is payable under this Act to that employee or that dependant, as the case may be.'

PART VII-AMENDMENT OF THE HANDICAPPED PERSONS ASSISTANCE ACT 1974

(2) The amendment made by sub-section (1) applies only in relation to an injury, loss or damage sustained by a person after that sub-section comes into operation.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 83.**

Principal Act

83. The Handicapped Persons Assistance Act 1974\*6\* is in this Part referred to as the Principal Act.

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 84.**

Approval of projects of maintenance

84. Section 12 of the Principal Act is amended by omitting 'proposes to undertake' and substituting 'has, on or after 9 December 1974, undertaken, or proposes to undertake,'.

PART VIII-AMENDMENTS OF THE SEAMEN'S COMPENSATION ACT 1911

**SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 85.**

Principal Act

85. The Seamen's Compensation Act 1911\*7\* is in this Part referred to as the

Principal Act.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 86.**

Interpretation

86. Section 3 of the Principal Act is amended-

(a) by inserting after the definition of 'ambulance service' in sub-section (1) the following definition:

' 'child', in relation to a seaman, includes-

(a) an ex-nuptial child; and

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(b) a child adopted under the law of any place, whether in Australia or not, relating to the adoption of children;'; and

(b) by omitting from sub-section (1) the definition of 'dependant' and substituting the following definition:

' 'dependant', in relation to a deceased seaman, means-

(a) a member of the family of the seaman;

(b) a person to whom the seaman stood in loco parentis or who stood in loco parentis to the seaman; or

(c) if the seaman was an ex-nuptial child, any parent or grandparent of the seaman,

who was wholly or in part dependent upon the earnings of the seaman at the date of the death of the seaman, or who would, but for the incapacity of the seaman due to the injury to the seaman, have been so dependent;'; and

(c) by omitting from sub-section (1) the definition of 'member of the family' and substituting the following definition:

' 'member of the family', in relation to a seaman, means-

(a) the spouse of the seaman;

(b) a parent, grandparent, step-parent, child, grandchild, step-child, sibling or parent-in-law of the seaman; or

(c) a person of the opposite sex to the seaman who-

(i) for not less than 3 years immediately prior to the death or incapacity of the seaman, lived with the seaman as the spouse of the seaman on a bona fide domestic basis although not legally married to that seaman;

(ii) was wholly or mainly maintained by the seaman; and

(iii) at the date of the death or incapacity of the seaman-

(A) was maintaining 1 or more children under 16 years of age;

or

(B) was not less than 50 years of age;''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SECT. 87.**

### Schedule 1

87. Schedule 1 to the Principal Act is amended-

(a) by omitting clause (1) (b) (i) and substituting the following clause:

''(i) \$23.60, or such higher amount as is prescribed, in respect of-

(1) the spouse of the seaman, if the spouse was married to the seaman at the date of the injury and is wholly or mainly dependent upon the earnings of the seaman; or

(2) if the seaman has no spouse, or if compensation is not payable in respect of the spouse of the seaman-1 person, over the age of 16 years, who is wholly or mainly dependent upon the earnings of the seaman, and was, at the date of the injury, a member of the family of the seaman or caring for a child who was at that date, and is, under the age of 16 years and wholly or mainly dependent upon the earnings of the seaman; and''; and

(b) by inserting in paragraph (10) ''or widower'' after ''widow''.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - SCHEDULE**

### SCHEDULE

#### MINOR AMENDMENTS OF THE SOCIAL SECURITY ACT 1947

1. The following provisions of the Principal Act are amended by omitting ''a Director'' and substituting ''the Department'':

30B (1), (1A) and (2), 45 (1), (2), (6) and (8), 65B (1) and (2), 74 (1), (5) and (6), 83AAH, 104A, 105E (1), (2) and (3), 105P (1), (2) and (3), 130 (1AA), 133L (2) and (4).

2. The following provisions of the Principal Act are amended by omitting ''a Registrar'' and substituting ''the Department'':

130 (1), (1A), (1C) and (2), 130A.

## **SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT 1984 No. 78, 1984 - NOTES**

#### NOTES

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, 103 and 216, 1973; Nos. 2, 23 and 91, 1974; Nos. 34, 56, 101 and 110, 1975; Nos. 26, 62 and 111, 1976; No. 159, 1977; No. 128, 1978; No. 121, 1979 (as amended by Nos. 37 and 98, 1982); No. 130, 1980; No. 61, 1981; No. 159, 1981 (as amended by No. 98, 1982); No. 170, 1981; Nos. 37, 98 and 148, 1982; Nos. 4, 36 and 69, 1983.
2. No. 69, 1983.
3. No. 6, 1920, as amended. For previous amendments, see No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930; Nos. 10 and 47, 1931; No. 32, 1934; No. 58, 1935; Nos. 29 and 67, 1936; Nos. 12, 24 and 42, 1937; No. 55, 1938; Nos. 37 and 96, 1940; No. 49, 1941; No. 22, 1943; No. 11, 1945; No. 49, 1946; Nos. 1, 29 and 74, 1947; No. 39, 1948; No. 38, 1949; Nos. 34 and 80, 1950; No. 31, 1951; No. 58, 1952; No. 69, 1953; No. 31, 1954; No. 39, 1955; Nos. 68 and 97, 1956; No. 44, 1957; No. 47, 1958; No. 58, 1959; No. 44, 1960; No. 46, 1961; Nos. 75 and 91, 1962; No. 47, 1963; Nos. 62 and 105, 1964; No. 64, 1965; No. 42, 1966; No. 64, 1967; Nos. 66 and 120, 1968; No. 95, 1969; Nos. 4 and 60, 1970; Nos. 17 and 68, 1971; Nos. 15, 82 and 139, 1972; Nos. 2, 27 and 104, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 3, 24 and 90, 1974; Nos. 35, 56 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; Nos. 129 and 170, 1978; Nos. 18 and 124, 1979; No. 129, 1980; Nos. 41, 61 and 160, 1981; Nos. 20 and 80, 1982; No. 100, 1982 (as amended by No. 39, 1983); and Nos. 36 and 70, 1983.
4. No. 81, 1954, as amended. For previous amendments, see No. 47, 1957; No. 83, 1967; No. 68, 1969; No. 84, 1972; Nos. 128 and 216, 1973; No. 115, 1974; No. 91, 1976; No. 157, 1980; No. 61, 1981; No. 98, 1982; and No. 69, 1983.
5. No. 48, 1971, as amended. For previous amendments, see No. 136, 1971; No. 122, 1972; Nos. 105 and 216, 1973; No. 92, 1974; Nos. 157 and 166, 1976; No. 68, 1978; Nos. 111 and 155, 1979; and No. 74, 1981; and No. 98, 1982.
6. No. 134, 1974, as amended. For previous amendments, see No. 105, 1976; No. 80, 1982; and No. 69, 1983.
7. No. 13, 1911, as amended. For previous amendments, see No. 56, 1938; No. 18, 1947; No. 7, 1949; No. 10, 1953; No. 16, 1954; No. 99, 1959; No. 67, 1960; No. 102, 1964; No. 97, 1967; No. 124, 1968; No. 49, 1970; No. 52, 1971; No. 124, 1972; No. 216, 1973; No. 93, 1974; Nos. 91 and 168, 1976; Nos. 19, 102 and 112, 1979; and No. 80, 1982.