Social Services

No. 10 of 1967

An Act to amend the Social Services Act 1947–1966.

[Assented to 21 April 1967]

B^E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- 1.—(1.) This Act may be cited as the Social Services Act 1967.
- Short title
- (2.) The Social Services Act 1947-1966* is in this Act referred to as the Principal Act.
- (3.) The Principal Act, as amended by this Act, may be cited as the Social Services Act 1947-1967.
- 2.—(1.) Subject to the next succeeding sub-section, this Act shall commence-come into operation on the day on which it receives the Royal Assent.
- (2.) Section 3, sub-section (2.) of section 4, and sections 5, 9, 13, 14, 15, 16, 17, 18, 19 and 20 of this Act shall come into operation on a date to be fixed by Proclamation.

^{*} Act No. 26, 1947, as amended by 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; and No. 41, 1966,

Parts.

- 3. Section 5 of the Principal Act is amended by inserting before the words-
 - "Part VIII.—The Commonwealth Rehabilitation Service (Sections 134-135s)."

the words-

"Part VIIA.—Sheltered Employment Allowances (Sections 133c-133R).".

Definitions.

- 4.—(1.) Section 18 of the Principal Act is amended—
- (a) by inserting in paragraph (a) of the definition of "income". after the word "annuity", the words "or a payment of another kind that, in accordance with a direction of the Director-General given for the purposes of this paragraph, is to be treated as a payment of an annuity for the purposes of this paragraph"; and
- (b) by inserting in paragraph (b) of the definition of "income", after the word "annuity", the words "or a payment of another kind that, in accordance with a direction of the Director-General given for the purposes of this paragraph, is to be treated as a payment of an annuity for the purposes of this paragraph".
- (2.) Section 18 of the Principal Act is amended by omitting paragraph (e) of the definition of "income" and inserting in its stead the following paragraph:—
 - "(e) a payment under Part V., VI., VIIA. or VIII.;".

Qualifications for invalid

5. Section 24 of the Principal Act is amended by omitting from subsection (1.) the word "Part" and inserting in its stead the word "Act".

nension.

6. Section 28 of the Principal Act is amended—

(a) by omitting sub-sections (1E.) and (2.) and inserting in their stead the following sub-sections:—

- "(1E.) Sub-section (1B.) of this section does not apply in relation to a person if—
 - (a) the property component calculated in relation to that person exceeds—
 - (i) the maximum annual rate of pension specified in subsection (1A.) of this section that is applicable to that person; or
 - (ii) if that rate is increased in relation to that person by virtue of sub-section (1AA.) of this section, that rate as so increased; and
 - (b) the amount of that excess is not less than—
 - (i) in the case of an unmarried person—Five hundred and twenty dollars; or
 - (ii) in the case of a married person—Four hundred and forty-two dollars.

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

- "(2.) The annual rate at which an age or invalid pension is determined shall, except in the case of a claimant or pensioner who is permanently blind, be reduced by the amount (if any) by which the amount of the means as assessed of the claimant or pensioner exceeds—
 - (a) in the case of an unmarried person—Five hundred and twenty dollars; or
 - (b) in the case of a married person—Four hundred and fortytwo dollars.": and
- (b) by omitting from sub-paragraph (i) of paragraph (b) of subsection (3.) the symbol and figures "\$364" and inserting in their stead the symbol and figures "\$442".
- 7. Section 33 of the Principal Act is amended by omitting from sub- Amount of section (2.) the words "Three hundred and sixty-four dollars" and inserting in their stead the words "Four hundred and forty-two dollars".

8. Section 45 of the Principal Act is amended—

Receipt of

- (a) by omitting from sub-paragraph (i) of paragraph (b) of the de
 property,
 &c., to be
 notified. finition of "prescribed rate" in sub-section (4.) the words "Fourteen dollars" and inserting in their stead the words "Seventeen dollars": and
- (b) by omitting from sub-paragraph (ii) of paragraph (b) of that definition the words "Seven dollars" and inserting in their stead the words "Ten dollars".
- 9. Section 60 of the Principal Act is amended by omitting from suboughtifications for widow's section (1.) the word "Part" and inserting in its stead the word "Act". for wido pension.

10. Section 63 of the Principal Act is amended by omitting from sub-Rate of widow's sections (1B.) and (2.) the words "Three hundred and sixty-four dollars" (wherever occurring) and inserting in their stead the words "Five hundred allowance allowance and twenty dollars".

payable to

11. Section 68 of the Principal Act is amended by omitting sub-section

Date from which pension is payable. (2.) and inserting in its stead the following sub-section:—

- "(2.) Where a claim for a widow's pension is lodged within three months after—
 - (a) the date of the death of the claimant's husband;
 - (b) where the claimant is a dependent female—the date of the death of the man in respect of whom she was a dependent female; or
 - (c) where the claimant is the wife of a person who is a mental hospital patient—the date on which the person became a mental hospital patient,

the pension may be paid from that date.".

Receipt of property, &c., to be notified.

12. Section 74 of the Principal Act is amended by omitting from paragraph (b) of the definition of "prescribed rate" in sub-section (3.) the words "Seven dollars" and inserting in their stead the words "Ten dollars".

Interpretation.

- 13. Section 83A of the Principal Act is amended—
- (a) by inserting in sub-paragraph (i) of paragraph (c) of the definition of "deceased pensioner" in sub-section (1.), after the words "Tuberculosis Act 1948", the words "or a sheltered employment allowance under Part VIIA."; and
- (b) by inserting in paragraph (b) of the definition of "pensioner" in sub-section (1.), after the words "Tuberculosis Act 1948", the words "or a sheltered employment allowance under Part VIIA.".

Funeral benefit payable to pensioner.

- 14. Section 83B of the Principal Act is amended by inserting after subsection (2.) the following sub-section:—
- "(2A.) Where the Director-General is satisfied that, but for the operation of Part VIIA., a woman would have been in receipt of a wife's allowance at a particular time, he may direct that, for the purposes of the last preceding sub-section, she shall be treated as if she had been in receipt of a wife's allowance at that time.".

Interpretation.

- 15. Section 106 of the Principal Act is amended by adding at the end thereof the following sub-section:—
- "(3.) Where the Director-General is satisfied that, but for the operation of Part VIIA., a woman would be in receipt of a wife's allowance, he may direct that, for the purposes of section one hundred and seven, one hundred and eight or one hundred and twenty-four of this Act, she shall be treated as if she were in receipt of a wife's allowance."

Sickness benefits. 16. Section 108 of the Principal Act is amended by omitting from subsection (1.) the words and symbols "Part III. or IV. of this Act" and inserting in their stead the words and symbols "Part III., IV. or VIIA. of this Act".

Rate of unemployment and sickness benefit.

- 17. Section 112 of the Principal Act is amended—
- (a) by omitting from sub-section (2.) the words and symbols "Part III. or IV. of this Act" and inserting in their stead the words and symbols "Part III., IV. or VIIA. of this Act";
- (b) by omitting from paragraph (d) of sub-section (4.) the words and symbols "Part III. or IV. of this Act" and inserting in their stead the words and symbols "Part III., IV. or VIIA. of this Act"; and
- (c) by inserting after sub-paragraph (iii) of paragraph (b) of sub-section (6.) the following sub-paragraph:—
 - "(iiia) who has been taken into account in determining the amount of a payment of a sheltered employment allowance under Part VIIA. of this Act;".

18. Section 114 of the Principal Act is amended by inserting in sub- Means test. section (4.), after the words "of this Act,", the words "of a sheltered employment allowance payable to the spouse under Part VIIA. of this Act ".

19. Section 124 of the Principal Act is amended by omitting from Special benefit. paragraph (a) the words and symbols "Part III. or IV. of this Act" and inserting in their stead the words and symbols "Part III., IV. or VIIA. of this Act ".

- 20. After Part VII. of the Principal Act the following Part is inserted:—
 - "PART VIIA.—SHELTERED EMPLOYMENT ALLOWANCES.
- "133c.—(1.) In this Part, unless the contrary intention appears— Interpretation.
- 'allowance' means a sheltered employment allowance under this Part:
- 'approved organization' means—
 - (a) an organization that is carried on otherwise than for the purposes of profit or gain to its individual members and is---
 - (i) a religious organization;
 - (ii) an organization the principal objects or purposes of which are charitable or benevolent:
 - (iii) an organization of former members of the Defence Force established in every State or a State branch of such an organization; or
 - (iv) an organization approved by the Governor-General for the purposes of this Part; and
 - (b) a local governing body,

and includes-

- (c) the trustee or trustees under a trust established by an organization referred to in paragraph (a) of this definition or by a local governing body;
- (d) a corporation established by such an organization or by a local governing body; and
- (e) the trustee or trustees under a trust established for charitable or benevolent purposes and approved by the Governor-General for the purpose of this Part;

'disabled person' means a person who—

(a) is qualified under Division 3 of Part III. to receive an invalid pension or is, by virtue of a direction under subsection (2.) of this section, deemed to be incapacitated for the purposes of this Part; and

- (b) has not attained—
 - (i) in the case of a female—the age of sixty years; or
 - (ii) in the case of a male—the age of sixty-five years;

'income' has the same meaning as in Part III.;

'local governing body' means a local governing body established by or under a law of a State or Territory of the Commonwealth; 'organization' includes a society and an association;

'sheltered employment' means employment that, by virtue of a direction under section one hundred and thirty-three D of this Act, is, for the purposes of this Act, sheltered employment.

"(2.) Where—

- (a) a person is engaged in sheltered employment and—
 - (i) he is permanently incapacitated for work but the degree of that incapacity is less than eighty-five per centum; or
 - (ii) he is temporarily incapacitated for work;
- (b) the Director-General is of the opinion that, if he ceased to be provided with sheltered employment, his physical or mental condition would become such that—
 - (i) in the case of a person referred to in sub-paragraph (i) of the last preceding paragraph—the degree of his permanent incapacity for work would become not less than eighty-five per centum; or
 - (ii) in the case of a person referred to in sub-paragraph (ii) of the last preceding paragraph—he would become permanently incapacitated for work and the degree of that incapacity would be not less than eighty-five per centum; and
- (c) he would, if he were permanently incapacitated for work and the degree of that incapacity were not less than eighty-five per centum, be qualified under Division 3 of Part III. to receive an invalid pension,

the Director-General may direct that he shall be deemed to be incapacitated for the purpose of this Part.

Sheltered employment.

- "133D. Where the Director-General is satisfied that—
- (a) an approved organization provides paid employment for disabled persons at any premises; and
- (b) the persons, or a substantial number of the persons, employed at those premises are disabled persons,

the Director-General may direct that paid employment provided at those premises by the organization is, for the purposes of this Part, sheltered employment.

Qualification for allowance.

"133E.—(1.) Subject to this Part, a disabled person who is engaged in sheltered employment is qualified to receive a sheltered employment allowance.

- "(2.) Where-
- (a) a person who is qualified under the last preceding sub-section to receive a sheltered employment allowance is also qualified to receive a pension under Part III. or Part IV. or a benefit under Part VII.: and
- (b) the Director-General is satisfied that it is in the interests of the person that the pension or benefit should be paid to the person instead of the sheltered employment allowance.

the Director-General may direct that the pension or benefit shall be paid to the person and that the sheltered employment allowance is not payable to the person.

"133F.—(1.) The Director-General may require a person qualified claims for allowance. to receive an allowance to make a claim for the allowance.

- (2.) A claim by a person under the last preceding sub-section—
- (a) shall be in writing in accordance with a form approved by the Director-General: and
- (b) shall be lodged with the Registrar whose office is nearest to the person's place of residence.
- "133G. An allowance shall be paid from a date determined by the Commencement Director-General, which may be a date before the date of the determination.

"133H. An allowance shall be paid in such manner, in respect of such Payment of periods and at such times as the Director-General from time to time determines.

"1331. The amount of allowance payable to a person in respect of Amount of allowance. a period shall be such amount or the aggregate of such amounts as, in the opinion of the Director-General, would have been payable in respect of the period to the person as invalid pension, or to the person or to the person and other persons as invalid pension and as allowances under Divisions 4A and 5 of Part III., if-

- (a) invalid pension had been payable to the person in respect of the period; and
- (b) the income of the person had not included so much of any remuneration received by the person in respect of the period for work performed in sheltered employment as is equal to-
 - (i) if the person is an unmarried person as defined in section eighteen of this Act—one-half of such part of that remuneration as exceeds remuneration at the rate of Five hundred and twenty dollars per annum; or
 - (ii) if the person is a married person as defined in section eighteen of this Act—one-half of such part of that remuneration as exceeds remuneration at the rate of Eight hundred and eighty-four dollars per annum but does not exceed remuneration at the rate of One thousand three hundred dollars per annum.

Statement to be furnished when required. "133K. A person in receipt of an allowance shall, whenever so required by the Director-General, furnish to such officer, and within such time, as the Director-General specifies, a statement, in accordance with a form approved by the Director-General, relating to any matter that might affect the payment to him of the allowance.

Penalty: Forty dollars.

Receipt of property, &c., to be notified.

- "133L.—(1.) Whenever a person in receipt of an allowance becomes the owner of property he shall, within twenty-eight days after becoming the owner of that property, notify a Director accordingly.
- "(2.) Whenever a person in receipt of an allowance receives income, other than any remuneration for work performed in sheltered employment, at a weekly rate higher than the weekly rate of such income last specified by the person in a claim, statement or notification under this Act, the person shall, within fourteen days after the receipt of such income at that higher rate, notify a Director accordingly.
- "(3.) Sub-sections (1.) and (2.) of this section do not apply in relation to a person who is permanently blind unless, if that person were in receipt of an invalid pension, an allowance would be payable under section thirty A or thirty-two of this Act by virtue of his being a pensioner or sub-section (1AA.) or (1B.) of section twenty-eight of this Act would apply in relation to his pension.
- "(4.) Where a person in receipt of an allowance marries or remarries, the marriage of such a person is dissolved or the spouse of such a person dies, the person shall, within fourteen days after the marriage, remarriage, dissolution of marriage or death, as the case may be, notify a Director accordingly.

Penalty: Forty dollars.

Cancellation, &c., of allowance.

- " 133м. If—
- (a) having regard to the income, or the value of the property, of a person in receipt of an allowance;
- (b) by reason of the failure of a person in receipt of an allowance to comply with either of the last two preceding sections; or
- (c) for any other reason,

the Director-General considers that the allowance that is being paid to the person should be cancelled or suspended, the Director-General may cancel or suspend the allowance accordingly.

Other pensions, &c., not payable to a person in receipt of allowance.

"133N. A pension, allowance or benefit is not payable to a person under Part III. or IV. in respect of any period in respect of which an allowance is payable to him under this Part.

Allowance not payable to person in receipt of service pension or tuberculosis allowance.

- "133P. An allowance is not payable to a person in respect of any period in respect of which—
 - (a) service pension under the *Repatriation Act* 1920–1966 is payable to him or to another person by virtue of that other person being his wife or child; or

(b) an allowance under section 9 of the Tuberculosis Act 1948 is payable to or in respect of him.

"133o. Where-

(a) a person in receipt of an allowance becomes a mental hospital a person in receipt of an allowance becomes a mental hospital becoming patient or is imprisoned following upon his conviction for an imprisoned. offence;

Person in receipt of allowance

- (b) while a mental hospital patient or undergoing imprisonment or within such period after he ceases to be a mental hospital patient or to be imprisoned as the Director-General, in special circumstances, approves, he lodges a claim for pension under Part III. or Part IV.; and
- (c) the pension is granted,

the Director-General may, notwithstanding anything contained in section thirty-nine or sixty-eight of this Act, 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 became a mental hospital patient or was imprisoned, but, if the Director-General determines that pension may be paid from a date before the person ceases to be a mental hospital patient or to be imprisoned, section forty-eight, fifty-two, seventy-seven or eighty-two, as the case may be, of this Act applies in relation to the person as if he had been a pensioner immediately before he became a mental hospital patient or was imprisoned.

"133R. Where the Director-General is satisfied that, for any reason, Payment of allowance to it is desirable that payment of the whole or a portion of an amount of allowance should be made to a person, institution or authority on behalf person entitled. of the person entitled to receive the allowance, the Director-General may authorize payment accordingly.".

21. Section 135k of the Principal Act is amended by omitting para- Provision of graph (a) of sub-section (1.) and inserting in its stead the following para-appliances, graph:—

- "(a) provide, or arrange for the provision of, such artificial replacements and such aids and appliances as are necessary in connexion with the treatment or training of a person or to assist a person to engage in a suitable vocation after the discontinuance of his treatment or training or otherwise to assist a person in his rehabilitation; and".
- 22. Section 135L of the Principal Act is amended—

Provision of books, &c.

(a) by omitting from sub-section (1.) the words "in the aggregate" and inserting in their stead the words "in any period of twelve months"; and

(b) by inserting in sub-section (2.), after the word "sub-section", the words "to enable him to engage in a suitable vocation".

Persons becoming ineligible for pension or benefit during treatment or training. 23. Section 135P of the Principal Act is amended by adding at the end thereof the words "or so much of that cost as the Director-General, having regard to the circumstances of the case, directs".

Recovery of cost of treatment and training.

- 24. Section 135R of the Principal Act is amended by omitting subsection (1A.) and inserting in its stead the following sub-section:—
 - "(1A.) Where—
 - (a) a person who is receiving, or has received, treatment or training recovers or receives compensation from another person (including the Commonwealth or an authority of the Commonwealth or a State or an authority of a State); or
 - (b) the Director-General, or a delegate of the Director-General, by notice in writing served on a person who is receiving, or has received, treatment or training, notifies the person that the person is, in the opinion of the Director-General or the delegate, entitled to recover or receive compensation from another person (including the Commonwealth or an authority of the Commonwealth or a State or an authority of a State),

the person who is receiving or has received treatment or training is, subject to the next succeeding sub-section and notwithstanding section one hundred and thirty-five J of this Act, liable to pay to the Director-General an amount equal to the cost of the treatment or training.".

Arrangements for treatment, &c., for other persons. 25. Section 135s of the Principal Act is amended by adding at the end of sub-section (2.) the words "or so much of that cost as the Director-General, having regard to the circumstances of a particular case, directs".

Application of amendments.

- 26.—(1.) In so far as an amendment made by this Act that comes into operation on the day on which this Act receives the Royal Assent affects instalments of pensions or allowances, the amendment applies in relation to an instalment of a pension or an allowance, as the case may be, falling due on the first pension pay day after the date on which this Act receives the Royal Assent and to all subsequent instalments.
- (2.) In so far as an amendment made by this Act that comes into operation on the day on which this Act receives the Royal Assent affects instalments of service pensions under the *Repatriation Act* 1920–1966, the amendment applies in relation to an instalment of a service pension falling due on the first service pension pay day after the date on which this Act receives the Royal Assent and to all subsequent instalments.