

Social Services

No. 94 of 1969

An Act to amend the *Social Services Act 1947–1968*.

[Assented to 27 September 1969]

BE 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 1969*. Short title and citation.
- (2) The *Social Services Act 1947–1968** 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 1947–1969*.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. Section 28 of the Principal Act is amended— Rate of age or invalid pension (including guardian's allowance payable to an unmarried person).
- (a) by omitting from sub-section (1.) the word “seven” and inserting in its stead the word “eight”;
- (b) by omitting from paragraph (a) of sub-section (1A.) the words “Seven hundred and twenty-eight dollars” and inserting in their stead the words “Seven hundred and eighty dollars”;
- (c) by omitting from paragraph (b) of sub-section (1A.) the words “Six hundred and fifty dollars” and inserting in their stead the words “Six hundred and eighty-nine dollars”;
- (d) by omitting from sub-section (1AA.) the words “be increased by Two hundred and eight dollars per annum.” and inserting in their stead the following words and paragraphs:—
- “be increased—
- (a) in a case to which the next succeeding paragraph does not apply—by Two hundred and eight dollars per annum; or
- (b) in the case where that child or at least one of those children, as the case may be, is—
- (i) under the age of six years; or
- (ii) an invalid who, in the opinion of the Director-General, requires full-time care and attention, by Three hundred and twelve dollars per annum.”;

* 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; No. 41, 1966; Nos. 10 and 61, 1967; and No. 65, 1968.

- (e) by omitting sub-section (1B.) and inserting in its stead the following sub-section:—

“(1B.) Where a person has the custody, care and control of a child or children under the age of sixteen years, the maximum rate of pension applicable to that person under sub-section (1A.) of this section shall, subject to the next four succeeding sub-sections, be increased, or, if the last preceding sub-section applies to the person, be further increased—

(a) by One hundred and thirty dollars per annum in respect of that child or one of those children, as the case may be; and

(b) if the person has the custody, care and control of two or more children under that age—by One hundred and eighty-two dollars per annum in respect of the other child or each of the other children, as the case may be.”;

- (f) by omitting sub-paragraphs (i) and (ii) of paragraph (a) of sub-section (1E.) and inserting in their stead the following sub-paragraphs:—

“(i) in the case of an unmarried person—twice the maximum annual rate of pension specified in paragraph (a) of sub-section (1A.) of this section or, if that rate is increased in relation to that person by virtue of sub-section (1AA.) of this section, twice that rate as so increased; or

(ii) in the case of a married person—twice the annual rate of pension specified in paragraph (b) of sub-section (1A.) of this section; and ”;

- (g) by inserting after sub-section (1E.) the following sub-section:—

“(1EA.) Where the maximum rate of pension applicable to a married person would, but for this sub-section, be increased by sub-section (1B.) of this section—

(a) the amount per annum of the increase is reduced by the amount, if any, by which the means as assessed of that person exceeds Four hundred and forty-two dollars; and

(b) the means as assessed of the person and the means as assessed of his or her spouse shall each be deemed, for the purposes of sub-section (2.) of this section and sub-section (2.) of section thirty-three of this Act, to be reduced by the amount of the reduction.”;

- (h) by inserting in sub-section (2.), after the words “reduced by”, the words “one-half of”;

- (i) by inserting after sub-section (2.) the following sub-section:—

“(2A.) A married person whose husband or wife is not in receipt of a pension or allowance referred to in paragraph (a) of sub-section (1A.) of this section shall not be paid a pension

under this Part at a rate exceeding twice the rate at which a pension under this Part would be payable to that person if the husband or wife of that person were in receipt of a pension referred to in that paragraph.”;

- (j) by omitting from paragraph (b) of sub-section (3.) the word “ half ” (wherever occurring) and inserting in its stead the words “ one-quarter of ”;
- (k) by omitting the formula in sub-paragraph (i) of paragraph (b) of sub-section (3.) and inserting in its stead the following formula:—

$$\frac{2(2P + \$442)}{26}$$
 ; and
- (l) by omitting the formula in sub-paragraph (ii) of paragraph (b) of sub-section (3.) and inserting in its stead the following formula:—

$$\frac{2(2P + \$572)}{26}$$
 .

4. Section 29 of the Principal Act is amended by omitting from paragraph (b) of sub-section (1.) the words “ One hundred and fifty-six dollars ” and inserting in their stead the words “ Two hundred and eight dollars ”. Computation of income.

5. Section 33 of the Principal Act is amended—

- (a) by inserting in sub-section (2.), after the words “ reduced by ”, the words “ one-half of ”; and
- (b) by adding at the end thereof the following sub-section:—
 “ (4.) For the purpose of ascertaining the amount of the means as assessed of the wife for the purposes of sub-section (2.) of this section, this section has effect subject to sub-section (1EA.) of section twenty-eight of this Act.”. Amount of wife's allowance.

6. Section 49 of the Principal Act is amended by omitting from sub-section (1.) the word “ twelve ” and inserting in its stead the word “ thirty ”. Pension to cease if pensioner leaves Australia.

7. Section 50 of the Principal Act is amended by omitting sub-paragraphs (i) and (ii) of paragraph (a) of sub-section (1.) and inserting in their stead the following sub-paragraphs:— Inmates of benevolent homes.

- “ (i) in the case of a person to whom paragraph (a) of sub-section (1A.) of section twenty-eight of this Act applies—Two hundred and sixty-five dollars twenty cents per annum, or, if an allowance under Division 4A of this Part is payable to him, Three hundred and seventeen dollars twenty cents per annum; and
- (ii) in any other case—Two hundred and forty-nine dollars sixty cents per annum;”.

8. Section 60 of the Principal Act is amended—

- (a) by omitting from paragraph (d) of sub-section (1.) the word “ or ” (last occurring); and Qualifications for widow's pension.

(b) by adding at the end of sub-section (1.) the following word and paragraph:—

“ ; or (f) in the case of a widow whose husband died outside Australia—she has at any time been continuously resident in Australia for a period of not less than ten years.”.

9. Section 63 of the Principal Act is amended—

(a) by inserting in paragraph (a) of sub-section (1.), after the word “ widow ”, the words “ to whom the next succeeding paragraph does not apply ”;

(b) by omitting from that paragraph the word “ or ” (last occurring);

(c) by inserting after that paragraph the following paragraph:—

“ (aa) in the case of a class A widow who has the custody, care and control of—

(i) a child under the age of six years; or

(ii) an invalid child who, in the opinion of the Director-General, requires full-time care and attention,

the maximum rate of age or invalid pension specified in that paragraph increased by Three hundred and twelve dollars per annum; or ”;

(d) by omitting from paragraph (b) of sub-section (1.) the words “ Six hundred and fifty dollars ” and inserting in their stead the words “ Six hundred and eighty-nine dollars ”;

(e) by omitting sub-sections (1A.) and (1B.) and inserting in their stead the following sub-sections:—

“ (1A.) In the case of a class A widow, the maximum rate of pension applicable under paragraph (a) or paragraph (aa) of the last preceding sub-section shall be increased—

(a) by One hundred and thirty dollars per annum in respect of the child or one of the children, as the case may be, in her custody, care and control; and

(b) if she has the custody, care and control of two or more children—by One hundred and eighty-two dollars per annum in respect of the other child or each of the other children, as the case may be.

“ (1B.) The last preceding sub-section does not apply in relation to a widow if the property component calculated in relation to her exceeds by Five hundred and twenty dollars or more twice the maximum annual rate of pension applicable under paragraph (a) or paragraph (aa), as the case may be, of sub-section (1.) of this section.”;

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

- (f) by inserting in sub-section (2.), after the words “ reduced by ”, the words “ one-half of ”; and
- (g) by omitting from sub-section (3.) the words “ Twelve dollars fifty cents ” and inserting in their stead the words “ Thirteen dollars twenty-five cents ”.

10. Section 64 of the Principal Act is amended by omitting from paragraphs (b) and (d) the words “ One hundred and fifty-six dollars ” and inserting in their stead the words “ Two hundred and eight dollars ”.

Computation of income.

11. Section 78 of the Principal Act is amended by omitting from sub-section (1.) the word “ twelve ” and inserting in its stead the word “ thirty ”.

Pension to cease if pensioner leaves Australia.

12. Section 80 of the Principal Act is amended by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraph:—

Inmates of benevolent homes.

“(a) she shall, so long as she remains an inmate of the benevolent home, be paid so much of her pension as does not exceed the rate of Two hundred and forty-nine dollars sixty cents per annum or, if an allowance under Division 3A of this Part is payable to her, Three hundred and one dollars sixty cents per annum; and ”.

13. Section 83A of the Principal Act is amended—

Interpretation.

(a) by inserting in sub-section (1.), before the definition of “ deceased child ”, the following definition:—

“ ‘ amendment alleviating the operation of the means test ’, in relation to a person, means an amendment that operates to diminish or eliminate any reduction that would otherwise be made in the rate of pension payable to or in respect of the person by reason of his means as assessed as defined by section eighteen or section fifty-nine of this Act or section eighty-three of the *Repatriation Act 1920-1969*, as the case may be; ”;

(b) by omitting from sub-section (1.) the definition of “ deceased pensioner ” and inserting in its stead the following definition:—

“ ‘ deceased pensioner ’ means—

(a) a deceased person who was, at the time of his death, a pensioner;

(b) a deceased person who had before his death lodged a claim for, and would but for his death have been eligible to receive, an age pension or invalid pension under Part III. or a pension under Part IV. other than such a person who would not have been eligible to receive that pension if any amendment of the *Social Services Act 1947-1968*, being an amendment

alleviating the operation of the means test in relation to that person, made after the date of commencement of the *Social Services Act 1968* had not been made; or

(c) a deceased person who—

(i) had before his death lodged a claim for, and would but for his death have been eligible to receive, a sheltered employment allowance under Part VIIA. or an allowance under the *Tuberculosis Act 1948*; and

(ii) would, if he had lodged a claim for a pension referred to in the last preceding paragraph instead of the claim referred to in the last preceding sub-paragraph, have been eligible, but for his death, to receive that pension,

other than such a person who would not have been eligible to receive that pension if any amendment of the *Social Services Act 1947–1968*, being an amendment alleviating the operation of the means test in relation to that person, made after the date of commencement of the *Social Services Act 1968* had not been made;” and

(c) by omitting from sub-section (1.) the definition of “pensioner” and inserting in its stead the following definition:—

“ ‘pensioner’ means—

(a) a person to whom or in respect of whom—

(i) there is being paid an age pension or invalid pension under Part III. or a pension under Part IV.; or

(ii) such a pension would be payable if the person were not in receipt of a rehabilitation allowance under section one hundred and thirty-five D of this Act,

other than such a person to whom or in respect of whom such a pension would not be payable if any amendment of the *Social Services Act 1947–1968*, being an amendment alleviating the operation of the means test in relation to that person, made after the date of commencement of the *Social Services Act 1968* had not been made; or

(b) a person to whom or in respect of whom there is being paid a sheltered employment allowance under Part VIIA. or an allowance under the *Tuberculosis Act 1948* and who, but for the payment of that allowance, would be eligible to receive a pension of a kind referred to in the last preceding paragraph

other than such a person who would not be eligible to receive such a pension if any amendment of the *Social Services Act 1947–1968*, being an amendment alleviating the operation of the means test in relation to that person, made after the date of commencement of the *Social Services Act 1968* had not been made.”.

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

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

“(2.) For the purposes of the application in relation to paragraph (b) of the last preceding sub-section of the definition of ‘pensioner’ in sub-section (1.) of the last preceding section, a reference in that definition to an age pension or an invalid pension shall be read as including a reference to a wife’s allowance.”; and

- (b) by inserting after sub-section (3.) the following sub-section:—

“(3A.) The reference in paragraph (b) of the last preceding sub-section to a service pension does not include a reference to such a pension that would not be payable if—

- (a) any amendment of the *Repatriation Act 1920–1968*, being an amendment alleviating the operation of the means test in relation to the person in receipt of the pension, made after the date of commencement of the *Repatriation Act 1968* had not been made; and
- (b) any amendment of the *Social Services Act 1947–1968*, being an amendment alleviating the operation of the means test in relation to the person in receipt of the pension, made after the date of commencement of the *Social Services Act 1968* had not been made.”.

Funeral
benefit
payable to
pensioner.

15. Section 112 of the Principal Act is amended—

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Subject to this Part, the rate of an unemployment benefit or of a sickness benefit shall be—

- (a) in the case of an unmarried person—
- (i) who has not attained the age of eighteen years; and
- (ii) at least one of whose parents is residing in Australia,
Four dollars fifty cents per week;
- (b) in the case of an unmarried person—
- (i) who has attained the age of eighteen years but has not attained the age of twenty-one years; and
- (ii) at least one of whose parents is residing in Australia,
Six dollars per week; and
- (c) in any other case—Ten dollars per week.”;

Rate of
unemployment
and sickness
benefit.

- (b) by omitting from sub-sections (2.), (3.) and (4.) the words “ Six dollars ” (wherever occurring) and inserting in their stead the words “ Seven dollars ”;
- (c) by omitting from sub-section (5.) the words “ be increased by One dollar fifty cents per week in respect of that child or in respect of each of those children, as the case may be.” and inserting in their stead the following words and paragraphs:—
- “ be increased—
- (c) by Two dollars fifty cents per week in respect of that child or one of those children, as the case may be; and
- (d) if the person has the custody, care and control, or is making regular contributions towards the maintenance, of two or more children under that age—by Three dollars fifty cents per week in respect of the other child or each of the other children, as the case may be.”; and
- (d) by omitting from paragraph (c) of sub-section (6.) the words “ One dollar fifty cents ” and inserting in their stead the words “ Two dollars fifty cents ”.

Means test.

16. Section 114 of the Principal Act is amended—

- (a) by omitting paragraphs (a) and (b) of sub-section (1.) and inserting in their stead the following paragraphs:—
- “ (a) in the case of an unmarried person—
- (i) who has not attained the age of twenty-one years; and
- (ii) at least one of whose parents is residing in Australia,
- Three dollars; and
- (b) in any other case—Six dollars.”; and
- (b) by omitting from sub-section (4.) the words “ Six dollars ” and inserting in their stead the words “ Seven dollars ”.

Provisions where beneficiary entitled to compensation, &c.

17. Section 115 of the Principal Act is amended by inserting after sub-section (4.) the following sub-section:—

- “ (4A.) Where the Director-General is satisfied that special circumstances exist by reason of which a person liable by virtue of the last preceding sub-section to pay an amount to the Director-General should be released in whole or in part from the liability, the Director-General may release the person accordingly.”.

18. Section 119 of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

Date from which benefit is to commence.

“(1.) An unemployment benefit payable to a person is payable—

- (a) in a case to which the next succeeding paragraph does not apply— from and including the seventh day after the day on which he became unemployed or after the day on which he made a claim for the unemployment benefit, whichever was the later; or
- (b) in the case where the unemployment benefit became payable to him within the period of twelve weeks after the expiration of a period of unemployment in respect of which, by reason of the operation of the last preceding paragraph, unemployment benefit was not payable—from and including the day on which he became unemployed or the day on which he made a claim for the unemployment benefit, whichever was the later.

“(2.) Subject to the next succeeding sub-section, a sickness benefit payable to a person is, if a claim for the benefit is lodged within thirteen weeks after the day on which the person became incapacitated, payable—

- (a) in a case to which the next succeeding paragraph does not apply— from and including the seventh day after the day on which he became incapacitated; or
- (b) in the case where the sickness benefit became payable to him within the period of twelve weeks after the expiration of a period of incapacity in respect of which, by reason of the operation of the last preceding paragraph, sickness benefit was not payable— from and including the day on which he became incapacitated.”.

19. Section 133j of the Principal Act is repealed and the following section inserted in its stead:—

“133j. The amount of allowance payable to a person in respect of a period is 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 invalid pension had been payable to the person in respect of the period.”.

Amount of allowance.

20. After section 135u of the Principal Act the following section is inserted:—

“135v.—(1.) A person shall not be taken to be a pensioner for the purposes of section one hundred and twenty-eight of the *Broadcasting and Television Act* 1942–1969, or for the purposes of regulation 29 of the Telephone Regulations in force under the *Post and Telegraph Act* 1901–1968, by reason that the person is in receipt of, or is entitled to, a pension under Part III. or Part IV. of this Act where that pension would not be payable if any amendment of the *Social Services Act* 1947–1968, being an

Modification of certain other laws.

amendment alleviating the operation of the means test in relation to that person, made after the date of commencement of the *Social Services Act 1968* had not been made.

“(2.) A person shall not be taken to be a pensioner for the purposes of section one hundred and twenty-eight of the *Broadcasting and Television Act 1942–1969*, or for the purposes of regulation 29 of the Telephone Regulations in force under the *Post and Telegraph Act 1901–1968*, by reason that the person is in receipt of, or is entitled to, an allowance under Part VIIA. of this Act where—

- (a) in the case of a person who was in receipt of, or was entitled to, the allowance at the date of commencement of this section and has been in receipt of, or entitled to, the allowance at all times since that date—the allowance would not be payable if any amendment of the *Social Services Act 1947–1968*, being an amendment alleviating the operation of the means test in relation to that person, made after that date had not been made; or
- (b) in any other case—the person would, but for the receipt of, or entitlement to, the allowance, be eligible to receive a pension under Part III. or Part IV. of this Act but would not be so eligible if any amendment of the *Social Services Act 1947–1968*, being an amendment alleviating the operation of the means test in relation to that person, made after the date of commencement of the *Social Services Act 1968* had not been made.

“(3.) A person shall not be taken to be a pensioner for the purposes of section one hundred and twenty-eight of the *Broadcasting and Television Act 1942–1969*, or for the purposes of regulation 29 of the Telephone Regulations in force under the *Post and Telegraph Act 1901–1968*, by reason that the person is in receipt of, or is entitled to, an allowance under section nine of the *Tuberculosis Act 1948* where—

- (a) in the case of a person who was in receipt of, or was entitled to, the allowance at the date of commencement of this section and has been in receipt of, or entitled to, the allowance at all times since that date—the person would, but for the receipt of, or entitlement to, the allowance, be eligible to receive an allowance under Part VIIA. of this Act but would not be so eligible if any amendment of the *Social Services Act 1947–1968*, being an amendment alleviating the operation of the means test in relation to that person, made after that date had not been made; or
- (b) in any other case—the person would, but for the receipt of, or entitlement to, the allowance, be eligible to receive a pension under Part III. or Part IV. of this Act but would not be so eligible if any amendment of the *Social Services Act 1947–1968*, being an amendment alleviating the operation of the means test in relation to that person, made after the date of commencement of the *Social Services Act 1968* had not been made.

“(4.) Nothing in this section prevents the making of regulations under the *Post and Telegraph Act* 1901–1968 that could have been made if this section had not been enacted.

“(5.) For the purposes of this section, ‘ amendment alleviating the operation of the means test ’, in relation to a person, means an amendment that operates to diminish or eliminate any reduction that would otherwise be made in the rate of pension or allowance payable to or in respect of the person by reason of his means as assessed as defined by section eighteen or section fifty-nine of this Act, as the case may be.”.

21. Where—

- (a) an age pension or an invalid pension under Part III., or a pension under Part IV., of the Principal Act as amended by this Act is granted to a person;
- (b) the pension would not have been granted if the amendment made by paragraph (h) of section 3 or paragraph (f) of section 9, as the case may be, of this Act had not been made; and
- (c) the claim for the pension was lodged on or before the thirty-first day of December, One thousand nine hundred and sixty-nine,

the Director-General may, notwithstanding sections 39 and 68 of the Principal Act as so amended, determine that the pension shall be paid on and from a pension pay day earlier than the date on which the claim for the pension was lodged but not earlier than the date of commencement of this Act.

22.—(1.) In so far as an amendment made by this Act affects instalments of pensions or allowances, the amendment applies in relation to an instalment of a pension or of an allowance, as the case may be, falling due on the first pension pay day or allowance pay day, as the case may be, after the date of commencement of this Act and to all subsequent instalments.

(2.) In so far as an amendment made by this Act affects instalments of service pensions under the *Repatriation Act* 1920–1969, the amendment applies in relation to an instalment of a service pension falling due on the first service pension pay day after the date of commencement of this Act and to all subsequent instalments.

(3.) In so far as an amendment made by this Act affects any unemployment or sickness benefit, that amendment applies in relation to benefit in respect of a period that commences on or after the date of commencement of this Act or commenced during the period of seven days immediately preceding that date.

Retrospective payments in respect of certain claims.

Application of amendments.