

Social Services Act (No. 3) 1973

No. 48 of 1973

AN ACT

To amend the *Social Services Act* 1947-1972, as amended by the *Social Services Act* 1973 and the *Social Services Act* (No. 2) 1973.

[Assented to 14 June 1973]

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

Short title
and citation.

1. (1) This Act may be cited as the *Social Services Act* (No. 3) 1973.

(2) The *Social Services Act* 1947-1972,* as amended by the *Social Services Act* 1973† and the *Social Services Act* (No. 2) 1973,‡ is in this Act referred to as the Principal Act.

(3) Section 1 of the *Social Services Act* (No. 2) 1973 is amended by omitting sub-section (4).

(4) The Principal Act, as amended by this Act, may be cited as the *Social Services Act* 1947-1973.

* 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. 4, 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; and Nos. 1, 14, 53 and 79, 1972.

† Act No. 1, 1973.

‡ Act No. 26, 1973.

2. (1) Sections 1, 2, 17 and 18 shall come into operation on the day on which this Act receives the Royal Assent. Commencement.

(2) The remaining sections of this Act shall come into operation on 3rd July, 1973.

3. Section 5 of the Principal Act is amended by omitting the words— Parts.

“ Division 7—General (Sections 77–83).”

and substituting the words—

“ Division 7—General (Sections 77–83)

Part IV^{AAA}—Supporting Mothers’ Benefits (Sections 83^{AAA}–83^{AAG}).”

4. Section 45 of the Principal Act is amended by omitting paragraph (ea) of sub-section (6) and substituting the following paragraph:— Receipt of property, &c., to be notified.

“ (ea) a person who, by virtue of section 18A, is to be treated as a child under the age of sixteen years in the custody, care and control of a pensioner—

(i) ceasing to be wholly or substantially dependent on the pensioner; or

(ii) ceasing to receive full-time education at a school, college or university;”.

5. Section 59 of the Principal Act is amended—

(a) by omitting from the definition of “ child ” in sub-section (1) all the words after the words “ sixteen years;” and

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

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

Interpretation.

6. Section 59A of the Principal Act is repealed and the following section substituted:—

“ 59A. Where a person who is wholly or substantially dependent on a widow—

(a) has attained the age of sixteen years;

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

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

this Part (other than section 61) applies in relation to that widow as if that person—

(d) were a child;

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

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

Student children over the age of sixteen years.

Qualifications
for
widow's
pension.

7. Section 60 of the Principal Act is amended—

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

“(2) In this section, ‘child’, in relation to a widow, means a child who—

(a) was born of that widow; or

(b) was an adopted child of, or in the custody, care and control of, that widow on the date of the occurrence of the event by reason of which she became a widow.”; and

(b) by omitting from sub-section (3) the words “sub-section (1) of”.

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

8. Section 74 of the Principal Act is amended by omitting paragraphs (b), (ba) and (bb) of sub-section (5) and substituting the following paragraphs:—

“(b) a child ceasing to be in the custody, care or control of a pensioner;

(ba) a person who, by virtue of section 59A, is to be treated as a child in the custody, care and control of a pensioner—

(i) ceasing to be wholly or substantially dependent on the pensioner; or

(ii) ceasing to receive full-time education at a school, college or university;

(bb) a child in relation to whom sub-section (4) of section 59 applies ceasing to be maintained by a pensioner;”.

9. After Part IV of the Principal Act the following Part is inserted:—

“PART IVAAA—SUPPORTING MOTHERS’ BENEFITS

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

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

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

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

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

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

(i) was born of that woman; or

(ii) in the case of a woman who is a married woman living apart from her husband or a woman who has ceased to live with a man as his wife on a

Interpre-
tation.

bona fide domestic basis although not legally married to him—was an adopted child of, or in the custody, care and control of, that woman on the relevant date;

- (b) is not living with, and for a period of at least six months has not been living with, a man as his wife on a *bona fide* domestic basis although not legally married to him; and
- (c) in the case of a married woman—is living apart from her husband and has been so living apart for a period of at least six months,

but does not include a woman who is qualified to receive a pension under Part III or IV, or a benefit under Part VII, of this Act, a service pension under the *Repatriation Act 1920–1973*, an allowance under the *Tuberculosis Act 1948* or is in receipt of a benefit provided by a State that is an approved benefit within the meaning of the *States Grants (Deserted Wives) Act 1968*.

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

- (a) the relevant date, in relation to a woman referred to in subparagraph (ii) of paragraph (a) of that definition, is whichever of the following dates is applicable to the woman or, if both dates are so applicable, the later date:—
 - (i) the date on which the woman commenced to live apart from her husband;
 - (ii) the date on which the woman ceased, or last ceased, to live with a man as his wife on a *bona fide* domestic basis although not legally married to him; and
- (b) a woman shall be deemed not to be, or not to have been, living with a man as his wife on a *bona fide* domestic basis although not legally married to him, being a man who has been convicted of an offence, during any period during which the man is, or was, imprisoned in connexion with the offence, being a continuous period of not less than six months, whether or not the period commenced before the conviction.

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

“(4) A reference in this Part to a woman who is living apart from her husband shall be read as a reference to a woman who is so living apart by reason that she and her husband are estranged.

“(5) For the purposes of the application of a provision of Part IV in relation to a supporting mother in accordance with section 83AAE or 83AAF, that provision shall be read as if—

- (a) her benefit were a pension under that Part;
- (b) any reference to sub-section (4) of section 59 were a reference to sub-section (3) of this section;
- (c) any reference to section 59A were a reference to section 83AAB;
- (d) any reference to a payment under Part IV were a reference to a benefit; and
- (e) any reference to sub-section (5) of section 74 included a reference to section 83AAG.

Student children over the age of sixteen years,

“83AAB. Where a person who is wholly or substantially dependent on a woman—

- (a) has attained the age of sixteen years;
- (b) is receiving full-time education at a school, college or university; and
- (c) is not in receipt of an invalid pension under Part III,

this Part applies in relation to that woman as if that person—

- (d) were a child;
- (e) were in the custody, care and control of that woman; and
- (f) had been in the custody, care and control of that woman at any time when he was wholly or substantially dependent on that woman.

Qualifications for benefit.

“83AAC. Subject to this Part, a supporting mother is qualified to receive a benefit if she is residing in Australia on the date on which she lodges her claim for the benefit and—

- (a) in the case of a woman who is a supporting mother in relation to a child born of her—that child was born while she was residing in Australia;
- (b) in the case of a married woman living apart from her husband—she was residing in Australia immediately before she so commenced to live apart;
- (c) in the case of a woman who has ceased to live with a man as his wife on a *bona fide* domestic basis although not legally married to him—she was residing in Australia immediately before she so ceased or last so ceased; or
- (d) she has been continuously resident in Australia for a period of not less than five years immediately preceding the date on which she lodges her claim for the benefit.

“ 83AAD. A benefit shall not be granted to a supporting mother unless she has taken such action as the Director-General considers reasonable to obtain maintenance from the father or fathers of the child or children in relation to whom she is a supporting mother. Condition of grant of benefit.

“ 83AAE. The rate of a benefit is the rate of the pension (excluding supplementary assistance) that would be payable under Part IV if the supporting mother were a widow for the purposes of that Part. Rate of benefit.

“ 83AAF. (1) Subject to sub-section (2), Divisions 3A, 4, 5, 6 and 7 of Part IV apply in relation to a beneficiary as if she were a widow for the purposes of that Part. Application of certain Divisions of Part IV.

“ (2) Paragraph (d) of sub-section (5) of section 74 does not apply in relation to a beneficiary.

“ 83AAG. In the event of—

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

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

Penalty: Forty dollars.”.

10. Section 83AA of the Principal Act is amended by adding at the end thereof the words “ or a benefit under Part IVAAA ”. Interpretation.

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

- (a) by omitting from paragraph (b) of the definition of “ deceased pensioner ” in sub-section (1) the words “ or a pension under Part IV other than such a person who would not have been eligible to receive that pension ” and substituting the words “, a pension under Part IV or a benefit under Part IVAAA, other than such a person who would not have been eligible to receive that pension or benefit.”;
- (b) by inserting in paragraph (c) of the definition of “ deceased pensioner ” in sub-section (1), after the word “ pension ” (wherever occurring), the words “ or benefit ”;
- (c) by omitting from sub-paragraph (i) of paragraph (a) of the definition of “ pensioner ” in sub-section (1) the words “ or a pension under Part IV ” and substituting the words “, a pension under Part IV or a benefit under Part IVAAA”;
- (d) by inserting in sub-paragraph (ii) of paragraph (a) of the definition of “ pensioner ” in sub-section (1), after the word “ pension ”, the words “ or benefit ”;

Interpretation.

- (e) by inserting in paragraph (a) of the definition of " pensioner " in sub-section (1), after the word " pension " (last occurring) the words " or benefit "; and
- (f) by inserting in paragraph (b) of the definition of " pensioner " in sub-section (1), after the word " pension " (wherever occurring), the words " or benefit ".

Other funeral benefits.

12. Section 83C of the Principal Act is amended by inserting in sub-section (1), after the letters " IV ", the words " or a benefit under Part IVAAA ".

Special benefits.

13. Section 124 of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:—

- " (a) who is not in receipt of a pension under Part III or IV, a benefit under Part IVAAA, an allowance under Part VIIA of this Act or a service pension under the *Repatriation Act 1920-1973*;".

Qualification for allowance.

14. Section 133E is amended by omitting paragraph (a) of sub-section (2) and substituting the following paragraph:—

- " (a) a person who is qualified under sub-section (1) to receive a sheltered employment allowance is also qualified to receive a pension under Part III or IV or a benefit under Part IVAAA or VII; and ".

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

15. Section 133N is amended by omitting the words " Part III or IV " and substituting the words " Part III, IV or IVAAA ".

Definition.

16. Section 134 of the Principal Act is amended by omitting the definition of " pension " and substituting the following definition:—

- " ' pension ' means an invalid pension under Part III, a widow's pension under Part IV or a benefit under Part IVAAA;".

Payments during training.

17. Section 135D of the Principal Act is amended by omitting from sub-section (1) the words " under Part III ".

Provision of books, &c.

18. Section 135L of the Principal Act is amended by omitting from sub-section (1) the words " (to a cost not exceeding Eighty dollars in any period of twelve months) ".

Provision of vocational training for certain widows, &c.

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

- (a) by inserting in sub-section (1), after the word " widow " (second occurring), the words " or a benefit under Part IVAAA ";

- (b) by inserting in sub-section (5), after the letters " IV ", the word and letters " or IV^{AAA} "; and
- (c) by adding at the end of sub-section (6) the words " or the benefit and allowance (if any) that she receives under Part IV^{AAA}, as the case may be ".

20. Section 135v of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words " Part III or Part IV of this Act where that pension " and substituting the words " Part III or IV, or a benefit under Part IV^{AAA}, of this Act where that pension or benefit ";
- (b) by omitting from paragraph (b) of sub-section (2) the words " Part III or Part IV " and substituting the words " Part III or IV, or a benefit under Part IV^{AAA},"; and
- (c) by omitting from paragraph (b) of sub-section (3) the words " Part III or Part IV " and substituting the words " Part III or IV, or a benefit under Part IV^{AAA},".

Modification
of certain
other laws.

21. Where, on or before 30th September, 1973, a woman lodges a claim for a benefit under Part IV^{AAA} of the Principal Act as amended by this Act, the benefit, if granted, is to be paid from—

- (a) in the case of a woman who was a supporting mother on the date of commencement of that Part—that date; or
- (b) in any other case—the first widow's pension pay-day after that last-mentioned date on which the woman was a supporting mother.

Claims
lodged on
or before
30th Sep-
tember, 1973.