

# Social Services Act (No. 2) 1973

No. 26 of 1973

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## AN ACT

To amend the *Social Services Act* 1947-1972, as amended  
by the *Social Services Act* 1973.

[Assented to 8 May 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. 2) 1973.

(2) The *Social Services Act* 1947-1972,\* as amended by the *Social Services Act* 1973,† is in this Act referred to as the Principal Act.

(3) Section 1 of the *Social Services Act* 1973 is amended by omitting sub-section (3).

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

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\* 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; No. 65, 1968; No. 94, 1969; Nos. 2 and 39, 1970; Nos. 16 and 67, 1971; and Nos. 1, 14, 53 and 79, 1972.

† Act No. 1, 1973.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commence-  
ment.

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

(a) by omitting the word and figures “(Sections 30A–30B).” and substituting the word and figures “(Sections 30A–30C)”; and

(b) by omitting the words

“Part IVAA—Continuation of payment of Pension after Pensioner leaves Australia (Sections 83AA–83AE).”

and substituting the words—

“Part IVAA—Continuation of payment of certain Pensions after Pensioners leave Australia (Sections 83AA–83AG).”

4. After section 21 of the Principal Act the following section is inserted:—

“21A. An age pension shall not be granted to a claimant who has ceased to reside in Australia after he has lodged his claim for the pension unless the circumstances are such that the date from which the pension, if granted, would be paid is a date not later than the date on which the claimant ceased to reside in Australia.” Grant of  
pension  
after  
claimant  
has ceased  
to reside in  
Australia.

5. After section 24 of the Principal Act the following section is inserted:—

“24A. An invalid pension shall not be granted to a claimant who has ceased to reside in Australia after he has lodged his claim for the pension unless the circumstances are such that the date from which the pension, if granted, would be paid is a date not later than the date on which the claimant ceased to reside in Australia.” Grant of  
pension  
after  
claimant  
has ceased  
to reside in  
Australia.

6. After section 30B of the Principal Act the following section is inserted in Division 4A:—

“30C. Where—

(a) a person and the husband or wife of the person are each receiving an allowance by way of supplementary assistance at a rate ascertained in accordance with sub-section (3A) of section 30A; and

(b) the wife or husband of the person ceases, by virtue of section 83AC, to receive the allowance during a period during which he or she is outside Australia,

Rate during  
period when  
spouse  
overseas.

the rate of the allowance of the first-mentioned person during the period referred to in paragraph (b) is the rate that would be applicable if the person were a person to whom sub-section (3) of section 30A applies.”

Pension to  
cease if  
pensioner  
leaves  
Australia.

7. Section 49 of the Principal Act is repealed.

8. After section 61 of the Principal Act the following section is inserted:—

Grant of  
pension after  
claimant  
has ceased  
to reside in  
Australia.

“ 61A. A widow’s pension shall not be granted to a claimant who has ceased to reside in Australia after she has lodged her claim for the pension unless the circumstances are such that the date from which the pension, if granted, would be paid is a date not later than the date on which the claimant ceased to reside in Australia.”

Pension to  
cease if  
pensioner  
leaves  
Australia.

9. Section 78 of the Principal Act is repealed.

10. Part IVAA of the Principal Act is repealed and the following Part substituted:—

“ PART IVAA—CONTINUATION OF PAYMENT OF CERTAIN PENSIONS  
AFTER PENSIONERS LEAVE AUSTRALIA

Definition.

“ 83AA. In this Part, unless the contrary intention appears, ‘ pension ’ means a pension under Part III or IV (including a pension or an allowance continued in force by virtue of paragraph (c) or (f) of section 4).

Right to be  
paid  
pension  
outside  
Australia.

“ 83AB. Except as provided by this Part, the right of a person to commence, or to continue, to be paid a pension granted to him is not affected by the fact that he leaves Australia after the commencement of this Part.

Allowance  
by way of  
supple-  
mentary  
assistance.

“ 83AC. An allowance by way of supplementary assistance is not payable in respect of any period during which the pensioner is outside Australia.

Pension  
granted to  
former  
resident  
after  
return to  
Australia.

“ 83AD. (1) Subject to this section, where—

(a) a person who formerly resided in Australia has returned to Australia and, before the expiration of the period of twelve months that commenced on the date of his return, has lodged a claim for a pension; and

(b) that person leaves Australia (whether before or after his claim is determined) before the expiration of that period,

any pension granted as a result of that claim is not payable in respect of any period during which the pensioner is outside Australia.

“ (2) Where the Director-General is satisfied, in relation to a person referred to in paragraph (a) of sub-section (1) who has been granted a pension as a result of the claim referred to in that paragraph, that the

person's reason for leaving, or wishing to leave, Australia before the expiration of the period referred to in that paragraph arose from circumstances that could not reasonably have been foreseen at the time of his return to Australia, the Director-General may, by instrument in writing, determine that that sub-section does not apply in relation to that pension.

"83AE. Except as provided by regulations giving effect to an agreement referred to in section 137, a pension payable by virtue of those regulations is not payable in respect of any period during which the pensioner is outside Australia.

Pension payable under agreement referred to in section 137.

"83AF. Where a person who is in receipt of a pension by virtue of this Part or of section 92 of the *Repatriation Act 1920-1973* would, if that pension were cancelled, be eligible, if he were residing in Australia, for the grant of another pension, being a pension within the meaning of this Part, that other pension (excluding any allowance by way of supplementary assistance) may, on the cancellation of the pension that he is in receipt of, be granted and paid as if he were residing in Australia.

Grant of new pension to pensioner outside Australia.

"83AG. A pension payable by virtue of this Part may be paid in such manner, at such places and in such instalments as the Director-General determines."

Manner of payment of pension.

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

Formal amendments.

12. The repeal of Part IVAA of the Principal Act does not affect any agreement in force under that Part immediately before the commencement of this Act.

Repeal of Part IVAA not to affect agreements under it.

13. Where a person was entitled to the payment of pension under Part IVAA of the Principal Act immediately before the commencement of this Act, that pension continues to be payable, and Part IVAA of the Principal Act as amended by this Act applies in relation to that person, as if—

Certain pensions to continue to be payable outside Australia and the Territories.

(a) where the person became so entitled on leaving Australia—that last-mentioned Part had been in force when that person left Australia; or

(b) where the person became so entitled on leaving a Territory—that last-mentioned Part had been in force when that person left that Territory and that Territory had at that time formed part of Australia.

14. Where, immediately before the commencement of this Act, a pension was payable to a pensioner in a Territory that does not form part of Australia, that pension continues to be payable, while he remains in that Territory, as if that Territory formed part of Australia and, if that pensioner leaves that Territory (other than to come to Australia), he shall, for the purposes of Part IVAA of the Principal Act as amended by this Act, be deemed to leave Australia.

Certain pensions to continue to be payable in external Territories.

Pensioners temporarily absent from Australia.

### 15. (1) Where—

- (a) a pensioner who was, immediately before the commencement of this Act, absent from Australia and its Territories returns to Australia or a Territory; and
- (b) the Director-General is satisfied that the absence would have been an absence of a temporary nature within the meaning of section 49 or 78 of the Principal Act if that section had continued in force, payment of pension in respect of the period, or a part of the period, of that absence may be made to the pensioner as if section 49 or 78, as the case may be, of the Principal Act had continued in force.

(2) Where a pensioner referred to in sub-section (1) returns to a Territory that does not form part of Australia, section 14 of this Act applies in relation to the pensioner and his pension as if he had been in that Territory since before the commencement of this Act.

## SCHEDULE

Section 11

### FORMAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting any number expressed in words that is used, whether with or without the addition of a letter or letters, to identify a section of that Act or of another Act, and substituting that number expressed in figures:—

Sections 4 (1) (c) and (2), 6 (1) (definitions of "member of the Forces" and "mental hospital"), 18 (definitions of "income", "married person" and "pension"), 28 (1A) (a) (iii), (1c) (a) and (b) and (1a) (b), 30A (3) (a) and (6), 32 (1) and (3), 45 (2) (c), (3) (a) (iii) and 6 (ea) and (f), 48A, 50 (1) (aa), 59 (1) (definitions of "class A widow" and "pension"), 63 (1) (a) and (1c) (a) and (b), 65A (5), 74 (2) and (5) (b), (ba), (bb) and (e), 77A, 81 (b) and (c), 83A (1) (definitions of "amendment alleviating the operation of the means test" and "pensioner"), 83D (2), 92 (2) (a) (ii), 94 (1) (definition of "endowment"), 96 (1), 103 (1), 104 (2) (b) and (3), 104A (c) (ii), 106 (1) (definitions of "benefit" and "income") and (3), 123 (2), 133 (2), 133A, 133B (1) (b), 133C (1) (definition of "sheltered employment"), 133L (3) (a), 133Q, 135 (1) (a) (iii), 135D (1) and (2), 135F (b), 135I, 135P, 135Q (4), 135R (1) (definition of "cost") and (1A), 135S (3), 135T (13), 135U (2), (3), (5), (6) (c) and (10) and 135V (1), (2), (3) and (5).

2. The following provisions of the Principal Act are amended by omitting the words "of this Act", "to this Act", "of this Part", "of this Division", "of this section", "of this sub-section", "of this paragraph" and "of this definition" (wherever occurring):—

Sections 3, 4 (2), 17 (5), 18 (definitions of "married person" and "pension"), 18A (1), 25 (3), 28 (1AA), (1B), (1C) (b), (1D) (a) and (b), (1E), (1F) (a) and (b), (2A) and (3) (b) (i) and (ii), 29 (1) (b), 30 (1c), 30A (6), 32 (1) and (3), 45 (2) (c), (3) (a) (iii) and (6) (ea), 48 (3) (a) and (4), 50 (1) (a) and (aa), 59 (1) (definitions of "benevolent home", "class A widow", "pension" and "superannuation pension") and (3), 60 (3), 63 (1) (a), (1B), 64 (b), 65 (4), 65A (5), 74 (2) and 5 (b), (ba) and (bb), 77 (3) (a) and (4), 80 (1) (a), 81 (a), 83A (1) (definition of "pensioner"), 83D (2), 92 (3) and (4), 94 (1) (definition of "endowment"), (1B) and (1c), 96 (1), (3) (a) and (4), 103 (1), 104 (3), (4) and (5), 104A (c) (ii), 106 (1) (definitions of "benefit" and "income") and (3), 107, 108 (1), 112 (6) (b) (iia), 114 (3) and (5), 115 (3), (4) (a) and (b), (5), (7), (8), (9), (11) and (12), 119 (4), 123 (2), 124 (a), 133 (2), (3) and (4), 133B (1) (b), 133L (3), 133Q, 134 (definitions of "benefit" and "pension"), 135 (2) and (3), 135C (3), 135D (1), (3) and (4), 135E, 135F (b) and (c), 135I, 135M (2), 135Q (4) and (5) (b), 135R (1) (definition of "cost"), (1A), (4), (5) and (8), 135S (3), 135T (10) and (13), 135U (3), (4) and (5), 136 (2) and (3) and 140 (2).

## SCHEDULE—continued

3. The Principal Act is further amended as set out in the following table:—

Provision	Amendment
Section 2 .. .. .	Omit "the first day of July, One thousand nine hundred and forty-seven" substitute "1st July, 1947".
Section 4 (1) (c) .. .. .	Omit "of this Act" (last occurring).
Section 4 (1) (d) .. .. .	Omit "of this Act" (last occurring).
Section 4 (1) (f) .. .. .	Omit "of this Act" (last occurring).
Section 4 (1) (h) .. .. .	Omit "of this Act" (last occurring).
Section 4 (1) (i) .. .. .	Omit "of this Act" (last occurring).
Section 4 (1) (k) .. .. .	Omit "of this Act" (last occurring).
Section 4 (1) (l) .. .. .	Omit "of this Act" (last occurring).
Section 6 (1) .. .. . (definition of "mental hospital")	Omit "of this Act" (first occurring).
Section 28 (1EA) .. .. .	Omit "of this section" (first occurring). Omit "of this Act".
Section 30 (2) .. .. .	Omit "of this section".
Section 45 (6) (h) .. .. .	Omit "of this Act".
Section 59 (2) .. .. .	Omit "of this Act".
Section 63 (1c) .. .. .	Omit "of this section".
Section 74 (5) (e) (i) .. .. .	Omit "of this Act".
Section 133c (1) .. .. . (definition of "approved organization")	Omit "of this definition".
Section 133c (1) .. .. . (definition of "disabled person")	Omit "of this section".
Section 133c (1) .. .. . (definition of "sheltered employment")	Omit "of this Act" (first occurring).
Section 135u (2) (b) .. .. .	Omit "of this Act".
Section 135u (6) .. .. .	Omit "of this section" (wherever occurring).
Section 135u (10) .. .. .	Omit "of this section".
	Omit "of this Act" (first occurring).
Section 135v (5) .. .. .	Omit "of this Act".