

SOCIAL SERVICES AMENDMENT ACT (No. 2) 1976

No. 62 of 1976

An Act relating to Child Endowment.

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

Short title
and citation.

1. (1) This Act may be cited as the *Social Services Amendment Act* (No. 2) 1976.¹

(2) The *Social Services Act* 1947-1975,² as amended by the *Social Services Amendment Act* 1976,³ is in this Act referred to as the Principal Act.

(3) Section 1 of the *Social Services Amendment Act* 1976 is amended by omitting sub-section (3).

(4) The Principal Act, as amended by this Act, may be cited as the *Social Services Act* 1947-1976.

Commence-
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹

Interpret-
ation.

3. Section 94 of the Principal Act is amended—

(a) by omitting from sub-paragraph (i) of paragraph (b) of the definition of “child” in sub-section (1) the words “twenty-one years” and substituting the words “twenty-five years”; and

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

“(2A) Where a person who is wholly or substantially dependent on another person—

(a) has attained the age of eighteen years but has not attained the age of twenty-five years;

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

(c) is not in employment or engaged in work on his own account,

the provisions of this Part, including the provisions of sub-section (2), apply in relation to that person as if that person were a child in the custody, care and control of that other person.”.

Child
endowment.

4. Section 95 of the Principal Act is amended by omitting sub-sections (2), (3), (4) and (5) and substituting the following sub-sections:—

“(2) The rate of endowment in respect of a child in respect of whom an endowment is payable to a person other than an institution is—

- (a) where the child is the only such child, or where there are two or more such children and the child is the elder or eldest of them—\$3.50 per week;
- (b) where there are two or more such children and the child is the younger or second eldest of them—\$5 per week;
- (c) where there are three or more such children and the child is the third or fourth eldest of them—\$6 per week; and
- (d) where there are five or more such children and the child is not one of the four eldest of them—\$7 per week.

“(3) The rate of endowment payable to an endowee, being an institution, in respect of a child is \$5 per week.”.

5. Section 103 of the Principal Act is amended by omitting from sub-paragraph (i) of paragraph (g) of sub-section (1) the words “twenty-one years” and substituting the words “twenty-five years”.

Endowment to cease in certain circumstances.

6. Section 103A of the Principal Act is repealed.

Adjustment of rates where child becomes student child.

7. Section 103B of the Principal Act is amended by omitting the words “under the age of sixteen years” (wherever occurring).

Adjustment of rates where there is a non-endowed child in family.

8. After section 104 of the Principal Act the following section is inserted:—

“ 104AA. (1) Where, but for this section, an endowment could not, by reason of a provision of section 96 or 104, be granted in respect of a child, the Director-General may, notwithstanding that provision, grant a claim for an endowment in respect of the child if the Director-General is satisfied that—

Payment of endowment to certain residents.

- (a) the claimant (not being an institution) is in Australia; and
- (b) the claimant, or if the claimant is a woman, the claimant or her husband—
 - (i) is a resident of Australia; and
 - (ii) is contributing regularly to the maintenance of the child.

“(2) Where a husband or his wife is contributing regularly to the maintenance of a child and the husband is in Australia but his wife is not in Australia—

- (a) sub-section (2) of section 94 does not apply to or in relation to the child; and

- (b) the husband shall be deemed, for the purposes of sub-section (1) of this section, to have the custody, care and control of the child.

“(3) Paragraphs (a), (b), (c), (d) and (e) of sub-section (1) of section 103 do not apply in relation to an endowment granted by virtue of sub-section (1) of this section, but, without affecting the application of the remaining provisions of sub-section (1) of section 103 in relation to such an endowment, the Director-General may terminate the payment of such an endowment if he is satisfied that—

- (a) the endowee would not be granted an endowment in respect of the child if the endowee were a claimant for such an endowment; or
- (b) the child has become an inmate of an institution.

“(4) The Director-General shall not terminate the payment of an endowment under sub-section (3) by reason that the endowee has ceased to be in Australia if he is satisfied that the absence of the endowee from Australia is temporary only.

“(5) Paragraphs (a) and (b) of section 104A do not apply in relation to an endowee to whom an endowment is paid in respect of a child by virtue of sub-section (1) of this section, but, without affecting the application of the remaining provisions of section 104A in relation to the endowee, where—

- (a) the endowee ceases to be in Australia;
- (b) the endowee ceases to be a resident of Australia; or
- (c) the endowee ceases to contribute regularly to the maintenance of the child,

the endowee shall, within 14 days after the occurrence of that event, notify a Director accordingly.

Penalty: \$40.

“(6) Where an endowment is granted under sub-section (1) by reason that the husband of the claimant is a resident of Australia, paragraph (b) of sub-section (5) applies in relation to the endowee as if the reference in that paragraph to the endowee were a reference to the husband of the endowee.

“(7) Where an endowment is granted under sub-section (1) in respect of a child by reason that the husband of the claimant is contributing regularly to the maintenance of the child, paragraph (c) of sub-section (5) applies in relation to the endowee as if the reference in that paragraph to the endowee were a reference to the husband of the endowee.

“(8) An endowment shall not be granted or paid to a person by virtue of sub-section (1) in respect of a child for any period for which any

person has received, or is receiving, a payment, similar to an endowment, in respect of that child under the law of some other country but, where an endowment would, but for this sub-section, be payable in respect of a child (in this sub-section referred to as ' the excluded child'), an endowment in respect of any other child is, subject to section 103B, payable at the rate that would be applicable if an endowment were payable in respect of the excluded child.

“(9) In this section, ‘ resident of Australia ’ means a resident of Australia as defined by the *Income Tax Assessment Act 1936–1976*.”.

9. The amendments made by this Act apply in relation to the payment of endowment payable in respect of any endowment period that commences on or after 15 June 1976. Application
of
amendments.

NOTES

1. Act No. 62, 1976; assented to 5 June 1976.
2. 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 59, 1970; Nos. 16 and 67, 1971; Nos. 1, 14, 53 and 79, 1972; Nos. 1, 26, 48 and 103, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 2, 23 and 91, 1974; and Nos. 34, 56, 101 and 110, 1975.
3. Act No. 26, 1976.