**HEALTH INSURANCE AMENDMENT ACT (No. 3) 1976**

**No. 109 of 1976**

An Act to amend the Health Insurance Act 1973, and for related purposes.

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

**Short title.**

**1.** This Act may be cited as the Health Insurance Amendment Act (No. 3) 1976.

**Commencement.**

**2.** This Act shall come into operation on 25 November 1976.

**Interpretation.**

**3.** Section 3 of the Health Insurance Act 1973 is amended—

(a) by omitting from sub-section (1) the definition of “amendment alleviating the operation of the means test”;

(b) by omitting from sub-section (1) the definition of “dependant” and substituting the following definition:—

“‘dependant’, in relation to an eligible pensioner, means—

(a) the wife of the pensioner;

(b) a child under the age of 16 years who is in the custody, care and control of the pensioner or of the wife or husband of the pensioner; or

(c) a person who—

(i) has attained the age of 16 years;

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

(iii) is not in receipt of an invalid pension under Part III of the Social Services Act 1947; and

(iv) is wholly or substantially dependent on the pensioner or on the wife or husband of the pensioner;

(c) by omitting from sub-section (1) the definition of “eligible pensioner” and substituting the following definition:—

“‘eligible pensioner’ means—

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

(i) there is being paid an age pension, an invalid pension, a widow’s pension or a sheltered employment allowance under the Social Services Act 1947; or

(ii) such a pension or allowance would be payable if the person were not a person in receipt of a training allowance under section 135d of the Social Services Act 1947,

other than such a person who is a prescribed person within the meaning of section 83ca of the Social Services Act 1947;

(b) a person to whom or in respect of whom there is being paid a service pension under the Repatriation Act 1920 other than such a person who is a prescribed person within the meaning of section 123ab of that Act; or

(c) a person to whom or in respect of whom there is being paid an allowance under the Tuberculosis Act 1948;”; and

(d) by adding at the end thereof the following sub-sections:—

“(9) In the definition of ‘dependant’ in sub-section (1), a reference to the wife or husband of an eligible pensioner is a reference to the person, whether legally married to the pensioner or not, whose income is to be taken into account for the purpose of determining the rate at which pension is payable to or in respect of the pensioner, or the rate at which pension would be payable to or in respect of the pensioner if the pensioner were not a person in receipt of a training allowance under section 135d of the Social Services Act 1947, as the case may be.

“(10) In sub-section (9), ‘pension’ means—

(a) an age pension, an invalid pension or a sheltered employment allowance under the Social Services Act 1947;

(b) a service pension under the Repatriation Act 1920; or

(c) an allowance under the Tuberculosis Act 1948.”.

**Preservation of eligibility of certain pensioners for benefits.**

**4.** Where a person who was, immediately before 25 November 1976, an eligible pensioner as defined by section 3 of the Health Insurance Act 1973 ceases to be such a pensioner on that date by reason only that the person is, on that date, a prescribed person within the meaning of section 83ca of the Social Services Act 1947 or of section 123ab of the Repatriation Act 1920, as the case may be, the Health Insurance Act 1973 continues, by force of this sub-section, to apply to and in relation to the person as if the person were an eligible pensioner as so defined until the person ceases to be a prescribed person within the meaning of that section or the annual rate of the person’s income exceeds the annual rate of the person’s income on that date, whichever first occurs.

**Certain dependants of pensioners not affected by amendments.**

**5.** Notwithstanding the amendments of the Health Insurance Act 1973 made by paragraphs 3(b) and (d), a person who was a dependant of an eligible pensioner immediately before the commencement of this Act continues to be a dependant of the pensioner until the person would cease to be a dependant of the pensioner if those amendments had not been made.