SOCIAL SERVICES AMENDMENT ACT 1978

No. 128 of 1978

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

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

Short title, &c.

1. (1) This Act may be cited as the *Social Services Amendment Act* 1978.[1]

(2) The *Social Services Act* 1947[2] is in this Act referred to as the Principal Act.

Commencement

2. (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.[1]

(2) Paragraphs 5 (1) (a) and (b), sub-section 5 (2) and sections 6, 22, 45, 46 and 48 shall come into operation on 1 November 1978.

(3) Sections 24, 28 and 29, sub-section 30 (2), section 35, paragraph 37 (a) and section 39 shall come into operation on 15 May 1979.

Student children over the age of sixteen years

3. (1) Section 18A of the Principal Act is amended by adding at the end of paragraph (a) "but is under the age of twenty-five years".

(2) Where the maximum rate of pension applicable to a pensioner immediately before the commencement of this section is a rate for the purpose of the calculation of which there has been taken into account a rate in respect of a particular child who has attained the age of 25 years, the appropriate rate in respect of that child shall continue to be taken into account for that purpose after the commencement of this section notwithstanding the amendment made by sub-section (1).

(3) Where the income of a person for the purposes of Part III of the Principal Act immediately before the commencement of this section is an amount of income for the purpose of the computation of which in accordance with section 29 of that Act there has been taken into account a rate in respect of a child who has attained the age of 25 years, the appropriate rate in respect of that child shall continue to be taken into account for that purpose after the commencement of this section notwithstanding the amendment made by sub-section (1).

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4. After section 18A of the Principal Act the following section is inserted:

Qualifications for person to be treated as child of claimant, &c.

"18B. Notwithstanding any other provision of this Part, a person shall not be treated, for the purposes of this Part, as a child in relation to a claimant or pensioner—

(a) unless the person is living in Australia (including such a person who is temporarily absent from Australia);

(b) unless the person is living at a place outside Australia with the pensioner; or

(c) unless—

(i) the person is living at a place outside Australia;

(ii) the claimant or pensioner is living in Australia; and

(iii) the Director-General is satisfied that the claimant or pensioner intends to bring the person to live in Australia as soon as it is reasonably practicable to do so.".

Rate of age or invalid pension (including guardian's allowance payable to an unmarried person)

5. (1) Section 28 of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (1A) "$2,262" and substituting "$2,766.40";

(b) by omitting from paragraph (b) of that sub-section "$1,885" and substituting "$2,306.20"; and

(c) by omitting sub-section (2AA) and substituting the following sub-sections:

"(2AA) Sub-section (2) does not apply in relation to a claimant or pensioner who is permanently blind.

"(2AB) Notwithstanding sub-section (2), where a claimant or pensioner—

(a) has attained the age of seventy years; and

(b) is in receipt of, or is qualified to receive, an age pension, the annual rate at which that pension is determined shall not be less than—

(c) in the case of a person referred to in paragraph (a) of sub-section (1A)—$2,675.40 per annum; or

(d) in any other case—$2,230.80 per annum.".

(2) The amendments made by paragraphs (1)(a) and (b) have effect in relation to every instalment of an age, invalid, wife's or widow's pension or a supporting parent's benefit under the *Social Services Act* 1947, and every instalment of a service pension under the *Repatriation Act* 1920, that falls due on or after the date of commencement of this section.

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Variation of maximum rates of age and invalid pensions

6. Section 28A of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of "relevant period" and substituting the following definition:

"'relevant period' means the period of 12 months commencing on 1 November 1979, and each subsequent period of 12 months;"; and

(b) by omitting paragraph (a) of sub-section (5) and substituting the following paragraph:

"(a) is the number, calculated to 3 decimal places, ascertained by dividing the index number for the last preceding June quarter by the highest index number in respect of any other preceding June quarter, being such a quarter in the year 1978 or any subsequent year; or".

Statement of income to be furnished when required

7. Section 44 of the Principal Act is amended by omitting "person to whom sub-section (2AA) of section 28 applies" and substituting "permanently blind person".

Receipt of income to be notified

8. Section 45 of the Principal Act is amended—

(a) by omitting paragraph (b) of sub-section (1) and substituting the following paragraph:

"(b) is not a permanently blind person; and";

(b) by omitting sub-paragraph (ii) of paragraph (a) of sub-section (2) and substituting the following sub-paragraph:

"(ii) is not a permanently blind person; and"; and

(c) by omitting from sub-section (7) "person to whom sub-section (2AA) of section 28 applies" and substituting "permanently blind person".

Cancellation, &c., of pension

9. Section 46 of the Principal Act is amended—

(a) by omitting from sub-section (2) "person to whom sub-section (2AA) of section 28 applies" and substituting "permanently blind person"; and

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

"(3) Where the maximum rate of pension applicable to a pensioner is a rate in the calculation of which there has been taken into account a rate (in this sub-section referred to as 'the supplementary rate') in respect of a particular child who is a person to whom paragraph (c) of section 18B applies and—

(a) the child has not been brought to live in Australia within a period of four years commencing on the first day in respect of which the supplementary rate was so taken into account; or

(b) at any time within that period of four years, the Director-General is satisfied that the pensioner does not intend to

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bring the child to live in Australia as soon as it is reasonably practicable to do so,

the maximum rate of pension applicable to the pensioner shall be a rate calculated without regard to that child.".

Suspension of pension where allowance granted under Tuberculosis Act

10. Section 48A of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

"(2) This section does not apply in relation to—

(a) a permanently blind person; or

(b) a person who, having attained the age of 70 years, is in receipt of pension at the rate referred to in paragraph (c) or (d) of sub-section (2AB) of section 28, whichever is the appropriate rate.".

Student children over the age of sixteen years

11. (1) Section 59A of the Principal Act is amended by adding at the end of paragraph (a) "but is under the age of twenty-five years".

(2) Where the maximum rate of pension applicable to a widow immediately before the commencement of this section is a rate for the purpose of the calculation of which there has been taken into account a rate in respect of a particular child who has attained the age of 25 years, the appropriate rate in respect of that child shall continue to be taken into account for that purpose after the commencement of this section notwithstanding the amendment made by sub-section (1).

(3) Where the income of a widow for the purposes of Part IV of the Principal Act immediately before the commencement of this section is an amount of income for the purpose of the computation of which in accordance with section 64 of that Act there has been taken into account a rate in respect of a child who has attained the age of 25 years, the appropriate rate in respect of that child shall continue to be taken into account for that purpose after the commencement of this section notwithstanding the amendment made by sub-section (1).

12. After section 59A of the Principal Act the following section is inserted in Division 1 of Part IV:

Qualifications for person to be treated as child of widow

"59AA. Notwithstanding any other provision of this Part, a person shall not be treated, for the purposes of this Part, as a child in relation to a widow—

(a) unless the person is living in Australia (including such a person who is temporarily absent from Australia);

(b) unless the person is living at a place outside Australia with the widow; or

(c) unless—

(i) the person is living at a place outside Australia;

(ii) the widow is living in Australia; and

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(iii) the Director-General is satisfied that the widow intends to bring the person to live in Australia as soon as it is reasonably practicable to do so.".

13. Section 75 of the Principal Act is amended by adding at the end thereof the following sub-section: Cancellation, &c., of pensions

"(2) Where the maximum rate of pension applicable to a widow is a rate in the calculation of which there has been taken into account a rate (in this sub-section referred to as 'the supplementary rate') in respect of a particular child who is a person to whom paragraph (c) of section 59AA applies and—

(a) the child has not been brought to live in Australia within a period of four years commencing on the first day in respect of which the supplementary rate was so taken into account; or

(b) at any time within that period of four years, the Director-General is satisfied that the widow does not intend to bring the child to live in Australia as soon as it is reasonably practicable to do so,

the maximum rate of pension applicable to the widow shall be a rate calculated without regard to that child.".

14. (1) Section 83AAB of the Principal Act is amended by adding at the end of paragraph (a) "but is under the age of 25 years". Student child over the age of 16 years

(2) Where the maximum rate of pension applicable to a supporting parent immediately before the commencement of this section is a rate for the purpose of the calculation of which there has been taken into account a rate in respect of a particular child who has attained the age of 25 years, the appropriate rate in respect of that child shall continue to be taken into account for that purpose after the commencement of this section notwithstanding the amendment made by sub-section (1).

(3) Where the income of a supporting parent for the purposes of Part IV of the Principal Act (as applied by section 83AAE of that Act) immediately before the commencement of this section is an amount of income for the purpose of the computation of which in accordance with section 64 of that Act there has been taken into account a rate in respect of a child who has attained the age of 25 years, the appropriate rate in respect of that child shall continue to be taken into account for that purpose after the commencement of this section notwithstanding the amendment made by sub-section (1).

15. After section 83AAB of the Principal Act the following section is inserted:

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Qualifications for person to be treated as child of supporting parent

"83AABA. Notwithstanding any other provision of this Part, a person shall not be treated, for the purposes of this Part, as a child in relation to a supporting parent—

(a) unless the person is living in Australia (including such a person who is temporarily absent from Australia);

(b) unless the person is living at a place outside Australia with the supporting parent; or

(c) unless—

(i) the person is living at a place outside Australia;

(ii) the supporting parent is living in Australia; and

(iii) the Director-General is satisfied that the supporting parent intends to bring the person to live in Australia as soon as it is reasonably practicable to do so.".

Condition of grant of benefit

16. Section 83AAD of the Principal Act is amended—

(a) by omitting "unless" and substituting "if"; and

(b) by omitting "that person has taken" and substituting "person has not taken".

Application of certain provisions of Part IV

17. Section 83AAG of the Principal Act is amended by adding at the end thereof the following sub-section:

"(2) For the purposes of the application, by virtue of sub-section (1) of this section, of section 75 in relation to a beneficiary, the reference in that section to section 59AA shall be read as a reference to section 83AABA.".

18. After section 83AAH of the Principal Act the following section is inserted in Part IVAAA:

Benefit not payable to 2 persons in respect of joint custody, &c., of child

"83AAJ. (1) Notwithstanding any other provision of this Part, where 2 persons have joint custody, and share care and control, of the same child, that custody, care and control shall not be taken into account, for the purposes of this Part, in relation to both of those persons.

"(2) Where the Director-General is satisfied that 2 persons have joint custody, and share care and control, of the same child, the Director-General shall, by writing signed by him, make a declaration accordingly.

"(3) Where a declaration is in force under sub-section (2), the custody, care and control to which the declaration relates shall be taken into account, for the purposes of this Part, in relation to one of the persons to whom the declaration relates (in this sub-section referred to as 'the eligible person') to the exclusion of the other in accordance with a direction given by the Director-General, by writing signed by him, specifying the eligible person.

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"(4) Where the Director-General gives a direction under sub-section (3), he shall inform the persons whose rights to benefit are affected by the direction accordingly.".

Interpretation

19. (1) Section 83A of the Principal Act is amended by adding at the end of sub-paragraph (i) of paragraph (b) of the definition of "deceased child" in sub-section (1) " but was under the age of twenty-five years".

(2) The amendment made by sub-section (1) does not apply in relation to a deceased person whose death occurred before the commencement of this section.

Prescribed persons

20. (1) Section 83CA of the Principal Act is amended—

(a) by inserting after sub-section (4) the following sub-section:

"(4A) For the purposes of sub-sections (3) and (4), a child referred to in paragraph (b) of the definition of 'child' in sub-section (6) in relation to a person shall be deemed to be a child of whom the person has the custody, care and control."; and

(b) by adding at the end of sub-paragraph (i) of paragraph (b) of the definition of "child" in sub-section (6) "but is under the age of 25 years".

(2) Where, immediately before the commencement of this section, a child of a person was a child who had attained the age of 25 years, the appropriate rate in respect of that child shall be taken into account at any time after the commencement of this section in the calculation of the prescribed rate of income applicable to that person for the purposes of section 83CA of the *Social Services Act* 1947 notwithstanding the amendment made by sub-section (1).

Payment on account prior to birth

21. Section 89 of the Principal Act is amended by adding at the end thereof "and before 1 November 1978".

Repeal of Part V

22. (1) Part V of the Principal Act is repealed.

(2) Notwithstanding the repeal effected by sub-section (1), Part V of the Principal Act continues to apply in relation to the birth of a child that occurred before the commencement of this section.

Interpretation

23. (1) Section 94 of the Principal Act is amended—

(a) by omitting paragraph (b) of the definition of "child" in sub-section (1);

(b) by omitting from sub-section (1) the definition of "endowment" and substituting the following definition:

" 'endowment' means an endowment under this Part, and includes a share in such an endowment payable by virtue of a direction in force under section 99A;";

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(c) by omitting from sub-section (1) the definition of "student child" and substituting the following definitions:

" 'prescribed educational scheme' means any of the following schemes:

(a) the scheme known as the Tertiary Education Assistance Scheme;

(b) the scheme known as the Adult Secondary Education Assistance Scheme;

(c) the scheme known as the Pre-School Teacher Education Assistance Scheme;

(d) the scheme known as the Aboriginal Study Grants Scheme;

(e) the scheme known as the Commonwealth Teaching Service Scholarship Scheme;

(f) the scheme known as the Post-Graduate Awards Scheme;

" 'student child' means a person to whom sub-section (2A) of this section applies;";

(d) by omitting from sub-sections (1B) and (1C) "the definition of 'child' in sub-section (1)" and substituting "sub-section (2A)"; and

(e) by omitting sub-section (2A) and substituting the following sub-section:

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

(a) has attained the age of sixteen years but is under the age of twenty-five years;

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

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

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

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.".

(2) Where an endowment is payable immediately before the commencement of this section in respect of a child who is in receipt of an invalid pension under Part III of the *Social Services Act* 1947, that endowment continues to be payable after the commencement of this section notwithstanding the amendment made by paragraph (1) (e).

Child endowment

24. Section 95 of the Principal Act is amended by omitting sub-sections (1A), (2) and (3) and substituting the following sub-sections:

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"(2) The rate of endowment payable to an endowee, being a person other than an institution, in respect of a child is—

(a) where the child is the only child in respect of whom endowment is payable to the endowee, or where there are two or more such children and the child is the elder or eldest of them—$15.20 per month;

(b) where there are two or more children in respect of whom endowment is payable to the endowee and the child is the younger or second eldest of them—$21.70 per month;

(c) where there are three or more children in respect of whom endowment is payable to the endowee and the child is the third or fourth eldest of them—$26 per month; and

(d) where there are five or more children in respect of whom endowment is payable to the endowee and the child is not one of the four eldest of them—$30.35 per month.

"(3) The rate of endowment payable to an endowee, being an institution, in respect of a child is $21.70 per month.".

25. After section 95 of the Principal Act the following sections are inserted:

Endowment not to be granted in respect of child in receipt of payments under prescribed educational scheme

"95A. On or after 1 January 1979, an endowment shall not be granted in respect of a child if the child is in receipt of payments under a prescribed educational scheme.

Endowment not payable in respect of child in receipt of payments under prescribed educational scheme

"95B. (1) Where the Director-General is notified, on or after 1 January 1979, by an authorized education officer that a child in respect of whom endowment is payable has been approved for the purposes of a prescribed educational scheme and will receive a first payment under the scheme on a date specified in the notification, the Director-General shall direct that endowment in respect of that child shall cease to be payable from a date specified in the direction, not being a date earlier than the date specified in the notification.

"(2) In this section, 'authorized education officer' means an officer of the Department of Education authorized by the Secretary to that Department for the purposes of this section.".

Qualification for endowment

26. Section 96 of the Principal Act is amended—

(a) by omitting sub-paragraph (i) of paragraph (b) of sub-section (1) and substituting the following sub-paragraph:

"(i) is living in Australia, whether or not he is temporarily absent from Australia; and"; and

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

"(5) Paragraph (b) of sub-section (1) does not apply in relation to a claim for an endowment where—

(a) the child to whom the claim relates is living outside Australia; and

(b) the claimant is living in Australia and the Director-General is satisfied that the claimant intends to bring the child to live in Australia as soon as it is reasonably practicable to do so.

"(6) An endowment shall not be granted or paid to a person by virtue of sub-section (5) in respect of a child for any period for which a payment, similar to an endowment has been, or is being, paid to or 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.".

27. After section 99 of the Principal Act the following section is inserted:

Sharing of endowment between two persons

"99A. (1) Notwithstanding any provision of this Part (other than this section), endowment in respect of an endowment period is not payable to two persons in respect of the same child except in accordance with this section.

"(2) Where the Director-General is satisfied that two persons are each qualified to receive an endowment in respect of the same child, the Director-General shall, by writing signed by him, make a declaration accordingly.

"(3) Where a declaration is in force under sub-section (2), the endowment in respect of a child to whom the declaration relates shall be shared between the two persons to whom the declaration relates in accordance with a direction given by the Director-General by writing signed by him specifying the share that each person is to receive.

"(4) Where the Director-General gives a direction under sub-section (3), he shall inform the persons who are to share an endowment in accordance with the direction accordingly.

"(5) In this section, 'person' does not include an institution.".

28. Section 101 of the Principal Act is repealed and the following section is substituted:

Endowment periods

"101. Subject to this Part, an endowment is payable in respect of endowment periods, being periods commencing on the fifteenth day of

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each month of the year and ending on the fourteenth day of the next succeeding month.".

Date from which endowment payable

29. Section 102 of the Principal Act is amended—

(a) by omitting from sub-section (2) "from the date" and substituting "from the commencement of the next endowment period after the date";

(b) by omitting from sub-section (2) "that date" and substituting "the commencement of the next endowment period after that date";

(c) by omitting from sub-section (3) "from the date" and substituting "from the commencement of the next endowment period after the date"; and

(d) by omitting from sub-section (3) "that date" and substituting "the commencement of the next endowment period after that date".

Endowment to cease in certain circumstances

30. (1) Section 103 of the Principal Act is amended by adding at the end thereof the following sub-sections:

"(3) Where an endowment is payable in respect of a child by virtue of sub-section (5) of section 96 and—

(a) the child has not been brought to live in Australia within a period of four years commencing on the first day in respect of which the endowment became payable; or

(b) at any time within that period of four years, the Director-General is satisfied that the endowee does not intend to bring the child to live in Australia as soon as it is reasonably practicable to do so,

the endowment ceases to be payable.

"(4) Where, by force of sub-section (3), an endowment would, but for this sub-section, cease to be payable during an endowment period, that endowment shall, by force of this sub-section, cease to be payable at the end of the endowment period.".

(2) Section 103 of the Principal Act is further amended by omitting sub-section (2) and substituting the following sub-section:

"(2) Where an endowment ceases to be payable by reason of an event specified in a paragraph of sub-section (1), the endowment ceases to be payable from the end of the endowment period during which that event occurred.".

Payment of endowment during temporary absence from Australia

31. Section 104 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:

"(3) 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 a payment, similar to an endowment has been, or is being, paid to or in respect

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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.".

Payment of endowment to certain residents

32. Section 104AA of the Principal Act is repealed.

Interpretation

33. (1) Section 105A of the Principal Act is amended by omitting from sub-section (1) the definition of "child" and substituting the following definition:

" 'child' has the same meaning as in Part VI, and includes a person who is a student child for the purposes of that Part;".

(2) Where a double orphan's pension is payable immediately before the commencement of this section in respect of a child who is in receipt of an invalid pension under Part III of the *Social Services Act* 1947, that double orphan's pension continues to be payable after the commencement of this section notwithstanding the amendment made by sub-section (1).

Qualification for double orphan's pension

34. Section 105B of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

"(1) Where—

(a) an endowment under Part VI in respect of a child is, or would, but for section 95A or 95B or sub-section (3) of section 104, be, payable to a person; and

(b) the child is a double orphan,

there is payable to that person, in addition to any endowment under Part VI, a double orphan's pension in respect of that child.".

Rate of pension

35. Section 105C of the Principal Act is amended by omitting "$11 per week" and substituting "$47.70 per month".

Application of Part VI

36. Section 105D of the Principal Act is amended by inserting "(other than sections 95A and 95B)" after "Part VI" (first occurring).

Interpretation

37. Section 105H of the Principal Act is amended—

(a) by omitting from the definition of "endowment period" in sub-section (1) "determined";

(b) by omitting paragraph (b) of sub-section (2) and substituting the following paragraph:

"(b) where the Director-General considers than an absence of a child from its home is of such short duration that it should be disregarded for the purposes of this Part

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(other than section 105M) the Director-General may give a direction accordingly."; and

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

"(3) Where a person who is wholly or substantially dependent on another person—

(a) has attained the age of 16 years but is under the age of 25 years;

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

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

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

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.".

38. Section 105K of the Principal Act is repealed and the following section substituted:

Handicapped child's allowance not payable in certain circumstances

"105K. Handicapped child's allowance is not payable in respect of a child for any period unless, in respect of that period, endowment is, or would, but for section 95A or 95B or sub-section (3) of section 104, be, payable under Part VI in respect of the child to a person, other than an institution.".

Rate of handicapped child's allowance

39. Section 105L of the Principal Act is amended by omitting from paragraph (a) "$15 per week" and substituting "$65 per month".

40. After section 105L of the Principal Act the following section is inserted:

Deduction for period in institution

"105M. Where, on any day or days during an endowment period—

(a) a child in respect of whom a handicapped child's allowance is payable is an inmate of an institution; and

(b) by reason of being such an inmate, a benefit is payable for that day or those days in respect of the child under Part VA of the *National Health Act* 1953 or under Part VII of the *Handicapped Persons Assistance Act* 1974,

there shall be deducted from the allowance payable in respect of that endowment period an amount calculated in accordance with the formula—

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where—

A is the amount of the endowment that would, but for this section, be payable in respect of that endowment period;

X is the number of days on which the benefit referred to in paragraph (b) was payable in respect of the child;

Y is the number of days in the endowment period.".

Cessation of handicapped allowance granted under section 105J

41. Section 105Q of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

"(1A) Sub-section (1) of section 103, and section 104 to the extent that it affects the operation of that sub-section, apply in relation to a handicapped child's allowance as if the allowance were an endowment under Part VI and the person to whom the allowance is payable were an endowee within the meaning of that part.".

Cessation of handicapped child's allowance granted under section 105JA

42. Section 105QA is amended by adding at the end thereof the following sub-sections:

"(2) Where the Director-General has reason to believe that an inquiry may reveal reasons for the cancellation, in accordance with sub-section (1), of a handicapped child's allowance, the Director-General may suspend that allowance during the course of that inquiry.

"(3) Where, after an inquiry referred to in sub-section (2), the Director-General does not consider that the handicapped child's allowance concerned should be cancelled, he shall revoke the suspension of that allowance with effect on and from the date on which the suspension took effect.".

Interpretation

43. (1) Section 106 of the Principal Act is amended by adding at the end of paragraph (a) of sub-section (1A) "but is under the age of twenty-five years".

(2) Where the rate of a benefit payable immediately before the commencement of this section is a rate for the purpose of the calculation of which there has been taken into account a rate in respect of a child who has attained the age of 25 years, the appropriate rate in respect of that child shall continue to be taken into account for that purpose after the commencement of this section notwithstanding the amendment made by sub-section (1).

44. After section 106 of the Principal Act the following section is inserted in Division 1 of Part VII:

Qualifications for person to be treated as child of claimant, &c.

"106A. Notwithstanding any other provision of this Part, a person shall not be treated, for the purposes of this Part, as a child in relation to a claimant or beneficiary—

(a) unless the person is living in Australia (including such a person who is temporarily absent from Australia); or

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(b) unless—

(i) the person is living at a place outside Australia; and

(ii) the Director-General is satisfied that the claimant or beneficiary intends to bring the person to live in Australia as soon as it is reasonably practicable to do so.".

Rate of unemployment and sickness benefit

45. (1) Section 112 of the Principal Act is amended—

(a) by omitting sub-section (1) and substituting the following sub-section:

"(1) Subject to this Part, the rate of an unemployment benefit or a sickness benefit is—

(a) where the beneficiary is an unmarried person who has not attained the age of 18 years—$36 per week;

(b) where the benefit is an unemployment benefit and the beneficiary is a person who has attained the age of 18 years and has no dependants—$51.45 per week;

(c) where—

(i) the benefit is an unemployment benefit and the beneficiary is an unmarried person who has attained the age of 18 years and has a dependant or dependants; or

(ii) the benefit is a sickness benefit and the beneficiary is an unmarried person who has attained the age of 18 years,

$53.20 per week; or

(d) in any other case—$44.35 per week.";

(b) by omitting from paragraph (a) of sub-section (2) " paragraph (c) " and substituting " paragraph (d) ";

(c) by omitting from paragraph (b) of that sub-section " paragraph (c) " and substituting " paragraph (d) ";

(d) by omitting from paragraph (a) of sub-section (4) " paragraph (b) " and substituting " paragraph (c) "; and

(e) by omitting from paragraph (d) of sub-section (4A) " paragraph (c) " and substituting " paragraph (d) ".

(2) The amendments made by sub-section (1) have effect in relation to every instalment of an unemployment or sickness benefit that falls due on or after the date of commencement of this section.

Variation of unemployment and sickness benefits

46. Section 112AA of the Principal Act is amended—

(a) by omitting from sub-section (1) the definitions of " relevant period " and " relevant rate " and substituting the following definitions:

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" 'relevant period' means the period of 12 months commencing on 1 November 1979, and each subsequent period of 12 months;

" 'relevant rate' means the rate specified in paragraph (c) of sub-section (1) of section 112 or the rate specified in paragraph (d) of that sub-section;"; and

(b) by omitting paragraph (a) of sub-section (5) and substituting the following paragraph:

"(a) is the number, calculated to 3 decimal places, ascertained by dividing the index number for the last preceding June quarter by the highest index number in respect of any other preceding June quarter, being such a quarter in the year 1978 or any subsequent year; or".

Cancellation, &c., of benefit

47. Section 131 of the Principal Act is amended by adding at the end thereof the following sub-section:

"(2) Where the rate of benefit applicable to a beneficiary is a rate in the calculation of which there has been taken into account a rate (in this sub-section referred to as 'the supplementary rate') in respect of a child who is a person to whom paragraph (b) of section 106A applies and—

(a) the child has not been brought to live in Australia within a period of four years commencing on the first day in respect of which the supplementary rate was so taken into account; or

(b) at any time within that period of four years, the Director-General is satisfied that the beneficiary does not intend to bring the child to live in Australia as soon as it is reasonably practicable to do so,

the rate of benefit applicable to the beneficiary shall be a rate calculated without regard to that child.".

Recovery of over payments

48. Section 140 of the Principal Act is amended by omitting from sub-section (2) "or a maternity allowance under Part V".

NOTES

1. Act No. 128, 1978; assented to 26 October 1978.

2. Act No. 26, 1947, as amended. For previous amendments *see* Acts 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; Nos. 34, 56, 101 and 110, 1975; Nos. 26, 62 and 111, 1976; and No. 159, 1977.

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