



Commonwealth Reciprocal Recovery Legislation Amendment Act 1994

No. 68 of 1994

An Act to amend the Social Security Act 1991, the Student Assistance Act 1973 and the Veterans' Entitlements Act 1986 in relation to recovery of amounts by the Commonwealth

[Assented to 30 May 1994]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Commonwealth Reciprocal Recovery Legislation Amendment Act 1994*.

Commencement

2.(1) Parts 1 and 3, other than paragraph 7(b), commence on the day on which this Act receives the Royal Assent.

Commonwealth Reciprocal Recovery
Legislation Amendment No. 68, 1994

(2) Part 2, paragraph 7(b) and Part 4 commence on 1 July 1994, immediately after the commencement of section 8 of the *Social Security Legislation Amendment Act 1994*.

**PART 2—AMENDMENTS OF THE SOCIAL SECURITY
ACT 1991**

Principal Act

3. In this Part, “**Principal Act**” means the *Social Security Act 1991*¹.

General effect of Chapter

4. Section 1222 of the Principal Act is amended:

(a) by inserting after paragraph (1)(c) the following word and paragraph:

“; and (ca) debts incurred under other Acts for failing to repay part or all of overpayments referred to in paragraph (c);”;

(b) by omitting subsection (3) (but not the Note) and substituting the following subsection:

“(3) If a person:

(a) has received an overpayment under certain other Acts or schemes; or

(b) has incurred a debt under another Act (whether before or after the commencement of this paragraph) for failing to repay part or all of such an overpayment;

the amount of the overpayment or debt may be recoverable by means of deductions from the person’s social security payment.”.

Deductions from debtor’s pension, benefit or allowance

5. Section 1231 of the Principal Act is amended by omitting paragraph (1)(b) and substituting the following paragraphs:

“(b) an overpayment arising under an Act or scheme referred to in subsection 1228(2); or

(ba) a debt incurred under another Act (whether before or after the commencement of this paragraph) for failing to repay part or all of an overpayment referred to in paragraph (b);”.

**PART 3—AMENDMENTS OF THE STUDENT ASSISTANCE
ACT 1973**

Principal Act

6. In this Part, “**Principal Act**” means the *Student Assistance Act 1973*².

*Commonwealth Reciprocal Recovery
Legislation Amendment No. 68, 1994*

Interpretation

7. Section 3 of the Principal Act is amended:

- (a) by inserting “as currently or previously in force” after “provisions” in the definition of “late payment charge” in subsection (1);
- (b) by inserting “or 1229A” after “1229” in paragraph (ba) of the definition of “late payment charge” in subsection (1);
- (c) by omitting sub-subparagraph (aa)(ii)(B) of the definition of “Social Security or Veterans’ legislation overpayment” in subsection (1).

**PART 4—AMENDMENTS OF THE VETERANS’
ENTITLEMENTS ACT 1986**

Principal Act

8. In this Part, “**Principal Act**” means the *Veterans’ Entitlements Act 1986*³.

Service pension to be absolutely inalienable

9. Section 58G of the Principal Act is amended:

- (a) by omitting from subsection (2) “205(2)(c)” and substituting “205(2)(e)”;
- (b) by omitting from the Note “205(2)(c)” and substituting “205(2)(e)”.

Attendant allowance

10. Section 98 of the Principal Act is amended by adding at the end of subparagraph (4A)(b)(ii) “and debts” after “overpayments”.

Recovery of overpayments

11. Section 205 of the Principal Act is amended:

- (a) by adding at the end of paragraph (1)(a) “or”;
- (b) by adding at the end of paragraph (1)(b) “or”;
- (c) by adding at the end of subsection (1) the following word and paragraphs:
 - “; or (e) a person has incurred a debt under another Act (whether before or after the commencement of this paragraph) for failing to repay part or all of an amount that has been paid as described in paragraph (b); or
 - (f) a person has incurred a debt under the *Social Security Act 1991* (whether before or after the commencement of this paragraph) for failing to repay part or all of an amount that has been paid as described in paragraph (c) or (d).”;

Commonwealth Reciprocal Recovery
Legislation Amendment No. 68, 1994

(d) by omitting subsection (2) and substituting the following subsection:

“(2) If:

- (a) an amount (‘overpayment’) has been paid as described in paragraph (1)(a), (b), (c) or (d) to a person; or
- (b) a person has incurred a debt as described in paragraph (1)(e) or (f);

an amount not exceeding the amount of the overpayment or debt may (whether or not proceedings have been instituted in a court to recover the overpayment or debt) be recovered by deductions:

- (c) from a pension, allowance or pecuniary benefit payable to that person under this Act; or
- (d) from any amount that, because of the person’s death is to be dealt with in accordance with sections 123A to 123E (inclusive); or
- (e) with the consent of another person, from any pension, allowance or other pecuniary benefit payable to that other person under this Act;

but the total amount recovered, whether by deduction or by proceedings in a court or both, is not to exceed the amount of the overpayment or debt.”;

(e) by adding at the end of the definition of “excluded amount” in subsection (8) the following word and paragraph:

“or (c) a recoverable amount arising because of a debt incurred as mentioned in paragraph (1)(e) or (f);”;

(f) by adding at the end of paragraph (a) of the definition of “recoverable amount” in subsection (8) “or”;

(g) by adding at the end of the definition of “recoverable amount” in subsection (8) the following word and paragraph:

“; or (d) if a debt of a kind referred to in paragraph (1)(e) or (f) has been incurred by a person—an amount equal to the amount of the debt.”.

*Commonwealth Reciprocal Recovery
Legislation Amendment No. 68, 1994*

NOTES

Social Security Act 1991

1. No. 46, 1991, as amended. For previous amendments, see Nos. 68, 69, 70, 73, 74, 115, 116, 141, 175, 194 and 208, 1991; Nos. 12, 69, 81, 94, 118, 133, 134, 138, 228, 229, 230, 233 and 241, 1992; and Nos. 25, 36, 61, 120 and 121, 1993; and No. 55, 1994.

Student Assistance Act 1973

2. No. 155, 1973, as amended. For previous amendments, see No. 26, 1982; Nos. 63, 72, 120 and 165, 1984; No. 137, 1985; No. 114, 1986; Nos. 125, 130 and 141, 1987; No. 35, 1988; Nos. 76 and 171, 1989; Nos. 70, 95 and 147, 1991; and No. 138, 1992.

Veterans' Entitlements Act 1986

3. No. 27, 1986, as amended. For previous amendments see, No. 106, 1986 (as amended by Nos. 78 and 130, 1987); No. 130, 1986; No. 78, 1987 (as amended by No. 164, 1989); No. 88, 1987; No. 130, 1987 (as amended by No. 133, 1988); No. 13, 1988 (as amended by No. 83, 1989; and No. 73, 1991); Nos. 35 and 79, 1988; No. 134, 1988 (as amended by No. 164, 1989); No. 135, 1988 (as amended by Nos. 84 and 164, 1989; and No. 73, 1991); Nos. 59, 83, 84, 93 and 163, 1989; No. 164, 1989 (as amended by No. 56, 1990; and No. 73, 1991); Nos. 59, 83, 84, 93, 163, 1989; No. 164, 1989 (as amended by No. 56, 1990; and No. 73, 1991); Nos. 56, 84 and 119, 1990; No. 2, 1991 (as amended by No. 73, 1991); No. 72, 1991; No. 73, 1991 (as amended by No. 74, 1991); Nos. 74, 122, 175 and 208, 1991; Nos. 12, 51, 70, 94 and 228, 1992; and Nos. 27, 36 and 121, 1993.

[*Minister's second reading speech made in—
House of Representatives on 5 May 1994
Senate on 9 May 1994*]