



Social Services Legislation Amendment (Overseas Welfare Recipients Integrity Program) Act 2019

No. 74, 2019

**An Act to amend the *Social Security
(Administration) Act 1999*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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**An Act to amend the *Social Security
(Administration) Act 1999*, and for related purposes**

[Assented to 20 September 2019]

The Parliament of Australia enacts:

1 Short title

This Act is the *Social Services Legislation Amendment (Overseas Welfare Recipients Integrity Program) Act 2019*.

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Integrity Program) Act 2019* 1

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	20 September 2019
2. Schedule 1, Part 1	As follows: (a) if this Act receives the Royal Assent before 19 September 2019—1 October 2019; (b) if this Act receives the Royal Assent on or after 19 September 2019—the day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent.	20 December 2019 (paragraph (b) applies)
3. Schedule 1, Part 2	The later of: (a) the start of 20 March 2020; and (b) immediately after the commencement of the provisions covered by table item 2.	20 March 2020 (paragraph (a) applies)
Note:	This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.	

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule

concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Schedule 1—Proof of life certificates

Part 1—General amendments

Social Security Act 1991

1 Subsection 146V(1)

Omit “section 85”, substitute “sections 85 and 85AA”.

2 Subsection 362A(3)

After “section 85”, insert “or 85AA”.

Social Security (Administration) Act 1999

3 Before subsection 63(3)

Insert:

Secretary may require person to provide proof of life certificate etc.

(2AA) Subsections (2AB) and (2AC) apply to a person if:

- (a) the person has reached 80 years of age; and
- (b) the person is receiving any of the following social security payments:
 - (i) age pension;
 - (ii) carer payment;
 - (iii) disability support pension;
 - (iv) widow B pension;
 - (v) wife pension; and
- (c) the person was continuously absent from Australia throughout the previous 2 years.

(2AB) The Secretary may notify a person to whom this subsection applies that:

- (a) the person is required, within the 13-week period beginning when the notice is given, to give the Secretary a proof of life certificate that:

- (i) relates to the person; and
 - (ii) was completed within that 13-week period; and
- (b) the requirement does not apply if the person enters Australia within that 13-week period.

(2AC) If this subsection applies to a person, the Secretary must notify the person under subsection (2AB) at least once every 2 years.

4 Subsections 63(5) and (7)

After “subsection (2)”, insert “, (2AB)”.

5 After section 63

Insert:

63A Proof of life certificate

- (1) For the purposes of this Act, a *proof of life certificate* that relates to a person is a certificate that:
 - (a) is expressed to relate to the person; and
 - (b) complies with the requirements of subsections (2), (3), (4), (5) and (6); and
 - (c) is in a form approved by the Secretary; and
 - (d) contains such other information (if any) as required by the approved form.
- (2) A proof of life certificate that relates to a person must include a statement to the effect that the person is alive.
- (3) The statement mentioned in subsection (2) must be:
 - (a) signed and dated by the person; or
 - (b) if:
 - (i) the approved form allows another person to sign the statement on behalf of the person if one or more specified requirements are met; and
 - (ii) those requirements are met;signed and dated by the other person.
- (4) A proof of life certificate that relates to a person must include a statement by an authorised certifier to the effect that:

Schedule 1 Proof of life certificates

Part 1 General amendments

- (a) the authorised certifier has sighted the person while in the physical presence of the person; and
 - (b) the authorised certifier has verified the identity of the person using the method, or one of the methods, set out in the approved form; and
 - (c) the authorised certifier is satisfied that the person is alive.
- (5) The statement mentioned in subsection (4) must be signed and dated by the authorised certifier.
- (6) Both:
- (a) the statement mentioned in subsection (2); and
 - (b) the statement mentioned in subsection (4);
- must be signed and dated within a 7-day period.

Compliance with form

- (7) Section 25C of the *Acts Interpretation Act 1901* does not apply to a proof of life certificate.

Authorised certifier

- (8) For the purposes of this section, an **authorised certifier** is a person included in a class of persons specified in a determination under subsection (9).
- (9) The Secretary may, by legislative instrument, determine one or more classes of persons for the purposes of subsection (8).
- (10) To avoid doubt, it is immaterial whether any or all of the persons included in such a class are in or outside Australia.

6 Paragraphs 64(1)(b) and (4)(b)

After “subsection 63(2)”, insert “, (2AB)”.

7 Section 85 (at the end of the heading)

Add “—general”.

8 After section 85

Insert:

**85AA Resumption of payment after cancellation or suspension—
provision of proof of life certificate**

Resumption of payment after suspension

- (1) If:
- (a) a person's social security payment is suspended under section 80; and
 - (b) the suspension is attributable to the person's failure to give the Secretary a proof of life certificate in compliance with a notice under subsection 63(2AB); and
 - (c) either:
 - (i) a proof of life certificate relating to the person is given to the Secretary; or
 - (ii) the person enters Australia; and
 - (d) if subparagraph (c)(i) applies—the proof of life certificate was completed during the 26-week period ending when the certificate was given to the Secretary;
- the Secretary must:
- (e) under section 126, review the suspension of the person's social security payment; and
 - (f) as a result of the review, determine that the social security payment is payable to the person as if the payment had never been suspended.

Resumption of payment after cancellation

- (2) If:
- (a) a person's social security payment is cancelled under section 80; and
 - (b) the cancellation is attributable to the person's failure to give the Secretary a proof of life certificate in compliance with a notice under subsection 63(2AB); and
 - (c) a proof of life certificate relating to the person is given to the Secretary; and
 - (d) the proof of life certificate was completed during the 12-month period ending when the certificate was given to the Secretary;
- the Secretary may:
-

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- (e) under section 126, review the cancellation of the person's social security payment; and
- (f) as a result of the review, determine that the social security payment is payable to the person as if the payment had never been cancelled.

Resumption of wife pension

- (3) If:
 - (a) a person's wife pension is suspended under section 80; and
 - (b) the suspension is attributable to the failure of the person's partner to give the Secretary a proof of life certificate in compliance with a notice under subsection 63(2AB); and
 - (c) either:
 - (i) a proof of life certificate relating to the person's partner is given to the Secretary; or
 - (ii) the person's partner enters Australia; and
 - (d) if subparagraph (c)(i) applies—the proof of life certificate was completed during the 26-week period ending when the certificate was given to the Secretary;the Secretary must:
 - (e) under section 126, review the suspension of the person's wife pension; and
 - (f) as a result of the review, determine that the wife pension is payable to the person as if the wife pension had never been suspended.
 - (4) If:
 - (a) a person's wife pension is cancelled under section 80; and
 - (b) the cancellation is attributable to the failure of the person's partner to give the Secretary a proof of life certificate in compliance with a notice under subsection 63(2AB); and
 - (c) a proof of life certificate relating to the person's partner is given to the Secretary; and
 - (d) the proof of life certificate was completed during the 12-month period ending when the certificate was given to the Secretary; and
-

- (e) as a result of the giving of the proof of life certificate, the Secretary makes a determination under subsection (2) that a social security payment is payable to the person's partner;
the Secretary must:
- (f) under section 126, review the cancellation of the person's wife pension; and
- (g) as a result of the review, determine that the wife pension is payable to the person as if the wife pension had never been cancelled.

9 Subdivision B of Division 9 of Part 3 (heading)

Before "or 85A", insert ", 85AA".

10 Section 108 (definition of *favourable determination*)

Before "or 85A", insert ", 85AA".

11 Subclause 1(1) of Schedule 1

Insert:

proof of life certificate has the meaning given by section 63A.

Part 2—Cessation of widow B pension and wife pension

Social Security (Administration) Act 1999

12 At the end of subparagraph 63(2AA)(b)(iii)

Add “and”.

13 Subparagraphs 63(2AA)(b)(iv) and (v)

Repeal the subparagraphs.

14 Subsections 85AA(3) and (4)

Repeal the subsections.

*[Minister’s second reading speech made in—
House of Representatives on 25 July 2019
Senate on 10 September 2019]*

(122/19)
