

ceases to be so absent by reason of again becoming an inmate of a mental hospital, she shall, for the purposes of sub-section (1), be deemed to have again become a mental hospital patient.

Suspension of pension where allowance granted under the *Tuberculosis Act* 1948.

Inserted by No. 26, 1950, s. 11; amended by No. 26, 1973, s. 11.

Section 78 repealed by No. 26, 1973, s. 9; section 79 repealed by No. 46, 1963, s. 14.

**77A.** Where an allowance under section 9 of the *Tuberculosis Act* 1948 is payable to or in respect of a pensioner, her pension shall, without further or other authority than this section, be deemed to be suspended during the period in respect of which the allowance is paid.

\* \* \* \* \*

Inmates of benevolent homes.

Sub-section (1) substituted by No. 41, 1952, s. 21; amended by No. 51, 1953, s. 23; No. 38, 1955, s. 11; No. 46, 1957, s. 6; No. 57, 1959, s. 15; No. 45, 1960, s. 18; No. 45, 1961, s. 8; No. 46, 1963, s. 15; No. 63, 1964, s. 6; No. 57, 1965, s. 14; No. 41, 1966, s. 23; No. 65, 1968, s. 14; No. 94, 1969, s. 12; No. 59, 1970, s. 6; No. 67, 1971, s. 9; No. 14, 1972, s. 8; No. 79, 1972, s. 24; No. 1, 1973, s. 9; No. 26, 1973, s. 11; and No. 103, 1973, s. 16.

Sub-sections (2) and (3) omitted by No. 67, 1971, s. 9.

**80.** (1) If an inmate of a benevolent home, being a class B widow, becomes a pensioner, or if a pensioner, being a class B widow, becomes an inmate of a benevolent home—

- (a) she shall, so long as she remains an inmate of the benevolent home, be paid so much of her pension as does not exceed the rate of Four hundred and sixteen dollars per annum or, if an allowance under Division 3A is payable to her, Four hundred and sixty-eight dollars per annum; and
- (b) the balance of her pension shall be paid to the person controlling the benevolent home for the maintenance of the pensioner in the benevolent home.

\* \* \* \* \*

Added by No. 16, 1971, s. 8.

(4) An amount of a pension that would, but for this sub-section, be payable to a person controlling a benevolent home by virtue of the preceding provisions of this section is not so payable in respect of a period during which a Commonwealth benefit is payable under Part V of the *National Health Act* 1953-1970 in respect of hospital treatment received by the widow concerned.

**81.** A woman shall not be entitled to receive at the same time a pension under this Part and—

- (a) under Part III;
- (b) under the *Repatriation Act* 1920-1954 in respect of the death of her husband, including a pension allowed under section 42 or 44 of that Act in respect of the death of a member of the Forces referred to in whichever of those sections is applicable; or
- (c) under the *Repatriation (Far East Strategic Reserve) Act* 1956-1962, or under the *Repatriation (Special Overseas Service) Act* 1962, in respect of the death of her husband, including a pension allowed under section 8 or 9 of either of those Acts in respect of a member of the Forces referred to in whichever of those sections is applicable.

Restrictions as to dual pensions.

Amended by No. 38, 1955, s. 3; No. 98, 1956, s. 5; No. 95, 1962, s. 5; and No. 26, 1973, s. 11.

**82.** (1) If a pensioner is imprisoned, following upon her conviction for an offence, the Director-General may suspend her pension during the term of imprisonment or may forfeit any instalment of the pension falling due during the term of imprisonment.

Imprisonment of pensioner.

(2) Where, in any such case, the pensioner has a child dependent on her, the Director-General may authorize the payment of the whole or any portion of—

- (a) any instalment of the pension which would have been payable to the pensioner if her pension had not been suspended; or
- (b) any instalment of the pension so forfeited,

as the case may be, to some person approved by the Director-General for the benefit of the child.

**83.** (1) Where a house which is owned by a pensioner and is the permanent home of the pensioner is destroyed, demolished or damaged, the Director-General may consent to any insurance moneys or compensation received by the pensioner in respect of the destruction, demolition or damage being used for the purpose of building or purchasing a house in which the pensioner will reside or of repairing the first-mentioned house, and if, within a period determined by the Director-General, the moneys are so used, the rate of the pension payable to the pensioner shall not be reduced by reason of the ownership of those moneys.

Application of insurance moneys.

Sub-section (1) substituted by No. 69, 1948, s. 14.

(2) During the period determined under the last preceding subsection, the value of the land on which the house was built shall not be taken into account in computing the value of the property of the pensioner.

Part IVAAA  
inserted by  
No. 48, 1973,  
s. 9.

Interpret-  
ation.

Inserted by  
No. 48, 1973,  
s. 9.

## PART IVAAA—SUPPORTING MOTHERS' BENEFITS

- 83AAA.** (1) In this Part, unless the contrary intention appears—
- “beneficiary” means a person in receipt of a benefit;
  - “benefit” means a benefit under this Part and includes an allowance by way of supplementary assistance;
  - “child” means a child under the age of sixteen years;
  - “supporting mother” means a woman (whether married or unmarried) who—
    - (a) has the custody, care and control of a child who has attained the age of six months and who—
      - (i) was born of that woman; or
      - (ii) in the case of a woman who is a married woman living apart from her husband or a woman who has ceased to live with a man as his wife on a *bona fide* domestic basis although not legally married to him—was an adopted child of, or in the custody, care and control of, that woman on the relevant date;
    - (b) is not living with, and for a period of at least six months has not been living with, a man as his wife on a *bona fide* domestic basis although not legally married to him; and
    - (c) in the case of a married woman—is living apart from her husband and has been so living apart for a period of at least six months,
 but does not include a woman who is qualified to receive a pension under Part III or IV, or a benefit under Part VII, of this Act, a service pension under the *Repatriation Act* 1920-1973, an allowance under the *Tuberculosis Act* 1948 or is in receipt of a benefit provided by a State that is an approved benefit within the meaning of the *States Grants (Deserted Wives) Act* 1968.
- (2) For the purposes of the definition of “supporting mother” in sub-section (1)—
- (a) the relevant date, in relation to a woman referred to in subparagraph (ii) of paragraph (a) of that definition, is whichever of the following dates is applicable to the woman or, if both dates are so applicable, the later date:—
    - (i) the date on which the woman commenced to live apart from her husband;
    - (ii) the date on which the woman ceased, or last ceased, to live with a man as his wife on a *bona fide* domestic basis although not legally married to him; and
  - (b) a woman shall be deemed not to be, or not to have been, living with a man as his wife on a *bona fide* domestic basis although

not legally married to him, being a man who has been convicted of an offence, during any period during which the man is, or was, imprisoned in connexion with the offence, being a continuous period of not less than six months, whether or not the period commenced before the conviction.

(3) For the purposes of this Part, a child who is being maintained by a woman shall be deemed to be a child of whom the woman has, and had at any time when she was maintaining the child, the custody, care and control.

(4) A reference in this Part to a woman who is living apart from her husband shall be read as a reference to a woman who is so living apart by reason that she and her husband are estranged.

(5) For the purposes of the application of a provision of Part IV in relation to a supporting mother in accordance with section 83AAE or 83AAF, that provision shall be read as if—

- (a) her benefit were a pension under that Part;
- (b) any reference to sub-section (4) of section 59 were a reference to sub-section (3) of this section;
- (c) any reference to section 59A were a reference to section 83AAB;
- (d) any reference to a payment under Part IV were a reference to a benefit; and
- (e) any reference to sub-section (5) of section 74 included a reference to section 83AAG.

**83AAB.** Where a person who is wholly or substantially dependent on a woman—

- (a) has attained the age of sixteen years;
  - (b) is receiving full-time education at a school, college or university; and
  - (c) is not in receipt of an invalid pension under Part III,
- this Part applies in relation to that woman as if that person—
- (d) were a child;
  - (e) were in the custody, care and control of that woman; and
  - (f) had been in the custody, care and control of that woman at any time when he was wholly or substantially dependent on that woman.

Student children over the age of sixteen years.  
Inserted by  
No. 48, 1973,  
s. 9.

**83AAC.** Subject to this Part, a supporting mother is qualified to receive a benefit if she is residing in Australia on the date on which she lodges her claim for the benefit and—

- (a) in the case of a woman who is a supporting mother in relation to a child born of her—that child was born while she was residing in Australia;

Qualifications for benefit.  
Inserted by  
No. 48, 1973,  
s. 9.

- (b) in the case of a married woman living apart from her husband—she was residing in Australia immediately before she so commenced to live apart;
- (c) in the case of a woman who has ceased to live with a man as his wife on a *bona fide* domestic basis although not legally married to him—she was residing in Australia immediately before she so ceased or last so ceased; or
- (d) she has been continuously resident in Australia for a period of not less than five years immediately preceding the date on which she lodges her claim for the benefit.

Condition of  
grant of  
benefit.

Inserted by  
No. 48, 1973,  
s. 9.

**83AAD.** A benefit shall not be granted to a supporting mother unless she has taken such action as the Director-General considers reasonable to obtain maintenance from the father or fathers of the child or children in relation to whom she is a supporting mother.

Rate of  
benefit.

Inserted by  
No. 48, 1973,  
s. 9.

**83AAE.** The rate of a benefit is the rate of the pension (excluding supplementary assistance) that would be payable under Part IV if the supporting mother were a widow for the purposes of that Part.

Application  
of certain  
Divisions of  
Part IV.

Inserted by  
No. 48, 1973,  
s. 9.

**83AAF.** (1) Subject to sub-section (2), Divisions 3A, 4, 5, 6 and 7 of Part IV apply in relation to a beneficiary as if she were a widow for the purposes of that Part.

(2) Paragraph (d) of sub-section (5) of section 74 does not apply in relation to a beneficiary.

Notification  
of change of  
circumstance.

Inserted by  
No. 48, 1973,  
s. 9.

**83AAG.** In the event of—

- (a) a beneficiary, being a married woman, ceasing to live apart from her husband; or
- (b) a beneficiary commencing to live with a man as his wife on a *bona fide* domestic basis although not legally married to him,

the beneficiary shall, within fourteen days after the occurrence of the event, notify a Director accordingly.

Penalty: Forty dollars.

Part IVAA  
substituted by  
No. 26, 1973,  
s. 10.

#### PART IVAA—CONTINUATION OF PAYMENT OF CERTAIN PENSIONS AFTER PENSIONERS LEAVE AUSTRALIA

Interpretation.

Substituted by  
No. 26, 1973,  
s. 10; amended  
by No. 48, 1973,  
s. 10.

**83AA.** In this Part, unless the contrary intention appears, “pension” means a pension under Part III or IV (including a pension or an allowance continued in force by virtue of paragraph (c) or (f) of section 4) or a benefit under Part IVAAA.

**83AB.** Except as provided by this Part, the right of a person to commence, or to continue, to be paid a pension granted to him is not affected by the fact that he leaves Australia after the commencement of this Part.

Right to be paid pension outside Australia.

Substituted by No. 26, 1973, s. 10.

**83AC.** An allowance by way of supplementary assistance is not payable in respect of any period during which the pensioner is outside Australia.

Allowance by way of supplementary assistance.

Substituted by No. 26, 1973, s. 10.

**83AD.** (1) Subject to this section, where—

- (a) a person who formerly resided in Australia has returned to Australia and, before the expiration of the period of twelve months that commenced on the date of his return, has lodged a claim for a pension; and
- (b) that person leaves Australia (whether before or after his claim is determined) before the expiration of that period,

Pension granted to former resident after return to Australia.

Substituted by No. 26, 1973, s. 10.

any pension granted as a result of that claim is not payable in respect of any period during which the pensioner is outside Australia.

(2) Where the Director-General is satisfied, in relation to a person referred to in paragraph (a) of sub-section (1) who has been granted a pension as a result of the claim referred to in that paragraph, that the person's reason for leaving, or wishing to leave, Australia before the expiration of the period referred to in that paragraph arose from circumstances that could not reasonably have been foreseen at the time of his return to Australia, the Director-General may, by instrument in writing, determine that that sub-section does not apply in relation to that pension.

**83AE.** Except as provided by regulations giving effect to an agreement referred to in section 137, a pension payable by virtue of those regulations is not payable in respect of any period during which the pensioner is outside Australia.

Pension payable under agreement referred to in section 137.

Substituted by No. 26, 1973, s. 10.

**83AF.** Where a person who is in receipt of a pension by virtue of this Part or of section 92 of the *Repatriation Act* 1920-1973 would, if that pension were cancelled, be eligible, if he were residing in Australia, for the grant of another pension, being a pension within the meaning of this Part, that other pension (excluding any allowance by way of supplementary assistance) may, on the cancellation of the pension that he is in receipt of, be granted and paid as if he were residing in Australia.

Grant of new pension to pensioner outside Australia.

Inserted by No. 26, 1973, s. 10.

Manner of  
payment of  
pension.

Inserted by  
No. 26, 1973,  
s. 10.

**83AG.** A pension payable by virtue of this Part may be paid in such manner, at such places and in such instalments as the Director-General determines.

Part IVA inserted  
by No. 57, 1965,  
s. 15.

#### PART IVA—FUNERAL BENEFITS

Interpretation.

Inserted by  
No. 57, 1965,  
s. 15.

Sub-section (1)  
amended by  
No. 10, 1967,  
s. 13; No. 94,  
1969, s. 13;  
No. 1, 1973,  
s. 10; No. 26,  
1973, s. 11;  
No. 48, 1973,  
s. 11; and  
No. 103, 1973,  
s. 17.

**83A. (1)** In this Part, unless the contrary intention appears—

“amendment alleviating the operation of the means test”, in relation to a person, means an amendment that operates to diminish or eliminate any reduction that would otherwise be made in the rate of pension payable to or in respect of the person by reason of his means as assessed as defined by section 18 or section 59 of this Act or section 83 of the *Repatriation Act* 1920-1969, as the case may be;

“deceased child”, in relation to a person, means a deceased person who—

- (a) at the time of his death—
  - (i) was in the custody, care and control of the first-mentioned person; and
  - (ii) was under the age of sixteen years; or
- (b) at the time of his death—
  - (i) had attained the age of sixteen years;

\* \* \* \* \*

- (iii) was receiving full-time education at a school, college or university;
- (iv) was wholly or substantially dependent on the first-mentioned person; and
- (v) was not in receipt of an invalid pension under Part III;

“deceased pensioner” means—

- (a) a deceased person who was, at the time of his death, a pensioner;
- (b) a deceased person who had before his death lodged a claim for, and would but for his death have been eligible to receive, an age pension or invalid pension under Part III, a pension under Part IV or a benefit under Part IVAAA, other than such a person who would not have been eligible to receive that pension or benefit, if any amendment of the *Social Services Act* 1947-1968, being—



- (i) an amendment alleviating the operation of the means test in relation to that person made after the date of commencement of the *Social Services Act 1968*; or
- (ii) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act (No. 4) 1973*,

had not been made; or

(c) a deceased person who—

- (i) had before his death lodged a claim for, and would but for his death have been eligible to receive, a sheltered employment allowance under Part VIIA or an allowance under the *Tuberculosis Act 1948*; and
- (ii) would, if he had lodged a claim for a pension or benefit referred to in the last preceding paragraph instead of the claim referred to in the last preceding sub-paragraph, have been eligible, but for his death, to receive that pension or benefit,

other than such a person who would not have been eligible to receive that pension or benefit if any amendment of the *Social Services Act 1947-1968*, being—

- (iii) an amendment alleviating the operation of the means test in relation to that person made after the date of commencement of the *Social Services Act 1968*; or
- (iv) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act (No. 4) 1973*,

had not been made;

“deceased spouse”, in relation to a person, includes a deceased person who has lived with the first-mentioned person as his or her spouse on a permanent and *bona fide* domestic basis, although not legally married to him or her, for not less than three years immediately preceding the deceased person’s death;

“pensioner” means—

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

- (i) there is being paid an age pension or invalid pension under Part III, a pension under Part IV or a benefit under Part IVAAA; or
- (ii) such a pension or benefit would be payable if the person were not in receipt of a rehabilitation allowance under section 135D, other than such a



person to whom or in respect of whom such a pension or benefit would not be payable if any amendment of the *Social Services Act 1947-1968*,

being—

- (i) an amendment alleviating the operation of the means test in relation to that person made after the date of commencement of the *Social Services Act 1968*; or
- (ii) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act (No. 4) 1973*,  
had not been made; or
- (b) a person to whom or in respect of whom there is being paid a sheltered employment allowance under Part VIIA or an allowance under the *Tuberculosis Act 1948* and who, but for the payment of that allowance, would be eligible to receive a pension or benefit of a kind referred to in the last preceding paragraph other than such a person who would not be eligible to receive such a pension or benefit if any amendment of the *Social Services Act 1947-1968*, being—
  - (i) an amendment alleviating the operation of the means test in relation to that person made after the date of commencement of the *Social Services Act 1968*; or
  - (ii) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act (No. 4) 1973*,  
had not been made.

(2) A reference in this Part to the cost of a funeral shall be read as not including a reference to such portion of the cost of a funeral as the Director-General is satisfied was met, or will be met, by payment from a contributory funeral benefit fund, other than a contributory funeral benefit fund of a friendly society or trade union.

Funeral  
benefit  
payable to  
pensioner.

Inserted by  
No. 57, 1965,  
s. 15.

Sub-section (1)  
amended by  
No. 41, 1966,  
s. 32.

**83B.** (1) Subject to this Part, where—

- (a) a person has paid, or is liable to pay, an amount in respect of the cost of the funeral of—
  - (i) the deceased spouse of the person;
  - (ii) a deceased child of the person; or
  - (iii) a deceased pensioner; and
- (b) the first-mentioned person was a pensioner at the time of, or became a pensioner within six months after, the death of the deceased person,

there is payable to the first-mentioned person in respect of the funeral a funeral benefit of—

- (c) Forty dollars; or
- (d) an amount equal to the amount that he has paid or is liable to pay in respect of the cost of the funeral,

whichever is the less.

(2) For the purposes of the application in relation to paragraph (b) of the last preceding sub-section of the definition of “pensioner” in sub-section (1) of the last preceding section, a reference in that definition to an age pension or an invalid pension shall be read as including a reference to a wife’s pension.

Substituted by  
No. 94, 1969,  
s. 14; amended  
by No. 79, 1972,  
s. 27.

\* \* \* \* \*

Sub-section (2A)  
omitted by  
No. 94, 1969,  
s. 14.

(3) Subject to this Part, where—

- (a) a person has paid, or is liable to pay, an amount in respect of the cost of the funeral of a deceased pensioner; and
- (b) the first-mentioned person was a person in receipt of a service pension under the *Repatriation Act* 1920-1964 at the time of, or became such a person within six months after, the death of the deceased person,

Amended by  
No. 41, 1966,  
s. 32.

there is payable to the first-mentioned person in respect of the funeral a funeral benefit of—

- (c) Forty dollars; or
- (d) an amount equal to the amount that he has paid or is liable to pay in respect of the cost of the funeral,

whichever is the less.

(3A) The reference in paragraph (b) of sub-section (3) to a service pension does not include a reference to such a pension that would not be payable if—

Substituted by  
No. 103, 1973,  
s. 18.

(a) any amendment of the *Repatriation Act* 1920-1968, being—

- (i) an amendment alleviating the operation of the means test in relation to the person in receipt of the pension made after the date of commencement of the *Repatriation Act* 1968; or
- (ii) an amendment of a rate of pension, allowance or benefit under Division 5 of Part III made after the date of commencement of the *Repatriation Act* (No. 3) 1973,

had not been made; and

(b) any amendment of the *Social Services Act* 1947-1968, being—

- (i) an amendment alleviating the operation of the means test in relation to the person in receipt of the pension

made after the date of commencement of the *Social Services Act 1968*; or

- (ii) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act (No. 4) 1973*,

had not been made.

(4) Where the person administering a contributory funeral benefit fund of a trade union or friendly society has paid an amount in respect of the cost of a funeral to the person who conducted the funeral, the Director-General may direct that, for the purposes of this section, the amount shall be deemed to have been paid by a person specified by the Director-General.

Other funeral benefits.

Inserted by No. 57, 1965, s. 15. Sub-section (1) amended by No. 41, 1966, s. 32; and No. 48, 1973, s. 12.

**83C.** (1) Subject to this Part, there is payable in respect of the funeral of a deceased pensioner, other than a person who was at the time of her death in receipt of, or would but for her death have been eligible to receive, a pension under Part IV or a benefit under Part IVAAA, a funeral benefit of Twenty dollars or of an amount equal to the cost of the funeral, whichever is the less.

(2) A payment of a benefit under this section shall be made to the person who has paid or is liable to pay the cost of the funeral or, if the Director-General so directs, to a person specified by the Director-General.

(3) A payment of a funeral benefit under this section shall not be made to a person administering a contributory funeral benefit fund.

Benefit payable only once in respect of the same funeral.

Inserted by No. 57, 1965, s. 15.

**83D.** (1) Subject to the next succeeding sub-section, a funeral benefit under this Part shall not be paid in respect of a funeral if a funeral benefit in respect of that funeral has been paid under this Part or under the *Repatriation Act 1920-1964*.

Amended by No. 26, 1973, s. 11.

(2) A funeral benefit may be paid under section 83B in respect of a funeral notwithstanding that a funeral benefit in respect of that funeral has been paid under section 83C, but there shall be deducted from the first-mentioned funeral benefit the amount of the funeral benefit paid under section 83C.

Applications may be made within six months.

Inserted by No. 57, 1965, s. 15.

**83E.** A payment of a funeral benefit under this Part in respect of a funeral of a person shall not be made unless an application for the benefit is made within six months after the death of the person or within such longer period after that death as the Director-General, in special circumstances, allows.

## PART V—MATERNITY ALLOWANCES

**84.** (1) In this Part, unless the contrary intention appears—

Definitions.

“birth” includes a birth at which more than one child is born;

“claimant” means a person claiming a maternity allowance;

“maternity allowance” means a maternity allowance under this Part;

“other children”, in relation to a birth in respect of which a claim for a maternity allowance is made, means children born prior to that birth who, on the date of that birth, are under the age of sixteen years and of whom the claimant has the custody, care and control, and, where more than one child is born at a birth, those children shall, for the purposes of this definition, be deemed to have been born at the same birth.

(2) Where a husband has the custody, care and control of a child, that child shall, except where the husband and his wife are permanently living apart, be deemed, for the purposes of this Part, to be in the custody, care and control of the wife.

**85.** (1) Subject to this Part, a maternity allowance shall be granted to a woman who—

Maternity allowances.

(a) gives birth to a child, either in Australia or on board a ship proceeding to Australia or from a port in Australia or a Territory to another port in Australia or a Territory; and

(b) on the date on which she lodges her claim, is residing in Australia or is in Australia and satisfies the Director-General that she intends to remain in Australia.

(2) A maternity allowance shall not be granted in respect of the birth of a child which occurred outside Australian territorial waters on board a ship proceeding to Australia if the mother has received or is entitled to receive an allowance, similar to a maternity allowance, under the law of any other country in respect of that birth.

(3) A maternity allowance shall be granted in respect of each occasion on which a birth occurs and—

(a) a child is born alive and lives for not less than twelve hours; or

(b) a child is not born alive, or is born alive but lives for less than twelve hours, and the Director-General is satisfied that the period of the intra-uterine life of the child was not less than five and a half calendar months.

(4) Where more than one child is born at a birth, only one maternity allowance shall be granted.

Persons disqualified for maternity allowance.

Sub-section (1) amended by No. 216, 1973, s. 3.

**86. (1)** A maternity allowance shall not be granted to a woman who is an alien unless—

\* \* \* \* \*

(b) that woman or her husband resided in Australia for at least twelve months immediately prior to the birth of the child.

Substituted by No. 22, 1951, s. 19.

(2) Notwithstanding the provisions of the last preceding sub-section, a woman, who, by reason of those provisions, is not eligible for the grant of a maternity allowance, may be granted a maternity allowance in respect of a birth which occurs within twelve months after her arrival in Australia or on board a ship proceeding to Australia or from a port in Australia or a Territory to another port in Australia or a Territory, but, unless the Director-General is satisfied that the woman is likely to remain in Australia, payment of the maternity allowance shall not be made until the expiration of twelve months from the date of her arrival.

Sub-section (3) omitted by No. 57, 1959, s. 16.

\* \* \* \* \*

Amount of allowance.

Sub-section (1) amended by No. 41, 1966, s. 32.

**87. (1)** The amount of a maternity allowance shall be—

- (a) where there are no other children—Thirty dollars;
- (b) where there are one or two other children—Thirty-two dollars; or
- (c) where there are three or more other children—Thirty-five dollars.

Amended by No. 41, 1966, s. 32.

(2) Where more than one child is born at a birth, the amount of the maternity allowance which would otherwise have been payable shall be increased by Ten dollars in respect of each additional child born at that birth.

Claims for maternity allowance.

Amended by No. 22, 1951, s. 20.

**88.** A maternity allowance shall not be granted unless a claim therefor, in accordance with a form approved by the Director-General, is lodged with the Director in the State in which the claimant resides or as prescribed, within six months after the birth or within such longer period as the Director-General, in special circumstances, allows.

Payment on account prior to birth.

Amended by No. 67, 1956, s. 10; and No. 41, 1966, s. 32.

**89.** A woman may, upon application to the Director in the State in which she resides, or as prescribed, be paid the sum of Twenty dollars on account of a maternity allowance, if the Director is satisfied, upon the production of medical evidence, that the woman is likely to give birth to a child within a period of four weeks.

90. (1) A maternity allowance shall be paid, in such manner as the Director-General determines, to the person to whom the allowance is granted or to a person appointed by her in writing to receive it and in either case it shall not be necessary for the claimant or other person to give a receipt for the payment.

Payment of  
maternity  
allowance.

(2) Where a mother dies, the Director-General may (upon application made within six months after the date of the birth, or within such longer period as the Director-General, in special circumstances, allows) pay to the person who, in his opinion, is best entitled to receive it, any sum payable to the mother by way of maternity allowance, or which would have been payable to her if she had lived and had lodged a claim in accordance with this Part.

91. Where the Director-General is satisfied that, for any reason, it is desirable that payment of the whole or a portion of a maternity allowance should be made to a person, institution or authority on behalf of the person to whom the allowance is granted, the Director-General may authorize payment accordingly.

Payment of  
allowance to  
other person,  
&c.  
Substituted by  
No. 57, 1959,  
s. 17.

92. (1) Where a woman gives birth to a child outside Australia and not on board a ship proceeding to Australia or from a port in Australia or a Territory to another port in Australia or a Territory, and—

Payment of  
maternity  
allowance in  
respect of  
birth during  
temporary  
absence  
from  
Australia.

- (a) that woman is the wife of a man who is employed by the Commonwealth or a State, or by an authority of the Commonwealth or a State, and is temporarily stationed outside Australia;
- (b) that woman is the wife of a man who is a member of the Defence Force; or
- (c) the usual place of residence of that woman is in Australia but she is temporarily absent from Australia,

this Part shall have effect as if the birth had occurred in Australia and that woman were residing in Australia.

(2) A maternity allowance shall not be granted to a woman by virtue of the last preceding sub-section—

Amended by  
No. 69, 1948,  
s. 16; No. 46,  
1957, s. 7;  
No. 26, 1973,  
s. 11; and  
No. 216, 1973,  
s. 3.

- (a) unless that woman or her husband—
  - (i) is a resident of Australia as defined by the *Income Tax Assessment Act* 1936-1973; and
  - (ii) is not a resident of a place outside Australia specified in section 7 of that Act; or
- (b) if that woman has been granted an allowance, similar to a maternity allowance, in respect of the birth under the law of any other country.

Amended by  
No. 26, 1973,  
s. 11.

(3) A maternity allowance shall not be granted to a woman specified in paragraph (a) or (b) of sub-section (1) whose usual place of residence is not in Australia, unless the Director-General is satisfied that she intends to become a resident of Australia as soon as it is reasonably possible for her to do so.

Amended by  
No. 26, 1973,  
s. 11.

(4) Payment of a maternity allowance shall not be made to a woman specified in paragraph (c) of sub-section (1) while she is temporarily absent from Australia, unless the Director-General is satisfied that the period of her temporary absence is likely to exceed twelve months.

Liability of  
Common-  
wealth.

93. Where payment of a maternity allowance has been made in accordance with this Part, the Commonwealth shall not be liable to any action, claim or demand for any further payment in respect of that allowance.

## PART VI—CHILD ENDOWMENT

Inter-  
pretation.

Sub-section (1)  
amended by  
No. 3, 1964, s. 3;  
No. 41, 1966,  
s. 24; and  
No. 26, 1973,  
s. 11.

94. (1) In this Part, unless the contrary intention appears—

“child” means—

(a) a person under the age of sixteen years; or

(b) a person who—

(i) has attained the age of sixteen years but is under the age of twenty-one years;

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

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

“claimant” means a person or institution claiming an endowment;

“endowee” means a person or institution to whom an endowment has been granted;

“endowment” means an endowment under this Part and includes an endowment continued in force by virtue of paragraph (h) of section 4;

“institution” means a charitable or religious institution or organization (including a charitable institution or organization maintained by the Commonwealth or a State) approved by the Director-General, but does not include a mental hospital maintained by the Commonwealth or a State or mainly dependent upon financial assistance from the Commonwealth or a State;

“student child” means a person referred to in paragraph (b) of the definition of “child” in this sub-section;

“training agreement” means an agreement or arrangement under which—

(a) a person (in the next succeeding paragraph called “the trainee”) is to pursue a course of study or training or



both, or an amount is to be paid to another person in the event of a person (in the next succeeding paragraph also called "the trainee") failing to pursue a course of study or training or both; and

- (b) the trainee is to remain or engage in employment as set out in the agreement or arrangement, or an amount is to be paid to another person in the event of the trainee failing to remain or engage in employment as set out in the agreement or arrangement,

and includes any agreement or arrangement that has, either directly or indirectly, a like purpose or effect.

(1A) A person (not being a person who is receiving, at a school or college, education of a class or kind that, in the opinion of the Director-General, is secondary education) who—

Inserted by  
No. 3, 1964,  
s. 3.

- (a) is in receipt of payments by way of wages, salary or allowance from another person; and

- (b) is a party to a training agreement with the other person,

shall be deemed to be in employment for the purposes of this Part.

(1B) The Director-General may, having regard to the nature of, and the amount earned or to be earned and the time occupied or to be occupied in, any employment or work or any intended employment or work, direct that the employment or work shall not be taken into account, or that the intended employment or work shall not, when begun, be taken into account, in determining whether or not, for the purposes of the definition of "child" in sub-section (1), a person is or was in employment or engaged in work on his own account.

Inserted by  
No. 3, 1964,  
s. 3; amended by  
No. 26, 1973,  
s. 11.

(1C) The Director-General may, having regard to the nature of the employment or work of persons included in a class of persons, direct that that employment or work shall not be taken into account in determining whether or not, for the purposes of the definition of "child" in sub-section (1), any person included in that class of persons is or was in employment or engaged in work on his own account.

Inserted by  
No. 3, 1964,  
s. 3; amended by  
No. 26, 1973,  
s. 11.

(1D) The Director-General may, at any time, revoke or vary a direction given under either of the last two preceding sub-sections.

Inserted by  
No. 3, 1964,  
s. 3.

(2) Where a husband has the custody, care and control of a child, that child shall, except where the husband and his wife are permanently living apart, be deemed, for the purposes of this Part, to be in the custody, care and control of the wife.

Amended by  
No. 41, 1966,  
s. 24.

(3) Where a child is an inmate of a mental hospital maintained by the Commonwealth or a State or mainly dependent upon financial assistance from the Commonwealth or a State and a person is making a reasonable contribution towards the expenses of maintaining that child—

- (a) the Director-General may, in his discretion, determine that, for the purposes of this Part, that person shall be deemed to have the custody, care and control of that child; or
- (b) if that person is a married man not living permanently apart from his wife, the Director-General may, in his discretion, determine that, for the purposes of this Part, that person's wife shall be deemed to have the custody, care and control of that child.

Child  
endowment.  
Substituted by  
No. 3, 1964,  
s. 4.

**95.** (1) Subject to this Part, a person who has the custody, care and control of a child (not being a child who is an inmate of an institution) or an institution of which children are inmates is qualified to receive an endowment in respect of each such child in accordance with this section.

Inserted by  
No. 61, 1967,  
s. 3.

(1A) The rate at which an endowment is payable is the rate applicable from time to time in accordance with this section.

Substituted by  
No. 61, 1967,  
s. 3; amended by  
No. 67, 1971,  
s. 10.

(2) The rate of endowment in respect of a child under the age of sixteen years 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—Fifty cents per week;
- (b) where there are two or more such children and the child is the younger or second eldest of them—One dollar per week;
- (c) where there are three or more such children and the child is the third eldest of them—Two dollars per week; and
- (d) where there are four or more such children and the child is not one of the three eldest of them—an amount per week that exceeds by Twenty-five cents the amount payable in respect of the next elder of those children.

Amended by  
No. 41, 1966,  
s. 32.

(3) The rate of an endowment payable to an endowee, other than an institution, in respect of a student child is One dollar fifty cents per week.

Substituted by  
No. 67, 1971,  
s. 10.

(4) The rate of endowment payable to an endowee, being an institution, in respect of a child is—

- (a) where the child is a student child—One dollar fifty cents per week; or
- (b) in any other case—Two dollars per week.

(5) An endowment shall not be granted in respect of a child whose father is, or, if his father is dead, was at the date of his death, an alien unless—

- (a) the child was born in Australia;

- (b) the mother of the child is a British subject; or
- (c) the Director-General is satisfied that the child is likely to remain permanently in Australia.

(6) Where, for any reason, any children who would otherwise be living together as one family or as part of one family are not living together, the Director-General may, if he thinks fit, authorize payment of endowment in respect of any of those children at the rate that would be payable if those children were living together as one family or as part of one family, not being a rate that is less than the rate that would otherwise be payable.

\* \* \* \* \*

Sub-section (7)  
omitted by  
No. 67, 1971,  
s.10.

(8) Where an endowment granted in respect of a child is payable from a date before the date on which it is granted, the endowment shall, for the purposes of calculating the rate of an endowment in respect of a younger child, be deemed to have become payable on the date from which it is payable.

Added by  
No. 61, 1967,  
s. 3.

**96.** (1) Subject to section 104, an endowment shall not be granted unless—

Qualification  
for  
endowment.  
Sub-section (1)  
amended by  
No. 26, 1973,  
s. 11.

(a) the claimant (not being an institution)—

(i) is in Australia; and

(ii) if not born in Australia, has, during the period of twelve months immediately preceding the date on which the claim was lodged, had his usual place of residence in Australia; and

(b) the child in respect of whom the endowment is claimed—

(i) is in Australia; and

(ii) if not born in Australia, has, during the period of twelve months immediately preceding the date on which the claim was lodged, been resident in Australia.

(2) Sub-paragraph (ii) of paragraph (a) and sub-paragraph (ii) of paragraph (b) of the last preceding sub-section shall not apply where—

Substituted by  
No. 26, 1950,  
s. 13.

(a) the Director-General is satisfied that the claimant and the child are likely to remain permanently in Australia; or

(b) the claim relates to a child who is in the custody, care and control of a member, or of the wife of a member, of the Naval, Military or Air Forces of the United Kingdom who is serving with the Naval, Military or Air Forces of the Commonwealth.

Amended by  
No. 26, 1973,  
s. 11.

(3) A person who is serving outside Australia as a member of the Defence Force—

- (a) shall be deemed, for the purposes of sub-paragraph (i) of paragraph (a) of sub-section (1), to be in Australia; and
- (b) shall, if immediately prior to his leaving Australia, his usual place of residence was in Australia, be deemed, for the purposes of sub-paragraph (ii) of that paragraph, to have continued to have his usual place of residence in Australia.

Amended by  
No. 26, 1973,  
s. 11.

(4) A child born out of Australia shall be deemed, for the purposes of sub-paragraph (ii) of paragraph (b) of sub-section (1), to have been born in Australia if, at the date of his birth, the usual place of residence of his mother was in Australia and her absence from Australia was temporary only.

Section 97  
repealed by  
No. 41, 1966,  
s. 26.

\* \* \* \* \*

Claims.

**98.** A claim for an endowment—

- (a) shall be made in writing in accordance with a form approved by the Director-General;
- (b) shall be supported by such declaration as is approved by the Director-General; and
- (c) shall be lodged with the Director in the State in which the claimant resides or as prescribed.

Payment of  
endowment.

**99.** (1) An endowment shall be paid—

- (a) to the endowee; or
- (b) on behalf of the endowee, to such other person as the endowee appoints in accordance with a form approved by the Director-General.

(2) An endowment shall be paid in such manner as the Director-General determines.

(3) An endowment may, with the consent of the Director-General, be paid to the credit of a bank account specified by the person to whom, or the institution to which, the endowment is payable.

Payment of  
endowment  
to other  
person, &c.  
Substituted by  
No. 57, 1959,  
s. 19.

**100.** Where the Director-General is satisfied that, for any reason, it is desirable that payment of the whole or a portion of an endowment should be made to a person, institution or authority on behalf of the endowee, the Director-General may authorize payment accordingly.

Endowment  
periods.

Amended by  
No. 6, 1950, s. 4.

**101.** Subject to this Part, endowments shall be payable in respect of endowment periods, as determined by the Director-General.

**102.** (1) Subject to the next succeeding sub-section, an endowment granted to a person (other than an institution) shall be payable—

- (a) if a claim is lodged within six months after the date on which the claimant became eligible to claim the endowment, or, in special circumstances, within such longer period as the Director-General allows—from the commencement of the next endowment period after that date; or
- (b) in any other case—from the commencement of the next endowment period after the date on which the claim for endowment is lodged.

Date from which endowment payable.  
Sub-section (1) amended by No. 6, 1950, s. 5; and No. 22, 1951, s. 21.

(2) Where an endowment is granted to a person (other than an institution) by reason of that person having assumed the custody, care and control of a child who, immediately before that person assumed his custody, care and control, was a child in respect of whom an endowment was paid, the endowment shall be payable from the date on which the claim for endowment is lodged, but, where the claim is lodged within six months after the date on which the first-mentioned person assumed the custody, care and control of the child, or, in special circumstances, within such longer period as the Director-General allows, the endowment shall be payable from that date.

Amended by No. 6, 1950, s. 5; and No. 22, 1951, s. 21.

(3) An endowment granted to an institution shall be payable from the date on which the claim for endowment is lodged, but, where the claim is lodged within three months after the date on which the child in respect of whom the claim is made became an inmate of the institution, the endowment shall be payable from that date.

Amended by No. 6, 1950, s. 5.

**103.** (1) Subject to section 104, an endowment payable to an endowee in respect of a child ceases to be payable if—

- (a) the endowee ceases to have the custody, care and control of the child;
- (b) the child, being a child in the custody, care and control of a person other than an institution, becomes an inmate of an institution;
- (c) the child, being a child who is an inmate of an institution, ceases to be an inmate of the institution;
- (d) the endowee ceases to have his usual place of residence in Australia, unless his absence from Australia is temporary only;
- (e) the child ceases to be in Australia, unless his absence from Australia is temporary only;
- (f) the child attains the age of sixteen years, unless the Director-General is satisfied, before the expiration of three months after the child attains that age, that the child became a student child on attaining that age;
- (g) the child, being a student child—
  - (i) attains the age of twenty-one years;

Endowment to cease in certain circumstances.  
Substituted by No. 3, 1964, s. 5.  
Sub-section (1) amended by No. 26, 1973, s. 11.

- (ii) ceases to receive full-time education at a school, college or university;
- (iii) begins to be in employment or to be engaged in work, other than employment or work that is the subject of a direction under sub-section (1B) or (1C) of section 94; or
- (iv) continues to be in employment or to be engaged in work after a direction under sub-section (1B) or (1C) of section 94 in relation to the employment or work has been revoked;
- (h) the child dies; or
- (i) the child marries.

(2) Where an endowment ceases to be payable to a person, other than an institution, by reason of an event specified in a paragraph, other than paragraph (a) or (b), of the last preceding sub-section, the endowment ceases to be payable from the end of the endowment period during which that event occurred.

Adjustment  
of rates  
where child  
becomes  
student  
child.

Substituted by  
No. 61, 1967,  
s. 4.

**103A.** Where a child in respect of whom an endowment is payable becomes a student child, the rate of the endowment in respect of that child or any other child is not affected by reason of that event in respect of the endowment period during which the child becomes a student child.

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

Substituted by  
No. 61, 1967,  
s. 4.

**103B.** In respect of any period during which an endowee has the custody, care and control of a child under the age of sixteen years in respect of whom endowment is not payable (in this section referred to as "the excluded child"), the Director-General may, if he thinks fit, authorize payment, in respect of every child under the age of sixteen years in respect of whom endowment is payable to the endowee, of endowment at the rate that would be applicable—

- (a) if the excluded child were a child in respect of whom endowment is payable; and
- (b) where the excluded child is not older than every child under the age of sixteen years in respect of whom endowment is payable to the endowee—if the excluded child were older than every such child.

**104. (1) Where—**

- (a) a man is employed by the Commonwealth or a State, or by an authority of the Commonwealth or a State, and is temporarily stationed outside Australia;
- (b) a woman is not in Australia and is the wife of such a man;
- (c) a man is not in Australia and is a member of the Defence Force;
- (d) a woman is not in Australia and is the wife of a man who is a member of the Defence Force; or
- (e) a man or woman whose usual place of residence is in Australia is temporarily absent from Australia,

Payment of endowment during temporary absence from Australia.

Substituted by No. 69, 1948, s. 17.

Sub-section (1) amended by No. 6, 1950, s. 8.

and that man or woman has the custody, care and control of one or more children, this Part shall have effect as if that man or woman and each of those children were in Australia.

(2) An endowment shall not be granted or paid by virtue of the last preceding sub-section unless the person to whom the endowment is granted or paid or, if that person is a woman, that woman or her husband—

Substituted by No. 46, 1957, s. 8; amended by No. 26, 1973, s. 11; and No. 216, 1973, s. 3.

- (a) is a resident of Australia as defined by the *Income Tax Assessment Act* 1936-1973; and
- (b) is not a resident of a place outside Australia specified in section 7 of that Act.

(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 that 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.

Amended by No. 61, 1967, s. 5; and No. 26, 1973, s. 11.

(4) An endowment shall not be granted or paid to a woman specified in paragraph (b) or (d) of sub-section (1) whose usual place of residence is not in Australia, unless the Director-General is satisfied that she intends to become a resident of Australia as soon as it is reasonably possible for her to do so.

Amended by No. 26, 1973, s. 11.

(5) Payment of an endowment shall not be made to a man or woman specified in paragraph (e) of sub-section (1) while that man or woman is temporarily absent from Australia, unless the Director-General is satisfied that the period of temporary absence is likely to exceed twelve months.

Amended by No. 26, 1973, s. 11.



Endowee to notify the occurrence of certain events.

Inserted by No. 3, 1964, s. 6; amended by No. 41, 1966, s. 32; and No. 26, 1973, s. 11.

**104A.** Where a child who is in the custody, care and control of an endowee—

- (a) ceases to be in the custody, care and control of the endowee;
- (b) ceases to be in Australia;
- (c) dies;
- (d) marries; or
- (e) being a student child—
  - (i) ceases to receive full-time education at a school, college or university; or
  - (ii) begins to be in employment or to be engaged in work, other than employment or work that is the subject of a direction under sub-section (1B) or (1C) of section 94,

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

Penalty: Forty dollars.

Application of endowment.

Amended by No. 57, 1959, s. 20.

**105.** An endowment shall be applied, by the person, institution or authority to whom it is payable, to the maintenance, training and advancement of the child in respect of whom it is granted or, in such cases as are prescribed, in such manner as is prescribed.

Part VIA inserted by No. 103, 1973, s. 19.

## PART VIA—DOUBLE ORPHANS' PENSIONS

Definitions.

Inserted by No. 103, 1973, s. 19.

**105A.** (1) In this Part, unless the contrary intention appears—

“child” has the same meaning as in Part VI;

“double orphan” means—

- (a) a child (other than an adopted child) both of whose parents are dead; or
- (b) an adopted child both of whose adoptive parents are dead or, if there was only one adoptive parent, whose adoptive parent is dead.

(2) For the purposes of a claim for a double orphan's pension—

- (a) where one parent of a child (other than an adopted child) is dead and the whereabouts of the other parent of the child are not known to the claimant, the other parent shall be deemed to be dead; and
- (b) where one of two adoptive parents of an adopted child is dead and the whereabouts of the other adoptive parent of the child are not known to the claimant, the other adoptive parent shall be deemed to be dead.

**105B.** (1) A person or institution that is qualified to receive an endowment under Part VI in respect of a child who is a double orphan is qualified to receive, in addition to that endowment, a double orphan's pension in respect of that child.

Qualification for double orphan's pension.  
Inserted by No. 103, 1973, s. 19.

(2) This section does not apply in relation to a child in respect of any period during which the child is in receipt of a pension under Table A in Schedule 3 to the *Repatriation Act 1920-1973*.

**105C.** The rate of a double orphan's pension in respect of a child is Ten dollars per week.

Rate of pension.  
Inserted by No. 103, 1973, s. 19.

**105D.** Subject to this Part, Part VI applies in relation to a claim for, or the payment of, a double orphan's pension as if that pension were an endowment under Part VI.

Application of Part VI.  
Inserted by No. 103, 1973, s. 19.

**105E.** Where—

- (a) a person is in receipt of a double orphan's pension in respect of a child who is a double orphan by reason of the fact that the whereabouts of the surviving parent of the child are not known to that person; and
- (b) that person becomes aware of the whereabouts of that surviving parent,

Notification of knowledge of whereabouts of a parent.  
Inserted by No. 103, 1973, s. 19.

that person shall, within fourteen days after he so becomes aware, notify a Director accordingly.

Penalty: Forty dollars.

**105F.** A double orphan's pension that is payable in respect of a child by reason of the fact that the whereabouts of the surviving parent of the child are not known to the person or institution in receipt of the pension ceases to be payable if the whereabouts of that surviving parent become known to that person or institution.

Cessation of pension if whereabouts of surviving parent become known.  
Inserted by No. 103, 1973, s. 19.

**105G.** A double orphan's pension shall be applied by the person, institution or authority to whom it is payable to the maintenance, training and advancement of the child in respect of whom it is granted.

Application of pension under this Part.  
Inserted by No. 103, 1973, s. 19.

## PART VII—UNEMPLOYMENT AND SICKNESS BENEFITS

*Division 1—Preliminary*

## Interpretation.

Sub-section (1) amended by No. 69, 1948, s. 18; No. 26, 1950, s. 14; No. 41, 1952, s. 22; No. 51, 1953, s. 24; No. 38, 1955, s. 3; No. 67, 1956, s. 11; No. 98, 1956, s. 6; No. 44, 1958, s. 19; No. 57, 1959, s. 21; No. 95, 1962, s. 6; No. 59, 1970, s. 7; No. 1, 1973, s. 11; No. 26, 1973, s. 11; No. 103, 1973, s. 20; and No. 216, 1973, s. 3.

**106.** (1) In this Part, unless the contrary intention appears—

“beneficiary” means a person in receipt of a benefit;

“benefit” means an unemployment benefit, sickness benefit or special benefit under this Part and includes a supplementary allowance;

“claimant” means a person claiming a benefit;

“dependant”, in relation to a beneficiary, means a person who is taken into account, under sub-section (2), (3), (4), (4A) or (5) of section 112, in calculating the rate of benefit payable to the beneficiary;

“friendly society” means a friendly society approved by the Director-General, and includes any person who, or body which, in the opinion of the Director-General, is similar in character to, and provides benefits similar in nature to the benefits provided by, a friendly society and is approved by the Director-General;

“income”, in relation to a person, means any personal earnings, moneys, valuable consideration or profits earned, derived or received by that person for his own use or benefit by any means from any source whatsoever, within or outside Australia, and includes any periodical payment or benefit by way of gift or allowance, but does not include—

- (a) a payment made to a person for or in respect of a child of whom that person has the custody, care and control;
- (aa) a payment (other than a periodical payment or a payment representing an accumulation of instalments) made to reimburse a person in respect of medical, dental or similar expenses paid by him;
- (b) a payment under Part III, IV, V, VI, VIA or VIIA;
- (c) a benefit under a law of the Commonwealth (other than this Act) relating to the provision of pharmaceutical, sickness or hospital benefits, or of medical or dental services;
- (d) a payment made by an organization registered under a law referred to in the last preceding paragraph for or in respect of expenses incurred by a person for hospital, medical or dental treatment;
- (e) a payment under section 9 of the *Tuberculosis Act* 1948;
- (f) a pension payable under the *Repatriation Act* 1920-1962, a pension payable under the *Repatriation (Far East Strategic Reserve) Act* 1956-1962 or under the *Repatriation (Special Overseas Service) Act* 1962 or an amount payable by the Repatriation Commission to a

member of the Forces as an allowance for expenditure incurred or to be incurred by the member of the Forces for his transport for the purposes of recreation or as an allowance towards the cost of maintenance and running expenses of a motor vehicle provided by that Commission for the member of the Forces because of his serious incapacity;

- (fa) an amount payable to a member of the Forces as an allowance by reason of the fact that he has been awarded a decoration;
- (g) a pension which is payable under the law of a country other than Australia and, in the opinion of the Director-General, is similar in character to a pension specified in paragraph (f);
- (h) a pension payable under the *Seamen's War Pensions and Allowances Act* 1940-1946; or
- (i) an amount payable by the Repatriation Commission as a clothing allowance to a member of the Forces whose clothing, because of a disability from which he suffers, is subject to exceptional wear and tear or damage;

“married person” does not include a widower or widow or a person whose marriage has been dissolved but who has not remarried;

“Registrar” means a Registrar of Unemployment and Sickness Benefits;

“rent”, in relation to a beneficiary, means rent in respect of premises, or a part of premises, occupied by him as his home, and includes amounts payable by him for lodging or for board and lodging;

“supplementary allowance” means a supplementary allowance payable under section 112A;

“unmarried person” includes a widower or widow and a person whose marriage has been dissolved but who has not remarried.

(1A) Where a person who is wholly or substantially dependent on a claimant or beneficiary—

Inserted by  
No. 1, 1973,  
s. 11.

- (a) has attained the age of sixteen years;
- (b) is receiving full-time education at a school, college or university;  
and
- (c) is not in receipt of an invalid pension under Part III,

Division 3 applies in relation to that claimant or beneficiary as if that person were a child under the age of sixteen years in the custody, care and control of the claimant or beneficiary.

Added by  
No. 69, 1948,  
s. 18.

(2) Where a person is entitled to receive income by way of periodical payments made at intervals longer than one week, that person shall be deemed to receive in each week an amount proportionate to the number of weeks in each period in respect of which he is entitled to receive payment.

Added by  
No. 10, 1967,  
s. 15; amended  
by No. 79, 1972,  
s. 28; and  
No. 26, 1973,  
s. 11.

(3) Where the Director-General is satisfied that, but for the operation of Part VIIA, a woman would be in receipt of a wife's pension, he may direct that, for the purposes of section 107, 108 or 124, she shall be treated as if she were in receipt of a wife's pension.

### *Division 2—Qualifications for Benefits*

Unemploy-  
ment  
benefits.

Amended by  
No. 38, 1955,  
s. 3; No. 79,  
1972, s. 29; and  
No. 26, 1973,  
s. 11.

**107.** Subject to this Part, a person (not being a person in receipt of a pension under Part III or Part IV or a service pension under the *Repatriation Act* 1920-1972) who—

- (a) has attained the age of sixteen years but, being a male, has not attained the age of sixty-five years or, being a female, has not attained the age of sixty years;
- (b) is residing in Australia on the date on which he lodges his claim for a benefit and—
  - (i) has been continuously so resident for a period of not less than twelve months immediately preceding that date; or
  - (ii) satisfies the Director-General that he is likely to remain permanently in Australia; and
- (c) satisfies the Director-General that he—
  - (i) is unemployed and that his unemployment is not due to his being a direct participant in a strike;
  - (ii) is capable of undertaking, and is willing to undertake, work which, in the opinion of the Director-General, is suitable to be undertaken by that person; and
  - (iii) has taken reasonable steps to obtain such work,

shall be qualified to receive an unemployment benefit.

Sickness  
benefits.

Sub-section (1)  
amended by  
No. 38, 1955,  
s. 3; No. 10,  
1967, s. 16;  
No. 79, 1972,  
s. 30; and  
No. 26, 1973,  
s. 11.

**108.** (1) Subject to this Part, a person (not being a person in receipt of a pension under Part III or Part IV, or allowance under Part VIIA, or a service pension under the *Repatriation Act* 1920-1972) who—

- (a) has attained the age of sixteen years but, being a male, has not attained the age of sixty-five years or, being a female, has not attained the age of sixty years;
- (b) is residing in Australia on the date on which he lodges his claim for a benefit and—
  - (i) has been continuously so resident for a period of not less than twelve months immediately preceding that date; or

- (ii) satisfies the Director-General that he is likely to remain permanently in Australia; and
- (c) satisfies the Director-General that he is temporarily incapacitated for work by reason of sickness or accident and has thereby suffered a loss of salary, wages or other income,

shall, unless the Director-General is satisfied that the incapacity was brought about with a view to obtaining a sickness benefit, be qualified to receive a sickness benefit.

(2) Where a payment is made by a person to another person who acts as his substitute during any period of incapacity, the Director-General may, for the purposes of the last preceding sub-section, if he is satisfied that the payment was made justifiably and *bona fide*, regard the first-mentioned person as having suffered a loss of income equal to the amount of that payment.

**109.** For the purposes of the last two preceding sections, a claimant shall be deemed to have been resident in Australia during any period of absence from Australia which was attributable to circumstances connected with a war in which His Majesty was engaged.

Absence  
from  
Australia  
during war.

**110.** (1) Subject to the next succeeding sub-section, a married woman shall not be qualified to receive a sickness benefit if the Director-General is satisfied that it is reasonably possible for her husband to maintain her.

Married  
women.

(2) Where the Director-General is satisfied that the husband of a married woman is able to maintain her partially, she may, if she is otherwise qualified to be granted a sickness benefit, be granted a sickness benefit at such rate (not exceeding the maximum rate which would otherwise be payable to her) as the Director-General considers reasonable in the circumstances.

(3) This section shall not apply in relation to a married woman living apart from her husband—

- (a) in pursuance of a separation agreement in writing or of a decree, judgment or order of a court; or
- (b) in such circumstances that the Director-General is satisfied that the separation is likely to be permanent.

\* \* \* \* \*

*Division 3—Rate of Benefits*

Rate of unemployment and sickness benefit.

Sub-section (1) substituted by No. 1, 1973, s. 12; amended by No. 103, 1973, s. 21.

Substituted by No. 1, 1973, s. 12; amended by No. 103, 1973, s. 21.

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

- (a) in the case of an unmarried person—Twenty-three dollars per week; or
- (b) in any other case—Twenty dollars twenty-five cents per week.

(2) Subject to sections 113 and 114, where a married person who is qualified to receive an unemployment benefit or a sickness benefit has a spouse who is resident in Australia and is, in the opinion of the Director-General, dependent (whether substantially or less than substantially) on the married person, the rate of the benefit applicable to the married person under sub-section (1) shall, by virtue of this sub-section, be increased by—

- (a) where the spouse is in receipt of a prescribed pension—the amount (if any) per week by which the amount per week of the prescribed pension that the spouse is receiving is less than Twenty dollars twenty-five cents or, if the spouse is, in the opinion of the Director-General, less than substantially dependent on the married person, such amount (if any) per week as the Director-General considers reasonable in the circumstances but not exceeding the amount first mentioned in this paragraph; or
- (b) where the spouse is not in receipt of a prescribed pension—Twenty dollars twenty-five cents per week or, if the spouse is, in the opinion of the Director-General, less than substantially dependent on the married person, such amount (if any) per week as the Director-General considers reasonable in the circumstances but not exceeding Twenty dollars twenty-five cents.

Substituted by No. 1, 1973, s. 12.

(3) Where a person to whom sub-section (2) applies is living apart from his spouse and is making a payment to the spouse, for or towards the maintenance of the spouse, at a weekly rate less than the amount per week by which the rate of his unemployment benefit or sickness benefit would, in the absence of a determination under this sub-section, be increased in accordance with sub-section (2), the Director-General may, by instrument in writing, determine that the amount per week by which the rate of his unemployment benefit or sickness benefit is to be increased by virtue of sub-section (2) shall not exceed the weekly rate of the payment to the spouse.

Substituted by No. 1, 1973, s. 12; amended by No. 103, 1973, s. 21.

(4) Subject to sections 113 and 114, where—

- (a) the rate of an unemployment benefit or a sickness benefit applicable to a married person under the preceding provisions of this section is less than Twenty-three dollars per week; and



- (b) the spouse of the married person—
  - (i) is not in receipt of a prescribed pension; or
  - (ii) is living apart from the married person in pursuance of a separation agreement in writing or of a decree, judgment or order of a court or in such circumstances that the Director-General is satisfied that the separation is likely to be permanent,

the rate of the unemployment benefit or sickness benefit applicable to that married person under the preceding provisions of this section shall, by virtue of this sub-section, be increased to Twenty-three dollars per week.

(4A) Where a woman—

- (a) is keeping house for a man qualified to receive an unemployment benefit or a sickness benefit and for one or more children under the age of sixteen years of whom that man has the custody, care and control;
- (b) is not an employee of that man; and
- (c) is substantially dependent on that man,

Inserted by No 1, 1973, s. 12; amended by No. 103, 1973, s. 21.

the Director-General may, in his discretion, unless the rate of benefit applicable to that man under the preceding provisions of this section has been increased under sub-section (2), determine, by instrument in writing, that that rate of benefit be increased by—

- (d) where the woman is in receipt of a prescribed pension—the amount (if any) per week by which the sum of the amount per week of that prescribed pension and the amount per week of the benefit applicable to that man under the preceding provisions of this section is less than Forty dollars fifty cents; or
- (e) in any other case—the amount per week by which the amount per week of the benefit applicable to that man under the preceding provisions of this section is less than Forty dollars fifty cents.

(5) Where a person qualified to receive an unemployment benefit or a sickness benefit—

- (a) has the custody, care and control of a child or children under the age of sixteen years; or
- (b) is making regular contributions towards the maintenance of a child or children under that age,

Substituted by No. 67, 1971, s. 11; amended by No. 103, 1973, s. 21.

the rate of the benefit payable to that person under the preceding provisions of this section shall, subject to the next succeeding sub-section, be increased by Five dollars per week in respect of each such child.

Added by No. 1,  
1962, s. 6;  
amended by  
No. 41, 1966,  
s. 32; No. 10,  
1967, s. 17;  
No. 65, 1968,  
s. 15; No. 94,  
1969, s. 15;  
No. 67, 1971,  
s. 11; No. 26,  
1973, s. 11; and  
No. 103, 1973,  
s. 21.

(6) Where, but for this sub-section, an increase under the last preceding sub-section would be payable—

- (a) to more than one person in respect of the one child;
- (b) to a person in respect of a child—
  - (i) who has been taken into account in fixing the rate of an age or invalid pension under Part III payable to a person;

\* \* \* \* \*

- (ii) who has been taken into account in fixing the rate of a widow's pension under Part IV payable to a person;
- (iia) who has been taken into account in determining the amount of a payment of a sheltered employment allowance under Part VIIA;
- (iv) who has been taken into account in determining the rate of an allowance under the *Tuberculosis Act* 1948 payable to a person; or
- (v) in respect of whom a service pension under the *Repatriation Act* 1920-1961 is payable; or
- (c) to a person in respect of a child by virtue of the making by that person of regular contributions towards the maintenance of the child at a rate less than Five dollars per week,

the Director-General may direct that any increase under the last preceding sub-section in respect of that child be not payable or be limited to such amount as the Director-General thinks fit.

Added by No. 1,  
1973, s. 12.

(7) In this section, "prescribed pension" means—

- (a) a benefit under this Part;
- (b) a pension under Part III or an allowance under Part VIIA;
- (c) a service pension under the *Repatriation Act* 1920-1973; or
- (d) an allowance under section 9 of the *Tuberculosis Act* 1948.

Supplemen-  
tary  
allowance  
after first six  
weeks of  
sickness  
benefit.

Substituted by  
No. 1, 1973,  
s. 13.

**112A.** (1) In this section, "prescribed period", in relation to a person to whom a sickness benefit has been payable for a continuous period of more than six weeks, means any part of that period after the expiration of the first six weeks in respect of which the Director-General is satisfied that the person requires benefit under this section by reason that he pays rent and is entirely or substantially dependent upon his sickness benefit but, in the case of a person who has no dependants, does not include a period during which the person is a patient, other than an out-patient, of a hospital that is an approved hospital for the purposes of Part V of the *National Health Act* 1953-1972.

(2) Subject to this Part, there is payable to a person, in addition to his sickness benefit, a supplementary allowance in respect of any period that is a prescribed period in relation to him.

(3) The rate of an allowance under this section is a rate determined by the Director-General in the particular case, being a rate not exceeding Four dollars per week.

(4) An allowance under this section is payable from a date determined by the Director-General, which may be a date before the date of the determination, and continues to be payable until it is cancelled under sub-section (5).

(5) Where a prescribed period in relation to a person comes to an end, the Director-General may cancel the allowance that was payable in respect of that period as on and from such date as the Director-General determines, being a date after the end of the prescribed period but, subject to sub-section (6), not earlier than the date of the determination.

(6) The date determined by the Director-General under sub-section (5) may, in the case of a person who has failed to comply with a requirement of section 130, be a date earlier than the date of the determination but not earlier than the first day after the expiration of the time within which the requirement could have been complied with, and any amount of the allowance paid in respect of a period after the date so determined shall be deemed to be an amount in respect of which sub-section (1) of section 140 applies.

\* \* \* \* \*

Section 112b  
repealed by  
No. 1, 1973,  
s. 13.

113. Notwithstanding anything contained in this Part, the rate of sickness benefit (including any supplementary allowance) per week payable to a person shall not exceed the rate of salary, wages or other income per week which, in the opinion of the Director-General, that person has lost by reason of his incapacity.

Limitation  
on amount  
payable as  
sickness  
benefit and  
supplementary  
allowance.

Amended by  
No. 59, 1970,  
s. 9.

114. (1) The rate per week of the unemployment benefit or of the sickness benefit payable to a person shall be reduced by the amount (if any) by which the rate of income per week of that person exceeds—

Means test.  
Sub-section (1)  
substituted by  
No. 46, 1957,  
s. 10; amended  
by No. 41, 1966,  
s. 32; and  
No. 94, 1969,  
s. 16.

(a) in the case of an unmarried person—

(i) who has not attained the age of twenty-one years; and

(ii) at least one of whose parents is residing in Australia,

Three dollars; and

(b) in any other case—Six dollars.

(2) For the purposes of the last preceding sub-section, an amount received by a person in respect of board or lodging, or both, provided by him (but not exceeding such amount as the Director-General determines in relation to board or lodging, or both, as the case requires) shall not be regarded as income.

Amended by  
No. 26, 1973,  
s. 11.

(3) For the purposes of sub-section (1), the income of a person shall, in the case of an unemployment benefit, include the income of that person's spouse, unless that person and his spouse are living apart—

- (a) in pursuance of a separation agreement in writing or of a decree, judgment or order of a Court; or
- (b) in such circumstances that the Director-General is satisfied that the separation is likely to be permanent.

Sub-section (4)  
omitted by  
No. 1, 1973,  
s. 14.

\* \* \* \* \*

Amended by  
No. 41, 1952,  
s. 24; No. 44,  
1958, s. 20; and  
No. 26, 1973,  
s. 11.

(5) For the purposes of sub-section (1), the income of a person shall not, in the case of a sickness benefit, include any amount received by that person from a friendly society in respect of the incapacity by reason of which he is qualified to receive that sickness benefit.

Provisions  
where  
beneficiary  
entitled to  
compensation,  
&c.

Sub-section (1)  
substituted by  
No. 45, 1960,  
s. 19.

**115.** (1) Where a person has received, is receiving or is qualified or entitled to receive, in respect of any period during which he is qualified to receive a sickness benefit, a payment by way of compensation in respect of the incapacity by reason of which he is qualified to receive that sickness benefit, the rate of the sickness benefit to which that person would otherwise be entitled shall be reduced by the amount per week of that payment.

Substituted by  
No. 45, 1960,  
s. 19.

(2) Where a person is or has been qualified to receive a sickness benefit in respect of an incapacity and the Director-General is of opinion that the whole or a part of a payment by way of a lump sum that that person has received, or is qualified or entitled to receive, can reasonably be regarded for the purposes of this section as being a payment that—

- (a) is by way of compensation in respect of the incapacity; and
- (b) is in respect of a period during which that person is or was qualified to receive that sickness benefit,

the payment, or that part of the payment, as the case may be, shall, for the purposes of this section, be deemed to be such a payment.

Amended by  
No. 26, 1973,  
s. 11.

(3) Where, in pursuance of sub-section (1), a sickness benefit is reduced by the amount of a payment, that payment shall not, for the purposes of the last preceding section, be regarded as income.

Substituted by  
No. 69, 1948,  
s. 19; amended  
by No. 26, 1973,  
s. 11.

(4) Where—

- (a) a person has received, in respect of an incapacity by reason of which he became qualified to receive a sickness benefit, a payment of the kind referred to in sub-section (1); and
- (b) the whole or portion of that payment is in respect of a period in respect of which sickness benefit has been paid to him without reduction in accordance with sub-section (1),

that person shall be liable to pay to the Director-General an amount equal to so much of the benefit as would not have been paid if the rate of the benefit had been so reduced.

(4A) Where the Director-General is satisfied that special circumstances exist by reason of which a person liable by virtue of the last preceding sub-section to pay an amount to the Director-General should be released in whole or in part from the liability, the Director-General may release the person accordingly.

Inserted by  
No. 94, 1969,  
s. 17.

(5) The Director-General may, by notice in writing served on a person (including the Commonwealth or an authority of the Commonwealth or a State or an authority of a State, and in this section referred to as "the person liable to pay compensation") who is liable to make a payment of the kind referred to in sub-section (1) to or on behalf of another person (in this section referred to as "the person entitled to receive compensation") in respect of an incapacity by reason of which he became qualified to receive a sickness benefit, inform the person liable to pay compensation that the Director-General proposes to recover from him the whole or some part of the amount of the benefit paid to the person entitled to receive compensation.

Added by  
No. 69, 1948,  
s. 19; amended  
by No. 26, 1973,  
s. 11.

(6) The Director-General may, by the same notice or by a subsequent notice in writing served on the person liable to pay compensation, specify an amount payment of which is claimed by the Director-General, and thereupon the person liable to pay compensation shall become liable to pay to the Director-General the amount so specified and, in default of payment, the Director-General may recover that amount in any court of competent jurisdiction from the person liable to pay compensation.

Added by  
No. 69, 1948,  
s. 19.

(7) The amount which may be specified by the Director-General under the last preceding sub-section shall be an amount equal to so much of the benefit paid to the person entitled to receive compensation as would not have been paid if the rate of the benefit had, during the period in respect of which the compensation is payable, been reduced in accordance with sub-section (1).

Added by  
No. 69, 1948,  
s. 19; amended  
by No. 26, 1973,  
s. 11.

(8) After the service on a person of a notice under sub-section (5), that person shall not pay to or on behalf of the person entitled to receive compensation any amount of compensation until the Director-General has specified the amount which the person liable to pay compensation is liable to pay to the Director-General.

Added by  
No. 69, 1948,  
s. 19; amended  
by No. 26, 1973,  
s. 11.

(9) Payment of an amount to the Director-General under sub-section (6) shall, to the extent of the payment, operate as a discharge to the person liable to pay compensation as against the person entitled to receive compensation.

Added by  
No. 69, 1948,  
s. 19; amended  
by No. 45, 1960,  
s. 19; and  
No. 26, 1973,  
s. 11.

Added by  
No. 69, 1948,  
s. 19.

(10) This section shall have effect, in relation to the Commonwealth or an authority of the Commonwealth, notwithstanding the provisions of any other Act which, but for this sub-section, would prevent this section having effect.

Added by  
No. 45, 1960,  
s. 19; amended  
by No. 26, 1973,  
s. 11.

(11) The reference in sub-section (1) to a payment by way of compensation shall be read as including a reference to—

- (a) a payment by way of damages; and
- (b) a payment that, in the opinion of the Director-General, is in the nature of compensation or damages,

but shall not be read as including a reference to a payment for which the person who has received, is receiving or is qualified or entitled to receive the payment has made contributions.

Added by  
No. 45, 1960,  
s. 19; amended  
by No. 26, 1973,  
s. 11.

(12) The reference in sub-section (5) to a person who is liable to make a payment of the kind referred to in sub-section (1) to or on behalf of another person shall be read as including a reference to an insurer who, under a contract of insurance, is liable to indemnify the person liable to make the payment against his liability.

Added by  
No. 59, 1970,  
s. 10.

(13) In this section, “sickness benefit” includes a supplementary allowance.

#### *Division 4—Claims for Benefits*

Claims for  
unemployment  
and sickness  
benefit.

**116.** A claim for an unemployment benefit or a sickness benefit—

- (a) shall be made in writing in accordance with a form approved by the Director-General; and
- (b) shall be lodged with a Registrar or as prescribed.

Medical  
certificate to  
be furnished.

**117.** (1) A claim for a sickness benefit shall, unless the Director-General, in special circumstances, otherwise directs, be supported by the certificate of a legally qualified medical practitioner certifying as to such matters, and containing such information, as the Director-General requires.

(2) The Director-General may direct that payment of a sickness benefit be deferred until the claimant has been examined by a legally qualified medical practitioner nominated by the Director-General for that purpose.

Investigation  
of claims.

**118.** A claim shall be investigated in such manner as the Director-General determines.



*Division 5—Payment of Benefits*

**119.** (1) An unemployment benefit payable to a person is payable—

- (a) in a case to which the next succeeding paragraph does not apply—from and including the seventh day after the day on which he became unemployed or after the day on which he made a claim for the unemployment benefit, whichever was the later; or
- (b) in the case where the unemployment benefit became payable to him within the period of twelve weeks after the expiration of a period of unemployment in respect of which, by reason of the operation of the last preceding paragraph, unemployment benefit was not payable—from and including the day on which he became unemployed or the day on which he made a claim for the unemployment benefit, whichever was the later.

Date from which benefit shall commence.  
Sub-section (1) substituted by No. 94, 1969, s. 18.

(2) Subject to the next succeeding sub-section, a sickness benefit payable to a person is, if a claim for the benefit is lodged within thirteen weeks after the day on which the person became incapacitated, payable—

Substituted by No. 94, 1969, s. 18.

- (a) in a case to which the next succeeding paragraph does not apply—from and including the seventh day after the day on which he became incapacitated; or
- (b) in the case where the sickness benefit became payable to him within the period of twelve weeks after the expiration of a period of incapacity in respect of which, by reason of the operation of the last preceding paragraph, sickness benefit was not payable—from and including the day on which he became incapacitated.

(3) If a claim for a sickness benefit is not lodged within the time specified in the last preceding sub-section, the benefit shall be payable from and including the day on which a claim for the benefit is lodged, unless the Director-General is satisfied that the failure to lodge the claim within that time was due to the incapacity or to some other sufficient cause, in which case the benefit shall be payable from and including the seventh day after the day on which the claimant became incapacitated, or from such later date as the Director-General considers to be reasonable in the circumstances.

(4) For the purposes of sub-section (2), a person who has not, within the time specified in that sub-section, lodged a claim for sickness benefit, but has, within that time, made an application or claim for compensation under a law of the Commonwealth, or of a State or Territory, providing for the payment of compensation for injuries arising out of or in the course of employment, or out of and in the course of employment, shall, if he subsequently lodges a claim for the sickness benefit, be deemed to have lodged a claim for a sickness benefit on the day on which he made the application or claim for compensation.

Added by No. 26, 1950, s. 15; amended by No. 26, 1973, s. 11; and No. 216, 1973, s. 3.



Postponement  
or  
cancellation  
of  
unemploy-  
ment benefit  
in certain  
cases.

**120.** The Director-General may postpone for such period as he thinks fit the date from which an unemployment benefit shall be payable to a person, or may cancel the payment of an unemployment benefit to a person, as the case requires—

- (a) if that person's unemployment is due, either directly or indirectly, to his voluntary act which, in the opinion of the Director-General, was without good and sufficient reason;
- (b) if that person's unemployment is due to his misconduct as a worker;
- (c) if that person has refused or failed, without good and sufficient reason, to accept an offer of employment which the Director-General considers to be suitable; or
- (d) if, in the opinion of the Director-General—
  - (i) that person is a seasonal or intermittent worker; and
  - (ii) the income of that person is sufficient for the maintenance of himself and the persons who are ordinarily maintained by him notwithstanding a period of temporary unemployment.

Cancellation  
of sickness  
benefit in  
certain cases.

**121.** The Director-General may cancel the sickness benefit which is being paid to a person where that person—

- (a) refuses or fails, when so required, to furnish to the Director-General the certificate of a legally qualified medical practitioner certifying as to such matters, and containing such information, as the Director-General requires;
- (b) refuses or fails, when so required, to submit himself for examination by a legally qualified medical practitioner nominated by the Director-General for the purpose; or
- (c) refuses or fails to take any action which the Director-General considers it reasonable for him to take in order to terminate, or reduce the extent of, his incapacity.

Sickness  
benefit in  
lieu of  
unemploy-  
ment benefit,  
&c.

**122.** (1) Where a person in receipt of an unemployment benefit becomes qualified to receive a sickness benefit, that person may be paid a sickness benefit in lieu of the unemployment benefit and, in any such case, the cessation of the unemployment benefit paid to that person shall, for the purposes of this Act, be regarded as a loss of income by that person, and the sickness benefit shall be payable from and including the day after the day up to which the unemployment benefit is paid to that person or, if the last-mentioned day is a Saturday, from and including the following Monday.

(2) Where a person in receipt of a sickness benefit becomes qualified to receive an unemployment benefit, that person may be paid an unemployment benefit in lieu of the sickness benefit, and the unemployment benefit shall be payable from and including the day after the day up to which the sickness benefit is paid to that person or, if the last-mentioned day is a Saturday, from and including the following Monday.

(3) Where, upon a person ceasing to be in receipt of a sustenance allowance under the Repatriation Regulations, he becomes qualified to receive an unemployment benefit, the unemployment benefit may be paid from and including the day after the day up to which the sustenance allowance was paid to that person or, if the last-mentioned day is a Saturday, from and including the following Monday.

Added by  
No. 41, 1966,  
s. 27.

**123.** (1) An unemployment benefit or a sickness benefit (including any supplementary allowance) shall be paid, in such manner as the Director-General determines, to the beneficiary or to such person, institution or authority, on behalf of the beneficiary, as is approved by the Director-General.

Manner of  
payment of  
unemploy-  
ment benefit  
and sickness  
benefit.

Sub-section (1)  
amended by  
No. 57, 1959,  
s. 23; and  
No. 59, 1970,  
s. 11.

(2) Where the rate of an unemployment benefit or of a sickness benefit is increased under sub-section (2) of section 112, and the beneficiary is living apart from his spouse, the Director-General may authorize payment to the spouse of the whole or part of the amount by which the rate of benefit is so increased and payment shall be made accordingly.

Amended by  
No. 26, 1973,  
s. 11.

### *Division 6—Special Benefits*

**124.** The Director-General may, in his discretion, grant a special benefit under this Division to a person—

Special  
benefits.

- (a) who is not in receipt of a pension under Part III or IV, a benefit under Part IVAAA, an allowance under Part VIIA of this Act or a service pension under the *Repatriation Act* 1920-1973;
- (b) who is not qualified to receive an unemployment benefit or a sickness benefit; and
- (c) with respect to whom the Director-General is satisfied that, by reason of age, physical or mental disability or domestic circumstances, or for any other reason, that person is unable to earn a sufficient livelihood for himself and his dependants (if any).

Amended by  
No. 38, 1955,  
s. 3; No. 10,  
1967, s. 19;  
No. 79, 1972,  
s. 34; No. 26,  
1973, s. 11; and  
No. 48, 1973,  
s. 13.

**125.** The rate of a special benefit payable to any person shall be such rate as the Director-General, in his discretion, from time to time determines, but not exceeding the rate of the unemployment benefit or the sickness benefit which could be paid to that person if he were qualified to receive it.

Rate of  
special  
benefit.

**126.** A claim for a special benefit—

- (a) shall be made in writing in accordance with a form approved by the Director-General; and
- (b) shall be lodged with a Registrar or as prescribed.

Claim for  
special  
benefit.

Period for which special benefit payable.

**127.** A special benefit shall be payable from such date, and shall continue for such period, as the Director-General determines.

Manner of payment of special benefit.

**128.** A special benefit shall be paid, in such manner as the Director-General determines, to the beneficiary or to such other person, on behalf of the beneficiary, as is approved by the Director-General.

### *Division 7—Review of Benefits*

Statement to be furnished when required.

**129.** A beneficiary shall, whenever so required by the Director-General, furnish to such officer, and within such time, as the Director-General specifies, a statement, in accordance with a form approved by the Director-General, relating to any matter which might affect the payment to him of his benefit.

Receipt of income, &c., to be notified.

**130.** (1) Whenever a beneficiary receives income at a weekly rate higher than the weekly rate of income last specified by him in a claim, statement or notification under this Part, he shall, within seven days after the receipt of income at that higher rate, notify a Registrar accordingly.

Inserted by No. 59, 1970, s. 12.

(1A) Where a beneficiary to whom a supplementary allowance is payable ceases to pay rent, he shall, within seven days after he so ceases, notify a Registrar accordingly.

Inserted by No. 59, 1970, s. 12.

(1B) Where a beneficiary who has no dependants and has been in receipt of a sickness benefit in respect of a continuous period of more than six weeks is admitted to a hospital that is an approved hospital for the purposes of Part V of the *National Health Act* 1953-1970, he shall, within seven days after having been so admitted, notify a Registrar accordingly.

Amended by No. 41, 1966, s. 32.

(2) When a beneficiary marries or remarries, a beneficiary's marriage is dissolved, or the spouse of a beneficiary dies, the beneficiary shall, within seven days after the marriage, remarriage, dissolution of the marriage or death, notify a Registrar accordingly.

Penalty: Forty dollars.

Cancellation, &c., of benefit.

**131.** If—

- (a) having regard to the income of a beneficiary;
- (b) by reason of the failure of a beneficiary to comply with either of the last two preceding sections; or
- (c) for any other reason,

the Director-General considers that the benefit which is being paid to a beneficiary should be cancelled or suspended, or that the rate of the benefit which is being paid to a beneficiary is greater or less than it should be, the Director-General may cancel or suspend the benefit, or reduce or increase the rate of the benefit, accordingly.

*Division 8—General*

**132.** (1) Subject to the next succeeding sub-section, benefits shall be payable in weekly instalments on such days as the Director-General determines. Benefit to be payable weekly.

(2) Where a benefit is payable in respect of any period less than a week, the benefit shall be payable in respect of each day, other than Sunday, in that period, and the amount of the benefit payable in respect of each day, other than Sunday, shall be one-sixth of the weekly rate of the benefit.

(3) Where payment of an instalment of a benefit has not been made within twenty-eight days after the day on which the instalment became payable, the instalment shall not (unless the Director-General, in special circumstances, otherwise determines) be paid.

**133.** (1) Subject to this section, benefit is not payable to a person in respect of any period during which— Benefits in respect of inmates of prisons, and mental hospital patients.  
Substituted by No. 41, 1966, s. 28.

- (a) he is, following upon his conviction for an offence, imprisoned; or
- (b) he is, while a mental hospital patient, an inmate of a mental hospital,

and, if a beneficiary becomes so imprisoned or becomes an inmate of a mental hospital, payment of benefit to him shall forthwith cease.

(2) Where—

- (a) a person ceases to be a mental hospital patient otherwise than by reason of death; and
- (b) he has, while a mental hospital patient, lodged a claim for sickness benefit or he lodges such a claim within thirteen weeks after he ceases to be a mental hospital patient or within such longer period as the Director-General, in special circumstances, approves,

Amended by No. 26, 1973, s. 11.

sickness benefit may, subject to this Part (other than section 119) and whether or not sickness benefit is payable to him in respect of any other period, be paid to the person in respect of each day during which he was a mental hospital patient, other than—

- (c) any Sunday;
- (d) a day in respect of which he has previously been paid sickness benefit;
- (e) a day earlier than the last eighty-four days on which he was an inmate of a mental hospital; or
- (f) a day earlier than the seventh day after the day on which he became incapacitated.

Amended by  
No. 26, 1973,  
s. 11.

(3) Where a mental hospital patient is absent from a mental hospital for a continuous period of four weeks or more, he shall, for the purposes of the last preceding sub-section, be deemed to have ceased to be a mental hospital patient at the commencement of the absence, and, if he ceases to be so absent by reason of again becoming an inmate of a mental hospital, he shall, for the purposes of sub-section (1), be deemed to have again become a mental hospital patient.

Amended by  
No. 26, 1973,  
s. 11.

(4) Where sickness benefit is payable to a married person under sub-section (2), he shall, for the purpose of determining the rate of sickness benefit payable to him in respect of any day on which he was an inmate of a mental hospital, be deemed to be an unmarried person.

Cancellation  
of benefit  
when  
allowance  
granted  
under  
*Tuberculosis  
Act 1948.*

133A. If a beneficiary is granted an allowance under section 9 of the *Tuberculosis Act 1948*, the benefit payable to him shall, by force of this section, be cancelled.

Inserted by  
No. 26, 1950,  
s. 16; amended  
by No. 26, 1973,  
s. 11.

Deductions  
from benefits  
for payment  
of board and  
lodging.

Inserted by  
No. 107, 1952,  
s. 3.

Sub-section (1)  
amended by  
No. 26, 1973,  
s. 11.

133B. (1) Where—

- (a) a beneficiary;
- (b) a person who, under sub-section (2) or (5) of section 112, is taken into account for the purpose of determining the rate of benefit payable to a beneficiary; or
- (c) a beneficiary and such a person,

is or are, during a period in respect of which the beneficiary is qualified to receive a benefit, provided with board and lodging by the Commonwealth, by an authority constituted under a law of the Commonwealth or by Commonwealth Hostels Limited, the Director-General may deduct from the benefit payable to the beneficiary in respect of that period such amount, not exceeding the amount payable for that board and lodging during that period, as, having regard to all the circumstances of the case, the Director-General considers reasonable.

(2) The Director-General shall pay to the appropriate officer of the Commonwealth, to the authority or to Commonwealth Hostels Limited, as the case may be, an amount equal to each amount which he deducts under the last preceding sub-section, and that payment shall be deemed to be a payment on account of the amount payable to the Commonwealth, to the authority or to Commonwealth Hostels Limited, as the case may be, for the board and lodging.

**PART VIIA—SHELTERED EMPLOYMENT ALLOWANCES**

Part VIIA  
inserted by  
No. 10, 1967,  
s. 20.

**133C.** (1) In this Part, unless the contrary intention appears—  
“allowance” means a sheltered employment allowance under this Part;

Interpretation.

Inserted by  
No. 10, 1967,  
s. 20.

“approved organization” means—

Sub-section (1)  
amended by  
No. 26, 1973,  
s. 11; and  
No. 216, 1973,  
s. 3.

(a) an organization that is carried on otherwise than for the purposes of profit or gain to its individual members and is—

- (i) a religious organization;
- (ii) an organization the principal objects or purposes of which are charitable or benevolent;
- (iii) an organization of former members of the Defence Force established in every State or a State branch of such an organization; or
- (iv) an organization approved by the Governor-General for the purposes of this Part; and

(b) a local governing body,  
and includes—

- (c) the trustee or trustees under a trust established by an organization referred to in paragraph (a) or by a local governing body;
- (d) a corporation established by such an organization or by a local governing body; and
- (e) the trustee or trustees under a trust established for charitable or benevolent purposes and approved by the Governor-General for the purpose of this Part;

“disabled person” means a person who—

- (a) is qualified under Division 3 of Part III to receive an invalid pension or is, by virtue of a direction under sub-section (2), deemed to be incapacitated for the purposes of this Part; and
- (b) has not attained—
  - (i) in the case of a female—the age of sixty years; or
  - (ii) in the case of a male—the age of sixty-five years;

“income” has the same meaning as in Part III;

“local governing body” means a local governing body established by or under a law of a State or Territory;

“organization” includes a society and an association;

“sheltered employment” means employment that, by virtue of a direction under section 133D, is, for the purposes of this Act, sheltered employment.

## (2) Where—

- (a) a person is engaged in sheltered employment and—
  - (i) he is permanently incapacitated for work but the degree of that incapacity is less than eighty-five per centum; or
  - (ii) he is temporarily incapacitated for work;
- (b) the Director-General is of the opinion that, if he ceased to be provided with sheltered employment, his physical or mental condition would become such that—
  - (i) in the case of a person referred to in sub-paragraph (i) of the last preceding paragraph—the degree of his permanent incapacity for work would become not less than eighty-five per centum; or
  - (ii) in the case of a person referred to in sub-paragraph (ii) of the last preceding paragraph—he would become permanently incapacitated for work and the degree of that incapacity would be not less than eighty-five per centum; and
- (c) he would, if he were permanently incapacitated for work and the degree of that incapacity were not less than eighty-five per centum, be qualified under Division 3 of Part III to receive an invalid pension,

the Director-General may direct that he shall be deemed to be incapacitated for the purpose of this Part.

Sheltered  
employment.  
Inserted by  
No. 10, 1967,  
s. 20.

**133D.** Where the Director-General is satisfied that —

- (a) an approved organization provides paid employment for disabled persons at any premises; and
- (b) the persons, or a substantial number of the persons, employed at those premises are disabled persons,

the Director-General may direct that paid employment provided at those premises by the organization is, for the purposes of this Part, sheltered employment.

Qualification  
for  
allowance.  
Inserted by  
No. 10, 1967,  
s. 20.

**133E.** (1) Subject to this Part, a disabled person who is engaged in sheltered employment is qualified to receive a sheltered employment allowance.

## (2) Where—

- (a) a person who is qualified under sub-section (1) to receive a sheltered employment allowance is also qualified to receive a pension under Part III or IV or a benefit under Part IVAAA or VII; and
- (b) the Director-General is satisfied that it is in the interests of the person that the pension or benefit should be paid to the person instead of the sheltered employment allowance,

Amended by  
No. 48, 1973,  
s. 14.



the Director-General may direct that the pension or benefit shall be paid to the person and that the sheltered employment allowance is not payable to the person.

133F. (1) The Director-General may require a person qualified to receive an allowance to make a claim for the allowance.

Claims for allowance.

Inserted by No. 10, 1967, s. 20.

(2) A claim by a person under the last preceding sub-section—

(a) shall be in writing in accordance with a form approved by the Director-General; and

(b) shall be lodged with the Registrar whose office is nearest to the person's place of residence.

133G. An allowance shall be paid from a date determined by the Director-General, which may be a date before the date of the determination.

Commencement of allowance.

Inserted by No. 10, 1967, s. 20.

133H. An allowance shall be paid in such manner, in respect of such periods and at such times as the Director-General from time to time determines.

Payment of allowance.

Inserted by No. 10, 1967, s. 20.

133J. The amount of allowance payable to a person in respect of a period is an amount equal to the amount that, in the opinion of the Director-General, would have been payable under Part III in respect of that period to that person, or the aggregate of that amount and any amount that would have been payable under that Part in respect of that period to another person by reason of that first-mentioned person being a pensioner, if invalid pension had been payable to that first-mentioned person in respect of that period.

Amount of allowance.

Substituted by No. 79, 1972, s. 35.

133K. A person in receipt of an allowance shall, whenever so required by the Director-General, furnish to such officer, and within such time, as the Director-General specifies, a statement, in accordance with a form approved by the Director-General, relating to any matter that might affect the payment to him of the allowance.

Statement to be furnished when required.

Inserted by No. 10, 1967, s. 20.

Penalty: Forty dollars.

133L. (1) Whenever a person in receipt of an allowance becomes the owner of property he shall, within twenty-eight days after becoming the owner of that property, notify a Director accordingly.

Receipt of property, &c., to be notified.

Inserted by No. 10, 1967, s. 20.

(2) Whenever a person in receipt of an allowance receives income, other than any remuneration for work performed in sheltered employment, at a weekly rate higher than the weekly rate of such income last specified by the person in a claim, statement or notification under this Act, the person shall, within fourteen days after the receipt of such income at that higher rate, notify a Director accordingly.

Substituted by  
No. 79, 1972,  
s. 36; amended  
by No. 26, 1973,  
s. 11.

(3) Sub-sections (1) and (2) do not apply in relation to a person who is permanently blind unless, if that person were in receipt of an invalid pension—

- (a) sub-section (1AA) or (1B) of section 28 would apply in relation to that pension;
- (b) an allowance by way of supplementary assistance would be payable to him under Division 4A of Part III; or
- (c) a wife's pension would be payable to another person under Division 5 of Part III by reason of that first-mentioned person being in receipt of that invalid pension.

(4) Where a person in receipt of an allowance marries or remarries, the marriage of such a person is dissolved or the spouse of such a person dies, the person shall, within fourteen days after the marriage, remarriage, dissolution of marriage or death, as the case may be, notify a Director accordingly.

Penalty: Forty dollars.

Cancellation,  
&c., of  
allowance.

Inserted by  
No. 10, 1967,  
s. 20.

**133M. If—**

- (a) having regard to the income, or the value of the property, of a person in receipt of an allowance;
- (b) by reason of the failure of a person in receipt of an allowance to comply with either of the last two preceding sections; or
- (c) for any other reason,

the Director-General considers that the allowance that is being paid to the person should be cancelled or suspended, the Director-General may cancel or suspend the allowance accordingly.

Other  
pensions,  
&c., not  
payable to a  
person in  
receipt of  
allowance.

Inserted by  
No. 10, 1967,  
s. 20; amended  
by No. 48, 1973,  
s. 15.

**133N. A pension, allowance or benefit is not payable to a person under Part III, IV or IVAAA in respect of any period in respect of which an allowance is payable to him under this Part.**

Allowance  
not payable  
to person in  
receipt of  
service  
pension or  
tuberculosis  
allowance.

Inserted by  
No. 10, 1967,  
s. 20.

**133P. An allowance is not payable to a person in respect of any period in respect of which—**

- (a) service pension under the *Repatriation Act* 1920-1966 is payable to him or to another person by virtue of that other person being his wife or child; or
- (b) an allowance under section 9 of the *Tuberculosis Act* 1948 is payable to or in respect of him.

**133Q. Where—**

- (a) a person in receipt of an allowance becomes a mental hospital patient or is imprisoned following upon his conviction for an offence;
- (b) while a mental hospital patient or undergoing imprisonment or within such period after he ceases to be a mental hospital patient or to be imprisoned as the Director-General, in special circumstances, approves, he lodges a claim for pension under Part III or Part IV; and
- (c) the pension is granted,

the Director-General may, notwithstanding anything contained in section 39 or 68, determine that the pension may be paid from a date before the date on which the claim for the pension was lodged but not before the date on which the person became a mental hospital patient or was imprisoned, but, if the Director-General determines that pension may be paid from a date before the person ceases to be a mental hospital patient or to be imprisoned, section 48, 52, 77 or 82, as the case may be, applies in relation to the person as if he had been a pensioner immediately before he became a mental hospital patient or was imprisoned.

Person in receipt of allowance becoming mental hospital patient or being imprisoned.  
 Inserted by No. 10, 1967, s. 20; amended by No. 26, 1973, s. 11.

**133R.** Where the Director-General is satisfied that, for any reason, it is desirable that payment of the whole or a portion of an amount of allowance should be made to a person, institution or authority on behalf of the person entitled to receive the allowance, the Director-General may authorize payment accordingly.

Payment of allowance to a person on behalf of the person entitled.  
 Inserted by No. 10, 1967, s. 20.

## PART VIII—THE COMMONWEALTH REHABILITATION SERVICE<sup>3</sup>

Part VIII substituted by No. 69, 1948, s. 20.  
 Heading substituted by No. 15, 1955, s. 4.

**134. (1) In this Part, unless the contrary intention appears—**

- “beneficiary” means a person in receipt of a benefit;
- “benefit” means a benefit under Part VII;
- “child” means a child under the age of sixteen years;
- “claimant” means, in relation to a pension or benefit, a person who has lodged a claim for, and is qualified to receive, that pension or benefit;
- “pension” means an invalid pension under Part III, a widow’s pension under Part IV or a benefit under Part IVAAA;
- “pensioner” means a person in receipt of a pension;
- “trainee” means a person who is receiving vocational training under this Part;
- “training” means vocational training under this Part;
- “treatment” means treatment under this Part;

Definitions.  
 Sub-section (1) substituted by No. 69, 1948, s. 20; amended by No. 22, 1951, s. 23; No. 41, 1952, s. 25; No. 44, 1958, s. 21; No. 26, 1973, s. 11; No. 48, 1973, s. 16; and No. 103, 1973, s. 22.

“vocation” includes a profession or occupation;

“vocational training” includes training for a profession or occupation.

Added by  
No. 103, 1973,  
s. 22.

(2) Where a person who is wholly or substantially dependent on a trainee—

(a) has attained the age of sixteen years;

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

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

this Part applies in relation to that trainee as if that person were a child under the age of sixteen years in the custody, care and control of that trainee.

Provision of  
treatment  
and training.

Substituted by  
No. 69, 1948,  
s. 20.  
Sub-section (1)  
substituted by  
No. 15, 1955,  
s. 5; amended by  
No. 26, 1973,  
s. 11.

135. (1) The Director-General may, on behalf of the Commonwealth, provide, or arrange for the provision of—

(a) treatment and training of—

(i) pensioners and claimants for pensions;

(ii) beneficiaries and claimants for benefits who, without that treatment and training, would be likely to become unemployable;

(iii) persons in respect of whom allowances are being paid under section 9 of the *Tuberculosis Act* 1948; and

(iv) persons who have attained the age of fourteen years but have not attained the age of sixteen years, being persons who, without that treatment and training, would be likely to become qualified to receive pensions on attaining the age of sixteen years; and

(b) such facilities and other things as are necessary in connexion with treatment or training referred to in the last preceding paragraph.

Amended by  
No. 26, 1973,  
s. 11.

(2) The treatment and training referred to in sub-section (1) may include—

(a) medical, dental, psychiatric and hospital treatment (whether as an in-patient or an out-patient), physical training and exercise, physiotherapy, occupational therapy and prevocational training and other treatment under medical supervision;

(b) the payment of tuition fees and other like fees in connexion with training; and

(c) the provision of amenities incidental to treatment or training.

Amended by  
No. 65, 1968,  
s. 16; and  
No. 26, 1973,  
s. 11.

(3) The value of treatment and training provided under this section shall be deemed not to be income for the purposes of Part III, Part IV or Part VII.

**135A.** (1) Subject to the next succeeding sub-section, the Director-General shall determine the persons who are eligible to receive treatment and training.

Eligibility for treatment and training.

Inserted by No. 69, 1948, s. 20.

(2) A person shall not be eligible to receive treatment or training unless he is suffering from a physical or mental disability which—

Amended by No. 22, 1951, s. 24; No. 15, 1955, s. 6; No. 44, 1958, s. 22; and No. 103, 1973, s. 23.

(a) appears likely to continue—

(i) in the case of a disability that has existed for a period of not less than thirteen weeks—for a further period of not less than thirteen weeks; and

(ii) in the case of a disability that has existed for a period of less than thirteen weeks—for a period of not less than twenty-six weeks from the date of commencement of the disability;

\* \* \* \* \*

(c) is, or is likely to be, a substantial handicap to his engaging in a suitable vocation; and

(d) except in the case of a permanently blind person, is remediable, and there are reasonable prospects of his engaging in a suitable vocation.

**135B.** A person who is receiving treatment (not being treatment received concurrently with training) shall, so long as he remains eligible under the other provisions of this Act, receive any pension, allowance or benefit for which he is for the time being qualified.

Continuance of pension, &c., during treatment.

Inserted by No. 69, 1948, s. 20; amended by No. 44, 1958, s. 23.

**135C.** (1) Where a person is receiving treatment or training or is required to interview an officer or attend for medical examination, the Director-General may authorize the payment to that person of the whole, or such part as the Director-General considers reasonable, of the cost of fares and living expenses incurred by that person in connexion with or in relation to that treatment, training or attendance, as the case may be.

Fares, living expenses, &c.

Substituted by No. 22, 1951, s. 25.

(2) Where—

(a) a person acts as an attendant to a person who is receiving treatment or training or is required to interview an officer or attend for medical examination; and

(b) an officer, being a legally qualified medical practitioner, certifies that an attendant is necessary,

the Director-General may authorize the payment to the attendant of the whole, or such part as the Director-General considers reasonable, of the

cost of fares and living expenses incurred by the attendant in, or in connexion with, so acting.

Amended by  
No. 26, 1973,  
s. 11.

(3) A payment made under this section shall be deemed not to be income for the purposes of Part III, Part IV or Part VII.

Payments  
during  
training.

Inserted by  
No. 69, 1948,  
s. 20.  
Sub-section (1)  
substituted by  
No. 15, 1955,  
s. 7; amended by  
No. 44, 1958,  
s. 24; No. 41,  
1966, s. 32;  
No. 65, 1968,  
s. 17; No. 79,  
1972, s. 37;  
No. 26, 1973,  
s. 11; No. 48,  
1973, s. 17; and  
No. 103, 1973,  
s. 24.

**135D.** (1) While a person (not being a person referred to in subparagraph (iii) or (iv) of paragraph (a) of sub-section (1) of section 135) is receiving training (not being training received concurrently with treatment), he shall be paid a rehabilitation allowance at rates determined in accordance with this section, and any pension (including any allowance by way of supplementary assistance) or any benefit payable to him and any wife's pension payable to another person by reason of that first-mentioned person being a pensioner and any allowance by way of supplementary assistance payable to that other person shall be suspended.

Substituted by  
No. 79, 1972,  
s. 37.

(2) The rate of rehabilitation allowance payable to a person under the last preceding sub-section is—

- (a) in the case of a pensioner or a claimant for a pension—a rate equal to the rate of the pension that that pensioner or claimant is qualified to receive and the rate of any allowance by way of supplementary assistance that would be payable to him under Part III, the rate of any wife's pension that would be payable to another person and the rate of any allowance by way of supplementary assistance that would be payable to that other person, if the pensioner's pension had not been suspended or the claimant were in receipt of a pension; and
- (b) in the case of a beneficiary or a claimant for a benefit—a rate equal to the rate of the pension that would be payable to that beneficiary or claimant if he were qualified to receive a pension and the rate of any allowance by way of supplementary assistance that would be payable to him under Part III, the rate of any wife's pension that would be payable to any other person and the rate of any allowance by way of supplementary assistance that would be payable to that other person, if that beneficiary or claimant were qualified to receive a pension.

Inserted by  
No. 103, 1973,  
s. 24.

(2A) The rate of training allowance payable to a person under sub-section (1) is—

- (a) where the training is, in the opinion of the Director-General, full-time training—Eight dollars per week; or
- (b) in any other case—Four dollars per week.

(3) In addition to the allowances referred to in sub-section (1), the Director-General may, where he is satisfied that it is necessary for a trainee (including a person referred to in sub-paragraph (iii) of paragraph (a) of sub-section (1) of section 135 but not including a person referred to in sub-paragraph (iv) of that paragraph) to live away from his usual place of residence for the purpose of receiving training, authorize payment to the trainee of a living away from home allowance at a rate not exceeding—

Substituted by No. 15, 1955, s. 7; amended by No. 41, 1966, s. 32; No. 65, 1968, s. 17; No. 26, 1973, s. 11; and No. 103, 1973, s. 24.

(a) in the case of—

(i) a married trainee; or

(ii) a trainee who is not married but has the custody, care and control of one or more children,

Sixteen dollars per week during the period of training; or

(b) in any other case—Ten dollars per week during the period of training.

(4) In the ascertainment of the rate of a pension for the purposes of sub-section (2), an amount paid under this section shall be deemed not to be income.

Amended by No. 79, 1972, s. 37; and No. 26, 1973, s. 11.

\* \* \* \* \*

Sub-section (5) omitted by No. 65, 1968, s. 17.

**135E.** Where the spouse of a trainee is in receipt of, or is a claimant for, an age pension or an invalid pension under Part III, any amount paid under the last preceding section shall be deemed not to be income for the purpose of determining the rate of the pension payable to the spouse.

Spouse of trainee in receipt of pension.

Inserted by No. 69, 1948, s. 20; amended by No. 26, 1973, s. 11.

**135F.** Where it is necessary for a person to vacate his home temporarily in order to receive treatment or training, the value of that home may, in the discretion of the Director-General, while that person is receiving treatment or training, be disregarded in the computation of the value of property for the purposes of—

Temporary vacation of home.

Inserted by No. 69, 1948, s. 20; amended by No. 79, 1972, s. 38; and No. 26, 1973, s. 11.

- (a) determining the rate of the pension payable to that person and the rate of any wife's pension payable to another person by reason of that first-mentioned person being a pensioner;
- (b) ascertaining a rate of pension for the purposes of sub-section (2) of section 135D; and
- (c) determining the rate of any age pension or invalid pension under Part III payable to the spouse of that person.



Payment of  
rehabilitation  
allowances  
and training  
allowances.

Inserted by  
No. 69, 1948,  
s. 20.

**135G. (1)** Rehabilitation allowances and training allowances shall be paid in fortnightly instalments on the same days as those on which pensions are paid.

(2) Where a rehabilitation allowance and a training allowance are granted to a person, payment shall be made from and including the next pension pay-day occurring after the date of commencement of that person's training (or, if that date is a pension pay-day, from and including that pension pay-day) to and including the day preceding the first pension pay-day occurring after the date of termination of that person's training.

Sub-section (3)  
omitted by  
No. 65, 1968,  
s. 18.

\* \* \* \* \*

(4) A married trainee may, in writing, authorize payment of the whole or any part of the rehabilitation allowance payable to the trainee under this Part to his or her spouse and the payment so authorized shall thereupon be made to the spouse until such time as the allowance ceases or the authority is revoked.

Acquisition  
of property  
to be  
notified.

Inserted by  
No. 69, 1948,  
s. 20.

**135H.** Except as prescribed, whenever a trainee becomes the owner of property he shall, within twenty-eight days after becoming the owner of that property, notify a Director accordingly.

Treatment,  
&c., to be  
provided  
free of cost.

Substituted by  
No. 15, 1955,  
s. 8; amended by  
No. 26, 1973,  
s. 11.

**135J.** The cost of treatment and training provided for a person referred to in paragraph (a) of sub-section (1) of section 135, and the cost of any medical examination for the purpose of determining the eligibility of such a person to receive treatment and training, shall be borne by the Commonwealth.

Provision of  
replacements,  
appliances,  
&c.

Inserted by  
No. 69, 1948,  
s. 20.  
Sub-section (1)  
amended by  
No. 10, 1967,  
s. 21.

**135K. (1)** The Director-General may, on behalf of the Commonwealth—

- (a) provide, or arrange for the provision of, such artificial replacements and such aids and appliances as are necessary in connexion with the treatment or training of a person or to assist a person to engage in a suitable vocation after the discontinuance of his treatment or training or otherwise to assist a person in his rehabilitation; and
- (b) maintain and replace, or provide for the maintenance and replacement of, any article so provided or any such article used by a person who is receiving treatment or training.

\* \* \* \* \*

Sub-sections (2), (3) and (4) omitted by No. 41, 1952, s. 27.

**135L.** (1) The Director-General may, on behalf of the Commonwealth, provide, or arrange for the provision of, such books, equipment, appliances and tools of trade as are necessary in connexion with the treatment or training of a person or to enable a person to engage in a suitable vocation after the discontinuance of his treatment or training.

Provision of books, &c.

Inserted by No. 69, 1948, s. 20.

Sub-section (1) amended by No. 22, 1951, s. 27; No. 41, 1952, s. 28; No. 15, 1955, s. 9; No. 41, 1966, s. 32; No. 10, 1967, s. 22; and No. 48, 1973, s. 18.

(2) A person who, upon or after the discontinuance of his treatment or training, is provided with an article under the last preceding sub-section to enable him to engage in a suitable vocation, shall be liable to pay to the Commonwealth the cost, as determined by the Director-General, of that article, but he shall not be required to make the payment until he has commenced to engage in a vocation.

Amended by No. 22, 1951, s. 27; and No. 10, 1967, s. 22.

**135M.** (1) The Director-General may, having regard to the age and to the mental and physical capacity of a person who is a claimant for a pension or is a pensioner, and to the facilities available to that person for suitable treatment for physical rehabilitation and suitable training for a vocation, refuse to grant a pension to that person or cancel or suspend that person's pension, unless that person receives such treatment or training.

Payment of invalid pension subject to certain conditions.

Inserted by No. 69, 1948, s. 20.

(2) For the purpose of Part III, a claimant for a pension, or a pensioner, who is receiving such treatment or training may be deemed, during the period of that treatment or training, to be permanently incapacitated for work.

Amended by No. 26, 1973, s. 11.

**135N.** If, in the opinion of the Director-General, a person who is a claimant for a benefit or is a beneficiary should—

Payment of benefit subject to certain conditions.

Inserted by No. 69, 1948, s. 20.

- (a) submit himself for medical, psychological or other like examination;
- (b) receive medical or other treatment;
- (c) undertake a course of training for the improvement of his physical or mental capacity;
- (d) undertake a course of vocational training; or
- (e) do any work suitable to be done by him,

the Director-General may refuse to grant a benefit to that person, or may cancel or suspend that person's benefit, unless that person complies with the requirements of the Director-General in respect of any such matter.

Persons becoming ineligible for pension or benefit during treatment or training.

Inserted by No. 69, 1948, s. 20; amended by No. 15, 1955, s. 10; No. 10, 1967, s. 23; and No. 26, 1973, s. 11.

**135P.** Where, during the period of his treatment or training, a person receives income or acquires property and thereby becomes disqualified from receiving his pension, benefit, rehabilitation allowance or allowance under section 9 of the *Tuberculosis Act* 1948, the Director-General may, at the request of that person, continue to provide him with treatment or training and that person shall be liable to pay to the Commonwealth the cost, as determined by the Director-General, of and incidental to the treatment and training provided after the date upon which that person became so disqualified or so much of that cost as the Director-General, having regard to the circumstances of the case, directs.

Completion of treatment and training.

Inserted by No. 69, 1948, s. 20.

**135Q. (1)** The treatment or training of a person shall be continued until, in the opinion of the Director-General, the treatment or training has been successfully completed or the Director-General is satisfied that that person will not receive any substantial benefit from continuance of the treatment or training.

(2) Upon the discontinuance of the training of a person, his rehabilitation allowance and training allowance shall, subject to the next succeeding sub-section, be cancelled.

(3) Where, upon the discontinuance of the training of a person, he is capable of engaging in a suitable vocation but is unable to obtain suitable employment or to undertake suitable work on his own account, payment of his rehabilitation allowance shall be continued until he obtains suitable employment or undertakes suitable work on his own account, or until the expiration of a period of three months, whichever first happens.

Amended by No. 26, 1973, s. 11.

(4) Where a person's rehabilitation allowance has been cancelled, the pension or benefit of that person, which was suspended under section 135D, shall also be cancelled unless that person is still qualified to receive that pension or benefit, in which case payment of the pension or benefit shall be resumed.

Substituted by No. 22, 1951, s. 28; amended by No. 26, 1973, s. 11.

(5) The Director-General may permit—

(a) a person whose treatment or training has been discontinued and who has become engaged in a vocation; or

(b) a person to whom sub-section (3) applies,

to receive such treatment as the Director-General determines for a period not exceeding six months commencing on the date on which his treatment, or on the date on which his training, was discontinued, whichever is the later.

135R. (1) In this section—

“compensation”, in relation to a person who has received or is receiving treatment or training, means any payment that is by way of compensation or damages, or is, in the opinion of the Director-General, in the nature of compensation or damages, in respect of the disability by reason of which the treatment or training has been or is being provided, but does not include a payment for which the person has made contributions;

Recovery of cost of treatment and training.

Inserted by No. 69, 1948, s. 20.

Sub-section (1) substituted by No. 45, 1960, s. 20; amended by No. 26, 1973, s. 11.

“cost”, in relation to the treatment or training of a person, means the cost, as determined by the Director-General, of and incidental to the treatment or training, including—

- (a) any allowances paid to that person under section 135D; and
- (b) the cost of providing, maintaining and replacing, under section 135K, any articles used by that person.

(1A) Where—

- (a) a person who is receiving, or has received, treatment or training recovers or receives compensation from another person (including the Commonwealth or an authority of the Commonwealth or a State or an authority of a State); or
- (b) the Director-General, or a delegate of the Director-General, by notice in writing served on a person who is receiving, or has received, treatment or training, notifies the person that the person is, in the opinion of the Director-General or the delegate, entitled to recover or receive compensation from another person (including the Commonwealth or an authority of the Commonwealth or a State or an authority of a State),

Substituted by No. 10, 1967, s. 24; amended by No. 26, 1973, s. 11.

the person who is receiving or has received treatment or training is, subject to the next succeeding sub-section and notwithstanding section 135J, liable to pay to the Director-General an amount equal to the cost of the treatment or training.

(1B) Where the Director-General is satisfied that special circumstances exist by reason of which a person liable by virtue of the last preceding sub-section to pay an amount to the Director-General should be released in whole or in part from the liability, the Director-General may release the person accordingly.

Inserted by No. 45, 1960, s. 20.

(2) The Director-General may, by notice in writing served on a person (including the Commonwealth or an authority of the Commonwealth or a State or an authority of a State, and in this section referred to as “the person liable to pay compensation”) who is liable to pay an amount of compensation to or on behalf of another person (in this section referred to as “the person entitled to receive compensation”) who is receiving or has received treatment or training, inform the person liable to pay compensation that the Director-General proposes to recover from him the cost of the treatment or training, or both, so received.

Amended by No. 45, 1960, s. 20.

Amended by  
No. 45, 1960,  
s. 20.

(3) The Director-General may, by the same notice or by a subsequent notice in writing served on the person liable to pay compensation, specify—

- (a) the cost of the treatment or training, or both, received by the person entitled to receive compensation; and
- (b) an amount (not exceeding the amount of that cost) payment of which is claimed by the Director-General,

and thereupon the person liable to pay compensation shall become liable to pay to the Director-General the amount so specified or the amount of the compensation, whichever is the less.

Amended by  
No. 26, 1973,  
s. 11.

(4) After the service on a person of a notice under sub-section (2), that person shall not pay to or on behalf of the person entitled to receive compensation any amount of compensation until the Director-General has specified the amount which the person liable to pay compensation is liable to pay to the Director-General.

Amended by  
No. 45, 1960,  
s. 20; No. 45,  
1961, s. 11; and  
No. 26, 1973,  
s. 11.

(5) Payment of an amount to the Director-General under sub-section (3) shall, to the extent of the payment, operate as a discharge to the person liable to pay compensation as against the person entitled to receive compensation.

(6) This section shall have effect, in relation to the Commonwealth or an authority of the Commonwealth, notwithstanding the provisions of any other Act which, but for this sub-section, would prevent this section having effect.

Added by  
No. 45, 1960,  
s. 20.

(7) The Director-General may recover in a court of competent jurisdiction an amount that a person is liable to pay to him under this section but the Director-General is not entitled to recover an amount in respect of the cost of treatment or training provided for a person both from that person and from the person liable to pay compensation to that person.

Added by  
No. 45, 1960,  
s. 20; amended  
by No. 26, 1973,  
s. 11.

(8) The reference in sub-section (2) to a person who is liable to pay an amount of compensation to or on behalf of another person shall be read as including a reference to an insurer who, under a contract of insurance, is liable to indemnify the person liable to pay the amount of compensation against his liability.

Loans for  
purposes of  
vocations  
engaged in  
at home.

Inserted by  
No. 15, 1955,  
s. 11.

**135RA.** (1) This section applies in relation to a person who—

- (a) has received treatment or training;
- (b) is physically handicapped to such an extent that, in the opinion of the Director-General, he may best earn or contribute towards his livelihood by engaging in a vocation at his home; and
- (c) is, in the opinion of the Director-General, in need of assistance under this section.

(2) The Director-General may, on behalf of the Commonwealth, make a loan or loans of money in accordance with this section to a person in relation to whom this section applies for the purpose of enabling

him to purchase, take on hire or otherwise acquire tools of trade, stock, plant or equipment, or to meet any other expenses, in connexion with his engaging in a vocation at his home.

(3) The amount of a loan made to a person under this section, or the total amount of the loans so made, shall not exceed Four hundred dollars.

Amended by  
No. 41, 1966,  
s. 32.

(4) Interest at the rate of four and one-half per centum per annum is payable, at such intervals as are determined by the Director-General, upon moneys lent under this section.

Amended by  
No. 41, 1966,  
s. 32.

(5) Subject to this section, the terms and conditions of a loan under this section shall be as determined by the Director-General.

**135S.** (1) The Director-General may make an arrangement with an authority of the Commonwealth or of a State under which he may provide treatment and training for such persons, or the persons included in such classes of persons, as are specified in the arrangement.

Arrangements  
for  
treatment,  
&c., for other  
persons.  
Inserted by  
No. 69, 1948,  
s. 20.

(1A) The Director-General may make arrangements with a person under which the Director-General may provide treatment and training for that person or for the person or persons specified in the arrangement.

Inserted by  
No. 15, 1955,  
s. 12.

(2) An arrangement under either of the last two preceding sub-sections shall contain provision for the payment to the Commonwealth of the cost, as determined by the Director-General, of, and incidental to, the treatment and training provided under the arrangement or so much of that cost as the Director-General, having regard to the circumstances of a particular case, directs.

Amended by  
No. 15, 1955,  
s. 12; and  
No. 10, 1967,  
s. 25.

(3) The provisions of sections 135A, 135B, 135C, 135D, 135Q, 135R and 135RA shall not apply to or in relation to any person provided with treatment or training in pursuance of an arrangement made under this section.

Amended by  
No. 15, 1955,  
s. 12; and  
No. 26, 1973,  
s. 11.

**135T.** (1) This section applies to a woman who is in receipt of a pension under Part IV as a class A widow or a class B widow or a benefit under Part IVAAA and is not eligible to receive training under the preceding provisions of this Part.

Provision of  
vocational  
training for  
certain  
widows.

(2) The Director-General may, on behalf of the Commonwealth, provide, or arrange for the provision of, vocational training for a woman to whom this section applies and who, in the opinion of the Director-General, would derive substantial benefit from the training.

Inserted by  
No. 65, 1968,  
s. 19.

Sub-section (1)  
amended by  
No. 48, 1973,  
s. 19.

(3) The training referred to in the last preceding sub-section may include—

(a) such facilities and other things as are necessary in connexion with training;



- (b) the payment of tuition fees and other like fees in connexion with training; and
- (c) the provision of amenities incidental to training.

(4) The Director-General shall determine the women to whom this section applies who are eligible to receive training in accordance with this section.

Amended by  
No. 48, 1973,  
s. 19; and  
No. 103, 1973,  
s. 25.

(5) A woman receiving training under this section shall, so long as she remains eligible under the provisions of Part IV or IVAAA, receive any pension, allowance or benefit under that Part for which she is for the time being qualified.

Substituted by  
No. 103, 1973,  
s. 25.

(6) While a woman is receiving training under this section she shall be paid a training allowance at the rate of—

- (a) where the training is, in the opinion of the Director-General, full-time training—Eight dollars per week; or
- (b) in any other case—Four dollars per week,

in addition to the pension and allowance (if any) that she receives under Part IV or the benefit and allowance (if any) that she receives under Part IVAAA, as the case may be.

(7) Where, during the period of her training under this section, a woman becomes disqualified from receiving a pension under Part IV by reason that she ceases to have the custody, care and control of a child, but that woman would, if she had attained the age of forty-five years before so ceasing to have the custody, care and control of that child, have been eligible to receive a pension under that Part as a class B widow, the Director-General may, at her request, continue to provide her with training under this section so long as she would, if she had so attained that age, have remained eligible to receive a pension under that Part as such a widow and, in that case, the training allowance payable to her is increased by an amount per week equal to the amount of the rate per week of the pension and allowance (if any) that would have been payable to her under that Part as such a widow.

(8) Training allowances shall be paid in fortnightly instalments on the same days as those on which pensions are paid.

(9) Where a training allowance is granted to a woman, payment shall be made from and including the next pension pay day occurring after the date of commencement of that woman's training (or, if that date is a pension pay day, from and including that pension pay day) to and including the day preceding the first pension pay day occurring after the date of termination of that woman's training.



(10) Where the Director-General is satisfied that it is necessary for a woman to live away from her usual place of residence for the purpose of receiving training under this section, he may authorize payment to the woman, in addition to the pension and allowances referred to in sub-sections (5), (6) and (7), of a living away from home allowance during the period of training at a rate not exceeding—

Substituted by  
No. 103, 1973,  
s. 25.

- (a) where the woman has the custody, care and control of one or more children—Sixteen dollars per week; or
- (b) in any other case—Ten dollars per week.

(11) The value of training provided under this section, and any amount paid under this section, shall be deemed not to be income for the purposes of Part IV.

(12) The cost of training provided under this section, and any expense incurred in determining the eligibility of a woman to receive training under this section, shall be borne by the Commonwealth.

(13) Sections 135, 135A and 135B, sub-sections (2) and (3) of section 135C, sections 135D and 135E, paragraphs (b) and (c) of section 135F, sections 135G, 135J, 135K, 135M and 135N, sub-sections (2), (3), (4) and (5) of section 135Q, section 135R, paragraph (b) of sub-section (1) of section 135RA and section 135S do not apply in relation to a woman to whom this section applies.

Amended by  
No. 26, 1973,  
s. 11.

## PART IX—MISCELLANEOUS

**135U.** (1) For the purposes of this section, unless the contrary intention appears—

- (a) a reference to a pension under Part III includes a reference to an allowance under that Part;
- (b) a woman shall be deemed to be the widow of a deceased man where, immediately before his death, she was a dependent female in respect of him for the purposes of the operation of a provision of Part III; and
- (c) a man shall be deemed to be the widower of a deceased woman where, immediately before her death, she was a dependent female in respect of him for the purposes of the operation of a provision of Part III.

On death of married person, widow or widower to receive combined pensions for three months.  
Inserted by  
No. 65, 1968,  
s. 20.

(2) Subject to this section, where—

- (a) a person in receipt of a pension under Part III, being a person who is a married person for the purposes of that Part;
- (b) a person being a woman who, but for the operation of section 133N, or sub-section (1) of section 135D, would be in receipt of a wife's pension under Part III; or
- (c) a person in receipt of a service pension under Division 5 of Part III of the *Repatriation Act* 1920-1968, being a person in relation

Amended by  
No. 79, 1972,  
s. 39; and  
No. 26, 1973,  
s. 11.

to whose income sub-section (2) of section 29 of this Act would apply if he or she were in receipt of a pension under Part III of this Act,

dies and the widow or widower of that person was, at the time of the death of that person, in receipt of a pension under Part III, of a sheltered employment allowance under Part VIIA or of a rehabilitation allowance under section 135D of this Act, the succeeding provisions of this section have effect.

Amended by  
No. 79, 1972,  
s. 39; and  
No. 26, 1973,  
s. 11.

(3) For the purposes of the last preceding sub-section, a deceased person who, but for the operation of the provisions of section 133N, or sub-section (1) of section 135D, would have been in receipt of a pension under Part III (other than a wife's pension under Division 5 of that Part) at the time of his or her death shall be deemed to have been in receipt of that pension at that time.

Amended by  
No. 79, 1972,  
s. 39; and  
No. 26, 1973,  
s. 11.

(4) If a deceased person in relation to whom the last preceding sub-section applies was a man, his widow shall, for the purposes of sub-section (2), be deemed to have been at the time of his death in receipt of the wife's pension (if any) under Division 5 of Part III that she would have been eligible to receive if the provisions referred to in that sub-section did not operate in relation to her deceased husband.

Amended by  
No. 26, 1973,  
s. 11.

(5) The pension under Part III, the sheltered employment allowance under Part VIIA or the rehabilitation allowance under section 135D, as the case may be, that is payable to the widow or widower of a deceased person referred to in sub-section (2) is payable at the rate at which it would have been payable if—

- (a) the deceased person had not died; and
- (b) in the case of the widow of a deceased person in relation to whom sub-section (3) applies—the provisions referred to in that sub-section did not operate in relation to her deceased husband.

Amended by  
No. 26, 1973,  
s. 11.

(6) Except where the deceased person was a person referred to in paragraph (b) of sub-section (2), there is also payable to the widow or widower of the deceased person, by force of this sub-section, a pension at a rate equal to the rate at which the pension referred to in paragraph (a), or the service pension referred to in paragraph (c), of sub-section (2), as the case may be, would have been payable to the deceased person if—

- (a) the deceased person had not died;
- (b) where sub-section (3) applies in relation to the deceased person—the provisions referred to in that sub-section did not operate in relation to that person; and
- (c) where section 50 of this Act or section 95 of the *Repatriation Act* 1920-1968 operated in relation to the deceased person at the time of his death—that section did not operate in relation to that person.

(7) Where the deceased person was a man, pension is not payable to his widow under Part IV.

(8) Where the amount of a fortnightly payment that, but for this sub-section, would be made to the widow or widower of a deceased person under the preceding provisions of this section would be less than the amount of the corresponding fortnightly payment that, but for this section, would be made to that widow or widower under this Act, the amount of the fortnightly payment to be made to that widow or widower under this section is that second-mentioned amount.

(9) This section applies in relation to the widow or widower of a deceased person only in respect of instalments of pensions and allowances falling due during the period of twelve weeks after the date of the death of the deceased person.

(10) Where, immediately before the death of a person referred to in paragraph (a) or paragraph (c) of sub-section (2), a direction given under sub-section (1AAA) of section 28 was in force in relation to the husband or wife of the person, then, for the purposes of this section—

Added by No. 2,  
1970, s. 5;  
amended by  
No. 26, 1973,  
s. 11.

- (a) that direction shall be deemed not to have been given; and
- (b) if a direction given under sub-section (1AAA) of section 28 of this Act or a determination made under sub-section (2) of section 84 of the *Repatriation Act* 1920-1970 was in force in relation to the deceased person immediately before the death of the person—that direction or determination shall be deemed not to have been given or made.

135V. (1) A person shall not be taken to be a pensioner for the purposes of section 128 of the *Broadcasting and Television Act* 1942-1969, or for the purposes of regulation 29 of the Telephone Regulations in force under the *Post and Telegraph Act* 1901-1968, by reason that the person is in receipt of, or is entitled to, a pension under Part III or IV, or a benefit under Part IVAAA, of this Act where that pension or benefit would not be payable if any amendment of the *Social Services Act* 1947-1968, being—

Modification  
of certain  
other laws.

Inserted by  
No. 94, 1969,  
s. 20.

Sub-section (1)  
amended by  
No. 26, 1973,  
s. 11; No. 48,  
1973, s. 20; and  
No. 103, 1973,  
s. 26.

- (a) an amendment alleviating the operation of the means test in relation to that person made after the date of commencement of the *Social Services Act* 1968; or
- (b) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act* (No. 4) 1973,

had not been made.

Amended by  
No. 26, 1973,  
s. 11; No. 48,  
1973, s. 20; and  
No. 103, 1973,  
s. 26.

(2) A person shall not be taken to be a pensioner for the purposes of section 128 of the *Broadcasting and Television Act* 1942-1969, or for the purposes of regulation 29 of the Telephone Regulations in force under the *Post and Telegraph Act* 1901-1968, by reason that the person is in receipt of, or is entitled to, an allowance under Part VIIA of this Act where—

- (a) in the case of a person who was in receipt of, or was entitled to, the allowance at the date of commencement of this section and has been in receipt of, or entitled to, the allowance at all times since that date—the allowance would not be payable if any amendment of the *Social Services Act* 1947-1968, being—
  - (i) an amendment alleviating the operation of the means test in relation to that person made after that date; or
  - (ii) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act* (No. 4) 1973,

had not been made; or

- (b) in any other case—the person would, but for the receipt of, or entitlement to, the allowance, be eligible to receive a pension under Part III or IV, or a benefit under Part IVAAA, of this Act but would not be so eligible if any amendment of the *Social Services Act* 1947-1968, being—
  - (i) an amendment alleviating the operation of the means test in relation to that person, made after the date of commencement of the *Social Services Act* 1968; or
  - (ii) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act* (No. 4) 1973,

had not been made.

Amended by  
No. 26, 1973,  
s. 11; No. 48,  
1973, s. 20; and  
No. 103, 1973,  
s. 26.

(3) A person shall not be taken to be a pensioner for the purposes of section 128 of the *Broadcasting and Television Act* 1942-1969, or for the purposes of regulation 29 of the Telephone Regulations in force under the *Post and Telegraph Act* 1901-1968, by reason that the person is in receipt of, or is entitled to, an allowance under section 9 of the *Tuberculosis Act* 1948 where—

- (a) in the case of a person who was in receipt of, or was entitled to, the allowance at the date of commencement of this section and has been in receipt of, or entitled to, the allowance at all times since that date—the person would, but for the receipt of, or entitlement to, the allowance, be eligible to receive an allowance under Part VIIA of this Act but would not be so eligible if any amendment of the *Social Services Act* 1947-1968, being—
  - (i) an amendment alleviating the operation of the means test in relation to that person made after that date; or

- (ii) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act (No. 4) 1973*,

had not been made; or

- (b) in any other case—the person would, but for the receipt of, or entitlement to, the allowance, be eligible to receive a pension under Part III or IV, or a benefit under Part IVAAA, of this Act but would not be so eligible if any amendment of the *Social Services Act 1947-1968*, being—

- (i) an amendment alleviating the operation of the means test in relation to that person made after the date of commencement of the *Social Services Act 1968*; or

- (ii) an amendment of a rate of pension, allowance or benefit made after the date of commencement of the *Social Services Act (No. 4) 1973*,

had not been made.

(4) Nothing in this section prevents the making of regulations under the *Post and Telegraph Act 1901-1968* that could have been made if this section had not been enacted.

(5) For the purposes of this section, “amendment alleviating the operation of the means test”, in relation to a person, means an amendment that operates to diminish or eliminate any reduction that would otherwise be made in the rate of pension or allowance payable to or in respect of the person by reason of his means as assessed as defined by section 18 or section 59, as the case may be.

Amended by  
No. 26, 1973,  
s. 11.

**136.** (1) Subject to this section, payment of pensions, allowances, endowments, benefits and other payments under this Act shall be made out of the Trust Account established under the *National Welfare Fund Act 1943-1945* and known as the National Welfare Fund.

Finance.  
Sub-section (1)  
amended by  
No. 69, 1948,  
s. 21; and  
No. 45, 1960,  
s. 21.

(2) Payments in respect of expenditure of a capital nature incurred in connexion with the provision of treatment or training under Part VIII shall, subject to the next succeeding sub-section, be made out of moneys appropriated by the Parliament for the purpose.

Added by  
No. 69, 1948,  
s. 21; amended  
by No. 45, 1960,  
s. 21; and  
No. 26, 1973,  
s. 11.

(3) A payment in respect of expenditure incurred in connexion with the provision of treatment or training under Part VIII on the purchase of an item of plant or equipment the purchase price of which does not exceed Four hundred dollars may be made out of the Trust Account referred to in sub-section (1).

Added by  
No. 45, 1960,  
s. 21; amended  
by No. 41, 1966,  
s. 32; and  
No. 26, 1973,  
s. 11.

Reciprocal  
agreements.

**137.** For the purpose of giving effect to any agreement between the Government of the Commonwealth and the Government of any other part of His Majesty's dominions, or with the Government of any foreign country, providing for reciprocity in matters relating to pensions, allowances, endowments or benefits under this Act, the regulations may provide for modifying or adapting this Act in its application to cases affected by the agreement.

Section 137A.  
repealed by  
No. 41, 1966,  
s. 29.

\* \* \* \* \*

Offences.

Sub-section (1)  
amended by  
No. 41, 1966,  
s. 32.

**138. (1)** A person shall not—

- (a) make, whether orally or in writing, a false or misleading statement—
  - (i) in connexion with, or in support of, a claim, whether for himself or for any other person;
  - (ii) to deceive an officer doing duty in relation to this Act; or
  - (iii) to affect the rate of a pension, allowance, endowment or benefit payable under this Act;
- (b) obtain payment of a pension, allowance, endowment or benefit under this Act, or of an instalment of such a pension, allowance, endowment or benefit, which is not payable;
- (c) obtain payment of a pension, allowance, endowment or benefit under this Act, or of an instalment of such a pension, allowance, endowment or benefit, by means of a false or misleading statement or by means of impersonation or a fraudulent device; or
- (d) make or present to an officer a statement or document which is false in any particular.

Penalty: One hundred dollars or imprisonment for six months.

Substituted by  
No. 45, 1960,  
s. 22.

(2) Charges against the same person for any number of offences against the last preceding sub-section may be joined in one complaint, information or declaration if those charges are founded on the same facts or form, or are part of, a series of offences of the same or a similar character.

Added by  
No. 45, 1960,  
s. 22.

(3) Where two or more such charges are included in the same complaint, information or declaration, particulars of each offence charged shall be set out in a separate paragraph.

Added by  
No. 45, 1960,  
s. 22.

(4) All charges so joined shall be tried together unless the Court deems it just that any charge should be tried separately and makes an order to that effect.

(5) If a person is convicted of more than one offence against sub-section (1) of this section, the Court may, if it thinks fit, inflict one penalty in respect of all offences of which he has been convicted, but that penalty shall not exceed the sum of the maximum penalties that could be inflicted if penalties were imposed for each offence separately.

Added by  
No. 45, 1960,  
s. 22.

(6) Where a person is convicted of an offence against sub-section (1) of this section, the Court may, in addition to imposing a penalty in respect of the offence, order him to pay to the Commonwealth an amount equal to any amount paid by way of pension, allowance, endowment or benefit in consequence of the act, failure or omission in respect of which he was convicted.

Added by  
No. 45, 1960,  
s. 22.

(7) For the purposes of the last preceding sub-section, a certificate, under the hand of the Director-General or a Director, that an amount specified in the certificate is the amount that has been paid to a person specified in the certificate by way of pension, allowance, endowment or benefit in consequence of an act, failure or omission specified in the certificate is evidence of the matters specified in the certificate.

Added by  
No. 45, 1960,  
s. 22.

**139.** (1) Proceedings for an offence against this Act may be commenced at any time within three years after the commission of the offence.

Prosecutions  
for offences.

(2) An offence against this Act shall not be prosecuted without the written consent of the Minister or the Director-General or a person authorized in writing by the Director-General to consent to prosecutions for offences against this Act.

Amended by  
No. 45, 1960,  
s. 23.

**140.** (1) Where, in consequence of a false statement or representation, or in consequence of a failure or omission to comply with any provision of this Act, an amount has been paid by way of pension, allowance, endowment or benefit which would not have been paid but for the false statement or representation, failure or omission, the amount so paid shall be recoverable in a court of competent jurisdiction from the person to whom, or on whose account, the amount was paid, or from the estate of that person, as a debt due to the Commonwealth.

Recovery of  
overpay-  
ments.

(2) Notwithstanding anything contained in this Act, where, for any reason, an amount has been paid by way of pension, allowance, endowment or benefit which should not have been paid, and the person to whom that amount was paid is receiving, or entitled to receive, a pension, allowance or benefit under this Act (other than a funeral benefit under Part IVA, a maternity allowance under Part V or child endowment under Part VI), that amount may, if the Director-General in his discretion so determines, be deducted from that pension, allowance or benefit.

Added by  
No. 22, 1951,  
s. 29; amended  
by No. 45, 1960,  
s. 24; No. 41,  
1966, s. 30; and  
No. 26, 1973,  
s. 11.



Information  
as to  
pensioners,  
&c.

Amended by  
No. 41, 1966,  
ss. 31 and 32.

**141.** The Director-General, the Deputy Director-General, an Assistant Director-General, a Director or a Registrar may, by writing served by post on a person whom he believes to be in a position to do so, require that person to furnish to him a confidential report relating to any matter which might affect the grant or payment of a pension, allowance, endowment or benefit under this Act to any other person and the person so required shall not fail to furnish a report accordingly within fourteen days after the writing is served upon him and shall not furnish a report which is false or misleading in any particular.

Penalty: Forty dollars.

Indemnity to  
certain  
persons.

**142.** Nothing contained in any law of a State or Territory shall operate so as to prevent any person from furnishing any information, or making any books, documents or papers available to the Director-General or to an officer for the purposes of this Act.

Evidence.

**143.** (1) All courts shall take judicial notice of the signature of any person who holds or has held the office of Director-General, Deputy Director-General, Assistant Director-General, Director or Registrar, and of the fact that that person holds or has held that office, if the signature purports to be attached or appended to any official document and any such document purporting to be so signed shall be received in all courts as *prima facie* evidence of the facts and statements contained therein.

(2) A statement in writing signed by a person who holds or has held any office specified in the last preceding sub-section that a person is, or was on a certain date, in receipt of a pension, allowance, endowment or benefit under this Act at a certain rate shall be received in all courts as *prima facie* evidence that the last-mentioned person is, or was on that date, in receipt of such a pension, allowance, endowment or benefit and of the rate thereof.

Certificate  
by Director-  
General as to  
amount of  
pension to be  
deducted  
under certain  
other laws.

Inserted by  
No. 30, 1954,  
s. 21.

**143A.** (1) Where—

- (a) pension, allowance or benefit under this Act has been paid (whether before or after the commencement of this section) to a person in respect of a period and, on a date subsequent to that payment (not being a date before the commencement of this section), a war pension, or war pension at an increased rate, becomes payable to that person or his spouse in respect of that period; and
- (b) the whole or a part of the pension, allowance or benefit paid to that person under this Act in respect of that period would not have been payable if, during that period, he or his spouse had been in receipt of the war pension, or the war pension at the increased rate,

the Director-General may, by writing under his hand, certify the amount of pension, allowance or benefit that would not have been so paid in respect of that period.

(2) For the purposes of a law of the Commonwealth providing for the deduction from pensions or allowances payable under that law of amounts referred to in paragraph (b) of the last preceding sub-section (including any legal proceedings arising under such a law), a certificate under the last preceding sub-section is evidence of the matters certified.

(3) In this section, "war pension" means a pension, including a service pension, an amount and an allowance (other than an allowance for an attendant) payable under the *Repatriation Act* 1920-1962, the *Repatriation (Far East Strategic Reserve) Act* 1956-1962 or the *Repatriation (Special Overseas Service) Act* 1962.

Added by No. 38, 1955, s. 13; amended by No. 98, 1956, s. 7; and No. 95, 1962, s. 7.

144. (1) Subject to this Act, a pension, allowance, endowment or benefit under this Act shall be absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

Benefits to be absolutely inalienable.

(2) Notwithstanding sub-section (1), the Director-General may, at the request of a pensioner or in accordance with the *Income Tax Assessment Act* 1936-1973, make deductions from the instalments of the pension payable to the pensioner, and pay the amounts so deducted to the Commissioner of Taxation, for the purpose of enabling the collection of tax that is, or may become, payable by the pensioner.

Added by No. 103, 1973, s. 27.

(3) In sub-section (2), "pension" includes an allowance or benefit, and "pensioner" has a corresponding meaning.

Added by No. 103, 1973, s. 27.

145. Where a person makes a claim to an officer, authority or Department of the Commonwealth for a pension, allowance, benefit or other payment under an Act other than this Act, or under a particular provision of this Act, and the circumstances are such that the claim might properly have been made under this Act, or under some other provision of this Act, as the case may be, the Director-General may, if he considers it reasonable to do so, and subject to the lodging of a claim in accordance with the appropriate form, treat the first-mentioned claim, for the purpose of determining the date from which a pension, allowance or benefit is payable to that person under this Act, as a claim for whichever pension, allowance or benefit under this Act is appropriate in the circumstances and as having been lodged with the appropriate officer.

Acceptance of claims made for inappropriate pension, &c.

146. Any amount of pension, allowance, endowment or benefit under this Act which has accrued and is unpaid at the date of the death of the person to whom that pension, allowance, endowment or benefit is payable, or which would have been payable to a claimant if the claimant had not died, may, on application made within six months after that date

Payment of pension, &c., on death of pensioner, &c.

or within such further period as the Director-General, in special circumstances, allows, be paid to the person who, in the opinion of the Director-General, is best entitled to receive it and the Commonwealth shall not be liable to any action, claim or demand for any further payment in respect of that pension, allowance, endowment or benefit.

**Territories.** **147.** For the purposes of this Act, the Australian Capital Territory shall be deemed to be part of the State of New South Wales and the Northern Territory shall be deemed to be part of the State of South Australia.

**Annual report.** **148.** The Director-General shall prepare and furnish annually to the Minister, for presentation to the Parliament, a report, with statistics, as to the administration and operation of this Act.

**Regulations.** **149.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding a fine of One hundred dollars, or imprisonment for a period not exceeding six months, for any breach of the regulations.

### Section 3.

Amended by  
No. 16, 1949,  
s. 7; and No. 79,  
1972, s. 40.

## THE SCHEDULES

### FIRST SCHEDULE

Column 1 Acts Repealed	Column 2 Extent of Repeal
<i>Invalid and Old-age Pensions Act 1908</i>	The whole
<i>Invalid and Old-age Pensions Act 1909</i>	The whole
<i>Invalid and Old-age Pensions Act 1909 (No. 2)</i>	The whole
<i>Invalid and Old-age Pensions Act 1912</i>	The whole
<i>Invalid and Old-age Pensions Act 1916</i>	The whole
<i>Invalid and Old-age Pensions Act 1917</i>	The whole
<i>Invalid and Old-age Pensions Act 1919</i>	The whole
<i>Invalid and Old-age Pensions Act 1920</i>	The whole
<i>Invalid and Old-age Pensions Act 1923</i>	The whole
<i>Invalid and Old-age Pensions Act 1925</i>	The whole
<i>Invalid and Old-age Pensions Act 1926</i>	The whole
<i>Invalid and Old-age Pensions Act 1928</i>	The whole
<i>Financial Emergency Act 1931</i>	Parts IV and V
<i>Invalid and Old-age Pensions Act 1931</i>	The whole
<i>Financial Emergency Act 1932</i>	Sections 11 to 18 (inclusive)
<i>Financial Relief Act 1932</i>	Part V
<i>Financial Relief Act 1933</i>	Part VI
<i>Invalid and Old-age Pensions Act 1933</i>	The whole
<i>Invalid and Old-age Pensions Act 1935</i>	The whole
<i>Financial Relief Act (No. 2) 1936</i>	Parts II and III

Column 1 Acts Repealed	Column 2 Extent of Repeal
<i>Invalid and Old-age Pensions Act 1937</i>	The whole
<i>Invalid and Old-age Pensions Act 1940</i>	The whole
<i>Invalid and Old-age Pensions Act 1941</i>	The whole
<i>Invalid and Old-age Pensions Act 1942</i>	The whole
<i>Invalid and Old-age Pensions Act 1943</i>	The whole
<i>Invalid and Old-age Pensions Act 1944</i>	The whole
<i>Invalid and Old-age Pensions Act 1945</i>	The whole
<i>Invalid and Old-age Pensions Act 1946</i>	The whole
<i>Widows' Pensions Act 1942</i>	The whole
<i>Widows' Pensions Act 1943</i>	The whole
<i>Widows' Pensions Act 1944</i>	The whole
<i>Widows' Pensions Act 1945</i>	The whole
<i>Widows' Pensions Act 1946</i>	The whole
<i>Maternity Allowance Act 1912</i>	The whole
<i>Maternity Allowance Act 1926</i>	The whole
<i>Maternity Allowance Act 1927</i>	The whole
<i>Financial Emergency Act (No. 2) 1931</i>	Section 4
<i>Financial Relief Act 1934</i>	Part III
<i>Maternity Allowance Act 1937</i>	The whole
<i>Maternity Allowance Act 1942</i>	The whole
<i>Maternity Allowance Act 1943</i>	The whole
<i>Maternity Allowance Act 1944</i>	The whole
<i>Child Endowment Act 1941</i>	The whole
<i>Child Endowment Act 1942</i>	The whole
<i>Child Endowment Act 1945</i>	The whole
<i>Unemployment and Sickness Benefits Act 1944</i>	The whole
<i>National Health and Pensions Insurance Act 1938</i>	The whole
<i>National Health and Pensions Insurance Act 1939</i>	The whole
<i>National Health and Pensions Insurance (Employers' Contributions) Act 1938</i>	The whole
<i>National Health and Pensions Insurance (Employees' Contributions) Act 1938</i>	The whole

## SECOND SCHEDULE

Sections 30 and 65

Added by  
No. 79, 1972,  
s. 41.CONVERSION FACTORS FOR CALCULATING THE VALUE AS PROPERTY OF  
SUPERANNUATION PENSIONS

Column 1 Age next birthday	Column 2 Conversion factor	Column 1 Age next birthday	Column 2 Conversion factor
16	15.9	34	14.5
17	15.9	35	14.4
18	15.8	36	14.3
19	15.8	37	14.1
20	15.7	38	14.0
21	15.7	39	13.8
22	15.6	40	13.7
23	15.5	41	13.5
24	15.5	42	13.3
25	15.4	43	13.1
26	15.3	44	13.0
27	15.2	45	12.8
28	15.2	46	12.6
29	15.1	47	12.4
30	15.0	48	12.2
31	14.9	49	12.0
32	14.7	50	11.7
33	14.6	51	11.5

*Social Services Act 1947-1973*

Column 1	Column 2	Column 1	Column 2
Age next birthday	Conversion factor	Age next birthday	Conversion factor
52	11.3	76	5.3
53	11.0	77	5.0
54	10.8	78	4.8
55	10.6	79	4.6
56	10.3	80	4.3
57	10.1	81	4.1
58	9.8	82	3.9
59	9.6	83	3.7
60	9.3	84	3.5
61	9.1	85	3.3
62	8.8	86	3.2
63	8.5	87	3.0
64	8.3	88	2.8
65	8.0	89	2.7
66	7.8	90	2.5
67	7.5	91	2.4
68	7.3	92	2.3
69	7.0	93	2.2
70	6.7	94	2.1
71	6.5	95	2.0
72	6.2	96	1.9
73	6.0	97	1.8
74	5.7	98	1.7
75	5.5	99	1.6

## NOTES

1. The *Social Services Act 1947-1973* comprises the *Social Services Consolidation Act 1947* as amended by the other Acts specified in the following table:

Act	Number and year	Date of Assent	Date of commencement
<i>Social Services Consolidation Act 1947</i>	No. 26, 1947	11 June 1947	1 July 1947
<i>Social Services Consolidation Act 1948</i>	No. 38, 1948	19 Oct 1948	19 Oct 1948
<i>Social Services Consolidation Act (No. 2) 1948</i>	No. 69, 1948	10 Dec 1948	Ss. 4 (1) and 18 (1) (b): 13 July 1950 ( <i>see</i> <i>Gazette</i> 1950, p. 1557) Remainder: 10 Dec 1949
<i>Social Services Consolidation Act 1949</i>	No. 16, 1949	29 June 1949	Ss. 3 and 4: 1 July 1949 Remainder: Royal Assent
<i>Social Services Consolidation Act 1950</i>	No. 6, 1950	28 June 1950	19 June 1950
<i>Social Services Consolidation Act (No. 2) 1950</i>	No. 26, 1950	27 Nov 1950	27 Nov 1950
<i>Social Services Consolidation Act 1951</i>	No. 22, 1951	31 Oct 1951	31 Oct 1951
<i>Social Services Consolidation Act 1952</i>	No. 41, 1952	25 Sept 1952	25 Sept 1952
<i>Social Services Consolidation Act (No. 2) 1952</i>	No. 107, 1952	18 Nov 1952	18 Nov 1952
<i>Social Services Consolidation Act 1953</i>	No. 51, 1953	26 Oct 1953	26 Oct 1953

Act	Number and year	Date of Assent	Date of commencement
<i>Social Services Act</i> 1954	No. 30, 1954	6 Oct 1954	6 Oct 1954
<i>Social Services Act</i> 1955	No. 15, 1955	4 June 1955	4 June 1955
<i>Social Services Act</i> (No. 2) 1955	No. 38, 1955	19 Oct 1955	S. 4 (a): 16 Feb 1956 (see <i>Gazette</i> 1956, p. 472) Remainder: 19 Oct 1955
<i>Social Services Act</i> 1956	No. 67, 1956	5 Oct 1956	5 Oct 1956
<i>Social Services Act</i> (No. 2) 1956	No. 98, 1956	15 Nov 1956	1 Sept 1957 (see <i>Gazette</i> 1957, p. 2631)
<i>Social Services Act</i> 1957	No. 46, 1957	17 Oct 1957	17 Oct 1957
<i>Social Services Act</i> 1958	No. 44, 1958	29 Sept 1958	15 Oct 1958 (see <i>Gazette</i> 1958, p. 3383)
<i>Social Services Act</i> 1959	No. 57, 1959	30 Sept 1959	Ss. 1, 2, 5, 7, 10, 12, 15, 21 and 25: Royal Assent Remainder: 2 Feb 1960 (see <i>Gazette</i> 1960, p. 225)
<i>Social Services Act</i> 1960	No. 45, 1960	27 Sept 1960	27 Sept 1960 and 1 Mar 1961 (see <i>Gazette</i> 1961, p. 605)
<i>Social Services Act</i> 1961	No. 45, 1961	27 Sept 1961	27 Sept 1961
<i>Social Services Act</i> 1962	No. 1, 1962	1 Mar 1962	1 Mar 1962
<i>Social Services Act</i> (No. 2) 1962	No. 95, 1962	14 Dec 1962	28 May 1963 (see <i>Gazette</i> 1963, p. 1869)
<i>Social Services Act</i> 1963	No. 46, 1963	25 Sept 1963	Ss. 5 and 8: 7 Nov 1963 (see <i>Gazette</i> 1963, p. 3863) Remainder: Royal Assent
<i>Social Services Act</i> 1964	No. 3, 1964	26 Mar 1964	Ss. 1, 2, 6 and 7: Royal Assent Remainder: 14 Jan 1964
<i>Social Services Act</i> (No. 2) 1964	No. 63, 1964	23 Sept 1964	23 Sept 1964
<i>Social Services Act</i> 1965	No. 57, 1965	1 Oct 1965	1 Oct 1965
<i>Social Services Act</i> (No. 2) 1965	No. 152, 1965	18 Dec 1965	14 Feb 1966
<i>Social Services Act</i> 1966	No. 41, 1966	30 Sept 1966	30 Sept 1966
<i>Social Services Act</i> 1967	No. 10, 1967	21 Apr 1967	Ss. 3, 4 (2), 5, 9, 13-20: 30 June 1967 (see <i>Gazette</i> 1967, p. 3543) Remainder: Royal Assent
<i>Social Services Act</i> (No. 2) 1967	No. 61, 1967	18 Sept 1967	19 Sept 1967
<i>Social Services Act</i> 1968	No. 65, 1968	27 Sept 1968	27 Sept 1968
<i>Social Services Act</i> 1969	No. 94, 1969	27 Sept 1969	27 Sept 1969
<i>Social Services Act</i> 1970	No. 2, 1970	24 Mar 1970	24 Mar 1970
<i>Social Services Act</i> (No. 2) 1970	No. 59, 1970	28 Sept 1970	28 Sept 1970
<i>Social Services Act</i> 1971	No. 16, 1971	7 Apr 1971	1 Apr 1971
<i>Social Services Act</i> (No. 2) 1971	No. 67, 1971	29 Sept 1971	29 Sept 1971
<i>Social Services Act</i> 1972	No. 1, 1972	25 Feb 1972	25 Feb 1972
<i>Social Services Act</i> (No. 2) 1972	No. 14, 1972	24 Apr 1972	24 Apr 1972
<i>Social Services Act</i> (No. 3) 1972	No. 53, 1972	7 June 1972	7 June 1972
<i>Social Services Act</i> (No. 4) 1972	No. 79, 1972	27 Sept 1972	27 Sept 1972
<i>Social Services Act</i> 1973	No. 1, 1973	16 Mar 1973	16 Mar 1973 (a)

Act	Number and year	Date of Assent	Date of commencement
<i>Social Services Act (No. 2) 1973</i>	No. 26, 1973	8 May 1973	8 May 1973
<i>Social Services Act (No. 3) 1973</i>	No. 48, 1973	14 June 1973	Ss. 1, 2, 17 and 18: Royal Assent Remainder: 3 July 1973
<i>Social Services Act (No. 4) 1973</i>	No. 103, 1973	26 Sept 1973	26 Sept 1973
<i>Statute Law Revision Act 1973</i>	No. 216, 1973	19 Dec 1973	31 Dec 1973

(a) Section 2 of the *Social Services Act 1973* provides as follows:

“2. Subject to section 15, this Act shall come into operation on the day on which it receives the Royal Assent.”

Section 15 provides as follows:

“15. (1) Subject to sub-section (4), the amendments made by sections 8 and 9—

(a) shall be deemed to have come into operation on the fifth day of December, 1972; and

(b) apply in relation to an instalment of a pension or of an allowance falling due on that date and to all subsequent instalments.

“(2) Subject to sub-section (4), the amendments made by sections 5 and 6, except as they affect service pensions under the *Repatriation Act 1920-1973*—

(a) shall be deemed to have come into operation on the fourteenth day of December, 1972; and

(b) apply in relation to an instalment of a pension or of an allowance falling due on that date and to all subsequent instalments.

“(3) Subject to sub-section (4), the amendments made by sections 5 and 6, in so far as they affect service pensions under the *Repatriation Act 1920-1973*—

(a) shall be deemed to have come into operation on the seventh day of December, 1972; and

(b) apply in relation to an instalment of a service pension falling due on that date and to all subsequent instalments.

“(4) In so far as an amendment made by this Act has the effect of reducing an instalment of a pension (including a service pension under the *Repatriation Act 1920-1973*) or allowance, the amendment applies only in relation to an instalment of a pension or allowance falling due on the first pension pay day after the day on which this Act receives the Royal Assent and to all subsequent instalments.

“(5) In so far as an amendment made by this Act affects instalments of sickness benefits or unemployment benefits, the amendment applies in relation to an instalment of benefit payable in respect of a period that commenced during the period of six days immediately before the day on which this Act receives the Royal Assent and in relation to an instalment of benefit payable in respect of a period that commences on or after that day.”

2. The operation of sections 21, 22, 24 and 25 are affected by section 86 of the *Repatriation Act 1920-1973*, which provides, *inter alia*, that “a person (other than a member of the Forces who is suffering from pulmonary tuberculosis) shall not be entitled to receive at the same time a service pension and an age or invalid pension under the *Social Services Act 1947-1960*”.
3. The operation of Part VIII is extended by section 150 of the *Re-establishment and Employment Act 1945-1973* to certain disabled persons who are discharged members of the Forces or are included in a prescribed class of persons. The operation of this Part is also extended by section 47 of the *Defence (Re-establishment) Act 1965-1973* to certain disabled persons discharged from the Regular Army Supplement immediately after having rendered national service.



The application of amendments made by many of the amending Acts shown in the Table in Note 1 fix the date from which amounts payable as a consequence of the amendments are to be paid. For details of those dates, reference should be made to those Acts.



# SOCIAL WELFARE COMMISSION ACTS 1973

## TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Definitions
4.	Social Welfare Commission
5.	Composition of Commission
6.	Period of appointment
7.	Remuneration and allowances
8.	Leave of absence
9.	Dismissal of Commissioners
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11.	Termination of office
12.	Acting appointments
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17.	Committees
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19.	Staff of Commission
20.	Rights of public servant appointed as Chairman or Deputy Chairman
21.	Secrecy
22.	Regulations

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### An Act to establish a Social Welfare Commission.

- |  |  |
|--|--|
| <p>1. This Act may be cited as the <i>Social Welfare Commission Acts</i> 1973.<sup>1</sup></p>   | <p>Short title.<br/>Short title amended;<br/>No. 32, 1918,<br/>s. 2.</p> |
| <p>2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup></p>   | <p>Commence-<br/>ment.</p>   |
| <p>3. In this Act—</p> <p>“Australian Public Service” means the Service constituted under the <i>Public Service Act</i> 1922-1973;</p> <p>“Commission” means the Social Welfare Commission established by this Act;</p> <p>“Chairman” means the Chairman of the Commission;</p> <p>“Deputy Chairman” means the Deputy Chairman of the Commission;</p> <p>“part-time Commissioner” means a Commissioner other than the Chairman or the Deputy Chairman.</p> | <p>Definitions.</p>  |

Social  
Welfare  
Com-  
mission.

4. (1) For the purposes of this Act, there is hereby established a Commission by the name of the Social Welfare Commission.

(2) The Commission—

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue or be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

Composi-  
tion of Com-  
mission.

5. (1) The Commission shall consist of eleven Commissioners, namely—

- (a) a Chairman;
- (b) a Deputy Chairman; and
- (c) nine other Commissioners.

(2) The Commissioners shall be appointed by the Governor-General, the Chairman and the Deputy Chairman being appointed as full-time Commissioners and the other Commissioners being appointed as part-time Commissioners.

(3) The performance of the functions or the exercise of the powers of the Commission is not affected by reason of there being a vacancy or vacancies in the membership of the Commission.

Period of  
appoint-  
ment.

6. (1) A Commissioner shall be appointed for such period, not exceeding—

- (a) in the case of the Chairman—seven years;
- (b) in the case of the Deputy Chairman—five years; or
- (c) in the case of a part-time Commissioner—three years,

as the Governor-General specifies in the instrument of appointment, but is eligible for re-appointment.

(2) A person who has attained the age of sixty-five years shall not be appointed or re-appointed as the Chairman or as the Deputy Chairman and a person shall not be appointed or re-appointed as the Chairman or as the Deputy Chairman for a period that extends beyond the date on which he will attain the age of sixty-five years.

Remunera-  
tion and  
allowances.

7. (1) The Chairman and the Deputy Chairman shall be paid remuneration at such rate, and an annual allowance at such rate (if any), as the Parliament fixes but, until 1 January 1975, the rate of remuneration and the rate (if any) of that allowance shall be as prescribed.

(2) The Chairman and the Deputy Chairman shall be paid such allowances (not including an annual allowance) as are prescribed.

(3) Subject to sub-section (4), part-time Commissioners shall be paid, in respect of attendance at meetings of the Commission, or while engaged (whether in Australia or overseas), with the approval of the Commission, on business of the Commission, such fees, expenses and allowances as are prescribed.

(4) If a part-time Commissioner is also a member of the Parliament, he shall not be paid fees, expenses or allowances under sub-section (3), but shall, subject to the approval of the Minister, be reimbursed such expenses as he reasonably incurs by reason of his attendance at meetings of the Commission or of his engagement (whether in Australia or overseas), with the approval of the Commission, on business of the Commission.

8. The Minister may grant leave of absence to the Chairman or the Deputy Chairman on such terms and conditions as to remuneration and otherwise as the Minister determines. Leave of absence.

9. The Governor-General may terminate the appointment of a Commissioner for misbehaviour or physical or mental incapacity. Dismissal of Commissioners.

10. A Commissioner may resign his office by writing under his hand addressed to the Governor-General. Resignation of Commissioners.

11. If a Commissioner—

- (a) being the Chairman or the Deputy Chairman, engages in paid employment outside the duties of his office without the approval of the Minister;
- (b) being the Chairman or the Deputy Chairman, is absent from duty, except on leave of absence granted by the Minister, for fourteen consecutive days or for twenty-eight days in any twelve months;
- (c) being a part-time Commissioner, is absent, except on leave granted by the Commission, from three consecutive meetings of the Commission; or
- (d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

Termination of office.

the Governor-General shall terminate the appointment of the Commissioner.

Acting  
appoint-  
ments.

12. (1) Where the Chairman or the Deputy Chairman is, or is expected to be, absent from duty or from Australia or there is a vacancy in the office of Chairman or the office of Deputy Chairman, the Minister may appoint a person to be acting Chairman or acting Deputy Chairman during the absence or until the filling of the vacancy.

(2) An acting Chairman or acting Deputy Chairman appointed in the event of a vacancy shall not continue in office after the expiration of twelve months after the occurrence of the vacancy.

(3) If the Deputy Chairman is at any time appointed acting Chairman, his office shall, during the period of his appointment, be deemed, for the purpose of this section, to be vacant.

(4) An acting Chairman or acting Deputy Chairman has all the functions, powers and duties of the Chairman or Deputy Chairman, as the case may be.

(5) The Minister may, at any time, terminate an appointment under this section.

(6) Subject to this section, a person appointed under this section holds office on such terms and conditions as the Minister determines.

(7) The validity of an act done by the Commission shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.

Meetings.

13. (1) The Commission shall hold such meetings as are necessary for the performance of its functions.

(2) The Minister or the Chairman or, if for any reason the Chairman is unable to act, the Deputy Chairman may at any time convene a meeting of the Commission.

(3) The Chairman or, if for any reason the Chairman is unable to act, the Deputy Chairman shall, on receipt of a request in writing signed by three Commissioners, convene a meeting of the Commission.

(4) At a meeting of the Commission at which the Chairman is present the Chairman and five other Commissioners (of whom one may be the Deputy Chairman) constitute a quorum and at a meeting of the Commission at which the Chairman is not present the Deputy Chairman and five other Commissioners constitute a quorum.

(5) The Chairman shall preside at all meetings of the Commission at which he is present.

(6) If the Chairman is not present at a meeting of the Commission, the Deputy Chairman shall preside at the meeting.

(7) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the Commissioners present and voting.

(8) The Commissioner presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

**14. The functions of the Commission are—**

Functions of  
Commission.

- (a) to ascertain, and report to the Minister on, the social welfare needs of the community and to make recommendations to the Minister in respect of those needs;
- (b) to make recommendations to the Minister for furthering the achievement of a nationally integrated social welfare plan, including—
  - (i) recommendations of priorities in relation to social welfare programs;
  - (ii) recommendations for the development of social welfare programs on a regional basis with localised administration;
  - (iii) recommendations for participation in the implementation of social welfare programs by representatives of the persons or agencies to be assisted;
  - (iv) recommendations for the co-ordination of the social welfare activities of organizations, including State, local government and voluntary organizations, involved in the provision of social welfare;
  - (v) recommendations for the adjustment, from time to time, of social welfare programs in the light of changing community circumstances and attitudes and the state of the economy; and
  - (vi) recommendations for avoiding the duplication of social welfare programs and for promoting the maximum efficiency and effectiveness of the community social welfare effort;
- (c) to estimate, and report to the Minister on, the likely cost of proposed social welfare programs and to advise the Minister on the relative priorities to be given to the implementation of those programs;
- (d) to keep social welfare programs under constant review and to re-assess and evaluate those programs in the light of experience;
- (e) to propose to the Minister measures to give all organizations, including State, local government and voluntary organizations, concerned with social welfare access to available information and technical assistance;



- (f) to consider, and report to the Minister on, measures designed to provide skilled staff for the successful implementation of social welfare programs; and
- (g) such other functions in connexion with social welfare programs as the Minister approves.

**Powers of Commission.**

**15.** (1) Subject to sub-section (2), the Commission has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions and, in particular, without limiting the generality of the foregoing, the Commission—

- (a) may conduct an inquiry, including a public inquiry, into any matter being investigated by the Commission; or
- (b) may, on behalf of Australia, engage, or make other arrangements with, persons or institutions to carry out research for, or supply information or make submissions to, the Commission on any matter being investigated by the Commission.

(2) The Commission shall not incur expenditure except on behalf of Australia and shall not incur expenditure on behalf of Australia except in accordance with the approval of the Minister.

**Reports.**

**16.** (1) The Commission shall furnish to the Minister such reports as the Minister requires and may furnish such other reports as the Commission thinks fit.

(2) Where the Commission furnishes a report to the Minister, the Minister shall, as soon as practicable, cause that report to be laid before each House of the Parliament.

**Committees.**

**17.** (1) The Commission may appoint a Committee to assist the Commission in relation to a matter.

(2) A Committee appointed under this section shall consist of such persons, whether members of the Commission or not, as the Commission thinks fit.

(3) Subject to sub-section (4), a member of a Committee shall be paid, in respect of attendance at meetings of the Committee or while engaged (whether in Australia or overseas), with the approval of the Commission, on business of the Committee, such fees, expenses and allowances as are prescribed.

(4) If a member of a Committee is also a member of the Parliament, he shall not be paid fees, expenses or allowances under sub-section (3), but shall, subject to the approval of the Minister, be reimbursed such expenses as he reasonably incurs by reason of his attendance at meetings of the Committee or of his engagement (whether in Australia or overseas), with the approval of the Commission, on business of the Committee.

(5) A Committee shall make such inquiries, and furnish to the Commission such reports, in connexion with the matter in relation to which it has been appointed as the Commission directs.

18. A person appearing as a witness at an inquiry conducted by the Commission shall be paid such allowances for expenses in respect of his attendance before the Commission as are prescribed.

Allowances for witnesses at inquiries.

19. (1) The staff of the Commission shall be employed under the *Public Service Act 1922-1973*.

Staff of Commission.

(2) For the purposes of this section, the Chairman has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act 1922-1973* so far as those powers relate to the branch of the Public Service comprising the staff of the Commission as if that branch were a separate department of the Public Service.

(3) For the purposes of sub-sections 25 (5) and (6) of the *Public Service Act 1922-1973*, the Chairman shall be deemed to be a Permanent Head.

(4) The Chairman may exercise his power of delegation under sub-section 25 (5) of the *Public Service Act 1922-1973* in favour of the Deputy Chairman as if the Deputy Chairman were an officer for the purposes of that sub-section.

(5) In this section, "Chairman" includes an acting Chairman.

20. If a person appointed as the Chairman or as the Deputy Chairman was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928-1969* applied—

Rights of public servant appointed as Chairman or Deputy Chairman.

(a) he retains his existing and accruing rights; and

(b) for the purpose of determining those rights, his service as Chairman or Deputy Chairman shall be taken into account as if it were service in the Australian Public Service.

Amended by No. 216, 1973, s. 3.

21. (1) This section applies to every person who is or has been a Commissioner, a member of a Committee appointed under section 17 or a member of the staff of the Commission.

Secrecy.

(2) A person to whom this section applies shall not, either directly or indirectly, except for the purposes of this Act—

(a) make a record of, or divulge or communicate to any person, any information concerning the affairs of another person acquired by him by reason of his office or employment under or for the purposes of this Act; or

(b) produce to any person a document relating to the affairs of another person furnished for the purposes of this Act.

Penalty: One thousand dollars or imprisonment for three months.

(3) A person to whom this section applies shall not be required to produce in a court any document relating to the affairs of another person of which he has the custody, or to which he has access, by virtue of his office or employment under or for the purposes of this Act, or to divulge or to communicate to any court any information concerning the affairs of another person obtained by him by reason of such an office or employment.

(4) In this section—

“court” includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

“produce” includes permit access to and “production” has a corresponding meaning.

Regulations. **22.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

#### NOTE

1. The *Social Welfare Commission Acts 1973* comprises the *Social Welfare Commission Act 1973* as amended by the other Act specified in the following table:

Act	Number and year	Date of Assent	Date of commencement
<i>Social Welfare Commission Act 1973</i>	No. 151, 1973	27 Nov 1973	27 Nov 1973
<i>Statute Law Revision Act 1973</i>	No. 216, 1973	19 Dec 1973	31 Dec 1973