

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 7 December 1983

(Minister representing the Minister for Social Security)

A BILL

FOR

**An Act to amend the *Social Security Act 1947* and the
Repatriation Act 1920 and for related purposes**

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

PART I—PRELIMINARY

Short title

- 5 **1.** This Act may be cited as the *Social Security and Repatriation (Pensions Income and Assets Test) Act 1983*.

Commencement

- 2.** This Act shall come into operation on the day on which it receives the Royal Assent.

10 **PART II—AMENDMENTS OF THE *SOCIAL SECURITY ACT 1947***

Principal Act

- 3.** The *Social Security Act 1947*¹ is in this Part referred to as the Principal Act.

Interpretation

4. Section 6 of the Principal Act is amended—

- (a) by inserting after the definition of “Director-General” in sub-section (1) the following definition:

“ ‘exempt property’, in relation to a person, means property of the person the value of which, for the purposes of section 6AA, is disregarded under paragraph 6AA (2) (a);” 5

- (b) by inserting after the definition of “friendly society” in sub-section (1) the following definitions:

“ ‘income’, in relation to a person, means 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 a periodical benefit by way of gift or allowance, but does not include— 10

- (a) income derived from property;
- (b) a payment of a capital nature;
- (c) the value of emergency relief or like assistance;
- (d) the value of any assistance provided by an eligible organization within the meaning of the *Homeless Persons Assistance Act 1974*, being assistance by way of the provision of accommodation or meals or of a ticket, voucher or token that may be exchanged for accommodation or meals; 20
- (e) a payment under the *Handicapped Persons Assistance Act 1974*; 25
- (f) a payment of domiciliary nursing care benefit under Part VB of the *National Health Act 1953*;
- (g) a payment under a law of the Commonwealth, being a law having an object of assisting persons to purchase or build their own homes; 30
- (h) a payment made to a person for or in respect of a child of whom that person has the custody, care and control;
- (j) in the case of a person who pays or who is liable to pay rent, a payment by way of rent subsidy made by the Commonwealth, by a State or Territory or by an authority of the Commonwealth or of a State or Territory to or on behalf of the person who pays or who is liable to pay rent; 35
- (k) a payment under this Act or a payment under section 9 of the *Tuberculosis Act 1948*; 40

- (m) a payment received by a trainee in full-time training under a program included in the programs known as the Labour Force Programs, being—
- (i) a payment known as the training component; or
 - (ii) a payment of a living away from home allowance;
- (n) a benefit under a law of the Commonwealth relating to the provision of pharmaceutical, sickness or hospital benefits, or of medical or dental services;
- (o) a payment made by an organization registered under a law referred to in paragraph (n) for or in respect of expenses incurred by a person for hospital, medical or dental treatment;
- (p) in the case of a member of the Reserve Forces, the pay and allowances paid to him as such a member (other than pay and allowances in respect of continuous full-time service) and, in the case of a member of a Force referred to in paragraph (b), (e) or (f) of the definition of 'Reserve Forces', any gratuity paid to him by reason of a calling out for continuous service of, or of part of, that Force;
- (q) in the case of a member of the Forces who is suffering from pulmonary tuberculosis and is undergoing treatment for that disease as an inmate of a hospital, sanatorium or similar institution—the value of board and lodging received by him therein;
- (r) a service pension under the *Repatriation Act 1920* received by the spouse of a claimant or pensioner;
- (s) an amount payable by the Repatriation Commission to a member of the Forces—
- (i) as an allowance for an attendant; or
 - (ii) 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 the Repatriation Commission for the member of the Forces because of his serious incapacity;
- (t) an amount payable to a member of the Forces as an allowance by reason of the fact that he has been awarded a decoration;

- (u) an amount payable by the Repatriation Commission as a clothing allowance to a member of the Forces;
 - (v) a periodical payment or benefit by way of gift or allowance from the father, mother, son, daughter, brother or sister of the person; 5
 - (w) personal earnings, moneys, valuable consideration or profits (not being income derived from property) that is or are produced by a person with the use of property (other than exempt property of the person), being personal earnings, moneys, valuable consideration or profits the annual rate of which does not exceed 10% of the value of that property; or 10
 - (x) that part of the value of board or lodging, or board and lodging, received by the person that exceeds \$65 per annum; 15
- “‘income and property amount’, in relation to a person, means an amount equal to the sum of—
- (a) the annual rate of income of the person; and
 - (b) the property component calculated in relation to the person; 20
- “‘income derived from property’, in relation to a person, means income derived by the person from property owned, whether alone or jointly or in common with another person, by that person, other than income that—
- (a) consists of an annuity (not being an annuity purchased by the person) or a superannuation pension; or 25
 - (b) is derived from a life interest;”;
- (c) by inserting after the definition of “officer” in sub-section (1) the following definition:
- “‘property’ includes property situated outside Australia;” and 30
- (d) by adding at the end thereof the following sub-sections:
- “(3) Notwithstanding the definition of ‘income’ in sub-section (1), income derived from property of a person, being exempt property of the person, shall be taken to be income of the person but, if the Director-General is satisfied that the annual rate of the income so derived exceeds an amount equal to 10% of the value of the property, calculated as if paragraph 6AA (2) (b) and sub-sections 6AA (3) and (4) applied, from which that income is derived, so much only of that income as does not exceed an amount equal to 10% of the value of that property shall be taken to be income of the person. 35
- “(4) For the purposes of determining the income and property amount of a person who is a married person within the meaning of section 6AA, the income of the person shall be taken to be 50% of the 40

sum of the income of the person and of the spouse, within the meaning of that section, of the person.”.

5. After section 6 of the Principal Act the following sections are inserted:

Property component

5 “6AA. (1) Subject to this section, the property component, in relation to a person, is an amount equal to 10% of—

(a) in a case where the person is a married person—an amount equal to 50% of the sum of the value of the property of the person and of the property of the person’s spouse, reduced by \$1,250; or

10 (b) in a case where the person is an unmarried person—an amount equal to the value of the property of the person reduced by \$1,500.

“(2) In determining the value of the property of a person for the purposes of this section—

(a) there shall be disregarded—

15 (i) if the person is an unmarried person—the value of one residence owned by the person that is, or will, when the person is able to obtain vacant possession, become, the principal home of the person;

20 (ii) if the person is a married person—the value of one residence owned by the person or by the person’s spouse that is, or will, when the person is able to obtain vacant possession, become, the principal home of the person, of the person’s spouse or of both of them;

25 (iii) the value of any property owned by the person that is used by the person to produce income (not being income derived from property) where the annual rate of that income exceeds an amount equal to 10% of that value;

30 (iv) the value of any property owned by the person (other than relevant property of the person or a motor vehicle owned by the person) that is primarily for the private and domestic use of the person or of the person’s spouse, including—

(A) furniture and other household effects;

(B) clothing;

(C) tools;

35 (D) jewellery; and

(E) personal collections maintained by the person as a hobby or pastime;

40 (v) if the person is an unmarried person—the value of one motor vehicle owned by the person, being a motor vehicle that is primarily for the private and domestic use of the person;

(vi) if the person is a married person—the value of one motor vehicle owned by the person or, if the person’s spouse does not

- own a motor vehicle that is primarily for the private and domestic use of the spouse or of the person, the value of 2 motor vehicles owned by the person, being a motor vehicle or motor vehicles owned by the person that is or are primarily for the private and domestic use of the person or of the person's spouse; 5
- (vii) the value of any life interest, annuity (not being an annuity purchased by the person) or superannuation pension of the person (other than a commuted amount);
- (viii) the value of any contingent or reversionary interest of the person; 10
- (ix) the value of any property (not being a contingent or reversionary interest) to which the person is entitled from the estate of a deceased person but which has not been, and is not able to be, received by the person; 15
- (x) the value of a residence owned by the person that is the principal home of a former spouse of the person;
- (xi) the value of any property owned by the person where the person is, by reason of any legal restriction (including a restriction under the law of a country other than Australia but not including a restriction created by the person) that cannot readily be overcome by the person, unable to sell or dispose of the property; 20
- (xii) where the person sells his principal home and it appears likely that the person will apply the whole or a part of the moneys received from the sale towards the purchase or building of another residence that will become the principal home of the person—the moneys received from the sale or that part of those moneys during the period of 12 months commencing on the day on which the sale takes place if those moneys are not used to produce income derived from property; 25
- (xiii) during the period of 12 months after they are received, insurance or compensation payments held by the person by reason of the loss of, or damage to, the principal home of the person or buildings, plant or personal effects owned by the person; 30
- (xiv) during the period of 3 months after they are received, other payments of a capital nature (not being payments that are received following a disposition of property or that are used, during that period, to produce income derived from property) that are held by the person; 40
- (xv) the value of any interest, right or benefit acquired by the person as a result of, or in connection with, the payment or lending of moneys by the person, or the transfer of property by the person,

to an organization in respect of the provision by the organization of permanent accommodation for the person;

5 (xvi) the value of a right to travel by, or of accommodation while travelling for, the person, the person's spouse or any other person by reference to whom the pension, benefit or allowance payable to the person or the person's spouse is increased under sub-section 28 (1B), 63 (1A) or 112 (5), being a right to travel or accommodation while travelling purchased in advance by the person;

10 (xvii) the value of one cemetery plot acquired by the person and of funeral expenses paid in advance by the person; and

15 (xviii) if, in the opinion of the Director-General, the person would suffer financial hardship during a particular period if the whole or a part of the value of the property of the person were not disregarded and, in all the circumstances of the case, the Director-General considers it reasonable that the value of the property of the person or of that part of that value be disregarded during that period—the value of the property of the person or of that part of that value during that period;

20 (b) there shall be deducted the value of any charge or encumbrance on the property, not being property the value of which is disregarded under paragraph (a);

25 (c) where a person has sold a residence that was his principal home on terms and has purchased, also on terms, another residence that is the principal home of the person, there shall be set off against the amount of the balance due to the person from time to time in respect of the sale of the former home of the person the amount of the balance payable by him from time to time in respect of the purchase of the other residence;

30 (d) where a property exemption is applicable to the relevant property of the person or, in the case of a married person, to the relevant property of the person and of the person's spouse, the value of the property of the person or of the person and the person's spouse, as the case may be, shall be reduced by an amount equal to the amount of that property exemption; and

35 (e) where the value of an interest, right or benefit acquired by the person is disregarded under sub-paragraph (a) (xv), there shall be included the amount of any loan made to the organization concerned to the extent that that loan was not required by the organization to be made by the person in connection with the acquisition of the interest, right or benefit.

40 “(3) Where a charge or encumbrance exists on property the value of which is disregarded under paragraph (2) (a) and the same charge or encumbrance exists on other property of the person or of the person's spouse, the amount to be deducted under paragraph (2) (b) is the amount that bears to the value of
45 the charge or encumbrance the same proportion as the value of that other

property bears to the value of all the property of the person on which the charge or encumbrance exists.

“(4) Where a charge or encumbrance is a collateral security, that charge or encumbrance, and the charge or encumbrance to which it is collateral (in this sub-section referred to as the ‘principal security’), shall, for the purposes of this section, be taken to be one charge or encumbrance existing on any property on which either the collateral security or the principal security exists. 5

“(5) For the purposes of sub-section (2), a residence owned by a person shall be taken to continue to be the principal home of the person during—

- (a) any period, not exceeding 12 months, during which the person is not living in that residence unless, during that period— 10
 - (i) the person commences to reside at another residence owned by the person; or
 - (ii) the value of any interest, right or benefit of the person is disregarded under sub-paragraph (2) (a) (xv); or 15
- (b) any period during which the residence is vacant as a result of a dispute between the person and the person’s spouse.

“(6) A reference in this section to the principal home or the holiday home of a person shall be read as including a reference to—

- (a) in the case of a dwelling-house—a garden or portion of land adjacent to the dwelling-house that is used in association with the dwelling-house; or 20
- (b) in the case of a flat or home unit—a garage or store-room that is used in association with the flat or home unit.

“(7) A reference in this section to the value of property owned by a person, or of property of a person, shall, in the case of property owned by the person jointly or in common with another person, be read as a reference to the value of the person’s interest in the property. 25

“(8) For the purposes of this section, a property exemption is applicable to the relevant property of a person or, in the case of a married person, to the relevant property of the person and of the person’s spouse, if the sum (in this sub-section referred to as the ‘reduction amount’) of— 30

- (a) the annual rate of income derived from that relevant property; and
- (b) the annual rate of any personal earnings, moneys, valuable consideration or profits (not being income derived from property) that is or are derived by the person or by the person’s spouse with the use of that relevant property, 35

is less than—

- (c) in a case where the value of that relevant property is equal to or exceeds \$30,000—\$3,000; or 40
- (d) in any other case—an amount equal to 10% of the value of that relevant property,

and the amount of that property exemption is—

(e) in a case where the reduction amount is nil—the value of that relevant property or \$30,000, whichever is the lesser amount; or

(f) in any other case—

(i) \$30,000 reduced by an amount equal to the reduction amount multiplied by 10; or

(ii) the value of that relevant property reduced by an amount equal to the reduction amount multiplied by 10,

whichever is the lesser amount.

“(9) A reference in this section to a residence, a holiday home, a farm or rural land owned by a person shall be read as a reference to ownership by the person of an approved interest in the land on which the residence or holiday home is erected, or in the farm or rural land, as the case may be.

“(10) In this section—

‘approved interest’ means—

(a) an estate in fee simple;

(b) an interest as purchaser of an estate in fee simple from the Crown in right of a State or of the Northern Territory where payment of the purchase price is to be made by instalments over a period of years; or

(c) a lease for a term of years or any other interest if the Director-General is satisfied that the lease or other interest gives reasonable security of tenure to the lessee or the person holding the interest for a substantial period;

‘de facto spouse’ means a person who is living with another person of the opposite sex as the spouse of that other person on a *bona fide* domestic basis although not legally married to that other person;

‘holiday home’, in relation to a person, means a permanent structure that—

(a) is able to be used as a permanent residence;

(b) is not occupied solely by a person other than the owner or owners of the structure or the spouse or spouses of the owner or owners for more than 6 months in each year; and

(c) is personally used by the person or by the person’s spouse for not less than 2 weeks in each year;

‘married person’ includes a de facto spouse but does not include—

(a) a legally married person (not being a de facto spouse) who is living apart from the spouse of the person on a permanent basis; or

(b) a person who, for any special reason in any particular case, the Director-General determines should not be treated as a married person;

‘relevant property’, in relation to a person, means—

- (a) property owned by the person that is maintained by the person primarily for the recreational use of the person or of the person’s spouse, being—
 - (i) a holiday home; 5
 - (ii) a time sharing interest;
 - (iii) a caravan;
 - (iv) a motor vehicle (not being a motor vehicle the value of which is disregarded under sub-paragraph (2) (a) (v) or (vi)) that has sleeping facilities; 10
 - (v) a boat; or
 - (vi) accessories for use with a boat, including a boat trailer; or
- (b) in a case where the principal home of the person is situated on a farm, or on rural land, owned by the person—that part of the farm or land that is not property the value of which is disregarded under sub-paragraph (2) (a) (i) or (ii); 15

‘spouse’ includes a de facto spouse;

‘time sharing interest’, in relation to a person, means an interest of the person (whether contractual or otherwise) in relation to a permanent structure that is able to be used as a permanent residence, being a structure that is personally used by the person or by the person’s spouse for not less than 2 weeks in each year; 20

‘unmarried person’ means a person who is not a married person. 25

Disposal of income or property

“6AB. (1) Subject to sub-section (2), where, on or after 24 August 1983, a person has, during a pension year of the person, deprived himself of property (including exempt property), the amount (if any) by which—

- (a) in the case of a married person—50 % of the sum of the amount of that deprivation of property and of any other deprivation of property by the person or by the person’s spouse that took place during that pension year exceeds \$1,250; or 30
- (b) in the case of an unmarried person—the sum of the amount of that deprivation of property and of any other deprivation of property by the person that took place during that pension year exceeds \$1,500, 35

shall, for the purposes of calculating the income and property amount of the person, be included in the value of the property of the person.

“(2) For the purposes of determining the value of the property of a person after the end of the pension year of the person in which a deprivation of property to which sub-section (1) applies took place, an amount that would, but for this sub-section, be included in the value of the property of the person under sub-section (1) shall, on each anniversary of the day on which that 40

deprivation took place, be reduced by an amount equal to 10% of that first-mentioned amount.

5 “(3) Where, on or after 24 August 1983, a person has deprived himself of income, the amount of that deprivation shall be included in the income of the person.

“(4) This section does not apply to a deprivation of property or of income that took place—

(a) more than 5 years before the person concerned became qualified to receive a pension, benefit or allowance under this Act; or

10 (b) less than 5 years before the person concerned became qualified to receive a pension, benefit or allowance under this Act and before the time when the Director-General is satisfied that the person could reasonably have expected to become so qualified.

“(5) For the purposes of this section—

15 (a) a person shall be taken to have deprived himself of income if the person surrenders or otherwise disposes of income of the person (not being a surrender or disposal that constitutes a disposition of property), or enters into a transaction or engages in a course of conduct that diminishes, directly or indirectly, the rate of income of the person, without consideration, or with inadequate consideration, in money or money’s worth;

(b) a person shall be taken to have deprived himself of property if the person makes a disposition of property without consideration, or with inadequate consideration, in money or money’s worth;

25 (c) the amount of a deprivation of income by a person shall be taken to be the amount that, in the opinion of the Director-General, is the annual rate of that income reduced by such percentage of the consideration (if any) given to the person in respect of that deprivation as the Director-General determines to be fair and reasonable in all the circumstances of the case;

30 (d) the amount of a deprivation of property by a person shall be taken to be an amount equal to the value of the property disposed of reduced by the consideration (if any) given to the person in respect of that deprivation;

35 (e) a reference to a disposition of property shall be read as a reference to a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including any transaction entered into, or any course of conduct engaged in, by a person that diminishes, directly or indirectly, the value of his property; and

40 (f) a reference to a pension year, in relation to a person who is receiving a pension, benefit or allowance under this Act, shall be read as a reference to the period of 12 months commencing on the pay day on

which that pension, benefit or allowance first became payable and each succeeding and each preceding period of 12 months.

Purchased annuities

“6AC. Where—

- (a) a person has purchased an annuity; and 5
- (b) the annual rate of the pension, benefit or allowance under this Act payable to the person would be greater if the value of that annuity were not included in the property of the person for the purposes of this Act, but the payments of that annuity were treated as income of the person for the purposes of this Act, 10

the value of that annuity and the payments of that annuity shall be treated accordingly.”.

Interpretation

6. Section 18 of the Principal Act is amended—

- (a) by omitting the definition of “income”; 15
- (b) by omitting the definition of “married person” and substituting the following definition:

“ ‘married person’ has the same meaning as in section 6AA;”; and

- (c) by omitting the definition of “unmarried person” and substituting the following definition: 20

“ ‘unmarried person’ has the same meaning as in section 6AA;”.

Rate of age or invalid pension

7. Section 28 of the Principal Act is amended—

- (a) by omitting from paragraph (1EA) (a) “per annum by which the rate of the income of that person exceeds \$1,300 per annum” and substituting “by which the income and property amount of the person exceeds \$1,300”; 25
- (b) by omitting from paragraph (1EA) (b) “annual rate of the income” (wherever occurring) and substituting “income and property amount”; 30
- (c) by omitting from sub-section (2) “per annum by which the annual rate of the income” and substituting “by which the income and property amount”; 35
- (d) by omitting from paragraphs (2) (a) and (b) “per annum”; 35
- (e) by omitting from paragraphs (2AB) (d) and (e) “has an annual rate of income exceeding” and substituting “the income and property amount of the person exceeds”; 35
- (f) by omitting from paragraphs (2AB) (d) and (e) “per annum by which the annual rate of income” and substituting “by which the income and property amount”; 40

- (g) by omitting from paragraph (2AC) (d) “the person has an annual rate of income exceeding” and substituting “the income and property amount of the person exceeds”; and
- 5 (h) by omitting from paragraph (2AC) (d) “per annum by which the annual rate of income” and substituting “by which the income and property amount”.

8. Section 29 of the Principal Act is repealed and the following section is substituted:

Calculation of income and property amount

10 “29. In calculating the income and property amount of a person for the purposes of this Part (other than sub-sections 28 (2AB) and (2AC)), where a child under the age of 16 years is dependent on the person, the income and property amount of the person shall be reduced by an amount equal to \$312 less the annual amount of any payment (not being a payment under this Act, under 15 the *Repatriation Act 1920* or under the *Tuberculosis Act 1948*) received by the person for or in respect of the child.”.

Omission of heading

9. The heading to Division 4A of Part III of the Principal Act is omitted.

Rent assistance

20 10. Section 30A of the Principal Act is amended—

- (a) by omitting sub-section (1);
- (b) by omitting paragraph (2) (a);
- (c) by omitting sub-section (3) and substituting the following sub-section:

25 “(3) Subject to this section, the maximum rate of pension under section 28 applicable to a person who pays, or is liable to pay, rent at an annual rate exceeding \$520 shall be increased by an amount per annum equal to—

(a) one-half of the amount by which the amount of the annual rent paid or payable by the person exceeds \$520; or

30 (b) \$520,
whichever is the lesser amount.”;

(d) by omitting from sub-sections (3AA) and (3AB) “allowance” (first occurring) and substituting “increase”;

(e) by inserting in sub-section (3AB) “or 133JA” after “section 26”;

35 (f) by omitting sub-sections (3A) and (3B);

(g) by omitting from paragraph (3C) (a) “allowance” and substituting “increase”;

(h) by omitting from sub-paragraph (3C) (b) (i) “allowance” and substituting “increase”;

- (j) by omitting sub-paragraph (3C) (b) (iii) and substituting the following sub-paragraph:

“(iii) an increase in a service pension under the *Repatriation Act 1920* calculated by reference to this section;”;

- (k) by omitting from sub-paragraph (3C) (b) (v) “an allowance” and substituting “an increase”;

- (m) by omitting from sub-section (3C) “the allowance” and substituting “the increase”;

- (n) by omitting sub-section (4) and substituting the following sub-section:

“(4) An increase under this section is not payable to a person if the value of the residence that is the principal home of the person or of the wife or husband of the person is, for the purposes of section 6AA—

(a) disregarded under sub-paragraph 6AA (2) (a) (i); or

(b) disregarded under sub-paragraph 6AA (2) (a) (ii) unless—

(i) a direction under sub-section 28 (1AAA) or 32 (1A) is in force in respect of the person; and

(ii) the wife or husband of the person is living in that residence.”; and

- (o) by omitting sub-section (7).

Rate of wife’s pension

11. Section 32 of the Principal Act is amended by omitting from sub-section (2) “per annum by which the rate of the income of the wife exceeds \$1,300 per annum” and substituting “by which the income and property amount of the wife exceeds \$1,300”.

Rate of spouse carer’s pension

12. Section 34 of the Principal Act is amended by omitting from sub-section (2) “per annum by which the rate of the income of the person exceeds the rate specified in sub-section 32 (2)” and substituting “by which the income and property amount of the person exceeds the amount referred to in sub-section 32 (2)”.

Repeal of section 47

13. Section 47 of the Principal Act is repealed.

Interpretation

14. Section 59 of the Principal Act is amended by omitting sub-section (2).

Rate of widow’s pension

15. Section 63 of the Principal Act is amended by omitting from sub-section (2) “per annum by which the rate of the income of the widow exceeds \$1,560 per annum” and substituting “by which the income and property amount of the widow exceeds \$1,560”.

Calculation of income and property amount

16. Section 64 of the Principal Act is amended—

- (a) by omitting “In the computation of income” and substituting “In calculating the income and property amount of a widow”;
- 5 (b) by omitting paragraph (a);
- (c) by omitting from paragraph (b) “income” and substituting “income and property amount”;
- (d) by omitting from paragraph (b) “per annum”;
- 10 (e) by inserting in paragraph (b) “, under the *Repatriation Act 1920* or under the *Tuberculosis Act 1948*” after “this Act”; and
- (f) by adding at the end of paragraph (d) “in the income and property amount of the widow”.

Omission of heading

17. The heading to Division 3A of Part IV of the Principal Act is omitted.

15 18. Section 65A of the Principal Act is repealed and the following section is substituted:

Rent assistance

20 “65A. (1) Subject to sub-section (2), the maximum rate of pension under section 63 applicable to a widow who pays, or is liable to pay, rent at an annual rate exceeding \$520 shall be increased by an amount per annum equal to—

- (a) one-half of the amount by which the amount of the annual rent paid or payable by the widow exceeds \$520; or
- (b) \$520,

whichever is the lesser amount.

25 “(2) An increase under this section is not payable to a widow if the widow owns a residence the value of which, for the purposes of section 6AA, is disregarded under sub-paragraph 6AA (2) (a) (i).”.

Repeal of section 76

19. Section 76 of the Principal Act is repealed.

30 **Interpretation**

20. Section 83AAA of the Principal Act is amended by omitting from the definition of “benefit” in sub-section (1) “, and includes an allowance by way of supplementary assistance”.

Rate of benefit

35 21. Section 83AAE of the Principal Act is amended—

- (a) by omitting from sub-section (1) “supplementary assistance” and substituting “any increase under section 65A”; and

- (b) by omitting paragraph (2) (c) and substituting the following paragraph:

“(c) if the supporting parent is qualified for a benefit by reason of the supporting parent being a person referred to in paragraph (b) of the definition of ‘married person’ in sub-section 83AAA (1), section 63 applies in relation to the supporting parent as if the reference in sub-section 63 (2) to \$1,560 were a reference to \$1,300.”.

5

Application of certain provisions of Part IV

22. Section 83AAG of the Principal Act is amended by omitting from sub-section (1) “and Division 3A,” and substituting “, section 65A and Divisions”.

10

Increase in pension under section 30A or 65A

23. Section 83AC of the Principal Act is amended by omitting “allowance by way of supplementary assistance” and substituting “increase in the rate of a pension under section 30A or 65A”.

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Grant of new pension to pensioner outside Australia

24. Section 83AF of the Principal Act is amended—

- (a) by omitting from sub-section (1) “(excluding any allowance by way of supplementary assistance)”;
- (b) by omitting from sub-section (3) “(excluding any allowance by way of supplementary assistance)”.

20

Prescribed persons

25. Section 83CA of the Principal Act is amended—

- (a) by omitting from sub-section (1) “annual rate of income” and substituting “income and property amount”;
- (b) by omitting from sub-section (1) “rate of income” (last occurring) and substituting “income and property amount”;
- (c) by omitting from sub-section (2) “rate of income” and substituting “income and property amount”;
- (d) by omitting from sub-section (2) “per annum” (wherever occurring);
- (e) by omitting from sub-section (3) “rate of income” and substituting “income and property amount”;
- (f) by omitting from sub-section (3) “per annum” (wherever occurring);
- (g) by omitting sub-section (5);
- (h) by omitting from sub-section (6) the definitions of “income”, “married person”, “unmarried person” and “wife” and substituting the following definitions:

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“‘married person’ and ‘unmarried person’ have the same respective meanings as in section 6AA.”.

40

Supplementary allowance

26. Section 112A of the Principal Act is amended—

- 5 (a) by omitting sub-paragraph (b) (i) of the definition of “prescribed period” in sub-section (1) and substituting the following sub-paragraph:
- “(i) an incentive allowance under section 26 or 133JA or an increase under section 30A or 65A (including an increase under section 65A as applied for the purposes of Part IVAAA); or”;
- 10 (b) by omitting from sub-paragraph (b) (ii) of the definition of “prescribed period” in sub-section (1) “an allowance by way of supplementary assistance” and substituting “increase”;
- (c) by omitting from sub-paragraph (3C) (b) (ii) “allowance” and substituting “increase”;
- 15 (d) by omitting sub-paragraph (3C) (b) (iii) and substituting the following sub-paragraph:
- “(iii) an increase in a service pension under the *Repatriation Act 1920* calculated by reference to section 30A;” and
- 20 (e) by omitting from sub-paragraph (3C) (b) (v) “supplementary assistance under” and substituting “to”.

Amount of allowance

27. Section 133J of the Principal Act is amended by omitting “under Division 4A of that Part” and substituting “an increase under section 30A”.

Persons eligible to be paid rehabilitation allowance

25 28. Section 135B of the Principal Act is amended by omitting from sub-section (3) “, supplementary assistance”.

Rate of rehabilitation allowance

29. Section 135BA of the Principal Act is amended—

- 30 (a) by omitting from sub-paragraph (1) (a) (i) “supplementary assistance,”;
- (b) by omitting from sub-paragraph (1) (a) (ii) “supplementary assistance,”;
- (c) by omitting from paragraph (1) (b) “supplementary assistance or”; and
- 35 (d) by omitting from sub-section (2) “supplementary assistance,”.

Application of amendments

30. (1) The amendments made by this Part apply, in so far as they affect instalments of pension, benefit or allowance under the *Social Security Act 1947*, in relation to each instalment of pension, benefit or allowance that falls

due on or after a day fixed by the Minister by notice published in the *Gazette*, not being a day before 1 November 1984.

(2) Pensions, benefits and allowances under the *Social Security Act 1947* shall, before the day fixed by the Minister under sub-section (1), be calculated in accordance with that Act as if the amendments made by this Act had not been made. 5

(3) Where, by virtue of the operation of section 47 or 76 of the *Social Security Act 1947*, an amount was deemed to be income of a person in respect of a deprivation of income that took place before 24 August 1983, that amount shall, on and after the day fixed by the Minister under sub-section (1), continue to be deemed to be income of that person. 10

(4) Where, by virtue of the operation of section 47 or 76 of the *Social Security Act 1947*, an amount is deemed to be income of a person in respect of a deprivation of income that took place on or after 24 August 1983 and before the day fixed by the Minister under sub-section (1)— 15

- (a) that amount shall not, subject to paragraph (b), on or after the day so fixed, be deemed to be income of that person; and
- (b) section 6AB of that Act applies, according to its terms, to that deprivation.

Transitional

31. (1) Where an increase under section 30A or 65A of the Principal Act as amended by this Act becomes payable to a person to whom sub-section 10 (2) or 16 (2) of the *Social Services Act (No. 3) 1974* applies, that sub-section of that Act ceases to apply to that person. 20

(2) Where an increase under sub-section 30A or 65A of the Principal Act as amended by this Act becomes payable to a person to whom sub-section 22 (2) of the *Social Services Amendment Act 1981* applies, that sub-section of that Act ceases to apply to that person. 25

PART III—AMENDMENTS OF THE REPATRIATION ACT 1920

Principal Act

32. The *Repatriation Act 1920*² is in this Part referred to as the Principal Act. 30

Payment of pensions

33. Section 36 of the Principal Act is amended by omitting from sub-section (3) “98A or”. 35

Appropriation for pensions, &c.

34. Section 51 of the Principal Act is amended by omitting from paragraph (a) “; allowances under section 98A”. 35

Pensions, &c., absolutely inalienable

35. Section 52 of the Principal Act is amended by omitting from sub-section (1) “, an allowance under section 98A”.

Offences

5 36. Section 53 of the Principal Act is amended by omitting from sub-section (5) “98A or”.

Interpretation

37. Section 83 of the Principal Act is amended—

10 (a) by omitting from sub-section (1) the definitions of “Income”, “married person” and “rent” and substituting the following definitions:

“‘income’, has the same meaning as in section 6 of the *Social Security Act 1947*, but does not include a payment under this Division;

15 ‘income and property amount’ has the same meaning as in the *Social Security Act 1947*;

‘married person’ has the same meaning as in Part III of the *Social Security Act 1947*;

‘rent’ has the same meaning as in Part III of the *Social Security Act 1947*;”;

20 (b) by omitting sub-section (3) and substituting the following sub-section:

“(3) In the application of the *Social Security Act 1947* for the purposes of this Division—

25 (a) a reference in that Act to the Director-General shall be read as a reference to the Commission;

(b) a reference in that Act to a child under the age of 16 years of whom a person has the custody, care and control shall, in relation to a member of the Forces, be read as a reference to a child of that member;

30 (c) a reference in that Act to a direction in force under sub-section 28 (1AAA) or 32 (1A) of that Act shall be read as a reference to a determination in force under sub-section 84 (2) or 85 (1AA), as the case may be, of this Act; and

(d) sub-section 28 (1C) of that Act does not have any operation.”.

Grant of service pensions

35 38. Section 84 of the Principal Act is amended—

(a) by omitting “or a Board” (wherever occurring); and

(b) by omitting “or the Board” (wherever occurring).

Service pension in respect of a member permanently unemployable, &c.

39. Section 85 of the Principal Act is amended—

40 (a) by omitting “or a Board” (wherever occurring);

- (b) by omitting “or the Board” (wherever occurring); and
- (c) by adding at the end thereof the following sub-section:

“(6) For the purposes of sub-section (1), the maximum rate of pension per annum applicable to a child of a member of the Forces shall be ascertained without regard to section 30A of the *Social Security Act 1947*.”.

5

Service pension for male carers of severely handicapped female service pensioners

40. Section 85AA of the Principal Act is amended by omitting from sub-section (1) “or a Board”.

10

Variation of rate of service pension

41. Section 87 of the Principal Act is amended—

- (a) by omitting sub-sections (2), (3), (3AAA) and (3AA); and
- (b) by omitting from sub-section (3A) “income” and substituting “income and property amount”.

15

Repeal of section 91

42. Section 91 of the Principal Act is repealed.

Right to be paid service pension outside Australia

43. Section 92 of the Principal Act is amended—

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

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“(2) Section 83AC of the *Social Security Act 1947* applies to a service pension as if the service pension were a pension granted under Part III of that Act.”;

- (b) by omitting from sub-section (5) “(excluding any allowance by way of supplementary assistance)”; and
- (c) by adding at the end of sub-section (5) “, but the rate of a service pension so granted shall not include the amount of any increase under section 30A of the *Social Security Act 1947*.”.

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Payment of service pensions

44. Section 93 of the Principal Act is amended by omitting “98A or”.

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Pension to widow and children of service pensioner

45. Section 94 of the Principal Act is amended—

- (a) by omitting “or a Board” (wherever occurring); and
- (b) by omitting from sub-section (2) “or the Board”.

Service pensioner in a public institution

46. Section 95 of the Principal Act is amended—

- (a) by omitting “98A or” from the definition of “service pension” in sub-section (1); and
- 5 (b) by omitting “in relation to whose income sub-section 87 (2) applies” from the definition of “wife’s portion” in sub-section (1) and substituting “who is a married person”.

Receipt of income or acquisition of property to be notified

47. Section 96 of the Principal Act is amended—

- 10 (a) by omitting from sub-section (1) all the words before “is higher than” (first occurring) and substituting the following: “Subject to sub-section (6A), where the average weekly rate of the income received in any period of 8 consecutive weeks by a service pensioner who is not a married person”;
- 15 (b) by omitting paragraph (2) (a) and substituting the following paragraph:
 - “(a) the income received by a service pensioner (other than a carer pensioner) who is a married person; and”;
- 20 (c) by omitting from paragraph (2) (b) “, other than service pension,”;
- (d) by omitting from sub-section (3) “, other than service pension, received in any period of 8 consecutive weeks by a carer pensioner who is not a person in receipt of an allowance under section 98A,” and substituting “received in any period of 8 consecutive weeks by a carer pensioner”;
- 25 (e) by inserting after sub-section (3) the following sub-section:
 - “(4) Subject to sub-section (6A), where a service pensioner or his spouse becomes the owner of, or acquires an interest in, property, or disposes of income or property within the meaning of section 6AB of the *Social Security Act 1947*, he shall, within 28 days after the pensioner or his spouse becomes the owner of, or acquires that interest in, that property or disposes of that income or property, as the case may be, notify the Secretary at any address of the Department accordingly.”;
- 30 (f) by inserting after paragraph (6) (ca) the following paragraph:
 - 35 “(cb) a service pensioner whose pension is increased by virtue of the operation of section 30A of the *Social Security Act 1947* in its application for the purposes of this Act ceasing to pay rent or having the rate of his rent reduced;”;
- (g) by omitting paragraph (6A) (b); and
- 40 (h) by omitting from sub-section (6A) “or (3)” and substituting “, (3) or (4)”.

Service pensioner to furnish information when required

48. Section 97 of the Principal Act is amended—

- (a) by omitting “or a Board” (wherever occurring);
- (b) by adding at the end of sub-section (1) “and property”; and
- (c) by omitting from sub-section (2) “or Board”.

5

Cancellation or variation of pension

49. Section 98 of the Principal Act is amended—

- (a) by omitting “or a Board”; and
- (b) by omitting “or Board”.

Repeal of section 98A

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50. Section 98A of the Principal Act is repealed.

On death of married person, widow, widower or children to receive certain benefits for 12 weeks

51. Section 98B of the Principal Act is amended—

- (a) by omitting paragraph (2) (a) and substituting the following paragraph:
 - “(a) a married person who is in receipt of a service pension; or”;
 - and
- (b) by omitting from sub-section (8) “an allowance under section 98A and”.

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Service pensions for South African veterans

52. Section 120 of the Principal Act is amended by omitting “98A or”.

Prescribed persons

53. Section 123AB of the Principal Act is amended—

- (a) by omitting from sub-section (1) “annual rate of income” and substituting “income and property amount”;
- (b) by omitting from sub-section (1) “rate of income” (last occurring) and substituting “income and property amount”;
- (c) by omitting from sub-section (2) “rate of income” and substituting “income and property amount”;
- (d) by omitting from sub-section (2) “per annum” (wherever occurring);
- (e) by omitting sub-sections (3) and (4) and substituting the following sub-section:

25

30

“(3) Where a person has the custody, care and control of a child or children, the prescribed income and property amount applicable to the person by virtue of sub-section (2) shall be increased—

35

- (a) in the case of an unmarried person—by \$1,040; or

(b) in the case of a married person—by \$520, in respect of each child.”;

(f) by omitting from sub-section (4A) “sub-sections (3) and (4)” and substituting “sub-section (3)”;

5 (g) by inserting “not” before “attained” in sub-paragraph (a) (i) of the definition of “child” in sub-section (6); and

(h) by omitting from sub-section (6) the definitions of “income”, “married person”, “unmarried person” and “wife” and substituting the following definitions:

10 “‘income’ has the same meaning as in section 83;

‘married person’ has the same meaning as in section 83;

‘unmarried person’ means a person who is not a married person.”.

Application of amendments

15 **54. (1)** The amendments made by this Part apply in relation to instalments of pensions under the *Repatriation Act 1920* falling due on or after a day fixed by the Minister by notice published in the *Gazette*, not being a day before 1 November 1984.

20 (2) Pensions under the *Repatriation Act 1920* shall, before the day fixed by the Minister under sub-section (1), be calculated in accordance with that Act as if the amendments made by this Act had not been made.

25 (3) Where, by virtue of the operation of section 91 of the *Repatriation Act 1920*, an amount was deemed to be income of a person in respect of a deprivation of income that took place before 24 August 1983, that amount shall, on and after the day fixed by the Minister under sub-section (1), continue to be deemed to be income of the person.

(4) Where, by virtue of the operation of section 91 of the *Repatriation Act 1920*, an amount is deemed to be income of a person in respect of a deprivation of income that took place on or after 24 August 1983 and before the day fixed by the Minister under sub-section (1)—

30 (a) that amount shall not, subject to paragraph (b), on or after the day so fixed, be deemed to be income of the person; and

(b) section 6AB of the *Social Security Act 1947*, in its application for the purposes of the *Repatriation Act 1920*, applies, according to its terms, in relation to that deprivation.

35 Transitional

55. (1) Where an increase in the rate of a service pension under section 30A of the *Social Security Act 1947* becomes payable to a person to whom sub-section 15 (2) of the *Repatriation Acts Amendment Act 1974* applies, that sub-section of that Act ceases to apply to that person.

40 (2) Where an increase in the rate of a service pension under section 30A of the *Social Security Act 1947* becomes payable to a person to whom sub-section

92 (3) of the *Repatriation Acts Amendment Act 1981* applies, that sub-section of that Act ceases to apply to that person.

NOTES

1. No. 26, 1947, as amended. For previous amendments, see Nos. 38 and 69, 1948; No. 16, 1949; Nos. 6 and 26, 1950; No. 22, 1951; Nos. 41 and 107, 1952; No. 51, 1953; No. 30, 1954; Nos. 15 and 38, 1955; Nos. 67 and 98, 1956; No. 46, 1957; No. 44, 1958; No. 57, 1959; No. 45, 1960; Nos. 1 and 95, 1962; No. 46, 1963; Nos. 3 and 63, 1964; Nos. 57 and 152, 1965; No. 41, 1966; Nos. 10 and 61, 1967; No. 65, 1968; No. 94, 1969; Nos. 2 and 59, 1970; Nos. 16 and 67, 1971; Nos. 1, 14, 53 and 79, 1972; Nos. 1, 26, 48, 103 and 216, 1973; Nos. 2, 23 and 91, 1974; Nos. 34, 56, 101 and 110, 1975; Nos. 26, 62 and 111, 1976; No. 159, 1977; No. 128, 1978; No. 121, 1979 (as amended by Nos. 37 and 98, 1982); No. 130, 1980; Nos. 61 and 170, 1981; No. 159, 1981 (as amended by No. 98, 1982); Nos. 37, 98 and 148, 1982; and Nos. 4, 36 and 69, 1983.
2. No. 6, 1920, as amended. For previous amendments, see No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930; Nos. 10 and 47, 1931; No. 32, 1934; No. 58, 1935; Nos. 29 and 67, 1936; Nos. 12, 24 and 42, 1937; No. 55, 1938; Nos. 37 and 96, 1940; No. 49, 1941; No. 22, 1943; No. 11, 1945; No. 49, 1946; Nos. 1, 29 and 74, 1947; No. 39, 1948; No. 38, 1949; Nos. 34 and 80, 1950; No. 31, 1951; No. 58, 1952; No. 69, 1953; No. 31, 1954; No. 39, 1955; Nos. 68 and 97, 1956; No. 44, 1957; No. 47, 1958; No. 58, 1959; No. 44, 1960; No. 46, 1961; Nos. 75 and 91, 1962; No. 47, 1963; Nos. 62 and 105, 1964; No. 64, 1965; No. 42, 1966; No. 64, 1967; Nos. 66 and 120, 1968; No. 95, 1969; Nos. 4 and 60, 1970; Nos. 17 and 68, 1971; Nos. 15, 82 and 139, 1972; Nos. 2, 27 and 104, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 3, 24 and 90, 1974; Nos. 35, 56 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; Nos. 129 and 170, 1978; Nos. 18 and 124, 1979; No. 129, 1980; Nos. 41, 61 and 160, 1981; Nos. 20, 80 and 100, 1982; and Nos. 36 and 70, 1983.