

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

**SOCIAL SECURITY AND VETERANS' ENTITLEMENTS
AMENDMENT BILL 1987**

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SCHEDULE

1985-86-87

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 14 May 1987

(Minister for Social Security)

A BILL

FOR

**An Act relating to Social Security and Veterans'
Entitlements and other matters**

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 Veterans' Entitlements Amendment Act 1987*.

Commencement

- 10 **2.** (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
 (2) Subsection 4 (1) and section 17 shall be deemed to have come into operation immediately before 13 June 1987.

(3) Sections 8, 10, 11, 14, 16, 19, 20, 22, 23, 26 and 36 and paragraph 12 (a) shall come into operation on 1 July 1987.

(4) Sections 6, 9, 13, 21, 24, 25, 27, 39, 40, 41, 42, 43, 45 and 46 and paragraph 12 (b) shall come into operation on 1 September 1987.

(5) Sections 15, 28, 30, 31, 32, 33, 34, 35, 37 and 38 shall come into operation on 1 October 1987. 5

Application provision

3. (1) The amendments made by section 8 and paragraph 12 (a) apply to payments under the *Social Security Act 1947* that fall due on or after 1 July 1987. 10

(2) The amendments made by sections 19 and 22 apply to claims for benefit under the *Social Security Act 1947* that are lodged on or after 1 July 1987.

(3) The amendments made by paragraph 12 (b) and section 13 apply to payments under the *Social Security Act 1947* that fall due on or after 1 September 1987. 15

(4) The amendment made by section 21 applies to claims for benefit under the *Social Security Act 1947* that are lodged on or after 1 September 1987.

(5) The amendment made by section 39 applies to instalments under the *Veterans' Entitlements Act 1986* that fall due on or after 1 September 1987. 20

(6) The amendments made by section 28 to subsection 6 (6) and sections 96 and 112 of the *Social Security Act 1947* apply to payments under that Act that fall due on or after 1 October 1987. 25

(7) The amendments made by paragraphs 31 (c) and (d) apply to instalments under the *Veterans' Entitlements Act 1986* that fall due on or after 1 October 1987.

(8) The amendment made by section 15 applies to payments of family allowance under the *Social Security Act 1947* in respect of each family allowance period commencing after 14 October 1987. 30

(9) The amendment made by section 9 applies to information obtained before or after the commencement of that amendment.

(10) The amendments made by sections 24, 43 and 46 apply to debts arising before or after the commencement of those amendments. 35

(11) The amendments made by sections 27, 42 and 45 (other than subsection 140 (4) of the *Social Security Act 1947*, subsection 205 (5) of the *Veterans' Entitlements Act 1986* and subsection 55A (5) of the *Seamen's War Pensions and Allowances Act 1940* that are inserted by

those amendments) apply to debts arising before or after the commencement of those amendments.

5 (12) The amendments made by section 26 do not apply to a determination made under subsection 135TJ (3) of the *Social Security Act 1947* if the determination is made following a person having taken action under section 14 or 15 of that Act before 14 May 1987 to seek a review of, or appeal against, a previous decision.

Effect of certain transitional provisions

10 4. (1) Where, immediately before 12 June 1987, subsection 22 (2) of the *Social Services Amendment Act 1981* or subsection 32 (5) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* applied to a person only because the person was paying, before 1 February 1982, Government rent within the meaning of the *Social Security Act 1947*, that subsection ceases to apply to the person
15 upon the commencement of this subsection.

(2) Where:

20 (a) after the commencement of this section, a wife's pension under the *Social Security Act 1947* commences to be paid to a person by virtue of subsection 22 (6) of the *Social Services Amendment Act 1981*; and

(b) apart from this section, arrears of that pension would be payable to the person in respect of a period of more than 6 months before that pension commences to be paid;

25 arrears of that pension are payable to the person in respect of a period of only 6 months before the pension commences to be paid.

Re-numbering and re-lettering of Social Security Act

5. For the purposes of section 50 of the *Social Security Amendment Act 1987*, the provisions of this Act that:

30 (a) amend the *Social Security Act 1947*; and

(b) come into operation before 2 July 1987;

shall be deemed to be provisions of the *Social Security Amendment Act 1987*.

Savings

35 6. Notwithstanding the amendment made by section 9, information of a kind that could be divulged under paragraph 17 (4) (b) of the *Social Security Act 1947* to an authority prescribed for the purposes of that paragraph before the commencement of that amendment may continue to be so divulged until the agreement the text of which is set out in Schedule 3 to that Act enters into force.

PART II—AMENDMENTS OF THE SOCIAL SECURITY ACT 1947

Principal Act

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

Interpretation

8. Section 6 of the Principal Act is amended by inserting after subsection (5) the following subsections:

“(5A) Where:

- (a) a person who would, apart from this subsection, be an unmarried person was formerly a married person;
- (b) the person is living in his or her former matrimonial home; and
- (c) the person's former spouse is also living in the same home;

the person shall, if the conditions referred to in paragraphs (b) and (c) continue to apply to the person, be treated as a married person for the purposes of this Act after the end of the period commencing on the day (in this subsection called the ‘commencing day’) on which those conditions were first satisfied or 14 May 1987, whichever is the later, and ending:

- (d) if the person or the person's former spouse has instituted proceedings for the purpose or partly for the purpose of retaining or acquiring an interest or other right in that home or of obtaining the whole or a part of the proceeds of the sale of that home—52 weeks after the commencing day; or
- (e) in any other case—26 weeks after the commencing day.

“(5B) For the purposes of subsection (5A), a person shall be taken to be living in a particular home notwithstanding a temporary absence from that home.”.

Secrecy

9. Section 17 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:

“(4) Notwithstanding subsections (2) and (3), the Secretary may:

- (a) if the Secretary certifies that it is necessary in the public interest to do so in a particular case or class of cases—divulge information acquired by an officer in the performance of his or her functions or duties or in the exercise of his or her powers under this Act to such persons as the Secretary determines;

- (b) divulge any such information to the Secretary of a Department of State of the Commonwealth or to the head of an authority of the Commonwealth for the purposes of that Department or authority; or

- (c) divulge any such information to a person who is expressly or impliedly authorised by the person to whom the information relates to obtain it.”.

5 10. Section 23 of the Principal Act is repealed and the following section is substituted:

Incapacity for work

“23. A person is permanently incapacitated for work for the purposes of this Division if:

- 10 (a) the degree of the person’s permanent incapacity for work is not less than 85%; and
(b) that permanent incapacity, or at least 50% of that permanent incapacity, is directly caused by a permanent physical or mental impairment of the person.”.

Interpretation

15 11. Section 59 of the Principal Act is amended by inserting after the definition of “deserted wife” in subsection (1) the following definition:

“ ‘former class B widow’ means a widow to whom paragraph 60 (1) (b) of this Act, as in force immediately before 1 July 1987, applied at that time;”.

20 **Qualifications for widow’s pension**

12. Section 60 of the Principal Act is amended:

- (a) by omitting paragraph (1) (b) and substituting the following paragraph:
25 “(b) a widow who does not have a dependent child and who:
(i) immediately before 1 July 1987 was in receipt of a widow’s pension and is a former class B widow;
(ii) on 1 July 1987 had attained the age of 45 years and was in receipt of a supporting parent’s benefit or a widow’s pension as a class A widow on that day or commences to receive such a benefit or pension after that day; or
30 (iii) on 1 July 1987, had attained the age of 50 years; or”;
and
(b) by inserting in paragraph (2) (a) “and is under the age of 16 years”
35 after “woman”.

Interpretation

13. Section 83AAA of the Principal Act is amended by inserting “under the age of 16 years” after “dependent child” in the definition of “supporting parent” in subsection (1).

Payment of allowance

14. Section 88 of the Principal Act is amended by inserting in paragraph (5) (b) "within the period of 4 weeks" before "after".

15. Section 99 of the Principal Act is repealed and the following sections are substituted:

5

Income test for family allowances

"99. (1) In this section:

'last year of income', in relation to a person in relation to a particular time, means the year of income of the person that ended on 30 June in the preceding calendar year;

10

'income threshold', in relation to a person in relation to a particular time, means the sum of:

(a) \$50,000; and

(b) if a family allowance would, apart from this section, be payable to the person at that time in respect of more than one child and at least one of those children is under the age of 18 years:

15

(i) in a case where one or more of those children has attained the age of 18 years—\$2,500 for each of those children who is under the age of 18 years; or

20

(ii) in any other case—\$2,500 multiplied by one less than the number of those children;

'taxable income' has the same meaning as in the *Income Tax Assessment Act 1936*;

'year of income' has the same meaning as in the *Income Tax Assessment Act 1936*.

25

"(2) A reference in this section to the taxable income of a person for a particular year of income, being a person who is a married person, is a reference to the sum of the taxable income of the person for that year of income and the taxable income of the person's spouse for that year of income.

30

"(3) Subject to subsection (4), where:

(a) apart from this section, a family allowance would be payable to a person in respect of a child or children in respect of a family allowance period commencing on or after 15 October 1987; and

35

(b) the taxable income of the person for the last year of income of the person exceeds the income threshold in relation to the person;

the total amount of family allowances that would, apart from this section, be payable to the person in respect of that child or those children in respect of that family allowance period shall be reduced by an amount equal to one twelfth of 25% of the excess referred to in paragraph (b).

40

“(4) For the purposes of subsection (3), the amount referred to in paragraph (3) (b) shall, if that amount is not a multiple of 5 cents, be reduced to the nearest multiple of 5 cents.

5 “(5) The reference in subsection (3) to the total amount of family allowances that would, apart from this section, be payable to a person in respect of a child or children does not include a family allowance payable to the person in respect of a child who is under the age of 16 years if the circumstances referred to in a paragraph of subsection 98 (2) are applicable in relation to the child.

10 “(6) Subsection (3) does not affect the grant, or the payment, on or after 15 October 1987, of a family allowance in respect of any family allowance period ending before that day.

“(7) Where:

15 (a) subsection (3) would, apart from this subsection, apply to a person;
(b) the person makes a request in writing in accordance with a form approved by the Secretary that this subsection apply to the person;
and

20 (c) the taxable income of the person for the year of income succeeding the last year of income of the person is, or in the opinion of the Secretary will be:

(i) not more than \$50,000; and

(ii) at least 25% less than the taxable income of the person for the last year of income of the person;

25 subsection (3) does not apply to the person during the period commencing at the beginning of the first family allowance period after the request referred to in paragraph (b) is received and ending on 14 January in the calendar year succeeding the calendar year in which the request is received.

30 “(8) Notwithstanding the definition of ‘last year of income’ in subsection (1), this section has effect in relation to the period commencing on 15 October 1987 and ending on 14 December 1989 as if references in this section to the last year of income of a person were references to the year of income commencing on 1 July 1986.

35 “(9) A reference in the definition of ‘income threshold’ in subsection (1) to a child under the age of 18 years includes a reference to a child who has attained that age and to whom the circumstances referred to in a paragraph of subsection 98 (2) are applicable.

Indexation of family allowance income test

“99AA. (1) In this section:

40 ‘indexation amount’ means the amounts specified in the definition of ‘income threshold’ in subsection 99 (1);

‘index number’, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital

cities, published by the Australian Statistician in respect of that quarter;

'index year' means the period of 12 months commencing on 15 January 1989 and each succeeding period of 12 months.

"(2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section. 5 10

"(3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to the index number published in terms of the new reference base. 15

"(4) Where the factor ascertained under subsection (5) in relation to an index year is greater than one, section 99 has effect as if for each indexation amount there were substituted, on the first day of that relevant year, an amount calculated by multiplying by that factor:

- (a) in a case to which paragraph (b) does not apply—the indexation amount; or 20
- (b) if, by virtue or another application or other applications of this section, section 99 has effect as if another amount or amounts were substituted for that indexation amount—the substituted amount or the last substituted amount. 25

"(5) The factor to be ascertained for the purposes of subsection (4) in relation to an index year is the number (calculated to 3 decimal places) ascertained by dividing the index number for the June quarter immediately preceding that index year by the index number for the June quarter immediately preceding that first-mentioned June quarter. 30

"(6) Where the factor ascertained in accordance with subsection (5) in relation to an index year would, if it were calculated to 4 decimal places, end with a number greater than 4, the factor ascertained in accordance with that subsection in relation to that year shall be taken to be the factor calculated to 3 decimal places in accordance with that subsection and increased by 0.001. 35

"(7) Where, apart from this subsection, the application of this section would result in an indexation amount being increased to an amount including a number of cents, the last-mentioned amount shall be increased to the nearest whole dollar." 40

Date from which family allowance payable

16. Section 102 of the Principal Act is amended:

(a) by omitting paragraph (1) (a) and substituting the following paragraph:

5 “(a) if the person was qualified to receive a family allowance on the first day of the family allowance period during which the person lodged a claim for the family allowance—from the commencement of that family allowance period; or”;

(b) by omitting subsection (3) and substituting the following subsection:

10 “(3) A family allowance granted to an institution is payable from and including the day on which the claim for the family allowance was lodged.”.

Rate of unemployment and sickness benefit

15 17. Section 112 of the Principal Act is amended by omitting paragraph (1) (c) and substituting the following paragraphs:

 “(c) where the beneficiary is an unmarried person and has a dependant—\$106.20 per week;

20 (ca) where the benefit is a sickness benefit and the beneficiary is an unmarried person who has attained the age of 18 years and has no dependants—\$106.20 per week; or”.

18. Before section 117 of the Principal Act the following section is inserted:

Statements by employers

25 “116. (1) In this section:
 ‘employment’ includes a contract for services.

 “(2) Where, on or after 1 September 1987, a person’s employment with a former employer ceases, the person may request the former employer to provide to the person, in a form approved by the Secretary, a statement in relation to that employment.

30 “(3) Where a person makes a request of a former employer of the person under subsection (2), the former employer shall, as soon as practicable, comply with the request.

Penalty for a contravention of this subsection:

35 (a) in the case of a natural person—\$2,000 or imprisonment for one year, or both; or

 (b) in the case of a body corporate—\$10,000.”.

Waiting period

19. Section 119 of the Principal Act is amended:

40 (a) by omitting from subsection (1) “Subject to subsection (1A), an” and substituting “An”;

- (b) by omitting subsection (1A);
- (c) by omitting from subsection (2) "Subject to subsection (2A), a" and substituting "A";
- (d) by omitting from subsection (2) "13 weeks" and substituting "5 weeks"; 5
- (e) by omitting subsections (2A), (3), (3A) and (4) and substituting the following subsection:
 - "(3) If a claim for sickness benefit is not lodged within the time specified in subsection (2), the benefit is payable from and including the day on which the claim is lodged."; 10
- (f) by omitting from paragraph (5) (c) "13 weeks" and substituting "4 weeks"; and
- (g) by omitting paragraph (5) (d) and substituting the following paragraph:
 - "(d) in any other case—from and including the day on which a claim for the benefit is lodged." 15

Unemployment benefit not payable in certain cases

- 20.** Section 120 of the Principal Act is amended:
- (a) by inserting in subsection (2) ", subject to subsection (3)," after "shall"; and 20
 - (b) by adding at the end the following subsection:
 - "(3) Where:
 - (a) paragraph (1) (a), (b), (c) or (d) applies to a person at a particular time; and
 - (b) paragraph (1) (a), (b), (c) or (d) applied to the person (whether before or after the commencement of this subsection) within the period of 3 years before that time; 25
 the period in respect of which an unemployment benefit is not payable shall be 4 weeks plus 2 weeks for each additional occasion on which paragraph (1) (a), (b), (c) or (d) applied to the person during that period of 3 years, but not more than 12 weeks." 30

Persons leaving full time education

- 21.** Section 120A of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

- "(1) Subject to subsection (2), where a person who is undertaking a course of education on a full time basis ceases to undertake that course on or after 1 September 1987 and makes a claim for unemployment benefit, unemployment benefit is not payable to the person in respect of any period of unemployment during: 35
- (a) if the person is an unmarried person who is under the age of 21 years and has no dependants—the period of 13 weeks commencing 40

on the day on which the person registers with the Commonwealth Employment Service as being unemployed; or

(b) in any other case—the period of 6 weeks after that day.

5 “(2) Subsection (1) does not apply to a person if the person satisfies the Secretary that the person has, at any time, been employed on a full time basis for a period of not less than 13 weeks or for 2 or more periods the aggregate of which is not less than 13 weeks.

10 “(2A) For the purposes of subsection (1) of this section and section 107, where a person to whom subsection (1) of this section applies registers with the Commonwealth Employment Service as being unemployed within 4 weeks of ceasing to undertake the course of education, the person shall be deemed to have become registered with the Commonwealth Employment Service as being unemployed on the day on which the person ceased to undertake the course.”.

15 **22.** Section 127 of the Principal Act is repealed and the following section is substituted:

Period for which special benefit payable

“127. A special benefit is payable:

20 (a) from a day, not being earlier than the day on which the claim for special benefit was lodged; and

(b) for a period;

determined by the Secretary.”.

Making and lodgment of claims etc.

23. Section 135TB of the Principal Act is amended:

25 (a) by omitting from paragraph (3) (b) “3 months” and substituting “one month”; and

(b) by omitting from paragraph (4) (b) “3 months” (wherever occurring) and substituting “one month”.

30 **24.** Section 135TD of the Principal Act is repealed and the following section is substituted:

Secretary may take action in relation to money owing to pensioners

“135TD. (1) Where a person (in this subsection called the ‘pensioner’) is indebted to the Commonwealth under or as a result of this Act, the Secretary may, by notice in writing given to a person:

35 (a) by whom any money is due or accruing or may become due to the pensioner;

(b) who holds or may subsequently hold money for or on account of the pensioner;

40 (c) who holds or may subsequently hold money on account of some other person for payment to the pensioner; or

(d) who has authority from some other person to pay money to the pensioner;

require the person to whom the notice is given to pay to the Commonwealth:

(e) an amount specified in the notice, not exceeding the amount of the debt due by the pensioner under or as a result of this Act or the amount of the money referred to in the preceding paragraph that is applicable; or 5

(f) such amount as is specified in the notice out of each payment that the person becomes liable from time to time to make to the pensioner until that debt is satisfied. 10

“(2) The time for making a payment in compliance with a notice under subsection (1) is such time as is specified in the notice, not being a time before the money concerned becomes due or is held or before the end of the period of 14 days after the notice is given.

“(3) A person who fails to comply with a notice under subsection (1) to the extent that the person is capable of doing so is guilty of an offence. 15

Penalty:

(a) in the case of a natural person—\$2,000 or imprisonment for one year, or both; or

(b) in the case of a body corporate—\$10,000. 20

“(4) Where the Secretary gives a notice to a person under subsection (1), the Secretary shall give a copy of the notice to the pensioner concerned.

“(5) A person who makes a payment to the Commonwealth in compliance with a notice under subsection (1) shall be deemed to have made the payment under the authority of the pensioner concerned and of any other person concerned. 25

“(6) Where:

(a) a notice is given to a person under subsection (1) in respect of a debt due by a pensioner; and

(b) an amount is paid by a person other than the first-mentioned person in reduction or in satisfaction of the debt; 30

the Secretary shall notify the first-mentioned person accordingly, and the amount specified in the notice shall be deemed to be reduced by the amount so paid.

“(7) Where, apart from this subsection, money is not due or repayable on demand to a person unless a condition is fulfilled, the money shall be taken, for the purposes of this section, to be due or repayable on demand, as the case may be, notwithstanding that the condition has not been fulfilled. 35

“(8) Where:

(a) a notice is given to a person under subsection (1) in respect of a debt due by a pensioner; and 40

(b) the person fails to comply with the notice to the extent that the person is capable of doing so;

an amount equal to:

5 (c) so much of the amount required by the notice to be paid by the person as the person was able to pay; or

(d) so much of the debt due by the pensioner at the time when the notice was given as remains due from time to time;

whichever is the lesser, is a debt due by the person to the Commonwealth.

“(9) Where:

10 (a) a person is indebted to the Commonwealth under subsection (8) in respect of a debt due by a pensioner; and

(b) the Commonwealth recovers:

(i) the whole or a part of the debt due by the person under subsection (8); or

15 (ii) the whole or a part of the debt due by the pensioner; the debt due by the pensioner, and the debt due by the person, are reduced by the amount so recovered and the amount specified in the notice under subsection (1) shall be deemed to be reduced by the amount so recovered.

20 “(10) A reference in this section to a person includes a reference to the Commonwealth, a State, a Territory and any authority of the Commonwealth or of a State or Territory.”.

Power to obtain information etc.

25 **25.** Section 135TF of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

“(1) The Secretary may, for the purposes of this Act, by notice in writing given to a person (including a person employed in or in connection with a Department of the Government of the Commonwealth, of a State or of a Territory or by any authority of the Commonwealth or of a State or Territory), require the person:

30 (a) to:

(i) provide the Department, or an officer specified in the notice, with such information as the Secretary requires; or

(ii) produce to the Department, or to an officer so specified, any documents in the custody or under the control of the person;

35 within the period (not being less than 14 days after the notice is given) and in the manner specified in the notice; or

(b) to appear before an officer specified in the notice at such reasonable time (not being a time earlier than 14 days after the notice is given) and place as are specified in the notice to answer questions.

40 “(2) Without limiting the generality of subsection (1), the Secretary may:

- (a) by notice in writing given to a person who is indebted to the Commonwealth under or as a result of this Act, require the person:
- (i) to provide the Department, or an officer specified in the notice, within the period specified in the notice (not being less than 14 days after the notice is given), with such information concerning the person's financial situation as is required by the notice or to produce to the Department, or to an officer so specified, within that period, such documents concerning that situation as are so specified; and
 - (ii) if the person's address changes, to notify the Department or an officer so specified, within 14 days of the change, of the new address; or
- (b) by notice in writing given to a person who the Secretary believes may have information concerning the whereabouts of a person who is indebted to the Commonwealth under or as a result of this Act or the financial situation of such a person, require the person to provide the Department, or an officer specified in the notice, within the period specified in the notice (not being less than 14 days after the notice is given), with such information concerning those matters as is required by the notice or to produce to the Department, or to an officer so specified, within that period, such documents concerning those matters as are specified in the notice.

“(2A) The Secretary may require the information or answers to questions under this section to be verified or given, as the case may be, on oath or affirmation, and either orally or in writing, and for that purpose the Secretary or an officer to whom information or answers are verified or given may administer an oath or affirmation.

“(2B) The oath to be taken or affirmation to be made for the purposes of this section is an oath or affirmation that the information or answers the person will give will be true.”

Cancellation, suspension or variation of pension etc.

26. Section 135TJ of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:

“(3) If, having regard to any matter that affects the granting of a claim for, or the payment of, a pension, benefit or allowance under this Act, the Secretary decides that the claim should be granted, a payment of the pension, benefit or allowance should be made or the rate of the pension, benefit or allowance is less than it should be, the Secretary may, by determination, grant that claim, direct the making of that payment or increase that rate, as the case may be.

“(4) A determination under subsection (3) takes effect:

- (a) if the determination is made following a person having taken action under section 14 to seek a review of, or appeal against, a previous decision where:
- (i) a notice was given to the person to whom the relevant pension, benefit or allowance was or could have been payable advising the person of the making of the previous decision and the review was sought, or the appeal made, within 3 months after that notice was given; or
 - (ii) no notice was given to the person referred to in subparagraph (i) advising the person of the making of the previous decision; on the day on which the previous decision took effect;
- (b) if subparagraph (a) (i) would apply but for the person concerned having sought the review or made the appeal outside the period of 3 months referred to in that subparagraph—on the day on which the person sought the review or made the appeal;
- (c) if the determination is made following a person having advised the Department of a change in circumstances—on the day on which that advice was received or on the day on which that change occurred, whichever is the later; or
- (d) in any other case—on the day on which the determination was made or on such later day as is specified in the determination.”.

Recovery of overpayments

27. Section 140 of the Principal Act is amended:

- (a) by omitting from subsection (2) “(other than subsection (3) of this section)”;
- (b) by omitting paragraph (2) (b) and substituting the following paragraph:

“(b) an amount has been paid by way of pension or allowance under the *Veterans' Entitlements Act 1986* or the *Seamen's War Pensions and Allowances Act 1940* that should not have been paid; or”;
- (c) by omitting subsections (3) and (4) and substituting the following subsections:

“(3) Notwithstanding subsection (2), where:

- (a) a pension, benefit or allowance under this Act is payable to a person; and
- (b) the person's spouse (or, in a case where the spouse has died, the estate of the person's spouse) is liable to pay an amount to the Commonwealth under or as a result of this Act, the *Veterans' Entitlements Act 1986* or the *Seamen's War Pensions and Allowances Act 1940*;

that amount shall, unless the Secretary takes action under subsection 146 (1) in relation to that amount or otherwise recovers that amount,

be deducted from the pension, benefit or allowance referred to in paragraph (a) by reducing each payment of that pension, benefit or allowance by such proportion as the Secretary determines until that amount is recovered.

“(4) Where:

(a) a person is indebted to the Commonwealth under subsection 1;

(b) the amount of the debt exceeds \$50; and

(c) the debt is not discharged within 3 months after the person has been given a notice advising the person of the amount of the debt for the purposes of this subsection;

the person becomes liable to pay to the Commonwealth an additional amount (not exceeding \$515) calculated by adding \$15 and 10% of so much of the amount of the debt as remains due at the end of that period of 3 months.”.

Additional amendments

28. The Principal Act is amended as set out in the Schedule.

PART III—AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986

Principal Act

29. The *Veterans' Entitlements Act 1986*² is in this Part referred to as the Principal Act.

Interpretation

30. Section 5 of the Principal Act is amended by omitting from subsection (5) “a resident of Australia” and substituting “an Australian resident”.

Interpretation

31. Section 35 of the Principal Act is amended:

(a) by inserting after the definition of “Australian mariner” in subsection (1) the following definition:

“‘Australian resident’ means a person who resides in Australia and who is:

(a) an Australian citizen;

(b) a person who has been granted, or who is included in:

(i) an entry permit (not being a temporary entry permit) in force under the *Migration Act 1958*;

(ii) a return endorsement in force under that Act;

or

- (c) a person to whom Division 1 of Part II of that Act does not apply because of subsection 8 (1) of that Act, being a person who is likely to remain permanently in Australia;”;
- 5 (b) by omitting from subsection (5) “a resident of Australia” (wherever occurring) and substituting “an Australian resident”;
- (c) by omitting paragraphs (8) (a), (b) and (c) and substituting the following paragraphs:
- 10 “(a) the child is an Australian resident; or
(b) the child had been an Australian resident living with the person in Australia and is living with the person outside Australia.”; and
- (d) by omitting subsections (9) and (10).

Eligibility for service pension—age

- 15 **32.** Section 38 of the Principal Act is amended:
- (a) by omitting from subsection (2) “been continuously resident in Australia for a period of not less than 10 years” and substituting “been an Australian resident for a continuous period of not less than 10 years”;
- 20 (b) by omitting paragraph (3) (a) and substituting the following paragraph:
- “(a) a veteran has been an Australian resident during more than one period;”;
- (c) by omitting from subsection (4) “reside in Australia” (wherever occurring) and substituting “be an Australian resident”.
- 25

Eligibility for service pension—invalidity

- 33.** Section 39 of the Principal Act is amended:
- (a) by omitting from subsection (2) “been continuously resident in Australia for a period of not less than 10 years” and substituting “been an Australian resident for a continuous period of not less than 10 years”;
- 30 (b) by omitting paragraph (3) (a) and substituting the following paragraph:
- “(a) a veteran has been an Australian resident during more than one period;”;
- 35 (c) by omitting paragraph (4) (a) and substituting the following paragraph:
- “(a) a veteran became permanently incapacitated for work while the veteran was an Australian resident;”;
- 40 (d) by omitting from subsection (5) “reside in Australia” (wherever occurring) and substituting “be an Australian resident”.

Eligibility for wife's service pension

34. Section 40 of the Principal Act is amended by omitting from subsection (3) "reside in Australia" (wherever occurring) and substituting "be an Australian resident".

Claims for service pension etc.

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35. Section 43 of the Principal Act is amended:

(a) by omitting from subsection (4) "is residing in, and is physically present in, Australia" and substituting "is an Australian resident and is in Australia"; and

(b) by omitting from paragraphs (5) (a) and (b) "is residing in, and is physically present in, Australia" and substituting "is an Australian resident and is in Australia".

10

Cancellation, suspension or variation of service pension

36. Section 58 of the Principal Act is amended:

(a) by omitting from subsection (3) all the words after "service pension" (last occurring); and

15

(b) by inserting after subsection (3) the following subsection:

“(3A) A determination under subsection (3) takes effect:

(a) if the determination is made following the service pensioner having advised the Department of a change in circumstances— from the first pension pay-day after receipt of that advice or from the day on which that change occurred, whichever is the later; or

20

(b) in any other case—from the day on which the determination is made or such earlier or later day as is specified in the determination.”.

25

Right to be paid service pension outside Australia

37. (1) Section 63 of the Principal Act is amended by inserting after subsection (3) the following subsection:

“(3A) A carer's service pension is not, on or after 1 October 1987, payable to a person who is outside Australia.”.

30

(2) Section 63 of the Principal Act is amended:

(a) by omitting from paragraph (4) (b) "residing in Australia" and substituting "an Australian resident and in Australia"; and

(b) by omitting from subsection (4) "residing in, and were physically present in," and substituting "an Australian resident and in".

35

Persons resident in Papua New Guinea

38. Section 64 of the Principal Act is amended by omitting from subsection (1) "resident in Australia" and substituting "an Australian resident".

40

Special temporary allowance

39. Section 65 of the Principal Act is amended by adding at the end the following subsection:

“(7) Where:

- 5 (a) an amount of special temporary allowance is payable to a service pensioner under this section; and
- (b) an amount of pension, being an amount that would have been payable to the service pensioner's spouse if the spouse had not died, is paid into an account that was held jointly or in common by the
- 10 service pensioner and the spouse at a financial institution;

the amount of special temporary allowance payable to the service pensioner shall be reduced by the amount referred to in paragraph (b).”.

Secretary may obtain information etc.

40. Section 128 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

“(1) The Secretary may, for the purposes of this Act, by notice in writing given to a person (including a person employed in or in connection with a Department of the Government of the Commonwealth, of a State or of a Territory or by any authority of the Commonwealth or of a State or

20 Territory), require the person:

(a) to:

- (i) provide the Department, or an officer specified in the notice, with such information as the Secretary requires; or
- (ii) produce to the Department, or to an officer so specified, any
- 25 documents in the custody or under the control of the person; within the period (not being less than 14 days after the notice is given) and in the manner specified in the notice; or
- (b) to appear before an officer specified in the notice at such reasonable time (not being a time earlier than 14 days after the notice is given) and place as are specified in the notice to answer questions.
- 30

“(2) Without limiting the generality of subsection (1), the Secretary may:

- (a) by notice in writing given to a person who is indebted to the Commonwealth under or as a result of this Act, require the person:
- 35 (i) to provide the Department, or an officer specified in the notice, within the period specified in the notice (not being less than 14 days after the notice is given), with such information concerning the person's financial situation as is required by the notice or to produce to the Department, or to an officer so specified, within that period, such documents
- 40 concerning that situation as are so specified; and

(ii) if the person's address changes, to notify the Department or an officer so specified, within 14 days of the change, of the new address; or

(b) by notice in writing given to a person who the Secretary believes may have information concerning the whereabouts of a person who is indebted to the Commonwealth under or as a result of this Act or the financial situation of such a person, require the person to provide the Department, or an officer specified in the notice, within the period specified in the notice (not being less than 14 days after the notice is given), with such information concerning those matters as is required by the notice or to produce to the Department, or to an officer so specified, within that period, such documents concerning those matters as are specified in the notice. 5
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“(2A) The Secretary may require the information or answers to questions under this section to be verified or given, as the case may be, on oath or affirmation, and either orally or in writing, and for that purpose the Secretary or an officer to whom information or answers are verified or given may administer an oath or affirmation.”. 15

Furnishing of information

41. Section 130 of the Principal Act is amended by adding at the end the following subsection: 20

“(2) The Secretary or another officer of the Department may provide any information obtained in the performance of his or her duties under this Act (whether before or after the commencement of this subsection) to the Secretary of another Department of State of the Commonwealth or to the head of an authority of the Commonwealth for the purposes of that Department or authority.”. 25

Recovery of overpayments

42. Section 205 of the Principal Act is amended:

(a) by inserting in paragraph (1) (b) “, the *Social Security Act 1947* or the *Seamen's War Pensions and Allowances Act 1940*” after “Act”; 30

(b) by inserting in paragraph (1) (c) “except in the case of an amount (in this subsection called a ‘Social Security amount’) paid under the *Social Security Act 1947* as mentioned in paragraph (1) (b)” before “by proceedings”; 35

(c) by inserting in paragraph (1) (e) “except in the case of a Social Security amount” before “partly by proceedings”;

(d) by inserting after subsection (2) the following subsection:

“(2A) Notwithstanding subsection (2), where: 40

(a) a pension, allowance or other pecuniary benefit is payable to a person under this Act; and

(b) the person's spouse (or, in a case where the spouse has died, the estate of the person's spouse) is liable to pay an amount to the Commonwealth under or as a result of this Act, the *Social Security Act 1947* or the *Seamen's War Pensions and Allowances Act 1940*;

that amount shall, unless the Commission takes action under paragraph 206 (1) (a) or (b) in respect of that amount or otherwise recovers that amount, be deducted from the pension, allowance or benefit referred to in paragraph (a) by reducing each instalment of the pension, allowance or benefit by such proportion as the Commission determines in writing until that amount is recovered.”;

(e) by inserting in subsection (3) “or (2A)” after “subsection (2)” (wherever occurring); and

(f) by adding at the end the following subsections:

“(5) Where:

(a) a person is indebted to the Commonwealth under or as a result of paragraph (1) (a);

(b) the amount of the debt exceeds \$50; and

(c) the debt is not discharged within 3 months after the person has been given a notice advising the person of the amount of the debt for the purposes of this subsection;

the person becomes liable to pay to the Commonwealth an additional amount (not exceeding \$515) calculated by adding \$15 and 10% of so much of the amount of the debt as remains due at the end of that period of 3 months.

“(6) In this section:

‘spouse’ has the same meaning as in Part III.”.

43. After section 205 of the Principal Act the following section is inserted:

Commission may take action in relation to money owing to pensioners

“205A. (1) Where a person (in this subsection called the ‘pensioner’) is indebted to the Commonwealth under or as a result of this Act, the Commission may, by notice in writing given to a person:

(a) by whom any money is due or accruing or may become due to the pensioner;

(b) who holds or may subsequently hold money for or on account of the pensioner;

(c) who holds or may subsequently hold money on account of some other person for payment to the pensioner; or

(d) who has authority from some other person to pay money to the pensioner;

require the person to whom the notice is given to pay to the Commonwealth:

(e) an amount specified in the notice, not exceeding the amount of the debt due by the pensioner under or as a result of this Act or the amount of the money referred to in the preceding paragraph that is applicable; or

(f) such amount as is specified in the notice out of each payment that the person becomes liable from time to time to make to the pensioner until that debt is satisfied. 5

“(2) The time for making a payment in compliance with a notice under subsection (1) is such time as is specified in the notice, not being a time before the money concerned becomes due or is held or before the end of the period of 14 days after the notice is given. 10

“(3) A person who fails to comply with a notice under subsection (1) to the extent that the person is capable of doing so is guilty of an offence.

Penalty:

(a) in the case of a natural person—\$2,000 or imprisonment for one year, or both; or 15

(b) in the case of a body corporate—\$10,000.

“(4) Where the Commission gives a notice to a person under subsection (1), the Commission shall give a copy of the notice to the pensioner concerned. 20

“(5) A person who makes a payment to the Commonwealth in compliance with a notice under subsection (1) shall be deemed to have made the payment under the authority of the pensioner concerned and of any other person concerned.

“(6) Where: 25

(a) a notice is given to a person under subsection (1) in respect of a debt due by a pensioner; and

(b) an amount is paid by a person other than the first-mentioned person in reduction or in satisfaction of the debt;

the Commission shall notify the first-mentioned person accordingly, and the amount specified in the notice shall be deemed to be reduced by the amount so paid. 30

“(7) Where, apart from this subsection, money is not due or repayable on demand to a person unless a condition is fulfilled, the money shall be taken, for the purposes of this section, to be due or repayable on demand, as the case may be, notwithstanding that the condition has not been fulfilled. 35

“(8) Where:

(a) a notice is given to a person under subsection (1) in respect of a debt due by a pensioner; and

(b) the person fails to comply with the notice to the extent that the person is capable of doing so; 40

an amount equal to:

(c) so much of the amount required by the notice to be paid by the person as the person was able to pay; or

5 (d) so much of the debt due by the pensioner at the time when the notice was given as remains due from time to time;

whichever is the lesser, is a debt due by the person to the Commonwealth.

“(9) Where:

(a) a person is indebted to the Commonwealth under subsection (8) in respect of a debt due by a pensioner; and

10 (b) the Commonwealth recovers:

(i) the whole or a part of the debt due by the person under subsection (8); or

(ii) the whole or a part of the debt due by the pensioner;

15 the debt due by the pensioner, and the debt due by the person, are reduced by the amount so recovered and the amount specified in the notice under subsection (1) shall be deemed to be reduced by the amount so recovered.

“(10) A reference in this section to a person includes a reference to the Commonwealth, a State, a Territory and any authority of the Commonwealth or of a State or Territory.”.

20 **PART IV—AMENDMENTS OF THE SEAMEN'S WAR PENSIONS
AND ALLOWANCES ACT 1940**

Principal Act

44. The *Seamen's War Pensions and Allowances Act 1940*³ is in this Part referred to as the Principal Act.

25 **Recovery of overpayments**

45. Section 55A of the Principal Act is amended:

(a) by inserting in paragraph (1) (b) “or under the *Social Security Act 1947* or the *Veterans' Entitlements Act 1986*” after “Regulations”;

30 (b) by inserting in paragraph (1) (c) “except in the case of an amount (in this subsection called a ‘Social Security amount’) paid under the *Social Security Act 1947* as mentioned in paragraph (1) (b)” before “by proceedings”;

(c) by inserting in paragraph (1) (e) “except in the case of a Social Security amount” before “partly by proceedings”;

35 (d) by inserting after subsection (2) the following subsection:

“(2A) Notwithstanding subsection (2), where:

(a) a pension, allowance or other pecuniary benefit is payable to a person under this Act; and

40 (b) the person's spouse (or, in a case where the spouse has died, the estate of the spouse) is liable to pay an amount to the

Commonwealth under or as a result of this Act, the *Social Security Act 1947* or the *Veterans' Entitlements Act 1986*; that amount shall, unless the Commission takes action under paragraph 55B (1) (a) or (b) in respect of that amount or otherwise recovers that amount, be deducted from the pension, allowance or benefit referred to in paragraph (a) by reducing each instalment of the pension, allowance or benefit by such proportion as the Commission determines in writing until that amount is recovered.”;

(e) by inserting in subsection (3) “or (2A)” after “subsection (2)” (wherever occurring); and

(f) by adding at the end the following subsections:

“(5) Where:

(a) a person is indebted to the Commonwealth under or as a result of paragraph (1) (a);

(b) the debt exceeds \$50; and

(c) the debt is not discharged within 3 months after the person has been given a notice advising the person of the amount of the debt for the purposes of this subsection;

the person becomes liable to pay to the Commonwealth an additional amount (not exceeding \$515) calculated by adding \$15 and 10% of so much of the amount of the debt as remains due at the end of that period of 3 months.

“(6) In this section:

‘spouse’ has the same meaning as in Part III of the *Veterans' Entitlements Act 1986*.”.

46. After section 55B of the Principal Act the following section is inserted:

Commission may take action in relation to money owing to pensioners

“55C. (1) Where a person (in this subsection called the ‘pensioner’) is indebted to the Commonwealth under or as a result of this Act, the Commission may, by notice in writing given to a person:

(a) by whom any money is due or accruing or may become due to the pensioner;

(b) who holds or may subsequently hold money for or on account of the pensioner;

(c) who holds or may subsequently hold money on account of some other person for payment to the pensioner; or

(d) who has authority from some other person to pay money to the pensioner;

require the person to whom the notice is given to pay to the Commonwealth:

(e) an amount specified in the notice, not exceeding the amount of the debt due by the pensioner under or as a result of this Act or the

amount of the money referred to in the preceding paragraph that is applicable; or

- 5 (f) such amount as is specified in the notice out of each payment that the person becomes liable from time to time to make to the pensioner until that debt is satisfied.

“(2) The time for making a payment in compliance with a notice under subsection (1) is such time as is specified in the notice, not being a time before the money concerned becomes due or is held or before the end of the period of 14 days after the notice is given.

- 10 “(3) A person who fails to comply with a notice under subsection (1) to the extent that the person is capable of doing so is guilty of an offence.

Penalty:

- 15 (a) in the case of a natural person—\$2,000 or imprisonment for one year, or both; or
(b) in the case of a body corporate—\$10,000.

“(4) Where the Commission gives a notice to a person under subsection (1), the Commission shall give a copy of the notice to the pensioner concerned.

- 20 “(5) A person who makes a payment to the Commonwealth in compliance with a notice under subsection (1) shall be deemed to have made the payment under the authority of the pensioner concerned and of any other person concerned.

“(6) Where:

- 25 (a) a notice is given to a person under subsection (1) in respect of a debt due by a pensioner; and
(b) an amount is paid by a person other than the first-mentioned person in reduction or in satisfaction of the debt;

30 the Commission shall notify the first-mentioned person accordingly, and the amount specified in the notice shall be deemed to be reduced by the amount so paid.

“(7) Where, apart from this subsection, money is not due or repayable on demand to a person unless a condition is fulfilled, the money shall be taken, for the purposes of this section, to be due or repayable on demand, as the case may be, notwithstanding that the condition has not been fulfilled.

- 35 “(8) Where:

- (a) a notice is given to a person under subsection (1) in respect of a debt due by a pensioner; and
(b) the person fails to comply with the notice to the extent that the person is capable of doing so;

40 an amount equal to:

(c) so much of the amount required by the notice to be paid by the person as the person was able to pay; or

(d) so much of the debt due by the pensioner at the time when the notice was given as remains due from time to time;

whichever is the lesser, is a debt due by the person to the Commonwealth. 5

“(9) Where:

(a) a person is indebted to the Commonwealth under subsection (8) in respect of a debt due by a pensioner; and

(b) the Commonwealth recovers:

(i) the whole or a part of the debt due by the person under subsection (8); or 10

(ii) the whole or a part of the debt due by the pensioner;

the debt due by the pensioner, and the debt due by the person, are reduced by the amount so recovered and the amount specified in the notice under subsection (1) shall be deemed to be reduced by the amount so recovered. 15

“(10) A reference in this section to a person includes a reference to the Commonwealth, a State, a Territory and any authority of the Commonwealth or of a State or Territory.”.

SCHEDULE

Section 28

Additional Amendments of the Social Security Act 1947

Subsection 6 (1) (definition of “absent resident”):

Omit the definition.

Subsection 6 (1)

After the definition of “Australia”, insert the following definition:

“‘Australian resident’ means a person who resides in Australia and who is:

(a) an Australian citizen;

(b) a person who has been granted, or who is included in:

(i) an entry permit (not being a temporary entry permit) in force under the *Migration Act 1958*; or

(ii) a return endorsement in force under that Act; or

(c) a person to whom Division 1 of Part II of that Act does not apply because of subsection 8 (1) of that Act, being a person who is likely to remain permanently in Australia;”.

Paragraphs 6 (6) (a), (b) and (c):

Omit the paragraphs, substitute the following paragraphs:

“(a) the child is an Australian resident; or

(b) the child had been an Australian resident living with the person in Australia and is living with the person outside Australia.”.

Subsections 6 (7) and (8):

Omit the subsections.

SCHEDULE—continued

Subsections 6C (3), (5) and (6):

Omit the subsections.

Subsection 6C (7):

Omit “formerly resided in Australia and who has returned to Australia”, substitute “was formerly an Australian resident and who again becomes an Australian resident”.

Section 18:

Repeal the section, substitute the following section:

Interpretation

“18. In this Part, unless the contrary intention appears:

‘claimant’ means a person claiming a pension under this Part;

‘pensioner’ means a person in receipt of a pension under this Part.”.

Paragraph 21 (1) (b):

Omit the paragraph, substitute the following paragraph:

“(b) is an Australian resident and is in Australia on the day on which he or she lodges the claim for an age pension and has, at any time, been an Australian resident for a continuous period of not less than 10 years;”.

Paragraph 21 (2) (a):

Omit the paragraph, substitute the following paragraph:

“(a) a person has been an Australian resident during more than one period;”.

Subsection 21 (2):

Omit “continuously resident in Australia for a period”, substitute “an Australian resident for a continuous period”.

Paragraph 24 (b):

Omit “is residing in, and is physically present in, Australia on the date”, substitute “is an Australian resident and is in Australia on the day”.

Paragraph 25 (1) (b):

Omit “in Australia or during a temporary absence from Australia”, substitute “the person was an Australian resident”.

Subsections 25 (2), (2A) and (3):

Omit the subsections, substitute the following subsections:

“(2) Where:

(a) a person became permanently incapacitated for work or permanently blind at a time when the person was not an Australian resident; and

(b) the person has been, at any time, an Australian resident for a continuous period of not less than 10 years;

the person shall, for the purposes of this section, be taken to have become permanently incapacitated for work or permanently blind while the person was an Australian resident.

“(3) Where:

(a) a person has been an Australian resident during more than one period;

(b) the longer or longest of those periods is less than 10 years but not less than 5 years; and

SCHEDULE—continued

(c) the aggregate of those periods exceeds 10 years;
the person shall, for the purposes of subsection (2), be taken to have been an Australian resident for a continuous period of 10 years.

“(4) Where:

(a) a person who was born outside Australia became permanently incapacitated for work or permanently blind at a time when the person was not an Australian resident; and

(b) at that time, the person’s mother or father was an Australian resident;

the person shall, for the purposes of this section, be taken to have become permanently incapacitated for work or permanently blind while the person was an Australian resident.”.

Paragraph 31 (1):

Omit “is residing in, and is physically present in, Australia on the date”, substitute “is an Australian resident and is in Australia on the day”.

Paragraph 33 (1) (c):

Omit the paragraph, substitute the following paragraph:

“(c) the person is an Australian resident and is in Australia on the day on which the person lodges a claim for carer’s pension;”.

Subsection 60 (1):

Omit “is residing in, and is physically present in, Australia on the date”, substitute “is an Australian resident and is in Australia on the day”.

Paragraph 60 (1) (d):

Omit “residing permanently in Australia”, substitute “Australian residents”.

Paragraphs 60 (1) (e) and (f):

Omit “continuously resident in Australia for a period”, substitute “an Australian resident for a continuous period”.

Subsection 60 (4):

Omit the subsection.

Paragraph 61B (1) (c):

Omit “physically present”.

Subsection 83AAC (1):

Omit “is residing in, and is physically present in, Australia”, substitute “is an Australian resident and is in Australia”.

Paragraphs 83AAC (1) (a) and (b):

Omit “residing in Australia”, substitute “an Australian resident”.

Paragraphs 83AAC (1) (c) and (d):

Omit “continuously resident in Australia for a period”, substitute “an Australian resident for a continuous period”.

Subsection 83AA (1) (definition of “period of residence in Australia”):

Omit “a resident of Australia”, substitute “an Australian resident”.

Subsection 83AA (5):

Omit the subsection.

SCHEDULE—continued

Section 83AB:

Add at the end the following subsection:

“(2) A carer’s pension is not, on or after 1 October 1987, payable to a person who is outside Australia.”.

Subsection 83AC (2):

Omit “, subparagraph 33(1) (c) (ii).”.

Subparagraphs 83AC (5) (a) (i) and (b) (i):

Omit “a resident of Australia or an absent resident”, substitute “an Australian resident”.

Paragraph 83AC (5) (c):

Omit “in Australia or during a temporary absence from Australia”, substitute “an Australian resident”.

Paragraph 83AC (5) (d):

Omit “in Australia or during a temporary absence from Australia of the person’s former spouse”, substitute “of the person’s former spouse at a time when the former spouse was an Australian resident”.

Paragraphs 83AD (1) (a) and (b):

Omit the paragraphs, substitute the following paragraphs:

- “(a) a person who was formerly an Australian resident again becomes an Australian resident;
- (b) before the end of the period of 12 months commencing on the day on which the person again became an Australian resident, that person lodges a claim for a pension; and”.

Subsection 83AF (1):

Omit “residing in and physically present in Australia” (wherever occurring), substitute “an Australian resident who is in Australia”.

Subsections 85 (2) and (3):

Omit the subsections, substitute the following subsection:

“(2) This subsection applies to a person in relation to an allowance if the person is an Australian resident and is in Australia.”.

Sections 87 and 89:

Repeal the sections.

Subsections 96 (2), (3), (4), (5), (7) and (8):

Omit the subsections, substitute the following subsection:

“(2) For the purposes of subsection (1), this section applies to a person if the person is an Australian resident or the spouse of an Australian resident.”.

Section 97

Repeal the section.

Paragraph 107 (1) (b):

Omit the paragraph, substitute the following paragraph:

“(b) the person was an Australian resident and in Australia throughout the relevant period and on the day on which the person lodged the claim for the benefits;”.

SCHEDULE—continued

Paragraph 108 (1) (b):

Omit the paragraph, substitute the following paragraph:

“(b) the person was an Australian resident and in Australia throughout the relevant period and on the day on which the person lodged the claim for the benefits;”.

Subsection 112 (2):

Omit “resident in Australia”, substitute “an Australian resident who is in Australia”.

Paragraphs 112 (4B) (b) and (5) (b):

Omit “(not being a child or children who, by virtue of the operation of subsection 6 (6), would not be treated as a dependent child or as dependent children, as the case may be, of the person)”, substitute “who is or are Australian residents”.

Subsection 124 (1):

Omit “subsection (2)”, substitute “subsections (2) and (3)”.

After subsection 124 (2):

Insert the following subsection:

“(3) A special benefit is not payable to a person in respect of a period unless:

- (a) the person is a resident of Australia throughout that period; and
- (b) the person is not, at any time during that period, a prohibited non-citizen within the meaning of the *Migration Act 1958*.”.

Paragraph 133RB (2) (b):

Omit the paragraph, substitute the following paragraph:

“(b) the person is an Australian resident.”.

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, 1961; Nos. 1 and 95, 1962; No. 46, 1963; Nos. 3 and 63, 1964; Nos. 57 and 152, 1965; No. 41, 1966; Nos. 10 and 61, 1967; No. 65, 1968; No. 94, 1969; Nos. 2 and 59, 1970; Nos. 16 and 67, 1971; Nos. 1, 14, 53 and 79, 1972; Nos. 1, 26, 48, 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, 38 and 148, 1982; Nos. 4 and 36, 1983; No. 69, 1983 (as amended by No. 78, 1984); Nos. 46, 78, 93, 120, 134 and 165, 1984; Nos. 24, 52, 95, 127 and 169, 1985; Nos. 5, 28, 33, 106, 130 and 152, 1986; and No. 000, 1987.
2. No. 27, 1986, as amended. For previous amendments, see Nos. 106 and 130, 1986; and No. 000, 1987.
3. No. 60, 1940, as amended. For previous amendments, see No. 77, 1946; No. 80, 1950; Nos. 17 and 75, 1952; No. 70, 1953; No. 32, 1954; No. 40, 1955; No. 45, 1957; No. 48, 1958; No. 59, 1959; No. 46, 1960; No. 47, 1961; Nos. 64 and 113, 1964; No. 65, 1965; No. 43, 1966; No. 102, 1967; No. 67, 1968; No. 96, 1969; No. 61, 1970; Nos. 18 and 69, 1971; Nos. 16 and 83, 1972; Nos. 6 and 106, 1973; Nos. 4, 25 and 90, 1974; Nos. 35 and 111, 1975; Nos. 27, 91 and 112, 1976; Nos. 56, 1977; No. 129, 1978; Nos. 18 and 124, 1979; No. 129, 1980; No. 160, 1981; Nos. 80 and 100, 1982; No. 70, 1983; Nos. 90 and 97, 1984; Nos. 90, 95 and 127, 1985; Nos. 28, 29 and 106, 1986; and No. 000, 1987.