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PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

SOCIAL SECURITY AND REPATRIATION LEGISLATION

AMENDMENT BILL (NO 2) 1984

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister
representing the Minister for Social Security,
the Hon Neal Blewett, MP)



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OUTLINE

This is an omnibus Bill which would provide for those Budget measures for 1984-85 which require -

- . amendments to the Aged or Disabled Persons Homes Act 1954
- . amendments to the Delivered Meals Subsidy Act 1970; and
- . legislation to make further provision for the Anzac Hostel in Brighton, Victoria.

Aged or Disabled Persons Homes Act 1954

The amendments which would be made by Part II of the Bill would increase the rates of hostel care, personal care and respite care subsidy as follows -

- . hostel care subsidy: an increase from \$10 per week to \$11 per week;
- . personal care subsidy: an increase from \$50 per week to \$55 per week; and
- . respite care subsidy: an increase of -
 - . from \$10 per week to \$11 per week in respect of a person receiving respite care for 14 days or less during a 28 day period; and
 - . from \$50 per week to \$55 per week in respect of a person receiving respite care for 15 days or more during a 28 day period.

The amendments would take effect from 15 January 1985.

The new arrangements are estimated to add \$2.9m to outlays in the remainder of 1984-85 and \$6.0m in the full year 1985-86.

(See Budget Statements 1984-85, 1984-85 Budget Paper No 1, at pages 122-123.)

Delivered Meals Subsidy Act 1970

The amendments which would be made by Part III of the Bill would provide for a new rate of subsidy in respect of meals provided under the meals-on-wheels program.

This new rate of subsidy would be \$0.65 per meal, payable to an approved organisation which meets new conditions of service delivery which are additional to current conditions. An approved organisation not meeting those conditions would remain eligible for the current rates of subsidy under the Act.

The amendments would take effect from 1 January 1985.

The new arrangements are estimated to add \$0.75m to outlays in the remainder of 1984-85 and \$1.5m in the full year 1985-86.

(See Budget Statements 1984-85, 1984-85 Budget Paper No 1, at page 122.)

Anzac Hostel, Brighton, Victoria

The Anzac Hostel was established under the terms of the Baillieu gift, to which the Repatriation Fund (Baillieu Gift) Act 1937 applied.

Part VI of the Bill would provide for additional purposes for which the Anzac Hostel may be used.

Currently, the Hostel is used to provide accommodation for totally and permanently incapacitated Veterans of World War I. The amendments would enable new arrangements by which a limited day hospital service and respite care service could be conducted for all eligible Veterans, and facilitate the integration of the Hostel in Commonwealth programs relating to the frail aged.

These new provisions would come into operation on Royal Assent to the Bill.

Other amendments

In addition to these Budget measures, amendments would be made to the Social Security Act 1947 -

- . to extend the bar which disregards dependent children in receipt of an invalid pension or rehabilitation allowance in lieu of that pension or a supporting parent's benefit so that the bar applies to dependent children in receipt of any income security payment under the Social Security Act 1947 or the Tuberculosis Act 1948; and
- . to remove the automatic disqualification of a person from a family allowance where a child turns 16 years of age and the Director-General of Social Security is not satisfied within 3 months of that event that the child is a student child.

The extension of the bar disregarding children in receipt of an income security payment is not expected to result in significant savings in 1984-85, but savings of \$0.15m are expected in 1985-86.

The removal of the requirement that the Director-General be satisfied that a dependent child has become a student child within 3 months of attaining 16 years will not result in significant costs or savings, but will result in the family allowance program being fairer and improve administration.

SOCIAL SECURITY AND REPATRIATION LEGISLATION
AMENDMENT BILL (NO 2) 1984

PART I - PRELIMINARY

Clause 1: Short title

This clause would provide that the amending Act would be cited as the Social Security and Repatriation Legislation Amendment Act (No 2) 1984.

Clause 2: Commencement

This clause would provide for the dates upon which the provisions of the amending Act would come into operation.

Clause 2(1) would provide a general rule that the amending Act would come into operation on the date of Royal Assent.

Clause 2(2) would provide that Part II of the amending Act, which would amend the Aged or Disabled Persons Homes Act 1954, would come into operation on 15 January 1985 (see notes to clause 5).

Clause 2(3) would provide that most of Part IV of the amending Act, which would amend the Social Security Act 1947, would come into operation on 1 November 1984. The exceptions are clauses 9 and 19, which would come into operation on the date of Royal Assent in accordance with clause 2(1).

Clause 2(4) would provide that Part V of the amending Act, which would amend the Repatriation Act 1920, would come into operation on 8 November 1984.

PART II - AMENDMENTS OF THE AGED OR DISABLED PERSONS HOMES ACT 1954

Clause 3: Principal Act

This clause would provide that the Aged or Disabled Persons Homes Act 1954 would be referred to as the Principal Act in this Part of the amending Act.

Clause 4: Payments to approved organizations

Section 10C of the Principal Act provides for the rates of payment of subsidy which may be made to an approved organisation providing hostel care, personal care and respite care services to eligible persons (ie aged or disabled persons).

This clause would amend section 10C to increase the rates of payment of subsidy, as follows -

- clause 4(a): the rate of subsidy payable under paragraph 10C(1)(a) in respect of each eligible person provided with hostel care services would be increased from \$10 per week to \$11 per week;
- clause 4(b): the rate of subsidy payable under paragraph 10C(1)(b) in respect of each eligible person provided with hostel care and personal care services would be increased from \$50 per week to \$55 per week;
- clause 4(c): the rate of subsidy payable under paragraph 10C(1)(c) in respect of each eligible person provided with respite care services on a temporary basis for a period of less than 15 days in a period of 28 days would be increased from \$10 per week to \$11 per week; and
- clause 4(d): the rate of subsidy payable under paragraph 10C(1)(d) in respect of each eligible person provided with respite care services on a temporary basis for a period of 15 days or more in a period of 28 days would be increased from \$50 per week to \$55 per week.

Clause 5: Application

The payment of these subsidies is made on a particular day each 28 days. The first such day in January 1985 is 15 January 1985, which is the date on which this Part of the amending Act would come into operation (see notes to clause 2(2)).

This clause would provide that the amendments made by clause 4 would apply in respect of payments of subsidy made on and after 15 January 1985.

PART III - AMENDMENT OF THE DELIVERED MEALS SUBSIDY ACT 1970

Clause 6: Principal Act

This clause would provide that the Delivered Meals Subsidy Act 1970 would be referred to as the Principal Act in this Part of the amending Act.

Clause 7: Authorization of payments

Section 6 of the Principal Act provides for the rates of subsidy payable to an approved organisation in respect of each meal provided under the meals-on-wheels program where the approved organisation meets certain conditions. This clause would insert new sub-sections 6(1A) and (1B) to provide for a new rate of subsidy.

Sub-section 6(1B) provides for a new rate of subsidy of \$0.65 per meal which could be payable instead of the current rate of subsidy of \$0.55 per meal under paragraph 6(1)(a).

Sub-section 6(1A) provides for the conditions which must be met by an approved organisation in order that the new rate of subsidy be payable. These conditions, relating to its operations and management in the provision of meal services, would be additional to the current conditions of payment of subsidy applicable under section 9 of the Principal Act, and will be published in the Gazette.

The effect of these amendments is to give an approved organisation which is eligible for subsidy under paragraph 6(1)(a) the option of being paid the new, higher, rate of subsidy by meeting new conditions.

Clause 8: Application

This clause would provide that the new rate of subsidy is applicable in the calculation of subsidy on and after 1 January 1985.

By clause 2(1), the amendments made by this Part of the amending Act would come into operation on the date of Royal Assent.

PART IV - AMENDMENTS TO THE SOCIAL SECURITY ACT 1947

Clause 9: Short title

This clause would provide that the Social Security Act 1947 would be referred to as the Principal Act in this Part of the amending Act.

Clause 10: Repeal of section 6A and insertion of new section

The Principal Act currently provides for the disregarding of a dependent child of a person where the dependent child is in receipt of or a supporting parent's benefit, an invalid pension or a rehabilitation allowance in lieu of that pension.

The rule concerning supporting parent's benefit is contained in section 6A of the Principal Act. The rule concerning invalid pension or a rehabilitation allowance in lieu of that pension is contained in the various provisions of the Principal Act which describe a student child as a dependent child.

Clause 10(1) would repeal section 6A and substitute a new section 6A which provides for the disregarding of a dependent child of a person where the dependent child is in receipt of any income security payment under the Principal Act (including a supporting parent's benefit, an invalid pension or a rehabilitation allowance in lieu of that pension) or the Tuberculosis Act 1948.

Sub-section 6A(1) would prevent such a dependent child being taken into account for the purposes of qualification for pension or benefit or eligibility for additional pension or benefit, or for the purposes of payment of family allowance to a person.

Sub-section 6A(2) provides a similar rule preventing such a dependent child being taken into account for the purposes of payment of family allowance to an institution.

Sub-section 6A(3) is a savings provision which is designed to ensure that a person receiving an income security payment under the Principal Act or family allowance immediately before 1 November 1984 would not be affected by the new sub-section 6A(1) where the dependent child was receiving an income security payment on that date.

Sub-section 6A(4) is a savings provision which is designed to ensure that an institution receiving family allowance or a double orphan's pension in respect of a dependent child immediately before 1 November 1984 would not be affected by the new sub-section 6A(2) where the dependent child was receiving an income security payment on that date.

Clause 10(2) would provide for the application of the new section 6A in respect of instalments or payments of pension, benefit or allowance under the Principal Act falling due on or after 1 November 1984.

By clause 2(3), clause 10 would come into operation on 1 November 1984.

Other clauses of this Part of the amending Act would provide for the omission of references to the receipt of invalid pension or rehabilitation allowance in lieu of that pension in those provisions of the Principal Act which describe a student child as a dependent child. In consequence of the new section 6A dealing with this case, those references are no longer necessary (see notes to clauses 11, 13, 15, 17, 18, 20 and 21).

Clause 11: Repeal of section 18A and
substitution of new section

Section 18A of the Principal Act describes a student child as a dependent child for the purposes of Part III of the Principal Act (age, invalid, wife's and spouse carer's pension).

In consequence of the incorporation in the new section 6A of the Principal Act of the rule which disregards a dependent child who is in receipt of an invalid pension or a rehabilitation allowance in lieu of that pension (see notes to clause 10), this clause would recast section 18A to omit the rule from that provision.

By clause 2(3), the amendment would come into operation on 1 November 1984.

Clause 12: Rate of age or invalid pension

Paragraph 28(1C)(a) of the Principal Act prevented sub-section 28(1B) of the Principal Act applying where a dependent child was in receipt of a service pension under the Repatriation Act 1920. There are no longer any such dependent children, and paragraph 28(1C)(a) has ceased to have any significance.

This clause would recast sub-section 28(1C) by omitting the paragraph.

By clause 2(3), the amendment would come into operation on 1 November 1984.

Clause 13: Repeal of section 59A and
substitution of new section

Section 59A of the Principal Act describes a student child as a dependent child for the purposes of Part IV of the Principal Act (widow's pension).

In consequence of the incorporation in the new section 6A of the Principal Act of the rule which disregards a dependent child who is in receipt of an invalid pension or a rehabilitation allowance in lieu of that pension (see notes to clause 10), this clause would recast section 59A to omit the rule from that provision.

By clause 2(3), the amendment would come into operation on 1 November 1984.

Clause 14: Rate of widow's pension

Paragraph 63(1C)(a) of the Principal Act prevented sub-section 63(1A) of the Principal Act applying where a dependent child was in receipt of a service pension under the Repatriation Act 1920. There are no longer any such dependent children, and paragraph 63(1C)(a) has ceased to have any significance.

This clause would recast sub-section 63(1C) by omitting the paragraph.

By clause 2(3), the amendment would come into operation on 1 November 1984.

Clause 15: Repeal of section 83AAB and substitution of new section

Section 83AAB of the Principal Act describes a student child as a dependent child for the purposes of Part IVAAA of the Principal Act (supporting parent's benefit).

In consequence of the incorporation in the new section 6A of the Principal Act of the rule which disregards a dependent child who is in receipt of an invalid pension or a rehabilitation allowance in lieu of that pension (see notes to clause 10), this clause would recast section 83AAB to omit the rule from that provision.

By clause 2(3), the amendment would come into operation on 1 November 1984.

Clause 16: Interpretation

Section 83A of the Principal Act describes a deceased student child as a deceased dependent child for the purposes of Part IVA of the Principal Act (funeral benefit). The provision disregards a dependent child who was in receipt of an invalid pension or a rehabilitation allowance in lieu of that pension.

However, such a dependent child would be a "deceased pensioner" in any event, and the disregarding of such a dependent child is therefore of no significance in respect of qualification for funeral benefit. This clause would amend section 83A to omit the disregarding rule from that provision.

By clause 2(3), the amendment came into operation on 1 November 1984.

Clause 17: Prescribed persons

Section 83CA of the Principal Act describes a deceased child for the purposes of Part IVA of the Principal Act (funeral benefit).

In consequence of the incorporation in the new section 6A of the Principal Act of the rule which disregards a dependent child who is in receipt of an invalid pension or a rehabilitation allowance in lieu of that pension (see notes to clause 10), this clause would amend section 83CA to omit the rule from that provision.

By clause 2(3), the amendment would come into operation on 1 November 1984.

Clause 18: Interpretation

Section 94 of the Principal Act describes a student child as a dependent child for the purposes of Part VI of the Principal Act (family allowance).

In consequence of the incorporation in the new section 6A of the rule which disregards a dependent child who is in receipt of an invalid pension or a rehabilitation allowance in lieu of that pension (see notes to clause 10), this clause would amend section 94 to omit the rule from that provision.

By clause 2(3), the amendment would come into operation on 1 November 1984.

Clause 19: Family allowance to cease
in certain circumstances

Section 103 of the Principal Act provides for the automatic cessation of family allowance in certain circumstances. Where a dependent child attains the age of 16 years, paragraph 103(1)(f) provides that family allowance ceases to be payable to a person unless the Director-General of Social Security is satisfied within 3 months of that date that the dependent child has become a student child.

This clause would amend paragraph 103(1)(f) to omit the requirement that the Director-General be so satisfied. The automatic cessation of payment will then arise only in the circumstances that a dependent child does not become a student child upon attaining 16 years.

This will mean that the situation illustrated in the case of Kirkpatrick before the Administrative Appeals Tribunal (decision of 26 June 1984) will not arise again. There, a dependent child became a student child upon attaining the age of 16 years, but because the Director-General was not satisfied within 3 months of that occurrence, payment of family allowance ceased. Although the former recipient was later able to lodge a new claim for family allowance, arrears of payment were not payable, notwithstanding qualification for payment.

By clause 2(1), this amendment will come into operation on the date of Royal Assent to the amending Act.

Clause 20: Student children over 16 years

Section 105H of the Principal Act describes a student child as a dependent child for the purposes of Part VIB of the Principal Act (handicapped child's allowance).

In consequence of the incorporation in the new section 6A of the Principal Act of the rule which disregards a dependent child who is in receipt of an invalid pension or a rehabilitation allowance in lieu of that pension (see notes to clause 10), this clause would amend section 105H to omit the rule from that provision.

By clause 2(3), the amendment would come into operation on 1 November 1984.

Clause 21: Student children over 16 years

Section 106 of the Principal Act describes a student child as a dependent child for the purposes of Part VII of the Principal Act (unemployment, sickness and special benefit).

In consequence of the incorporation in the new section 6A of the Principal Act of the rule which disregards a dependent child who is in receipt of an invalid pension or a rehabilitation allowance in lieu of that pension (see notes to clause 10), this clause would amend section 106 to omit the rule from that provision.

By clause 2(3), the amendment would come into operation on 1 November 1984.

Clause 22: Rate of unemployment or sickness benefit

Section 112 of the Principal Act provides for the rates of unemployment or sickness benefit applicable to a beneficiary. The base rates of benefit may be increased where a beneficiary has a dependent child, subject to the qualification that another person does not obtain an increase in the base rate of an income security apyment calculated by reference to the dependent child, or a service pension is not payable in respect of the dependent child under the Repatriation Act 1920. There are no longer any children of members of the Forces to whom a service pension is payable, so that references to that case in section 112 can be omitted.

Paragraph 22(a) would amend sub-sub-paragraph 112(4C)(b)(ii)(F) to change the reference to a dependent child in respect of whom a service pension is payment to a reference to a dependent child who is taken into account in determining the rate of service pension. The sub-sub-paragraphs of paragraph 112(4C)(b)(ii) would then be consistent in form.

Paragraph 22(b) would amend sub-paragraph 112(6)(b)(v) in a similar manner. The sub-paragraphs of paragraph 112(6)(b) would then be consistent in form.

By clause 2(3), these amendments would come into operation on 1 November 1984.

PART V - AMENDMENTS OF THE REPATRIATION ACT 1920

Clause 23: Principal Act

This clause would provide that the Repatriation Act 1920 would be referred to as the Principal Act in this Part of the amending Act.

Clause 24: Interpretation

Section 83 of the Principal Act defines "Child" for the purposes of the calculation of entitlement to service pension under Division 5 of Part III of the Principal Act. That definition excludes a person who is in receipt of an invalid pension, a rehabilitation allowance in lieu of that pension, or a supporting parent's benefit under the Social Security Act 1947.

Consistent with the substitution of section 6A of the Social Security Act 1947 (see notes to clause 10), this clause would amend the definition of "Child" to exclude a person in receipt of any income security payment under the Social Security Act 1947 or the Tuberculosis Act 1948.

Clause 25: Prescribed persons

Section 123AB of the Principal Act defines "child" for the purpose of calculating whether a person has an annual rate of income equal to or exceeding a rate of income at which the person becomes a "prescribed person" who is precluded from eligibility for medical treatment under the Repatriation legislation. That definition excludes a person who is in receipt of an invalid pension, a rehabilitation allowance in lieu of that pension, or a supporting parent's benefit under the Social Security Act 1947.

Consistent with the substitution of section 6A of the Social Security Act 1947 (see notes to clause 10), this clause would amend the definition of "child" to exclude a person in receipt of any income security payment under the Social Security Act 1947 or the Tuberculosis Act 1947.

Clause 26: Application

This clause would provide that the amendments made by this Part of the amending Act would apply in relation to instalments of pension under the Principal Act falling due on and after 8 November 1984.

By clause 2(4), this Part of the amending Act would come into operation on 8 November 1984.

PART VI - ANZAC HOSTEL

Clause 27: Interpretation

This clause contains definitions of terms used in this Part of the amending Bill. The premises known as the Anzac Hostel at Brighton, Victoria, are identified, and persons intended to be beneficiaries of the expanded use of the Anzac Hostel are defined as those persons eligible to receive medical treatment benefits under Repatriation legislation.

Clause 28: Terms of trust

Clause 28(1) would vary the purposes for which the Anzac Hostel may be used by the Repatriation Commission. Under the terms of the trust, the Anzac Hostel is to be used as a hostel for totally and permanently incapacitated soldiers and sailors of World War I.

Clause 28(2) would indicate what would be done with the Anzac Hostel when the Repatriation Commission decides that it is no longer required for the purposes specified under the terms of the trust. Under the provisions of the Repatriation Fund (Baillieu Gift) Act 1937, the hostel is then to be sold and the proceeds from the sale divided between the universities nominated in the Schedule to that Act. Any amount paid to a university is to be applied to the provision of scholarships for the descendants of certain Veterans.

Clause 29: Use of Anzac Hostel

The purposes for which the Anzac Hostel may be used under the terms of the trust would be extended by this clause.