

Social Services

No. 57 of 1965

An Act to amend the *Social Services Act 1947–1964*.

[Assented to 1 October, 1965]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- 1.—(1.) This Act may be cited as the *Social Services Act 1965*. Short title and citation.
- (2.) The *Social Services Act 1947–1964** is in this Act referred to as the Principal Act.
- (3.) The Principal Act, as amended by this Act, may be cited as the *Social Services Act 1947–1965*.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. Section 5 of the Principal Act is amended— Parts.
 - (a) by omitting the words—
“ Division 11.—Funeral Benefits (Sections 54–58).”;
and
 - (b) by omitting the words—
“ Part V.—Maternity Allowances (Sections 84–93).”
and inserting in their stead the words—
“ Part IVA.—Funeral Benefits (Sections 83A–83E).
Part V.—Maternity Allowances (Sections 84–93).”.

* Act No. 26, 1947, as amended by 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; No. 45, 1961; Nos. 1 and 95, 1962; No. 46, 1963; and Nos. 3 and 63, 1964.

Definitions.

4. Section 18 of the Principal Act is amended by inserting in the definition of “ income ”, after paragraph (jb), the following paragraph:—

“(jc) an amount payable by the Repatriation Commission by way of sustenance allowance;”.

Student children over the age of sixteen years.

5. Section 18A of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (1.) the words “ eighteen years ” and inserting in their stead the words “ twenty-one years ”; and

(b) by omitting sub-section (2.).

Rate of age or invalid pension (including guardian's allowance payable to an unmarried person.)

6. Section 28 of the Principal Act is amended—

(a) by omitting from sub-section (1.) the word “ three ” and inserting in its stead the word “ six ”;

(b) by omitting sub-sections (1A.) and (1B.) and inserting in their stead the following sub-sections:—

“(1A.) Subject to the next two succeeding sub-sections, the maximum rate of age pension or invalid pension is—

(a) in the case of an unmarried person or a married person whose husband or wife is not in receipt of—

(i) an age pension or an invalid pension;

(ii) a benefit under Part VII;

(iii) a service pension under the *Repatriation Act 1920-1964*; or

(iv) an allowance under section nine of the *Tuberculosis Act 1948*,

Three hundred and twelve pounds per annum; and

(b) in any other case—Two hundred and eighty-six pounds per annum.

“(1AA.) Where an unmarried person has the custody, care and control of a child or children under the age of sixteen years, the maximum rate of pension applicable to that person under paragraph (a) of the last preceding sub-section shall, subject to sub-section (1D.) of this section, be increased by One hundred and four pounds per annum.

“(1B.) Where a person has the custody, care and control of two or more children under the age of sixteen years, the maximum rate of pension applicable to that person under sub-section (1A.) of this section shall, subject to the next three succeeding sub-sections, be increased, or, if the last preceding sub-section

applies to the person, be further increased, by Thirty-nine pounds per annum for each of those children other than the elder or eldest child.”;

(c) by omitting sub-section (1D.) and inserting in its stead the following sub-section:—

“ (1D.) In the case of a permanently blind person—

(a) the maximum rate of an age pension or invalid pension shall not be increased by virtue of sub-section (1AA.) or sub-section (1B.) of this section unless he would be eligible to receive an invalid pension under the provisions of this Part (including sub-sections (1AA.) and (1B.) of this section) if he were not a permanently blind person but were permanently incapacitated for work; and

(b) if he would be so eligible to receive an invalid pension, the amount of any increase under sub-section (1AA.) or sub-section (1B.) of this section, or, if both those sub-sections apply in relation to him, the total of the increases under those sub-sections, shall not exceed the maximum amount that could be included in the invalid pension by virtue of sub-section (1AA.) or sub-section (1B.) of this section, or of both those sub-sections, as the case may be.”;

(d) by omitting sub-section (1E.) and inserting in its stead the following sub-section:—

“ (1E.) Sub-section (1B.) of this section does not apply in relation to a person if the property component calculated in relation to that person exceeds by One hundred and eighty-two pounds or more—

(a) the maximum annual rate of pension specified in sub-section (1A.) of this section that is applicable to that person; or

(b) if that rate is increased in relation to that person by virtue of sub-section (1AA.) of this section, that rate as so increased.”;

and

(e) by omitting sub-paragraph (i) of paragraph (b) of sub-section (3.) and inserting in its stead the following sub-paragraph:—

“ (i) half the amount by which the sum of the rate per fortnight of his war pension and the rate per fortnight of the war pension (if any) payable to his spouse is less than the amount

calculated in accordance with the formula $\frac{2(P + \text{£}182)}{26}$, where P is the maximum rate of pension specified in sub-section (1A.) of this section that is applicable to him; or”.

Supplementary
assistance.

7. Section 30A of the Principal Act is amended—

(a) by omitting sub-sections (1.), (2.), (3.) and (4.) and inserting in their stead the following sub-sections:—

“ (1.) This section applies to a person if—

(a) he is a pensioner who is an unmarried person or a married person whose husband or wife is not in receipt of—

(i) an age pension or an invalid pension;

(ii) a service pension under the *Repatriation Act 1920-1964*; or

(iii) an allowance under section nine of the *Tuberculosis Act 1948*;

(b) the amount of his means as assessed is less than Seventy-eight pounds; and

(c) the Director-General is satisfied that he requires supplementary assistance by reason that he pays rent and is entirely or substantially dependent upon his pension.

“ (2.) There is payable to a person to whom this section applies, in addition to his pension, an allowance by way of supplementary assistance.

“ (3.) The rate at which an allowance under this section is payable to a person is—

(a) where the amount of his means as assessed is Twenty-six pounds or less—Fifty-two pounds per annum; or

(b) in any other case—an amount per annum equal to the amount by which Seventy-eight pounds exceeds the amount of his means as assessed.

“ (4.) An allowance under this section is payable from a date determined by the Director-General, which may be a date before the date of the determination.”; and

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

8. Sections 31 and 32 of the Principal Act are repealed and the following sections inserted in their stead:—

“ 31. Where a husband has the custody, care and control of a child, that child shall, except where the husband and his wife are living apart, be deemed, for the purposes of this Division, to be in the custody, care and control of the wife. Custody of children.

“ 32.—(1.) Subject to this Part, a woman, not being an age pensioner or invalid pensioner, who— Wife's allowance.

(a) is the wife of an invalid pensioner;

(b) is the wife of an age pensioner who is permanently incapacitated for work or permanently blind; or

(c) is the wife of an age pensioner and has the custody, care and control of a child or children under the age of sixteen years,

is qualified to receive a wife's allowance.

“ (2.) A wife's allowance is not payable to a wife who is living apart from her husband.”

9. Section 34 of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “ an invalid pensioner ” and inserting in their stead the words “ a pensioner ”; and Child's allowance.

(b) by inserting in sub-section (3.), before the word “ invalid ” (wherever occurring), the words “ age pensioner or ”.

10. Section 50 of the Principal Act is amended—

(a) by inserting in sub-paragraph (i) of paragraph (a) of sub-section (1.), after the words “ per annum ”, the words “ or, if an allowance under Division 4A of this Part is payable to him, One hundred and thirty-five pounds four shillings per annum ”; and Inmates of benevolent homes.

(b) by omitting sub-section (3.).

11.—(1.) Division 11 of Part III. of the Principal Act is repealed. Repeal of Division 11 of Part III.

(2.) Notwithstanding the repeal effected by the last preceding sub-section, the provisions of the Division referred to in that sub-section continue to apply in relation to a person who died before the commencement of this Act.

12.—(1.) Section 59A of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (1.) the words “ eighteen years ” and inserting in their stead the words “ twenty-one years ”; and Student children over the age of sixteen years.

(b) by omitting sub-section (2.).

(2.) Where—

- (a) a pension under Part IV. of the Principal Act as amended by this Act is granted to a person who became a Class A widow for the purposes of that Part on the date of commencement of this Act but would not have become a Class A widow on that date if the amendment made by paragraph (a) of the last preceding sub-section had not been made; and
- (b) the claim for the pension was lodged before the thirty-first day of December, One thousand nine hundred and sixty-five,

the Director-General may, notwithstanding section 68 of the Principal Act as so amended, determine that the pension shall be paid from a date earlier than the date on which the claim for the pension was lodged, being a date not earlier than the thirteenth day before the first pension pay day occurring after the date of commencement of this Act.

Supplementary
assistance.

13. Section 65A of the Principal Act is amended—

(a) by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

“(1.) This section applies to a widow if—

- (a) she is a pensioner;
- (b) the amount of her means as assessed is less than Seventy-eight pounds; and
- (c) the Director-General is satisfied that she requires supplementary assistance by reason that she pays rent and is entirely or substantially dependent upon her pension.

“(2.) There is payable to a widow to whom this section applies, in addition to her pension, an allowance by way of supplementary assistance.

“(2A.) The rate at which an allowance under this section is payable to a widow is—

- (a) where the amount of her means as assessed is Twenty-six pounds or less—Fifty-two pounds per annum; or
- (b) in any other case—an amount per annum equal to the amount by which Seventy-eight pounds exceeds the amount of her means as assessed.”; and

(b) by omitting sub-section (6.).

14. Section 80 of the Principal Act is amended—

- (a) by inserting in paragraph (a) of sub-section (1.), after the words “per annum”, the words “or, if an allowance under Division 3A of this Part is payable to her, One hundred and twenty-six pounds two shillings per annum”; and
- (b) by omitting sub-section (3.).

Inmates of benevolent homes.

15.—(1.) After Part IV. of the Principal Act the following Part is inserted:—

“PART IVA.—FUNERAL BENEFITS.

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

Interpretation.

‘deceased child’, in relation to a person, means a deceased person who—

- (a) at the time of his death—
- (i) was in the custody, care and control of the first-mentioned person; and
 - (ii) was under the age of sixteen years; or
- (b) at the time of his death—
- (i) was in the custody, care and control of the first-mentioned person;
 - (ii) had attained the age of sixteen years but was under the age of twenty-one years;
 - (iii) was receiving full-time education at a school, college or university;
 - (iv) was wholly or substantially dependent on the first-mentioned person; and
 - (v) was not in receipt of an invalid pension under Part III.;

‘deceased pensioner’ means a deceased person—

- (a) who was, at the time of his death, a pensioner;
- (b) who had before his death lodged a claim for, and would but for his death have been eligible to receive, an age pension or invalid pension under Part III. or a pension under Part IV.; or
- (c) who—
 - (i) had before his death lodged a claim for, and would but for his death have been eligible to receive, an allowance under section nine of the *Tuberculosis Act 1948*; and

(ii) would, if he had lodged a claim for a pension referred to in the last preceding paragraph instead of the claim referred to in the last preceding sub-paragraph, have been eligible, but for his death, to receive that pension;

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

‘pensioner’ means a person who—

- (a) is in receipt of an age pension or invalid pension under Part III. or a pension under Part IV.; or
- (b) is in receipt of an allowance under section nine of the *Tuberculosis Act 1948* and would, but for the receipt of that allowance, be eligible to receive a pension referred to in the last preceding paragraph.

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

Funeral benefit payable to pensioner.

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

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

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

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

whichever is the less.

“(2.) In paragraph (b) of the last preceding sub-section, ‘pensioner’ includes a person in receipt of a wife’s allowance.

“ (3.) Subject to this Part, where—

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

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

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

whichever is the less.

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

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

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

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

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

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

Applications
may be made
within six
months.

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

(2.) The Part inserted by the last preceding sub-section does not apply in relation to the funeral of a person who died before the commencement of this Act.

Application of
amendments.

16.—(1.) In so far as an amendment made by this Act affects instalments of pensions or allowances, the amendment applies in relation to an instalment of a pension or an allowance, as the case may be, falling due on the first pension pay day after the commencement of this Act and to all subsequent instalments.

(2.) The increase in the rate of service pension under the *Repatriation Act 1920-1964* consequent upon the amendments made by section 6 of this Act applies in relation to an instalment of service pension falling due on the first service pension pay day after the commencement of this Act and to all subsequent instalments.
