

## SOCIAL SERVICES CONSOLIDATION.

## No. 26 of 1947.

An Act to amend and consolidate the law relating to the payment of Age Pensions, Invalid Pensions, Widows' Pensions, Maternity Allowances, Child Endowment, Unemployment Benefits and Sickness Benefits, and for other purposes.

[Assented to 11th June, 1947.]

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

## PART I.—PRELIMINARY.

1. This Act may be cited as the *Social Services Consolidation Act* Short title. 1947.

2.—(1.) This Act shall come into operation on the first day of Commencement. July, One thousand nine hundred and forty-seven.

(2.) The first payment of pensions and allowances under Part III. of this Act shall be made on the third day of July, One thousand nine hundred and forty-seven.

(3.) The first payment of pensions under Part IV. of this Act shall be made on the eighth day of July, One thousand nine hundred and forty-seven.

3. The Acts specified in the first column of the Schedule to this Repeal. Act are repealed to the extent respectively set out opposite thereto in the second column of that Schedule.

4.—(1.) Notwithstanding the repeal effected by the last pre- Savings. ceding section—

(a) all persons holding office, immediately prior to the commencement of this Act, as Special Magistrates of the Commonwealth under the *Invalid and Old-age Pensions Act* 1908–1946, the *Child Endowment Act* 1941–1945 or the *Widows' Pensions Act* 1942–1946 shall continue to hold office as if they had been appointed as Special Magistrates of the Commonwealth under this Act ;

(5.) An authority or person to whom information is divulged under the last preceding sub-section, and any person or employee under the control of that authority or person, shall, in respect of that information, be subject to the same rights, privileges, obligations and liabilities under sub-sections (2.) and (3.) of this section as if he were a person performing duties under this Act and had acquired the information in the performance of those duties.

(6.) In this section, "officer" includes a person who has performed duties, or exercised powers or functions, under, or in relation to, any Act repealed by this Act.

### PART III.—AGE AND INVALID PENSIONS.

#### Division 1.—Preliminary.

#### Definitions.

18. In this Part, unless the contrary intention appears—

"benevolent asylum" means a benevolent asylum which is wholly or partly maintained by contributions from the Consolidated Revenue Fund of the Commonwealth or the consolidated revenue of a State and is approved by the Director-General;

"claimant" means a person claiming a pension;

"income", in relation to a person, means any personal earnings, moneys, valuable consideration or profits earned, derived or received by that person for his own use or benefit by any means from any source whatsoever, within or outside Australia, and includes any periodical payment or benefit by way of gift or allowance from a person other than the father, mother, son or daughter of the first-mentioned person, but does not include—

- (a) a payment by way of benefit from a friendly society;
- (b) a payment in respect of illness, infirmity or old-age from any trade union;
- (c) the value of food relief or like assistance granted under any law of a State or Territory;
- (d) a payment made to a person for or in respect of a child of whom that person has the custody, care and control;
- (e) a payment under Part V. or VI. of this Act;
- (f) a benefit under the *Hospital Benefits Act 1945–1947* or under the regulations made under that Act;
- (g) a benefit under the *Pharmaceutical Benefits Act 1947*;
- (h) a payment out of moneys—
  - (i) paid under section six of the *Tuberculosis Act 1945–1946*; or
  - (ii) provided by a State for the objects for which payments may be made by a State under that section;

- (i) in the case of a member of the Forces (within the meaning of Part III. of the *Australian Soldiers' Repatriation Act* 1920-1947) who is suffering from pulmonary tuberculosis and is undergoing treatment for that disease as an inmate of a hospital, sanatorium or similar institution—the value of board and lodging received by him therein;
- (j) a service pension under the *Australian Soldiers' Repatriation Act* 1920-1947 received by the spouse of a claimant or pensioner, where that claimant or pensioner is not in receipt of a service pension under that Act and the spouse is not in receipt of a pension under this Part; or
- (k) an amount of interest credited or paid in pursuance of the *War Gratuity Acts* 1920 or the *War Gratuity Act* 1945;

“pension” means a pension or allowance under this Part and includes a pension or allowance continued in force by virtue of paragraph (c) of section four of this Act;

“pensioner” means a person in receipt of a pension;

“Registrar” means a Registrar of Social Services.

**19.—(1.)** An age pension or an invalid pension shall not be granted to an alien, not being a woman who, prior to her marriage, was a British subject. Aliens and  
aboriginal  
natives.

(2.) An age pension or an invalid pension may be granted to an aboriginal native of Australia if—

- (a) he is for the time being exempt from the provisions of the law of the State or Territory in which he resides relating to the control of aboriginal natives; or
- (b) he resides in a State or Territory the law of which does not make provision for such exemption, and the Director-General is satisfied that, by reason of the character and of the standard of intelligence and social development of the native, it is desirable that a pension should be granted to him,

but shall not otherwise be granted to such a native.

**20.—(1.)** For the purposes of this Part, a claimant shall be deemed to have been resident in Australia during a period of absence from Australia— Absence from  
Australia.

- (a) if the Director-General is satisfied that, during that period, the claimant's home remained in Australia; and
- (b) if the Director-General is satisfied—
  - (i) in the case of a married man—that, during his absence from Australia, he maintained his wife and such of his children as were under the age of sixteen years; or

*Division 2.—Qualifications for Widows' Pensions.*

Qualifications  
for widow's  
pension.

**60.—(1.) Subject to this Part—**

- (a) a widow (not being a widow specified in paragraph (d) of this sub-section) who has the custody, care and control of one or more children ;
- (b) a widow (not being a widow specified in paragraph (d) of this sub-section) who—
  - (i) is not less than fifty years of age ; and
  - (ii) has not the custody, care and control of any child ;
- (c) a widow who, at the time of the death of her husband, or within twenty-six weeks thereafter, or, in the case of a dependent female, at the time of the death of the man in respect of whom she was a dependent female, or within twenty-six weeks thereafter—
  - (i) is less than fifty years of age ;
  - (ii) has not the custody, care and control of any child ; and
  - (iii) in the opinion of the Director-General. is in necessitous circumstances ; or
- (d) a widow—
  - (i) whose husband is imprisoned, following upon his conviction for an offence, and has been so imprisoned for not less than six months ; and
  - (ii) who has the custody, care and control of one or more children or is not less than fifty years of age,

shall be qualified to receive a pension.

(2.) A child of whom a widow has not the custody, care and control but who is being maintained by that widow shall, for the purposes of the last preceding sub-section, be deemed to be a child of whom that widow has the custody, care and control.

(3.) A widow shall not be qualified to receive a pension unless she is residing in Australia on the date on which she lodges her claim for the pension and has been continuously so resident for a period of not less than five years immediately prior to that date.

Absence from  
Australia.

**61.—(1.)** For the purposes of sub-section (3.) of the last preceding section, a claimant shall be deemed to have been resident in Australia during a period of absence from Australia if the Director-General is satisfied—

- (a) that, during that period, the claimant's home remained in Australia ; and
- (b) in the case of a claimant who, at the time of her absence from Australia, was a widow—that, during her absence, she maintained such of her children as were under the age of sixteen years and were dependent on her immediately prior to her leaving Australia.



(2.) For the purposes of sub-section (3.) of the last preceding section, a claimant shall be deemed to have been resident in Australia—

- (a) during a period of absence from Australia which was attributable to circumstances connected with a war in which His Majesty was engaged ;
- (b) during a period of absence from Australia during which the claimant was a resident of Australia within the meaning of any Act relating to the imposition, assessment and collection of a tax upon incomes ; or
- (c) during occasional absences from Australia not exceeding, in the aggregate, one-tenth of the total period of residence and of those occasional absences.

(3.) For the purposes of sub-section (3.) of the last preceding section, continuity of residence of a claimant in Australia shall be deemed not to have been interrupted by absence of the claimant in a Territory.

62.—(1.) A pension shall not be granted to a widow—

Conditions of  
grant of  
widow's pension.

- (a) unless she is of good character ;
- (b) if she is not deserving of a pension ;
- (c) if she directly or indirectly deprived herself of property or income in order to qualify for a pension ;
- (d) if the value (determined in accordance with section sixty-five of this Act) of the property of the widow exceeds—
  - (i) in the case of a class A widow—One thousand pounds ; or
  - (ii) in the case of a class B widow or a class D widow—Six hundred and fifty pounds ; or
- (e) who is an alien, not being a woman who, prior to her marriage, was a British subject.

(2.) A pension may be granted to an aboriginal native of Australia if—

- (a) she is for the time being exempt from the provisions of the law of the State or Territory in which she resides relating to the control of aboriginal natives ; or
- (b) she resides in a State or Territory the law of which does not make provision for such exemption, and the Director-General is satisfied that, by reason of the character and of the standard of intelligence and social development of the native, it is desirable that a pension should be granted to her,

but shall not otherwise be granted to such a native.

(3.) A pension shall not be granted to a widow, being a deserted wife or a woman whose marriage has been dissolved and who has not remarried, unless she has taken such action as the Director-General considers reasonable to obtain maintenance from her husband or former husband.

allowed under section forty-two or forty-four of that Act in respect of the death of a member of the Forces referred to in whichever of those sections is applicable.

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

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

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

(b) any instalment of the pension so forfeited,

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

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

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

#### PART V.—MATERNITY ALLOWANCES.

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

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

“claimant” means a person claiming a maternity allowance ;

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

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

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

Maternity  
allowances.

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

- (a) gives birth to a child, either in Australia or on board a ship proceeding to Australia or from a port in Australia or a Territory to another port in Australia or a Territory; and
- (b) on the date on which she lodges her claim, is residing in Australia or is in Australia and satisfies the Director-General that she intends to remain in Australia.

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

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

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

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

Persons  
disqualified for  
maternity  
allowance.

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

- (a) that woman was, prior to her marriage, a British subject; or
- (b) that woman or her husband resided in Australia for at least twelve months immediately prior to the birth of the child.

(2.) Notwithstanding the provisions of the last preceding subsection, a maternity allowance may be granted to a woman who is an alien in respect of a birth which occurs within twelve months after her arrival in Australia but payment of the maternity allowance shall not be made until the expiration of twelve months from the date of her arrival.

(3.) A maternity allowance may be granted to an aboriginal native of Australia if—

- (a) she is for the time being exempt from the provisions of the law of the State or Territory in which she resides relating to the control of aboriginal natives; or
- (b) she resides in a State or Territory the law of which does not make provision for such exemption, and the Director-General is satisfied that, by reason of the character and of the standard of intelligence and social development of the native, it is desirable that a maternity allowance should be granted to her,

but shall not otherwise be granted to such a native.



(b) that woman is the wife of a man who is a member of the Defence Force ; or

(c) the usual place of residence of that woman is in Australia but she is temporarily absent from Australia,

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

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

(a) unless that woman, or her husband, is a resident of Australia as defined by the *Income Tax Assessment Act 1936-1947* ; or

(b) if that woman has been granted an allowance, similar to a maternity allowance, in respect of the birth under the law of any other country.

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

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

Liability of  
Commonwealth

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

#### PART VI.—CHILD ENDOWMENT.

Definitions,

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

“ child ” means a child under the age of sixteen years ;

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

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

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

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



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

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

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

**95.—(1.)** Subject to this Part, an endowment at the rate of Seven shillings and sixpence per week may be granted— Child endowment.

- (a) to a person having the custody, care and control of more than one child—in respect of each of those children in excess of one; and
- (b) to an institution—in respect of each child who is an inmate of the institution.

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

- (a) the child was born in Australia;
- (b) the mother of the child is a British subject or has made a declaration under section eighteen A of the *Nationality Act 1920-1946*; or
- (c) the Director-General is satisfied that the child is likely to remain permanently in Australia.

(3.) Where, by reason of divorce, separation, unemployment, death of a parent or other special circumstances, any children who would otherwise be living together as part of one family are not so living together, endowment may, in the discretion of the Director-General, be granted at the rate specified in sub-section (1.) of this section in respect of such of those children in excess of one as the Director-General thinks fit, and the endowment may be paid to such persons and in such proportions as, in the circumstances, the Director-General considers to be just.

(4.) Where an institution supervises and assists children (one or both of whose parents are aboriginal natives of Australia) but the children are not inmates of the institution, endowment may be granted to the institution at the rate specified in sub-section (1.) of this section based upon the average number per week of such children supervised and assisted during each endowment period.

**Qualification  
for endowment.**

**96.**—(1.) Subject to section one hundred and four of this Act, an endowment shall not be granted unless—

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

(i) is in Australia ; and

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

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

(i) is in Australia ; and

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

(2.) Sub-paragraph (ii) of paragraph (a) and sub-paragraph (ii) of paragraph (b) of the last preceding sub-section shall not apply in any case in which the Director-General is satisfied that the claimant and the child are likely to remain permanently in Australia.

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

(a) shall be deemed, for the purposes of sub-paragraph (i) of paragraph (a) of sub-section (1.) of this section, to be in Australia ; and

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

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

**Children of  
aboriginal  
natives of  
Australia.**

**97.** An endowment may be granted to an aboriginal native of Australia unless—

(a) he is nomadic ; or

(b) the child in respect of whom the endowment is claimed is wholly or mainly dependent upon the Commonwealth or a State for his support.

**Claims.**

**98.** A claim for an endowment—

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

(b) shall be supported by such declaration as is approved by the Director-General ; and

(c) shall be lodged with the Director in the State in which the claimant resides or as prescribed.

is temporarily absent from Australia, unless the Director-General is satisfied that the period of her temporary absence is likely to exceed twelve months.

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

#### PART VII.—UNEMPLOYMENT AND SICKNESS BENEFITS.

##### *Division 1.—Preliminary.*

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

**Definitions.**

- “beneficiary” means a person in receipt of a benefit;
- “benefit” means an unemployment benefit, sickness benefit or special benefit under this Part and includes a benefit continued in force by virtue of paragraph (k) of section four of this Act;
- “claimant” means a person claiming a benefit;
- “friendly society” means a friendly society approved by the Director-General, and includes any person who, or body which, in the opinion of the Director-General, is similar in character to, and provides benefits similar in nature to the benefits provided by, a friendly society and is approved by the Director-General;
- “income”, in relation to a person, means any personal earnings, moneys, valuable consideration or profits earned, derived or received by that person for his own use or benefit by any means from any source whatsoever, within or outside Australia, and includes any periodical payment or benefit by way of gift or allowance, but does not include—
  - (a) a payment made to a person for or in respect of a child of whom that person has the custody, care and control;
  - (b) a payment under Part V. or VI. of this Act;
  - (c) a benefit under the *Hospital Benefits Act* 1945–1947 or under the regulations made under that Act;
  - (d) a benefit under the *Pharmaceutical Benefits Act* 1947; or
  - (e) a payment out of moneys—
    - (i) paid under section six of the *Tuberculosis Act* 1945–1946; or
    - (ii) provided by a State for the objects for which payments may be made by a State under that section;
- “Registrar” means a Registrar of Unemployment and Sickness Benefits;
- “unmarried person” includes a widower or widow and a person whose marriage has been dissolved but who has not remarried.



*Division 2.—Qualifications for Benefits.*

Unemployment  
benefit.

**107.** Subject to this Part, a person (not being a person in receipt of a pension or allowance under Part III. or IV. of this Act or a service pension under the *Australian Soldiers' Repatriation Act* 1920-1947) who—

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

Sickness  
benefit.

**108.—(1.)** Subject to this Part, a person (not being a person in receipt of a pension or allowance under Part III. or IV. of this Act or a service pension under the *Australian Soldiers' Repatriation Act* 1920-1947) who—

- (a) has attained the age of sixteen years but, being a male, has not attained the age of sixty-five years or, being a female, has not attained the age of sixty years;
- (b) is residing in Australia on the date on which he lodges his claim for a benefit and—
  - (i) has been continuously so resident for a period of not less than twelve months immediately preceding that date; or
  - (ii) satisfies the Director-General that he is likely to remain permanently in Australia; and
- (c) satisfies the Director-General that he is temporarily incapacitated for work by reason of sickness or accident and has thereby suffered a loss of salary, wages or other income.

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

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

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

Absence from  
Australia  
during war.

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

Married women.

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

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

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

**111.** An aboriginal native of Australia shall not be qualified to receive an unemployment benefit or a sickness benefit unless the Director-General is satisfied that, by reason of the character and of the standard of intelligence and social development of that native, it is desirable that this section should not apply.

Aboriginal  
natives.

### *Division 3.—Rate of Benefits.*

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

Rate of  
unemployment  
and sickness  
benefit.

- (a) in the case of an unmarried person who has not attained the age of eighteen years—Fifteen shillings per week;
- (b) in the case of an unmarried person who has attained the age of eighteen years but has not attained the age of twenty-one years—One pound per week; and
- (c) in any other case—One pound five shillings per week.

(2.) Subject to the next two succeeding sections, where a person qualified to receive an unemployment benefit or a sickness benefit has a spouse resident in Australia who, in the opinion of the Director-General is dependent, or partially dependent, on that person, the