

1978-79-80

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SOCIAL SERVICES AMENDMENT BILL 1980

EXPLANATORY MEMORANDUM

(Circulated by authority of
the Minister for Social Security,
Senator the Hon. Dame Margaret Guilfoyle, D.B.E.)

General Outline

The main purposes of this Bill are to:

- . exclude from the income tests for unemployment and sickness benefits and pensions the pay and allowances of members of the Defence Reserve Forces (clauses 4, 5 and 17);
- . increase the rates payable for -
 - .. double orphan's pension and handicapped child's allowance by \$8 per month to \$55.70 and \$73 per month respectively (clauses 15 and 16);
 - .. mothers/guardians allowances for single pensioners by \$2 per week from \$4 and \$6 to \$6 and \$8 per week (clauses 6 and 10);
 - .. additional pension or benefit for each child by \$2.50 per week from \$7.50 to \$10 per week (clauses 6 and 18);
- . provide for payment of pensions and benefits (including wives pension) to patients in mental hospitals and their wives (clauses 7, 8, 13 and 20);
- . rationalise and increase Commonwealth assistance for sole parents including the repeal of the States Grants (Deserted Wives) Act 1968 (clauses 3 and 14);
- . increase the rate of unemployment and sickness benefit payable to persons aged 18 or more without dependants by \$2 per week from \$51.45 to \$53.45 per week (clause 18);
- . vary the income testing arrangements for all unemployment and sickness benefits (clause 19).

More detailed explanations of the clauses of the Bill are contained in the following notes.

SOCIAL SERVICES AMENDMENT BILL 1980

Clause 1: Short title etc.

By this clause the amending Act is to be cited as the Social Services Amendment Act 1980 and the Social Services Act 1947, as previously amended, as the "Principal Act".

Clause 2: Commencement

By reason of sub-section 5(1A) of the Acts Interpretation Act 1901 an amending Act comes into operation on the 28th day after the date of Royal Assent unless contrary provision is made. Sub-clause (1) proposes that clauses 1 and 2 (formal provisions), clauses 4, 5 and 17 (which relate to the proposed exclusion from the income tests for pension and benefit purposes of pay and allowances of members of the Defence Reserve Forces) and clause 22 (application of amendments) of the amending Act are to come into operation on the date of Royal Assent.

By sub-clause (2) it is proposed that, with the exception of clause 3, the remaining provisions of the amending Act are to come into operation on 1 November 1980.

Sub-clause (3) proposes that clause 3, which will repeal the States Grants (Deserted Wives) Act 1968, is to come into operation on a date to be fixed by Proclamation.

Clause 3: Repeal

The Commonwealth currently reimburses, through the States Grants (Deserted Wives) Act 1968, up to half of State Government expenditures on income support for certain sole mothers who are ineligible for class A widows pension or supporting parents benefit. A number of States have withdrawn, or have announced their intention of withdrawing, from these cost-sharing arrangements.

Persons currently assisted by State Governments will generally become eligible, from November 1980, for supporting parents benefit under Part IVAAA of the Principal Act by virtue of extended rules of eligibility which, by clause 14 of the amending Bill, are proposed to be made to section 83AAA of the Principal Act. Because the Commonwealth will assume responsibility for income maintenance of persons formerly assisted by the States, clause 3 proposes the repeal of the States Grants (Deserted Wives) Act 1968.

As indicated in the notes on clause 2, it is proposed that the repeal of the States Grants (Deserted Wives) Act 1968 is to be effective on a date to be fixed by Proclamation. This will allow time for final payments due to the States under that Act to be made.

Clause 4: Interpretation

This clause proposes the amendment of section 6 of the Principal Act, which contains the definitions that apply throughout that Act.

By clauses 5 and 17 of the amending Bill, the definitions of income in sections 18 and 106 of the Principal Act will be amended to exclude from the meaning of income the pay and allowances paid to members of the Defence Reserve Forces. The purpose of this clause, which is consequential upon those amendments, is to insert a definition of "Reserve Forces" into the Principal Act. For these purposes, "Reserve Forces" will mean the:

- . Citizen Naval Forces;
- . Naval Emergency Reserve Forces;
- . Citizen Military Forces;
- . Citizen Air Force;
- . Air Force Emergency Force; and
- . Regular Army Emergency Reserve.

As indicated in the notes on clause 2, it is proposed that this clause will commence operation at the same time as clauses 5 and 17, which is to be the date of Royal Assent.

Clause 5: Interpretation

This clause proposes the amendment of section 18 of the Principal Act which contains the definition of "income" that is, for income test purposes, to be taken into account for determining eligibility for age, invalid, wives and widows pensions, supporting parents benefits and funeral benefits. In the absence of a specific exclusion, the pay and allowances of Defence Reserve Force members and, as appropriate, their spouses, is taken into account in determining such eligibility.

Clause 5 will amend the definition of "income" in section 18 of the Principal Act by inserting a new paragraph that will have the effect of excluding from that definition any pay and allowances (apart from any pay and allowances paid in respect of continuous full time service), paid to a member of the Defence Reserve Forces by virtue of his being a member of those Forces. Consequently such pay and allowances will not be taken into account when determining the rate of any pension or benefit to which a member of the Reserve Forces or his or her spouse may be entitled. Also excluded will be a gratuity paid to a member of any one of the Emergency Reserves (which consist of retired military personnel) who is recalled to duty.

By clause 2, this clause and the associated amendments contained in clauses 4 and 17, will commence to apply to pensions and benefits that become payable on and after the date of Royal Assent to the amending Bill.

Clause 6: Rate of age or invalid pension
(including guardian's allowance
payable to an unmarried person)

This clause proposes the amendment of section 28 of the Principal Act to increase the additional amounts that are payable to age and invalid pensioners who have the custody, care and control of children.

Sub-section 28(1AA) of the Principal Act prescribes the amount by which the maximum rate of age and invalid pension is increased for a single pensioner who has the custody, care and control of a child (currently \$208 per annum), or of a child under the age of 6 or an invalid child who requires full time care and attention (currently \$312 per annum). By paragraphs (a) and (b) of this clause, it is proposed that these amounts be increased by \$2 per week, from \$208 and \$312 per annum to \$312 and \$416 per annum respectively.

Paragraph (c) of clause 6 proposes an increase of \$2.50 per child per week (from \$7.50 to \$10 per week) in the amount of additional pension payable to a pensioner who has the custody, care and control of a child or children.

Paragraph (d) of clause 6 proposes a corresponding increase (from \$390 to \$520 per annum) in the additional pension payable free of the income test for the first or only child of a permanently blind pensioner who has the custody, care and control of a child or children.

Sub-section 28(3) of the Principal Act, in broad effect, ensures that a blind war pensioner under 70 years of age receives no more by way of age or invalid pension and war pension than a totally and permanently incapacitated war pensioner.

Paragraphs (e) and (f) of clause 6 propose that where a permanently blind person under 70 years of age who is receiving war pension has the custody, care and control of a child or children, the increase in additional pension for that child or those children will be taken into account in determining the rate of pension payable.

It might be noted that increases corresponding with those set out above will be extended to other pensioners and beneficiaries.

Clause 7: Wives pension not to be paid in
certain circumstances

This clause proposes the repeal of section 33 of the Principal Act which precludes payment of wives pension to a woman who is, or whose husband is, an inmate of a mental hospital. It is one of the measures necessary to give effect to the decision to pay, from November 1980, pensions (including supporting parents benefit) and sickness benefits to patients in mental hospitals.

Under the existing provisions of the Social Services Act, an age, invalid, wives or widows pension, a supporting parents benefit or a sickness benefit is not payable during any period a pensioner or beneficiary is a patient of a mental hospital. In addition, a wives pension is not payable to a woman whose husband is an inmate of a mental hospital. However, a widows pension may be payable to the wife of a mental hospital patient. For these purposes, only certain "closed" wards of mental hospitals are declared as mental hospital wards to which these provisions of the Principal Act apply. Patients in non-declared wards are not affected by these provisions.

The effect of clause 7 will be to allow payment of a wives pension to be made, or to be continued, to a woman who is or becomes, or whose husband is or becomes, a patient of a mental hospital. An associated measure being proposed by clause 9 of the amending Bill will amend the definition of "widow" in section 59 of the Principal Act with the result that, subject to a saving provision for the wife of a mental hospital patient who is in receipt of a widows pension under the existing law, a woman will no longer be eligible for a widows pension on the ground that her husband is a mental hospital patient.

Wives pension will be payable on and from the pension pay-day on 6 November 1980 to women who are themselves patients of a mental hospital, or whose husbands are patients of a mental hospital.

It should also be noted that the changes being proposed in this area will not affect people in mental hospitals who are, in effect, in prison, i.e. those who, following their conviction for an offence, have been detained in or transferred to a mental hospital. Such persons will continue to be treated as prisoners for so long as they are serving the sentence imposed upon them and will continue to be denied payment of pensions and benefits under the provisions of the Principal Act relating to persons who are imprisoned.

Clause 8: Suspension of pension of mental hospital patients

This clause is one of the measures associated with the decision to pay, from November 1980, pensions (including supporting parents benefits) and benefits to mental hospital patients. It proposes the repeal of section 48 of the Principal Act which provides for the suspension of an age or invalid pension to a person during a period in which he is a mental hospital patient.

Section 48 of the Principal Act also provides that, where a person whose pension has been suspended ceases to be a mental hospital patient, that person is entitled to payment of the pension in respect of each day that the pension was suspended

up to a maximum of 84 days. For these purposes section 48 also provides that a person is deemed to have ceased to be a mental hospital patient at the commencement of any absence from the hospital that exceeds a continuous period of 4 weeks.

Sub-clause (1) will repeal section 48. As a result age and invalid pensions will become payable, from November 1980, to persons who are, or who on or after 1 November 1980 become, patients of a mental hospital. As indicated in the notes on clause 7, that clause, in conjunction with sub-clause (1) of clause 8, will also result in wives pensions becoming payable, from November 1980, to wives of age and invalid pensioners who are patients of a mental hospital. (However, as also indicated in the notes on clauses 7 and 9, certain women whose husbands are mental hospital patients on 31 October 1980 may continue to be eligible for widows pension.)

If nothing more than that were done, a person who ceased to be a mental hospital patient on or before 31 October 1980 would, under the existing law, be entitled to payment of his suspended pension for up to the last 84 days he spent as a mental hospital patient, whereas a person who ceased to be a mental hospital patient on or after 1 November 1980 and before he had received pension payments for at least 84 days by virtue of the operation of sub-clause (1) of clause 8, would be denied such payment. Similarly, a person who is absent from a mental hospital for a continuous period of 4 weeks or more on or after 1 November 1980 would also be denied such payment.

Accordingly, sub-clauses (2) and (3) of clause 8 propose the retention, in the amending Bill, of the existing "84 day payment rule" for patients of a mental hospital on 31 October 1980 who cease to be patients after that date but before they have been paid, by virtue of the repeal of section 48 by sub-clause (1) of this clause, a pension for at least 84 days.

Sub-clause (4) contains two measures that are associated with the preservation of the "84 day payment rule" mentioned above. Paragraph (a) provides that a payment by virtue of the "84 day payment rule" is not to be made in respect of any day before 1 November 1980 for which pension has been paid by virtue of the repeal of section 48 by sub-clause (1) of this clause. This provision is necessary because the age or invalid pension that first will be paid to continuing inmates of a mental hospital on the pension payday on 6 November 1980 will, because pensions are paid in fortnightly instalments, include a payment for the last 8 days of October 1980.

Paragraph (b) of sub-clause (4) is designed to preserve, on the bases proposed by sub-clauses (2) and (3), eligibility for the "84 day payment rule" for any mental hospital patient who, on or after 1 November 1980, is absent from a mental hospital for a continuous period of 4 weeks or more.

Clause 9: Interpretation

As indicated in the notes on clause 7, wives of mental hospital patients will become entitled to payment of wives pension in lieu of widows pension from 1 November 1980. As a consequence, sub-clause (1) of clause 9 proposes the omission from the definition of "widow" (and therefore from eligibility for payment of widows pension) in sub-section 59(1) of the Principal Act, any woman whose husband is a mental hospital patient. This sub-clause also proposes the repeal of sub-section 59(3) of the Principal Act which, in effect, now treats the wife of a mental hospital patient who is absent from the hospital for more than six consecutive days, as not being a widow as presently defined.

However, for most women now in receipt of a widows pension by reason of their husband being a mental hospital patient, transfer from 1 November 1980 to a wives pension would, but for a proposed savings provision, involve a reduction in the income support they will be entitled to receive. Sub-clause (2) of clause 9 proposes a saving provision by virtue of which, notwithstanding the amendment proposed by sub-clause (1), any woman in this situation will continue to be paid, after 1 November 1980, a widows pension until the earlier of either of two events occur at which time the woman will commence and continue thereafter to be paid wives pension.

The first event is that, as specified in sub-clause (2), the woman's husband ceases to be a mental hospital patient. This can occur either in fact upon the woman's husband being legally discharged from the mental hospital or by the operation of sub-clause (3) of clause 9 which proposes that a husband of a pensioner will be deemed to cease to be a patient at the end of a continuous period of 4 weeks during which he is absent from the hospital.

The other event is that specified in proposed sub-clause (4) of clause 9, viz., the amount of the wives pension payable becomes greater in amount than the amount of the widows pension, whether because of subsequent changes in the law or because the woman's own circumstances have changed, e.g., by no longer having the custody, care and control of a child or children.

Sub-clause (4) will also operate to the exclusion of sub-clause (2) of clause 9 in any particular case where a woman whose husband is a mental hospital patient would, on and from 1 November 1980, be more advantaged by being paid a wives pension.

Clause 10: Rate of widows pension (including mothers allowance payable to class A widows)

This clause proposes the amendment of sub-section 63(1) of the Principal Act to increase the maximum rate of widows pension that the Director-General may determine for class A widows. The class A widow is a woman who has the custody,

care and control of at least one child (including an adopted child) of her own, or of a child who was in her custody, care and control when the event by reason of which she became a widow as defined in sub-section 59(1) of the Principal Act occurred. The increases proposed are consistent with the increases made by clause 6 to the mother/guardians allowances, payable under section 28 of the Principal Act.

Paragraph 63(1)(a) of the Principal Act prescribes the maximum rate of pension that may be determined for class A widows who have the custody, care and control of a child other than a child specified in paragraph 63(1)(aa). The maximum rate for such widows is the maximum rate of the age and invalid pension increased by \$208 per annum. By paragraph (a) of clause 10 it is proposed that this amount be increased by \$2 per week from \$208 per annum to \$312 per annum.

Paragraph 63(1)(aa) prescribes the maximum rate of pension for a class A widow who has the custody, care and control of a child under the age of six years or an invalid child requiring full time care and attention which is also the maximum rate of the age and invalid pension but increased by \$312. Paragraph (b) of clause 10 proposes that this amount also be increased by \$2 per week, from \$312 per annum to \$416 per annum.

It might be noted that all class A and certain class B widows are also entitled to additional pension for each child in their custody, care and control. By sub-section 63(1A) of the Principal Act, the amount of this additional pension is the same as for age and invalid pensioners. As indicated in the notes on clause 6, the amount of this additional pension is to be increased from \$7.50 to \$10 per child per week.

A similar increase will become available to a supporting parent beneficiary by virtue of section 83AAE of the Principal Act which specifies a rate of benefit payable to such a beneficiary determined as if the beneficiary were a widow.

It is proposed that these increased rates will become payable on and from the pension pay-day on 6 November 1980.

Clause 11: Date from which pension
is payable

This clause proposes the amendment of section 68 of the Principal Act which specifies the date from which widows pension is to be paid depending on the event by reason of which a woman became a widow. Paragraph (2)(c) of section 68 specifies this date for a woman whose husband has become a mental hospital patient. As eligibility for a widows pension on that ground is to be removed (by clause 9),

paragraph 68(2)(c) will be no longer necessary and is to be omitted.

Clause 12: Receipt of income or occurrence
of an event to be notified

This clause proposes a minor technical amendment to section 74 of the Principal Act, to omit from sub-paragraph (5)(a)(ii) of that section a reference to a widow pensioner whose husband is a mental hospital patient. By clause 9 of the amending Bill, a woman will no longer be eligible for a widows pension on the ground that her husband is a mental hospital patient. Consequently, this reference is no longer necessary.

Clause 13: Suspension of pension of mental
hospital patient

This clause proposes the repeal of section 77 of the Principal Act, which provides for the suspension of a widows pension during any period in which the pensioner is a mental hospital patient.

Sub-clauses (1) to (4) correspond with the provisions proposed in clause 8 in respect of age and invalid pensions. The explanations given in relation to clause 8 are equally appropriate to these provisions, subject to their being read in the context that they apply to widow pensioners.

As a consequence of this proposed amendment benefits will also be payable to supporting parent beneficiaries who are mental hospital patients. At present, those benefits are not payable to mental hospital patients because section 83AAG of the Principal Act applies to a beneficiary the prohibition on payment of widows pension in section 77 as if the beneficiary were a widow for the purposes of that section. Consequently, the prohibition is removed without any amendment needed to section 83AAG.

Clause 14: Interpretation

This clause proposes the amendments necessary to extend the basis of eligibility for supporting parents benefit by removing certain of the qualifying time periods that must be satisfied before benefit is now payable. The measure is associated with clause 3, which proposes the repeal of the States Grants (Deserted Wives) Act 1968.

Sub-section 83AAA(1) of the Principal Act sets out the definitions of "supporting father" and "supporting mother" for the purposes of the supporting parents benefits provisions. The definitions, which are substantially the same except for differences occasioned by different genders, restrict the payment of benefit to persons, who are otherwise eligible, until after the expiry of certain qualifying time periods. Broadly, they require that -

- . the child in respect of whom the person has custody, care and control has attained the age of six months; and
- . in effect, the person (whether married or unmarried) has not been living with his or her spouse or with a de facto spouse on a bona fide domestic basis for at least six months.

Under the provisions of the States Grants (Deserted Wives) Act 1968, the Commonwealth assists the States in helping women with children who are not eligible under the Principal Act for supporting parents benefits or widows pensions under the Principal Act. Broadly speaking, these consist of four categories -

- . deserted wives;
- . wives of prisoners;
- . deserting wives; and
- . unmarried mothers, including deserted de facto wives and de facto wives of prisoners,

each of whom generally qualify for either widows pension or supporting parents benefit after the expiration of the first six months of their "sole parenthood" which arose as a result of one of the above situations.

Some of the States have withdrawn from these arrangements, others have announced their intention of doing so. Moreover, there is no corresponding assistance available for men during the first six months of sole parenthood who, until they qualify for supporting parents benefits at the expiration of that period, are now assisted by means of payment of special benefit under Part VII of the Principal Act.

By clause 14, it is proposed that the Commonwealth will assume responsibility for those sole parents who currently must wait six months for class A widows pension or supporting parents benefit, by removing that waiting period for supporting parents benefit to which, from 1 November 1980, persons affected who are otherwise eligible will become immediately entitled.

Paragraph (a) of this clause proposes the substitution of new definitions of "supporting father" and "supporting mother" in sub-section 83AAA(1) of the Principal Act which omit the six months qualifying periods and the references to the States Grants (Deserted Wives) Act 1968. Apart from these changes, however, the new definitions are, for all practical purposes, identical to the existing definitions.

Paragraphs (b) and (c) of clause 14 propose the substitution of new rules for determining when a person will

be regarded not to be, or not to have been, living with another person on a de facto basis when that other person has been convicted for an offence and is, or was, imprisoned. Existing paragraphs (b) of both sub-sections 83AAA(2) and (3) of the Principal Act provide that a person shall be deemed not to be living with another person on a de facto basis if the term of imprisonment exceeds 6 months. That period is to be removed, but a period of 14 days is being inserted in lieu to make it clear that benefit will not be payable to a person whose de facto spouse is imprisoned for only a very short term.

Paragraph (d) of clause 14 proposes an extension to the rule in sub-section 83AAA(5) of the Principal Act which specifies the basis on which a person is to be regarded as living apart from his or her spouse. The only basis now specified is that the couple is estranged. This may not be the case where a person's husband or wife is imprisoned, and the amendment proposed by paragraph (d) will make specific provision for this situation. The new provision being inserted in sub-section 83AAA(5) corresponds in all practical respects with that proposed for a person whose de facto spouse is imprisoned for at least 14 days.

These amendments will commence on 1 November 1980 and will apply to all payments of supporting parents benefit after that date.

Clause 15: Rate of double orphans pensions

This clause proposes the amendment of section 105C of the Principal Act which prescribes the rate of pension payable in respect of double orphans.

For the purpose of payment of this pension, a double orphan is a child, both of whose parents are dead, or one of whose parents is dead and the other missing. A child whose only surviving parent is a long-term inmate of a prison or mental hospital is also regarded as a double orphan. The pension is payable to a person who has the custody, care and control of a child who is a double orphan and in respect of whom that person is qualified to receive family allowance.

The rate of double orphans pension will be increased by this clause by \$8 per month from \$47.70 per month to \$55.70 per month.

By clause 22, the increased rate of pension will be payable from the first pension pay-day in November 1980 in respect of the endowment period commencing on 15 October 1980.

Clause 16: Rate of handicapped child's allowance

This clause proposes to amend section 105L of the Principal Act which prescribes the rate of allowance that is payable for a severely handicapped child and the maximum rate that the Director-General may determine for a handicapped child other than a severely handicapped child. The allowance is payable to a person who provides, in his own home, constant care and attention for a severely handicapped child (or only marginally less care and attention for a handicapped child) in respect of whom he has custody, care and control.

The rates of allowance presently prescribed in section 105L of the Principal Act are:

- . in respect of a severely handicapped child - \$65 per month
- . in respect of a handicapped child - such rate as the Director-General may determine, but not exceeding the rate prescribed with respect to a severely handicapped child.

Corresponding with the proposed increase in the rate of double orphans pensions, the rate of allowance prescribed for severely handicapped children also will be increased by this clause by \$8 per month, to \$73 per month. As a consequence, the maximum rate of allowance that the Director-General may determine for handicapped children will be increased automatically to \$73 per month. The increased rate of allowance is also to be paid from the first appropriate pay-day in November 1980, in respect of the endowment period commencing on 15 October 1980.

Clause 17: Interpretation

This clause proposes the amendment of section 106 of the Principal Act which contains the definition of "income", that is, for income test purposes, to be taken into account for determining eligibility for unemployment and sickness benefits.

The amendment which proposes the exclusion from the definition of income of pay and allowances received by members of the Defence Reserve Forces corresponds with the amendment proposed in clause 5 in respect of age and invalid pensions. The explanation given in relation to clause 5 is equally appropriate to this provision, subject to their being read in the context that they apply to unemployment and sickness beneficiaries.

Clause 18: Rate of unemployment and sickness benefit

This clause proposes to amend section 112 of the Principal Act which specifies the rates of unemployment and sickness benefit that are payable.

Paragraph 112(1)(b) of the Principal Act prescribes the rate of unemployment benefit which is payable to a person who is 18 years of age or over and who has no dependants. By paragraph (a) of clause 18, it is proposed that this rate be increased by \$2 per week, from \$51.45 to \$53.45 per week.

Sub-section 112(5) of the Principal Act prescribes the rate of additional unemployment or sickness benefit which is payable to a beneficiary who either has the custody, care and control of a child under the age of 16 or who is making regular contributions towards the maintenance of such a child. By paragraph (b) of clause 18, it is proposed that this rate be increased by \$2.50 per week, from \$7.50 to \$10 per week in line with similar increases proposed by clause 6 for other pensioners.

Sub-section 112(6) of the Principal Act empowers the Director-General to direct, in certain circumstances, that the amount of the additional benefit payable to a person under sub-section 112(5) be not payable, or be limited to such amounts as the Director-General thinks fit. A direction may be made under sub-paragraph 112(6)(b)(iii) of the Principal Act if a child, in respect of whom a person is receiving additional benefit under sub-section (5), has also been taken into account when determining the rate of widows pension payable to a person. The purpose of sub-paragraph 112(6)(b)(iii) is to avoid double payments of additional pension or benefit in respect of the same child.

Paragraph (c) of this clause proposes a technical amendment to make it clear that the Director-General may also make a direction that additional benefit for a child be not payable, or be limited, where the child has been taken into account

in fixing the rate of supporting parents benefit payable to a person.

A direction may also be made under paragraph 112(6)(c) where a person is receiving additional unemployment or sickness benefit in respect of a child because he is making regular contributions towards the maintenance of that child, but the amount of those contributions is less than \$7.50 per week (which is the rate of additional benefit prescribed in sub-section 112(5)). By paragraph (d) of this clause, it is proposed that this amount also be increased by \$2.50 per week, from \$7.50 to \$10 per week.

The foregoing increases will apply to instalments of unemployment and sickness benefit payable in respect of a period that ends on or after 1 November 1980.

Clause 19: Income Test

This clause proposes the amendment of section 114 of the Principal Act in two material respects. The first is to extend the "free area" of \$6 per week to all beneficiaries aged 18 to 20. The second is to vary the income testing arrangements for unemployment and sickness benefits generally.

Under sub-section 114(1) of the Principal Act, an unmarried person under the age of 21 years, with at least one parent residing in Australia, has his unemployment or sickness benefit reduced once his income exceeds \$3 per week. For other persons, unemployment or sickness benefit is reduced once income exceeds \$6 per week. When the prescribed income limits are exceeded in a particular week, the benefits payable in respect of that week are reduced on a \$1 for \$1 basis for any income received by a beneficiary in excess of the prescribed limit. By paragraph (a) of this clause, it is proposed that existing sub-section 114(1) of the Principal Act will be replaced by two sub-sections, 114(1) and (1A), and a new sub-section (1B) inserted.

Proposed sub-section 114(1) will prescribe the rate at which unemployment and sickness benefits will be reduced with respect to an unmarried beneficiary, under 18 (previously 21) years of age, who has at least one parent resident in Australia and whose income exceeds \$3 per week. Where the income of such a beneficiary does not exceed \$40 per week, benefit will be reduced by half the amount by which that income exceeds \$3 per week. Where the beneficiary's income is greater than \$40 per week, benefit will be reduced by the sum of -

- (a) half the amount by which the income exceeds \$3 per week, up to \$40 per week (i.e. \$18.50); and
- (b) the full amount of any income in excess of \$40 per week.

As a result of this proposed amendment, the benefit payable to a beneficiary to whom this provision applies whose income is \$30 per week would be reduced by \$13.50. Where the beneficiary's income is \$50 per week his benefit would be reduced by \$28.50. Entitlement to benefit would cease once income exceeds \$57.50 per week.

Proposed sub-section 114(1A) will prescribe the income testing arrangements applicable to those beneficiaries not dealt with by proposed sub-section 114(1). Where the income of such a beneficiary does not exceed \$50 per week, benefit will be reduced by half the amount by which that income exceeds \$6 per week. Where the beneficiary's income is greater than \$50 per week, benefit will be reduced by the sum of -

- (a) half the amount by which the income exceeds \$6 per week, up to \$50 per week (i.e. \$22); and
- (b) the full amount of any income greater than \$50 per week.

As a result of this proposed amendment, the unemployment benefit payable to a beneficiary over the age of 18 with no dependants whose income is \$60 per week would be reduced by \$32 per week. For such a beneficiary, whose basic benefit would be \$53.45 per week, entitlement would cease once income exceeds \$81.45 per week.

By the application of the new income testing arrangements in new sub-sections 114(1) and (1A) cases will arise where the weekly rate of benefit payable would include an amount of half of one cent. Proposed new sub-section 114(1B) proposes that in such cases the weekly rate of benefit is to be increased by half of one cent.

Paragraphs (b)(c) and (d) propose amendments of a drafting nature to other sub-sections of section 114 of the Principal Act that are consequent upon the proposed insertion of new sub-sections (1) and (1A) in that section.

These changes will also apply to instalments of unemployment and sickness benefit payable in respect of a period that ends on or after 1 November 1980.

Clause 20: Benefit not payable during
period of imprisonment

Clause 20 proposes the replacement of existing section 133 of the Principal Act which provides that sickness benefit is not payable to a person during any period that he either is imprisoned, following upon his conviction for an offence, or is a mental hospital patient who is an inmate of a mental hospital.

As a consequence of the decision to pay, from 1 November 1980, pensions (including supporting parents benefit) and sickness benefit to mental hospital patients, it is necessary to omit, from section 133, provisions which preclude such payment

at the present time. Sub-clause (1) of the clause proposes this change by substituting a new section 133, which will continue the operation of the existing section but only insofar as it precludes payment of benefit to persons who are imprisoned.

Sub-clauses (2) and (3) of this clause correspond, in their practical effect, with the provisions proposed in clause 8 (in respect of age and invalid pension) and in clause 13 (in respect of widows pension). With two exceptions, the explanation given in relation to clause 8 is equally appropriate to these provisions, subject to it being read in the context of sickness beneficiaries.

One exception relates to the method by which a sickness beneficiary is able to retain his entitlement to payment of benefit under the "84 day payment rule" referred to in the explanations on clause 8. Unlike the provisions of existing sections 48 and 77 of the Principal Act, existing section 133 requires that for benefit to be payable for up to the last 84 days in which a person was an inmate, a claim must be lodged within thirteen weeks after he ceases to be a mental hospital patient, or such longer period as the Director-General, in special circumstances, approves. Because an inmate of a mental hospital who is eligible to receive sickness benefit on and from 1 November 1980 will have to lodge a claim in that regard, sub-clause (2) proposes that that claim will also form the basis for payment of any entitlement under the "84 day payment rule", which is also being preserved by this sub-clause.

The other exception is that because existing sub-section 133(2) of the Principal Act, the operation of which is being preserved by sub-clause (2), already requires a deduction to be made from any entitlement under the "84 day payment rule" for any day in that period in respect of which the beneficiary has previously received sickness benefit, it is not necessary in this clause to include safeguards against dual payments along the lines of sub-clause (3) and (4)(a) of clauses 8 and 13 of the amending Bill.

Clause 21: Provision of vocational training for certain widows

This clause proposes a minor technical amendment to section 135T of the Principal Act to remove from sub-section (13) of that section the references to section 135E and to sub-sections (2), (3) and (4) of section 135Q which are no longer necessary as the provisions to which they refer have been repealed by earlier amendments to the Principal Act.

Clause 22: Application

The purpose of clause 22 is to specify the different dates from which the amendments proposed by the preceding clauses are to apply. It is drafted to take into account the different bases on which the various pensions, benefits and allowances of the Principal Act, which will be affected by the amending Bill, are paid. These bases are -

- (a) Age, invalid, wives and widows pensions and supporting parents benefit which are payable in fortnightly instalments on established pre-determined pay-days;
- (b) Double orphans pension and handicapped child's allowance which are payable at monthly rates in respect of endowment periods that begin on the 15th day of one month and end on the 14th day of the following month. (For administrative convenience, however, payment of these pensions and allowances is made with payment of family allowance on a staggered basis. One-half of those persons entitled to such payments receives them on the first Tuesday of each month, while the other half receives its payment on the third Tuesday of each month.); and
- (c) Unemployment and sickness benefits which are paid fortnightly on each individual's own pay-day but in respect of 7 day periods.

Sub-clause (1) relates to payments included in (a) above. It proposes, in effect, two different dates from which the amendments contained in the amending Bill will apply depending on whether or not the amendment is a "prescribed amendment". For these purposes, a prescribed amendment is, by sub-clause (4) of this clause, an amendment that is to be made by clauses 4, 5 or 17 of the amending Bill. The amendments proposed by those clauses relate to the exclusion from the pension and benefit income tests of the pay and allowances received by members of the Defence Reserve Forces. As noted in relation to clause 2, it is proposed that those amendments will come into operation on the day on which the amending Act receives Royal Assent.

Paragraph (a) of sub-clause (1) proposes that a prescribed amendment will apply to an instalment of pension or benefit falling due on the date of Royal Assent if that day is a pension pay-day or, if it is not, on the first pension pay-day after that date.

Paragraph (b) proposes that any other amendments, which by clause 2 are to come into operation on 1 November 1980, will apply to instalments of pension and benefit falling due on the first pension pay-day after that date which will, in fact, be 6 November 1980.

Sub-clause (2) proposes, in effect, that clauses 15 and 16 of the amending Bill, which will increase the rates of double orphans pension and handicapped child's allowance, will apply to payments of these pensions and allowances that fall due in November 1980 in respect of the endowment period that commenced on 15 October 1980. For the reason explained in paragraph (b) above, this will mean that actual payments will be made either on the first Tuesday (4 November 1980) or on the third Tuesday (18 November 1980) to those who normally receive payment on those days.

The operation of sub-clause (3) is similar to sub-clause (1), except that it relates to payments of instalments of unemployment and sickness benefit, the basis of which is described in paragraph (c) above.

Paragraph (a) proposes that a prescribed amendment (see above) is to apply, in effect, to an instalment of benefit payable in respect of the week that either ends on the date of Royal Assent or that commences on or after that date.

Paragraph (b) of sub-clause (3) proposes that all other amendments which, by clause 2, are to come into operation on 1 November 1980, will apply, in effect, to an instalment of benefit payable in respect of the week that either ends on that date or that commences on or after that date.

Sub-clause (4) defines "prescribed amendment" the meaning of which has been explained in the notes on sub-clause (1) of this clause.