

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SOCIAL SERVICES AMENDMENT BILL 1981

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister representing
the Minister for Social Security,
the Hon. Ralph J Hunt, MP.)

General Outline

The main purposes of this Bill are to:

- . increase the maximum rate of -
 - .. supplementary assistance payable to age, invalid, wife's and widow's pensioners and supporting parent's beneficiaries; and
 - .. supplementary allowance payable to sickness beneficiaries,
- by \$3 per week, from \$5 to \$8 per week, and to vary the provisions for calculating the actual amount of supplementary allowance/assistance payable (clauses 3, 4, 5, 6, 10, 11, 12, 17, 20 and 22);
- . increase the rate of incentive allowance payable to sheltered employment allowees by \$3 per week, from \$5 to \$8 per week (clause 23);
- . provide for the grant of a wife's pension on conditions similar to those applying to the grant of an age or invalid pension (clauses 7, 8 and 9);
- . increase the amounts of child endowment payable for third and subsequent children (clause 13);
- . extend the circumstances in which double orphan's pension is payable in respect of refugee children (clauses 14, 15 and 16);
- . prevent payment of unemployment benefit to the spouse of a person, and special benefit to a person (or spouse in certain circumstances), where the person is involved in industrial action or has had benefit refused, cancelled or postponed in certain circumstances (clauses 18 and 21);
- . increase the rate of unemployment benefit payable to persons aged 18 or more without dependants from \$53.45 to \$58.10 per week (clause 19).

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

SOCIAL SERVICES AMENDMENT BILL 1981

Clause 1: Short title, etc.

By this clause, the amending Act is to be cited as the Social Services Amendment Act 1981, and the Social Services Act 1947, as previously amended, is to be referred to as the "Principal Act".

Clause 2: Commencement

By reason of sub-section 5(1A) of the Acts Interpretation Act 1901, an Act comes into operation on the 28th day after the date of the Royal Assent unless the contrary intention appears in the Act.

Sub-clause (1) proposes that clauses 1 and 2 (formal provisions), clauses 14, 15 and 16 (extension of "double orphan" provisions for refugee children), and clauses 18 and 21 (qualifications for receipt of unemployment and special benefit), are to come into operation on the date of the Royal Assent.

Sub-clause (2) proposes that clauses 3, 4, 5, 6, 10, 11, 12, 17, 20, 22 and 23 and sub-clauses 24(1), (2), (3) and (7) (payment of supplementary assistance/allowance and incentive allowance), are to come into operation on 1 February 1982.

Sub-clause (3) proposes that clauses 7, 8 and 9, and sub-clause 24(6) (amended qualifications for grant of wife's pension), and clause 19 and sub-clause 24(5) (increase in rate of unemployment benefit), are to come into operation on 1 November 1981.

Sub-clause (4) proposes that clause 13 and sub-clause 24(4) (increase in certain payments of child endowment) are to come into operation on 15 December 1981.

Clause 3: Interpretation

This clause proposes the amendment of section 18 of the Principal Act which contains the definitions which apply in Part III of the Principal Act (age, invalid and wife's pensions).

It is proposed by this clause to insert two definitions. The second of these definitions (paragraph 3(b)) substitutes a new definition of "rent", which would apply to the provisions of the Act dealing with the payment of supplementary rental assistance to age, invalid and wife's pensioners.

The main purpose of the new definition of "rent" is to exclude "Government rent" from consideration. The term "Government rent" is the first of the two definitions (paragraph 3(a)). "Government rent" is any rent payable to the Commonwealth or to a State or Territory housing authority specified in the definition. This rent is less than it might otherwise be because of the inclusion of a welfare component. By the exclusion of "Government rent" from consideration as "rent" for the purposes of payment of supplementary assistance, those tenants paying "Government rent" will not be eligible for supplementary assistance.

Sub-clause 2(2) proposes that this clause would come into operation on 1 February 1982.

Clause 4: Supplementary assistance

This clause proposes the amendment of section 30A of the Principal Act, which provides for the payment of a supplementary assistance allowance to age, invalid and wife's pensioners who pay rent or whose spouses pay rent.

Section 30A of the Principal Act provides for payment of an allowance by way of supplementary assistance at a maximum rate of \$260 per annum (\$5 per week) to pensioners who have an income of less than \$312 per annum (\$6 per week). The amount of assistance payable is reduced by the amount of the income of the pensioner after a "free area" of \$52 per annum (\$1 per week), so that where the annual income of the pensioner reaches \$312, no supplementary assistance is payable. In the case of a married pensioner, the amount of the pensioner's income is deemed to be half the total income of the pensioner and the pensioner's spouse (sub-section 29(2) of the Principal Act).

By paragraph (a) of this clause it is proposed that the current basis of payment of supplementary assistance be restructured on three main principles -

- . supplementary assistance will be paid only to pensioners paying rent in excess of \$520 per annum (\$10 per week) (new sub-section 30A(1));
- . the rate of supplementary assistance will be one-half of annual rent payable in excess of \$520, with the maximum amount of supplementary assistance payable being \$416 per annum (\$8 per week) (new sub-section 30A(3A)); and
- . the amount of supplementary assistance payable will be reduced by one-half of the annual income of the pensioner (new sub-section 30A(3B)).

The effect of these principles is shown in the following table of payments (based upon weekly figures):

INCOME

(\$ a week)

(\$ a week)	0	2	4	6	8	10	12	14	16
26	8.00	7.00	6.00	5.00	4.00	3.00	2.00	1.00	0
25	7.50	6.50	5.50	4.50	3.50	2.50	1.50	0.50	0
24	7.00	6.00	5.00	4.00	3.00	2.00	1.00	0	0
23	6.50	5.50	4.50	3.50	2.50	1.50	0.50	0	0
22	6.00	5.00	4.00	3.00	2.00	1.00	0	0	0
21	5.50	4.50	3.50	2.50	1.50	0.50	0	0	0
20	5.00	4.00	3.00	2.00	1.00	0	0	0	0
19	4.50	3.50	2.50	1.50	0.50	0	0	0	0
18	4.00	3.00	2.00	1.00	0	0	0	0	0
17	3.50	2.50	1.50	0.50	0	0	0	0	0
16	3.00	2.00	1.00	0	0	0	0	0	0
15	2.50	1.50	0.50	0	0	0	0	0	0
14	2.00	1.00	0	0	0	0	0	0	0
13	1.50	0.50	0	0	0	0	0	0	0
12	1.00	0	0	0	0	0	0	0	0
11	0.50	0	0	0	0	0	0	0	0
10	0	0	0	0	0	0	0	0	0

New sub-section 30A(2) would set out the following methods of calculating the income and rent of a pensioner who is a "married person" (as defined in paragraph (b) of this clause) for the purpose of calculating the amount of supplementary assistance payable to that person -

Income: In all cases, total income of the married person and spouse.

- Rent:
- (a) Where the married person and spouse are living together in their matrimonial home, total rent payable by the married person and spouse in respect of the matrimonial home.
 - (b) Where the married person and spouse are living apart indefinitely because of illness or infirmity and their living expenses are greater as a result, total of -
 - (i) any rent payable by the married person; and
 - (ii) any rent paid by the spouse,
- in respect of the premises occupied by the married person.

New sub-section 30A(3) is a formal provision which would entitle a person to whom section 30A (as amended by this clause) applies to receive supplementary assistance.

New sub-section 30A(3A) would set out the rate of supplementary assistance which is payable to a person. This rate would be one-half of the amount by which the person's annual rent exceeds \$520 per annum (\$10 per week) but the maximum rate of supplementary assistance would not exceed \$416 per annum (\$8 per week), which would be an increase of \$3 per week over the maximum rate of supplementary assistance payable under the Principal Act. This rate is to be subject, however, to the income test in new sub-section 30A(3B) and the halving provision for certain classes of married pensioners in new sub-section 30A(3C).

New sub-section 30A(3B) would operate to reduce the amount of supplementary assistance payable to a person under new sub-section 30A(3A) by an amount equal to one-half of the annual rate of the person's income.

New sub-section 30A(3C) would operate to halve the rate of supplementary assistance payable under new sub-section 30A(3A) to a married person living with his or her spouse in their matrimonial home where there is payable to the person's spouse -

- (a) supplementary assistance under section 30A;
- (b) supplementary allowance payable to a sickness beneficiary;
- (c) supplementary assistance under the Repatriation Act 1920; or
- (d) an allowance under Section 9 of the Tuberculosis Act 1948.

In effect, the halving provision would operate whenever the spouse is in receipt of, or is qualified to receive, a pension or allowance which is equivalent to supplementary assistance.

Paragraph (b) of this clause proposes a definition of "married person" for the purposes of new section 30A. By this definition, "married person" would include a person living in a de facto marriage relationship, but would exclude -

- (a) a widow or widower;
- (b) a person whose marriage has been dissolved and has not remarried;
- (c) a person living apart from his or her spouse in pursuance of a separation agreement or court order; and
- (d) a person who is in such special circumstances that the Director-General of Social Services determines should be treated as a married person.

Sub-clause 2(2) proposes that this clause would come into operation on 1 February 1982. Sub-clauses 24(1), (2), (3) and (7) propose special rules for the application of the clause. These special rules are referred to in the notes on clause 24.

Clause 5: Notification by pensioner

This clause proposes to amend section 30B of the Principal Act, which requires a pensioner in receipt of supplementary assistance under section 30A of the Principal Act to notify certain changes in circumstances which may cease or reduce the rate of supplementary assistance, by the insertion of a new sub-section 30B(1A).

New sub-section 30B(1A) is consequential upon the amendment proposed by clause 3 to exclude from the definition of "rent" any "Government rent" which is paid by a pensioner. New sub-section 30B(1A) would require a pensioner in receipt of supplementary assistance to notify a Director of Social Services if the pensioner commences to pay "Government rent".

Sub-clause 2(2) proposes that this clause would come into operation on 1 February 1982.

Clause 6: Rate during period when spouse overseas

By this clause it is proposed to repeal section 30C of the Principal Act, which prescribes the rate of supplementary assistance payable to a married pensioner whose spouse ceases to receive supplementary assistance because the spouse is outside Australia. (Supplementary assistance is not payable during any period in which the pensioner is outside Australia). In such cases the married pensioner receives the single rate.

By the operation of new sub-section 30A(3C), a married pensioner would automatically become eligible for the single rate during any period that the pensioner's spouse is overseas.

Sub-clause 2(2) proposes that this clause would come into operation on 1 February 1982.

Clause 7: Wife's pension

This clause is one of the measures associated with the decision to grant wife's pension subject to the same general conditions which apply to the grant of age and invalid pensions.

Sub-section 31(1) of the Principal Act provides that the wife of an age or invalid pensioner, other than a woman who is herself such a pensioner or a service pensioner under the Repatriation Act 1920, is qualified to receive a wife's pension. Unlike age and invalid pension, there is no requirement that a claimant for wife's pension must be residing in, and physically present in, Australia at the time that she lodges her claim for pension. Paragraph (a) of this clause proposes the amendment of sub-section 31(1) to include the residence and presence in Australia requirements as qualifications for wife's pension. Sub-section 31(1) would then be consistent with sub-sections 21(1) (age pension) and 24(1) (invalid pension) in this regard.

Paragraph (b) of this clause proposes a new sub-section 31 (1A) under which the wife of an age pensioner qualified under section 21A of the Principal Act or an invalid pensioner qualified under section 24A of the Principal Act would qualify for a grant of wife's pension without having to satisfy the residence and presence in Australia requirements at the date of lodgment of claim. Under sections 21A and 24A, persons who ceased to reside in Australia before 7 May 1973 and who satisfy certain other conditions are qualified to receive age or invalid pension without having to satisfy the residence and presence in Australia tests. New sub-section 31(1A) would apply to the wives of such pensioners, whether the wife married the pensioner before or after he ceased to reside in Australia.

It is proposed by sub-clause 2(3) that this clause, and clauses 8 and 9, which are related measures, would come into operation on 1 November 1981. By sub-clause 24(6), clauses 7, 8 and 9 would not apply to women already in receipt of wife's pension as at 1 November 1981 or to women who have applied for wife's pension before that date although a determination may not be made until after 1 November 1981.

Clause 8: Claims

This clause proposes the amendment of section 37 of the Principal Act which sets out the requirements for the lodging of claims for the grant of an age or invalid pension, to extend the requirements to claims for the grant of wife's pension. The proposed amendment relates to the amendments proposed by clauses 7 and 9.

Under the Principal Act, there are no requirements for lodging a claim for wife's pension. The effect of clause 8 would be to require a claim for wife's pension, and for that claim -

- (a) to be in writing in accordance with a form approved by the Director-General;
- (b) to be supported by a declaration approved by the Director-General; and
- (c) to be lodged with a Registrar or, where the claimant is outside Australia, at a place approved by the Director-General.

It is proposed that this clause would have the same commencement and application provisions (sub-clauses 2(3) and 24(6)) as apply to clauses 7 and 9, which are dealt with in the notes on clause 7.

Clause 9: Date from which pension payable

This clause proposes the amendment of section 39 of the Principal Act, which sets out the date from which age or invalid pension, once granted, is to be payable. The proposed amendment, which would extend section 39 to payment of wife's pension, relates to the amendments proposed by clauses 7 and 8.

By this clause, it is proposed that a grant of wife's pension would be payable from a date determined by the Director-General, but not earlier than the date on which the claim was lodged or later than the first pension pay-day after that date. Where, however, determination of the claim for wife's pension is delayed through the fault of the claimant, the Director-General may fix such later date as he considers reasonable.

It is proposed that this clause would have the same commencement and application provisions (sub-clauses 2(3) and 24(6)) as apply to clauses 7 and 8, which are dealt with in the notes on clause 7.

Clause 10: Interpretation

This clause proposes to amend section 59 of the Principal Act, which contains the definitions that apply in Part IV of the Act (widow's pensions), and is one of the measures designed to give effect to the changes to the method of calculating supplementary assistance for widow's pensioners.

Clause 10 would insert a new definition of "rent" and a definition of "Government rent" in sub-section 59(1), which would define those terms to have the same meanings as those definitions proposed by clause 3 to be inserted in Part III of the Principal Act. The effect of the new definitions is discussed in the notes on clause 3.

Sub-clause 2(2) proposes that this clause would come into operation on 1 February 1982.

Clause 11: Supplementary assistance

This clause proposes the amendment of section 65A of the Principal Act, which provides for the payment of supplementary assistance to widow's pensioners who pay rent.

Section 65A of the Principal Act provides for payment of an allowance by way of supplementary assistance at a maximum rate of \$260 per annum (\$5 per week). This allowance is payable to a widow's pensioner whose annual income is less than \$312, and who the Director-General is satisfied pays rent and is entirely or substantially dependent upon her pension.

Clause 11 proposes to amend Section 65A of the Principal Act on the same principles upon which clause 4 proposes amendments to supplementary assistance provisions applicable to age, invalid and wife's pensioners. An explanation of these principles, and their effect, is set out in the notes on clause 4.

New sub-sections 65A(1) to (2B) correspond with the amendments proposed in clause 4 in the same way that those amendments apply to a pensioner who does not have the rate of his or her supplementary assistance halved by the application of new sub-section 30A(3C).

Sub-clause 2(2) proposes that this clause would come into operation on 1 February 1982. Sub-clauses 24(1), (2), (3) and (7) propose special rules for the application of the clause. These special rules are referred to in the notes to clause 24.

Clause 12: Notification by widow

This clause proposes to amend section 65B of the Principal Act, which requires a widow's pensioner in receipt of supplementary assistance under section 65A to notify certain changes in circumstances which may cease, or reduce the rate of, her entitlement to supplementary assistance, by the insertion of a new sub-section 65B(2).

New sub-section 65B(2) is consequential upon the amendment proposed by clause 10 to exclude from the definition of "rent" any "Government rent" which is payable by a pensioner. New sub-section 65B(2) would require a widow's pensioner in receipt of supplementary assistance to notify a Director of Social Services if the pensioner commences to pay "Government rent".

Sub-clause 2(2) proposes that this clause would come into operation on 1 February 1982.

Clause 13: Child endowment

This clause proposes to amend section 95 of the Principal Act, which prescribes the rates of child endowment ("family allowance") payable, to increase the rates in respect of third and subsequent children of an allowee and children who are inmates of an institution. Child endowment is payable to a person in respect of each child in his or her custody, care and control. Additionally, endowment is payable to an institution in respect of each child who is an inmate of that institution.

Clause 13 proposes to increase the rates of endowment, as follows -

- (a) for the third and fourth eldest child of the endowee, from \$26 per month to \$39 per month (paragraph 95(2)(c) of the Principal Act);
- (b) for the fifth and each subsequent child of the endowee, from \$30.35 per month to \$45.55 per month (paragraph 95(2)(d) of the Principal Act); and
- (c) for a child who is an inmate of an institution, from \$21.70 per month to \$39 per month (sub-section 95(3) of the Principal Act).

Sub-clause 2(1) proposes that the amendments to section 95 would come into operation on 15 December 1981. Sub-clause 24(4) proposes that the amendments would apply to every payment of child endowment that falls due on or after 15 December 1981.

Clause 14: Interpretation

This clause proposes to amend section 105A of the Principal Act, which contains the definitions that apply in Part VIA of the Principal Act (double orphan's pension), and to extend the circumstances in which double orphan's pension is payable in respect of refugee children. Part VIA provides for the payment of a double orphan's pension to a person who has the custody, care and control of a child, both of whose parents are dead.

Sub-section 105A(1) defines "parent" to include an adoptive parent. Paragraph (a) of this clause proposes to omit that definition and substitute a definition which would define "parent" to mean either a natural parent of a child (other than an adopted child), or an adoptive parent of the child (or where the child is adopted by one person, the adoptive parent of the child).

Paragraph (b) of this clause would insert a definition of "refugee child" in sub-section 105A(1)

Most importantly, paragraph (b) of this clause proposes the insertion of a new sub-section 105(1A) which would deem "dead" a parent of a refugee child if the parent is living outside Australia or the parent's whereabouts are not known to the person claiming the pension. Accordingly, whenever Part VIA refers to a parent who is dead it would mean, in the case of a refugee child, a parent who is living outside Australia or whose whereabouts are unknown.

Sub-clause 2(1) proposes that clause 14 would come into operation on the day on which the amending Act receives the Royal Assent.

Clause 15: Notification of change of circumstances

This clause proposes to amend section 105E of the Principal Act to take into account the extension of Part VIA of the Principal Act in respect of refugee children. Section 105E requires a person who is in receipt of a double orphan's pension to notify of circumstances which may disqualify that person from receiving double orphan's pension.

Clause 15 proposes to insert a new sub-section 105E(2), which would apply in relation to both refugee and non-refugee children, to require a person in receipt of double orphan's pension to notify if he becomes aware that the child has become an adopted child.

This clause also proposes to insert a new sub-section 105E(3), which would require notification that the pensioner has become aware, in the case of a refugee child, that the child has ceased to be a refugee child or that the whereabouts of one of his or her parents have become known to the pensioner.

Sub clause 2(1) proposes that clause 15 would come into operation on the day on which the amending Act receives the Royal Assent.

Clause 16: Cessation of pension if circumstances change

This clause proposes to amend section 105F of the Principal Act, which provides for the cessation of double orphan's pension in certain circumstances, to extend the circumstances in which pension will cease to be payable.

By this clause, these circumstances would include -

- (a) for other than refugee children, that the pensioner becomes aware that the child has been adopted (new sub-section 105F(2)); or
- (b) for refugee children, that the pensioner becomes aware that the child has ceased to be a refugee child, or has become adopted under Australian law (new sub-section 108F(3)), or that the pensioner becomes aware of the whereabouts in Australia of a parent of the child (new sub-section 105F(4)), except if the parent is a mental hospital patient for an indefinite period, or in prison for a term exceeding ten years.

Sub-clause 2(1) proposes that clause 16 would come into operation on the day on which the amending Act receives the Royal Assent.

Clause 17: Interpretation

This clause proposes to amend section 106 of the Principal Act, which contains the definitions which apply in Part VII of the Principal Act (unemployment, sickness and special benefits), and is one of the measures designed to give effect to the changes in the method of calculating supplementary assistance for sickness beneficiaries.

Clause 17 would insert a new definition of "rent" and a definition of "Government rent" in sub-section 106(1), which would define those terms to have the same meanings as the definitions proposed by clause 3 to be inserted in Part III of the Principal Act. The effect of the new definitions is discussed in the notes on clause 3.

Clause 2(2) proposes that this clause will come into operation on 1 February 1981.

Clause 18: Unemployment benefits

The purpose of clause 18 is to prevent payment of unemployment benefit to the spouse of a person where that person is involved in industrial action or where that person has been refused unemployment benefit or has had that benefit cancelled or postponed.

In general, unemployment benefit is payable to a person meeting the age, residence and work tests qualifications prescribed in section 107 of the Principal Act. Additionally, a person is not qualified to receive unemployment benefit where the unemployment is due to that person, or another person belonging to the first person's trade union, being involved in industrial action.

There are also special provisions of the Principal Act relating to the spouse of a person disqualified from receiving unemployment benefit by reason of being involved in industrial action. Sub-section 112(6A) of the Principal Act has the effect that, if the spouse is qualified to receive unemployment benefit in that case, the rate of benefit payable will be that which would be payable as if the spouse was an unmarried person. But for that provision, the rate payable would be the married rate, which may be higher than the single rate.

Clause 18 proposes to change the current position in relation to unemployment benefit in four respects, by the insertion of new sub-section 107(5A) which would disqualify from unemployment benefit a married person whose spouse -

- (a) is not qualified to receive unemployment benefit because the spouse, or a member of the spouse's trade union, is involved in industrial action;
- (b) has been refused unemployment benefit on one of the grounds prescribed in the work tests in section 107, other than the ground that the spouse was employed or was not capable of undertaking paid work; or
- (c) has had unemployment benefit cancelled or postponed on one of the grounds prescribed in section 120 of the Principal Act, which are -
 - (i) that a person was voluntarily unemployed;
 - (ii) that a person was unemployed due to his own misconduct; and
 - (iii) that a person did not accept an offer of employment which the Director-General considers to be suitable.

In each of these cases, the period of disqualification from unemployment benefit would be the period that the spouse of the married person is disqualified from that benefit due to that benefit being refused, cancelled, or postponed in the circumstances described.

Consistent and complementary changes to the position in relation to special benefit are proposed by clause 21.

Sub-clause 2(1) proposes that clause 18 would come into operation on the day on which the amending Act receives the Royal Assent.

Clause 19: Rate of unemployment and sickness benefit

The Principal Act provides, in paragraph 112(1)(b), that the rate of unemployment benefit payable to a person aged 18 years or more without dependants is \$53.45 per week.

Clause 19 proposes that this rate would be increased to \$58.10 per week.

Sub-clause 2(3) proposes that the amendment proposed by clause 19 would come into operation on 1 November 1981. Sub-clause 24(5) proposes that this amendment would apply to every instalment of unemployment benefit that falls due on or after 1 November 1981.

Clause 20: Supplementary allowance
after first 6 weeks of sickness benefit

This clause proposes to amend section 112A of the Principal Act, which provides for the payment of supplementary allowance to sickness beneficiaries under Part VII of the Act who pay rent. The allowance is payable at a maximum rate of \$5 per week, after the first 6 weeks of payment of sickness benefit.

In the case of a person without dependants, a period in respect of which supplementary benefit can be paid does not include a period during which that person is a patient of a hospital approved for the purposes of Part V of the National Health Act 1953 which provides for certain benefits to be paid in relation to such a person.

Clause 20 proposes to restructure the current basis of payment of supplementary allowance in accordance with the same principles to proposed to be applied to supplementary assistance payable to age, invalid, wife's and widow's pensioners and supporting parent's beneficiaries. These principles are explained in the notes on clause 4.

New sub-section 112A(1) would provide two definitions for the purposes of section 112A. "Married person" would include a person living in a de facto marriage relationship, but does not include a person permanently separated from his or her spouse. "Prescribed period" is a technical definition which would define the period during which a person may receive supplementary allowance. This period excludes the first six weeks during which the person receives benefit.

New sub-sections 112A(2) to (3C) correspond with sub-sections 30A(2) to (3C) proposed in clause 4 in relation to supplementary assistance for age, invalid and wife's pension. The explanations given in that clause in relation to those sub-sections apply equally to these provisions, subject to their being read in the context of sickness beneficiaries.

Sub-clause 2(2) proposes that this clause would come into operation on 1 February 1982. Sub-clauses 24(1), (2), (3) and (7) propose special rules for the application of the clause. Those special rules are referred to in the notes on clause 24.

Clause 21: Special benefits

Special benefit is payable under Part VII of the Principal Act, and may be payable to a person in special need where unemployment benefit, or other pension or benefit provided by the Principal Act, is not payable.

Sub-section 124(2) of the Principal Act provides that special benefit is not payable to a person who is not qualified to receive unemployment benefit by reason of being involved in industrial action. If the spouse of such a person is not qualified to receive unemployment benefit, special benefit may be payable, but section 125 of the Principal Act provides that the spouse may only be paid special benefit at the rate payable as if the spouse was qualified for unemployment benefit. That rate is, due to sub-section 112(6A), the rate payable as if the spouse was an unmarried person.

Clause 21 proposes to prevent payment of special benefit to a person, or spouse in certain circumstances, where the person is involved in industrial action or has had benefit refused, cancelled or postponed in certain circumstances, but the spouse would be eligible to receive special benefit in cases of extreme hardship and where there are no other means of support.

Clause 21 proposes to insert new sub-sections 124(2) to (5) in the Principal Act. Consistent with the changes proposed by clause 18 (concerning unemployment benefit), sub-sections 124(2) and (4) would provide that special benefit would not be payable to -

- (a) a person not qualified to receive unemployment benefit by reason of being involved in industrial action;
- (b) a person who has been refused unemployment benefit because he has failed the work tests in section 107 of the Principal Act, other than on the ground that the person was employed or was not capable of undertaking paid work, which would be specifically excepted by new sub-section 124(5); or
- (c) a person who has had unemployment benefit postponed or cancelled on the ground that -
 - (i) the person was voluntarily unemployed;
 - (ii) the person was unemployed due to his own misconduct; or
 - (iii) the person did not accept an offer of employment.

New sub-section 124(3) would provide, with one exception, that special benefit would not be payable to a married person where the married person was not qualified to receive unemployment benefit by reason of sub-section 107(5A), as proposed to be inserted by clause 18, i.e. where benefit is refused, cancelled, or postponed in the circumstances described.

The exception to this general position, provided for in new sub-section 124(3), is that in a case of extreme hardship and where there are no other means of support, special benefit is payable to the spouse. By virtue of sub-section 112(6A) and section 125 (as previously described), the rate of special benefit payable to the spouse in such circumstances would be the rate payable as if the spouse was an unmarried person.

In all the above cases, the period in which special benefit would not be payable would be the period that the person has been refused unemployment benefit, or has had unemployment benefit cancelled or postponed.

Sub-clause 2(1) proposes that clause 21 would come into operation on the day on which the amending Act receives the Royal Assent.

Clause 22: Receipt of income, etc., to be notified

This clause proposes to amend section 130 of the Principal Act, which requires a sickness beneficiary in receipt of supplementary allowance under section 112A of the Principal Act to notify certain changes in circumstances which may cease the payment, or reduce the rate, of allowance, by the insertion of a new sub-section 130(1AA).

New sub-section 130(1AA) is consequential upon the amendment proposed by clause 17 to exclude from the definition of "rent" any "Government rent" which is payable by a beneficiary. New sub-section 130(1AA) would require a beneficiary in receipt of allowance to notify a Director of Social Services if the beneficiary commences to pay "Government rent".

The clause also proposes to amend sub-section 130(1B) of the Principal Act, to alter a reference to other legislation.

Sub-clause 2(2) proposes that this clause would come into operation on 1 February 1982.

Clause 23: Incentive allowance

This clause proposes to amend section 133JA of the Principal Act to increase the rate of incentive allowance payable to a person to whom a sheltered employment allowance is paid under Part VIIIAA of the Principal Act.

The rate of incentive allowance prescribed in section 133J of the Principal Act would be increased by \$3, from \$5 to \$8 per week. The increase is in line with the increase in supplementary assistance/allowance, reflected in clauses 4 (age, invalid and wife's pension), 10 (widow's pension), and 20 (sickness benefit).

Sub-clause 2(2) proposes that clause 23 would come into operation on 1 February 1982, and sub-clause 24(1) proposes that the increased rate would apply in relation to an instalment of incentive allowance falling due on the first pension pay-day after 1 February 1982.

Clause 24: Application

The purpose of clause 24 is to specify the different periods in respect of which amendments proposed by the preceeding clauses are to apply. It is drafted to take into account the different bases on which the various pensions, benefits, endowment and allowances of the Principal Act, which would be affected by the amending Bill, are paid. These bases are -

- (a) Age, invalid, wife's and widow's pensions and supporting parents benefit which are payable in fortnightly instalments on established pre-determined pay-days;

- (b) Child endowment and double orphan's pension which are payable at monthly rates in respect of an endowment period that begins on the 15th day of one month and ends on the 14th day of the following month. (For administrative convenience, however, payment of child endowment and double orphan's pension is made on a staggered basis. One-half of those persons entitled to such payment receives them on the first Tuesday of each month, while the other half receives its payments on the third Tuesday of each month);
- (c) Unemployment, sickness and special benefits which are paid fortnightly on each individual's own pay-day but in respect of 7 day periods;
- (d) Supplementary assistance and supplementary allowance which are paid on the same pay-day as the pension or benefit in connection with which they are granted. Supplementary assistance is paid in connection with age, invalid, wife's and widow's pensions and supporting parent's benefits, and supplementary allowance is paid in connection with sickness benefit; and
- (e) Incentive allowance which is paid in connection with and on the same day as sheltered employment allowance.

Sub-clause (1) proposes that subject to sub-clause 24(2), clauses 3, 4, 6, 10, 11, 17, 20 and 23 (provisions relating to supplementary assistance/allowance and incentive allowance) would apply to instalments of allowance falling due on the first pension, or individual benefit, pay-day on or after 1 February 1982, and to all subsequent instalments.

Sub-clause (2) proposes that, subject to sub-clause 24(3), where a person receives supplementary assistance/allowance immediately before 1 February 1982 and, in consequence of the amendments proposed by clauses 3, 4, 6, 10, 11, 17 and 20, would not receive a higher rate of allowance, he would continue to receive supplementary assistance/allowance according to the provisions of the Principal Act.

This situation will continue, by virtue of sub-clause 24(3), until -

- (a) the person ceases to be eligible for supplementary assistance/allowance under the provisions of the Principal Act in which case, if qualified, the provisions of the amending Bill would apply to him; or

- (b) the person would be eligible for a higher rate of assistance/allowance under the provisions of the amending Bill, in which case those provisions would apply to him.

Sub-clause (4) proposes that clause 13 (increased rates of child endowment) would apply to the payment of child endowment in respect of the endowment period commencing on 15 December 1981 and to all subsequent payments.

Sub-clause (5) proposes that clause 19 (increased rate of unemployment benefit) would apply to every instalment of benefit falling due on or after 1 November 1981.

Sub-clause (6) proposes that wife's pensions which are granted before 1 November 1981 or in respect of which a claim was lodged before that date would be unaffected by the amendments proposed by clauses 7, 8 and 9 of the amending Bill.

Sub-clause (7) provides a definition of the term "supplementary assistance allowance", which is referred to in sub-clauses (2) and (3).

