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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SOCIAL SECURITY AMENDMENT BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Social Security
the Hon Peter Baldwin MP)

SOCIAL SECURITY AMENDMENT AMENDMENT BILL 1993

OUTLINE AND FINANCIAL IMPACT STATEMENT

This Bill will give effect to a number of Government election commitments announced prior to the 1993 Federal Election and to some minor technical amendments necessary due to recent changes to the Migration Regulations.

The measures in this Bill involve amendment of the *Social Security Act 1991* (the Act).

The financial implications of the measures in this Bill are indicated below, after a brief summary of each measure.

SOCIAL SECURITY ACT 1991

The Act will be amended to

- introduce an additional free area of \$30 a fortnight for earned income for single recipients of job search allowance, newstart allowance and sickness allowance and increase the free area applicable to such a partnered allowee from \$30 to \$50 a fortnight for earned income

Estimated program costs of this measure are \$32.4m in 1993-94 and \$41.4m in 1994-95.

- adjust the pensions assets test so that if a person has assets in excess of the assets value limit, pension is reduced by \$19.50 (rather than \$26) for every \$250 of excess assets

Estimated program costs of this measure for the Department of Social Security are \$29.8m in 1993-94 and \$37.5m in 1994-95. This measure involves additional costs for other portfolios.

- rationalise certain ordinary waiting period provisions applicable to job search, newstart and sickness allowance by consolidating them into one rule providing that an ordinary waiting period will not have to be served by a claimant if the claimant has been in receipt of income support within the previous 13 weeks

Estimated program costs of this measure are \$9.4m in 1993-94 and \$11.7m in 1994-95.

These measures will commence on 20 September 1993.

As a result of amendments to the Migration Regulations from 1 February 1993, a number of minor technical amendments will also be made to various provisions in the Act to ensure consistency in terminology between the Act and those Regulations. These amendments will commence on the day of Royal Assent.

These amendments have no financial implications.

SOCIAL SECURITY AMENDMENT BILL 1993

Part 1 - PRELIMINARY

Part 1 of the Bill sets out how the amending Act is to be cited (**clause 1**), when the various Parts of the amending Act are to commence (**clause 2**) and how certain amendments will apply (**clause 3**).

Part 1 also provides that the *Social Security Act 1991* is referred to in the amending Act as the "Principal Act" (**clause 1**).

Part 2 - INCOME TEST FREE AREA FOR CERTAIN BENEFICIARIES

1. Summary of proposed changes

Part 2 contains several measures concerning the income test for those in receipt of certain social security payments. The persons who are able to enjoy the benefit of these amendments would be those in receipt of a job search, newstart or sickness allowance, or special benefit.

In short, the Principal Act would be amended to -

- (a) allow a single recipient to earn \$30 per fortnight from working before the rate of payment is reduced,
- (b) allow a partnered recipient to earn an extra \$20 per fortnight from working before the rate of payment is reduced. This means that a partnered recipient will be allowed to earn up to \$50 per fortnight from working before the rate of payment is reduced.

2. Background

The income test currently operates so that a social security recipient is allowed a certain level of income before social security payments are affected. This is colloquially known as the 'income test free area' or simply the 'free area'.

There are two types of free area, depending on the source of the income. First, there is a 'basic' free area for ordinary income from any source. Currently, for both single and partnered recipients, it is \$60 per fortnight. Furthermore, partnered recipients currently have an 'additional' free area of \$30 per fortnight that applies only to income from personal exertion (usually from an employer but also earnings from self-employment). Presently, single recipients do not enjoy the benefit of this additional free area.

The proposed amendments would increase the current free area for income from personal exertion from \$30 to \$50 for a partnered person. In addition single recipients would get a free area applying only to income from personal exertion. This would be \$30 per fortnight.

The 'basic' income test free area would be retained at the current level of \$60 per fortnight.

This measure is intended to encourage recipients to take part in the workforce without losing social security payments.

3. Clauses involved in the changes

Clause 2: specifies the commencement day as 20 September 1993.

Clauses 4(a) and (b): amend section 1067 of the Principal Act to allow for the following changes.

Clause 4(c): amends Benefit Rate Calculator A (currently at section 1067 of the Principal Act) to insert a new additional income test free area for single recipients.

Clause 4(d): amends section 1067 of the Principal Act to increase the current additional free area for those who are partnered.

Clauses 5(a) to 5(d): amend Benefit Rate Calculator B (currently at section 1068) to make the same changes as above.

4. Explanation of the changes

Section 1067 of the Principal Act sets out Benefit Rate Calculator A. This applies to job search and sickness allowance recipients who are not yet 18 years old. It sets out how the person's rate of payment is to be calculated and contains the income test and free area provisions. **Clauses 4(a) to (c)** will amend Benefit Rate Calculator A so as to introduce a new additional free area for single recipients. **Clause 4(d)** will increase the existing additional free area for those who are partnered.

Section 1068 of the Principal Act sets out Benefit Rate Calculator B. This applies to job search, newstart and sickness allowance recipients who have turned 18. **Clauses 5(a) to (c)** will amend this calculator so as to introduce a new additional free area for single recipients. **Clause 5(d)** will increase the existing additional free area for those who are partnered.

There is no specific Rate Calculator for special benefit. However, as a matter of practice, the rate of special benefit is calculated in accordance with either Benefit Rate Calculator A or B depending on the person's age. Consequently, these changes will normally 'flow on' to recipients of special benefit.

5. Commencement

These changes will commence on 20 September 1993 (clause 2).

Part 3 - ASSETS TEST FOR PENSIONERS

1. Summary of proposed changes

This amendment would change the current assets test so that more pensioners are able to qualify for a pension or a higher rate of pension. It would apply to recipients of age, disability support, wife, sole parent, widow B or carer pension, and widowed person allowance.

2. Background

An 'assets test' is currently set out in each Pension Rate Calculator. These assets tests currently work in the following manner. Pensioners are allowed a certain value of assessable assets, called the 'threshold', above which pension rates are reduced in a tapered fashion. Any assessable assets are totalled and the amount above this threshold is called the person's 'excess assets'. The person's pension entitlement is then calculated applying a formula. The current formula operates to reduce the person's pension by \$26 per year for every \$250 dollars of excess assets.

The proposed amendment will 'ease' the assets test so that the person's pension would be reduced by \$19.50 per year for every \$250 of excess assets.

The assets test 'hardship provisions' operate when a person is unable to qualify for a pension (or the pension rate is reduced) because the person has excess assets and, as a result, the person is suffering 'severe financial hardship'. If the hardship provisions apply, certain unrealisable assets can be ignored and the person's pension is calculated in accordance with a special formula.

The proposed amendments will ensure that the formula applied when calculating the pension reduction for a pensioner in hardship is modified in the same way as above (ie \$19.50 (rather than \$26) for every \$250 of excess assets).

3. Clauses involved in the changes

Clause 2: specifies the commencement day as 20 September 1993.

Clause 6: amends Pension Rate Calculator A (currently set out in section 1064 of the Principal Act) to ensure that pensions are reduced by \$19.50 per year for every \$250 of excess assets.

Clause 7: amends Pension Rate Calculator C (currently set out in section 1066 of the Principal Act) to achieve the same as above.

Clause 8: amends Pension Rate Calculator D (currently set out at section 1066A of the Principal Act) to achieve the same as above.

Clause 9: amends section 1130 of the Principal Act to ensure that the same formula as above is used when applying the pension hardship provisions.

4. Explanation of the changes

Pension Rate Calculator A applies to age, wife, carer and certain sole parent pensioners, and to disability support pensioners who are 21 or over.

Pension Rate Calculator C applies to recipients of sole parent pension (in general), widowed person's allowance, and widow B pension.

Pension Rate Calculator D applies to disability support pensioners who are under 21.

Clauses 6 to 8 will amend Pension Rate Calculators A, C and D so that when the assets test is applied, the person's pension is reduced by \$19.50, rather than \$26, for every \$250 of excess assets.

Pensions Rate Calculators B and E do not need to be amended because they apply only to the permanently blind who are not assets tested.

Clause 9 will amend the hardship provisions so that when they operate and special provisions are applied to work out how much pension a person will get, then the same formula is used as in the general assets test (ie \$19.50 (rather than \$26) for every \$250 of excess assets).

5. Commencement

These changes will commence on 20 September 1993 (**clause 2**).

Part 4 - ORDINARY WAITING PERIODS

1. Summary of proposed changes

A number of provisions that allow the ordinary waiting period to be waived for claimants of job search allowance, newstart allowance and sickness allowance will be consolidated into a single provision that allows the ordinary waiting period to be waived where the claimant has been in receipt of a social security pension, a social security benefit or a service pension within the previous 13 weeks.

2. Background

Section 538 of the Principal Act currently provides that a person is subject to an ordinary waiting period for job search allowance (JSA) unless certain conditions are met. A person is not subject to an ordinary waiting period if, for example, the person is a transferee to JSA from sickness allowance and claims payment within prescribed time limits (paragraph 538(b) refers).

Ordinary waiting period provisions also apply to persons claiming newstart allowance (NSA) and sickness allowance (SA) although the conditions for waiver of the waiting period vary across payment types. The relevant provisions are contained in section 620 for NSA and section 693 for SA.

It is proposed to rationalise existing ordinary waiting period provisions by introducing a new provision allowing the ordinary waiting period to be waived where a claimant has been in receipt of income support within the previous 13 weeks. This new provision would replace a number of existing conditions in which the ordinary waiting period can be waived.

Rationalisation of these provisions is aimed at assisting both DSS staff and clients by making ordinary waiting period conditions easier to explain and understand. The new, more generous, rule will also have the effect of improving incentives for participation in casual or part-time employment.

3. Clauses involved in the changes

Clause 2: specifies the commencement day as 20 September 1993.

Clause 10: amends section 538 of the Principal Act by inserting a new ordinary waiting period waiver condition in substitution of certain existing waiver conditions and substituting new notes.

Clause 11: amends section 620 of the Principal Act by inserting a new ordinary waiting period waiver condition in substitution of certain existing waiver conditions and substituting new notes.

Clause 12: amends section 693 of the Principal Act by inserting a new ordinary waiting period waiver condition in substitution of certain existing waiver conditions and substituting new notes.

4. Explanation of the changes

JSA ordinary waiting period

Section 538 of the Principal Act outlines the situations in which a person is not required to serve an ordinary waiting period before JSA can be paid.

Among other conditions, an ordinary waiting period is not required to be served by a person claiming JSA if the person:

- . has already served a waiting period within the previous 13 weeks; or
- . is a transferee to JSA and claims JSA within prescribed time limits; or
- . is under 18, has been registered by the CES as unemployed for 12 months, stopped being paid JSA at some time in the 13 weeks immediately before the person's provisional commencement day and, during that 13 weeks, was not subject to a non-payment period; or
- . becomes qualified for JSA at the end of a period during which the person was not registered by the CES as unemployed for a period of less than 6 weeks.

Clause 10(a) will have the effect of replacing these paragraphs with a single provision allowing the ordinary waiting period to be waived where a person has received a 'social security pension', 'social security benefit' or 'service pension' (as defined in subsection 23(1) of the Principal Act) at some time in the 13 weeks immediately before the person's provisional commencement day (usually the date of claim).

The remaining ordinary waiting period waiver conditions applicable to JSA will remain unchanged.

Clause 10(b) will omit the notes following section 538 and substitute new notes directing the reader to definitions for the various terms used in section 538.

New Note 1 will direct the reader to section 533 of the Principal Act that outlines what is meant by a person's 'provisional commencement day'.

New Note 2 will direct the reader to the definition of 'social security benefit' in subsection 23(1) of the Principal Act.

New Note 3 will direct the reader to the definition of 'social security pension' in subsection 23(1) of the Principal Act.

New Note 4 will direct the reader to the definition of 'service pension' in subsection 23(1) of the Principal Act.

New Note 5 will direct the reader to the definition of 'Employment Secretary' in subsection 23(1) of the Principal Act.

New Note 6 will direct the reader to the definition of 'benefit increase partner' in subsection 4(10) of the Principal Act.

NSA ordinary waiting period

Section 620 of the Principal Act outlines the situations in which a person is not required to serve an ordinary waiting period before NSA can be paid.

Among other conditions, an ordinary waiting period is not required to be served by a person claiming NSA if the person:

- . is a transferee from JSA; or
- . has already served a waiting period within the previous 13 weeks; or
- . is a transferee to NSA and claims NSA within 14 days of the transfer day; or
- . ceased to be paid NSA at some time in the 13 weeks immediately before the person's provisional commencement day and, at no time during that 13 week period was the person subject to a non-payment period; or

becomes qualified for NSA at the end of a period during which the person was not registered by the CES as unemployed for a period of less than 13 weeks.

Clause 11(a) will have the effect of replacing these paragraphs with a single provision allowing the ordinary waiting period to be waived where a person has received a 'social security pension', 'social security benefit' or 'service pension' (as defined in subsection 23(1) of the Principal Act) at some time in the 13 weeks immediately before the person's provisional commencement day (usually the date of claim).

The remaining ordinary waiting period waiver conditions applicable to NSA will remain unchanged.

Clause 11(b) will omit the notes following section 620 and substitute new notes directing the reader to definitions for the various terms used in section 620.

New Note 1 will direct the reader to section 615 of the Principal Act that outlines what is meant by a person's 'provisional commencement day'.

New Note 2 will direct the reader to the definition of 'social security benefit' in subsection 23(1) of the Principal Act.

New Note 3 will direct the reader to the definition of 'social security pension' in subsection 23(1) of the Principal Act.

New Note 4 will direct the reader to the definition of 'service pension' in subsection 23(1) of the Principal Act.

New Note 5 will direct the reader to the definition of 'Employment Secretary' in subsection 23(1) of the Principal Act.

New Note 6 will direct the reader to the definition of 'benefit increase partner' in subsection 4(10) of the Principal Act.

New Note 7 will direct the reader to the definition of 'Jobskills' in subsection 23(1) of the Principal Act.

SA ordinary waiting period

Section 693 of the Principal Act outlines the situations in which a person is not required to serve an ordinary waiting period before SA can be paid.

Amongst other conditions, an ordinary waiting period is not required to be served by a person claiming SA if the person:

- . was receiving JSA or NSA immediately before becoming qualified for SA; or
- . has already served a waiting period within the previous 13 weeks; or
- . is a transferee to SA and claims SA within 14 days after the transfer day; or
- . was in receipt of SA during the 4 weeks immediately before the current claim for SA is made.

Clause 12(a) will have the effect of replacing these paragraphs with a single provision allowing the ordinary waiting period to be waived where a person has received a 'social security pension', 'social security benefit' or 'service pension' (as defined in subsection 23(1) of the Principal Act) at some time in the 13 weeks immediately before the person's provisional commencement day (usually the date of claim).

The remaining ordinary waiting period waiver condition applicable to SA will remain unchanged.

Clause 12(b) will omit the notes following section 693 and substitute new notes directing the reader to definitions for the various terms used in section 693.

New Note 1 will direct the reader to section 687 of the Principal Act which outlines what is meant by a person's 'provisional commencement day'.

New Note 2 will direct the reader to the definition of 'social security benefit' in subsection 23(1) of the Principal Act.

New Note 3 will direct the reader to the definition of 'social security pension' in subsection 23(1) of the Principal Act.

New Note 4 will direct the reader to the definition of 'service pension' in subsection 23(1) of the Principal Act.

New Note 5 will direct the reader to the definition of 'benefit increase partner' in subsection 4(10) of the Principal Act.

5. Commencement

These changes will commence on 20 September 1993 (clause 2).

Part 5 - AMENDMENTS TO REFLECT CHANGES IN THE MIGRATION ACT 1958 AND REGULATIONS MADE UNDER THAT ACT

1. Summary of proposed changes

As a result of amendments to the Migration Regulations which came into effect on 1 February 1993, a number of minor amendments will be made to various provisions in the Principal Act to ensure consistency in terminology between the Principal Act and the new Migration Regulations.

2. Background

Divisions 2 and 3 of the *Migration Act 1958* provide that the criteria for entry permits may be provided for in Regulations to that Act.

The Principal Act makes reference to assurances of support and some entry permits that are defined in the Migration Regulations.

On 1 February 1993, new Migration Regulations came into effect. These new Regulations have the effect of changing the terminology used in referring to assurances of support and various categories of entry permits.

Accordingly, the references in the Principal Act to assurances of support and the various categories of entry permits need to be updated to take account of the new terminology used in the new Migration Regulations.

3. Clauses involved in the changes

Clause 2: specifies the commencement day as the date of Royal Assent.

Clause 13: amends section 7 of the Principal Act (Australian residence definitions) by inserting a number of terms and corresponding definitions into subsection 7(1) and replacing the existing subparagraph (2)(b)(iii) with a new provision.

Clause 14: amends the definitions of 'assurance of support', 'assurance of support debt' and 'inhabitant of Australia' in subsection 23(1) of the Principal Act to take account of the changes to the Migration Regulations.

Clause 15: amends various provisions in section 541B of the Principal Act (newly arrived resident's waiting period applicable to job search allowance) to

take account of the new terminology used in the Migration Regulations and to omit an outdated definition.

Clause 16: amends section 541C of the Principal Act (duration of newly arrived resident's waiting period applicable to job search allowance) by omitting outdated definitions currently in subsection 541C(3) and substituting a new definition of 'designated temporary entry permit'.

Clause 17: amends various provisions in section 623A of the Principal Act (newly arrived resident's waiting period applicable to newstart allowance) to take account of the new terminology used in the Migration Regulations and to omit an outdated definition.

Clause 18: amends section 623B of the Principal Act (duration of newly arrived resident's waiting period applicable to newstart allowance) by omitting outdated definitions currently in subsection 623B(3) and substituting a new definition of 'designated temporary entry permit'.

Clause 19: amends various provisions in section 696B of the Principal Act (newly arrived resident's waiting period applicable to sickness allowance) to take account of the new terminology used in the Migration Regulations and to omit an outdated definition.

Clause 20: amends section 696C of the Principal Act (duration of newly arrived resident's waiting period applicable to sickness allowance) by omitting outdated definitions currently in subsection 696C(3) and substituting a new definition of 'designated temporary entry permit'.

Clause 21: amends the qualification conditions for special benefit in paragraph 729(2)(f) to take account of the new terminology used in the Migration Regulations.

4. Explanation of the changes

The Principal Act refers to Regulations made under the *Migration Act 1958*. Amendments to the Migration Regulations with effect from 1 February 1993 have necessitated some changes to the Principal Act to take account of the Migration Regulations amendments.

Section 7 of the Principal Act sets out Australian residence definitions. These definitions are used to simplify the residential requirements of social security recipients. **Clause 13** will amend this section by inserting new definitions to define the new terminology used in the Migration Regulations.

Subsection 23(1) of the Principal Act sets out general definitions used in the Principal Act. **Clause 14** will amend the definitions of 'assurance of support' and 'assurance of support debt' to take into account new references and terminology used for assurances of support in the Migration Regulations. This amendment will ensure that the Commonwealth can continue to recover monies from persons liable to pay an assurance of support debt. **Clause 14** will also amend the definition of 'inhabitant of Australia' to take into account the new terminology used in the Migration Regulations.

Sections 541B and 541C of the Principal Act require certain newly arrived residents to serve a waiting period before job search allowance is payable. One of the criteria used in determining whether or not a waiting period is to be served is the type of entry permit granted to the newly arrived resident.

A similar newly arrived residents waiting period also applies to newstart allowance (sections 623A and 623B of the Principal Act) and sickness allowance (sections 696B and 696C of the Principal Act).

Clauses 15 to 20 amend the newly arrived residents waiting periods for job search allowance, newstart allowance and sickness allowance to take into account new terminology used in the Migration Regulations.

Paragraph 729(2)(f) sets out the residential conditions required before establishing a qualification for special benefit. **Clause 21** amends paragraph 729(2) to take account of the new terminology used in the Migration Regulations.

5. Commencement

These changes will commence on the day of Royal Assent (**clause 2**).



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