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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

SOCIAL SERVICES AMENDMENT BILL (NO. 3) 1981
EXPLANATORY MEMORANDUM

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

Outline

The purpose of this Bill is to amend the Social Services Act 1947 to prevent payment of unemployment benefit to the spouse of a person, and special benefit to a person or the spouse of that person, where the person is involved in industrial action, or has had benefit refused, cancelled or postponed.

Special benefit would, however, be payable to the spouse of a person where the person was ineligible for unemployment benefit or special benefit, in a case of extreme hardship where there are no other means of support.

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Clause 1: Short title, etc.

By this clause, the amending Act would be cited as the Social Services Amendment Act (No.3) 1981, and the Social Services Act 1947, as previously amended, would 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

This clause proposes that the amending Act would come into operation on the date of the Royal Assent.

Clause 3: Unemployment benefits

The purpose of this clause 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. 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 such a person. 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 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.

This clause proposes to change the current position in relation to unemployment benefit by the insertion of new sub-section 107(5A), which would disqualify from receipt of 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 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;

(iii) that a person did not accept an offer of employment which the Director-General considered 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 4.

Clause 4: 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.

The clause 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.

The clause proposes to insert new sub-sections 124(2) to (5) in the Principal Act. Consistent with the principles indicated in the notes to, and the changes proposed by, clause 3, 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 to work tests in section 107 of the Principal Act, other than on the ground that the person was employed or was 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 in clause 3, 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.