

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

SOCIAL SECURITY AND VETERANS' AFFAIRS  
LEGISLATION AMENDMENT BILL (NO 3) 1989

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Social Security,  
the Hon B Howe, MP)

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS MADE  
BY THE HOUSE OF REPRESENTATIVES TO THE BILL AS INTRODUCED

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OUTLINE AND FINANCIAL IMPACT STATEMENT

These amendments would alter the Bill to achieve three objectives.

- . First, to clarify that an obligation on a sole parent claimant or pensioner to provide information on his or her relationship with another person would not be a matter of strict obligation. Rather, the obligation would extend only to matters known to the claimant or pensioner or matters which he or she could reasonably be expected to ascertain.
- . Second, to put beyond doubt that certain procedural rules involving decisions on the marital status of pensioners apply only to sole parent claimants or pensioners.
- . Third, to provide for the automatic continuance of payment of sole parent's pension to a pensioner whose pension is cancelled on account of his or her marital status provided the pensioner appeals within 14 days of receipt of written notice of the decision.

None of these amendments would affect the financial impact of the Bill.

## NOTES ON AMENDMENTS

### Amendments (1) and (2)

These amendments would make clear that a pensioner required to provide information to the Secretary about his or her relationship with another person would not be under a strict obligation to provide exhaustive information. Rather, the obligation would be to provide only information:

- . that is within the knowledge of the pensioner; or
- . that the pensioner can be reasonably expected to obtain.

### Amendments (3) and (4)

These amendments would put beyond doubt that new subsections 43A(6) and (8) of the Principal Act are to apply to investigations into the domestic circumstances of only sole parent pension recipients and claimants. They would not apply where a different pension or benefit is involved.

### Amendment (5)

Clause 45A : The Secretary may continue payment pending the determination of an application to the Secretary or the Social Security Appeals Tribunal for review of an adverse decision

Section 168A of the Principal Act provides that the Secretary has a discretion to continue the payment of a pension, benefit or allowance where:

- . an adverse decision about entitlement has been made; and
- . the adverse decision depends on exercise of a discretion by a person or on the holding of an opinion by a person; and

. the affected person applies to the Secretary or the Social Security Appeals Tribunal for review of the adverse decision.

The decision to continue payment ends when the appeal is resolved or when the Secretary revokes his declaration which provides for payment.

Amendment (5) would amend section 168A of the Principal Act by insertion of several new subsections applicable where a "section 43A decision" has been made.

A "section 43A decision" would be defined in substitute subsection 168A(8) as a decision the effect of which is cancellation of sole parent's pension. It would have to be a decision resulting from the formation of an opinion under subsection 43A(5) or 43A(7) to the effect that the sole pensioner is living with another person in a marriage-like relationship, or is not separated from another person.

The new subsection 168A(6A) would provide for the automatic continuance of sole parent's pension where a pensioner appeals to the Secretary or the Social Security Appeals Tribunal within 14 days after being notified of a section 43A decision.

New paragraph 45A(6A)(b) would permit payment of arrears where pension payments cease before the pensioner appeals.

New paragraph 45A(6A)(c) would mean that all other provisions of the Principal Act (eg, those which concern obligations to notify of changes in circumstances) apply as if there is no issue as to continued entitlement.

New subsection 168A(6B) would work to cease payments under new subsection 168A(6A) where the appeal is withdrawn or otherwise determined.

Clause 45A would commence on 1 January 1990.