

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

SOCIAL SECURITY AND VETERANS' AFFAIRS
LEGISLATION AMENDMENT BILL (NO 4) 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

The main change introduced by these amendments is to provide that payments under the Social Security Act 1947, the Veterans' Entitlements Act 1986 and the Seamen's War Pensions and Allowances Act 1940 would generally be made by direct deposit to an account with a bank, credit union or building society, unless the Secretary to the Department of Social Security or the Repatriation Commission, as appropriate, decided in the circumstances of a particular case that some other mode of payment (eg by cheque) was appropriate.

Also included are several minor technical amendments.

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

NOTES ON AMENDMENTS

Amendment (1)

This amendment would replace original clause 17 with a new clause 17 which would clarify the intended effect of the original clause.

Clause 17: Payment of pension

Section 54 of the Seamen's War Pensions and Allowances Act 1940 (the Principal Act in this Part) provides that pension is to be paid to the pensioner in such manner as the Repatriation Commission determines and empowers the Repatriation Commission, at the request of a pensioner, to approve payment of pension to another person as agent of the pensioner.

Clauses 17(a) and (b) would omit subsections 54(1) and (4) and substitute new subsections 54(1), (1A), (1B) and (1C) which would clarify the power of the Repatriation Commission to direct that payment of pension be made to the credit of an account nominated by the payee with a bank, credit union or building society.

New subsections 54(1) and (1A) would provide that, subject to section 54, a pension is to be paid to the credit of an account nominated by a payee, but that where a payee has not nominated an account, then that pension is not to be paid. However, new subsection 54(1C) would provide that, notwithstanding new subsection 54(1A), the Repatriation Commission may direct that pension may be paid to the person otherwise than into an account.

New subsection 54(1B) would provide that where a pension is not being paid because a payee has not nominated an account and the person subsequently nominates an account, then the pension,

including any amounts that would have been paid if the person had originally nominated an account, is to be paid to the payee.

Clause 17(c) would omit subsection 54(6) and substitute a new subsection 54(6) which would provide definitions of "account", "payee", "pension" and "pensioner" for the purposes of section 54 of the Principal Act.

"Account", in relation to a person, would be defined to mean an account maintained by that person, either alone or jointly or in common with another person, with a bank, credit union or building society.

"Payee", in relation to a pension, would be defined to mean a pensioner or a person approved by the Repatriation Commission to be paid a pension as agent of a pensioner.

"Pension" would be defined to mean a pension, allowance or other pecuniary benefit payable under the Principal Act or the regulations to the Principal Act, and would include an instalment of such pension, allowance or other benefit.

"Pensioner" would be defined to mean a person to whom a pension is payable under the Principal Act.

Clause 17 would commence on the day of Royal Assent.

Amendment (2)

This amendment alters the definition of "compulsorily preserved superannuation benefit" in subsection 3(1) of the Social Security Act 1947 (the Principal Act in this Part).

As currently drafted, the definition applies to a superannuation benefit which is restricted pursuant to a provision in a trust deed or contract that imposes restrictions

corresponding to those in paragraphs (a), (b) or (c) of the definition. The references to paragraphs (a) and (b) are erroneous. The intention was to include under paragraph (d) of the definition a superannuation benefit regulated by a trust deed or contract only where the deed or contract imposes conditions corresponding to those under the Occupational Superannuation Standards Act 1987. The restrictions in paragraphs (a) and (b) of the definition contain discretionary elements which are no longer to be capable of insertion in new superannuation contracts or trust deeds.

Amendment (3)

Clause 69A : Manner of payment

This clause would amend section 161 of the Social Security Act 1947 (the Principal Act in this Part). Section 161 provides, among other things, that a pension, benefit or allowance under the Principal Act shall be paid in such manner as the Secretary directs.

Clause 69A would provide, in broad terms, that payments under the Principal Act would generally be made by direct deposit to an account with a bank, credit union or building society, nominated from time to time by the payee, unless the Secretary to the Department of Social Security decided in the circumstances of a particular case that some other mode of payment (eg by cheque) was appropriate.

Where a payee has not nominated an account, then he or she would not be paid unless, either:

- . the Secretary directed that he or she should be paid in some other manner (eg by cheque); or

- . the payee subsequently nominated an account (in which case any amounts that would have been paid if he or she had originally nominated an account would also be paid to him or her).

Also included are several consequential technical amendments.

Clause 69A would commence on the day of Royal Assent.

Amendment (4)

This amendment would repeal section 48 of the Social Security and Veterans' Affairs Legislation Amendment (No 3) Act 1989 which inserted section 248A (Pension, benefit or allowance may be paid to bank etc) into the Social Security Act 1947.

Given the changes made by amendment (3) to section 161 (Manner of payment) of the Social Security Act 1947, section 248A is redundant.

Amendment (5)

This amendment alters the definition of "compulsorily preserved superannuation benefit" in subsection 35(1) of the Veterans' Entitlements Act 1986 (the Principal Act in this Part).

As currently drafted, the definition applies to a superannuation benefit which is restricted pursuant to a provision in a trust deed or contract that imposes restrictions corresponding to those in paragraphs (a), (b) or (c) of the definition. The references to paragraphs (a) and (b) are erroneous. The intention was to include under paragraph (d) of the definition a superannuation benefit regulated by a trust deed or contract only where the deed or contract imposes conditions corresponding to those under the Occupational

Superannuation Standards Act 1987. The restrictions in paragraphs (a) and (b) of the definition contain discretionary elements which are no longer to be capable of insertion in new superannuation contracts or trust deeds.

Amendment (6)

This amendment would replace original clause 121 with new clauses 121 and 121A which would clarify the intended effect of the original clause.

Clause 121: Payment of pension

Section 122 of the Veterans' Entitlements Act 1986 (the Principal Act in this Part) provides that pension is to be paid to the pensioner in such manner as the Repatriation Commission determines and empowers the Repatriation Commission, at the request of a pensioner, to approve payment of pension to another person as agent of the pensioner.

Clauses 121(a) and (b) would omit subsections 122(1) and (4) and substitute new subsections 122(1), (1A), (1B) and (1C) which would clarify the power of the Repatriation Commission to direct that payment of pension be made to the credit of an account nominated by the payee with a bank, credit union or building society.

New subsections 122(1) and (1A) would provide that, subject to section 122, a pension is to be paid to the credit of an account nominated by a payee, but that where a payee has not nominated an account, then that pension is not to be paid. However, new subsection 122(1C) would provide that, notwithstanding new subsection 122(1A), the Repatriation Commission may direct that pension may be paid to the person otherwise than into an account.

New subsection 122(1B) would provide that where a pension is not being paid because a payee has not nominated an account and the person subsequently nominates an account, then the pension, including any amounts that would have been paid if the person had originally nominated an account, is to be paid to the payee.

Clause 121(c) would omit subsection 122(6) and substitute a new subsection 122(6) which would provide definitions of "account", "payee", "pension" and "pensioner" for the purposes of section 122 of the Principal Act.

"Account", in relation to a person, would be defined to mean an account maintained by that person, either alone or jointly or in common with another person, with a bank, credit union or building society.

"Payee", in relation to a pension, would be defined to mean a pensioner, or a person approved by the Repatriation Commission to be paid a pension as agent of a pensioner, or a person appointed as a trustee of instalments of pension or allowance under section 202 of the Principal Act.

"Pension" would be defined to mean a pension, allowance or other pecuniary benefit payable under the Principal Act, and would include an instalment of such pension, allowance or other benefit.

"Pensioner" would be defined to mean a person to whom a pension is payable under the Principal Act.

Clause 121 would commence on the day of Royal Assent.

Clause 121A: Interpretation

Sections 123, 123A, 123B, 123C, 123D and 123E of the Principal Act provide for the payment of pension on the death of a person and ensure that moneys payable under the Principal Act to a

person who has died are paid out promptly and to the most appropriate person.

Clause 121A would add a new subsection (6) into section 123 of the Principal Act. That section provides definitions and interpretative rules for sections 123A to 123E. New subsection 123(6) would provide that a reference in sections 123A to 123E to a distributable amount would include a reference to an amount that would have been paid but for the fact that payment of pension has been withheld pursuant to new subsection 122(1A) (which would be inserted by clause 121) because an account had not been nominated by the payee.

Clause 121A would commence on the day of Royal Assent.

