

Act No. 133-1988

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

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SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1988

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



SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1988

OUTLINE AND FINANCIAL IMPACT STATEMENT

These amendments will alter the Bill to achieve five objectives

- . First, to correct several minor technical errors in the Bill.
- . Second, to clarify the required former marital status of a person seeking to qualify for widowed person's allowance.
- . Third, to permit a person who is pregnant and otherwise qualified for widowed person's allowance to be paid the allowance in all cases for at least the duration of the pregnancy. The Bill currently provides that payment for the duration of the pregnancy may be made only where the Secretary has no reason to believe that a woman is pregnant by a person other than her deceased spouse.
- . Fourth, to permit payment of the employment entry payment prior to the date on which a person commences work.
- . Fifth, to require a person to claim within 28 days of commencing work in order to establish eligibility for employment entry payment.

None of these amendments is expected to have any measurable effect on the financial impact statement which appears in the explanatory memorandum to the Bill.

## NOTES ON AMENDMENTS

### Amendment (1)

This amendment corrects a minor technical error.

### Amendment (2)

This amendment clarifies the eligibility criteria to be met by a widowed person who claims widowed person's allowance. The redrafted new paragraph 55(a) would require that the person cease to be a married person because of the death of the spouse. As currently drafted the new section 55 could apply to one who is separated but whose legal spouse dies. This is not intended. The redraft has the effect of excluding from payment a person who, although legally married, was not living with the deceased at the date of death.

### Amendment (3)

The amendment enhances a provision in the Bill concerning the period for which widowed person's allowance is payable. Although new section 58A provides generally for payment of widowed person's allowance for 12 weeks, this period can be extended when the widowed person is a woman who is pregnant at the date of death of her spouse. Allowance will then be payable until the child is born or the woman otherwise ceases to be pregnant, whichever is later. The Bill currently removes as a possibility the payment of an allowance for the duration of a pregnancy where the Secretary has reason to believe that the woman is pregnant by a person other than her deceased spouse. The amendment deletes this preclusion. The change results from the difficulty of administering such a provision. It was envisaged that the deleted provision would seldom apply. The amendment reflects that expectation.

#### Amendment (4)

This amendment corrects a minor technical error.

#### Amendment (5)

This amendment extends the provisions relating to employment entry payment so that the payment may be made before a qualified person commences work. This may be necessary where, for example, the person needs to make advance payment of union dues or needs new clothing for the job. At present the Bill permits payment only after work commences.

The employment entry payment could be made where

- . A person has entered into an agreement under which he or she is to be employed; and
- . The person fulfils all the requirements set down in new subsection 237A(1).

New paragraph 237A(1A)(c) limits the time when an advance employment entry payment may be made to no earlier than 14 days before work is expected to commence.

New paragraph 237A(1A)(d) makes clear that the Secretary must remain satisfied that work is to commence when the payment is made to the person. There may sometimes be a delay between the person's initial claim for payment, consequent consideration of that claim and the day when payment is to be made. This paragraph ensures that payment will not be made where the Secretary ceases to be satisfied as to the eligibility criteria by the time payment is due. This paragraph also precludes double payment of employment entry payment both before and after the person commences work. Payment is once only.

New subsection 237A(1B) makes clear that a person seeking employment entry payment must claim payment and must do so within 28 days of commencing employment in order to be entitled to payment. Section 159 of the Social Security Act 1947 deals with the requirements for a valid claim.



