Social Security Amendment Bill 1987

Date Introduced: 25 March 1987  
House: House of Representatives  
Presented by: Hon. Brian Howe, M.P., Minister for Social Security

Digest of Bill

Purpose

The purposes of this Bill are:

(i) to require a person to formally request the application of the assets test hardship provision;
(ii) to require that all decisions under the Social Security Act 1947 (henceforth, the Act) be made in writing;
(iii) to extend the review and appeal provisions to all decisions made under the provisions of the Act;
(iv) to extend the secrecy provisions of the Act;
(v) to bring the nature of offences and the levels of penalties for offences under the Act into line with comparable offences against the Commonwealth;
(vi) to include as Schedules to the Act the text of reciprocal social security agreements; and
(vii) to significantly renumber and reletter the provisions of the Act.

Background

The past 18 months have seen the introduction of a number of measures designed to combat social security fraud. The social security amnesty, for example, operated from March to May 1986 and new procedures for reviews of supporting parents benefit and unemployment benefit recipients have now been instituted. This Bill, if enacted, forms part of these measures.

Because the Social Security Act 1947 is amended frequently, the numbering and lettering of sections are out of sequence and consequently they have become difficult to cite. This Bill, if enacted, will redress this problem.

The Bill also corrects drafting defects in earlier legislation.
Main Provisions

For a detailed explanation of the clauses of the Bill, refer to the Explanatory Memorandum.

Clause 6 will insert new paragraphs (d) and (e) into sub-section 6AD(1) of the Social Security Act 1947 (the Principal Act) requiring a person to formally request that section 6AD (the hardship provisions of the assets test) apply to a claim for payment under the Act.

Clause 9 will insert a new section 9 into the Principal Act requiring that a decision of an officer under the Act shall be in writing and that a decision shall be taken to be in writing if it is entered into or recorded with the use of a computer.

Clause 10 will repeal sections 14 and 15 of the Principal Act, which relate to reviews of determinations and appeals to the Secretary respectively, and substitutes a new section 14. The proposed section substitutes the word 'decision' for 'determination, direction, decision or approval'. Similarly, Part 2 of Schedule 1 deletes references in the Principal Act to determinations etc. and inserts a definition of 'decision' in subsection 6(1). Otherwise the sense of the original sections, that is, that the Secretary has discretion to review decisions and that a person affected by a decision can appeal to the Secretary to review a decision, is retained.

Taken together, clauses 5 and 12 extend the secrecy provisions of the Principal Act to a new category of 'officer'. Clause 5 extends the definition of 'officer' in section 6 of the Principal Act to include, for the purposes of section 17 (the secrecy provision), ex-officers, and people who are/have been appointed or employed by, or perform services for the Commonwealth and who have or may acquire information about a person under the Principal Act. Clause 12 will amend section 17 of the Principal Act to bring the provisions into line with the form of secrecy provision in other Commonwealth legislation.

Clauses 34 to 39 make some changes to the nature of offences under the Principal Act and increase the penalties associated with those offences. Section 135TD of the Principal Act provides that it is an offence for a bank, credit union or building society not to comply with a notice requesting payment of monies, owed by a creditor to the Commonwealth, out of the account of that creditor. Clause 34 increases the penalty for this offence from $1,000 to $10,000. Section 135TE provides that it is an offence for a person to refuse or fail to notify the Department of a change in circumstances which would affect payment of a pension, benefit or allowance, or knowingly furnish false or misleading information about such a change in circumstances. Clause 35 will amend this section to alter the degree of intent necessary for the furnishing of false or misleading information to be an offence by including the reckless provision of such information. In addition, the clause will increase the penalty for the offence by an individual from $500 to $1,000 or six months imprisonment or both, and introduces a new penalty for the offence by a body corporate of $5,000. Section 135TF of the Act gives the Department a general power to obtain information about the entitlement of a person to a pension, benefit or allowance. It
provides that it is an offence for a person to refuse or fail to furnish information, produce documents or give evidence in relation to a matter which affects the payment of a pension, benefit or allowance, or knowingly furnish false or misleading information in relation to such a matter. Clause 36 will make the same change as clause 35 relating to intent and will increase the penalty for the offence by an individual from $1 000 or six months imprisonment to $2 000 or 12 months imprisonment or both. It also introduces a new penalty for the offence by a body corporate of $10 000. Section 138 of the Principal Act concerns a number of offences where a person fraudulently claims payments under the Principal Act. Clause 37 will clarify and extend the scope of the section, introduces an element of intent, and enables both a fine and a term of imprisonment to be imposed for an offence under the section. Section 138A of the Principal Act provides that an offence against section 17 of the Act (the secrecy provision) is an indictable offence. Clause 38 will enable both a fine and term of imprisonment to be imposed for an offence under section 17. Clause 39 will insert a new section 138B into the Principal Act, establishing the criminal liability of a body corporate by reference to the state or mind or conduct of a director, servant or agent of that body corporate.

Clause 46 provides for amendments to the Principal Act as set out in Schedule 1.

Clauses 48 and 49 provide for the insertion of Schedules 2 and 3 of the Bill, the texts of the reciprocal social security agreements between Australian and the United Kingdom and between Australia and New Zealand respectively, into the Act. Clause 47 will retitle the text of the reciprocal social security agreement between Australia and Italy as Schedule 2 to the Act.

Clause 50 allows for the sequential renumbering and relettering of the Act.

The remaining clauses of the Bill make miscellaneous changes to the Principal Act, correcting errors which have come to light subsequent to their enactment.

For further information, if required, contact the Education and Welfare Group.

3 April 1987

Bills Digest Service

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This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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