Date Introduced: 11 October 1979
House: House of Representatives
Presented by: Hon. R.V. Garland on behalf of Hon. R.J.D. Hunt, Minister for Health

Purpose

To re-introduce twice yearly indexation of pensions and benefits and make a number of amendments to the eligibility provisions for certain pensions and benefits. These include extensions to:

- the income limit for fringe benefits,
- the categories of persons eligible for the wife's pension,
- the standard rate of pension to certain wife pensioners,
- family allowances and handicapped child's allowance so that they are more equitable in situations where children may be temporarily in institutions.

There are also restrictions to:

- the entitlement to unemployed benefits in cases of certain industrial action,
- the time of payment of unemployed benefits,
- maintenance payments on behalf of pensioners in benevolent homes,
- double orphan's pension entitlement,
- compensation payments for an incapacity for which sickness benefits are also payable.

Background

In a Ministerial Statement on 21 August 1979 relating to the Government's budget proposals the Minister for Health, Mr. Hunt announced a number of changes to social security programs. These included the re-introduction of half-yearly indexation, alteration to the fringe benefit income limit and changes to the eligibility requirements for wife's pension. The Bill incorporates these budget decisions and also a number of other changes reflecting government decisions made since then.
Main Provisions

Twice Yearly Indexation

All pensions and benefits that are at present indexed once annually, following amendments to the Act last year, will from 1 May 1980 be indexed twice-yearly. Clause 9 amends s.28A and cl.38 amends s.112AA to achieve this. This is a reversion to the position before the Social Service Amendment Act 1978 was enacted.

Fringe Benefit Income Limits

Clause 19 inserts an amended sub.s.83CA(2) to increase the level of income that a pensioner may earn before becoming ineligible for the grant of a funeral benefit. Recipients of a sheltered employment allowance may receive slightly higher income (unmarried person $3536 p.a., married person $1898 p.a.) compared to other pensioners (unmarried person $2080 p.a., married person $1768 p.a.). Other Commonwealth fringe benefits such as a Pensioner Health Benefits card (through the application of the National Health Act and the Health Insurance Act) are based on these limits.

Wife's Pension

Clauses 11, 12 and 13 amend ss.31, 32 and 33 respectively, in order to enable more women to receive a wife's pension. Clause 11 inserts a new sub.s.31(3) which provides that where a husband and wife are unable to live together because one or both are inmates of benevolent homes or because of illness, the wife will not be precluded from receiving a wife's pension (as she is at present under sub.s.31(2)). New sub.s.32(1A) inserted by cl.12 enables the Director-General to direct that the standard rate of pension be paid as a wife's pension where husband and wife are unable to live together due to illness and their living expenses are consequently higher. Clause 13 repeals and replaces s.33 so as to remove the prohibition on a woman receiving a wife's pension if she is in a benevolent home or if she does not have to care for a child or is under 50 years of age and her pensioner husband is in a benevolent home.

Maintenance of Pensioners in Benevolent Homes

Clause 14 repeals and replaces s.50 in order to increase the proportion of the pension of an inmate of benevolent home that is paid directly to the benevolent home. Sub.s.50(2) specifies how the pension is to be divided between the wife of a male pensioner, the benevolent home and the pensioner. The intention is to bring the
deduction made to the benevolent home into line with the minimum statutory patient contribution payable by patients in non-Government nursing homes. The result of this amendment is a reduction in the amount of pension retained by pensioners by $12.35 p.w. to $7.95 p.w. if supplementary assistance is payable and by $16.35 p.w. to $2.95 p.w. where no supplementary assistance is payable. However, the new provisions will not apply to pensioners already in benevolent homes so that they are not disadvantaged (cl.14(2)). However, subsequent increases in pension will be applied towards maintenance of the pensioner until such time as the amount of maintenance equals the contribution by nursing home patients (cl.14(4)). Clause 16 inserts a new s.80 to make similar amendments to cl.14 applicable to class B widows (defined in s.60(1)(b)) who are or become inmates of benevolent homes. Both cl.14 and cl.16 are to come into effect on a date fixed by Proclamation (cl.2(2)).

Family Allowance, Double Orphan's Pension, Handicapped Child's Allowance

Clauses 22 and 23 amend ss.102 and 103 and cl.24 inserts a new s.103A in order to allow the payment of family allowances on a daily basis in certain circumstances. The amendments are necessary to remove inequities resulting from the fact that payment of family allowance is made to the person or institution having care of the child on the first day of the pay period. It is possible under the existing provisions for a person or institution to have care of a child for a whole month excluding the commencement and not receive any family allowance. Clause 22 amends the date from which endowment is payable, cl.23 specifies the date of termination as being the date of transfer of the child and cl.24 sets out the method of calculating the daily rate of endowment.

Clauses 26 and 27 amend provisions relating to orphan's pension. Clause 26 amends the definition of "adopted child" in s.105A to exclude children adopted under the laws of another country from being eligible for double orphan's pension. Clause 27 amends s.105D so that provisions relating to the commencement and termination of family allowance (cl.22 and 23) and the method of fixing the daily rate of endowment apply to the double orphan's pension.

A number of amendments are made to the handicapped child's allowance (cl.29-34). Clause 30 inserts new s.105KA to allow the continuation of a handicapped child's allowance where a child is temporarily absent from home and family allowance has been paid to an institution for that period. New s.105LA (cl.31) sets out the method of calculating the daily rate of handicapped child's allowance. Clauses 33 and
34 (s.105Q and new s.105QB) relate to the cessation of handicapped child's allowance. These are similar to those outlined above relating to family allowances.

Unemployment Benefits - Industrial Action

Clause 35 repeals and replaces s.107 which deals with the qualifications for unemployment benefit. The principal alteration is contained in new sub.s.107(4) which disqualifies a person from receiving unemployment benefits unless he satisfies the Director-General that his unemployment was not due to industrial action either by himself or by members of a union of which he is a member. Sub-section 107(7) defines "industrial action", "trade union" and "unemployment". "Industrial action" includes the performance of work in a manner different from that in which it is customarily performed, work bans or limitations and the failure to attend or perform any work. It excludes conduct authorized by the employer. "Unemployment" includes unemployment arising from industrial action, from termination of employment and from being stood down or suspended. Paragraphs 107(8)(a) and (b) provide that conduct may constitute industrial action if it relates to only part of the employee's duties or if it consists of a series of industrial actions. Members of various branches of trade unions are deemed to be members of the trade union (para. 107(8)(c)).

Clause 37 inserts a new sub.s.112(6A) which provides that where a married person who is qualified to receive an unemployment or sickness benefit has a spouse who is not qualified for benefit by reason of sub.s.107(4) he shall be deemed an unmarried person for the purposes of determining the rate of benefit applicable to him.

Clause 42 amends s.124 to preclude a person to whom sub.s.107(4) applies from receiving a special benefit.

Unemployment Benefits - Postponement

In specified circumstances the Director-General has authority to postpone for such period as he thinks fit the date from which unemployment benefits shall be payable. Clause 41 inserts a new sub.s.120(2) to provide that the period of postponement is to be not less than 6 weeks nor more than 12 weeks.

Sickness Benefit and Compensation

Clause 39 repeals s.115 and replaces it with a new Division 3A - "Payment by way of Compensation in relation to Sickness Benefit" (ss.115-115H). The new Division aims to
tighten provisions to ensure that persons are not able to receive double benefits, namely sickness benefit and compensation, in respect of the same incapacity. The existing s.115 provides for sickness benefit to be reduced by the amount of compensation or for certain subsequent compensation payments to be recovered. The proposed alterations are to improve the Commonwealth's ability to refuse, reduce, terminate or recover sickness benefit.

Proposed s.115A requires a person if he receives sickness benefit and compensation in respect of the same incapacity to notify a Registrar of Unemployment and Sickness Benefit within 7 days. New s.115B enables the Director-General to refuse, cancel or reduce sickness benefit and s.115C to seek compensation payments direct from the person liable to pay the compensation. The Director-General is also empowered to disregard compensation payments where special circumstances exist (s.115E). The new Division 3A binds the Crown throughout Australia (s.115H).

Machinery Amendments

A number of machinery amendments are made including the provision for a second Deputy Director of Social Services (cl.3,4,6,7,43), and Directors of Social Services in the ACT and NT (cl.5,28,44). There are consequential amendments resulting from the self-governing status of the NT (cl.20,25).