LEGISLATIVE RESEARCH SERVICE  
DEPARTMENT OF THE PARLIAMENTARY LIBRARY  

SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1986

Date introduced: 17 April 1986  
House: House of Representatives  
Presented by: Hon. Barry Jones, M.P., Minister for Science

DIGEST OF BILL

Purpose

To provide a legislative basis for an amnesty in relation to certain liabilities under the Social Security Act 1947 (the Principal Act), to introduce a young homeless allowance and amend the Principal Act and the Compensation (Commonwealth Government Employees) Act 1971.

Background

In the 1984-85 financial year the Department of Social Security made more than 1 million separate payments totalling $14 175 million.[1] During this time the Department detected $20 million in overpayments. However, the Australian Federal Police Association puts welfare fraud at $300 million.[2]

In the 1985-86 Budget Statements it was estimated that $19 000 million, the equivalent of 28% of total budget outlays, would be spent on social security and welfare. This will represent an increase of 6.9% or $1200 million over 1984-85.[3]

On 12 February 1986 the Government announced a scheme which would attempt to reduce social security overpayments. Part of the scheme is an amnesty that would remain in force until 31 May 1986. During the three month amnesty a recipient of social security payments will be able to advise the Department of overpayments received without being prosecuted or indebted to the Department for the amount of the overpayment. The amnesty was designed to help people who, due to a change of circumstances, find themselves in receipt of overpayments and do not come
forward for fear of prosecution. The present Bill will provide a legislative base for the amnesty.

On 30 January 1986 the Administrative Appeals Tribunal in Canberra overruled a decision of the Department of Social Security and determined that four New South Wales students, who had been forced to leave home due to bad family situations, were entitled to special benefits. Each of the high school students had left home due to intolerable circumstances and sought to continue their education at school. The decision highlighted the dilemma of young people whose circumstances fell between the community welfare legislation of the Commonwealth and the States. The present Bill will introduce a 'young homeless allowance' while at the same time preventing benefits being paid to those people who are entitled to an education allowance.

Main Provisions

1. Amendments to the Social Security Act 1947

   Section 33 of the Principal Act provides for a pension for a person who cares for a relative. Sub-clause 9(2) will amend the definition of relative in that section by omitting a provision that the Secretary can determine who may be considered a relative and substituting a provision that a person may be regarded as a relative if they were so considered for the granting of the pension.

   A carer's pension will be deemed to be an age pension for the purposes of calculating the rate of the carer's pension (clause 10 which will amend section 34 of the Principal Act).

   Clause 11 will amend section 60 of the Principal Act to clarify that a dependant child of a widow must be that woman's child or have been dependant on the woman at the time she was widowed.

   Clause 13 will make it clear that to receive a supporting parent's benefit, the person must be the natural or adoptive parent of the child or have been maintaining that child immediately before the person became divorced.

   Clause 16 will substitute a new section 96 into the Principal Act. The new section will clarify and update the rules relating to the granting of family allowance.
The circumstances when a family allowance will cease are set out in section 103 of the Principal Act. The provision that family allowance payments cease when the dependant child marries will be omitted from sub-section 103(3) of the Principal Act by clause 19. Clause 19 will also substitute a new sub-section 103(2) into the Principal Act. The new sub-section will provide that where a family allowance has ceased to be payable, payments will generally stop at the end of a family allowance period.

Section 112 of the Principal Act sets out the rate of unemployment and sickness benefits. Sub-section 112(4) provided that where people are married but living apart from each other and only one party is receiving benefits, that person is entitled to receive the married rate. Clause 28 will amend sub-section 112(4) so that married people living apart will only be entitled to a single person's rate.

Clause 28 will also insert new sub-sections 112(4E), 112(4F) and 112(FG) into the Principal Act. The new provisions will introduce a 'young homeless allowance' that may be payable to a single person under eighteen without dependants (proposed sub-section 112(4E)). Proposed sub-section 112(4F) will set out the prerequisites for entitlement to a young homeless allowance including an unwillingness by parents not to give the young person a home or circumstances at home which render it unreasonable to expect the young person to remain at home. The rate of benefit will be equal to payments under the Tertiary Education Assistance Scheme (proposed section 112(4G)).

In order to avoid being compensated twice for the same incapacity, the Commonwealth is in some circumstances entitled to be reimbursed for the sickness benefits paid to a person who subsequently receives a lump sum by way of compensation. It is often unclear whether the lump sum is compensation for a specific period, for the rest of the person's working life or the rest of the person's natural life. Accordingly it is difficult to determine to what extent the person has received double compensation and how to calculate this amount. Clause 31 will attempt to remedy this situation by inserting a new sub-section (2B) into section 115B of the Principal Act which will deem that a lump sum is a series of payments equal to average weekly earnings.

Clause 33 will insert a new section 133 into the Principal Act which will preclude people from receiving unemployment, sickness or special benefits when they are
involved in a course of education and entitled to payments under a Commonwealth educational scheme.

A mobility allowance is available to disabled people who either worked or are involved in vocational training for 20 hours per week in each instance. Clause 34 will amend section 113RB of the Principal Act so that the 20 hours may be made up of a combination of gainful employment and vocational training.

Part III of the Bill (clauses 43 to 45) introduces an amnesty in relation to certain liabilities under the Principal Act. Clause 45 will provide that where people voluntarily advise the Department, between 12 February and 31 May 1986, of overpayments they have received as a result of changed circumstances or false statements they have made innocently, such people will not be liable for prosecution or indebted to the Commonwealth.

2. Amendments to the Compensation (Commonwealth Government Employees Act

Clause 47 will amend section 20 of the Act so that the Commissioner for Employees' Compensation will not be liable for a claimant's costs where the claimant has unreasonably failed to provide information requested. Clause 52 will make a similar amendment to section 64 of the Act which relates to appeals to the Administrative Appeals Tribunal.

Clause 48 will amend section 46 of the Act to clarify the factors which can be taken into consideration when determining how much a person 'is able to earn'.

Clause 51 will insert a new section 59A into the Act to authorise the Commissioner to request information or documents which the claimant could reasonably be expected to produce.

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

Bills Digest Service

15 May 1986

LEGISLATIVE RESEARCH SERVICE
Reference