

SOCIAL SERVICES (AMENDMENT) BILL 2009

Explanatory Memorandum – detail stage amendment

The purpose of the changes to the Bill by the proposed amendment is to remove contentious matters from the Bill revise some provisions and present the format of amendment by way of a Schedule. For convenience, ease of reference and to avoid re-numbering all of the clauses of the Bill other than the three introductory clauses are replaced by a new clause 4 that validates the Regulations invalidly made by the Administrator in 2000 and one new clause 5 that sets out the Schedule of amendments.

Clause 4 provides for the validation of Regulations amending pension rates that were mistakenly made in 2000 by the Administrator instead of the Minister as required by the Act. By validating the Regulations there will be no issue about the validity of the payments made under those Regulations. The proposed amendment to section 49 (Item 11(1) of the Schedule) is intended to provide for future Regulations to be made by the Administrator.

Clause 5 contains the Schedule setting out in Item numbers the changes to the Act.

Item 1 inserts some new definitions in the Bill, clause 6, introduces the new concept of a couple which will extend the application of the Act to persons who are in a “de facto” relationship.

Item 2 inserts a new section 3A to make it clear what is meant by the new expression “member of a couple”.

Item 3 inserts new sections 15A and 15B to authorise the executive member to approve forms for usage where they are not otherwise prescribed rather than simply require applications in writing, and to authorise delegation to an authorised officer (who is defined as a person who has been appointed by the executive member to be an authorised officer). At present there is no delegation power.

Item 4 provides for a gradual implementation of a common age of 65 years for “age” benefits by amending section 16 of the Act to insert a table of ages at which the benefit may be claimed by females moving from 60 years to 65 years.

Item 5 alters the requirements for eligibility for invalid by changing “permanently incapacitated for work” to “long term incapacity”, now defined in the new definition inserted into section 3.

Item 6 Bill provides a more extensive description of the process for obtaining and retaining an invalid or handicapped child benefit and includes the requirement for an annual medical examination and medical report.

Item 7 amends section 30 to require a claim to be in a prescribed form and by requiring the provision of income information.

Item 8 clarifies the class of persons who may be required to provide information concerning a person applying for, or in receipt of, a benefit

Item 9 is included to clarify the change in the method of payment in subsection 46(3) that was made by the *Social Services (Amendment No 3) Bill 2009*. In addition a new provision requires steps to be taken for persons granted a long term health benefit to repay moneys owing for hospital treatment at a rate that must not exceed 80% of their income.

Item 10 replaces section 46 to clarify the manner of dealing with an unpaid benefit following the death of a beneficiary.

Item 11 amends the regulation making provisions to change the power to make Regulations from the Minister to the Administrator and clearly provide for the power to make Regulations concerning the income and assets tests for eligibility of benefits, and the grant of benefits.

Item 12 provides a Schedule of minor and consequential drafting changes to the legislation that do not affect its application.

21 January 2010