

Legislation

The assets test

The *Social Security and Repatriation (Budget Measures and Assets Test) Act 1984* was passed on 21 September 1984.

This legislation contains the 'assets test' provisions which will come into effect on 21 March 1985. The key provisions are contained in new sections 6AA to 6AF.

- The basic annual rates of age, invalid, wife's, spouse carer's and widow's pension are now subject to an income test on 'an amount per annum equal to 26 times the pension reduction amount (if any) applicable to [the person] divided by 250': see ss.28(2)(b), 40(2)(b), 41(2)(b) and 63(2)(b).

- By virtue of s.83AAE(2), s.28(2) also applies to supporting parent's benefit.

- By virtue of s.133J and s.135BA, the assets test provisions also apply to sheltered employment allowance and rehabilitation allowance.

- Section 83CA has been amended to extend the assets test to the \$40 funeral benefit.

- Supplementary rent assistance will not be paid to pensioners whose pensions are reduced because of the assets test: s.30A(1)(c) and s.65A(1)(c).

The 'pension reduction amount' is explained in s.6AE to be applicable to persons in receipt of the above pension benefit and allowances

where the value of the property of the person exceeds by not less than \$250—

(a) in the case of an unmarried person to

whom sub-paragraph 6AA(a)(a)(i) applies—\$70 000; [s.6AA(1)(a)(i) disregards the value of an unmarried person's home]

(b) in the case of any other unmarried person—\$120 000;

(c) in the case of a married person to whom sub-paragraph 6AA(1)(a)(ii) applies—\$50 000; [s.6AA(1)(a)(ii) disregards the value of the person's home]

(d) in the case of any other married person—\$75 000,

and the amount of that pension reduction amount is an amount equal to that excess (disregarding any part of that excess that is not a multiple of \$250).

Thus, an invalid pensioner who is unmarried, owns her own home and has property valued at \$71 000 will have a pension reduction amount of \$1000. By applying the calculation in s.28(2), her pension will be reduced by:

$$\frac{52 \times \$1000}{250} \text{ (pension reduction amount)} \\ = \$208 \text{ (amount of reduction).}$$

Section 6AA sets out **items which are to be disregarded** in the calculation of the value of property—including a person's principal home, property of a deceased estate to which the person is entitled, medals etc. owned by the person other than for investment or hobby, value of one cemetery plot and funeral expenses paid in advance, and property for use by a disabled person.

Section 6AA(6) provides that the value of the personal effects and contents of a person's principal home shall be taken to be \$10 000 (where they do not exceed \$10 000) unless the person satisfies the Director-General that their value is less than \$10 000.

Section 6AB establishes a **pensions loan scheme**, so that a person, who has assets which would reduce that person's pension, benefit or allowance, may have the value of the assets disregarded if it can be defined as 'relevant property'—i.e., property which cannot readily be sold or realized, is not property which the person wishes to sell or realize or is not property of a kind that the person could reasonably be expected to sell or realize. But the extra pension, benefit or allowance paid under this scheme becomes a debt due to the Commonwealth.

Section 6AC sets up a machinery for dealing with **disposals of income or property** to avoid the provisions of the assets test.

Section 6AD sets up a mechanism for reducing the effects of the assets test in cases of '**severe financial hardship**'.

Section 6AF **indexes the value of property** allowed before the pension, benefit or allowance is reduced.

Section 6(3) also provides that the **value of the property of a married person** shall be 50% of the sum value of the property of that person and the person's spouse. The annual rate of income of a married person is calculated on the same principle in that sub-section.

Administration

Direct crediting

The DSS intends to pay *all* pensions, benefits and allowances directly into the bank accounts of social security recipients by early 1985. (The legislative authority for this is in s.135TD(2) of the *Social Security Act*.)

The Sydney Welfare Rights Centre has made the following criticisms of 'direct crediting':

- it denies the option of payment by cheque to those who prefer that method of payment;
- it will require many social security recipients to open and operate bank accounts;
- it will leave many recipients unaware of the exact amount of payments made to them so that overpayments and underpayments can more easily occur;
- it will force recipients to pay taxes and duties on banking transactions; and
- the power to recall payments from bank accounts in the case of overpayment is too broad.

One impetus for direct crediting is the view that it will reduce the amount of fraudulent negotiation of social security cheques and will avoid delays in the payment of benefits. These are certainly advantages of the system for recipients.

However, it is the 'compulsory' nature of the new arrangements that has brought objections. Only in 'exceptional circumstances' will the cheque option be presented to recipients as an alternative.

Recall of overpayments

While it appears that recipients will be required to open a bank account (many do not have accounts), they will be well advised to open *two* accounts. This is because of the powers of recall from the account contained in s.135TD(3) of the Act.

Where there has been an overpayment made to the account, the DSS may, within 3 years after the payment, recall the excess. This power is potentially very wide—there appears to be no requirement that the DSS first attempt to recover the debt by court proceedings.

By arranging the automatic transfer of their payments to another account to which the recall power would not extend, recipients would avoid the effect of s.135TD(3). (It should also be noted that the DSS and banks have agreed not to recall payments made to a savings account once they have been entered in the passbook. A problem here is that certain banks now offer savings accounts which have no passbook—only a plastic card.)

Taxes and duties

Negotiations between Government and banks are currently taking place to devise a way in which social security recipients will not be subject to banking taxes and duties on social security credits. We assume that the cost to banks in separating out 'social security' accounts from other accounts is preventing an easy solution to this problem.

Proposals

The Welfare Rights Centre has made a number of proposals on direct crediting. In particular, it has called for banks or the DSS to provide regular statements of DSS payments made to accounts, written advance notification from DSS of changes in payments and restrictions on the recall power.

The Centre has also asked whether the objectives of the DSS could just as easily be obtained by voluntary direct crediting, thus avoiding some of the objections and ensuring a greater awareness (through advertising) of what the change means.

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