

VIOLENCE OF POVERTY: Social Security Reform is Key

Appendix of Cited Legislation

Social Security Act 1991 (Cth) s 24: Person may be treated as not being a member of a couple

24 Person may be treated as not being a member of a couple (subsection 4(2))

(1) Where:

- (a) a person is legally married to another person; and
- (b) the person is not living separately and apart from the other person on a permanent or indefinite basis; and
- (c) the Secretary is satisfied that the person should, for a special reason in the particular case, not be treated as a member of a couple;
the Secretary may determine, in writing, that the person is not to be treated as a member of a couple for the purposes of this Act.

(1A) If:

- (a) a relationship between a person and another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; and
- (b) the person is not living separately and apart from the other person on a permanent or indefinite basis; and
- (c) the Secretary is satisfied that the person should, for a special reason in the particular case, not be treated as a member of a couple;
the Secretary may determine, in writing, that the person is not to be treated as a member of a couple for the purposes of this Act.

(2) Where:

- (a) a person has a relationship with another person, whether of the same sex or a different sex (the **partner**); and
- (b) the person is not legally married to the partner; and
- (c) the relationship between the person and the partner is a de facto relationship; and
- (d) the Secretary is satisfied that the person should, for a special reason in the particular case, not be treated as a member of a couple;
the Secretary may determine, in writing, that the person is not to be treated as a member of a couple for the purposes of this Act.

(3) A determination made under subsection (1), (1A) or (2) is not a legislative instrument.

Social Security Act 1991 (Cth) s 1237AAD: Waiver in special circumstances

1237AAD Waiver in special circumstances

The Secretary may waive the right to recover all or part of a debt if the Secretary is satisfied that:

- (a) the debt did not result wholly or partly from the debtor or another person knowingly:
 - (i) making a false statement or a false representation; or
 - (ii) failing or omitting to comply with a provision of this Act, the Administration Act or the 1947 Act; and
- (b) there are special circumstances (other than financial hardship alone) that make it desirable to waive; and
- (c) it is more appropriate to waive than to write off the debt or part of the debt.

Note 1: Section 1236 allows the Secretary to write off a debt on behalf of the Commonwealth.

Note 2: This section has effect subject to section 1237AAE in relation to an assurance of support debt.

A New Tax System (Family Assistance) (Administration) Act 1999 (Cth) s 101: Waiver in Special Circumstances

101 Waiver in special circumstances

The Secretary may waive the right to recover all or part of a debt if the Secretary is satisfied that:

- (a) the debt did not result wholly or partly from the debtor or another person knowingly:
 - (i) making a false statement or a false representation; or
 - (ii) failing or omitting to comply with a provision of the family assistance law; and
- (b) there are special circumstances (other than financial hardship alone) that make it desirable to waive; and
- (c) it is more appropriate to waive than to write off the debt or part of the debt.

Social Security Act 1991 (Cth) s 1061JH: Qualification - Extreme circumstances forcing departure from home

1061JH Qualification—extreme circumstances forcing departure from home

- (1) A person is qualified for a crisis payment if, after the commencement of this section:
 - (a) the person has left, or cannot return to, his or her home because of an extreme circumstance; and
 - (b) the extreme circumstance makes it unreasonable to expect the person to remain in, or return to, the home; and
 - (c) the person has established, or intends to establish, a new home; and
 - (d) at the time the extreme circumstance occurred, the person was in Australia; and
 - (e) the person makes a claim for a crisis payment within 7 days after the extreme circumstance occurred; and
 - (f) on the day on which the claim is made:
 - (i) the person is in severe financial hardship (see section 19D); and
 - (ii) the person has made a claim (whether on the same day or on an earlier day) for a social security pension or benefit and the person is qualified for the pension or benefit; and
 - (g) during the 12 months immediately preceding the day on which the claim is made, no more than 3 crisis payments have been payable to the person based on:
 - (i) the qualifications set out in this section; or
 - (ii) the qualifications set out in section 1061JHA (remaining in home after removal of family member due to domestic or family violence).

Note: Examples of extreme circumstances that would qualify a person for crisis payment are the person's house being burnt down, or the person being subjected to domestic or family violence.

- (2) A person is not qualified for a crisis payment in respect of an extreme circumstance if the Secretary is satisfied that the extreme circumstance is brought about with a view to obtaining a crisis payment.