



**Social Security and Veterans' Affairs
Legislation Amendment (Budget and
Other Measures) Act 1998**

No. 93, 1998

**An Act to amend the *Social Security Act 1991* and
the *Veterans' Entitlements Act 1986*, and for related
purposes**

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No. 93, 1998

**An Act to amend the *Social Security Act 1991* and
the *Veterans' Entitlements Act 1986*, and for related
purposes**

[Assented to 15 July 1998]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security and Veterans' Affairs
Legislation Amendment (Budget and Other Measures) Act 1998*.

2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Schedules 1 and 2 commence on 1 July 1998.
- (3) Schedule 3 commences on 20 September 1998.
- (4) Subject to subsections (4) and (5), Schedule 4 commences on 1 July 1998.
- (5) Items 3 to 11 (inclusive) of Schedule 4 commence on 1 July 1998, immediately after the commencement of Part 1 of Schedule 4 to the *Social Security Legislation Amendment (Parenting and Other Measures) Act 1997*.
- (6) Items 18 and 19 of Schedule 4 commence immediately after the commencement of the *Social Security Legislation Amendment (Youth Allowance) Act 1998*.
- (7) Items 1 to 11 (inclusive) of Schedule 5 commence on 1 July 1999.
- (8) Items 44 to 47 (inclusive), 50, 140 to 143 (inclusive) and 146 of Schedule 6 commence immediately before the commencement of Schedule 20 to the *Social Security and Veterans' Affairs Legislation Amendment (Family and Other Measures) Act 1997*.
- (9) Schedule 7 commences, or is taken to have commenced, on 1 April 1998.
- (10) Item 1 of Schedule 9 is taken to have commenced on 17 December 1997.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments to extend qualification for carer payment to the carers of profoundly disabled children

Social Security Act 1991

1 Section 3 (index)

Omit:

care	198(3)
severely handicapped person	198(3)

2 Section 3 (index)

Insert in their appropriate alphabetical position, determined on a letter-by-letter basis:

care	18A(1)
guardian	18A(1)
profoundly disabled child	18A(1)
severely handicapped person	18A(1)

3 After section 18

Insert:

18A Carer payment definitions

- (1) In Part 2.5 (Carer payment), unless the contrary intention appears:

care includes attention and supervision.

guardian, in relation to a profoundly disabled child, means a person who has been granted guardianship of the disabled child under a law of the Commonwealth, a State or a Territory.

profoundly disabled child has the meaning given in subsection (2).

severely handicapped person means a person who:

- (a) has a physical, intellectual or psychiatric disability; and

Schedule 1 Amendments to extend qualification for carer payment to the carers of profoundly disabled children

- (b) because of that disability:
 - (i) requires frequent care in connection with the person's bodily functions; or
 - (ii) requires constant supervision to prevent injury to the person or to another person; permanently or for an extended period.
- (2) A child is a ***profoundly disabled child*** if:
 - (a) the child has either:
 - (i) a severe multiple disability; or
 - (ii) a severe medical condition; and
 - (b) the child, because of that disability or condition, needs continuous personal care for:
 - (i) 6 months or more; or
 - (ii) if the child's condition is terminal and the child's life expectancy is less than 6 months—the remainder of the child's life; and
 - (c) the child's disability or condition includes 3 or more of the following circumstances:
 - (i) the child receives all food and fluids by nasogastric or percutaneous enterogastric tube;
 - (ii) the child has a tracheostomy;
 - (iii) the child must use a ventilator for at least 8 hours each day;
 - (iv) the child:
 - (A) has faecal incontinence day and night; and
 - (B) if under 3 years of age, is expected to have faecal incontinence day and night at the age of 3;
 - (v) the child:
 - (A) cannot stand without support; and
 - (B) if under 2 years of age, is expected to be unable to stand without support at the age of 2;
 - (vi) a medical practitioner has certified that the child has a terminal condition for which palliative care has replaced active treatment;
 - (vii) the child:

- (A) requires personal care on 2 or more occasions between 10 pm and 6 am each day; and
- (B) if under 6 months of age, is expected to require care as described in sub-subparagraph (A) at the age of 6 months.

(3) A reference in Part 2.5 to a *parent* includes a reference to a *guardian*.

4 Subsection 23(1) (definition of *care receiver*)

Omit “subsection 198(1B), substitute “subsection 198(1B) or (1BA)”.

5 Subsection 198(1) (note)

Omit “Note”, substitute “Note 1”.

6 At the end of subsection 198(1)

Add:

Note 2: For *severely handicapped person* and *care* see subsection 18A(1).

Note: The following heading to subsection 198(1) is inserted “*Qualification when caring for a severely handicapped person*”.

7 After subsection 198(1)

Insert:

Qualification when caring for a profoundly disabled child

(1AA) A person (the *carer*) is qualified for carer payment if:

- (a) the carer personally provides constant care for a profoundly disabled child; and

Note: See subsections (2) and (2AA) below for the circumstances in which this requirement is modified.

- (b) the care is provided in a private residence that is the home of the disabled child; and
- (c) subsection (1BA) (description of care receiver) applies to the disabled child; and
- (d) the carer is in Australia.

Note 1: See subsections (2) and (2A) below for the circumstances in which this requirement is modified.

Schedule 1 Amendments to extend qualification for carer payment to the carers of profoundly disabled children

Note 2: For *profoundly disabled child* and *care* see subsection 18A(1).

Qualification when caring for 2 or more children with disabilities

(1AB) A person (the *carer*) is qualified for carer payment if:

- (a) the carer personally provides constant care for 2 or more disabled children; and

Note: See subsections (2) and (2AA) below for the circumstances in which this requirement is modified.

- (b) the care is provided in a private residence that is the home of the disabled children; and

- (c) subsection (1BC) (description of care receivers) applies to the disabled children; and

- (d) the carer is in Australia.

Note 1: See subsections (2) and (2A) below for the circumstances in which this requirement is modified.

Note 2: For *care* see subsection 18A(1).

8 At the end of paragraph 198(1BB)(a)

Add “or a profoundly disabled child”.

9 Paragraph 198(1BB)(b)

After “handicapped person”, insert “or disabled child (as the case may be)”.

10 Paragraph 198(1BB)(c)

After “handicapped person”, insert “or disabled child (as the case may be)”.

11 Subsection 198(1B) (second occurring)

Re-number as subsection (1BB).

12 After subsection 198(1B)

Insert:

(1BA) This subsection applies to a profoundly disabled child if the disabled child:

- (a) requires constant care; and

- (b) is under the age of 16; and
- (c) is an Australian resident; and
- (d) passes the income test under section 198A; and
- (e) either:
 - (i) passes the assets test under section 198D; or
 - (ii) is the subject of a decision in force under subsection 198N(2), (3) or (4) that the disabled child is taken to satisfy subparagraph (i).

(1BC) This subsection applies to 2 or more disabled children if, in the opinion of the Secretary, the children require a level of care that is at least equivalent to the level of care required by a profoundly disabled child.

Note: For *profoundly disabled child* see subsection 18A(1).

13 Subsection 198(1C)

After “handicapped person”, insert “or disabled child (as the case may be)”.

14 At the end of paragraph 198(2)(a)

Add “or a profoundly disabled child”.

15 Subparagraph 198(2)(c)(i)

Omit “52”, substitute “63”.

16 At the end of paragraph 198(2AA)(a)

Add “or a profoundly disabled child”.

17 Subsection 198(2A)

After “(1)(e)”, insert “or (1AA)(d)”.

18 Subsection 198(3)

Repeal the subsection.

19 Subsection 198A(2)

Repeal the subsection, substitute:

Schedule 1 Amendments to extend qualification for carer payment to the carers of profoundly disabled children

- (2) A care receiver who is a severely handicapped person does not pass the income test if:
- (a) the handicapped person does not have an assessed taxable income or an accepted estimated taxable income for the appropriate tax year; or
 - (b) any partner of the handicapped person does not have an assessed taxable income or an accepted estimated taxable income for the appropriate tax year.

Note: The heading to subsection (2) is altered by adding at the end “*if care receiver is a severely handicapped person*”.

20 After subsection 198A(2)

Insert:

Some grounds for failing income test if the care receiver is a profoundly disabled child

- (2A) A care receiver who is a profoundly disabled child does not pass the income test if:
- (a) the disabled child does not have an assessed taxable income or an accepted estimated taxable income for the appropriate tax year; or
 - (b) in a case where the disabled child lives with his or her parent—any of the following persons does not have an assessed taxable income or an accepted estimated taxable income for the appropriate tax year:
 - (i) the parent;
 - (ii) if the parent is a member of a couple—the parent’s partner;
 - (iii) if the parent or the partner has one or more FA children—one of those children.

Note: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

21 Subsection 198B(1)

Repeal the subsection, substitute:

Rules that apply for the purposes of this Subdivision

- (1) For the purposes of this Subdivision, the rules set out in subsections (1A), (1B), (1C) and (6) apply.

Taxable income of severely handicapped person

- (1A) If a care receiver who is a severely handicapped person is a member of a couple, the handicapped person's taxable income includes the taxable income of the person's partner.

Taxable income of profoundly disabled child

- (1B) If a care receiver who is a profoundly disabled child lives with his or her parent, the disabled child's taxable income includes the taxable income of the following people:
- (a) the parent;
 - (b) if the parent is a member of a couple—the parent's partner;
 - (c) if the parent or the partner has one or more FA children—the FA children.

Note: A reference to a **parent** includes a reference to a guardian—see subsection 18A(3).

Taxable income

- (1C) A person's **taxable income** for a tax year is:
- (a) the person's assessed taxable income for the tax year; or
 - (b) if the Commissioner of Taxation has not made an assessment of the person's taxable income for the tax year—the person's accepted estimated taxable income for the tax year.

Note: For **accepted estimated taxable income** see subsection (5).

22 Subsection 198B(3)

Repeal the subsection, substitute:

Estimating taxable income

- (3) A person, or, if the person is a child—the child's parent or carer, may give the Secretary a written estimate of the person's taxable income for a tax year.

23 Subsection 198B(5)

Omit “by the person”.

24 Subsection 198B(6)

Omit “For the purposes of this Subdivision, a”, substitute “A”.

25 Paragraph 198C(2)(b)

Omit “or the care receiver”, substitute “, the care receiver (in the case of a severely handicapped person) or the care receiver’s parent or carer (in the case of a profoundly disabled child)”.

26 Subsection 198C(2) (note 1)

Omit “ subsection 198B(1)”, substitute “subsections 198B(1A) and (1B)”.

27 Paragraph 198C(3)(a)

Omit “198(1B)”, substitute “198(1B) or (1BA)”.

28 Subsection 198C(4) (note 2)

Omit “ subsection 198B(1)”, substitute “subsections 198B(1A) and (1B)”.

29 Subsection 198C(5) (note 2)

Omit “ subsection 198B(1)”, substitute “subsections 198B(1A) and (1B)”.

30 Subsection 198D(1)

After “care receiver” (first occurring), insert “who is a severely handicapped person”.

Note: The heading to subsection 198D(1) is replaced by the heading “*Severely handicapped person passing the assets test*”.

31 After subsection 198D(1)

Insert:

Profoundly disabled child passing the assets test

- (1A) A care receiver who is a profoundly disabled child passes the assets test if the total value of the following assets is less than \$406,000:
- (a) the disabled child's assets;
 - (b) if the disabled child lives with his or her parent:
 - (i) the assets of the parent;
 - (ii) if the parent is a member of a couple—the assets of the parent's partner;
 - (iii) if the parent or the partner has one or more FA children—the assets of those FA children.
- Note: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).
- (1B) For the purposes of this Division, if the disabled child lives with his or her parent, the disabled child's assets are taken to include the assets listed in subsection (1A).

32 Subsection 198D(2)

After “subsection (1)”, insert “or (1A)”.

33 Section 198E

Repeal the section, substitute:

198E Working out the value of assets

For the purposes of subsection 198D(1) or (1A), the value of assets is to be worked out in accordance with:

- (a) Part 3.12, except Divisions 2, 3 and 4 of that Part; and
- (b) sections 198F to 198MA (inclusive).

Note: Sections 198F to 198MA (inclusive) make special provision for the assets test for care receivers in relation to subjects covered more generally by Division 2 of Part 3.12.

34 After subsection 198F(1)

Insert:

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- (1A) For the purposes of this Division, a person *disposes of assets* of a profoundly disabled child if:
- (a) the person engages in a course of conduct that directly or indirectly:
 - (i) destroys all or some of the disabled child's assets; or
 - (ii) disposes of all or some of the disabled child's assets; or
 - (iii) diminishes the value of all or some of the disabled child's assets; and
 - (b) one of the following paragraphs is satisfied:
 - (i) the person receives no consideration in money or money's worth for the destruction, disposal or diminution;
 - (ii) the person receives inadequate consideration in money or money's worth for the destruction, disposal or diminution;
 - (iii) the Secretary is satisfied that the person's purpose, or dominant purpose, in engaging in that course of conduct was to enable the person who provides care for the disabled child to obtain a carer payment.

Note: Subsection 198D(1B) provides that if the disabled child lives with a parent, the assets listed in subsection 198D(1A) are taken to be the assets of the disabled child.

35 Subsection 198H(1)

Repeal the subsection, substitute:

- (1) This section applies in determining whether a person (the *carer*) qualifies for a carer payment when claiming it for caring for a care receiver who:
- (a) is a severely handicapped person; and
 - (b) is not a member of a couple when the claim is made.

Note: The heading to section 198H is altered by omitting "care receivers" and substituting "severely handicapped persons".

36 After section 198H

Insert:

198HA Disposal of assets in pre-pension years—profoundly disabled child

(1) This section applies in determining whether a person (the *carer*) qualifies for a carer payment when claiming it for caring for a care receiver who is a profoundly disabled child.

(2) If:

- (a) a person has disposed of one or more of the disabled child's assets during a pre-pension year of the carer; and
- (b) the amount of that disposition, or the sum of that amount and of the amounts (if any) of other dispositions of the disabled child's assets previously made during that pre-pension year, exceeds \$10,000;

the lesser of the following amounts is to be included in the value of the disabled child's assets for the period of 5 years that starts on the day on which the disposition took place:

- (c) the amount of the first-mentioned disposition;
- (d) the amount by which the sum of the amount of the first-mentioned disposition of assets and of the amounts (if any) of other dispositions of assets previously made during that pre-pension year exceeds \$10,000.

Note 1: For *disposes of assets* see section 198F.

Note 2: For *amount of disposition* see section 198G.

Note 3: Subsection 198D(1B) provides that if the disabled child lives with a parent, the assets listed in subsection 198D(1A) are taken to be the assets of the disabled child.

37 Subsection 198J(1)

Repeal the subsection, substitute:

- (1) This section applies in determining whether a person (the *carer*) who has been receiving a carer payment for caring for a care receiver who:
- (a) is a severely handicapped person; and
 - (b) is not a member of a couple;
- continues to qualify for the pension.

Note: The heading to section 198J is altered by omitting “**care receivers**” and substituting “**severely handicapped persons**”.

38 After section 198J

Insert:

198JA Disposal of assets—profoundly disabled children

- (1) This section applies in determining whether a person (the *carer*) who has been receiving a carer payment for caring for a care receiver who is a profoundly disabled child continues to qualify for the pension.
- (2) If:
 - (a) a person has disposed of one or more of the disabled child's assets during a pension year of the carer; and
 - (b) the amount of that disposition, or the sum of that amount and of the amounts (if any) of other dispositions of the disabled child's assets previously made during that pension year, exceeds \$10,000;

the lesser of the following amounts is to be included in the value of the disabled child's assets for the period of 5 years that starts on the day on which the disposition took place:

- (c) the amount of the first-mentioned disposition;
- (d) the amount by which the sum of the amount of the first-mentioned disposition of assets and of the amounts (if any) of other dispositions of assets previously made during that pension year exceeds \$10,000.

Note 1: For *disposes of assets* see section 198F.

Note 2: For *amount of disposition* see section 198G.

Note 3: Subsection 198D(1B) provides that if the disabled child lives with a parent, the assets listed in subsection 198D(1A) are taken to be the assets of the disabled child.

39 Subsection 198K(1)

Repeal the subsection, substitute:

- (1) This section applies in determining whether a person (the *carer*) qualifies for carer payment when claiming it for caring for a severely handicapped person who is a member of a couple when the claim is made.

Note: The heading to section 198J is altered by omitting “**care receivers**” and substituting “**severely handicapped persons**”.

40 Subsection 198L(1)

Repeal the subsection, substitute:

- (1) This section applies in determining whether a person (the *carer*) who has been receiving a carer payment for caring for a severely handicapped person who is a member of a couple continues to qualify for the pension.

Note: The heading to section 198L is altered by omitting “**care receivers**” and substituting “**severely handicapped persons**”.

41 After section 198M

Insert:

198MA Other dispositions to be disregarded for care receiver assets test

This Division does not apply to a disposition of an asset of a profoundly disabled child by a person (the *disposer*):

- (a) more than 5 years before the time when the carer became qualified for a carer payment because the carer was providing care for the disabled child and the disabled child was a care receiver; or
- (b) less than 5 years before the time referred to in paragraph (a) but before the time when the disposer could, in the Secretary’s opinion, reasonably have expected that the carer would become qualified for carer payment because the carer was providing care to the disabled child.

Note: Subsection 198D(1B) provides that if the disabled child lives with a parent, the assets listed in subsection 198D(1A) are taken to be the assets of the disabled child.

42 Subsection 198N(1)

Repeal the subsection, substitute:

- (1) If:

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- (a) subparagraph 198(1B)(f)(i) would disqualify for carer payment a person caring for a care receiver who is a severely handicapped person; and
- (b) the handicapped person lodges with the Department, in a form approved by the Secretary, a request that the handicapped person be taken to satisfy subparagraph 198(1B)(f)(i); and
- (c) the request includes a written estimate of the handicapped person's taxable income for the current financial year under subsection 198B(3); and
- (d) the Secretary accepts the estimate under subsection 198B(4); subsections (2), (3), (4), (5), (6) and (7) have effect.

Application by parent or carer of profoundly disabled child

(1A) If:

- (a) subparagraph 198(1BA)(e)(i) would disqualify for carer payment a person caring for a care receiver who is a profoundly disabled child; and
- (b) the parent or the carer of the disabled child lodges with the Department, in a form approved by the Secretary, a request that the disabled child be taken to satisfy subparagraph 198(1BA)(e)(i); and
- (c) the request includes a written estimate of the disabled child's taxable income for the current financial year under subsection 198B(3); and
- (d) the Secretary accepts the estimate under subsection 198B(4); the following provisions of this section have effect.

Note: The heading to subsection 198N(1) is altered by adding at the end "*by severely handicapped person*".

43 Subsection 198N(2)

Omit "subparagraph 198(1B)(f)(i)", substitute "subparagraph 198(1B)(f)(i) (in the case of a severely handicapped person) or subparagraph 198(1BA)(e)(i) (in the case of a profoundly disabled child)".

44 Subsection 198N(3)

Omit “subparagraph 198(1B)(f)(i)”, substitute “subparagraph 198(1B)(f)(i) (in the case of a severely handicapped person) or subparagraph 198(1BA)(e)(i) (in the case of a profoundly disabled child)”.

45 Subsection 198N(4)

Omit “subparagraph 198(1B)(f)(i)”, substitute “subparagraph 198(1B)(f)(i) (in the case of a severely handicapped person) or subparagraph 198(1BA)(e)(i) (in the case of a profoundly disabled child)”.

46 Paragraph 198N(5)(a)

Omit “the care receiver’s assets or liquid assets”, substitute “the assets or liquid assets of a care receiver who is a severely handicapped person”.

47 After paragraph 198N(5)(a)

Insert:

- (aa) the value of the liquid assets of a care receiver who is a profoundly disabled child is the sum of the values of the liquid assets of the following people:
 - (i) the care receiver;
 - (ii) if the disabled child lives with his or her parent—the parent;
 - (iii) if the parent with whom the disabled child lives is a member of a couple—the parent’s partner;
 - (iv) if the parent with whom the disabled child lives or the parent’s partner has one or more FA children—those FA children; and

48 Subsection 198N(5) (note)

Omit “Note”, substitute “Note 1”.

49 At the end of subsection 198N(5)

Add:

- Note 2: Subsection 198D(1B) provides that if the disabled child lives with a parent, the assets listed in subsection 198D(1A) are taken to be the assets of the disabled child.

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Note 3: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

50 Subsection 198N(6) (definition of *FPC*)

Repeal the definition, substitute:

FPC is:

- (a) in the case of a care receiver who is a severely handicapped person—the number of FA children of the care receiver or the care receiver’s partner (if the care receiver has a partner); or
- (b) in the case of a care receiver who is a profoundly disabled child who lives with his or her parent—the number of FA children of the parent or the parent’s partner (if the parent has a partner); or
- (c) in the case of a care receiver who is a profoundly disabled child who does not live with his or her parent—0.

51 Subsection 198N(6) (note)

Omit “Note”, substitute “Note 1”.

52 At the end of subsection 198N(6)

Add:

Note 2: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

53 Subsection 198P(1)

Omit “subparagraph 198(1B)(f)(i)”, substitute “subparagraph 198(1B)(f)(i) (in the case of a severely handicapped person) or subparagraph 198(1BA)(e)(i) (in the case of a profoundly disabled child)”.

54 Paragraph 198P(3)(b)

Repeal the paragraph, substitute:

- (b) notice of the making of the previous decision is given:
 - (i) in the case of a care receiver who is a severely handicapped person—to the handicapped person or the person caring for the handicapped person; or

- (ii) in the case of a care receiver who is a profoundly disabled child—to the parent or carer of the disabled child; and

55 At the end of subsection 198P(3)

Add:

Note: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

56 Paragraph 198P(4)(b)

Repeal the paragraph, substitute:

- (b) notice of the making of the previous decision is given:
 - (i) in the case of a care receiver who is a severely handicapped person—to the handicapped person or the person caring for the handicapped person; or
 - (ii) in the case of a care receiver who is a profoundly disabled child—to the parent of the disabled child or the person who is caring for the disabled child; and

57 At the end of subsection 198P(4)

Add:

Note: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

58 Paragraph 198P(5)(b)

Omit “to either the care receiver or the person caring for the care receiver”, substitute “to a person specified in paragraph (4)(b) as a person to whom notice is to be given”.

59 Section 198Q

Repeal the section, substitute:

198Q Date of effect of adverse decision under section 198N

If the Secretary decides under subsection 198N(2), (3) or (4) that a care receiver is not taken to satisfy:

- (a) in the case of a care receiver who is a severely handicapped person—subparagraph 198(1B)(f)(i); or

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- (b) in the case of a care receiver who is a profoundly disabled child—subparagraph 198(1BA)(e)(i);
the decision takes effect:
- (c) on the day on which the request under section 198N in respect of a care receiver was lodged with the Department; or
- (d) if the request was lodged after the Secretary rejected a claim for carer payment by a person caring for the care receiver—on the day on which the decision to reject the claim took effect.

60 Subsection 222(1A)

Repeal the subsection, substitute:

- (1A) If a person is being paid a carer payment because he or she is providing constant care for a care receiver, the Secretary may give a notice:
 - (a) in the case of a care receiver who is a severely handicapped person—to the handicapped person; or
 - (b) in the case of a profoundly disabled person—to the disabled child's parent;that requires the person to inform the Department if:
 - (c) a specified event or change of circumstances occurs; or
 - (d) the person becomes aware that a specified event or change of circumstances is likely to occur.

Note 1: For *care*, *severely handicapped person* and *profoundly disabled child* see subsection 18A(1). For *care receiver* see subsection 23(1).

Note 2: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

61 Paragraph 222(3B)(d)

Repeal the paragraph, substitute:

- (d) must specify how the information is to be given to the Department; and

62 Paragraph 222(3B)(e)

Repeal the paragraph, substitute:

- (e) must specify the period in which the information is to be given to the Department.
-

63 At the end of paragraph 225AA(1)(a)

Add “or a profoundly disabled child”.

64 Paragraph 225AA(1)(b)

After “severely handicapped person”, insert “or the profoundly disabled child (as the case may be)”.

65 Subparagraph 226(a)(ii)

Repeal the subparagraph, substitute:

- (ii) a severely handicapped person being cared for by a person who is receiving carer payment or the parent of a profoundly disabled child (as the case may be) being cared for by a person who is receiving a carer payment is given a notice under subsection 222(1A); and

66 At the end of section 226

Add:

Note: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

67 Subparagraph 227(a)(ii)

Repeal the subparagraph, substitute:

- (ii) a severely handicapped person being cared for by a person who is receiving carer payment or the parent of a profoundly disabled child (as the case may be) being cared for by a person who is receiving a carer payment is given a notice under subsection 222(1A); and

68 At the end of section 227

Add:

Note: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

69 Paragraph 234(9)(a)

Omit “person to whom subsection 198(1B) applies (the *care recipient*)”, substitute “care receiver”.

70 Paragraph 234(9)(b)

Omit “recipient’s”, substitute “receiver’s”.

71 Subsection 234(9) (note)

Omit “Note”, substitute “Note 1”.

72 At the end of subsection 234(9)

Add:

Note 2: For *care receiver* see subsection 23(1).

73 Paragraph 234(10)(a)

Omit “person to whom subsection 198(1B) applies (the *care recipient*)”, substitute “care receiver”.

74 Paragraph 234(10)(b)

Omit “recipient’s”, substitute “receiver’s”.

75 Paragraph 234(10)(c)

Repeal the paragraph, substitute:

- (c) the taxable income is or includes an amount estimated by:
 - (i) in the case of a care receiver who is a severely handicapped person—the care receiver or the care receiver’s partner; or
 - (ii) in the case of a care receiver who is a profoundly disabled child—the parent of the disabled child, the parent’s partner (if the parent is a member of a couple), or the disabled child’s carer; and

76 Subsection 234(10) (note)

Omit “Note”, substitute “Note 1”.

77 At the end of subsection 234(10)

Add:

Note 2: For *care receiver* see subsection 23(1).

Note 3: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

78 Paragraph 234(11)(a)

Omit “a care receiver’s taxable income for a tax year”, substitute “the taxable income for a tax year of a care receiver who is a severely handicapped person”.

Note: The heading to subsection 234(11) is altered by omitting “*care receiver’s*” and substituting “*severely handicapped person’s*”.

79 At the end of section 234

Add:

Cancellation or suspension—profoundly disabled child’s taxable income exceeding income ceiling

(12) If:

- (a) on the basis of the taxable income for a tax year of a care receiver who is a profoundly disabled child, the Secretary makes a determination that a person (the *carer*) is entitled to carer payment because the carer is providing care to the care receiver; and
- (b) the care receiver’s taxable income for a later tax year exceeds the income ceiling (under section 198A); and
- (c) the Secretary makes a determination under section 231 cancelling or suspending the carer’s carer payment;

the day specified under paragraph (2)(b) must be:

- (d) if the Secretary made the determination under section 231 after the parent or carer of the disabled child informed the Department that the care receiver’s taxable income exceeded the income ceiling—the day on which the parent or carer informed the Department; or
- (e) if the Department has not been informed by the parent or carer that the care receiver’s taxable income exceeded the income ceiling when the Secretary made the determination under section 231—the day on which the care receiver’s income exceeded the income ceiling.

Note 1: In the event of the care receiver’s taxable income exceeding the income ceiling was specified as a notifiable event in a notice given to the parent or carer under section 222, this subsection will not apply because the Secretary will not need to make a determination under

Schedule 1 Amendments to extend qualification for carer payment to the carers of profoundly disabled children

section 231, as the pension will be cancelled automatically by section 226 or 227.

Note 2: A reference to a *parent* includes a reference to a guardian—see subsection 18A(3).

80 Subsection 1118(2A)

Omit “198M”, substitute “198MA”.

81 Section 1190 (table item 27A)

Omit [“Subsection 198D(1)”, substitute “[Subsections 198D(1) and (1A)]”.

Schedule 2—Amendments to provide for the consistent treatment of lump sums

Social Security Act 1991

1 Section 3 (index)

Insert in their appropriate alphabetical position, determined on a letter-by-letter basis:

exempt lump sum	8(11)
income maintenance period	23(1)

2 Subsection 8(1)

Insert:

exempt lump sum has the meaning given by subsection (11).

3 Subsection 8(1) (at the end of the definition of *ordinary income*)

Add “or an exempt lump sum”.

4 At the end of section 8

Add:

- (11) An amount received by a person is an *exempt lump sum* if:
- (a) the amount is not a periodic amount (within the meaning of subsection 10(1A)); and
 - (b) the amount is not a leave payment within the meaning of points 1067-H5R, 1067E-G6R and 1068-G7AR; and
 - (c) the amount is not income from remunerative work undertaken by the person; and
 - (d) the amount is an amount, or class of amounts, determined by the Secretary to be an exempt lump sum.

Note: Some examples of the kinds of lump sums that the Secretary may determine to be exempt lump sums include a lottery win or other windfall, a legacy or bequest, or a gift—if it is a one-off gift.

5 Point 1067-H7A

Omit “1067-H8 and 1067-H8A”, substitute “1067-H7B, 1067-H7C, 1067-H8 and 1067-H8A and section 1073”.

6 After point 1067-H7A

Insert:

Claimant or recipient receives lump sum amount for remunerative work

1067-H7B If a person whose claim for newstart allowance or sickness allowance has been granted, receives a lump sum amount after the claim was made that:

- (a) is paid to him or her in relation to remunerative work; and
- (b) is not a payment to which point 1067-H8 applies; and
- (c) is not an exempt lump sum;

the person is, for the purposes of this Module, taken to receive one fifty-second of that amount as ordinary income during each week in the 12 months commencing on the day on which the person becomes entitled to receive that amount.

Partner of claimant or recipient receives lump sum amount for remunerative work

1067-H7C If:

- (a) a person whose claim for newstart allowance or sickness allowance has been granted is a member of a couple; and
- (b) after the person has made the claim, the person’s partner receives a lump sum amount that:
 - (i) is paid to him or her in relation to remunerative work; and
 - (ii) is not a payment to which point 1067-H8 applies; and
 - (iii) is not an exempt lump sum;

the partner is, for the purposes of this Module, taken to receive one fifty-second of that amount as ordinary income during each week in the 12 months commencing on the day on which the partner becomes entitled to receive that amount.

Operation of points 1067-H7B and 1067-H7C

- 1067-H7D Points 1067-H7B and 1067-H7C have effect even if the person who has made the claim:
- (a) has to serve an ordinary waiting period or a liquid assets test waiting period in respect of the allowance claimed; or
 - (b) is subject to an income maintenance period in respect of the allowance claimed; or
 - (c) is subject to a seasonal work preclusion period;
- during the period of 12 months referred to in those points.

7 Point 1067E-G9

Omit “1067E-G10 and 1067E-G11”, substitute “1067E-G9A, 1067E-G9B, 1067E-G10 and 1067E-G11 and section 1073”.

8 After point 1067E-G9

Insert:

Claimant or recipient receives lump sum amount for remunerative work

- 1067E-G9A If a person whose claim for sickness allowance has been granted, receives a lump sum amount after the claim was made that:
- (a) is paid to him or her in relation to remunerative work; and
 - (b) is not a payment to which point 1067E-G10 applies; and
 - (c) is not an exempt lump sum;
- the person is, for the purposes of this Module, taken to receive one fifty-second of that amount as ordinary income during each week in the 12 months commencing on the day on which the person becomes entitled to receive that amount.

Partner of claimant or recipient receives lump sum amount for remunerative work

1067E-G9B If:

- (a) a person whose claim for sickness allowance has been granted is a member of a couple; and
- (b) after the person has made the claim, the person’s partner receives a lump sum amount that:

- (i) is paid to him or her in relation to remunerative work;
and
- (ii) is not a payment to which point 1067E-G10 applies; and
- (iii) is not an exempt lump sum;

the partner is, for the purposes of this Module, taken to receive one fifty-second of that amount as ordinary income during each week in the 12 months commencing on the day on which the partner becomes entitled to receive that amount.

Operation of points 1067E-G9A and 1067E-G9B

1067E-G9C Points 1067E-G9A and 1067-G9B have effect even if the person who has made the claim:

- (a) has to serve an ordinary waiting period or a liquid assets test waiting period in respect of the allowance claimed; or
- (b) is subject to an income maintenance period in respect of the allowance claimed; or
- (c) is subject to a seasonal work preclusion period;
during the period of 12 months referred to in those points.

9 Point 1068-G7A

Omit “1068-G8 and 1068-G8A”, substitute “1068-G7B, 1068-G7C, 1068-G8 and 1068-G8A and section 1073”.

10 After point 1068-G7A

Insert:

Claimant or recipient receives lump sum amount for remunerative work

1068-G7B If a person whose claim for an allowance has been granted receives a lump sum amount after the claim was made that:

- (a) is paid to him or her in relation to remunerative work; and
- (b) is not a payment to which point 1068-G8 applies; and
- (c) is not an exempt lump sum;

the person is, for the purposes of this Module, taken to receive one fifty-second of that amount as ordinary income during each week

in the 12 months commencing on the day on which the person becomes entitled to receive that amount.

Partner of claimant or recipient receives lump sum amount for remunerative work

1068-G7C If:

- (a) a person whose claim for an allowance has been granted is a member of a couple; and
- (b) after the person has made the claim, the person's partner receives a lump sum amount that:
 - (i) is paid to him or her in relation to remunerative work; and
 - (ii) is not a payment to which point 1068-G8 applies; and
 - (iii) is not an exempt lump sum;

the partner is, for the purposes of this Module, taken to receive one fifty-second of that amount as ordinary income during each week in the 12 months commencing on the day on which the partner becomes entitled to receive that amount.

Reference to allowance

1068-G7D A reference in point 1068-G7B or 1068-G7C to an **allowance** is a reference to an allowance the rate of which is calculated under this Rate Calculator.

Operation of points 1068-G7B and 1068-G7C

1068-G7E Points 1068-G7B and 1068-G7C have effect even if the person who has made the claim:

- (a) has to serve an ordinary waiting period or a liquid assets test waiting period in respect of the allowance claimed; or
 - (b) is subject to an income maintenance period in respect of the allowance claimed; or
 - (c) is subject to a seasonal work preclusion period;
- during the period of 12 months referred to in those points.

11 Section 1073

Omit "of income".

12 At the end of subparagraph 1073(b)(ii)

Add:

; or (iii) an exempt lump sum.

13 At the end of section 1073

Add:

(2) Subsection (1) applies to a person who has claimed one of the following allowances:

- (a) newstart allowance;
- (b) sickness allowance;
- (c) youth allowance;
- (d) widow allowance;
- (e) partner allowance;
- (f) mature age allowance under Part 2.12B;

even if the person:

- (g) has to serve an ordinary waiting period or a liquid assets test waiting period in respect of the allowance claimed; or
- (h) is subject to an income maintenance period in respect of the allowance claimed; or
- (i) is subject to a seasonal work preclusion period; during the period of 12 months referred to in subsection (1).

14 At the end of Schedule 1A

Add:

109 Application provision: amendments relating to the consistent treatment of lump sums

This Act, as amended by Schedule 2 to the *Social Security and Veterans' Affairs Legislation Amendment (Budget and Other Measures) Act 1998*, applies to a lump sum payment of a kind referred to in points 1067-H7B, 1067-H7C, 1067E-G9A, 1067E-G9B, 1068-G7B and 1068-G7C that a person becomes entitled to receive after 1 July 1998.

Schedule 3—Amendments relating to income streams

Social Security Act 1991

Part 1—Amendment of the Social Security Act 1991

1 Section 3 (index)

Omit:

allocated annuity	9(1)
allocated pension	9(1)
determination of entitlement	9(1)
immediate annuity	9(1)
non-assessable purchase price	9(1)
rolled-over amount	9(1)
roll-over immediate annuity	9(1)
roll-over purchase price	9(1)
superannuation pension	9(1)

2 Section 3 (index)

Insert in their appropriate alphabetical position, determined on a letter-by-letter basis:

asset-test exempt income stream	9A and 9B
asset-tested income stream (long term)	9(1)
asset-tested income stream (short term)	9(1)
commencement day	9(1)
defined benefit income stream	9(1F)
governing rules	9(1)
income stream	9(1)
life expectancy	9(1)
retirement savings account	9(1)
superannuation contributions surcharge	9(1)

3 Subsection 8(1) (note 1, at the end of the definition of *income*)

Omit “1099 (income from retirement funds and annuities)”, substitute “1099D (income from income streams)”.

4 Subsection 8(1) (note 3, at the end of the definition of *ordinary income*)

Omit “1099 (income from retirement funds and annuities)”, substitute “1099D (income from income streams)”.

5 Subsection 9(1) (definition of *allocated annuity*)

Repeal the definition.

Note: The heading to section 9 is altered by omitting “, **retirement funds and annuities**” and substituting “**and income streams**”.

6 Subsection 9(1) (definition of *allocated pension*)

Repeal the definition.

7 Subsection 9(1)

Insert:

asset-test exempt income stream has the meanings given by sections 9A and 9B.

8 Subsection 9(1)

Insert:

asset-tested income stream (long term) means an income stream that:

- (a) is not an asset-test exempt income stream; and
- (b) has, on its commencement day:
 - (i) a term of more than 5 years; or
 - (ii) if the person who has acquired the income stream has a life expectancy of 5 years or less—a term equal to or greater than the person’s life expectancy.

9 Subsection 9(1)

Insert:

asset-tested income stream (short term) means an income stream that is neither:

- (a) an asset-test exempt income stream; nor;
- (b) an asset-tested income stream (long term).

10 Subsection 9(1)

Insert:

commencement day, in relation to an income stream, means the first day of the period to which the first payment under the income stream relates.

11 Subsection 9(1) (definition of *deductible amount*)

Repeal the definition, substitute:

deductible amount, in relation to an income stream, means the amount that would be the deductible amount in relation to the income stream under subsection 27H(2) of the Income Tax Assessment Act, if the references in that subsection to an annuity were references to an income stream.

12 Subsection 9(1)

Insert:

defined benefit income stream has the meaning given by subsection (1F).

13 Subsection 9(1) (definition of *determination of entitlement*)

Repeal the definition.

14 Subsection 9(1) (definition of *financial investment*)

Add at the end:

- ; or (h) an asset-tested income stream (short term).

15 Subsection 9(1)

Insert:

governing rules, in relation to an income stream, means any trust instrument, other document or legislation, or combination of them, governing the establishment and operation of the income stream.

16 Subsection 9(1) (definition of *immediate annuity*)

Repeal the definition.

17 Subsection 9(1)

Insert:

income stream means:

- (a) an income stream arising under arrangements that are regulated by the *Superannuation Industry (Supervision) Act 1993*; or
- (b) an income stream arising under a public sector scheme (within the meaning of that Act); or
- (c) an income stream arising under a retirement savings account; or
- (d) an income stream provided by a life insurance business (within the meaning of the *Life Insurance Act 1995*); or
- (e) an income stream provided by a friendly society (within the meaning of the Income Tax Assessment Act); or
- (f) an income stream designated in writing by the Secretary for the purposes of this definition, having regard to the guidelines determined under subsection (1E);

but does not include any of the following:

- (g) available money;
- (h) deposit money;
- (i) a managed investment;
- (j) a listed security;
- (k) a loan that has not been repaid in full;
- (l) an unlisted public security;
- (m) gold, silver or platinum bullion.

18 Subsection 9(1)

Insert:

life expectancy has the same meaning as *life expectation factor* has in section 27H of the Income Tax Assessment Act.

19 Subsection 9(1) (definition of *non-assessable purchase price*)

Repeal the definition.

20 Subsection 9(1) (definition of *purchase price*)

Repeal the definition, substitute:

purchase price, in relation to an income stream, means the sum of the payments made to purchase the income stream (including amounts paid by way of employer and employee contributions) less any commuted amounts.

21 Subsection 9(1) (definition of *relevant number*)

Repeal the definition, substitute:

relevant number, in relation to an income stream, means:

- (a) if the income stream is payable for a fixed number of years—that number; or
- (b) if the income stream is payable during the lifetime of a person and no longer—the number of years of the person's life expectancy; or
- (c) if the income stream:
 - (i) is jointly owned by a person and his or her partner and is payable for the lifetime of the person or the partner; or
 - (ii) is payable during the lifetime of a person and then for the lifetime of a reversionary beneficiary;the number of years of the longer of the relevant life expectancies; or
- (d) in any other case—the number that the Secretary considers appropriate having regard to the number of years in the total

period during which the income stream will be, or may reasonably be expected to be, payable.

22 Subsection 9(1) (definition of *residual capital value*)

Omit “annuity”, substitute “income stream”.

23 Subsection 9(1)

Insert:

retirement savings account has the meaning that it has in the *Retirement Savings Account Act 1997*.

24 Subsection 9(1) (definition of *rolled-over amount*)

Repeal the definition.

25 Subsection 9(1) (definition of *roll-over immediate annuity*)

Repeal the definition.

26 Subsection 9(1) (definition of *roll-over purchase price*)

Repeal the definition.

27 Subsection 9(1) (definition of *superannuation pension*)

Repeal the definition.

28 Subsection 9(1)

Insert:

superannuation contributions surcharge has the meaning that it has in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

29 Paragraphs 9(1C)(f) and (g)

Repeal the paragraphs, substitute:

- (f) an asset-test exempt income stream;
- (g) an asset-tested income stream (long term);
- (h) an asset-tested income stream (short term).

30 Subsection 9(1C) (notes 4 and 5)

Repeal the notes, substitute:

Note 4: Asset-test exempt income streams are dealt with under sections 1098 to 1099A.

Note 5: Asset-tested income streams (long term) are dealt with under sections 1099B to 1099D.

31 After subsection 9(1C)

Insert:

(1E) The Secretary may determine, in writing, guidelines to be complied with when designating an income stream for the purposes of the definition of *income stream* in subsection (1). The determination is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(1F) An income stream is a *defined benefit income stream* if the amount of the payments under it:

(a) is not fully determined by the purchase price; but

(b) is determined:

(i) by reference to the purchaser's salary before retirement or the purchaser's years of service; or

(ii) by the governing rules.

32 Subsection 9(5)

Repeal the subsection.

33 Subsection 9(8)

Repeal the subsection.

34 Subsection 9(12)

Repeal the subsection.

35 After section 9

Insert:

9A Meaning of *asset-test exempt income stream*—lifetime income streams

General requirements

- (1) An income stream provided to a person is an ***asset-test exempt income stream*** for the purposes of this Act:
- (a) if it is an income stream arising under a contract, or governing rules, that meet the requirements of subsection (2) and the Secretary has not made a determination under subsection (4) in respect of the income stream; or
 - (b) if the Secretary has made a determination under subsection (5) in respect of the income stream.

Note: For ***income stream*** see subsection 9(1).

Requirements of contract/governing rules for provision of income stream

- (2) A contract, or the governing rules, for the provision of an income stream to a person meet the requirements of this subsection if the contract or governing rules specify:
- (a) that payments under the income stream are to be made at least annually throughout the life of the person and, if there is a reversionary beneficiary:
 - (i) throughout the reversionary beneficiary's life; or
 - (ii) if the reversionary beneficiary is a child of the person or of a former reversionary beneficiary under the income stream—at least until he or she turns 16; or
 - (iii) if the child referred to in subparagraph (ii) is a full-time student who has turned 16—at least until the end of his or her full-time studies or until he or she turns 25, whichever occurs sooner; and
 - (b) the total amount of the payments that may be made under the income stream in the first year after the commencement day of the income stream (not taking commuted amounts into account); and
 - (c) that the total amount of the payments that may be made under the income stream in any other year (not taking commuted amounts into account) may not fall below the total

amount of the payments made under the income stream in the immediately preceding year (the *previous total*), and may not exceed the previous total:

- (i) if subparagraph (ii) does not apply—by more than 5% of the previous total; or
- (ii) if the index number for the second last quarter before the day on which the first of those payments is to be made (*recent index number*) exceeds the index number for the same quarter in the immediately preceding year (*base index number*) by more than 4% of the base index number—by more than such percentage of the previous total as is worked out under the formula:

$$100 \times \left(\frac{\text{Recent index number} - \text{Base index number}}{\text{Base index number}} \right) + 1$$

- (d) if the income stream is purchased—that the first payment under the income stream relates to the period commencing on the day on which the income stream is purchased; and
 - (e) if the income stream is not purchased—that the first payment under the income stream relates to the period commencing on the day on which the income stream is acquired; and
 - (f) if the income stream is not a defined benefit income stream—that the amount paid as the purchase price for the income stream is wholly converted into income; and
 - (g) that the income stream has no residual capital value; and
 - (h) that the income stream cannot be commuted except:
 - (i) if the commutation is made within 6 months after the commencement day of the income stream; or
 - (ii) if the commutation is made to the benefit of a reversionary beneficiary or of the person's estate, on the death of the person within 10 years after the commencement day of the income stream; or
 - (iii) if the payment resulting from the commutation is transferred directly to the purchase of another income stream arising under a contract, or governing rules, that meet the requirements of this subsection or subsection 9B(2); or
-

- (iv) to the extent necessary to cover any superannuation contributions surcharge that the person is liable to pay in his or her capacity as purchaser of the income stream; and
- (i) that the income stream:
 - (i) can be transferred only on the death of the person; and
 - (ii) can then only be transferred to a reversionary beneficiary; and
- (j) that neither the capital value of the income stream, nor the income from it, can be used as security for a borrowing; and
- (k) that, if the income stream reverts, it must not have a reversionary component greater than the benefit that was payable immediately before the reversion; and
- (l) that, if the income stream is commuted, the commuted amount must not be greater than the benefit that was payable immediately before the commutation.

Matters not required of income stream

- (3) For the purpose of determining whether an income stream meets the requirements of subsection (2), it is immaterial that:
 - (a) if the primary beneficiary dies within 10 years after the commencement day of the income stream, a surviving reversionary beneficiary may be paid an amount equal to the total of the payments that the primary beneficiary would (if he or she had not died) have received from the day of the death until the end of the period of 10 years; and
 - (b) if:
 - (i) the primary beneficiary dies within 10 years after the commencement day of the income stream; and
 - (ii) there is no surviving reversionary beneficiary; an amount, not exceeding the difference between:
 - (iii) the sum of the amounts that would have been so payable to the primary beneficiary in the period of 10 years; and
 - (iv) the sum of the amounts paid to the primary beneficiary; is payable to the primary beneficiary's estate, and

- (c) if:
- (i) the primary beneficiary dies within 10 years after the commencement day of the income stream; and
 - (ii) there is a surviving reversionary beneficiary who also dies within that period;
- there is payable to the reversionary beneficiary's estate an amount determined as described in paragraph (b) as if that paragraph applied to the reversionary beneficiary.

Determination that income stream not asset-test exempt

- (4) The Secretary may determine that an income stream that meets the requirements of subsection (2) is not an asset-test exempt income stream if the Secretary is satisfied that the person who has purchased the income stream has commuted an asset-test exempt income stream within 6 months after its commencement day on at least 3 occasions since the person first received a social security payment.

Determination that income stream is asset-test exempt

- (5) The Secretary may determine, in writing, that an income stream that does not meet the requirements of subsection (2) is an asset-test exempt income stream for the purposes of this Act. In making the determination, the Secretary is to have regard to the guidelines determined under subsection (6).

Guidelines to be complied with in making determination

- (6) The Secretary may determine, in writing, guidelines to be complied with when making a determination under subsection (5). The determination is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

9B Meaning of *asset-test exempt income stream*—life expectancy or 15 year minimum term income streams

General requirements

- (1) An income stream provided to a person is also an *asset-test exempt income stream* for the purposes of this Act if:
- (a) the person has reached pension age on or before the day on which the person purchases or acquires the income stream; and
 - (b) either of the following circumstances apply:
 - (i) the income stream arises under a contract, or governing rules, that meet the requirements of subsection (2) and the Secretary has not made a determination under subsection (3) in respect of the income stream;
 - (ii) the Secretary has made a determination under subsection (4) in respect of the income stream.

Note 1: For *income stream* see subsection 9(1).

Note 2: For *pension age* see subsection 23(1).

Requirements of contract/governing rules for provision of income stream

- (2) A contract, or the governing rules, for the provision of an income stream to a person meets the requirements of this subsection if the contract or governing rules specify:
- (a) that the payments under the income stream are to be made at least annually:
 - (i) if the person's life expectancy is less than 15 years—throughout a period equal to the person's life expectancy (rounded up at the person's option, if it does not consist of a whole number of years, to the next whole number); or
 - (ii) if the person's life expectancy is 15 years or more—throughout a period that is not less than 15 years but not more than the person's life expectancy (rounded up at the person's option, if it does not consist of a whole number of years, to the next whole number); and

- (b) the total amount of the payments that may be made under the income stream in the first year after the commencement day of the income stream (not taking commuted amounts into account); and
- (c) that the total amount of the payments that may be made under the income stream in any other year (not taking commuted amounts into account) may not fall below the total amount of the payments made under the income stream in the immediately preceding year (the *previous total*), and may not exceed the previous total:
 - (i) if subparagraph (ii) does not apply—by more than 5% of the previous total; or
 - (ii) if the index number for the second last quarter before the day on which the first of those payments is to be made (*recent index number*) exceeds the index number for the same quarter in the immediately preceding year (*base index number*) by more than 4% of the base index number—by more than such percentage of the previous total as is worked out under the formula:
$$100 \times \left(\frac{\text{Recent index number} - \text{Base index number}}{\text{Base index number}} \right) + 1$$
- (d) if the income stream is purchased—that the first payment under the income stream relates to the period commencing on the day on which the income stream is purchased; and
- (e) if the income stream is not purchased—that the first payment under the income stream relates to the period commencing on the day on which the income stream is acquired; and
- (f) if the income stream is not a defined benefit income stream—that the amount paid as the purchase price for the income stream is wholly converted into income; and
- (g) that the income stream has no residual capital value; and
- (h) that the income stream cannot be commuted except:
 - (i) if the commutation is made within 6 months after the commencement day of the income stream; or
 - (ii) if the payment resulting from the commutation is transferred directly to the purchase of another income

- stream provided under a contract, or governing rules, that meet the requirements of this subsection or subsection 9A(2); or
- (iii) if the legal or equitable interest in the payment resulting from the commutation is transferred, on the death of the person, to a reversionary beneficiary or (if there is no reversionary beneficiary) to the person's estate; or
 - (iv) to the extent necessary to cover any superannuation contribution surcharge that the person is liable to pay in his or her capacity as purchaser of the income stream; and
- (i) that the income stream:
 - (i) can be transferred only on the death of the person; and
 - (ii) can then only be transferred to a reversionary beneficiary or to the person's estate; and
 - (j) that neither the capital value of the income stream, nor the income from it, can be used as security for a borrowing; and
 - (k) that, if the income stream reverts, it must not have a reversionary component greater than the benefit that was payable immediately before the reversion; and
 - (l) that, if the income stream is commuted, the commuted amount must not be greater than the benefit that was payable immediately before the commutation.

Determination that income stream not asset-test exempt

- (3) The Secretary may determine that an income stream that meets the requirements of subsection (2) is not an asset-test exempt income stream if the Secretary is satisfied that the person who has purchased the income stream has commuted an asset-test exempt income stream within 6 months after its commencement day on at least 3 occasions since the person first received a social security payment.

Determination that income stream is asset-test exempt

- (4) The Secretary may determine, in writing, that an income stream that does not meet the requirements of subsection (2) is an asset-test exempt income stream for the purposes of this Act. In

making the determination, the Secretary is to have regard to the guidelines determined under subsection (5).

Guidelines to be complied with in making determination

- (5) The Secretary may determine, in writing, guidelines to be complied with when making a determination under subsection (4). The determination is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

36 Point 1064-E1 (note 2), point 1066-E1 (note 2), point 1066A-F1 (note 2), point 1067-H1 (note 3), point 1067E-G1 (note 2), point 1068-G1 (note 3), point 1068A-E1 (note 2) and point 1068B-D1 (note 3)

Omit “retirement funds and annuities (sections 1095 to 1099)”, substitute “income streams (sections 1095 to 1099D)”.

37 Point 1071-1 (note) and section 1072 (note 2)

Omit “1099 (income from retirement funds and annuities)”, substitute “1099D (income from income streams)”.

38 Division 1C of Part 3.10 (heading)

Repeal the heading, substitute:

Division 1C—Income from income streams

39 Subparagraph 1096(b)(iv)

Repeal the subparagraph, substitute:
(iv) an income stream;

40 Subdivision B of Division 1C of Part 3.10

Repeal the Subdivision, substitute:

Subdivision B—Income streams

1098 Income from asset-test exempt income stream

For the purpose of working out the annual rate of ordinary income of a person from an asset-test exempt income stream, the person is taken to receive from that income stream each year the amount worked out under section 1099 or 1099A.

Note: For *asset-test exempt income stream* see sections 9A and 9B.

1099 Income—income stream not a defined benefit income stream

If the asset-test exempt income stream is not a defined benefit income stream, the amount that the person is taken to receive from the income stream each year is worked out as follows:

$$\text{Annual payment} = \frac{\text{Purchase price}}{\text{Relevant number}}$$

where:

annual payment means the amount payable to the person for the year under the income stream.

purchase price has the meaning given by subsection 9(1).

relevant number has the meaning given by subsection 9(1).

Example: Mark is 65 years old and single. He purchases an annuity for \$100,000 with a term based on life expectancy (i.e. 15.41 years, which he chooses to round up to 16 years). The annuity has all the revised characteristics listed in the legislation. His annual payment from the annuity totals \$9,895. Mark's assessable income from this income stream is:

$$\$9,895 - \left(\frac{\$100,000}{16 \text{ years}} \right) = \$3,645$$

1099A Income—income stream is a defined benefit income stream

If the asset-test exempt income stream is a defined benefit income stream, the amount that the person is taken to receive from the income stream each year is worked out as follows:

Annual payment – Deductible amount

where:

annual payment means the amount payable to the person for the year under the income stream.

deductible amount has the meaning given by subsection 9(1).

1099B Income from asset-tested income stream (long term)

For the purpose of working out the annual rate of ordinary income of a person from an asset-tested income stream (long term), the person is taken to receive from that income stream each year the amount worked out under section 1099C or 1099D.

1099C Income—income stream not a defined benefit income stream

If the asset-tested income stream (long term) is not a defined benefit income stream, the amount that the person is taken to receive from the income stream each year is worked out as follows:

Annual payment – $\left(\frac{\text{Purchase price} - \text{Residual capital value}}{\text{Relevant number}} \right)$

where:

annual payment means the amount payable to the person for the year under the income stream.

purchase price has the meaning given by subsection 9(1).

relevant number has the meaning given by subsection 9(1).

residual capital value has the meaning given by subsection 9(1).

Note: For treatment of asset-tested income streams (short term) see Division 1B of Part 3.10.

Schedule 3 Amendments relating to income streams
Part 1 Amendment of the Social Security Act 1991

Example: Sally is 65 years old and single. She purchases a 10 year annuity for \$150,000, with a residual capital value of \$20,000. Her total annual annuity payment is \$18,337. Sally's assessable income from her 10 year annuity is:

$$\$18,337 - \frac{\$150,000 - \$20,000}{10} = \$5,337$$

1099D Income—income stream is a defined benefit income stream

If the asset-tested income stream (long-term) is a defined benefit income stream, the amount that the person is taken to receive from the income stream each year is worked out as follows:

Annual payment – Deductible amount

where:

annual payment means the amount payable to the person for the year under the income stream.

deductible amount has the meaning given by subsection 9(1).

41 Paragraph 1118(1)(d)

Repeal the paragraph, substitute:

(d) the value of any asset-test exempt income stream of the person;

42 Sections 1119 and 1120

Repeal the sections, substitute:

1119 Value of asset-tested income streams that are not defined benefit income streams

- (1) This section applies to a person's asset-tested income stream if it is not a defined benefit income stream.

Note: For *defined benefit income streams* see section 1120.

- (2) The value of the income stream is, for the purposes of the assets test, worked out:

- (a) if the person receives payments from the income stream 2 or more times a year—in relation to each 6 month period of the income stream’s term; and
 - (b) if the person receives a payment from the income stream only once a year—in relation to each 12 month period of the income stream’s term.
- (3) If the income stream has an account balance, the value of the income stream, for the purposes of the assets test, is the value of the account balance at the beginning of the 6 month or 12 month period (as the case requires) referred to in subsection (2).
- (4) If the income stream does not have an account balance, the value of the income stream is, for the purposes of the assets test, worked out as follows:

$$\text{Purchase price} - \left[\left(\frac{\text{Purchase price} - \text{Residual capital value}}{\text{Relevant number}} \right) \times \text{Term elapsed} \right]$$

where:

purchase price has the meaning given by subsection 9(1).

relevant number has the meaning given by subsection 9(1).

residual capital value has the meaning given by subsection 9(1).

term elapsed is the number of years of the term that have elapsed since the commencement day of the income stream, rounded down:

- (a) in the case of an income stream referred to in paragraph (2)(a)—to the nearest half-year; and
- (b) in the case of an income stream referred to in paragraph (2)(b)—to the nearest whole year.

Example: Sally is 65 years old and single. She purchases a 10 year annuity for \$150,000 with a residual capital value of \$20,000. Her total annual annuity payment is \$18,337. Monthly payments commence on 1 January. Her assessable asset for the first six months will be:

$$\$150,000 - \left[\left(\frac{\$150,000 - \$20,000}{10 \text{ years}} \right) \times 0 \text{ year} \right] = \$150,000$$

Her assessable asset after 30 June in that year will be:

$$\$150,000 - \left[\left(\frac{\$150,000 - \$20,000}{10 \text{ years}} \right) \times 0.5 \text{ year} \right] = \$143,500$$

1120 Value of asset-tested income streams that are defined benefit income streams

- (1) This section applies to a person's asset-tested income stream if it is a defined benefit income stream.
- (2) The value of the income stream is, for the purposes of the assets test, worked out in relation to each 12 month period of the income stream's term.
- (3) The value of the income stream is, for the purposes of the assets test, worked out as follows:

Annual payment \times Pension valuation factor

where:

annual payment means the amount payable to the person for the relevant 12 month period under the income stream.

pension valuation factor means the pension valuation factor that applies to the person in accordance with the determination made by the Minister for the purposes of this section.

- (4) A determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

43 At the end of Schedule 1A

Add:

110 Amendments relating to treatment of income streams

- (1) If:
- (a) a person who had entered into a binding arrangement for the provision to the person of an income stream was, on 19 September 1998, receiving a social security payment; and
 - (b) the Minister declares, in writing, that the Minister is satisfied that the application of this Act (as amended by the amending Act) would cause the person significant disadvantage in relation to the treatment of the person's income stream;
- this Act applies to the person in relation to the income stream as if the amendments made by Part 1 of Schedule 3 to the amending Act had not been made.
- (2) Subclause (1) ceases to have effect if:
- (a) the social security payment referred to in subclause (1)(a) (the **original payment**) ceases to be payable to the person; and
 - (b) another social security payment or a service pension does not become payable to the person immediately after the original payment ceases to be payable.
- (3) If a person was receiving a social security payment on 19 September 1998, the person's annual rate of ordinary income from:
- (a) an asset-test exempt income stream; or
 - (b) an asset-tested income stream (long term);
- that is a defined benefit income stream whose commencement day is earlier than 20 September 1998 is to be worked out as if the amendment made by item 40 of Schedule 3 to the amending Act had not been made.
- (4) In this clause:

amending Act means the *Social Security and Veterans' Affairs Legislation Amendment (Budget and Other Measures) Act 1998*.

binding arrangement, in relation to a person, includes an arrangement that may only be terminated on terms that are, in the opinion of the Secretary, likely to cause severe detriment to the person.

Part 2—Amendment of the Veterans' Entitlements Act 1986

44 Section 5 (index)

Omit:

allocated pension	5J(10)
determination of entitlement	5Q(1)
immediate annuity	5J(1)
non-assessable purchase price	5J(1)
rolled-over amount	5J(1)
roll-over immediate annuity	5J(1)
roll-over purchase price	5J(1)
superannuation pension	5J(1)

45 Section 5 (index)

Insert in their appropriate alphabetical position, determined on a letter-by-letter basis:

asset-test exempt income stream	5JA and 5JB
asset-tested income stream (long term)	5J(1)
asset-tested income stream (short term)	5J(1)
commencement day	5J(1)
defined benefit income stream	5J(IE)
governing rules	5J(1)
income stream	5J(1)
life expectancy	5J(1)
retirement savings account	5J(1)
social security payment	5Q(1)
superannuation contributions surcharge	5J(1)

46 Subsection 5H(1) (note 1, at the end of the definition of *income*)

Omit “46U (income from retirement funds and annuities)”, substitute “46Y (income from income streams)”.

47 Subsection 5H(1) (note 3, at the end of the definition of *ordinary income*)

Omit “46U (income from retirement funds and annuities)”, substitute “46Y (income from income streams)”.

48 Subsection 5J(1) (definition of *allocated pension*)

Repeal the definition.

Note: The heading to section 5J is altered by omitting “, **retirement funds and annuities**” and substituting “**and income streams**”.

49 Subsection 5J(1)

Insert:

asset-test exempt income stream has the meanings given by sections 5JA and 5JB.

50 Subsection 5J(1)

Insert:

asset-tested income stream (long term) means an income stream that:

- (a) is not an asset-test exempt income stream; and
- (b) has, on its commencement day:
 - (i) a term of more than 5 years; or
 - (ii) if the person who has acquired the income stream has a life expectancy of 5 years or less—a term equal to or greater than the person's life expectancy.

51 Subsection 5J(1)

Insert:

asset-tested income stream (short term) means an income stream that is neither:

- (a) an asset-test exempt income stream; nor
- (b) an asset-tested income stream (long term).

52 Subsection 5J(1)

Insert:

commencement day, in relation to an income stream, means the first day of the period to which the first payment under the income stream relates.

53 Subsection 5J(1) (definition of *deductible amount*)

Repeal the definition, substitute:

deductible amount, in relation to an income stream, means the amount that would be the deductible amount in relation to the income stream under subsection 27H(2) of the Income Tax Assessment Act, if the references in that subsection to an annuity were references to an income stream.

54 Subsection 5J(1)

Insert:

defined benefit income stream has the meaning given by subsection (1E).

55 Subsection 5J(1) (definition of *financial investment*)

Add at the end:

; or (h) an asset-tested income stream (short term).

56 Subsection 5J(1)

Insert:

governing rules, in relation to an income stream, means any trust instrument, other document or legislation, or combination of them, governing the establishment and operation of the income stream.

57 Subsection 5J(1) (definition of *immediate annuity*)

Repeal the definition.

58 Subsection 5J(1)

Insert:

income stream means:

- (a) an income stream arising under arrangements that are regulated by the *Superannuation Industry (Supervision) Act 1993*; or
- (b) an income stream arising under a public sector scheme (within the meaning of that Act); or
- (c) an income stream arising under a retirement savings account; or
- (d) an income stream provided by a life insurance business (within the meaning of the *Life Insurance Act 1995*); or
- (e) an income stream provided by a friendly society (within the meaning of the Income Tax Assessment Act); or
- (f) an income stream designated in writing by the Commission for the purposes of this definition, having regard to the guidelines determined under subsection (1F);

but does not include any of the following:

- (g) available money;
- (h) deposit money;
- (i) a managed investment;
- (j) a listed security;
- (k) a loan that has not been repaid in full;
- (l) an unlisted public security;
- (m) gold, silver or platinum bullion.

59 Subsection 5J(1)

Insert:

life expectancy has the same meaning as *life expectation factor* has in section 27H of the Income Tax Assessment Act.

60 Subsection 5J(1) (definition of *non-assessable purchase price*)

Repeal the definition.

61 Subsection 5J(1) (definition of *purchase price*)

Repeal the definition, substitute:

purchase price, in relation to an income stream, means the sum of the payments made to purchase the income stream (including amounts paid by way of employer and employee contributions) less any commuted amounts.

62 Subsection 5J(1) (definition of *relevant number*)

Repeal the definition, substitute:

relevant number, in relation to an income stream, means:

- (a) if the income stream is payable for a fixed number of years— that number; or
- (b) if the income stream is payable during the lifetime of a person and no longer—the number of years of the person's life expectancy; or
- (c) if the income stream:
 - (i) is jointly owned by a person and his or her partner and is payable for the lifetime of the person or the partner; or
 - (ii) is payable during the lifetime of a person and then for the lifetime of a reversionary beneficiary; the number of years in the longer of the relevant life expectancies; or
- (d) in any other case—the number that the Commission considers appropriate having regard to the number of years in the total period during which the income stream will be, or may reasonably be expected to be, payable.

63 Subsection 5J(1) (definition of *residual capital value*)

Omit "annuity", substitute "income stream".

64 Subsection 5J(1)

Insert:

retirement savings account has the meaning that it has in the *Retirement Savings Account Act 1997*.

65 Subsection 5J(1) (definition of *rolled-over amount*)

Repeal the definition.

66 Subsection 5J(1) (definition of *roll-over immediate annuity*)

Repeal the definition.

67 Subsection 5J(1) (definition of *roll-over purchase price*)

Repeal the definition.

68 Subsection 5J(1) (definition of *superannuation pension*)

Repeal the definition.

69 Subsection 5J(1)

Insert:

superannuation contributions surcharge has the meaning that it has in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

70 Paragraphs 5J(1C)(f) and (g)

Repeal the paragraphs, substitute:

- (f) an asset-test exempt income stream;
- (g) an asset-tested income stream (long term);
- (h) an asset-tested income stream (short term).

71 Subsection 5J(1C) (notes 4 and 5)

Repeal the notes, substitute:

Note 4: Asset-test exempt income streams are dealt with under sections 46T to 46V.

Note 5: Asset-tested income streams (long term) are dealt with under sections 46W to 46Y.

72 After subsection 5J(1D)

Insert:

- (1E) An income stream is a *defined benefit income stream* if the amount of the payments under it:
- (a) is not fully determined by the purchase price; but
 - (b) is determined:

- (i) by reference to the purchaser's salary before retirement or the purchaser's years of service; or
- (ii) by the governing rules.

(1F) The Commission may determine, in writing, guidelines to be complied with when designating an income stream for the purposes of the definition of *income stream* in subsection (1). The determination is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

73 Subsections 5J(3) and (4)

Repeal the subsections.

74 Subsections 5J(9) and (10)

Repeal the subsections.

75 After section 5J

Insert:

5JA Meaning of *asset-test exempt income stream*—lifetime income streams

General requirements

- (1) An income stream provided to a person is an *asset-test exempt income stream* for the purposes of this Act:
 - (a) if it is an income stream arising under a contract, or governing rules, that meet the requirements of subsection (2) and the Commission has not made a determination under subsection (4) in respect of the income stream; or
 - (b) if the Commission has made a determination under subsection (5) in respect of the income stream.

Note: For *income stream* see subsection 5J(1).

Requirements of contract/governing rules for provision of income stream

- (2) A contract, or the governing rules, for the provision of an income stream to a person meet the requirements of this subsection if the contract or governing rules specify:
- (a) that payments under the income stream are to be made at least annually throughout the life of the person and, if there is a reversionary beneficiary:
 - (i) throughout the reversionary beneficiary's life; or
 - (ii) if the reversionary beneficiary is a child of the person or of a former reversionary beneficiary under the income stream—at least until he or she turns 16; or
 - (iii) if the child referred to in subparagraph (ii) is a full-time student who has turned 16—at least until the end of his or her full-time studies or until he or she turns 25, whichever occurs sooner; and
 - (b) the total amount of the payments that may be made under the income stream in the first year after the commencement day of the income stream (not taking commuted amounts into account); and
 - (c) that the total amount of the payments that may be made under the income stream in any other year (not taking commuted amounts into account) may not fall below the total amount of the payments made under the income stream in the immediately preceding year (the *previous total*), and may not exceed the previous total:
 - (i) if subparagraph (ii) does not apply—by more than 5% of the previous total; or
 - (ii) if the index number for the second last quarter before the day on which the first of those payments is to be made (*recent index number*) exceeds the index number for the same quarter in the immediately preceding year (*base index number*) by more than 4% of the base index number—by more than such percentage of the previous total as is worked out under the formula:

$$100 \times \left(\frac{\text{Recent index number} - \text{Base index number}}{\text{Base index number}} \right) + 1$$

- (d) if the income stream is purchased—that the first payment under the income stream relates to the period commencing on the day on which the income stream is purchased; and
- (e) if the income stream is not purchased—that the first payment under the income streams relates to the period commencing on the day on which the income stream is acquired; and
- (f) if the income stream is not a defined benefit income stream—that the amount paid as the purchase price for the income stream is wholly converted into income; and
- (g) that the income stream has no residual capital value; and
- (h) that the income stream cannot be commuted except:
 - (i) if the commutation is made within 6 months after the commencement day of the income stream; or
 - (ii) if the commutation is made to the benefit of a reversionary beneficiary or of the person's estate, on the death of the person within 10 years after the commencement day of the income stream; or
 - (iii) if the payment resulting from the commutation is transferred directly to the purchase of another income stream arising under a contract, or governing rules, that meet the requirements of this subsection or subsection 5JB(2); or
 - (iv) to the extent necessary to cover any superannuation contributions surcharge that the person is liable to pay in his or her capacity as purchaser of the income stream; and
- (i) that the income stream:
 - (i) can be transferred only on the death of the person; and
 - (ii) can then only be transferred to a reversionary beneficiary; and
- (j) that neither the capital value of the income stream, nor the income from it, can be used as security for a borrowing; and

- (k) that, if the income stream reverts, it must not have a reversionary component greater than the benefit that was payable immediately before the reversion; and
- (l) that, if the income stream is commuted, the commuted amount must not be greater than the benefit that was payable immediately before the commutation.

Matters not required of income stream

- (3) For the purpose of determining whether an income stream meets the requirements of subsection (2), it is immaterial that:
 - (a) if the primary beneficiary dies within 10 years after the commencement day of the income stream, a surviving reversionary beneficiary may be paid an amount equal to the total of the payments that the primary beneficiary would (if he or she had not died) have received from the day of the death until the end of the period of 10 years; and
 - (b) if:
 - (i) the primary beneficiary dies within 10 years after the commencement day of the income stream; and
 - (ii) there is no surviving reversionary beneficiary;an amount, not exceeding the difference between:
 - (iii) the sum of the amounts that would have been so payable to the primary beneficiary in the period of 10 years; and
 - (iv) the sum of the amounts paid to the primary beneficiary; is payable to the primary beneficiary's estate, and
 - (c) if:
 - (i) the primary beneficiary dies within 10 years after the commencement day of the income stream; and
 - (ii) there is a surviving reversionary beneficiary who also dies within that period;there is payable to the reversionary beneficiary's estate an amount determined as described in paragraph (b) as if that paragraph applied to the reversionary beneficiary.

Determination that income stream not asset-test exempt

- (4) The Commission may determine that an income stream that meets the requirements of subsection (2) is not an asset-test exempt income stream if the Commission is satisfied that the person who has purchased the income stream has commuted an asset-test exempt income stream within 6 months after its commencement day on at least 3 occasions since the person first received a service pension, an income support supplement or a social security payment.

Determination that income stream is asset-test exempt

- (5) The Commission may determine, in writing, that an income stream that does not meet the requirements of subsection (2) is an asset-test exempt income stream for the purposes of this Act. In making the determination, the Commission is to have regard to the guidelines determined under subsection (6).

Guidelines to be complied with in making determination

- (6) The Commission may determine, in writing, guidelines to be complied with when making a determination under subsection (5). The determination is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

5JB Meaning of *asset-test exempt income stream*—life expectancy or 15 year minimum term income streams

General requirements

- (1) An income stream provided to a person is also an ***asset-test exempt income stream*** for the purposes of this Act if:
- (a) the person has reached pension age on or before the day on which the person purchases or acquires the income stream; and
 - (b) either of the following circumstances apply:
 - (i) the income stream arises under a contract, or governing rules, that meet the requirements of subsection (2) and

the Commission has not made a determination under subsection (3) in respect of the income stream;

- (ii) the Commission has made a determination under subsection (4) in respect of the income stream.

Note 1: For *income stream* see subsection 5J(1).

Note 2: For *pension age* see subsection (6).

Requirements of contract/governing rules for provision of income stream

- (2) A contract, or the governing rules, for the provision of an income stream to a person meets the requirements of this subsection if the contract or governing rules specify:
 - (a) that the payments under the income stream are to be made at least annually:
 - (i) if the person's life expectancy is less than 15 years—throughout a period equal to the person's life expectancy (rounded up at the person's option, if it does not consist of a whole number of years, to the next whole number); or
 - (ii) if the person's life expectancy is 15 years or more—throughout a period that is not less than 15 years but not more than the person's life expectancy (rounded up at the person's option, if it does not consist of a whole number of years, to the next whole number); and
 - (b) the total amount of the payments that may be made under the income stream in the first year after the commencement day of the income stream (not taking commuted amounts into account); and
 - (c) that the total amount of the payments that may be made under the income stream in any other year (not taking commuted amounts into account) may not fall below the total amount of the payments made under the income stream in the immediately preceding year (the *previous total*), and may not exceed the previous total:
 - (i) if subparagraph (ii) does not apply—by more than 5% of the previous total; or

- (ii) if the index number for the second last quarter before the day on which the first of those payments is to be made (*recent index number*) exceeds the index number for the same quarter in the immediately preceding year (*base index number*) by more than 4% of the base index number—by more than such percentage of the previous total as is worked out under the formula:

$$100 \times \left(\frac{\text{Recent index number} - \text{Base index number}}{\text{Base index number}} \right) + 1$$

- (d) if the income stream is purchased—that the first payment under the income stream relates to the period commencing on the day on which the income stream is purchased; and
- (e) if the income stream is not purchased—that the first payment under the income stream relates to the period commencing on the day on which the income stream is acquired; and
- (f) if the income stream is not a defined benefit income stream—that the amount paid as the purchase price for the income stream is wholly converted into income; and
- (g) that the income stream has no residual capital value; and
- (h) that the income stream cannot be commuted except:
- (i) if the commutation is made within 6 months after the commencement day of the income stream; or
 - (ii) if the payment resulting from the commutation is transferred directly to the purchase of another income stream provided under a contract, or governing rules, that meet the requirements of this subsection or subsection 5JA(2); or
 - (iii) if the legal or equitable interest in the payment resulting from the commutation is transferred, on the death of the person, to a reversionary beneficiary or (if there is no reversionary beneficiary) to the person's estate; or
 - (iv) to the extent necessary to cover any superannuation contributions surcharge that the person is liable to pay in his or her capacity as purchaser of the income stream; and
- (i) that the income stream:
-

- (i) can be transferred only on the death of the person; and
- (ii) can then only be transferred to a reversionary beneficiary or to the person's estate; and
- (j) that neither the capital value of the income stream, nor the income from it, can be used as security for a borrowing; and
- (k) that, if the income stream reverts, it must not have a reversionary component greater than the benefit that was payable immediately before the reversion; and
- (l) that, if the income stream is commuted, the commuted amount must not be greater than the benefit that was payable immediately before the commutation.

Determination that income stream not asset-test exempt

- (3) The Commission may determine that an income stream that meets the requirements of subsection (2) is not an asset-test exempt income stream if the Commission is satisfied that the person who has purchased the income stream has commuted an asset-test exempt income stream within 6 months after its commencement day on at least 3 occasions since the person first received a service pension, an income support supplement or a social security payment.

Determination that income stream is asset-test exempt

- (4) The Commission may determine, in writing, that an income stream that does not meet the requirements of subsection (2) is an asset-test exempt income stream for the purposes of this Act. In making the determination, the Commission is to have regard to the guidelines determined under subsection (5).

Guidelines to be complied with in making determination

- (5) The Commission may determine, in writing, guidelines to be complied with when making a determination under subsection (4). The determination is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Interpretation

- (6) In subsection (1), the reference to pension age in relation to a person is, if the person has claimed or is receiving income support supplement, a reference to the qualifying age for the person (within the meaning of subsection 45A(2)).

76 Subsection 5Q(1) (definition of *determination of entitlement*)

Repeal the definition.

77 Subsection 5Q(1)

Insert:

social security payment has the same meaning as in the Social Security Act.

78 Section 46 (note 2)

Omit "46U (income from retirement funds and annuities)", substitute "46Y (income from income streams)".

79 Division 4 of Part IIIB (heading)

Repeal the heading, substitute:

Division 4—Income from income streams

80 Subparagraph 46R(b)(iv)

Repeal the subparagraph, substitute:
(iv) an income stream;

81 Subdivision B of Division 4 of Part IIIB

Repeal the Subdivision, substitute:

Subdivision B—Income streams

46T Income from asset-test exempt income stream

For the purpose of working out the annual rate of ordinary income of a person from an asset-test exempt income stream, the person is taken to receive from that income stream each year the amount worked out under section 46U or 46V.

Note: For *asset-test exempt income stream* see sections 5JA and 5JB.

46U Income—income stream not a defined benefit income stream

If the asset-test exempt income stream is not a defined benefit income stream, the amount that the person is taken to receive from the income stream each year is worked out as follows:

$$\text{Annual payment} = \frac{\text{Purchase price}}{\text{Relevant number}}$$

where:

annual payment means the amount payable to the person for the year under the income stream.

purchase price has the meaning given by subsection 5J(1).

relevant number has the meaning given by subsection 5J(1).

Example: Mark is 65 years old and single. He purchases an annuity for \$100,000 with a term based on life expectancy (i.e. 15.41 years, which he chooses to round up to 16 years). The annuity has all the revised characteristics listed in the legislation. His annual payment from the annuity totals \$9,895. Mark's assessable income from this income stream is:

$$\$9,895 - \left(\frac{\$100,000}{16 \text{ years}} \right) = \$3,645$$

46V Income—income stream is a defined benefit income stream

If the asset-test exempt income stream is a defined benefit income stream, the amount that the person is taken to receive from the income stream each year is worked out as follows:

Annual payment – Deductible amount

where:

annual payment means the amount payable to the person for the year under the income stream.

deductible amount has the meaning given by subsection 5J(1).

46W Income from asset-tested income stream (long term)

For the purpose of working out the annual rate of ordinary income of a person from an asset-tested income stream (long term), the person is taken to receive from that income stream each year the amount worked out under section 46X or 46Y.

46X Income—income stream not a defined benefit income stream

If the asset-tested income stream (long term) is not a defined benefit income stream, the amount that the person is taken to receive from the income stream each year is worked out as follows:

Annual payment – $\left(\frac{\text{Purchase price} - \text{Residual capital value}}{\text{Relevant number}} \right)$

where:

annual payment means the amount payable to the person for the year under the income stream.

purchase price has the meaning given by subsection 5J(1).

relevant number has the meaning given by subsection 5J(1).

residual capital value has the meaning given by subsection 5J(1).

Note: For treatment of asset-tested income streams (short term) see Division 3 of Part IIIB.

Example: Sally is 65 years old and single. She purchases a 10 year annuity for \$150,000, with a residual capital value of \$20,000. Her total annual annuity payment is \$18,337. Sally's assessable income from her 10 year annuity is:

$$\$18,337 - \frac{\$150,000 - \$20,000}{10} = \$5,337$$

46Y Income—income stream is a defined benefit income stream

If the asset-tested income stream (long-term) is a defined benefit income stream, the amount that the person is taken to receive from the income stream each year is worked out as follows:

Annual payment – Deductible amount

where:

annual payment means the amount payable to the person for the year under the income stream.

deductible amount has the meaning given by subsection 5J(1).

82 Paragraph 52(1)(d)

Repeal the paragraph, substitute:

(d) the value of any asset-test exempt income stream of the person;

83 Sections 52A and 52B

Repeal the sections, substitute:

52A Value of asset-tested income streams that are not defined benefit income streams

- (1) This section applies to a person's asset-tested income stream if it is not a defined benefit income stream.

Note: For *defined benefit income streams* see section 52B.

- (2) The value of the income stream is, for the purposes of the assets test, worked out:

- (a) if the person receives payments from the income stream 2 or more times a year—in relation to each 6 month period of the income stream's term; and
 - (b) if the person receives a payment from the income stream only once a year—in relation to each 12 month period of the income stream's term.
- (3) If the income stream has an account balance, the value of the income stream, for the purposes of the assets test, is the value of the account balance at the beginning of the 6 month or 12 month period (as the case requires) referred to in subsection (2).
- (4) If the income stream does not have an account balance, the value of the income stream is, for the purposes of the assets test, worked out as follows:

$$\text{Purchase price} - \left[\left(\frac{\text{Purchase price} - \text{Residual capital value}}{\text{Relevant number}} \right) \times \text{Term elapsed} \right]$$

where:

purchase price has the meaning given by subsection 5J(1).

relevant number has the meaning given by subsection 5J(1).

residual capital value has the meaning given by subsection 5J(1).

term elapsed is the number of years of the term that have elapsed since the commencement day of the income stream, rounded down:

- (a) in the case of an income stream referred to in paragraph (2)(a)—to the nearest half-year; and
- (b) in the case of an income stream referred to in paragraph (2)(b)—to the nearest whole year.

Example: Sally is 65 years old and single. She purchases a 10 year annuity for \$150,000 with a residual capital value of \$20,000. Her total annual annuity payment is \$18,337. Monthly payments commence on 1 January. Her assessable asset for the first six months will be:

$$\$150,000 - \left[\left(\frac{\$150,000 - \$20,000}{10 \text{ years}} \right) \times 0 \text{ year} \right] = \$150,000$$

Her assessable asset after 30 June in that year will be:

$$\$150,000 - \left[\left(\frac{\$150,000 - \$20,000}{10 \text{ years}} \right) \times 0.5 \text{ year} \right] = \$143,500$$

52B Value of asset-tested income streams that are defined benefit income streams

- (1) This section applies to a person's asset-tested income stream if it is a defined benefit income stream.
- (2) The value of the income stream is, for the purposes of the assets test, worked out in relation to each 12 month period of the income stream's term.
- (3) The value of the income stream is, for the purposes of the assets test, worked out as follows:

Annual payment \times Pension valuation factor

where:

annual payment means the amount payable to the person for the relevant 12 month period under the income stream.

pension valuation factor means the pension valuation factor that applies to the person in accordance with the determination made by the Minister for the purposes of this section.

- (4) A determination under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

84 Point 118ZAA-1 (note 2)

Omit "46U (income from retirement funds and annuities)", substitute "46Y (income from income streams)".

85 At the end of Schedule 5

Add:

12 Amendments relating to treatment of income streams

(1) If:

- (a) a person who had entered into a binding arrangement for the provision to the person of an income stream was, on 19 September 1998, receiving a service pension, an income support supplement or a social security payment; and
- (b) the Minister declares, in writing, that the Minister is satisfied that the application of this Act (as amended by the amending Act) would cause the person significant disadvantage in relation to the treatment of the person's income stream;

this Act applies to the person in relation to the income stream as if the amendments made by Part 2 of Schedule 3 to the amending Act had not been made.

(2) Subclause (1) ceases to have effect if:

- (a) the service pension, income support supplement or social security payment referred to in subclause (1)(a) (the *original payment*) ceases to be payable to the person; and
- (b) another service pension, income support supplement or social security payment does not become payable to the person immediately after the original payment ceases to be payable.

(3) If a person was receiving a service pension, an income support supplement or a social security payment on 19 September 1998, the person's annual rate of ordinary income from:

- (a) an asset-test exempt income stream; or
- (b) an asset-tested income stream (long term);

that is a defined benefit income stream whose commencement day is earlier than 20 September 1998 is to be worked out as if the amendment made by item 81 of Schedule 3 to the amending Act had not been made.

(4) In this clause:

amending Act means the *Social Security and Veterans' Affairs Legislation Amendment (Budget and Other Measures) Act 1998*.

binding arrangement, in relation to a person, includes an arrangement that may only be terminated on terms that are, in the opinion of the Commission, likely to cause severe detriment to the person.

86 Point SCH6-E2 of the rate calculator in Part 2 of Schedule 6 (paragraph (d) of note 2)

Repeal the paragraph, substitute:

(d) income from income streams (sections 46Q to 46Y);

Schedule 4—Amendments relating to seasonal workers

Social Security Act 1991

1 Section 3 (index)

Insert the following entries in their appropriate alphabetical position, determined on a letter-by-letter basis:

relevant AWOTE	16A(1)
seasonal work	16A(1)
seasonal work income	16A(1)
seasonal work non-benefit period	16A(1)
seasonal work preclusion period	16A(1)
subject to a seasonal work non-benefit period	16A(1)
subject to a seasonal work preclusion period	16A(1)

2 After Section 16

Insert:

16A Seasonal work definitions

Definitions

- (1) In this Act, unless the contrary intention appears:

relevant AWOTE, in relation to a calendar year, means the amount that, under the heading “Trend Estimates” in the document entitled “Average Weekly Earnings, States and Australia” last published by the Australian Bureau of Statistics before 1 January in that year, is specified as being the full-time adult ordinary time earnings for Australia for the quarter to which the document relates.

seasonal work means:

- (a) work that, because of its nature or of factors peculiar to the industry in which it is performed, is available, at

approximately the same time or times every year, for part or parts only of the year; or

- (b) work that is intermittent and is determined, under subsection (2), to be seasonal work for the purposes of this Act.

Examples: Examples of work described in paragraph (a) are fishing, fruit picking, shearing and work in an industry that is subject to Christmas shutdowns. Examples of work that is intermittent are relief teaching and work as a locum.

seasonal work income means gross income from seasonal work less amounts necessarily expended in relation to that seasonal work that the person can demonstrate are allowable deductions for the purposes of the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*, as the case may be.

seasonal work non-benefit period has the meaning given by subsection (12).

seasonal work preclusion period has the meaning given by subsections (3) and (4).

subject to a seasonal work non-benefit period has the meaning given by subsection (13).

subject to a seasonal work preclusion period has the meaning given by subsection (11).

Secretary's determination—seasonal work

- (2) The Secretary may determine in writing that a specified kind of work that is intermittent is seasonal work for the purposes of this Act. The determination is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Seasonal work preclusion periods

- (3) If:
 - (a) a person is not a member of a couple; and
 - (b) the person has made a claim for newstart allowance, widow allowance, mature age allowance under Part 2.12B or youth allowance; and

- (c) the person was engaged in seasonal work at any time during the 6 months immediately before the day on which the person lodged the claim;

the person's *seasonal work preclusion period* in relation to the claim is the period consisting of the number of weeks worked out under subsection (5) that starts on the day on which the claim was lodged.

- (4) If:

- (a) a person is a member of a couple; and
- (b) the person has made a claim for newstart allowance, mature age allowance under Part 2.12B, partner allowance, parenting payment or youth allowance; and
- (c) the person, or the person's partner, or both, were engaged in seasonal work at any time during the 6 months immediately before the day on which the person lodged the claim;

the person's *seasonal work preclusion period* in relation to the claim is the period consisting of the number of weeks worked out under subsection (6), (7) or (8) that starts on the day on which the claim was lodged.

- (5) If the person is not a member of a couple, the number of weeks in the person's seasonal work preclusion period is worked out as follows:

Method statement

Step 1. Identify each period of continuous seasonal work by the person that ended during the 6 months immediately before the day on which the claim was lodged. If the person has performed seasonal work during 2 periods that are less than 14 days apart, the periods of work and the intervening period are taken to be one continuous period during which the person has performed seasonal work.

Step 2. If a period identified in Step 1 has already been taken into account when working out a seasonal work preclusion period in relation to a previous claim by the person (whether for the same or a different allowance or

payment), disregard the period. Each remaining period is called a **relevant period of seasonal work**.

Step 3. Work out the amount of seasonal work income earned by the person during each of the person's relevant periods of seasonal work, disregarding any income by way of a lump sum that was earned during that period but was not paid to the person before the day on which the claim was lodged.

Step 4. Add together the amounts worked out in Step 3. The result is called the person's **seasonal work earnings**.

Step 5. Divide the person's seasonal work earnings by the amount of the relevant AWOTE for the calendar year in which the claim was lodged. The result is called the person's **AWOTE weeks** and represents the number of weeks (including any part of a week) that a person paid at a rate equal to the relevant AWOTE for that calendar year would have to work to earn an amount equal to the person's seasonal work earnings.

Step 6. Work out the number of weeks in the person's relevant periods of seasonal work by dividing the total number of days included in those periods by 7. The result (including any part of a week) is called the person's **seasonal work weeks**.

Step 6A. If there is a period between one relevant period of seasonal work and another, or between a relevant period of seasonal work and the day on which the claim was lodged, work out the number of weeks in the period (the **intervening period**). This is done by dividing the total number of days in the intervening period by 7.

Step 6B. If there is more than one intervening period, add together the number of weeks worked out for each intervening period. The result (including any part of a week) is called the person's **intervening weeks**.

Step 6C. Add together the number of seasonal work weeks worked out under Step 6 and the number of intervening weeks (if any) worked out under Step 6B. The result (including any part of a week) is called the person's ***self-supported weeks***.

Step 7. Subtract the person's self-supported weeks from the person's AWOTE weeks. The result (rounded down, if necessary, to the nearest whole number) is the ***number of weeks in the person's seasonal work preclusion period***. If the result is a negative number, the number of weeks in the period is taken to be nil.

Note 1: For ***relevant AWOTE*** see subsection (1).

Note 2: For ***seasonal work*** see subsection (1).

Note 3: For ***seasonal work income*** see subsection (1).

(6) If:

- (a) the person is a member of a couple; and
- (b) the person was engaged in seasonal work at any time during the 6 months immediately before the day on which the person lodged the claim (the ***relevant period***); and
- (c) the person's partner was not engaged in seasonal work at any time during the relevant period;

the number of weeks in the person's seasonal work preclusion period is worked out as follows:

Method statement

Step 1. Identify each period of continuous seasonal work by the person that ended during the 6 months immediately before the day on which the claim was lodged. If the person has performed seasonal work during 2 periods that are less than 14 days apart, the periods of work and the intervening period are taken to be one continuous period during which the person has performed seasonal work.

Step 2. If a period identified in Step 1 has already been taken into account when working out a seasonal work preclusion period in relation to a previous claim by the person (whether for the same or a different allowance or payment), disregard the period. Each remaining period is called a ***relevant period of seasonal work***.

Step 3. Work out the amount of seasonal work income earned by the person during each of the person's relevant periods of seasonal work, disregarding any income by way of a lump sum that was earned during that period but was not paid to the person before the day on which the claim was lodged.

Step 4. Add together the amounts worked out in Step 3. The result is called the person's ***seasonal work earnings***.

Step 5. This step does not apply in the case of a person who has made a claim for parenting payment; in such a case, go directly to Step 6. In any other case, work out the total amount of income from personal exertion earned by the person's partner during the person's relevant periods of seasonal work. Add the amount obtained to the person's seasonal work earnings. The result is called the ***couple's combined earnings***.

Step 6. Divide:

- (a) in the case of a person who has made a claim for parenting payment—the person's seasonal work earnings; or
- (b) in any other case—the couple's combined earnings;

by twice the amount of the relevant AWOTE for the calendar year in which the claim was lodged. The result is called the couple's **AWOTE weeks** and represents the number of weeks (including any part of a week) that 2 persons, each paid at a rate equal to the relevant AWOTE for that calendar year, would have to work to earn together an amount equal to (if paragraph (a) applies) the person's seasonal work earnings or (if paragraph (b) applies) the couple's combined earnings.

Step 7. Work out the number of weeks in the person's relevant periods of seasonal work by dividing the total number of days included in those periods by 7. The result (including any part of a week) is called the person's **seasonal work weeks**.

Step 7A. If there is a period between one relevant period of seasonal work and another, or between a relevant period of seasonal work and the day on which the claim was lodged, work out the number of weeks in the period (the **intervening period**). This is done by dividing the total number of days in the intervening period by 7.

Step 7B. If there is more than one intervening period, add together the number of weeks worked out for each intervening period. The result (including any part of a week) is called the person's **intervening weeks**.

Step 7C. Add together the number of seasonal work weeks worked out under Step 7 and the number of intervening weeks (if any) worked out under Step 7B. The result (including any part of a week) is called the person's **self-supported weeks**.

Step 8. Subtract the person's self-supported weeks from the couple's AWOTE weeks. The result (rounded down, if necessary, to the nearest whole number) is the ***number of weeks in the person's seasonal work preclusion period***. If the result is a negative number, the number of weeks in the period is taken to be nil.

Note 1: For ***relevant AWOTE*** see subsection (1).

Note 2: For ***seasonal work*** see subsection (1).

Note 3: For ***seasonal work income*** see subsection (1).

(7) If:

- (a) the person is a member of a couple; and
- (b) the person was not engaged in seasonal work at any time during the 6 months immediately before the day on which the person lodged the claim (the ***relevant period***); and
- (c) the person's partner was engaged in seasonal work at any time during the relevant period;

the number of weeks in the person's seasonal work preclusion period is worked out as follows:

Method statement

Step 1. Identify each period of continuous seasonal work by the partner that ended during the 6 months immediately before the day on which the claim was lodged. If the partner has performed seasonal work during 2 periods that are less than 14 days apart, the periods of work and the intervening period are taken to be one continuous period during which the partner has performed seasonal work.

Step 2. If a period identified in Step 1 has already been taken into account when working out a seasonal work preclusion period in relation to a previous claim by the person (whether for the same or a different allowance or payment), disregard the period. Each remaining period is called a ***relevant period of seasonal work***.

Step 3. Work out the total amount of income from personal exertion earned by the person during the partner's relevant periods of seasonal work. The result is called the ***person's earnings***.

Step 4. Steps 4, 5 and 6 do not apply in the case of a person who has made a claim for parenting payment; in such a case, go directly to Step 7. In any other case, work out the amount of seasonal work income earned by the partner during each of the partner's relevant periods of seasonal work, disregarding any income by way of a lump sum that was earned during that period but was not paid to the partner before the day on which the claim was lodged.

Step 5. Add together the amounts worked out in Step 4. The result is called the partner's ***seasonal work earnings***.

Step 6. Add the partner's seasonal work earnings and the person's earnings. The result is called the ***couple's combined earnings***.

Step 7. Divide:

- (a) in the case of a person who has made a claim for parenting payment—the person's earnings; or
- (b) in any other case—the couple's combined earnings;

by twice the amount of the relevant AWOTE for the calendar year in which the claim was lodged. The result is called the couple's ***AWOTE weeks*** and represents the number of weeks (including any part of a week) that 2 persons, each paid at a rate equal to the relevant AWOTE for that calendar year, would have to work to earn together an amount equal to (if paragraph (a) applies) the person's earnings or (if paragraph (b) applies) the couple's combined earnings.

- Step 8.* Work out the number of weeks in the partner's relevant periods of seasonal work by dividing the total number of days included in those periods by 7. The result (including any part of a week) is called the partner's **seasonal work weeks**.
- Step 8A.* If there is a period between one relevant period of seasonal work and another, or between a relevant period of seasonal work and the day on which the claim was lodged, work out the number of weeks in the period (the **intervening period**). This is done by dividing the total number of days in the intervening period by 7.
- Step 8B.* If there is more than one intervening period, add together the number of weeks worked out for each intervening period. The result (including any part of a week) is called the partner's **intervening weeks**.
- Step 8C.* Add together the number of seasonal work weeks worked out under Step 8 and the number of intervening weeks (if any) worked out under Step 8B. The result (including any part of a week) is called the partner's **self-supported weeks**.
- Step 9.* Subtract the partner's self-supported weeks from the couple's AWOTE weeks. The result (rounded down, if necessary, to the nearest whole number) is the **number of weeks in the person's seasonal work preclusion period**. If the result is a negative number, the number of weeks in the period is taken to be nil.

Note 1: For **relevant AWOTE** see subsection (1).

Note 2: For **seasonal work** see subsection (1).

Note 3: For **seasonal work income** see subsection (1).

- (8) If:
- (a) the person is a member of a couple; and
 - (b) both the person and the person's partner have engaged in seasonal work during the 6 months immediately before the day on which the claim was lodged;
- the number of weeks in the person's seasonal work preclusion period is worked out as follows:

Method statement

- Step 1.* Work out what would be the number of weeks in the person's seasonal work preclusion period if subsection (6) applied to the person.
- Step 2.* Work out what would be the number of weeks in the person's seasonal work preclusion period if subsection (7) applied to the person.
- Step 3.* Compare the number of weeks in each period. The ***number of weeks in the person's seasonal work preclusion period*** is equal to the number of weeks in the longer of the 2 periods.

Subject to a seasonal work preclusion period

- (11) If a person's seasonal work preclusion period in relation to a claim consists of a number of weeks that is greater than nil, then, except as otherwise provided under this Act, the person is ***subject to that period*** for the purposes of this Act.

Seasonal work non-benefit periods

- (12) If:
- (a) a person is a member of a couple; and
 - (b) the person has made a claim for parenting payment; and
 - (c) the person, or the person's partner, or both, were engaged in seasonal work at any time during the 6 months immediately before the day on which the person lodged the claim;

the person's *seasonal work non-benefit period* in relation to the claim is the period that would be the person's seasonal work preclusion period in relation to a claim for newstart allowance, if the person had lodged such a claim on the day on which the claim for parenting payment was lodged and the claim for newstart allowance had been granted.

Subject to a seasonal work non-benefit period

- (13) If a person's seasonal work non-benefit period in relation to a claim consists of a number of weeks that is greater than nil, then, except as otherwise provided under this Act, the person is *subject to that period* for the purposes of this Act.

3 Subsection 19C(1)

Omit "and liquid assets test waiting periods", substitute ", liquid assets test waiting periods and seasonal work preclusion periods".

Note: The heading to section 19C is altered by omitting "(ordinary waiting periods and liquid assets test waiting periods)".

4 Subsection 19C(1) (note)

Repeal the note, substitute:

Note 1: A person who makes a claim for one of the following allowances may have to serve an ordinary waiting period or a liquid assets waiting period, or both, before the person can be paid the allowance:

- (a) newstart allowance;
- (b) sickness allowance;
- (c) youth allowance.

Note 2: A person who makes a claim for parenting payment or one of the following allowances:

- (a) newstart allowance;
- (b) partner allowance;
- (c) widow allowance;
- (d) mature age allowance;
- (e) youth allowance;

may be subject to a seasonal work preclusion period.

5 After paragraph 19C(2)(c)

Insert:

- (d) widow allowance;
- (e) mature age allowance;

6 Subsection 19C(3)

Repeal the subsection, substitute:

Meaning of in severe financial hardship: person who is a member of a couple

- (3) A member of a couple who makes a claim for parenting payment or one of the following allowances:
- (a) newstart allowance;
 - (b) partner allowance;
 - (c) mature age allowance;
 - (d) sickness allowance;
 - (e) youth allowance;

is *in severe financial hardship* if the value of the couple's liquid assets (within the meaning of subsections 14A(1) and (2)) is less than twice the fortnightly amount at the maximum payment rate of the payment or allowance that would be payable to the person if the person's claim were granted.

Note: For *maximum payment rate* see subsection (8).

7 Subsection 19C(4)

After "liquid assets test waiting period", insert "or is subject to a seasonal work preclusion period".

8 Paragraph 19C(4)(a)

Repeal the paragraph, substitute:

- (a) the reasonable costs of living that the person is taken, under subsection (6) or (7), to have incurred in respect of:
 - (i) if the person is serving a liquid assets test waiting period—that part of the period that the person has served; or

- (ii) if the person is subject to a seasonal work preclusion period—that part of the period that has expired;

9 Subsections 19C(6) and (7)

Repeal the subsections, substitute:

- (6) For the purposes of paragraph (4)(a), the amount of reasonable *costs of living* that a person who is not a member of a couple is taken to have incurred, may not exceed:
 - (a) in the case of a person who is serving a liquid assets test waiting period—the amount of allowance that would have been payable to the person during that part of the waiting period that the person has already served, if the person were not subject to the period; or
 - (b) in the case of a person who is subject to a seasonal work preclusion period—the amount of allowance that would have been payable to the person during that part of the person's preclusion period that has already expired, if the person were not subject to the period.
- (7) For the purposes of paragraph (4)(a), the amount of reasonable *costs of living* that a person who is a member of a couple is taken to have incurred, may not exceed:
 - (a) in the case of a person who is serving a liquid assets test waiting period—twice the amount of allowance that would have been payable to the person during that part of the waiting period that the person has already served, if the person were not subject to the period; or
 - (b) in the case of a person who is subject to a seasonal work preclusion period—twice the amount of allowance or parenting payment (as the case may be) that would have been payable to the person during that part of the person's preclusion period that has already expired, if the person were not subject to the period.

10 Subsection 19C(8)

Omit “subsection (3)”, substitute “subsections (2) and (3)”.

11 At the end of subsection 19C(8)

Add:

- ; or (d) in relation to widow allowance, partner allowance and mature age allowance under Part 2.12B—means the rate worked out at Step 4 of the method statement in Module A of Benefit Rate Calculator B; or
- (e) in relation to PP(partnered)—means the rate worked out at Step 4 of the method statement in point 1068B-B7 in Module B of the PP(Partnered) Rate Calculator.

12 At the end of subsection 408CA(1)

Add:

- ; or (k) she is subject to a seasonal work preclusion period under section 408CH.

13 After section 408CG

Insert:

408CH Seasonal workers

- (1) This section applies if, at any time during the 6 months immediately before the day on which a woman lodges a claim for widow allowance, she has been engaged in seasonal work.

Note: For *seasonal work* see subsection 16A(1).

- (2) Widow allowance is not payable to the woman:
 - (a) if she is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to her—for her seasonal work preclusion period; or
 - (b) if the Secretary has made a determination under subsection (3) in relation to her—for that part (if any) of her seasonal work preclusion period to which she is subject as a result of the determination.

Note: For *seasonal work preclusion period* see subsection 16A(1).

- (3) If the Secretary is satisfied that a woman is in severe financial hardship because she has incurred unavoidable or reasonable expenditure while she is subject to a seasonal work preclusion
-

period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):

- (a) the Secretary may determine that she is not subject to the whole, or any part, of the preclusion period; and
- (b) the determination has effect accordingly.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

14 At the end of section 408EB

Add:

- (2) The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:
 - (a) the woman is qualified for widow allowance; and
 - (b) the allowance would be payable if the woman were not subject to a seasonal work preclusion period.

15 At the end of subsection 500I(1)

Add:

- ; or (m) in a case where the person is a member of a couple—the person is subject to a seasonal work preclusion period under section 500Z.

16 After section 500Y

Insert:

500Z Seasonal workers—preclusion period

- (1) This section applies if:
 - (a) a person who is a member of a couple has lodged a claim for parenting payment; and
 - (b) at any time during the 6 months immediately before the day on which the person lodged the claim, the person, or the person's partner, has been engaged in seasonal work.

Note: For *seasonal work* see subsection 16A(1).

- (2) Parenting payment is not payable to the person:

- (a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person’s seasonal work preclusion period; or
- (b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person’s seasonal work preclusion period to which the person is subject as a result of the determination.

Note 1: For *seasonal work preclusion period* see subsection 16A(1).

Note 2: If the person is also subject to a seasonal work non-benefit period, the person’s parenting payment will be non-benefit PP (partnered) for the duration of that period (see point 1068B-B1 of the PP (Partnered) Rate Calculator in section 1068B).

- (3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):
 - (a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and
 - (b) the determination has effect accordingly.

Note 1: For *in severe financial hardship* see subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

17 At the end of section 502A

Add:

- (2) The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:
 - (a) the person is qualified for parenting payment; and
 - (b) the payment would be payable if the person were not subject to a seasonal work preclusion period.

18 Section 553C

Repeal the section, substitute:

553C Seasonal workers*Application*

- (1) This section applies if, at any time during the 6 months immediately before the day on which a person lodges a claim for youth allowance, the person, or, if the person is a member of a couple, the person or the person's partner, has been engaged in seasonal work.

Note: For *seasonal work* see subsection 16A(1).

Exclusion during seasonal work preclusion period

- (2) The person is subject to an employment-related exclusion:
- (a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person's seasonal work preclusion period; or
 - (b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person's seasonal work preclusion period to which the person is subject as a result of the determination.

Note: For *seasonal work preclusion period* see subsection 16A(1).

Exemption in cases of severe financial hardship

- (3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):
- (a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and
 - (b) the determination has effect accordingly.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

Exemption for person in labour market or rehabilitation program

- (4) Subsection (2) does not apply to a person who:
- (a) has started:
 - (i) formal vocational training in a labour market program approved by the Secretary; or
 - (ii) a rehabilitation program approved by the Secretary; and
 - (b) has been exempted from the application of that subsection by the Secretary.

19 After subsection 555A(2)

Insert:

- (2A) The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:
- (a) the person is qualified, or is expected to be qualified, for a youth allowance; and
 - (b) the allowance would be payable if the person were not subject to a seasonal work preclusion period.

20 Subparagraph 608(1)(j)(x)

Repeal the subparagraph.

21 At the end of subsection 608(1)

Add:

- ; or (m) the person is subject to a seasonal work preclusion period under section 633.

22 Section 633

Repeal the section, substitute:

633 Seasonal workers

- (1) This section applies if, at any time during the 6 months immediately before the day on which a person lodges a claim for newstart allowance, the person, or, if the person is a member of a couple, the person or the person's partner, has been engaged in seasonal work.

Note: For *seasonal work* see subsection 16A(1).

- (2) Newstart allowance is not payable to the person:
- (a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person’s seasonal work preclusion period; or
 - (b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person’s seasonal work preclusion period to which the person is subject as a result of the determination.

Note: For *seasonal work preclusion period* see subsection 16A(1).

- (3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):
- (a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and
 - (b) the determination has effect accordingly.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

- (4) Subsection (2) does not apply to a person who:
- (a) has started:
 - (i) formal vocational training in a labour market program approved by the Employment Secretary; or
 - (ii) a rehabilitation program approved by the Employment Secretary; and
 - (b) has been exempted from the application of that subsection by the Employment Secretary.

Note: For *Employment Secretary* see section 23.

23 After subsection 641(2)

Insert:

(2A) The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:

- (a) the person is qualified, or is expected to be qualified, for a newstart allowance; and
- (b) the allowance would be payable if the person were not subject to a seasonal work preclusion period.

24 At the end of subsection 660YCA(1)

Add:

; or (k) the person is subject to a seasonal work preclusion period under section 660YCL.

25 After section 660YCK

Insert:

660YCL Seasonal workers

(1) This section applies if, at any time during the 6 months immediately before the day on which a person lodges a claim for mature age allowance, the person, or, if the person is a member of a couple, the person or the person's partner, has been engaged in seasonal work.

Note: For *seasonal work* see subsection 16A(1).

(2) Mature age allowance is not payable to the person:

- (a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person's seasonal work preclusion period; or
- (b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person's seasonal work preclusion period to which the person is subject as a result of the determination.

Note: For *seasonal work preclusion period* see subsection 16A(1).

(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or

reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):

- (a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and
- (b) the determination has effect accordingly.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

26 At the end of section 660YEB

Add:

- (2) The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:
 - (a) the person is qualified for a mature age allowance; and
 - (b) the allowance would be payable if the person were not subject to a seasonal work preclusion period.

27 Subsection 771HA(1B)

Omit “(other than subparagraph 608(1)(j)(x))”.

28 At the end of subsection 771HC(1)

Add:

- ; or (l) the person is subject to a seasonal work preclusion period under section 771HNC.

29 After section 771HNB

Insert:

771HNC Seasonal workers

- (1) This section applies if, at any time during the 6 months immediately before the day on which a person lodges a claim for partner allowance, the person, or the person’s partner, has been engaged in seasonal work.

Note: For *seasonal work* see subsection 16A(1).

- (2) Partner allowance is not payable to the person:
- (a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person’s seasonal work preclusion period; or
 - (b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person’s seasonal work preclusion period to which the person is subject as a result of the determination.

Note: For *seasonal work preclusion period* see subsection 16A(1).

- (3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):
- (a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and
 - (b) the determination has effect accordingly.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

30 At the end of section 771JB

Add:

- (2) The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:
- (a) the person is qualified for partner allowance; and
 - (b) the allowance would be payable if the person were not subject to a seasonal work preclusion period.

31 Point 1068B-B1 (after step 1 of the method statement)

Insert:

Step 1A. If point 1068B-B2A applies to the person, parenting payment is non-benefit PP (partnered) for the relevant period in relation to the person.

Note: For the relevant period in relation to the person see point 1068B-B2A.

32 Point 1068B-B1 (step 4 of the method statement)

After “Step 1,”, insert “1A,”.

33 After point 1068B-B2

Insert:

1068B-B2A(1) This point applies to a person if:

- (a) the person is a member of a couple; and
- (b) the person has lodged a claim for parenting payment; and
- (c) at any time during the 6 months immediately before the day on which the person lodged the claim, the person, or the person’s partner, has been engaged in seasonal work.

Note: For *seasonal work* see subsection 16A(1).

(2) For the purposes of Step 1A of the method statement in point 1068B-B1, the *relevant period* in relation to the person is:

- (a) if the person is subject to a seasonal work non-benefit period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—the person’s seasonal work non-benefit period; or
- (b) if the Secretary has made a determination under subsection (3) in relation to the person—that part (if any) of the person’s seasonal work non-benefit period to which the person is subject as a result of the determination.

Note: For *seasonal work non-benefit period* see subsection 16A(1).

(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal work non-benefit period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):

- (a) the Secretary may determine that the person is not subject to the whole, or any part, of the non-benefit period; and
- (b) the determination has effect accordingly.

Note 1: For *in severe financial hardship* see subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

34 Application

The amendments made by this Schedule do not apply in relation to seasonal work engaged in before the commencement of this Schedule.

Schedule 5—Amendments to apply hardship rules to income maintenance periods

Social Security Act 1991

1 Subsections 19C(1), (2) and (3)

Repeal the subsections, substitute:

Application of definitions in this section

- (1) The definitions in this section relate to:
- (a) ordinary waiting periods; and
 - (b) liquid assets test waiting periods; and
 - (c) seasonal work preclusion periods; and
 - (d) income maintenance periods.

Note 1: A person who makes a claim for one of the following allowances may have to serve an ordinary waiting period or a liquid assets waiting period, or both, before the person can be paid the allowance:

- (a) newstart allowance;
- (b) sickness allowance;
- (c) youth allowance.

Note 2: A person who makes a claim for parenting payment or one of the following allowances:

- (a) newstart allowance;
- (b) partner allowance;
- (c) widow allowance;
- (d) mature age allowance;
- (e) youth allowance;

may be subject to a seasonal work preclusion period.

Note 3: An income maintenance period may apply to a person who makes a claim for parenting payment or one of the following allowances:

- (a) newstart allowance;
- (b) partner allowance;
- (c) widow allowance;

Schedule 5 Amendments to apply hardship rules to income maintenance periods

- (d) mature age allowance;
- (e) sickness allowance;
- (f) youth allowance.

Note 4: If an income maintenance period applies to the person then, for the duration of the period:

- (a) the payment or allowance claimed may not be payable; or
- (b) the amount of the payment or allowance payable may be reduced.

Meaning of in severe financial hardship: person who is not a member of a couple

(2) A person who is not a member of a couple and who makes a claim for parenting payment or one of the following allowances:

- (a) newstart allowance;
- (b) widow allowance;
- (c) mature age allowance;
- (d) sickness allowance;
- (e) youth allowance;

is *in severe financial hardship* if the value of the person's liquid assets (within the meaning of subsection 14A(1)) is less than the fortnightly amount at the maximum payment rate of the payment or allowance that would be payable to the person:

- (f) if the person's claim were granted; and
- (g) in the case of a person to whom an income maintenance period applies, if that period did not apply.

Note: For *maximum payment rate* see subsection (8).

Meaning of in severe financial hardship: person who is a member of a couple

(3) A member of a couple who makes a claim for parenting payment or one of the following allowances:

- (a) newstart allowance;
 - (b) partner allowance;
 - (c) mature age allowance;
 - (d) sickness allowance;
 - (e) youth allowance;
-

is *in severe financial hardship* if the value of the couple's liquid assets (within the meaning of subsections 14A(1) and (2)) is less than twice the fortnightly amount at the maximum payment rate of the payment or allowance that would be payable to the person:

- (f) if the person's claim were granted; and
- (g) in the case of a person to whom an income maintenance period applies, if that period did not apply.

Note: For *maximum payment rate* see subsection (8).

2 Subsection 19C(4)

After "preclusion period", insert ", or a person to whom an income maintenance period applies".

3 At the end of paragraph 19C(4)(a)

Add:

- ; or (iii) if an income maintenance period applies to the person—that part of the period that has already applied to the person;

4 At the end of subsection 19C(6)

Add:

- ; or (c) in the case of a person to whom an income maintenance period applies—the amount of allowance or parenting payment (as the case may be) that would have been payable to the person during that part of the income maintenance period that has already applied to the person, if the period did not apply to the person.

5 At the end of subsection 19C(7)

Add:

- ; or (c) in the case of a person to whom an income maintenance period applies—twice the amount of allowance or parenting payment (as the case may be) that would have been payable to the person during that part of the income maintenance period that has already applied to the person, if the period did not apply to the person.

6 After paragraph 19C(8)(d)

Insert:

- (da) in relation to pension PP (single)—means the rate worked out at Step 4 of the method statement in point 1068A-A1 in Module A of the Pension PP Rate Calculator; or

7 Point 1067-H5M

Repeal the point, substitute:

1067-H5M If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while an income maintenance period applies to the person, the Secretary may determine that the whole, or any part, of the period does not apply to the person.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

Note 3: If an income maintenance period applies to a person, then, during that period:

- (a) the allowance claimed may not be payable to the person; or
- (b) the amount of the allowance payable to the person may be reduced.

8 Point 1067E-G6M

Repeal the point, substitute:

1067E-G6M If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while an income maintenance period applies to the person, the Secretary may determine that the whole, or any part, of the period does not apply to the person.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

Note 3: If an income maintenance period applies to a person, then, during that period:

- (a) the allowance claimed may not be payable to the person; or

- (b) the amount of the allowance payable to the person may be reduced.

9 Point 1068-G7AM

Repeal the point, substitute:

1068-G7AM If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while an income maintenance period applies to the person, the Secretary may determine that the whole, or any part, of the period does not apply to the person.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple) and 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

Note 3: If an income maintenance period applies to a person, then, during that period:

- (a) the allowance claimed may not be payable to the person; or
- (b) the amount of the allowance payable to the person may be reduced.

10 Point 1068A-E9

Repeal the point, substitute:

1068A-E9 If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while an income maintenance period applies to the person, the Secretary may determine that the whole, or any part, of the period does not apply to the person.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

Note 3: If an income maintenance period applies to a person, then, during that period:

- (a) the pension PP (single) claimed may not be payable to the person; or
- (b) the amount of the pension PP (single) payable to the person may be reduced.

11 Point 1068B-D15

Repeal the point, substitute:

1068B-D15 If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while an income maintenance period applies to the person, the Secretary may determine that the whole, or any part, of the period does not apply to the person.

Note 1: For *in severe financial hardship* see subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

Note 3: If an income maintenance period applies to a person, then, during that period:

- (a) the PP (partnered) claimed may not be payable to the person; or
- (b) the amount of the PP (partnered) payable to the person may be reduced.

Social Security Legislation Amendment (Parenting and Other Measures) Act 1997

12 Part 2 of Schedule 4

Repeal the Part.

Schedule 6—Amendments relating to the Commonwealth Service Delivery Agency

Social Security Act 1991

1 Section 3 (index)

Omit:

CES	23(1)
Jobskills	23(1)
LEAP program	23(1)

2 Section 3 (index)

Insert the following entry in its appropriate alphabetical position, determined on a letter-by-letter basis:

CSP	23(1)
-----	-------

3 Subsection 5(1) (subparagraph (b)(ii) of the definition of *independent young person*)

Repeal the subparagraph, substitute:

- (ii) been receiving a youth training allowance or a newstart allowance; or
- (iii) been registered by the Employment Secretary as being unemployed;

4 Subsection 5(1) (note at the end of the definition of *independent young person*)

Repeal the note.

5 Subsection 23(1) (definition of *CES*)

Repeal the definition.

6 Subsection 23(1)

Insert:

CSP means the program known as the Community Support Program administered by the Employment Department.

7 Subsection 23(1) (definition of *Jobskills*)

Repeal the definition.

8 Subsection 23(1) (definition of *LEAP program*)

Repeal the definition.

9 Subsection 23(4A)

Repeal the subsection.

10 Paragraph 408CA(1)(f)

Repeal the paragraph.

11 Paragraph 408CF(4)(b)

Omit “Refugees; or”, substitute “Refugees.”.

12 Paragraph 408CF(4)(c)

Repeal the paragraph.

13 Subsection 408CF(4) (note 2)

Repeal the note.

14 Section 408FB

Repeal the section.

15 Subparagraph 593(1)(g)(iv)

Repeal the subparagraph.

16 Subsection 593(1) (notes 4, 7, 10 and 15)

Repeal the notes.

17 Subparagraph 593(2)(g)(iv)

Repeal the subparagraph.

18 Subsection 593(2) (notes 3, 6 and 7)

Repeal the notes.

19 Subsection 595(2)

Omit “Subject to section 595A, a person”, substitute “A person”.

20 Section 595A

Repeal the section.

21 After subparagraph 597(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

22 Paragraph 597(2)(b)

Omit “Employment”.

23 Subparagraph 598(4)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) the person claims a newstart allowance;

24 Paragraph 598(4)(d)

Repeal the paragraph.

25 After subparagraph 598(8)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

26 Paragraph 598(8)(b)

Omit “Employment”.

27 Subsection 598(8) (note 1)

Repeal the note.

28 Section 599

Repeal the section.

29 At the end of paragraph 601(2)(a)

Add:

- (iv) should undertake an activity approved by the Employment Secretary under the CSP; and

30 Subsections 601(4) and (5)

Omit “CES”, substitute “Secretary”.

31 Subsections 604(1), (1A) and (1B)

Repeal the subsections, substitute:

- (1) Subject to subsection (1A), if a person is in receipt of a newstart allowance, the Secretary may require the person to enter into a Newstart Activity Agreement.
- (1A) A person who, under Subdivision BA, is not required to satisfy the activity test is not to be required to enter into a Newstart Activity Agreement.
- (1B) The Secretary is to give a person who is required to enter into a Newstart Activity Agreement notice of:
 - (a) the requirement; and
 - (b) the places and times at which the agreement is to be negotiated.
- (1C) A Newstart Activity Agreement is a written agreement in a form approved by the Secretary and the Employment Secretary. The agreement is between the person and the Secretary.

32 Paragraph 606(1)(f)

Omit “conducted by the CES”.

33 After paragraph 606(1)(fa)

Insert:

- (fb) an activity approved by the Employment Secretary under the CSP;

34 At the end of subsection 606(5)

Add:

; and (d) may be cancelled by the Secretary after a review under paragraph (c).

35 Subparagraph 607(1)(b)(iii)

Omit “CES”, substitute “Secretary”.

36 Subparagraphs 608(1)(i)(i) and (i)(ii)

Repeal the subparagraphs, substitute:

- (i) attend an office of the Agency; or
- (ii) contact the Agency; or

37 Subparagraph 608(1)(j)(ix)

Repeal the subparagraph.

38 Subsection 608(1) (notes 2 and 3)

Repeal the notes.

39 Paragraph 614(4)(bb)

Omit “students; or”, substitute “students.”.

40 Paragraph 614(4)(c)

Repeal the paragraph.

41 Subsection 614(4) (note 2)

Repeal the note.

42 Subsections 615(3), (3A) and (4)

Repeal the subsections.

43 Subsection 615(5)

Repeal the subsection, substitute:

- (5) Subject to subsections (6) and (7), if:
 - (a) a person is a transferee to newstart allowance; and
 - (b) the person claims the newstart allowance within 14 days after the transfer day;

the person's provisional commencement day is the person's transfer day.

44 Paragraph 615A(1)(a)

Omit "telephones the Department", substitute "contacts the Department by writing, by telephone, or by transmitting a message by use of facsimile or computer equipment,".

45 Paragraph 615A(1)(b)

Omit "made the telephone call", substitute "contacted the Department".

46 Paragraph 615A(1)(f)

Repeal the paragraph, substitute:

- (f) the Secretary is satisfied that, when the person contacted the Department, the person:
 - (i) was unemployed and available for work; or
 - (ii) was suffering from a medical condition that had a significant adverse effect on the person's ability to work; and

47 Subsection 615A(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (3), for the purposes of paragraph (1)(d), the period is 14 days after the day on which the person contacted the Department.

48 Paragraph 615A(3)(a)

Repeal the paragraph, substitute:

- (a) within the 14 day period referred to in subsection (2); or

49 Subsection 615A(3)

Omit all the words after "is extended", substitute "for such further period as the Secretary considers reasonable".

50 Subsection 615A(4)

Omit all the words after "day on which the person", substitute "contacted the Department".

51 At the end of section 615A

Add:

- (5) For the purposes of this section, a person who contacts the Department by transmitting a message by use of facsimile or computer equipment is taken to have done so when the message is received in the Department.

52 Paragraph 620(1)(g)

Omit “waiting period; or”, substitute “waiting period.”.

53 Paragraphs 620(1)(h), (i) and (j)

Repeal the paragraphs.

54 After subparagraph 620(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

55 Paragraph 620(2)(b)

Omit “Employment”.

56 Section 620 (notes 7 and 8)

Repeal the notes.

57 After subparagraph 622(4)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

58 Paragraph 622(4)(b)

Omit “Employment”.

59 Subsection 622(4) (note 2)

Repeal the note.

60 After subparagraph 624(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

61 Paragraph 624(2)(b)

Omit “Employment”.

62 After subparagraph 625(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

63 Paragraph 625(2)(b)

Omit “Employment”.

64 After subparagraph 626(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

65 Paragraph 626(2)(b)

Omit “Employment”.

66 Subparagraph 630C(1)(b)(i)

Omit “Department or of the CES”, substitute “Agency”.

67 Subparagraph 630C(1)(b)(ii)

Omit “Department or the CES”, substitute “Agency”.

68 Subparagraph 630C(1)(c)(ii)

Omit “Department or the CES”, substitute “Agency”.

69 Subsection 630C(1) (note)

Repeal the note, substitute:

Note: For *Agency* see subsection 23(1).

Note: The heading to section 630C is altered by omitting “**Department or CES etc**” and substituting “**Agency**”.

70 Section 632

Repeal the section.

71 After subparagraph 633(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

72 Paragraph 633(2)(b)

Omit “Employment”.

73 After subparagraph 634(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

74 Paragraph 634(2)(b)

Omit “Employment”.

75 Section 644

Repeal the section.

76 Paragraph 660XBA(1)(c)

Repeal the paragraph.

77 Subsection 660XBA(1A)

Repeal the subsection.

78 Section 660XBA (notes 2 and 3)

Repeal the notes.

79 Section 660XBD

Repeal the section.

80 Section 660XBF

Repeal the section.

81 Section 660XBG

Repeal the section.

82 Paragraph 660YCA(1)(d)

Repeal the paragraph, substitute:

- (d) the person is receiving a payment under an educational scheme or a scheme providing allowances to refugees (see section 660YCG); or

83 Paragraph 660YCG(1)(b)

Omit “Refugees; or”, substitute “Refugees.”.

84 Paragraph 660YCG(1)(c)

Repeal the paragraph.

85 Subsection 660YCG(1) (note 2)

Repeal the note.

86 Section 660YFB

Repeal the section.

87 Subparagraph 729(2)(c)(i)

Repeal the subparagraph.

88 Subparagraph 729(2)(d)(vii)

Repeal the subparagraph.

89 Subparagraph 729(2)(da)(i)

Repeal the subparagraph.

90 Subparagraph 729(2)(db)(vii)

Repeal the subparagraph.

91 Sub-subparagraph 736(1)(b)(iv)(B)

Omit “CES”, substitute “Employment Secretary”.

92 Paragraph 771HC(1)(f)

Repeal the paragraph.

93 Section 771HL

Repeal the section.

94 Subsection 1239(2)

Repeal the subsection, substitute:

- (2) Subsection (1) does not apply to a decision made by the Secretary:
- (a) approving a course; or
 - (b) under section 603AA (approval of voluntary organisation); or
 - (c) exempting a person from the application of a provision.

(2AA) Subsection (1) does not apply to a decision made by the Employment Secretary:

- (a) approving an activity under the CSP; or
- (b) approving under section 28 a program of work for unemployment payment.

95 Paragraph 1240(2)(b)

Repeal the paragraph, substitute:

- (b) the Secretary approving a course or exempting a person from the application of a provision; or
- (ba) the Employment Secretary approving an activity under the CSP, or approving under section 28 a program of work for unemployment payment; or

96 Subsection 1242A(1)

Omit “CES”, substitute “Secretary”.

97 Paragraph 1250(1)(aa)

Repeal the paragraph.

98 Paragraph 1250(1)(ca)

Omit “or rehabilitation program”, substitute “, rehabilitation program or any other program”.

99 Paragraph 1252A(2)(a)

Omit “CES”, substitute “Secretary”.

100 Subsection 1257(1A)

Repeal the subsection.

101 Subsection 1261(1)

Repeal the subsection, substitute:

- (1) If an application under Part 6.2 or under Division 2 of Part 9 of the *Student and Youth Assistance Act 1973* is sent or delivered to an office of the Agency, the Secretary must send the application to the National Convener as soon as practicable and in any case not later than 7 days after the application is received at the office of the Agency.

102 Subsection 1261(1A)

Omit “Secretary”, substitute “Employment Secretary”.

103 Subsection 1274(2A)

Repeal the subsection.

104 Subsection 1274(4)

Omit “or subsection (2A)”.

105 Subsection 1274(4)

Omit “or the CES”.

106 Subsection 1299(1)

Omit “subsections (2) and (3)”, substitute “subsection (2)”.

107 Subsections 1299(3) and (4)

Repeal the subsections.

108 Subsection 1303(3)

Repeal the subsection.

109 Subsection 1363(2)

Repeal the subsection.

110 Clause 75 of Schedule 1A

Repeal the clause.

Student and Youth Assistance Act 1973

111 Paragraph 55A(1B)(a)

Omit “(other than section 136)”.

112 Subsection 58(1) (paragraph (b) of the definition of *youth training allowance discretionary deferment provision*)

Repeal the paragraph.

113 Subsection 58(2)

Repeal the subsection.

114 Subparagraph 65(1)(g)(iv)

Repeal the subparagraph.

115 Subparagraph 65(3)(c)(iii)

Repeal the subparagraph, substitute:

(iii) has been registered by the Employment Secretary as being unemployed for at least 13 weeks; and

116 Section 65 (notes 3, 7 and 8)

Repeal the notes.

117 After subparagraph 71(2)(a)(i)

Insert:

(ia) an activity approved by the Employment Secretary under the CSP; or

118 Subparagraph 72(9)(c)(ii)

Repeal the subparagraph, substitute:

(ii) the person claims a youth training allowance;

119 Paragraph 72(9)(d)

Repeal the paragraph.

120 Paragraph 72(12)(b)

Repeal the paragraph, substitute:

- (b) the person claims the youth training allowance within 14 days of the transfer day.

121 After subparagraph 72(13)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

122 Section 73

Repeal the section.

123 After paragraph 75(7)(b)

Insert:

- (ba) should undertake an activity approved by the Employment Secretary under the CSP; or

124 Paragraph 75(7)(c)

Omit “Commonwealth Employment Service”, substitute “Employment Secretary”.

125 Subsections 75(13) and (14)

Omit “Commonwealth Employment Service”, substitute “Secretary”.

126 Subsection 79(4)

Repeal the subsection, substitute:

- (4) A Youth Training Activity Agreement is a written agreement in a form approved by the Secretary and the Employment Secretary. The agreement is between the person and the Secretary.

127 Paragraph 80(1)(h)

Omit “conducted by the Commonwealth Employment Service”.

128 After paragraph 80(1)(h)

Insert:

- (ha) an activity approved by the Employment Secretary under the CSP;

129 At the end of subsection 80(5)

Add:

- ; and (d) may be cancelled by the Secretary after a review under paragraph (c).

130 Subsection 80(6)

Omit “Commonwealth Employment Service”, substitute “Secretary”.

131 Subparagraph 81(1)(b)(iii)

Omit “Commonwealth Employment Service”, substitute “Secretary”.

132 Subparagraphs 85(1)(j)(i) and (ii)

Repeal the subparagraphs, substitute:

- (i) attend an office of the Agency; or
- (ii) contact the Agency; or

133 Subparagraph 85(1)(m)(v)

Repeal the subparagraph.

134 Subsection 85(1) (note 2)

Repeal the note.

135 Paragraph 89(2)(bb)

Omit “students; or”, substitute “students.”.

136 Paragraph 89(2)(c)

Repeal the paragraph.

137 Subsection 89(2) (note 2)

Repeal the note.

138 Subsections 91(3), (3A) and (4)

Repeal the subsections.

139 Subsection 91(5)

Repeal the subsection, substitute:

- (5) Subject to subsections (5A) and (5B), if:
- (a) a person is a transferee to youth training allowance; and
 - (b) the person claims the youth training allowance within 14 days after the transfer day;
- the person's provisional commencement day is the person's transfer day.

140 Paragraph 91A(1)(a)

Omit "telephones the Department", substitute "contacts the Department by writing, by telephone, or by transmitting a message by use of facsimile or computer equipment,".

141 Paragraph 91A(1)(b)

Omit "made the telephone call", substitute "contacted the Department".

142 Paragraph 91A(1)(f)

Repeal the paragraph, substitute:

- (f) the Secretary is satisfied that, when the person contacted the Department, the person:
- (i) was unemployed and available for work; or
 - (ii) was suffering from a medical condition that had a significant adverse effect on the person's ability to work; and

143 Subsection 91A(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (3), for the purposes of paragraph (1)(d), the period is 14 days after the day on which the person contacted the Department.

144 Paragraph 91A(3)(a)

Repeal the paragraph, substitute:

- (a) within the 14 day period referred to in subsection (2); or

145 Subsection 91A(3)

Omit all the words after “is extended”, substitute “for such further period as the Secretary considers reasonable”.

146 Subsection 91A(4)

Omit all the words after “day on which the person”, substitute “contacted the Department”.

147 At the end of section 91A

Add:

- (5) For the purposes of this section, a person who contacts the Department by transmitting a message by use of facsimile or computer equipment is taken to have done so when the message is received in the Department.

148 Subparagraph 96(b)(i)

After “a labour market program approved by the Secretary”, insert “, or an activity approved by the Employment Secretary under the CSP,”.

149 Paragraph 96(d)

Omit “period; or”, substitute “period.”.

150 Paragraph 96(e)

Repeal the paragraph.

151 Section 96 (note 5)

Repeal the note.

152 Subsections 98(2) and (3)

Repeal the subsections, substitute:

Person not subject to waiting period

- (2) Subsection (1) does not apply to a person who becomes qualified for a youth training allowance at the end of a continuous period in respect of which the person received income support payments (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this subsection).

153 After subparagraph 98(4)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

154 After subparagraph 103(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

155 After subparagraph 104(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

156 Subsection 104(3)

Repeal the subsection.

157 After subparagraph 105(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

158 Subsection 105(3)

Repeal the subsection.

159 Subparagraphs 114(1)(b)(i) and (ii)

Repeal the subparagraphs, substitute:

- (i) attend an office of the Agency; or
- (ii) contact the Agency; or

160 Subparagraph 114(1)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) contact the Agency; or

161 Section 120

Repeal the section.

162 After subparagraph 121(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

163 After subparagraph 122(2)(a)(i)

Insert:

- (ia) an activity approved by the Employment Secretary under the CSP; or

164 Section 136

Repeal the section.

165 Paragraph 303(2)(a)

Repeal the paragraph.

166 After subsection 303(2)

Insert:

- (2A) Subsection (1) does not apply to a decision made by the Employment Secretary approving an activity under the CSP.

167 Subsection 315(1)

Omit “Commonwealth Employment Service”, substitute “Secretary”.

Schedule 7 Amendment of various Acts consequential upon the change of name of family payment to family allowance

Part 1 Amendments that take effect irrespective of other amendments

Schedule 7—Amendment of various Acts consequential upon the change of name of family payment to family allowance

Part 1—Amendments that take effect irrespective of other amendments

Bankruptcy Act 1966

1 Section 139L (sub-subparagraph (b)(ii)(A) of the definition of *income*)

Omit “family payment”, substitute “family allowance”.

Child Support (Assessment) Act 1989

2 Section 5 (definition of *claimant*)

Repeal the definition, substitute:

claimant, in relation to family allowance, means a person who has made a claim for the allowance, if the claim has neither been granted nor been refused.

3 Section 5

Insert:

family allowance has the same meaning as in the *Social Security Act 1991*.

4 Paragraph 89(4)(b)

Omit “family payment” (wherever occurring), substitute “family allowance”.

5 Subsection 89(4) (note)

Omit “family payment”, substitute “family allowance”.

6 Subparagraph 91A(1)(b)(ii)

Omit “family payment” (wherever occurring), substitute “family allowance”.

Note: The heading to section 91A is altered by omitting “family payment” and substituting “family allowance”.

7 Subsection 91A(1) (note)

Omit “family payment”, substitute “family allowance”.

8 Subsection 91A(3)

Omit “payment” (wherever occurring), substitute “allowance”.

9 Subparagraph 92(4)(a)(ii)

Omit “family payment” (wherever occurring), substitute “family allowance”.

10 Subsection 92(4) (note)

Omit “family payment”, substitute “family allowance”.

Data-matching Program (Assistance and Tax) Act 1990

11 Subsection 3(1) (subparagraph (c)(xxiva) of the definition of personal assistance)

Repeal the subparagraph, substitute:

(xxiva) family allowance advance or family payment advance;

Farm Household Support Act 1992

12 Subsection 3(1)

Omit “*family payment*”, substitute “*family allowance*”.

13 Paragraph 24A(1)(c)

Omit “family payment” (wherever occurring), substitute “family allowance”.

Schedule 7 Amendment of various Acts consequential upon the change of name of family payment to family allowance

Part 1 Amendments that take effect irrespective of other amendments

14 Subsection 24A(1A) (definition of *exempt assets family payment rate*)

Repeal the definition.

15 Subsection 24A(1A)

Insert:

exempt assets family allowance rate, in relation to a person or a person's partner, means the fortnightly rate at which family allowance would be payable to that person or that partner, taking into account the rule in subsection (2).

16 Subsection 24A(1A) (definition of *family payment rate*)

Repeal the definition.

17 Subsection 24A(1A)

Insert:

family allowance rate, in relation to a person or a person's partner, means the fortnightly rate at which that person or that partner is receiving family allowance (if any).

Health Insurance Act 1973

18 Subsection 3(1) (subparagraph (d)(i) of the definition of *dependant*)

Omit "family payment" (wherever occurring), substitute "family allowance".

19 Subsection 3(1) (definition of *dependant* (note))

Omit "family payment", substitute "family allowance".

20 Subsection 3(1) (definition of *DSS benefit dependant*)

Repeal the definition, substitute:

DSS benefit dependant, in relation to the recipient of a newstart allowance, sickness allowance or special benefit under the *Social Security Act 1991* or a youth training allowance under the *Student*

and Youth Assistance Act 1973, means a person in respect of whom the recipient or the recipient's partner receives family allowance under the *Social Security Act 1991* at a rate that is higher than the minimum family allowance rate under that Act.

21 Subsection 5B(12) (definition of *child*)

Omit "family payment" (wherever occurring), substitute "family allowance".

22 Subsection 5B(12) (paragraph (ab) of the definition of *income*)

Omit "Family Payment", substitute "Family Allowance".

23 Subsection 5B(12) (definition of *unemployment benefit*)

Repeal the definition.

24 Paragraph 5EA(4)(a)

After "supplement", insert "under the *Social Security Act 1991* as in force at a time before 1 January 1993".

25 Subsection 5EA(5)

After "supplement", insert "under the *Social Security Act 1991* as in force at a time before 1 January 1993".

26 Paragraph 5EA(5A)(b)

After "supplement", insert "under the *Social Security Act 1991* as in force at a time before 1 January 1993".

27 Paragraph 5EA(5B)(b)

After "supplement", insert "under the *Social Security Act 1991* as in force at a time before 1 January 1993".

28 After subsection 5EA(5AA)

Insert:

(5AB) The reference in paragraph (5AA)(e) to family payment at the maximum family payment rate is, on and after 1 April 1998, taken to be a reference to family allowance.

Schedule 7 Amendment of various Acts consequential upon the change of name of family payment to family allowance

Part 1 Amendments that take effect irrespective of other amendments

29 After subsection 5EA(5BA)

Insert:

(5BB) The reference in paragraph (5BA)(e) to family payment at the maximum family payment rate is, on and after 1 April 1998, taken to be a reference to family allowance.

30 Paragraph 5EA(5C)(a)

After “supplement”, insert “under the *Social Security Act 1991* as in force at a time before 1 January 1993”.

31 After subsection 5EA(5DA)

Insert:

(5DB) The reference in paragraph (5DA)(e) to family payment at the maximum family payment rate is, on and after 1 April 1998, taken to be a reference to family allowance.

32 Paragraph 5EA(5E)(a)

After “supplement”, insert “under the *Social Security Act 1991* as in force at a time before 1 January 1993”.

33 After subsection 5EA(5FA)

Insert:

(5FB) The reference in paragraph (5FA)(e) to family payment at the maximum family payment rate is, on and after 1 April 1998, taken to be a reference to family allowance.

34 Subsection 5EA(6)

After “In this section”, insert “, unless the contrary intention appears,”.

35 Subsection 5EA(6) (at the end of the definition of *additional family payment*)

Add “as in force at a time before 1 January 1996”.

36 Subsection 5EA(6) (paragraph (a) of the definition of *AFP maximum payment rate*)

After “1991”, insert “as in force at a time before 1 January 1996”.

37 Subsection 5EA(6)

Insert:

family allowance means family allowance under the *Social Security Act 1991* as in force on or after 1 April 1998.

38 Subsection 5EA(6) (at the end of the definition of *family payment*)

Add “and before 1 April 1998”.

39 Subsection 5EA(6) (paragraph (a) of the definition of *maximum family payment rate*)

Repeal the paragraph, substitute:

- (a) to which the family allowance income test in Submodule 3 of Module H of the Family Allowance Rate Calculator in section 1069 of the *Social Security Act 1991* applies; and

Income Tax Assessment Act 1997

40 Section 52-10 (table item 11.1)

Omit “Family payment”, substitute “Family allowance”.

41 Section 52-10 (table item 12.1)

Omit “Family payment advance”, substitute “Family allowance advance”.

42 Section 52-40 (item 11)

Omit “Family payment”, substitute “Family allowance”.

43 Section 52-40 (item 12)

Omit “Family payment advance”, substitute “Family allowance advance”.

44 Paragraph 53-15(c)

Omit “family payment”, substitute “family allowance”.

Schedule 7 Amendment of various Acts consequential upon the change of name of family payment to family allowance

Part 1 Amendments that take effect irrespective of other amendments

45 Saving: new terminology includes old payment types

Where a term set out in the second column of the table below is used in the *Income Tax Assessment Act 1997*, it is to be interpreted as including a reference to the corresponding term set out in the third column of the table:

Terminology Table		
Item	Term in ITAA 1997	Term included
1	family allowance	family payment
2	family allowance advance	family payment advance

Medicare Levy Act 1986

46 Subsection 8(6)

Omit “family payment”, substitute “family allowance”.

Veterans’ Entitlements Act 1986

47 Section 5 (index)

Omit “FP child”, substitute “FA child”.

48 Subsection 5F(1)

Insert:

FA child has the same meaning as in the Social Security Act.

49 Subsection 5F(1) (definition of *FP child*)

Repeal the definition.

50 Subsection 5F(3)

Omit “FP child” (wherever occurring), substitute “FA child”.

Note: The heading to subsection 5F(3) is altered by omitting “*FP child*” and substituting “*FA child*”.

51 Paragraph 5R(11)(b)

Omit “FP child”, substitute “FA child”.

52 Subsection 5R(11) (note 1)

Omit “*FP child*”, substitute “*FA child*”.

53 Subsection 5R(12)

Omit “*FP child*” (wherever occurring), substitute “*FA child*”.

54 Subsection 5R(12) (note 1)

Omit “*FP child*”, substitute “*FA child*”.

55 Subclauses 10(1) to (3) of Schedule 5

Omit “family payment” (wherever occurring), substitute “family allowance”.

56 Subclause 10(4) of Schedule 5 (definition of *notional family payment child-related amount*)

Repeal the definition.

57 Subclause 10(4) of Schedule 5

Insert:

notional family allowance child-related amount, in relation to a person or a person’s partner at any time, means the amount by which the rate of family allowance that would be payable to the person or the person’s partner at that time under the Social Security Act except for point 1069-B8 of that Act, would be more than the minimum family allowance rate.

58 Module C of Schedule 6 (paragraph (f) of point SCH6-C3)

Omit “*FP child*” (wherever occurring), substitute “*FA child*”.

59 Module C of Schedule 6 (subparagraph (f)(ii) of point SCH6-C3)

Omit “family payment”, substitute “family allowance”.

60 Module C of Schedule 6 (subparagraph (c)(ii) of point SCH6-C5)

Repeal the subparagraph, substitute:

Schedule 7 Amendment of various Acts consequential upon the change of name of family payment to family allowance

Part 1 Amendments that take effect irrespective of other amendments

- (ii) the partner is receiving a social security pension and is also receiving family allowance at a rate that is more than the minimum family allowance rate and which includes an amount to take account of rent paid or payable by the partner.

61 Module C of Schedule 6 (point SCH6-C5, note 2)

Omit “*family payment*”, substitute “*family allowance*”.

62 Module G of Schedule 6 (point SCH6-G2)

Omit “FP child”, substitute “FA child”.

63 Module G of Schedule 6 (point SCH6-G2, note 1)

Omit “*FP child*”, substitute “*FA child*”.

64 Module G of Schedule 6 (point SCH6-G3)

Omit “FP child”, substitute “FA child”.

Note: The heading to point SCH6-G3 is altered by omitting “*FP children*” and substituting “*FA children*”.

65 Module G of Schedule 6 (point SCH6-G4)

Omit “FP child” (wherever occurring), substitute “FA child”.

Note: The heading to point SCH6-G4 is altered by omitting “*FP child*” and substituting “*FA child*”.

66 Module G of Schedule 6 (point SCH6-G5)

Omit “FP child” (wherever occurring), substitute “FA child”.

Note: The heading to point SCH6-G5 is altered by omitting “*FP child*” (wherever occurring) and substituting “*FA child*”.

Part 2—Amendment of the Childcare Rebate Act 1993

67 Application

The following items have effect if, and only if, an Act known as the *Child Care Payments (Consequential Amendments and Transitional Provisions) Act 1997* has not commenced before this Schedule commences.

68 Section 46

Omit “family payment” (wherever occurring), substitute “family allowance”.

Note 1: The heading to section 46 is altered by omitting “**Family payment**” and substituting “**Family allowance**”.

Note 2: The heading to subsection 46(1) is altered by omitting “*family payment*” and substituting “*family allowance*”.

69 Subsection 46(17) (definition of *family payment*)

Repeal the definition.

70 Subsection 46(17)

Insert:

family allowance means family allowance under the *Social Security Act 1991*.

Schedule 8—Amendments relating to changes to the Farm Household Support Act 1992

Social Security Act 1991

1 Subsection 1227A(1)

Omit “drought relief payment”, substitute “exceptional circumstances relief payment or restart income support”.

Note: The heading to section 1227A is amended by omitting “**drought relief payment**” and substituting “**exceptional circumstances relief payment or restart income support**”.

2 Paragraph 1227A(2)(a)

Omit “a drought relief payment”, substitute “exceptional circumstances relief payment or restart income support”.

3 Paragraph 1227A(2)(a)

Omit “that person’s drought relief payment”, substitute “that payment or support”.

4 Paragraph 1231A(2)(b)

Omit “drought relief payment”, substitute “exceptional circumstances relief payment or restart income support”.

Note: The heading to section 1231 is amended by omitting “**drought relief payment**” and substituting “**exceptional circumstances relief payment or restart income support**”.

5 Subsection 1231A(1) (including the method statement)

Omit “the person’s drought relief payment” (wherever occurring), substitute “that payment or support”.

6 Subsection 1231A(2)

Omit “the person’s drought relief payment”, substitute “the exceptional circumstances relief payment or the restart income support”.

Schedule 9—Amendments relating to mobility allowance

Social Security Act 1991

1 Section 19 (at the end of the definition of *vocational training*)

Add “and, where used in Part 2.21 (Mobility allowance), also includes training known as independent living skills or life skills training”.

2 Section 1035

After “mobility allowance if”, insert “the person satisfies the travel test set out in subsection (2) and”.

3 At the end of paragraph 1035(ba)

Add “or”.

4 At the end of section 1035

Add:

- (2) A person *satisfies the travel test* mentioned in subsection (1) if the person is required to travel to and from the person’s home for the purpose of undertaking:
- (a) gainful employment; or
 - (b) vocational training; or
 - (c) job search activities; or
 - (d) voluntary work approved by the Secretary for charitable, welfare or community organisations.

[*Minister's second reading speech made in—
House of Representatives on 3 December 1997
Senate on 5 March 1998*]

(233/97)