



**Family and Community Services and
Veterans' Affairs Legislation
Amendment (Debt Recovery) Act 2001**

No. 47, 2001



Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Act 2001

No. 47, 2001

**An Act to amend the law relating to the recovery of
debts due to the Commonwealth by social security
and family assistance recipients and veterans, and
for related purposes**

Contents

| | | |
|---|-------------------|-----------|
| 1 | Short title..... | 2 |
| 2 | Commencement..... | 2 |
| 3 | Schedule(s)..... | 2 |
| Schedule 1—Amendment of the Social Security Act 1991 | | 3 |
| Schedule 2—Amendment of the Social Security (Administration) Act 1999 | | 22 |
| Schedule 3—Amendment of the A New Tax System (Family Assistance) (Administration) Act 1999 | | 23 |
| Schedule 4—Amendment of the Veterans’ Entitlements Act 1986 | | 34 |
| Schedule 5—Amendment of the Safety, Rehabilitation and Compensation Act 1988 | | 44 |



Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Act 2001

No. 47, 2001

An Act to amend the law relating to the recovery of debts due to the Commonwealth by social security and family assistance recipients and veterans, and for related purposes

[Assented to 12 June 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Act 2001*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (2) Items 3 to 27, 29, 32 and 33, in Schedule 1, items 1 to 15 in Schedule 3, and items 1 to 8A in Schedule 4, commence, or are taken to have commenced, on 1 July 2001.

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Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of the Social Security Act 1991

1 Subsection 23(1) (definition of *assurance of support debt*)

Omit all the words and paragraphs after paragraph (ca), substitute “in respect of the payment to another person of a social security payment of a kind mentioned in subregulation 2.38(1) of the Migration Regulations.”.

2 Subsection 23(1) (definition of *financial institution*)

Repeal the definition, substitute:

financial institution means a corporation that is an ADI for the purposes of the *Banking Act 1959*.

3 Paragraph 1222(1)(b)

Repeal the paragraph, substitute:

(b) debts owed to the Commonwealth under section 1135; and

4 Subsection 1222(1) (note 1)

Repeal the note, substitute:

Note: The debts owed to the Commonwealth under Part 5.2 are as follows:

- (a) section 1223 debts—debts arising under this Act;
- (b) section 1223AA debts—debts arising from prepayments;
- (c) section 1223AB debts—debts arising from AAT stay orders;
- (d) section 1224AA debts—person other than payee obtaining payment of a cheque;
- (e) section 1224AB debts arising from conviction of person for involvement in offence by debtor;
- (f) section 1224B debts—education entry payment;
- (g) section 1224D debts—mobility allowance advance debts;
- (h) section 1224E debts—debts arising from advance payments of social security entitlements;
- (i) section 1225 debts—compensation debts;
- (j) section 1226 debts—compensation payer and insurer debts;
- (k) section 1226A debts—compensation arrears debts;

Schedule 1 Amendment of the Social Security Act 1991

- (l) section 1227 debts—assurance of support debts;
- (m) section 1227A debts—debts arising under the Farm Household Support Act;
- (n) section 1227B debts—debts arising under Part 8 of the *Student Assistance Act 1973* as in force immediately before 1 July 1998;
- (o) section 1229A debts—interest debts;
- (p) section 1229B debts—administrative charge debts;
- (q) section 1230 debts—garnishee notice debts;
- (r) section 1230A debts—failure to comply with garnishee notice.

5 Subsection 1222(1) (note 2)

Repeal the note.

6 Subsection 1222(2)

Repeal the subsection, substitute:

- (2) The methods of recovery available for the various types of debt are set out in the following table:

| Recovery methods table | | | |
|-------------------------------|--|---|-------------------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| Item | Debt | Means | Provision |
| 1 | 1135 (pension loan debt) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 2 | 1223 (debt arising under this Act) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 3 | 1223AA (debt arising from prepayment) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 4 | 1223AB (debt arising from AAT stay order) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |

| Recovery methods table | | | |
|-------------------------------|---|---|-------------------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| Item | Debt | Means | Provision |
| 5 | 1224AA | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 6 | 1224AB (conviction of person for involvement in offence by debtor) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 7 | 1224B (education entry payment) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 8 | 1224C (Data-matching program debts) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 9 | 1224D (mobility allowance advance debt) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 10 | 1224E (debt arising from advance payments of social security entitlements) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 11 | 1225 (compensation debt) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 12 | 1226 (compensation payer and insurer debts) | legal proceedings | 1232 |
| 13 | 1226A (compensation arrears debt) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |

| Recovery methods table | | | |
|-------------------------------|---|---|-------------------------------------|
| Column 1 | Column 2 | Column 3 | Column 4 |
| Item | Debt | Means | Provision |
| 14 | 1227 (assurance of support debt) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 15 | 1227B (youth training allowance debts) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 16 | 1229A (interest on debt) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 17 | 1229B (administrative charge) | deductions legal proceedings garnishee notice repayment by instalments | 1231, 1234A 1232 1233 1234 |
| 18 | 1230 (garnishee notice debt) | legal proceedings garnishee notice | 1232 1233 |
| 19 | 1230A (garnishee notice debt under 1947 Act) | legal proceedings garnishee notice | 1232 1233 |

7 Subsection 1223(1)

Repeal the subsection, substitute:

(1) Subject to this section, if:

- (a) a social security payment is made; and
- (b) a person who obtains the benefit of the payment was not entitled for any reason to obtain that benefit;

the amount of the payment is a debt due to the Commonwealth by the person and the debt is taken to arise when the person obtains the benefit of the payment.

(1AA) If a social security payment is made to, or as directed or authorised by, the person who is entitled to obtain the benefit of the payment, subsection (1) does not apply to any other person who afterwards obtains the benefit of the payment unless the other person obtained

the benefit because of a mistake made by the first person in connection with the giving of the direction or authorisation.

- (1AB) Without limiting by implication the circumstances to which paragraph (1)(b) applies apart from this subsection, a person who obtained the benefit of a social security payment is taken not to have been entitled to obtain the benefit if the payment should not have been made for any one or more of the following reasons:
- (a) the payment was made to the person by mistake as a result of a computer error or an administrative error;
 - (b) the person for whose benefit the payment was intended to be made was not qualified to receive the payment;
 - (c) the payment was not payable;
 - (d) the payment was made as a result of a contravention of the social security law, a false statement or a misrepresentation;
 - (e) the payment was made in purported compliance with a direction or authority given by the person who was entitled to obtain the benefit of the payment but the direction or authority had been revoked or withdrawn before the payment was made;
 - (f) the payment was intended to be made for the benefit of someone else who died before the payment was made.
- (1AC) If a social security payment was made by mistake as a result of a computer error or an administrative error, subsection (1) applies:
- (a) whether or not the payment was made under a determination that had effect at the time when the payment was made; and
 - (b) whether or not a determination in relation to the payment could be made after that time with effect from and including that time.
- (1AD) Subsection (1AC) does not apply if the social security payment was made when it should not have been made because of the occurrence of an event or a change in circumstances where the event or change had not been notified to the Secretary but no valid requirement for notification had been made under the social security law.
- (1AE) If subsection (1AC) applies in respect of a social security payment:
- (a) Divisions 8, 9 and 10 of Part 3 of the *Social Security (Administration) Act 1999* are to be disregarded; and
-

- (b) any determination made under section 79 or 80 of that Act to correct the error in the payment takes effect from the date stated in the determination; and
- (c) the date so stated may be a date earlier than the date on which the determination is made.

8 Subsections 1223(2A) and (5)

Repeal the subsections.

9 At the end of section 1223

Add:

- (9) In this section, unless the contrary intention appears, a reference to a social security payment includes a reference to a part of a social security payment.

10 Section 1224

Repeal the section.

11 Section 1224AB

Repeal the section, substitute:

1224AB Joint and several liability for persons involved in contravention of Act

If:

- (a) a person is liable to pay a debt because the person contravened a provision of this Act as in force immediately before 20 March 2000, or a provision of the social security law; and
 - (b) another person is convicted of an offence under section 5, 7A or 86 of the *Crimes Act 1914* in relation to the contravention;
- the persons referred to in paragraphs (a) and (b) are jointly and severally liable to pay the debt.

12 Sections 1229 and 1229A

Repeal the sections, substitute:

1229 Notices in respect of debt

- (1) If a debt by a person to the Commonwealth under the social security law has not been wholly paid, the Secretary must give the person a notice specifying:
 - (a) the date on which it was issued (the *date of the notice*); and
 - (b) the reason the debt was incurred, including a brief explanation of the circumstances that led to the debt being incurred; and
 - (c) the period to which the debt relates; and
 - (d) the outstanding amount of the debt at the date of the notice; and
 - (e) the day on which the outstanding amount is due and payable; and
 - (f) that a range of options is available for repayment of the debt; and
 - (g) the contact details for inquiries concerning the debt.
- (2) The outstanding amount of the debt is due and payable on the 28th day after the date of the notice.
- (3) If the debt has not been wholly paid and:
 - (a) the person has failed to enter into an arrangement under section 1234 to pay the outstanding amount of the debt; or
 - (b) the person has entered into an arrangement under that section but has failed to make a payment in accordance with the arrangement or, if the arrangement has been amended, in accordance with the arrangement as amended;the Secretary may give to the person a further notice specifying:
 - (c) the date on which it was issued (the *date of the further notice*); and
 - (d) the matters mentioned in paragraphs (1)(b) to (g); and
 - (e) the effect of sections 1229A and 1229AB; and
 - (f) how the interest under section 1229A is to be calculated.
- (4) A notice given under subsection (1) may also specify the matters mentioned in paragraphs (3)(e) and (f) and, if it does so, it is taken also to be a further notice given under subsection (3).

1229A Interest on debt

- (1) This section applies to a person who:
- (a) receives a further notice given under subsection 1229(3); and
 - (b) is not in receipt of a social security payment or a payment of pension or allowance under the *Veterans' Entitlements Act 1986*.
- (2) If:
- (a) the person has not entered into an arrangement, on or before the final payment day, to pay the outstanding amount of the debt; and
 - (b) the Secretary has notified the person in writing that the person will be required to pay interest under this subsection;
- the person is liable to pay interest:
- (c) from and including the first day after the final payment day until the debt is wholly paid; and
 - (d) at the penalty interest rate;
- on the outstanding amount from time to time.
- (2A) Under this section, a person is not liable to pay interest on a debt, or the proportion of a debt, that was incurred because of an administrative error made by the Commonwealth or an agent of the Commonwealth.
- (3) If:
- (a) the person has entered into an arrangement to pay the outstanding amount of the debt; and
 - (b) the person has failed to make a particular payment in accordance with the arrangement; and
 - (c) the Secretary has notified the person in writing that the person will be required to pay interest under this subsection;
- the person is liable to pay interest:
- (d) if the failure occurs on or before the final payment day—
from and including the first day after the final payment day until the debt is wholly paid; or
 - (e) if the failure occurs after the final payment day—
from and including the day after the day in respect of which the last payment in respect of the debt was made until the debt is wholly paid;

at the penalty interest rate, on the outstanding amount from time to time.

- (4) For the purposes of subsections (2) and (3), the *final payment day* is the latest of the following days:
- (a) the 90th day after the day on which the outstanding amount of the debt was due and payable;
 - (b) the 28th day after the date of the further notice given under subsection 1229(3);
 - (c) if a request for review has been made within 90 days after the receipt of a notice issued under subsection 1229(1)—90 days after the day on which an authorised review officer makes a decision in respect of the request.
- (5) The interest payable on the outstanding amount of a debt is a debt due to the Commonwealth.
- (6) If:
- (a) interest is payable on the debt; and
 - (b) an amount is paid for the purpose of paying the debt and the interest;
- the amount so paid is to be applied as follows:
- (c) until the debt (excluding interest) is fully paid—in satisfaction of the amount of the debt that is due when the payment is made;
 - (d) after the debt (excluding interest) is fully paid—in satisfaction of the interest that had become payable on the debt before the debt was fully paid.
- (7) In this section:
- arrangement** means:
- (a) an arrangement entered into with the Secretary under section 1234; or
 - (b) if such an arrangement has been amended—the arrangement as amended.

1229AA Determination that interest not to be payable

- (1) The Secretary may determine that interest is not payable, or is not payable in respect of a particular period, by a person on the outstanding amount of a debt.
- (1A) The Secretary may make a determination under this section in circumstances that include (but are not limited to) the Secretary being satisfied that the person has a reasonable excuse for:
 - (a) failing to enter into an arrangement under section 1234 to pay the outstanding amount of the debt; or
 - (b) having entered an arrangement, failing to make a payment in accordance with that arrangement.
- (2) The determination may relate to a period before, or to a period that includes a period before, the making of a determination.
- (3) The determination may be expressed to be subject to the person complying with one or more specified conditions.
- (4) If the person has been notified under subsection 1229A(2) or (3) that he or she will be required to pay interest under that subsection, the Secretary must give a written notice of the determination to the person as soon as practicable after the determination is made.
- (5) Contravention of subsection (4) does not invalidate the determination.
- (6) If:
 - (a) the determination is expressed to be subject to the person complying with one or more specified conditions; and
 - (b) the person contravenes a condition or conditions without reasonable excuse;the determination ceases to have effect from and including the day on which the contravention or the earliest of the contraventions occurred.
- (7) The Secretary may cancel or vary the determination by written notice given to the person.

1229AB Administrative charge

- (1) When a person first becomes liable to pay interest under section 1229A in respect of the outstanding amount of a particular debt, the person is liable to pay an administrative charge of \$50 in respect of the outstanding amount of that debt.
- (2) An administrative charge payable by a person is a debt due to the Commonwealth.

13 Subsection 1229B(2)

Omit “for the purposes of sections 1229 and 1229A”.

14 Section 1229C

Repeal the section, substitute:

1229C Guidelines on the penalty interest provisions

- (1) The Minister must, not later than one month after:
 - (a) the day on which the *Family and Community Services and Veterans’ Affairs Legislation Amendment (Debt Recovery) Act 2001* receives the Royal Assent; or
 - (b) 1 July 2001;whichever is the later, and thereafter from time to time, by writing, determine guidelines for the operation of the provisions of this Act dealing with penalty interest.
- (2) A guideline determined under subsection (1) is a disallowable instrument.

15 Section 1230B

Omit “1224,”.

16 Section 1230C

Repeal the section, substitute:

1230C Methods of recovery of debt

- (1) Subject to subsection (2), a debt due to the Commonwealth under this Act is recoverable by the Commonwealth by means of one or more of the following methods:
-

- (a) if the person who owes the debt is receiving a social security payment—deductions from that person’s social security payment;
 - (b) if, in respect of the debt, section 1234A applies to another person who is receiving a social security payment—deductions from that other person’s social security payment;
 - (c) repayment by instalments under an arrangement entered into under section 1234;
 - (d) legal proceedings;
 - (e) garnishee notice.
- (2) Subject to subsection (3), a debt due to the Commonwealth under this Act is recoverable by means of a method mentioned in paragraph (1)(d) or (e) only if the Commonwealth:
- (a) has first sought to recover the debt by means of a method mentioned in paragraph (1)(a), (b) or (c); and
 - (b) can establish that the person who owes the debt:
 - (i) has failed to enter into a reasonable arrangement to repay the debt; or
 - (ii) after having entered into such an arrangement, has failed to make a particular payment in accordance with the arrangement.
- (3) If the Secretary determines that the recovery of the debt by means of a method mentioned in paragraph (1)(a), (b) or (c) is not appropriate having regard to the circumstances of the case, paragraph (2)(a) does not apply in respect of the recovery of the debt.

17 Paragraph 1231(1)(a)

Repeal the paragraph, substitute:

- (a) a debt under this Act as in force immediately before 20 March 2000;
- (aaa) a debt under the social security law;

18 Subsection 1231(1)

Omit all the words and paragraphs after paragraph (d), substitute:

may be recovered by making deductions of amounts determined under subsection (1A):

- (e) from any social security payments; or
- (f) from any payments of arrears of social security payments; or
- (g) partly from any social security payments and partly from any payments of arrears of social security payments.

19 Subsection 1231(1A)

Repeal the subsection, substitute:

- (1A) The Secretary is to determine the amount of a deduction that is to be made from a particular payment, and may determine an amount that would reduce the payment to nil if:
 - (a) the deduction is to be made from a social security payment that is pension bonus or from a payment of arrears of social security payments; or
 - (b) the deduction is to be made from a social security payment that is not pension bonus and the person to whom the payment would, apart from the deduction, be made has consented to the amount of the deduction being an amount that would reduce the payment to nil.
- (1AA) However, the Secretary must not make a determination that would reduce a payment to nil if the reduction to nil would result in the person being in severe financial hardship.

20 Subsections 1231(2A) and (2B)

Repeal the subsections, substitute:

- (2A) Subject to subsections (2C), (2D) and (2E), action under this section for the recovery of a debt or overpayment is not to be commenced after the end of the period of 6 years starting on the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt.

20A Paragraphs 1231(2C)(a), (2D)(a) and (2E)(a)

Omit “or (2B)”.

21 Subsections 1232(2) and (3)

Repeal the subsections, substitute:

- (2) Subject to subsections (4), (5) and (6), legal proceedings for the recovery of the debt are not to be commenced after the end of the period of 6 years starting on the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt.

21A Paragraphs 1232(4)(a), (5)(a) and (6)(a)

Omit “or (3)”.

22 Subsections 1233(7A) and (7B)

Repeal the subsections, substitute:

- (7A) Subject to subsections (7C), (7D) and (7E), action under this section for the recovery of a debt is not to be commenced after the end of the period of 6 years starting on the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt.

22A Paragraphs 1233(7C)(a), (7D)(a) and (7E)(a)

Omit “or (7B)”.

23 Section 1234

Repeal the section, substitute:

1234 Arrangement for payment of debt

- (1) The Secretary may, on behalf of the Commonwealth, enter into an arrangement with a person under which the person is to pay a debt, owed by the person to the Commonwealth, or the outstanding amount of such a debt, in a way set out in the arrangement.
- (2) An arrangement entered into under subsection (1) has effect, or is taken to have had effect, on and after the day specified in the arrangement as the day on which the arrangement commences (whether that day is the day on which the arrangement is entered into or an earlier or later day).
- (3) If an arrangement entered into under subsection (1) does not specify a day as mentioned in subsection (2), it has effect on and after the day on which it is entered into.

- (4) The Secretary may terminate or alter an arrangement entered into under subsection (1):
- (a) at the debtor's request; or
 - (b) after giving 28 days' notice to the debtor of the proposed termination or alteration; or
 - (c) without notice, if the Secretary is satisfied that the person has failed to disclose material information about his or her true capacity to repay the debt.
- (5) In subsection (1):
- debt** means:
- (a) a debt recoverable by the Commonwealth under Part 5.2; or
 - (b) a debt under the 1947 Act.

24 Before section 1234A

Insert:

1234AA Recovery of amounts from financial institutions

- (1) If:
- (a) a social security payment or social security payments are made to a financial institution for the credit of an account kept with the institution; and
 - (b) the Secretary is satisfied that the payment or payments were intended to be made for the benefit of someone who was not the person or one of the persons in whose name or names the account was kept;
- the Secretary may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:
- (c) an amount specified in the notice, being the amount, or the sum of the amounts, of the social security payment or social security payments;
 - (d) the amount standing to the credit of the account when the notice is received by the institution.
- (2) If:
-

- (a) a social security payment or social security payments that are intended for the benefit of a person are made to a financial institution for the credit of an account that was kept with the institution by the person or by the person and one or more other persons; and
 - (b) the person died before the payment or payments were made; the Secretary may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:
 - (c) an amount specified in the notice, being the amount, or the sum of the amounts, of the social security payment or social security payments;
 - (d) the amount standing to the credit of the account when the notice is received by the institution.
- (2A) As soon as possible after issuing a notice under subsection (2), the Secretary must inform the deceased estate in writing of:
- (a) the amount sought to be recovered from the deceased person's account; and
 - (b) the reasons for the recovery action.
- (3) A financial institution must comply with a notice given to it under subsection (1) or (2).
- Penalty: 300 penalty units.
- (4) It is a defence to a prosecution of a financial institution for failing to comply with a notice given to it under subsection (1) or (2) if the financial institution proves that it was incapable of complying with the notice.
- (5) If a notice is given to a financial institution under subsection (1) (payment made to wrong account) or under subsection (2) (death of person in whose name the account was kept) in respect of a social security payment or social security payments, any amount recovered by the Commonwealth from the institution in respect of the debt reduces any debt owed to the Commonwealth by any other person in respect of the social security payment or social security payments.
-

25 Paragraph 1234A(1)(a)

After “the 1947 Act”, insert “, the *A New Tax System (Family Assistance) (Administration) Act 1999*”.

26 Paragraph 1236(1A)(d)

Omit “the debtor is not receiving a social security payment under this Act and”.

27 Paragraph 1236(1B)(a)

Omit “from a person’s youth training allowance”.

28 After paragraph 1236(1B)(a)

Insert:

- (aa) the debt cannot be recovered by means of deductions or setting off because the relevant 6 year period mentioned in section 86 of the *A New Tax System (Family Assistance) (Administration) Act 1999* has elapsed; or

29 Paragraph 1236(1B)(c)

Omit “the discharge”, substitute “the debtor became bankrupt”.

30 Subsection 1236(1C)

Repeal the subsection, substitute:

- (1C) For the purposes of paragraph (1A)(b), if a debt is recoverable by means of:
 - (a) deductions from the debtor’s social security payment; or
 - (b) deductions under section 84 of the *A New Tax System (Family Assistance) (Administration) Act 1999*; or
 - (c) setting off under section 84A of that Act;the debtor is taken to have a capacity to repay the debt unless recovery by those means would result in the debtor being in severe financial hardship.

32 Subsection 1237AAB(5)

Repeal the subsection, substitute:

Limits on agreement to accept part-payment in satisfaction of outstanding debt

- (5) The Secretary must not make an agreement described in subsection (4) unless the Secretary is satisfied that the agreed amount is at least the present value of the unpaid amount if it is repaid in instalments of amounts, and at times, determined by the Secretary.

33 Section 1237B

Repeal the section.

34 Application

- (1) The amendments made by items 1, 7 to 10 and 25 apply to social security payments made on or after 1 July 2001.
- (2) The amendments made by items 6, 16 to 23 and 32 apply to:
- (a) debts that are owed at the commencement of 1 July 2001; and
 - (b) debts that arise after that time.
- (3) The amendment made by item 11 applies where the relevant conviction occurs on or after 1 July 2001.
- (4) The amendment made by item 12:
- (a) applies to a person in respect of a debt owed by the person to the Commonwealth immediately before 1 July 2001 under the social security law if, and only if, the person had not, before that day, been given a notice in respect of the debt under subsection 1229(1) of the *Social Security Act 1991* as in force at any time before that day; and
 - (b) applies to a person in respect of a debt owed by the person to the Commonwealth under the social security law that arises on or after that day.
- (5) To avoid doubt, sections 1229 and 1229A of the *Social Security Act 1991* as in force immediately before 1 July 2001 continue to apply to a person in respect of a debt owed by the person to the Commonwealth immediately before that day as mentioned in paragraph 1229(1)(b) of that Act as so in force if the person had, before that day, been given a

notice in respect of the debt under subsection 1229(1) of that Act as in force at any time before that day.

- (6) The amendments made by items 28 and 30 apply to debts that arise after the commencement of those items.
- (7) The amendment made by item 29 applies to a person who is discharged from bankruptcy on or after 1 July 2001.
- (8) The amendment made by item 31 applies where the relevant sentence is imposed on or after 1 July 2001.

Schedule 2—Amendment of the Social Security (Administration) Act 1999

1 At the end of Part 1

Add:

6A Secretary may arrange for use of computer programs to make decisions

- (1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for any purposes for which the Secretary may make decisions under the social security law.
- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Secretary.

2 At the end of subsection 123(1)

Add:

; or (e) the end of the day immediately before the day on which the person dies.

3 Application

The amendment made by item 2 applies to determinations in force at the commencement of the day on which this Act receives the Royal Assent and determinations made after that time.

Schedule 3—Amendment of the A New Tax System (Family Assistance) (Administration) Act 1999

1 Subsection 3(1)

Insert:

financial institution means a corporation that is an ADI for the purposes of the *Banking Act 1959*.

2 Subsection 71(1)

Omit “Subject to subsection (2), if:”, substitute “If”.

Note: The heading to subsection 71(1) is altered by omitting “—*debt generally owed by person*”.

3 Sections 77 and 78

Repeal the sections, substitute:

77 Notices in respect of debt

- (1) If a debt by a person to the Commonwealth under a provision of this Part has not been wholly paid, the Secretary must give the person a notice specifying:
 - (a) the date on which it was issued (the *date of the notice*); and
 - (b) the reason the debt was incurred, including a brief explanation of the circumstances that led to the debt being incurred; and
 - (c) the period to which the debt relates; and
 - (d) the outstanding amount of the debt at the date of the notice; and
 - (e) the day on which the outstanding amount is due and payable; and
 - (f) that a range of options is available for repayment of the debt; and
 - (g) the contact details for inquiries concerning the debt.
- (2) The outstanding amount of the debt is due and payable on the 28th day after the date of the notice.

- (3) If the debt has not been wholly paid and:
- (a) the person has failed to enter into an arrangement under section 91 to pay the outstanding amount of the debt; or
 - (b) the person has entered into an arrangement under that section but has failed to make a payment in accordance with the arrangement or, if the arrangement has been amended, in accordance with the arrangement as amended;
- the Secretary may give to the person a further notice specifying:
- (c) the date on which it was issued (the *date of the further notice*); and
 - (d) the matters mentioned in paragraphs (1)(b) to (g); and
 - (e) the effect of sections 78 and 78B; and
 - (f) how the interest under section 78 is to be calculated.
- (4) A notice given under subsection (1) may also specify the matters mentioned in paragraphs (3)(e) and (f) and, if it does so, it is taken also to be a further notice given under subsection (3).

78 Interest on debt

- (1) This section applies to a person who:
- (a) receives a further notice given under subsection 77(3); and
 - (b) is not receiving instalments of family tax benefit.
- (2) If:
- (a) the person has not entered into an arrangement, on or before the final payment day, to pay the outstanding amount of the debt; and
 - (b) the Secretary has notified the person in writing that the person will be required to pay interest under this subsection;
- the person is liable to pay interest:
- (c) from and including the first day after the final payment day until the debt is wholly paid; and
 - (d) at the penalty interest rate;
- on the outstanding amount from time to time.
- (2A) Under this section, a person is not liable to pay interest on a debt, or the proportion of a debt, that was incurred because of an

administrative error made by the Commonwealth or an agent of the Commonwealth.

(3) If:

- (a) the person has entered into an arrangement to pay the outstanding amount of the debt; and
- (b) the person has failed to make a particular payment in accordance with the arrangement; and
- (c) the Secretary has notified the person in writing that the person will be required to pay interest under this subsection;

the person is liable to pay interest:

- (d) if the failure occurs on or before the final payment day—
from and including the first day after the final payment day until the debt is wholly paid; or
- (e) if the failure occurs after the final payment day—
from and including the day after the day in respect of which the last payment in respect of the debt was made until the debt is wholly paid;

at the penalty interest rate, on the outstanding amount from time to time.

(4) For the purposes of subsections (2) and (3), the *final payment day* is the latest of the following days:

- (a) the 90th day after the day on which the outstanding amount of the debt was due and payable;
- (b) the 28th day after the date of the further notice given under subsection 77(3);
- (c) if a request for review has been made within 90 days after the receipt of a notice issued under subsection 77(1)—90 days after the day on which an authorised review officer makes a decision in respect of the request.

(5) The interest payable on the outstanding amount of a debt is a debt due to the Commonwealth.

(6) If:

- (a) interest is payable on the debt; and
- (b) an amount is paid for the purpose of paying the debt and the interest;

the amount so paid is to be applied as follows:

- (c) until the debt (excluding interest) is fully paid—in satisfaction of the amount of the debt that is due when the payment is made;
 - (d) after the debt (excluding interest) is fully paid—in satisfaction of the interest that had become payable on the debt before the debt was fully paid.
- (7) In this section:
- arrangement** means:
- (a) an arrangement entered into with the Secretary under section 91; or
 - (b) if such an arrangement has been amended—the arrangement as amended.

78A Determination that interest not to be payable

- (1) The Secretary may determine that interest is not payable, or is not payable in respect of a particular period, by a person on the outstanding amount of a debt.
 - (1A) The Secretary may make a determination under this section in circumstances that include (but are not limited to) the Secretary being satisfied that the person has a reasonable excuse for:
 - (a) failing to enter into an arrangement under section 91 to pay the outstanding amount of the debt; or
 - (b) having entered an arrangement, failing to make a payment in accordance with that arrangement.
 - (2) The determination may relate to a period before, or to a period that includes a period before, the making of a determination.
 - (3) The determination may be expressed to be subject to the person complying with one or more specified conditions.
 - (4) If the person has been notified under subsection 78(2) or (3) that he or she will be required to pay interest under that subsection, the Secretary must give written notice of the determination to the person as soon as practicable after the determination is made.
 - (5) Contravention of subsection (4) does not invalidate a determination.
-

(6) If:

- (a) the determination is expressed to be subject to the person complying with one or more specified conditions; and
- (b) the person contravenes a condition or conditions without reasonable excuse;

the determination ceases to have effect from and including the day on which the contravention or the earliest of the contraventions occurred.

(7) The Secretary may cancel or vary the determination by written notice given to the person.

78B Administrative charge

- (1) When a person first becomes liable to pay interest under section 78 in respect of the outstanding amount of a particular debt, the person is liable to pay an administrative charge of \$50 in respect of the outstanding amount of that debt.
- (2) An administrative charge payable by a person is a debt due to the Commonwealth.

4 Subsection 79(2)

Omit “for the purposes of sections 77 and 78”.

5 After section 79

Insert:

79A Guidelines on the penalty interest provisions

- (1) The Minister must, not later than one month after:
 - (a) the day on which the *Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Act 2001* receives the Royal Assent; or
 - (b) 1 July 2001;whichever is the later, and thereafter from time to time, by writing, determine guidelines for the operation of the provisions of this Act dealing with penalty interest.
- (2) A guideline determined under subsection (1) is a disallowable instrument.

6 Paragraph 82(1)(c)

After “under”, insert “an arrangement entered into under”.

7 After paragraph 84(2)(a)

Insert:

- (aa) a determination under paragraph (a) may be an amount that would reduce the payment to nil if the person has consented to the amount of the deduction being an amount that would reduce the payment to nil; and

7A Subsections 86(1) and (2)

Repeal the subsections, substitute:

- (1) Subject to subsections (3), (4) and (5), action under section 84, 84A or 87A for the recovery of a debt is not to be commenced after the end of the period of 6 years starting on the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt.

7B Paragraphs 86(3)(a), (4)(a) and (5)(a)

Omit “or (2)”.

7C Subsection 87(3)

Omit “the day on which the debt arose”, substitute “the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt”.

7D Paragraph 87(4)(b)

Omit “the day on which the debt arose”, substitute “the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt”.

7E Subsections 88(2) and (3)

Repeal the subsections, substitute:

- (2) Subject to subsections (4), (5) and (6), legal proceedings for the recovery of the debt are not to be commenced after the end of the period of 6 years starting on the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt.
-

7F Paragraphs 88(4)(a), (5)(a) and (6)(a)

Omit “or (3)”.

7G Subsections 90(1) and (2)

Repeal the subsections, substitute:

- (1) Subject to subsections (3), (4) and (5), action under section 89 for the recovery of a debt is not to be commenced after the end of the period of 6 years starting on the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt.

7H Paragraphs 90(3)(a), (4)(a) and (5)(a)

Omit “or (2)”.

8 Section 91

Repeal the section, substitute:

91 Arrangement for payment of debt

- (1) If, under section 82, a debt owed by a person is recoverable by the Commonwealth by repayment by instalments under an arrangement entered into under this section, the Secretary may, on behalf of the Commonwealth, enter into an arrangement with the person under which the person is to pay the debt, or the outstanding amount of the debt, in a way set out in the arrangement.
- (2) An arrangement entered into under subsection (1) has effect, or is taken to have had effect, on and after the day specified in the arrangement as the day on which the arrangement commences (whether that day is the day on which the arrangement is entered into or an earlier or later day).
- (3) If an arrangement entered into under subsection (1) does not specify a day as mentioned in subsection (2), it has effect on and after the day on which it is entered into.
- (4) The Secretary may terminate or alter an arrangement entered into under subsection (1):
 - (a) at the debtor’s request; or

- (b) after giving 28 days' notice to the debtor of the proposed termination or alteration; or
- (c) without notice, if the Secretary is satisfied that the person has failed to disclose material information about his or her true capacity to repay the debt.

(5) In subsection (1):

debt means a debt recoverable by the Commonwealth under Division 2.

9 At the end of Division 3 of Part 4

Add:

93A Recovery of amounts from financial institutions

(1) If:

- (a) a family assistance payment or family assistance payments are made to a financial institution for the credit of an account kept with the institution; and
- (b) the Secretary is satisfied that the payment or payments were intended to be paid to someone who was not the person or one of the persons in whose name or names the account was kept;

the Secretary may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:

- (c) an amount specified in the notice, being the amount, or the sum of the amounts, of the family assistance payment or family assistance payments;
- (d) the amount standing to the credit of the account when the notice is given to the institution.

(2) If:

- (a) a family assistance payment or family assistance payments that are intended to be paid to a person are made to a financial institution for the credit of an account that was kept with the institution by the person or by the person and one or more other persons; and
-

- (b) the person died before the payment or payments were made; the Secretary may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:
 - (c) an amount specified in the notice, being the amount, or the sum of the amounts, of the family assistance payment or family assistance payments;
 - (d) the amount standing to the credit of the account when the notice is received by the institution.
- (2A) As soon as possible after issuing a notice under subsection (2), the Secretary must inform the deceased estate in writing of:
 - (a) the amount sought to be recovered from the deceased person's account; and
 - (b) the reasons for the recovery action.
- (3) A financial institution must comply with a notice given to it under subsection (1) or (2).

Penalty: 300 penalty units.
- (4) It is a defence to a prosecution of a financial institution for failing to comply with a notice given to it under subsection (1) or (2) if the financial institution proves that it was incapable of complying with the notice.
- (5) If a notice is given to a financial institution under subsection (1) (payment made to wrong account) or under subsection (2) (death of person in whose name the account was kept) in respect of a family assistance payment or family assistance payments, any amount recovered by the Commonwealth from the institution in respect of the debt reduces any debt owed to the Commonwealth by any other person in respect of the family assistance payment or family assistance payments.

10 Paragraph 95(2)(d)

Omit "the debt cannot be recovered by deductions under this Act or the *Social Security Act 1991* and".

11 After subparagraph 95(3)(a)(i)

Insert:

(iaa) deductions under section 1231 of the *Social Security Act 1991*; or”.

12 Paragraph 95(3)(c)

Omit “the discharge”, substitute “the debtor became bankrupt”.

13 After paragraph 95(4)(a)

Insert:

(aa) deductions under section 1231 of the *Social Security Act 1991*; or

15 Subsection 100(5)

Repeal the subsection, substitute:

Limits on agreement to accept part-payment in satisfaction of outstanding debt

- (5) The Secretary must not make an agreement described in subsection (4) unless the Secretary is satisfied that the agreed amount is at least the present value of the unpaid amount if it is repaid in instalments of amounts, and at times, determined by the Secretary.

16 Section 223

Repeal the section, substitute:

223 Secretary may arrange for use of computer programs to make decisions

- (1) The Secretary may arrange for the use, under the Secretary’s control, of computer programs for any purposes for which the Secretary may make decisions under the family assistance law.
- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Secretary.

17 Application

- (1) The amendment made by item 3:
 - (a) applies to a person in respect of a debt owed by the person to the Commonwealth immediately before 1 July 2001 under the family assistance law if, and only if, the person had not, before that day, been given a notice in respect of the debt under subsection 77(1) of the *A New Tax System (Family Assistance) (Administration) Act 1999* as in force at any time before that day; and
 - (b) applies to a person in respect of a debt owed by the person to the Commonwealth under the family assistance law that arises on or after that day.
- (2) To avoid doubt, sections 77 and 78 of the *A New Tax System (Family Assistance) (Administration) Act 1999* as in force immediately before 1 July 2001 continue to apply to a person in respect of a debt owed by the person to the Commonwealth immediately before that day as mentioned in paragraph 77(1)(a) of that Act as so in force if the person had, before that day, been given a notice in respect of the debt under subsection 77(1) of that Act as in force at any time before that day.
- (3) The amendments made by items 7 to 8 and 15 apply to:
 - (a) debts that are owed at the commencement of 1 July 2001; and
 - (b) debts that arise after that time.
- (4) The amendment made by item 12 applies to a person who is discharged from bankruptcy on or after 1 July 2001.
- (5) The amendment made by item 14 applies where the relevant sentence is imposed on or after 1 July 2001.

205AAA Notices in respect of debt

- (1) If:
- (a) a recoverable amount has not been wholly paid to the Commonwealth; and
 - (b) the right of the Commonwealth to recover the outstanding amount has not been waived under paragraph 206(1)(b);
- the Commission must give the person to whom, or on whose account, the recoverable amount was paid a notice specifying:
- (c) the date on which it was issued (the *date of the notice*); and
 - (d) the reason the outstanding amount was incurred, including a brief explanation of the circumstances that led to the outstanding amount being incurred; and
 - (e) the period to which the outstanding amount relates; and
 - (f) the outstanding amount at the date of the notice; and
 - (g) the day on which the outstanding amount is due and payable; and
 - (h) that a range of options is available for repayment of the outstanding amount; and
 - (i) the contact details for inquiries concerning the outstanding amount.
- (2) The outstanding amount is due and payable on the 28th day after the date of the notice.
- (3) If the recoverable amount has not been wholly paid and:
- (a) the person has failed to enter into an arrangement with the Commission to pay the outstanding amount; or
 - (b) the person has entered into such an arrangement with the Commission but has failed to make a payment in accordance with the arrangement or, if the arrangement has been amended, in accordance with the arrangement as amended;
- the Commission may give to the person a further notice specifying:
- (c) the date on which it was issued (the *date of the further notice*); and
 - (d) the matters mentioned in paragraphs (1)(d) to (i); and
 - (e) the effect of section 205AAB and 205AAD; and
 - (f) how the interest under section 205AAB is to be calculated.

- (4) A notice given under subsection (1) may also specify the matters mentioned in paragraphs (3)(e) and (f) and, if it does so, it is taken also to be a further notice given under subsection (3).

205AAB Interest on debt

- (1) This section applies to a person who:
- (a) receives a further notice given under subsection 205AAA(3); and
 - (b) is not in receipt of a pension, allowance or other pecuniary benefit under this Act or the social security law.
- (2) If:
- (a) the person has not entered into an arrangement with the Commission, on or before the final payment day, to pay the outstanding amount of the recoverable amount; and
 - (b) the Commission has notified the person in writing that he or she will be required to pay interest under this subsection;
- the person is liable to pay interest:
- (c) from and including the first day after the final payment day until the recoverable amount is wholly paid; and
 - (d) at the penalty interest rate;
- on the outstanding amount from time to time.
- (2A) Under this section, a person is not liable to pay interest on an outstanding amount, or the proportion of an outstanding amount, that was incurred because of an administrative error made by the Commonwealth or an agent of the Commonwealth.
- (3) If:
- (a) the person has entered into an arrangement with the Commission to pay the outstanding amount of the recoverable amount; and
 - (b) the person has failed to make a particular payment in accordance with the arrangement; and
 - (c) the Commission has notified the person in writing that he or she will be required to pay interest under this subsection;
- the person is liable to pay interest:

- (d) if the failure occurs on or before the final payment day—
from and including the first day after the final payment day
until the recoverable amount is wholly paid; or
 - (e) if the failure occurs after the final payment day—from and
including the day after the day in respect of which the last
payment in respect of the recoverable amount was made until
the recoverable amount is wholly paid;
- at the penalty interest rate, on the outstanding amount from time to
time.
- (4) For the purposes of subsections (2) and (3), the ***final payment day***
is the later of the following days:
 - (a) the 90th day after the day on which the outstanding amount
of the recoverable amount was due and payable;
 - (b) the 28th day after the date of the further notice given under
subsection 205AAA(3).
 - (5) The interest payable on the outstanding amount of a recoverable
amount is a debt due to the Commonwealth and may be recovered
as if it were a recoverable amount for the purposes of section 205.
 - (6) If:
 - (a) interest is payable on the outstanding amount of a
recoverable amount; and
 - (b) an amount is paid for the purpose of paying the recoverable
amount and the interest;the amount so paid is to be applied as follows:
 - (c) until the recoverable amount (excluding interest) is fully
paid—in satisfaction of the outstanding amount of the
recoverable amount that is due when the payment is made;
 - (d) after the recoverable amount (excluding interest) is fully
paid—in satisfaction of the interest that had become payable
on the outstanding amount of the recoverable amount before
the recoverable amount was fully paid.

205AAC Determination that interest not to be payable

- (1) The Commission may determine that interest is not payable, or is
not payable in respect of a particular period, by a person on the
outstanding amount of a recoverable amount.

- (1A) The Commission may make a determination under this section in circumstances that include (but are not limited to) the Commission being satisfied that the person has a reasonable excuse for:
- (a) failing to enter into an arrangement to pay the outstanding amount; or
 - (b) having entered an arrangement, failing to make a payment in accordance with that arrangement.
- (2) The determination may relate to a period before, or to a period that includes a period before, the making of a determination.
- (3) The determination may be expressed to be subject to the person complying with one or more specified conditions.
- (4) If the person has been notified under subsection 205AAB(2) or (3) that he or she will be required to pay interest under that subsection, the Commission must give written notice of the determination to the person as soon as practicable after the determination is made.
- (5) Contravention of subsection (4) does not invalidate a determination.
- (6) If:
- (a) the determination is expressed to be subject to the person complying with one or more specified conditions; and
 - (b) the person contravenes a condition or conditions without reasonable excuse;
- the determination ceases to have effect from and including the day on which the contravention or the earliest of the contraventions occurred.
- (7) The Commission may cancel or vary the determination by written notice given to the person.

205AAD Administrative charge

- (1) When a person first becomes liable to pay interest under section 205AAB in respect of the outstanding amount of a particular recoverable amount, the person is liable to pay an administrative charge of \$50 in respect of the outstanding amount.

- (2) An administrative charge payable by a person is a debt due to the Commonwealth and may be recovered as if it were a recoverable amount for the purposes of section 205.

205AAE Penalty interest rate

The penalty interest rate is the rate in force from time to time under section 1229B of the *Social Security Act 1991*.

8 After section 205AA

Insert:

205AB Recovery of certain amounts from financial institutions

- (1) If:
- (a) a payment or payments of a pension, benefit or other pecuniary amount are made to a financial institution for the credit of an account kept with the institution; and
 - (b) the Commission is satisfied that the payment or payments were intended to be made for the benefit of someone who was not the person or one of the persons in whose name or names the account was kept;

the Commission may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:

- (c) an amount specified in the notice, being the amount, or the sum of the amounts, of the payment or payments;
 - (d) the amount standing to the credit of the account when the notice is given to the institution.
- (2) If:
- (a) a payment or payments of a pension, benefit or other pecuniary amount that are intended for the benefit of a person are made to a financial institution for the credit of an account that was kept with the institution by the person or by the person and one or more other persons; and
 - (b) the person died before the payment or payments were made;

the Commission may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:

- (c) an amount specified in the notice, being the amount, or the sum of the amounts, of the payment or payments;
 - (d) the amount standing to the credit of the account when the notice is received by the institution.
- (2A) As soon as possible after issuing a notice under subsection (2), the Commission must inform the deceased estate in writing of:
- (a) the amount sought to be recovered from the deceased person's account; and
 - (b) the reasons for the recovery action.
- (3) A financial institution must comply with a notice given to it under subsection (1) or (2).
- Penalty: 300 penalty units.
- (4) It is a defence to a prosecution of a financial institution for failing to comply with a notice given to it under subsection (1) or (2) if the financial institution proves that it was incapable of complying with the notice.
- (5) If a notice is given to a financial institution under subsection (1) (payment made to wrong account) or under subsection (2) (death of person in whose name the account was kept) in respect of a payment or payments of a pension, benefit or other pecuniary amount, any amount recovered by the Commonwealth from the institution in respect of the debt reduces any debt owed to the Commonwealth by any other person in respect of the payment or payments.

8A Subsections 206(2) and (3)

Repeal the subsections, substitute:

- (2) Proceedings for the recovery from a person of any amount that is payable by the person to the Commonwealth under or as a result of this Act are not to be commenced after the end of the period of 6 years starting on the first day on which an officer becomes aware,
-

or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt.

9 Application and transitional

- (1) The amendments made by items 6 and 7 apply to a person in respect of an amount that becomes a recoverable amount on or after 1 July 2001.
- (2) In the case of a person in respect of whom an amount was a recoverable amount immediately before 1 July 2001, the following provisions of this item have effect.
- (3) If the person was at 1 July 2001 receiving a pension, allowance or other pecuniary benefit under the *Veterans' Entitlements Act 1986* or under the social security law:
 - (a) if the person had not become liable before that day to pay an additional amount in respect of the relevant debt under subsection 205(5) of the *Veterans' Entitlements Act 1986* as in force at any time before that day—neither the subsections repealed by item 6 nor the sections inserted by item 7 apply to the person in respect of the debt; or
 - (b) if the person had become liable before that day to pay an additional amount in respect of the relevant debt under subsection 205(5) of the *Veterans' Entitlements Act 1986* as in force at any time before that day—the subsections repealed by item 6 continue to apply to the person in respect of the debt and the sections inserted by item 7 do not apply.
- (4) If:
 - (a) the person was not at 1 July 2001 receiving a pension, allowance or other pecuniary benefit under the *Veterans' Entitlements Act 1986* or under the social security law; and
 - (b) the person had repaid part of the relevant debt before that day;the following paragraphs have effect:
 - (c) if the person had become liable before that day to pay an additional amount in respect of the relevant debt under subsection 205(5) of the *Veterans' Entitlements Act 1986* as in force at any time before that day—the subsections repealed by item 6 continue to apply to the person in respect of the debt but, if the person fails on or after that day to make

a payment in respect of the debt in accordance with an arrangement entered into with the Commission:

- (i) the Commission may give to the person a further notice in accordance with subsection 205AAA(3) inserted by item 7; and
 - (ii) sections 205AAB, 205AAC and 205AAE inserted by that item apply;
- (d) if the person had not become liable before that day to pay an additional amount in respect of the relevant debt under subsection 205(5) of the *Veterans' Entitlements Act 1986* as in force at any time before that day and the person fails on or after that day to make a payment in respect of the debt in accordance with an arrangement entered into with the Commission:
- (i) the Commission may give to the person a further notice in accordance with subsection 205AAA(3) inserted by item 7; and
 - (ii) sections 205AAB to 205AAE inserted by that item apply.

(5) If:

- (a) the person was not at 1 July 2001 receiving a pension, allowance or other pecuniary benefit under the *Veterans' Entitlements Act 1986* or under the social security law; and
- (b) the person had not repaid any part of the relevant debt before that day;

the following paragraphs have effect:

- (c) if the person had become liable before that day to pay an additional amount in respect of the relevant debt under subsection 205(5) of the *Veterans' Entitlements Act 1986* as in force at any time before that day—the subsections repealed by item 6 continue to apply to the person in respect of the debt;
- (d) if the person had not become liable before that day to pay an additional amount in respect of the relevant debt under subsection 205(5) of the *Veterans' Entitlements Act 1986* as in force at any time before that day:

- (i) the Commission may give to the person a further notice in accordance with subsection 205AAA(3) inserted by item 7; and
 - (ii) sections 205AAB to 205AAE inserted by that item apply.
- (6) The amendments made by items 5A and 8A apply to:
 - (a) debts that are owed at the commencement of 1 July 2001; and
 - (b) debts that arise after that time.

Schedule 5—Amendment of the Safety, Rehabilitation and Compensation Act 1988

1 Subsection 112(3)

Omit “or the *Child Support Act 1988*”, substitute “, the *Child Support Act 1988* or the *Social Security Act 1991*”.

[*Minister’s second reading speech made in—
House of Representatives on 21 June 2000
Senate on 3 October 2000*]

(98/00)