



Social Security and Veterans' Affairs Legislation Amendment Act (No. 4) 1989

No. 164 of 1989

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Section

- 1. Short title**
- 2. Commencement**
- 3. Application**
- 4. Savings**

PART 2—AMENDMENTS OF HEALTH INSURANCE ACT 1973

- 5. Principal Act**
- 6. Interpretation**
- 7. Insertion of new section:**
 - 4D. Disadvantaged persons, being certain former recipients of sole parent's pension, unemployment benefit or job search allowance**
- 8. Disadvantaged persons, being persons in receipt of unemployment benefit or job search allowance**
- 9. Disadvantaged persons, being persons in receipt of special benefit**
- 10. Declarations of person to be disadvantaged person not to overlap**

PART 3—AMENDMENTS OF NATIONAL HEALTH ACT 1953

- 11. Principal Act**
- 12. Interpretation**

TABLE OF PROVISIONS *continued*

Section

PART 4—AMENDMENTS OF SEAMEN'S WAR PENSIONS AND ALLOWANCES ACT 1940

- 13. Principal Act
- 14. Interpretation
- 15. Allowance for attendant
- 16. Insertion of new section:
 - 24B. Bereavement payment in respect of disabled Australian mariners
- 17. Insertion of new section:
 - 54A. Pension, benefit or allowance may be paid to bank etc.
- 18. Order for repayment of pension etc.
- 19. Schedule 2—Attendant allowance

PART 5—AMENDMENTS OF SOCIAL SECURITY ACT 1947

- 20. Principal Act
- 21. Interpretation
- 22. Calculation of value of property
- 23. Special provisions relating to residents of retirement villages
- 24. Pension loans scheme
- 25. Disposal of income or property
- 26. Financial hardship
- 27. Indexation
- 28. Certain persons to be disregarded for certain purposes
- 29. Earnings credit
- 30. Insertion of new Division:

Division 1A—Conversion of foreign currency amounts

- 12AA. Application of Division
- 12AB. Conversion of foreign currency amounts
- 12AC. Base exchange rate
- 12AD. Re-assessed exchange rate
- 12AE. Rounding off of exchange rates
- 31. Interpretation etc.
- 32. Insertion of new section:
 - 12BA. Superannuation benefits received before pensionable age
- 33. Insertion of new section:
 - 12BB. Immediate annuities and superannuation pensions
- 34. Secrecy
- 35. Qualifications for invalid pension
- 36. Rate of pension
- 37. Indexation of certain rates
- 38. Insertion of new section:
 - 34B. Indexation of income test 'free area'
- 39. Calculation of income in respect of children
- 40. Rent assistance
- 41. Interpretation
- 42. Sole parents required to claim maintenance in some cases
- 43. Rent assistance
- 44. Amount in respect of person's income or assets
- 45. Repeal of Part VIII and substitution of new Part:

PART VIII—BEREAVEMENT PAYMENTS

- 66. Entitlement of surviving pensioner on death of pensioner spouse
- 67. Entitlement of carer on death of person cared for
- 68. Entitlement of sole parent pensioner on death of qualifying child
- 69. Entitlement of parent or guardian on death of dependent child
- 70. Entitlement of estate of deceased pensioner
- 71. Part applies in spite of section 168
- 46. Rate of allowance

TABLE OF PROVISIONS *continued*

Section	
47.	Interpretation
48.	Repeal of section 81
49.	Qualification for family allowance
50.	Family allowance not payable in respect of certain student children
51.	Income test for family allowances
52.	Amount of family allowance
53.	Qualification for double orphan's pension
54.	Application of Part X
55.	Qualification for allowance
56.	Interpretation
57.	Work test not required to be satisfied by certain persons in full-time training or voluntary work
58.	Insertion of new section: 116B. Work test not required to be satisfied by certain older persons in full-time training or voluntary work or in substantial part-time work
59.	Rate of unemployment and sickness benefit
60.	Indexation of unemployment and sickness benefits etc.
61.	Rent assistance
62.	Parental income test
63.	Income and assets test
64.	Waiting period
65.	Benefit not payable to full-time students
66.	Incentive allowance
67.	Incentive allowance
68.	Reductions in rate of pension
69.	Claims
70.	Cancellation, suspension or variation of pension etc.
71.	Some decisions are not reviewable by the Social Security Appeals Tribunal
72.	The Social Security Appeals Tribunal's powers on review
73.	Repeal of section 237
74.	Employment entry payment—unemployment benefit recipients
75.	Insertion of new section: 237B. Employment entry payment—job search allowance recipients
76.	Offences
77.	Recovery of overpayments
78.	Insertion of new section: 251A. Prescribed persons—means test for certain provisions of this Act and National Health Act
	PART 6—AMENDMENTS OF SOCIAL SECURITY AND VETERANS' AFFAIRS LEGISLATION AMENDMENT ACT 1988
79.	Principal Act
80.	Consequential amendments
	PART 7—AMENDMENTS OF SOCIAL SECURITY AND VETERANS' AFFAIRS LEGISLATION AMENDMENT ACT (No. 3) 1989
81.	Principal Act
82.	Reduction of rate by reference to taxable income
83.	Notice to insurers
84.	Pension, benefit or allowance may be paid to bank etc.
	PART 8—AMENDMENTS OF VETERANS' AFFAIRS LEGISLATION AMENDMENT ACT 1987
85.	Principal Act
86.	Repeal of transitional provisions
	PART 9—AMENDMENTS OF VETERANS' AFFAIRS LEGISLATION AMENDMENT ACT 1988
87.	Principal Act
88.	Application

TABLE OF PROVISIONS *continued*

Section	
	PART 10—AMENDMENTS OF VETERANS' ENTITLEMENTS ACT 1986
89.	Principal Act
90.	Interpretation
91.	Increased rates of pension in certain cases
92.	Interpretation
93.	Method of calculation of income
94.	Insertion of new Division:
	<i>Division 1AA—Conversion of foreign currency amounts</i>
	37AA. Application of Division
	37AB. Conversion of foreign currency amounts
	37AC. Base exchange rate
	37AD. Re-assessed exchange rate
	37AE. Rounding off of exchange rates
95.	Repeal of section 37B and substitution of new section:
	37B. Superannuation benefits received before pensionable age
96.	Insertion of new section:
	37BA. Immediate annuities and superannuation pensions
97.	Eligibility for carer's service pension
98.	Claim for service pension etc.
99.	Rate of veteran's service pension
100.	Rate of wife's service pension
101.	Earnings credit
102.	Calculation of value of property
103.	Special provisions relating to residents of retirement villages
104.	Pension loans scheme
105.	Disposal of property or income
106.	Rent assistance
107.	Insertion of new Division:
	<i>Division 5A—Bereavement payments</i>
	57A. Entitlement of surviving service pensioner on death of pensioner spouse
	57B. Entitlement of carer on death of veteran cared for
	57C. Entitlement of parent or guardian on death of dependent child
	57D. Entitlement of estate of deceased pensioner
	57E. Part applies in spite of section 58
108.	Cancellation, suspension or variation of service pension
109.	Repeal of section 65
110.	Clothing allowance
111.	Attendant allowance
112.	Insertion of new section:
	98A. Bereavement payment in respect of disabled veterans
113.	Funeral benefits—veterans
114.	Funeral benefits—dependants of deceased veterans
115.	Repeal of section 101
116.	Recreation transport allowance
117.	Application
118.	Time for applying for funeral benefit
119.	Review of decision etc.
120.	Instalments of pension
121.	Insertion of new section:
	122A. Pension, benefit or allowance may be paid to bank etc.
122.	Pensions etc. absolutely inalienable
123.	Variation of certain rates and amounts
124.	Insertion of new sections:
	198B. Indexation of income test 'free area'
	198C. Indexation of employment amount
125.	Recovery of overpayments
126.	Order for repayment of pension etc.
127.	Minor amendments

TABLE OF PROVISIONS--*continued*

Section

**PART 11—AMENDMENTS OF VETERANS' ENTITLEMENTS
(TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS)
ACT 1986**

- 128. Principal Act
- 129. Restrictions on dual pensions
- 130. Retrospective operation of decisions
- 131. Child of a person
- 132. Repeal of section 32

**PART 12—AMENDMENTS OF WAR PRECAUTIONS ACT REPEAL ACT
1920**

- 133. Principal Act
- 134. Regulations

SCHEDULE 1

**AMENDMENTS OF SOCIAL SECURITY AND VETERANS' AFFAIRS LEGISLATION
AMENDMENT ACT 1988 RELATING TO RENT ASSISTANCE**

SCHEDULE 2

MINOR AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986



Social Security and Veterans' Affairs Legislation Amendment Act (No. 4) 1989

No. 164 of 1989

An Act to amend legislation related to social security and veterans' affairs, and for related purposes

[Assented to 19 December 1989]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Social Security and Veterans' Affairs Legislation Amendment Act (No. 4) 1989*.

Commencement: Day of Royal Assent

Commencement

2. Each provision of this Act commences, or is to be taken to have commenced, as the case requires, on the day, or at the time, shown by the note in italics at the foot of that provision.

Commencement: Day of Royal Assent

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Application

3. (1) The amendments of the *Seamen's War Pensions and Allowances Act 1940* made by paragraph 15 (a) and section 19 apply in relation to payments that fall due on or after 16 November 1989.

Commencement: 16 November 1989

(2) The amendment of the *Seamen's War Pensions and Allowances Act 1940* made by paragraph 15 (b) applies in relation to Australian mariners in respect of whom a carer's service pension under the *Veterans' Entitlements Act 1986* was first paid on or after 1 November 1989.

Commencement: 1 November 1989

(3) The amendment of the *Seamen's War Pensions and Allowances Act 1940* made by section 16 applies in relation to deaths occurring on or after the day on which this Act receives the Royal Assent.

Commencement: Day of Royal Assent

(4) The amendment of the *Seamen's War Pensions and Allowances Act 1940* made by paragraph 18 (a) applies in relation to the enforcement, on or after the day on which this Act receives the Royal Assent, of orders made under section 58AC of the *Seamen's War Pensions and Allowances Act 1940* whether before, on or after that day.

Commencement: Day of Royal Assent

(5) The amendment of the *Seamen's War Pensions and Allowances Act 1940* made by paragraph 18 (b) applies in relation to offences committed on or after 1 January 1990.

Commencement: 1 January 1990

(6) The amendments of the *Social Security Act 1947* made by paragraphs 21 (b), (h), (k), (s), (y) and 22 (c), section 32 and paragraph 70 (c) apply in relation to payments that fall due on or after 1 February 1990.

Commencement: 1 February 1990

(7) The amendments of the *Social Security Act 1947* made by paragraphs 21 (c) and (za), sections 47, 48, 49, 50, 51, 53, 54 and 56, paragraphs 59 (a), (b), (d), (e), (f) and (g), sections 62 and 64 and paragraphs 65 (a) and (c) apply in relation to payments that fall due on or after 1 January 1990.

Commencement: 1 January 1990

(8) The amendments of the *Social Security Act 1947* made by paragraphs 21 (e) and (v) and 63 (f) and section 67 apply in relation to payments that fall due on or after the day on which this Act receives the Royal Assent.

Commencement: Day of Royal Assent

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(9) The amendments of the *Social Security Act 1947* made by paragraphs 21 (d) and 63 (d) and (h) apply in relation to payments that fall due on or after 18 November 1989.

Commencement: 18 November 1989

(10) The amendment of the *Social Security Act 1947* made by paragraph 21 (f) applies in relation to payments that fall due on or after 23 November 1989.

Commencement: 18 November 1989

(11) The amendments of the *Social Security Act 1947* made by paragraphs 21 (g), (j), (w) and (zb), section 28 and paragraphs 36 (a) and (b) and 40 (a) apply in relation to payments that fall due on or after 1 November 1989.

Commencement: 1 November 1989

(12) The amendments of the *Social Security Act 1947* made by paragraphs 21 (p) and 24 (c) and sections 45, 69, 73 and 77 apply in relation to deaths occurring on or after 1 January 1990.

Commencement: 1 January 1990

(13) The *Social Security Act 1947* continues to apply in relation to deaths that occurred before 1 January 1990 as if the amendments specified in subsection (12) had not been made.

Commencement: 1 January 1990

(14) The amendments of the *Social Security Act 1947* made by paragraphs 21 (t), 22 (a), (d) and (e) and 29 (b), (c) and (d) and sections 31 and 33 apply in relation to payments that fall due on or after 26 April 1990.

Commencement: 26 April 1990

(15) The amendments of the *Social Security Act 1947* made by paragraph 21 (u) and sections 30, 71 and 72 apply in relation to payments that fall due on or after 26 April 1990.

Commencement: Day of Royal Assent

(16) The amendments of the *Social Security Act 1947* made by section 23 and paragraph 61 (c) apply in relation to payments that fall due on or after 13 June 1989.

Commencement: 13 June 1989

(17) The amendment of the *Social Security Act 1947* made by section 35 applies in relation to claims for invalid pension lodged on or after 1 April 1990.

Commencement: 1 April 1990

(18) The amendments of the *Social Security Act 1947* made by section 52 and paragraph 60 (b) apply in relation to payments that fall due after 31 December 1989.

Commencement: 31 December 1989

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(19) The amendments of the *Social Security Act 1947* made by paragraphs 59 (c) and 61 (a) and (b) apply in relation to payments that fall due on or after 1 June 1990.

Commencement: 1 June 1990

(20) The amendments of the *Social Security Act 1947* made by paragraphs 60 (a), (c), (d), (e) and (f) apply in relation to payments that fall due after 31 December 1990.

Commencement: 31 December 1990

(21) The amendments of the *Social Security Act 1947* made by paragraphs 61 (e) and (f) apply in relation to payments that fall due on or after 13 December 1989.

Commencement: 13 December 1989

(22) The amendments of the *Social Security Act 1947* made by paragraphs 63 (a), (b), (c), (e), (g) and (j) apply in relation to payments that fall due on or after 1 September 1990.

Commencement: 1 September 1990

(23) The amendment of the *Social Security Act 1947* made by paragraph 65 (b) applies in relation to payments that fall due on or after 1 July 1989.

Commencement: 1 July 1989

(24) The amendment of the *Social Security Act 1947* made by paragraph 76 (b) applies in relation to offences committed on or after 15 August 1989.

Commencement: 1 January 1990

(25) The repeal effected by section 86 has effect in relation to payments that fall due on or after the day on which this Act receives the Royal Assent.

Commencement: Day of Royal Assent

(26) The amendments of the *Veterans' Entitlements Act 1986* made by paragraphs 90 (a), 92 (j) and (m), 99 (f) and 100 (b) and sections 121 and 122 apply in relation to payments that fall due on or after the day on which this Act receives the Royal Assent.

Commencement: Day of Royal Assent

(27) The amendments of the *Veterans' Entitlements Act 1986* made by section 91, paragraph 92 (d), section 110, paragraphs 111 (a) and (b) and section 116 apply in relation to payments that fall due on or after 16 November 1989.

Commencement: 16 November 1989

(28) The amendments of the *Veterans' Entitlements Act 1986* made by paragraphs 92 (b), (f), (h), (r) and (u), section 95, paragraph 102 (c) and

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

section 108 apply in relation to payments that fall due on or after 1 February 1990.

Commencement: 1 February 1990

(29) The amendments of the *Veterans' Entitlements Act 1986* made by paragraphs 92 (c), (o) and (q), section 93 and paragraphs 99 (b), (c) and (e) apply in relation to payments that fall due on or after 1 January 1990.

Commencement: 1 January 1990

(30) The amendments of the *Veterans' Entitlements Act 1986* made by paragraphs 92 (e), (g), (n), (v), 99 (a) and (d), 100 (a) and 106 (a) apply in relation to payments that fall due on or after 1 November 1989.

Commencement: 1 November 1989

(31) The amendments of the *Veterans' Entitlements Act 1986* made by paragraph 92 (k) and section 94 apply in relation to payments that fall due on or after 19 April 1990.

Commencement: Day of Royal Assent

(32) The amendments of the *Veterans' Entitlements Act 1986* made by paragraph 92 (p) and sections 104, 107, 109, 113, 114, 115, 117, 118 and 119 apply in relation to deaths occurring on or after 1 January 1990.

Commencement: 1 January 1990

(33) The *Veterans' Entitlements Act 1986* continues to apply in relation to deaths that occurred before 1 January 1990 as if the amendments specified in subsection (32) had not been made.

Commencement: 1 January 1990

(34) The amendments of the *Veterans' Entitlements Act 1986* made by paragraph 92 (s), sections 96 and 101 and paragraphs 102 (a), (d) and (e) apply in relation to payments that fall due on or after 19 April 1990.

Commencement: 19 April 1990

(35) The amendments of the *Veterans' Entitlements Act 1986* made by section 97 and paragraphs 98 (a), (b) and (d) apply in relation to claims for carer's service pension lodged on or after 1 November 1989.

Commencement: 1 November 1989

(36) The amendment of the *Veterans' Entitlements Act 1986* made by paragraph 98 (c) applies in relation to claims for service pension lodged on or after 1 April 1990.

Commencement: 1 April 1990

(37) The amendments of the *Veterans' Entitlements Act 1986* made by section 103 apply in relation to payments that fall due on or after 13 June 1989.

Commencement: 13 June 1989

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(38) The amendment of the *Veterans' Entitlements Act 1986* made by paragraph 111 (c) applies in relation to veterans in respect of whom a carer's service pension was first paid on or after 1 November 1989.

Commencement: 1 November 1989

(39) The amendment of the *Veterans' Entitlements Act 1986* made by section 112 applies in relation to deaths occurring on or after the day on which this Act receives the Royal Assent.

Commencement: Day of Royal Assent

(40) The amendments of the *Veterans' Entitlements Act 1986* made by section 120 apply in relation to payments that fall due on or after 28 December 1989, other than payments in respect of periods ending before that date.

Commencement: 28 December 1989

(41) The amendment of the *Veterans' Entitlements Act 1986* made by paragraph 126 (a) applies in relation to the enforcement, on or after the day on which this Act receives the Royal Assent, of orders made under section 211 of the *Veterans' Entitlements Act 1986* whether before, on or after that day.

Commencement: Day of Royal Assent

(42) The amendment of the *Veterans' Entitlements Act 1986* made by paragraph 126 (b) applies in relation to offences committed on or after 1 January 1990.

Commencement: 1 January 1990

Savings

4. (1) Where, immediately before the commencement of paragraphs 36 (c) and 59 (e), the rate at which a prescribed pension was payable to a person included an amount under subsection 33 (3) or 118 (5) of the *Social Security Act 1947* as in force immediately before that commencement, the rate at which any prescribed pension is payable to the person on or after that commencement is to continue to include the amount from time to time provided for by subsection 33 (3) or 118 (5), as the case requires, until:

- (a) the person has no dependent child; or
- (b) the person is no longer qualified to receive any kind of prescribed pension.

Commencement: 1 January 1990

(2) Where, immediately before the commencement of section 39, a person's income was being reduced by an amount in respect of a child because of section 35 of the *Social Security Act 1947* as in force immediately before that commencement, then, on and after that commencement, the person's income is to continue to be reduced by an amount in respect of that child worked out under section 35 of that Act until:

- (a) the child stops being a dependent child; or

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- (b) the person is no longer qualified to receive any of the following:
- (i) pension under Part IV or V or Schedule 1B;
 - (ii) allowance under Part VI, XIV or XVI;
- of that Act.

Commencement: 1 January 1990

(3) Where, immediately before the commencement of paragraph 99 (e), the rate at which a pension or allowance was payable to a person included an amount under paragraph 47 (3) (e) of the *Veterans' Entitlements Act 1986* as in force immediately before that commencement, the rate at which any such pension or allowance is payable to the person on or after that commencement is to continue to include the amount from time to time provided for by paragraph 47 (3) (e) until:

- (a) the person has no dependent child; or
- (b) the person is no longer entitled to receive any kind of pension or allowance under Part III of that Act.

Commencement: 1 January 1990

(4) Where, immediately before the commencement of section 93, a person's income was being reduced by an amount in respect of a child because of section 37 of the *Veterans' Entitlements Act 1986* as in force immediately before that commencement, then, on and after that commencement, the person's income is to continue to be reduced, by an amount in respect of that child worked out under section 37 of that Act until:

- (a) the child stops being a dependent child; or
- (b) the person is no longer entitled to receive any kind of pension or allowance under Part III of that Act.

Commencement: 1 January 1990

(5) In this section:

“dependent child” means:

- (a) in relation to the operation of the *Social Security Act 1947*—a child of the kind described in paragraph (b) of the definition of “dependent child” in subsection 3 (1) of that Act; and
- (b) in relation to the operation of the *Veterans' Entitlements Act 1986*—a child who is a dependant of the veteran and who is wholly or substantially dependent on the veteran.

Commencement: 1 January 1990

PART 2—AMENDMENTS OF HEALTH INSURANCE ACT 1973

Principal Act

5. In this Part, “Principal Act” means the *Health Insurance Act 1973*.

Commencement: Day of Royal Assent

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Interpretation

6. Section 3 of the Principal Act is amended by inserting “or 4D” after “4C” in paragraph (aa) of the definition of “dependant” in subsection (1).

Commencement: 1 June 1990

7. After section 4C of the Principal Act the following section is inserted:

Disadvantaged persons, being certain former recipients of sole parent's pension, unemployment benefit or job search allowance

“4D. (1) This section applies to a person who is in receipt of:

- (a) sole parent's pension; or
- (b) unemployment benefit; or
- (c) job search allowance;

under the *Social Security Act 1947*.

“(2) Where the person:

- (a) commences full-time employment; and
- (b) has been:

- (i) where the person is in receipt of sole parent's pension—a qualified recipient; or
- (ii) where the person is in receipt of unemployment benefit or job search allowance—an unemployment beneficiary;

for a continuous period of 12 months immediately before becoming so employed; and

- (c) because of becoming so employed, or because of the resulting increase in the person's income, the person stops being a person to whom this section applies;

the person is a disadvantaged person in respect of the period of 6 months after the person stops being a person to whom this section applies.

“(3) In this section:

‘qualified recipient’ means a person who is in receipt of:

- (a) invalid pension; or
- (b) wife's pension; or
- (c) carer's pension; or
- (d) rehabilitation allowance; or
- (e) sheltered employment allowance;

under the *Social Security Act 1947*;

‘unemployment beneficiary’ means a person who is in receipt of:

- (a) unemployment benefit; or
- (b) job search allowance;

under the *Social Security Act 1947*.”.

Commencement: 1 June 1990

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Disadvantaged persons, being persons in receipt of unemployment benefit or job search allowance

8. Section 5D of the Principal Act is amended:

- (a) by inserting in paragraph (1) (a) "and" after "person;";
- (b) by omitting paragraph (1) (b);
- (c) by inserting in paragraph (1A) (a) "and" after "person;";
- (d) by omitting from paragraph (1A) (b) "and";
- (e) by omitting paragraph (1A) (c);
- (f) by omitting subsections (2), (3), (5) and (6).

Commencement: 1 June 1990

Disadvantaged persons, being persons in receipt of special benefit

9. Section 5E of the Principal Act is amended:

- (a) by inserting in paragraph (1) (a) "and" after "benefit;";
- (b) by omitting from paragraph (1) (aa) "and";
- (c) by omitting paragraph (1) (b);
- (d) by inserting in paragraph (3) (a) "and" after "person;";
- (e) by omitting from paragraph (3) (b) "and";
- (f) by omitting paragraph (3) (c);
- (g) by omitting subsections (5), (6), (7), (9) and (10) and substituting the following subsection:

“(5) Where, at any time after 14 November 1983:

- (a) a person is paid a special benefit in respect of a period of 2 weeks; and
- (b) at the time of that payment, a declaration under this section in respect of the person is not in force;

the Secretary to the Department of Social Security must declare the person to be a disadvantaged person within the meaning of this section in respect of a period specified in the declaration, being a period of 12 weeks commencing on the date of payment.”.

Commencement: 1 June 1990

Declarations of person to be disadvantaged person not to overlap

10. Section 5G of the Principal Act is amended by adding at the end the following subsection:

“(2) Nothing in section 5D or 5E requires the making of a declaration with respect to a person under that section in respect of any day on which the person is a pensioner within the meaning of the *National Health Act 1953* because of subparagraph (aa) (iii) of the definition of ‘pensioner’ in subsection 4 (1) of that Act.”.

Commencement: 1 June 1990

PART 3—AMENDMENTS OF NATIONAL HEALTH ACT 1953

Principal Act

11. In this Part, “**Principal Act**” means the *National Health Act 1953*.

Commencement: Day of Royal Assent

Interpretation

12. Section 4 of the Principal Act is amended:

- (a) by omitting “supporting parent’s benefit” from paragraph (a) of the definition of “pensioner” in subsection (1) and substituting “sole parent’s pension”;

Commencement: Day of Royal Assent

- (b) by omitting “83CA” from paragraph (a) of the definition of “pensioner” in subsection (1) and substituting “251A”;

Commencement: 1 January 1990

- (c) by inserting after subparagraph (aa) (ii) of the definition of “pensioner” in subsection (1) the following word and subparagraph:

“or (iii) who has turned 60, is in receipt of unemployment benefit or special benefit under the *Social Security Act 1947* and has been a social security beneficiary for a continuous period of at least 12 months;”;

Commencement: 1 June 1990

- (d) by inserting in subsection (1) the following definition:

“**‘social security beneficiary’** means:

- (a) a person who is in receipt of unemployment benefit, sickness benefit or special benefit under the *Social Security Act 1947*; or
- (b) a person who is in receipt of a rehabilitation allowance under the *Social Security Act 1947* and was, immediately before becoming eligible to receive that allowance, eligible to receive sickness benefit under that Act;”.

Commencement: 1 June 1990

PART 4—AMENDMENTS OF SEAMEN’S WAR PENSIONS AND ALLOWANCES ACT 1940

Principal Act

13. In this Part, “**Principal Act**” means the *Seamen’s War Pensions and Allowances Act 1940*.

Commencement: Day of Royal Assent

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Interpretation

14. Section 3 of the Principal Act is amended:

- (a) by omitting “, a benefit under Part VI or XIII” from the definition of “child” in subsection (1) and substituting “or Schedule 1B, an allowance under Part VI, a benefit under Part XIII”;

Commencement: 1 March 1989

- (b) by inserting in subsection (1) the following definitions:

“**‘account’**, in relation to a credit union or building society, means an account maintained by a person with the credit union or building society to which are credited moneys received on deposit by the credit union or building society from that person;

‘building society’ means an organisation registered as a permanent building society under a law of a State or Territory;

‘credit union’ means an organisation registered as a credit union under a law of a State or Territory;”.

Commencement: Day of Royal Assent

Allowance for attendant

15. Section 21 of the Principal Act is amended:

- (a) by omitting from subsection (2) “\$72.60” and substituting “\$78.20”;

Commencement: 16 November 1989

- (b) by adding at the end the following subsection:

“(11) An allowance under this section is not payable to an Australian mariner where a carer’s service pension under section 41 of the *Veterans’ Entitlements Act 1986*:

(a) is payable; or

(b) would be payable, but for action that has been taken pursuant to paragraph 58 (1) (b) or subsection 205 (2) of that Act;

to a person because the person is caring for the Australian mariner.”.

Commencement: 1 November 1989

16. After section 24A of the Principal Act the following section is inserted:

Bereavement payment in respect of disabled Australian mariners

“24B. (1) This section applies where a married Australian mariner who is in receipt of a disability pension dies.

“(2) The widow or widower of the deceased Australian mariner is entitled, in respect of the period of 12 weeks after the deceased Australian mariner’s death, to payments at:

- (a) the rate at which the disability pension would have been payable to the deceased Australian mariner, if he or she had not died, on the

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

first available pension pay day after the Commission becomes aware of the death; or

- (b) the general rate in force on that pension pay day;

whichever is lower.

“(3) Where:

- (a) the widow or widower dies within 12 weeks after the death of the deceased Australian mariner; and

- (b) the Commission has not become aware of the death of the deceased Australian mariner before the death of the widow or widower;

there is payable, to such person as the Commission thinks appropriate, in respect of the deceased Australian mariner, an amount worked out using the formula:

$$6 \times \text{Deceased Australian mariner's amount}$$

where:

‘Deceased Australian mariner’s amount’ means:

- (a) the amount of disability pension that would have been payable to the deceased Australian mariner, if he or she had not died, on the first available pension pay day after the death of the widow or widower; or

- (b) the amount that would have been payable to the deceased Australian mariner, if he or she had not died, on the first available pension pay day after the death of the widow or widower, at the general rate in force on that pension pay day;

whichever is lower.

“(4) Subsection (2) does not apply:

- (a) if the Commission does not become aware of the Australian mariner’s death until after the death of the widow or widower; or
- (b) in respect of any pension pay day after the death of the widow or widower.

“(5) Where:

- (a) within the period of 12 weeks after the death of an Australian mariner, an amount to which the Australian mariner would have been entitled if he or she had not died has been paid by way of a disability pension into an account with a bank, credit union or building society (in this subsection called the ‘financial institution’); and

- (b) this section applies in relation to the death of the Australian mariner; and

- (c) the financial institution pays to the widow or widower of the deceased Australian mariner, out of that account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (a);

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

then, in spite of anything in any other law, the financial institution is not liable to the Commonwealth, the personal representative of the deceased Australian mariner, or anyone else, for any loss incurred because of the payment of that money to the widow or widower.

“(6) In this section:

‘**disability pension**’ means a pension under Part III, other than a pension payable to a person as a dependant of a deceased Australian mariner;

‘**first available pension pay day**’, in relation to the death of an Australian mariner, means the first pension pay day after the Commission becomes aware of the death for which it is practicable to terminate or adjust the payments being made by way of disability pension in respect of the deceased Australian mariner;

‘**general rate**’ means the rate specified in column 3 of Schedule 1;

‘**married Australian mariner**’ means an Australian mariner who, if he or she were a veteran, would be a married veteran for the purposes of Part III of the *Veterans' Entitlements Act 1986*;

‘**pension pay day**’ means a day that is a pension pay day for the purposes of the *Veterans' Entitlements Act 1986*;

‘**widow**’ has the same meaning as it has in Part III of the *Veterans' Entitlements Act 1986*;

‘**widower**’ has the same meaning as it has in the *Veterans' Entitlements Act 1986*.”.

Commencement: Day of Royal Assent

17. After section 54 of the Principal Act the following section is inserted:

Pension, benefit or allowance may be paid to bank etc.

“54A. (1) The Commission may direct that the whole or a part of the amount of a pension is to be paid, at such intervals as it directs, to the credit of an account nominated from time to time by the pensioner, being an account maintained by the pensioner, either alone or jointly or in common with another person, with a bank, credit union or building society, and payment is to be made accordingly.

“(2) In this section:

‘**pension**’ means a pension or allowance under this Act;

‘**pensioner**’ means a person to whom a pension is payable, whether on his or her own behalf or on behalf of another person.”.

Commencement: Day of Royal Assent

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

Order for repayment of pension etc.

18. Section 58AC of the Principal Act is amended:

(a) by adding at the end the following subsections:

“(3) Where:

- (a) the Court makes an order under subsection (1) for the payment to the Commonwealth of an amount of money; and
- (b) the clerk, or other appropriate officer, of the Court signs a certificate specifying:
 - (i) the amount ordered to be paid to the Commonwealth; and
 - (ii) the person by whom the amount is to be paid; and
- (c) the certificate is filed in a court (which may be the Court) having civil jurisdiction to the extent of the amount to be paid;

the certificate is enforceable in all respects as a final judgment of the court in which the certificate is filed.

“(4) In spite of anything in this Act or any other law, a person is not to be imprisoned in respect of a failure to pay an amount payable to the Commonwealth under this section.”;

Commencement: Day of Royal Assent

(b) by adding at the end the following subsections:

“(5) Where:

- (a) a person is convicted of an offence against subsection 58 (1) or (2); and
 - (b) the Court orders him or her to pay an amount of more than \$30,000 to the Commonwealth under subsection (1); and
 - (c) the offence involved a scheme to defraud the Commonwealth;
- the Court may, on application by the Commonwealth, order the person to pay to the Commonwealth interest on the amount mentioned in paragraph (b), at the rate of 20% per annum, in respect of the period or periods in respect of which the person was paid pension, allowance or other pecuniary benefit as mentioned in subsection (1).

“(6) In this section:

‘scheme to defraud the Commonwealth’ includes either of the following:

- (a) a scheme involving the making of a series of false or misleading statements;
- (b) a scheme involving obtaining a series of payments of pension, allowance or other pecuniary benefit or instalments of pension, allowance or other pecuniary benefit under this Act (being payments that were not

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

payable) by means of impersonation or a fraudulent device.”.

Commencement: 1 January 1990

Schedule 2—Attendant allowance

19. Schedule 2 of the Principal Act is amended:

- (a) by omitting “72.60” (wherever occurring) and substituting “78.20”;
- (b) by omitting “145.20” (wherever occurring) and substituting “156.40”.

Commencement: 16 November 1989

PART 5—AMENDMENTS OF SOCIAL SECURITY ACT 1947

Principal Act

20. In this Part, “Principal Act” means the *Social Security Act 1947*.

Commencement: Day of Royal Assent

Interpretation

21. Section 3 of the Principal Act is amended:

- (a) by inserting after paragraph (aa) of the definition of “income” in subsection (1) the following paragraphs:

“(ab) in the case of an unmarried person—an amount or amounts paid to or on behalf of the person on or after 1 November 1989 under an agreement under which repayment of the amounts is secured by a mortgage of the person’s principal home, to the extent that the total amount owed by the person from time to time under such agreements does not exceed \$40,000;

(ac) in the case of a married person—an amount or amounts paid to or on behalf of the person or his or her spouse on or after 1 November 1989 under an agreement under which repayment of the amounts is secured by a mortgage of the principal home of the person or the spouse, to the extent that the total amount owed by the person and the spouse from time to time under such agreements does not exceed \$40,000;”;

Commencement: 1 November 1989

- (b) by inserting after paragraph (ac) of the definition of “income” in subsection (1) the following paragraph:

“(ad) where the person has not reached pensionable age—any return on a compulsorily preserved superannuation benefit of the person;”;

Commencement: 1 February 1990

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(c) by inserting after paragraph (n) of the definition of "income" in subsection (1) the following paragraph:

"(na) a payment received by a trainee in part-time training under a program included in the programs known as the Labour Force Programs, where the trainee is also in receipt of:

- (i) a pension under Part IV or V; or
- (ii) an allowance under Part XIV or XVI;"

Commencement: 1 January 1990

(d) by omitting paragraph (q) of the definition of "income" in subsection (1) and substituting the following paragraph:

"(q) a payment (other than a periodical payment or a payment representing an accumulation of instalments) made for or in respect of expenses incurred by a person for hospital, medical, dental or similar treatment;"

Commencement: 18 November 1989

(e) by omitting subparagraphs (s) (vi) and (vii) of the definition of "income" in subsection (1) and substituting the following subparagraphs:

- "(vi) Victoria Cross allowance under section 103 of that Act;
- (vii) clothing allowance under section 97 of that Act;
- (viii) a bereavement payment under Division 5A of Part III, or section 98A of that Act;
- (ix) a funeral benefit under Part VI of that Act;
- (x) a bereavement payment under section 24B of the *Seamen's War Pensions and Allowances Act 1940*; or
- (xi) a funeral benefit under the *Seamen's War Pensions and Allowances Regulations*;"

Commencement: Day of Royal Assent

(f) by omitting paragraph (u) of the definition of "income" in subsection (1) and substituting the following paragraph:

"(u) the value of any board or lodging received by the person;"

Commencement: 18 November 1989

(g) by inserting after paragraph (b) of the definition of "ineligible property owner" in subsection (1) the following paragraph:

- "(ba) who:
- (i) is a married person; and
 - (ii) is in approved respite care and has remained, or the Secretary is satisfied is likely to remain, in that care for at least 14 consecutive days;"

Commencement: 1 November 1989

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(h) by inserting after paragraph (c) of the definition of “market-linked investment” in subsection (1) the following word and paragraph:

“or (ca) a superannuation benefit vested in a person held in a superannuation fund (unless a superannuation pension funded by that benefit is presently payable to the person);”;

Commencement: 1 February 1990

(j) by omitting paragraph (d) of the definition of “rent” in subsection (1) and substituting the following:

“(d) at regular intervals greater than 3 months, if the Secretary is satisfied the amounts should be treated as rent for the purposes of this Act;

and includes amounts payable by a married person or his or her spouse for approved respite care for the married person in a nursing home, where the person has remained, or the Secretary is satisfied that the person is likely to remain, in that care for at least 14 consecutive days;”;

Commencement: 1 November 1989

(k) by inserting “(including an investment in the nature of superannuation)” after “investment” (first occurring) in the definition of “return” in subsection (1);

Commencement: 1 February 1990

(m) by omitting the definition of “dependent child” in subsection (1) and substituting the following definition:

“‘dependent child’, in relation to a person, means:

(a) in section 4A and in the definitions of ‘annual maintenance free area’, ‘in-kind maintenance income’, ‘maintenance income’ and ‘special maintenance income’ in this subsection:

(i) a child under the age of 16 years who:

(A) is in the custody, care and control of the person; or

(B) where no other person has the custody, care and control of the child—is wholly or substantially in the care and control of the person; or

(ii) a student child, not being the spouse of the person, who is wholly or substantially dependent upon the person; or

(b) elsewhere in this Act:

(i) a child referred to in subparagraph (a) (i) who:

(A) is in full-time education; or

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(B) is not in receipt of income from employment exceeding \$100 per week;
or

(ii) a student child referred to in subparagraph (a) (ii);”;

Commencement: 1 January 1990

(n) by omitting the definition of “prescribed student child” in subsection (1) and substituting the following definition:

“‘prescribed student child’, in relation to a person, means a dependent child of the person who is over 16 and who is qualified to receive payments under a prescribed educational scheme;”;

Commencement: 1 January 1990

(o) by inserting in subsection (1) the following definition:

“‘pensionable age’ means:

- (a) for a woman—60 years of age; and
- (b) for a man—65 years of age;”;

Commencement: Day of Royal Assent

(p) by inserting in subsection (1) the following definitions:

“‘pensioner couple’, in Part VIII, means:

- (a) 2 social security pensioners each of whom is a married person because of being the spouse of the other pensioner; or;
- (b) a social security pensioner and a veterans pensioner each of whom is a married person because of being the spouse of the other pensioner;

‘social security pensioner’, in Part VIII, means:

- (a) a person who is in receipt of a pension under Part IV;
or
- (b) a person referred to in paragraph (d) of the definition of ‘single person’ in subsection 43 (1) who is in receipt of a pension under Part V; or
- (c) a person who is in receipt of an allowance under Part XIV or XVI instead of a pension under Part IV or V that the person is qualified to receive;

‘veterans pensioner’, in Part VIII, means a person who is in receipt of:

- (a) a service pension; or
- (b) a wife’s service pension; or
- (c) a carer’s service pension;

under Part III of the *Veterans’ Entitlements Act 1986*;”;

Commencement: 1 January 1990

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(q) by inserting in subsection (1) the following definition:

“**‘prescribed educational scheme’** means any of the following schemes:

- (a) the AUSTUDY scheme;
- (b) the ABSTUDY Schooling scheme;
- (c) the ABSTUDY Tertiary scheme;
- (d) the Assistance for Isolated Children Scheme;
- (e) the Veterans' Children Education Scheme;
- (f) the Post-Graduate Awards Scheme;”;

Commencement: 1 January 1990

(r) by inserting in subsection (1) the following definitions:

“**‘accruing return investment’** means an arrangement by a person that consists of or includes an investment of money, being an investment:

- (a) that produces:
 - (i) a fixed rate or quantifiable rate of return, whether or not that rate varies from time to time; or
 - (ii) a rate of return that may be reasonably approximated; and
- (b) the value of which from time to time is unlikely to decrease as a result of market changes;

‘approved deposit fund’ has the meaning that it has in Subdivision AA of Division 2 of Part III of the Assessment Act;

‘Assessment Act’ means the *Income Tax Assessment Act 1936*;

‘deferred annuity’ means an annuity that is a deferred annuity for the purposes of Subdivision AA of Division 2 of Part III of the Assessment Act;

‘determination of entitlement’, in relation to a person, means a determination:

- (a) whether the person is qualified to receive a pension, benefit or allowance under this Act; or
- (b) of the rate at which a pension, benefit or allowance under this Act is payable to the person;

‘eligible investment’ means an investment that satisfies all of the following conditions:

- (a) money or property invested is paid or transferred by the investor directly or indirectly to a body corporate or into a trust fund;
- (b) the assets that represent money or property invested (in this definition called the **‘investment assets’**) are held otherwise than in the names of investors;
- (c) the investor does not, either alone or jointly with a

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

relative or relatives of the investor, have effective control over the management of the investment assets;

- (d) the investor has a legally enforceable right to share in any distribution of the income or profits derived from the investment assets;

'friendly society' means:

- (a) a society registered as a friendly society under a law in force in a State or Territory; or
(b) a society that had, before 13 December 1987, been approved for the purpose of the definition of 'friendly society' in subsection 115 (1);

and, for the purpose of the definition of 'market-linked investment' in this subsection, includes a society that has been approved for the purpose of the definition of 'friendly society' in subsection 115 (1) on or after 13 December 1987;

'fund manager', in relation to an investment product, means the person or body specified, in relation to that investment product, in a notice under subsection 12B (2);

'investment product' means a class of market-linked investments specified in a notice under subsection 12B (2);

'market-linked investment' means:

- (a) an investment in:
(i) an approved deposit fund; or
(ii) a deferred annuity; or
(iii) a public unit trust; or
(iv) an insurance bond; or
(b) an investment with a friendly society; or
(c) an eligible investment other than an investment referred to in paragraph (a) or (b);

not being:

- (d) an accruing return investment; or
(e) an investment consisting of the acquisition of real property, stock or shares;

'public unit trust' means a unit trust that:

- (a) except where paragraph (b) applies—was, in relation to the unit trust's last year of income, a public unit trust for the purposes of Division 6B of Part III of the Assessment Act; or
(b) where the first year of income of the unit trust has not yet finished—has, at some time since the trust was established, satisfied at least one of the paragraphs of subsection 102G (1) of the Assessment Act;

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

'return', in relation to an investment, means any increase, whether of a capital or income nature and whether or not distributed, in the value or amount of the investment;

'statutory rate of return', means 11% per annum or such lower percentage per annum as is specified in a notice in force under subsection 12E (1);

Commencement: Day of Royal Assent

(s) by inserting in subsection (1) the following definitions:

'assessable growth component', in relation to an amount of superannuation benefit, means so much (if any) of the return as is attributable to the assessable period;

'assessable period', in relation to a person, means any period during which the person received a prescribed pension, except any such period occurring before a continuous period of at least 2 years during which the person did not receive a prescribed pension;

'compulsorily preserved superannuation benefit', in relation to a person, means a superannuation benefit of a person the person's access to which is restricted pursuant to:

(a) paragraph 23 (ja) of the Assessment Act as in force at any time before 18 December 1987; or

(b) section 23FB of the Assessment Act as in force at any time before 18 December 1987; or

(c) regulations made under section 7 or 8 of the *Occupational Superannuation Standards Act 1987*; or

(d) a provision of the trust deed or contract concerned that imposes restrictions corresponding to those imposed by a provision referred to in paragraph (c);

'immediate annuity' means an annuity that is presently payable;

'superannuation benefit', in relation to a person, means a benefit arising directly or indirectly from amounts contributed (whether by the person or by any other person) to a superannuation fund in respect of the person;

'superannuation fund' means a superannuation fund as defined for the purposes of Subdivision AA of Division 2 of Part III of the Assessment Act, other than a fund covered by subparagraph (ia) of the definition of 'superannuation fund' in subsection 27A (1) of that Act;

'superannuation pension' has the same meaning as it has in Subdivision AA of Division 2 of Part III of the Assessment Act; "

Commencement: 1 February 1990

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(t) by inserting in subsection (1) the following definitions:

“**deductible amount**”, in relation to an immediate annuity or a superannuation pension, is the amount that would be the deductible amount in relation to the annuity or superannuation pension in relation to a year of income under subsection 27H (2) of the Assessment Act if ‘undeducted purchase price’ had the same meaning in that subsection as ‘non-assessable purchase price’ has in this Act;

‘non-assessable purchase price’:

- (a) in relation to an immediate annuity other than a roll-over immediate annuity—has the same meaning as ‘undeducted purchase price’ has in Subdivision AA of Division 2 of Part III of the Assessment Act; or
- (b) in relation to a roll-over immediate annuity—means the roll-over purchase price; or
- (c) in relation to a superannuation pension—has the same meaning as ‘undeducted purchase price’ has in Subdivision AA of Division 2 of Part III of the Assessment Act;

‘purchase price’, in relation to an annuity, has the meaning that it has in Subdivision AA of Division 2 of Part III of the Assessment Act;

‘relevant number’, in relation to an annuity, has the meaning that it has in section 27H of the Assessment Act;

‘residual capital value’, in relation to an annuity, has the meaning that it has in Subdivision AA of Division 2 of Part III of the Assessment Act;

‘rolled-over amount’, in relation to an annuity, has the meaning that it has in Subdivision AA of Division 2 of Part III of the Assessment Act;

‘roll-over immediate annuity’, means an immediate annuity the purchase price of which consists wholly of a rolled-over amount or rolled-over amounts;

‘roll-over purchase price’, in relation to a roll-over immediate annuity, means:

- (a) except where paragraph (b) applies—either the sum of the following amounts:
 - (i) the amount that would, under Subdivision AA of Division 2 of Part III of the Assessment Act, be the undeducted purchase price of the annuity;
 - (ii) the amount that is the upper limit under

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

section 159SG of the Assessment Act for the year of income in which the annuity was purchased;

or the purchase price of the annuity, whichever is less; or

(b) where:

(i) the roll-over immediate annuity, and another roll-over immediate annuity, have been purchased using the same rolled-over amount or rolled-over amounts in the name of the same person; and

(ii) the roll-over purchase price of the other roll-over immediate annuity has previously been worked out under paragraph (a) for the purposes of this Act;

the amount that would, under Subdivision AA of Division 2 of Part III of the Assessment Act, be the undeducted purchase price of the annuity;”;

Commencement: 26 April 1990

(u) by inserting in subsection (1) the following definitions:

“**‘actual market exchange rate’**, in relation to a foreign currency, means the on-demand airmail buying rate in relation to that foreign currency available at the Commonwealth Bank of Australia;

‘applicable exchange rate’, in relation to a foreign exchange period, means:

(a) except where paragraph (b) applies—the base exchange rate worked out under section 12AC by reference to the actual market exchange rates available during a month of the year falling within the immediately preceding foreign exchange period; or

(b) if a re-assessed exchange rate is applicable under section 12AD—that re-assessed exchange rate;

‘foreign exchange period’ means:

(a) each period starting at the beginning of a relevant period within the meaning of section 34 and ending on the day before the pension pay day that falls closest to the middle of that relevant period; and

(b) each period starting on a pension pay day referred to in paragraph (a) and ending on the day before the beginning of the next relevant period within the meaning of section 34;”;

Commencement: Day of Royal Assent

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(v) by inserting in subsection (1) the following definition:

“‘**ABSTUDY scheme**’ means the ABSTUDY scheme to the extent that it provides means-tested allowances;”;

Commencement: Day of Royal Assent

(w) by inserting in subsection (1) the following definition:

“‘**respite period**’, in relation to a person who is in approved respite care, means the period:

(a) starting when the person is admitted to that care; and

(b) ending when the person:

(i) is discharged from that care; or

(ii) dies while still in that care;”;

Commencement: 1 November 1989

(y) by inserting after subsection (2) the following subsections:

“(2A) For the purposes of this Act, an annuity or superannuation pension is to be taken to be presently payable at all times after, but not before, the commencement of the first period in respect of which the annuity or superannuation pension is payable.

“(2B) For the purposes of the definition of ‘accruing return investment’ in subsection (1), a superannuation benefit vested in a person that is held in a superannuation fund is to be taken to be an investment of that person, unless a superannuation pension funded by that benefit is presently payable to the person.”;

Commencement: 1 February 1990

(z) by inserting after subsection (4) the following subsection:

“(4A) In paragraphs (ab) and (ac) of the definition of ‘income’ in subsection (1):

(a) a reference to an amount owed by the person or his or her spouse is a reference to the principal amount secured by the mortgage concerned and does not include a reference to any amount representing mortgage fees, interest or any similar liability the repayment of which is also secured by the mortgage; and

(b) a reference to a mortgage of the person’s principal home includes:

(i) a reference to a mortgage of property (being the person’s principal home) of which the person is not the sole owner; and

(ii) a reference to a mortgage of property (being the person’s principal home) of which the person’s spouse is an owner, even if the person has no beneficial interest in the property;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

but does not include a reference to a mortgage of property in which neither the person nor his or her spouse has any beneficial interest.”;

Commencement: 1 November 1989

(za) by omitting subsection (13) and substituting the following subsection:

“(13) For the purposes of the definition of ‘prescribed student child’ in subsection (1):

- (a) except where paragraph (b) applies—a dependent child is qualified to receive a payment under a prescribed educational scheme if:
 - (i) the dependent child, or another person, is in receipt of such a payment in respect of the child; or
 - (ii) the Secretary has not formed the opinion that neither the dependent child nor any other person will, or would if an application were duly made, receive such a payment in respect of the child; or
- (b) a dependent child is not qualified to receive a payment under a prescribed educational scheme if neither the dependent child nor any other person is in receipt of such a payment in respect of the child and the Secretary is satisfied that the amounts that would be payable under the prescribed educational scheme to or in respect of the dependent child are less than the total amounts that would, if the dependent child was not qualified to receive a payment under a prescribed educational scheme, be payable to or in respect of the dependent child by way of:
 - (i) additional pension under subsection 33 (3) or (4); and
 - (ii) additional pension under or by reference to section 49; and
 - (iii) family allowance supplement under Part IX; and
 - (iv) additional benefit under subsection 118 (5) or (11); and
 - (v) family allowance under Part X.”;

Commencement: 1 January 1990

(zb) by adding at the end the following subsection:

“(22) A person is to be taken for the purposes of this Act to be in approved respite care if the person is:

- (a) a benefit respite care patient, or a leave respite care patient, as defined in the *National Health Act 1953* as modified by the National Health (Nursing Home Respite Care) Regulations; or
- (b) an eligible person as defined in the *Aged or Disabled Persons Homes Act 1954* occupying a respite care place as defined in that Act.”.

Commencement: 1 November 1989

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Calculation of value of property

22. Section 4 of the Principal Act is amended:

(a) by omitting subparagraph (1) (a) (iv) and substituting the following subparagraph:

“(iv) the value of any superannuation pension, or of any other annuity except an annuity to which subsection (9A) applies;”;

Commencement: 26 April 1990

(b) by inserting after subparagraph (1) (a) (iv) the following subparagraph:

“(iva) any amount received by the person within the immediately preceding period of 90 days that is excluded from the definition of ‘income’ in subsection 3 (1) by paragraph (ab) or (ac) of that definition;”;

Commencement: 1 November 1989

(c) by inserting after subparagraph (1) (a) (iva) the following subparagraph:

“(ivb) where the person has not reached pensionable age—the value of any compulsorily preserved superannuation benefit of the person;”;

Commencement: 1 February 1990

(d) by inserting after subsection (9) the following subsections:

“(9A) This subsection applies to an annuity where:

- (a) the Secretary decides under subsection (9B) that the annuity should not be disregarded under paragraph (1) (a) (iv); or
- (b) the annuity is an immediate annuity purchased on or after 15 August 1989; or
- (c) the annuity became presently payable on or after 15 August 1989.

“(9B) Where:

- (a) an annuity is able to be disposed of; or
- (b) a substantial part of the income under the annuity is or may be deferred;

the Secretary may decide that the annuity should not be disregarded under paragraph (1) (a) (iv).

“(9C) The value of an annuity described in paragraph (9A) (b) or (c) is:

- (a) the amount worked out using the formula:

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

$$\left[\left(\frac{\text{RN} - (\text{YE} + 1)}{\text{RN}} \right) \times (\text{PP} - \text{RCV}) \right] + \text{RCV}$$

where:

'PP' [Purchase Price] means the purchase price of the annuity;

'RCV'[Residual Capital Value] means the residual capital value of the annuity;

'RN' [Relevant Number] means the relevant number in relation to the annuity;

'YE' [Years Elapsed] means the number of full years that have elapsed since the annuity became presently payable; or

(b) the residual capital value of the annuity;

whichever is greater.”;

Commencement: 26 April 1990

(e) by inserting after subsection (11) the following subsections:

“(11A) Where:

(a) a determination of entitlement of a person has been made having regard to a relevant number in relation to an annuity, being a number that was determined as mentioned in paragraph (c) of the definition of ‘relevant number’ in section 27H of the Assessment Act; and

(b) the person appealed against the determination of the number; and

(c) on appeal, a lower number is substituted for the original relevant number;

the Secretary must make a new determination of entitlement having regard to the lower relevant number.

“(11B) Where the Secretary makes a new determination of entitlement under subsection (11A), there is payable to the person the amount worked out by using the formula:

$$\text{New amount} - \text{Actual amount}$$

where:

'New amount' means the amount of pension, benefit or allowance that would have been payable to the person at the new rate determined under subsection (11A) in respect of the period starting:

(a) if the appeal concerned was instituted within 3 months after the person was notified of the original decision about the relevant number—when that decision was made; or

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(b) in any other case—when the appeal concerned was instituted;

and ending when the new determination takes effect;

'Actual amount' means the amount of pension, benefit or allowance that was paid to the person in respect of the period specified in the definition of 'New amount'."

Commencement: 26 April 1990

Special provisions relating to residents of retirement villages

23. Section 4B of the Principal Act is amended:

(a) by omitting paragraphs (2) (d) and (e) and substituting the following word and paragraph:

“and (d) the person’s property is to be taken to include property the value of which is equal to the amount of the person’s entry contribution.”;

(b) by omitting paragraphs (4) (e) and (f) and substituting the following word and paragraph:

“and (e) the person’s property is to be taken to include property the value of which is equal to the amount of the person’s entry contribution.”;

(c) by omitting paragraphs (6) (f) and (g) and substituting the following word and paragraph:

“and (f) the person’s property is to be taken to include property the value of which is equal to the amount of the person’s entry contribution.”;

(d) by omitting subparagraphs (7) (f) (ii) and (iii) and substituting the following word and subparagraph:

“and (ii) the property of the person’s spouse is to be taken to include property the value of which is equal to the amount of the spouse’s entry contribution.”;

(e) by omitting subparagraphs (9) (f) (ii) and (iii) and substituting the following word and subparagraph:

“and (ii) the person’s property is to be taken to include property the value of which is equal to the amount of the person’s entry contribution.”;

(f) by omitting paragraphs (11) (g) and (h) and substituting the following word and paragraph:

“and (g) the person’s property is to be taken to include property the value of which is equal to the amount of the person’s entry contribution.”;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(g) by inserting after subsection (11) the following subsections:

“(11AA) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not elibly separated from that spouse; and
- (c) the principal home of the spouse is also in a retirement village; and
- (d) the person's entry contribution, and the entry contribution of the spouse, were each more than the extra allowable amount concerned;

then, for the purposes of this Act:

- (e) the person and the spouse are each to be taken to have a right or interest in a principal home to which subparagraph 4 (1)(a)(ii) applies; and
- (f) the value of the principal home of each person is to be taken to be the total amount paid or agreed to be paid to obtain for the person concerned his or her current right to reside in the retirement village concerned; and
- (g) any right or interest of the person in:
 - (i) the more valuable of the 2 principal homes; or
 - (ii) where the value of the 2 principal homes is the same—the principal home of the younger person;(in this subsection called the ‘more valuable principal home’) is to be disregarded in calculating the actual value of the person's property for the purposes of this Act; and
- (h) any right or interest of the spouse in the more valuable principal home is to be disregarded in calculating the actual value of the spouse's property for the purposes of this Act; and
- (j) the property of the person whose principal home is not the more valuable principal home is to be taken to include property the value of which is equivalent to the amount of that person's entry contribution.

“(11AB) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not elibly separated from that spouse; and
- (c) the principal home of the spouse is also in a retirement village; and
- (d) the person's entry contribution, and the entry contribution of

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

the spouse, were each less than or equal to the extra allowable amount concerned;

then, for the purposes of this Act, whether or not the person or the spouse actually has any right or interest in relation to his or her principal home and whatever the value of any such right or interest:

- (e) the person and the spouse are each to be taken not to have a right or interest in relation to the person's principal home or the spouse's principal home; and
- (f) the person's property is to be taken to include the total amount paid or agreed to be paid to obtain for the person his or her current right to reside in the retirement village; and
- (g) the spouse's property is to be taken to include the total amount paid or agreed to be paid to obtain for the spouse his or her current right to reside in a retirement village.

“(11AC) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not eligibly separated from that spouse; and
- (c) the principal home of the spouse is not in a retirement village; and
- (d) the right or interest of the person's spouse in his or her principal home would, but for this section, be disregarded because of subparagraph 4 (1)(a)(ii);

then, for the purposes of this Act:

- (e) the person and the spouse are each to be taken to have a right or interest in a principal home to which subparagraph 4 (1)(a)(ii) applies; and
- (f) the value of the principal home of the person is to be taken to be the amount of the person's entry contribution; and
- (g) any right or interest of the person in:
 - (i) the more valuable of the 2 principal homes; or
 - (ii) where the value of the 2 principal homes is the same—the principal home that is not in a retirement village;(in this subsection called the ‘**more valuable principal home**’) is to be disregarded in calculating the actual value of the person's property for the purposes of this Act; and
- (h) any right or interest of the spouse in the more valuable principal home is to be disregarded in calculating the actual value of the spouse's property for the purposes of this Act; and

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

- (j) the property of the person whose principal home is not the more valuable principal home is to be taken to include property the value of which is equivalent to the value of the less valuable principal home.

“(11AD) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not eligibly separated from that spouse; and
- (c) the principal home of the spouse is not in a retirement village; and
- (d) the spouse does not have a right or interest in his or her principal home that is to be disregarded because of subparagraph 4 (1) (a) (ii); and
- (e) the person's entry contribution was equal to or less than the amount that would be the extra allowable amount if the person was an unmarried person;

then, whether or not the person or the spouse actually has any right or interest in relation to the person's principal home and whatever the value of any such right or interest, the following provisions apply for the purposes of the application of this Act to the person and to the spouse:

- (f) both the person, and the spouse, are to be taken not to have a right or interest in relation to the person's principal home; and
- (g) the person's property is to be taken to include property the value of which is equal to the amount of the person's entry contribution.

“(11AE) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not eligibly separated from that spouse; and
- (c) the principal home of the spouse is not in a retirement village; and
- (d) the spouse does not have a right or interest in his or her principal home that is to be disregarded because of subparagraph 4 (1) (a) (ii); and
- (e) the person's entry contribution was more than the amount that would be the extra allowable amount if the person was an unmarried person;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

then, for the purposes of this Act, the person and the spouse are each to be taken to have a right or interest in a principal home to which subparagraph 4 (1) (a) (ii) applies.”;

(h) by inserting after subsection (12) the following subsections:

“(12A) A reference in this section to an amount paid or agreed to be paid to obtain an unmarried person’s current right to live in a retirement village includes, where the person was a married person when he or she took up residence in the retirement village, a reference to any amount paid or agreed to be paid to obtain for the person any current right that the person has to share his or her principal home in the retirement village with a spouse.

“(12B) A reference in this section to a person becoming entitled to take up residence in a retirement village is a reference to a person becoming entitled to take up residence in a retirement village pursuant to the agreement under which the person’s current right to live in the retirement village arises.

“(12C) Where a person who has a right to live in a retirement village under an agreement enters into a new agreement under which the person obtains a right to live in the retirement village (whether in different accommodation or not), then, for the purposes of this section, the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village is the sum of the following amounts:

(a) the total amount paid pursuant to the new agreement to obtain for the person that right; and

(b) so much (if any) of:

(i) any amount paid pursuant to an earlier agreement to obtain for the person a right to live in the retirement village; and

(ii) any amount that was, or would have been, payable to the person upon the termination of an earlier agreement;

as in the Secretary’s opinion ought to be attributed to the cost of the person’s current right to live in the retirement village.”;

(j) by omitting paragraphs (a), (b) and (c) of the definition of “entry contribution” in subsection (13) and substituting the following paragraphs:

“(a) in the case of an unmarried person—the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village;

(b) in the case of a married person who shares his or her principal home with his or her spouse—an amount equal to half of the total amount paid or agreed to be paid to obtain

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

for the person or the spouse or both of them their current right to live in the retirement village;

- (c) in the case of a married person who is eligibly separated from his or her spouse—the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village;
- (d) in the case of a married person who does not share his or her principal home with his or her spouse but who is not eligibly separated from that spouse:
 - (i) where the principal home of the spouse is not in a retirement village—the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village; or
 - (ii) where the principal home of the spouse is also in a retirement village—an amount equal to half of the total amount paid or agreed to be paid to obtain for the person and the spouse the current right of each of them to live in a retirement village; or
- (e) in the case of an unmarried person who:
 - (i) was a married person when he or she took up residence in the retirement village; and
 - (ii) has stopped being a married person since taking up residence;

the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village;”.

Commencement: 13 June 1989

Pension loans scheme

24. Section 5 of the Principal Act is amended:

- (a) by omitting from paragraph (2) (b) “48 (3) (b)” and substituting “51 (1) (b)”;

Commencement: Day of Royal Assent

- (b) by omitting from subsection (5) “69” and substituting “251A”;

Commencement: 1 January 1990

- (c) by omitting from paragraph (12) (b) “a special temporary allowance is payable under section 237—the end of the period during which the special temporary allowance is payable” and substituting “an amount is payable under Part VIII—the last pension pay day on which such an amount is payable”.

Commencement: 1 January 1990

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

Disposal of income or property

25. Section 6 of the Principal Act is amended:

- (a) by omitting from subparagraph (10) (b) (iii) "69" and substituting "251A";
- (b) by omitting from subparagraph (11) (b) (iii) "69" and substituting "251A".

Commencement: 1 January 1990

Financial hardship

26. Section 7 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) "48 (3) (b)" and substituting "51 (1) (b)";
- (b) by omitting paragraph (3) (b) and substituting the following paragraph:
 - "(b) there shall be deducted from the maximum annual rate an amount per annum equal to the sum of:
 - (i) the annual rate of income of the person (other than income from property of the person or of the person's spouse that is not property referred to in paragraph (1) (c) or property to which paragraph 4 (1) (a) applies); and
 - (ii) an amount per annum equal to \$26 for each \$250 of the value of the property of the person (other than property referred to in paragraph (1) (c) or property to which paragraph 4 (1) (a) applies).";
- (c) by omitting from paragraph (3A) (b) "weekly rate of the benefit that would be payable to the person apart from the operation of section 122" and substituting "maximum weekly rate";
- (d) by inserting in paragraph (6) (a) "annual" after "maximum";
- (e) by omitting from paragraph (6) (b) "applicable rate" and substituting "maximum weekly rate";
- (f) by adding at the end the following subsection:

"(8) In this section:

'maximum annual rate', in relation to a person (other than a person who is qualified to receive a benefit under Part XIII), means the maximum annual rate of pension, benefit or allowance that would be payable to the person apart from:

- (a) the operation of subsection 33 (7) or (12); or
- (b) any reduction of the person's rate by reference to the amount 'IA' in subsection 48 (2);

'maximum weekly rate', in relation to a person who is qualified to receive a benefit under Part XIII, means the maximum

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

weekly rate of benefit that would be payable to the person apart from the operation of section 122.”.

Commencement: 1 March 1989

Indexation

27. Section 9 of the Principal Act is amended by omitting “69 (4) (a) or (c)” from the definition of “relevant amount” in subsection (1) and substituting “251A (7) (a) or (c)”.

Commencement: 1 January 1990

Certain persons to be disregarded for certain purposes

28. Section 10 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

“(1) For the purpose of:

(a) determining whether a pension (not being a carer’s pension), benefit or allowance is payable, or may continue to be payable, to a person under this Act; or

(b) calculating the rate or amount of a pension, benefit or allowance payable to a person under this Act;

no regard is to be had to another person (not being the spouse of the first-mentioned person) who is in receipt of a relevant pension.”;

(b) by adding at the end the following subsection:

“(6) In this section:

‘relevant pension’ means:

(a) a pension under Part IV or V or Schedule 1B; or

(b) an allowance under Part VI; or

(c) a benefit under Part XIII; or

(d) a rehabilitation allowance under Part XVI; or

(e) payments under a program included in the programs known as Labour Force Programs.”.

Commencement: 1 November 1989

Earnings credit

29. Section 12A of the Principal Act is amended:

(a) by omitting the definition of “annual permissible income” from subsection (1) and substituting the following definition:

“‘annual permissible income’, in relation to a person, means:

(a) whichever of the following amounts is applicable to the person:

(i) the amount specified in sub-subparagraph 33 (12) (a) (i) (A);

(ii) the amount specified in sub-subparagraph 33 (12) (a) (i) (B); or

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- (b) if the person has a dependent child or children—the amount referred to in paragraph (a) increased by:
 - (i) except where subparagraph (ii) applies—the amount by which the person's income is reduced in accordance with subsection 35 (1); or
 - (ii) if subparagraph (a) (i) is applicable to the person because of subsection 51 (1)—the amount that is component SRC in relation to the person for the purposes of subsection 51 (2);;

Commencement: Day of Royal Assent

- (b) by omitting the definition of "credit amount" from subsection (1);

Commencement: 26 April 1990

- (c) by inserting after subsection (1) the following subsection:

"(1A) A person is to be taken to have a credit amount for the purposes of this section in relation to a week ending on a Wednesday if the person's annual permissible income in that week equals or exceeds the person's annual rate of income in that week, and the amount of that credit amount is one fifty-second of the person's annual permissible income.";

Commencement: 26 April 1990

- (d) by adding at the end the following subsection:

"(4) This section does not apply in relation to a person the maximum rate of whose pension is reduced by an amount worked out under paragraph 33 (12) (b) or 51 (1) (b).".

Commencement: 26 April 1990

30. The Principal Act is amended by inserting after Division 1 of Part I the following Division:

"Division 1A—Conversion of foreign currency amounts

Application of Division

"12AA. (1) The Secretary may determine in writing that this Division applies in relation to a foreign currency.

"(2) This Division applies in relation to a foreign currency in relation to which a determination under subsection (1) is in force.

"(3) This Division applies for the purposes of Parts IV, V, VI, VII, VIII, XIV and XVI, section 251A and Schedule 1B, and not otherwise.

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

Conversion of foreign currency amounts

“12AB. The value in Australian currency of a payment received by a person in foreign currency is to be worked out using the applicable exchange rate.

Base exchange rate

“12AC. The base exchange rate for a foreign currency for a foreign exchange period is the average (calculated to 4 decimal places) of the actual market exchange rates available on each working day of the first month of the year to start during the immediately preceding foreign exchange period.

Re-assessed exchange rate

“12AD. (1) Where for 10 consecutive working days:

- (a) starting after a month of the year in relation to which section 12AC operates; and
- (b) ending before the next month of the year in relation to which section 12AC operates;

the actual market exchange rate available differs from:

- (c) except where paragraph (d) applies—the base exchange rate for the next foreign exchange period; or
- (d) where a re-assessed exchange rate has already been worked out under this subsection for the purposes of the next foreign exchange period—the last re-assessed exchange rate so worked out;

by at least 10% of that base exchange rate or last re-assessed exchange rate, as the case may be, the re-assessed exchange rate for a foreign currency is the average (calculated to 4 decimal places) of the actual market exchange rates available on those consecutive working days.

“(2) The Secretary must determine in writing the day on which a re-assessed exchange rate becomes applicable.

“(3) The day determined under subsection (2) is to be no later than 6 weeks after the tenth consecutive working day covered by subsection (1).

“(4) A re-assessed exchange rate:

- (a) becomes applicable on the day determined under subsection (2), unless a new re-assessed exchange rate has already become applicable; and
- (b) remains applicable until:
 - (i) a new re-assessed exchange rate becomes applicable; or
 - (ii) the commencement of the next exchange period the base exchange rate for which has been worked out by reference to working days later than those by reference to which the re-assessed exchange rate was worked out.

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

“(5) Subsection (1) does not apply to a working day if the actual market exchange rate available on that day has been used to work out a re-assessed exchange rate in a previous application of that subsection.

Rounding off of exchange rates

“12AE. Where an exchange rate worked out under this Division would, if it were calculated to 5 decimal places, end in a number greater than 4, the rate worked out is to be taken to be the rate calculated to 4 decimal places and increased by 0.0001.”.

Commencement: Day of Royal Assent

Interpretation etc.

31. Section 12B of the Principal Act is amended:

(a) by omitting subsection (1);

(b) by inserting in paragraph (2) (b) “3” after “subsection”.

Commencement: 26 April 1990

32. After section 12B of the Principal Act the following section is inserted:

Superannuation benefits received before pensionable age

“12BA. (1) Where:

(a) a person becomes entitled to receive an amount that was, until the person became so entitled, a compulsorily preserved superannuation benefit; and

(b) the person has not reached pensionable age;

the person is, for the purposes of this Act, to be taken to receive one fifty-second of the assessable growth component of that amount as income of the person during each week in the period of 12 months starting on the day when the person becomes entitled to receive that amount.

“(2) Subsection (1) does not apply in relation to any amount received by a person by way of a superannuation pension or a payment under an immediate annuity.”.

Commencement: 1 February 1990

33. After section 12BA of the Principal Act the following section is inserted:

Immediate annuities and superannuation pensions

“12BB. (1) For the purpose of working out the annual rate of income of a person from an immediate annuity, the person is to be taken to receive from that annuity each year an amount worked out by reducing the amount payable each year by the deductible amount in relation to the annuity.

“(2) For the purpose of working out the annual rate of income of a person from a superannuation pension, the person is to be taken to receive

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

from that pension each year an amount worked out by reducing the amount payable each year by the deductible amount in relation to the superannuation pension.”.

Commencement: 26 April 1990

Secrecy

34. Section 19 of the Principal Act is amended by omitting subsection (6) and substituting the following subsections:

“(6) Where:

- (a) a person solicits the disclosure of protected information from an officer or another person; and
- (b) the disclosure would be in contravention of this section; and
- (c) the first-mentioned person knows or ought reasonably to know that the information is protected information;

the first-mentioned person is guilty of an offence, whether or not any protected information is actually disclosed.

“(7) Where protected information is disclosed to a person in contravention of this section, the person is guilty of an offence if he or she knows or ought reasonably to know that the disclosure is in contravention of this section and:

- (a) he or she in any way solicited the disclosure of the information; or
- (b) he or she discloses the information to another person; or
- (c) he or she uses the information otherwise than by disclosing it to another person.

“(8) It is a defence to a prosecution for an offence against subsection (7) if it is established that the defendant had lawful authority for acting as described in the applicable paragraph of that subsection.

“(9) Where:

- (a) a person is convicted of an offence under subsection (6); and
- (b) the person acted as an employee or agent of another person in soliciting the disclosure of the information concerned;

the other person is guilty of an offence.

“(10) It is a defence to a prosecution for an offence against subsection (9) if it is established that the employee or agent concerned was acting outside the scope of his or her authority as an employee or agent in soliciting the disclosure of the information concerned.

“(11) Where:

- (a) a person is convicted of an offence under subsection (7); and
- (b) the person acted as an employee or agent of another person in obtaining the information concerned;

the other person is guilty of an offence.

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

“(12) It is a defence to a prosecution for an offence against subsection (11) if it is established that the employee or agent concerned was acting outside the scope of his or her authority as an employee or agent in acting as described in the applicable paragraph of subsection (7).

“(13) A person who:

- (a) offers to supply (whether to a particular person or otherwise) information about another person; and
 - (b) knows that the information is protected information;
- is guilty of an offence.

“(14) A person who:

- (a) holds himself or herself out as being able to supply (whether to a particular person or otherwise) information about another person; and
 - (b) knows that the information is protected information;
- is guilty of an offence.

“(15) The penalty for an offence against subsection (6), (7), (9), (11), (13) or (14) is imprisonment for a period not exceeding 2 years.

“(16) Nothing in this section renders an officer acting in the exercise or performance of his or her duties, functions or powers under this Act guilty of an offence.

“(17) In this section:

‘court’ includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

‘protected information’ means information about a person that is held in the records of the Department.”

Commencement: 28th day after day of Royal Assent

Qualifications for invalid pension

35. Section 28 of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraphs:

- “(b) is an Australian resident and is in Australia on the day on which he or she lodges the claim for an invalid pension; and
- (c) has not reached pensionable age, on or before the day on which he or she lodges the claim for an invalid pension;”.

Commencement: 1 April 1990

Rate of pension

36. Section 33 of the Principal Act is amended:

- (a) by inserting after subsection (2) the following subsection:

“(2A) Where the Secretary is satisfied that:

- (a) a married person or his or her spouse has entered approved respite care; and

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(b) the person or spouse remained, or is likely to remain, in that approved respite care for at least 14 consecutive days; the Secretary may direct that the maximum rate of pension under this Part in relation to the married person is, during the respite period, the rate specified in paragraph (1) (a).”;

Commencement: 1 November 1989

(b) by inserting in paragraph (3) (b) “or (2A)” after “(2)”;

Commencement: 1 November 1989

(c) by omitting subsection (3) and substituting the following subsection:

“(3) Where an unmarried person, or a married person covered by a direction in force under subsection (2) or (2A), has at least one dependent child:

- (a) who is under 18; or
- (b) who is a student child other than a prescribed student child; or
- (c) in respect of whom the person receives child disability allowance under Part XII;

the maximum rate of pension applicable to the person under paragraph (1) (a) is, subject to subsection (6), increased by \$624 per annum.”.

Commencement: 1 January 1990

Indexation of certain rates

37. Section 34 of the Principal Act is amended:

(a) by omitting “69 (2) (a) or 69 (2) (b)” from the definition of “relevant rate” in subsection (1) and substituting “251A (3) (a) or (b)”;

Commencement: 1 January 1990

(b) by omitting the definition of “relevant period” in subsection (1) and substituting the following definition:

“‘relevant period’ means:

- (a) in relation to a relevant rate:
 - (i) the period starting on 15 November 1989 and ending on 17 April 1990; and
 - (ii) the period starting on 18 April 1990 and ending on 19 September 1990; and
 - (iii) the period of 6 months starting on 20 September 1990; and
 - (iv) each subsequent period of 6 months; or
- (b) in relation to a relevant amount:
 - (i) the period of 6 months starting on 20 March 1991; and

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(ii) each subsequent period of 6 months;”;

Commencement: 13 December 1989

(c) by inserting in subsection (1) the following definition:

“‘**relevant amount**’ means the amount specified in subparagraph (c) (i), (ii) or (iii) of the definition of ‘maximum amount’ in subsection 36 (5);”;

Commencement: 13 December 1989

(d) by omitting from paragraph (4) (c) “69 (2) (a) or (b)” and substituting “251A (3) (a) or (b)”;

Commencement: 1 January 1990

(e) by inserting after subsection (4) the following subsection:

“(4A) Where the factor worked out under subsection (5) in relation to a relevant period in relation to a relevant amount is greater than 1, this Act, and any Act that refers to this Act, have effect as if for each relevant amount there were substituted, on the first day of that period:

(a) subject to paragraph (b)—the amount worked out by multiplying by that factor:

(i) where subparagraph (ii) does not apply—the relevant amount; or

(ii) if, because of another application or other applications of this section, this Act has had effect as if another amount were substituted, or other amounts were successively substituted, for the relevant amount—the substituted amount or the last substituted amount, as the case may be; or

(b) where the amount worked out under paragraph (a) is not a multiple of \$2.60—an amount equal to:

(i) if the amount so worked out exceeds the next lower amount that is such a multiple by \$1.30 or more—the next highest amount that is such a multiple; or

(ii) if the amount so worked out exceeds the next lower amount that is such a multiple by less than \$1.30—that next lower amount.”;

Commencement: 13 December 1989

(f) by inserting in subsection (5) “or (4A)” after “(4)”;

Commencement: 13 December 1989

(g) by inserting after subsection (5) the following subsections:

“(5A) The rate specified in paragraph 33 (1) (a) during the relevant period starting on 18 April 1990 and ending when a new

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

rate is substituted under subsection (4) is to be taken for all purposes to be the sum of:

- (a) the rate that would, under subsection (4), be substituted for that rate on 18 April 1990; and
- (b) \$104 per annum.

“(5B) The rate specified in paragraph 33 (1) (b) during the relevant period starting on 18 April 1990 and ending when a new rate is substituted under subsection (4) is to be taken for all purposes to be the sum of:

- (a) the rate that would, under subsection (4), be substituted for that rate on 18 April 1990; and
- (b) \$85.80 per annum.

“(5C) For the purposes of the next application of subsection (4) after 18 April 1990 in relation to the rate specified in paragraph 33 (1) (a), the last substituted rate referred to in that subsection is to be taken to be the rate worked out under subsection (5A).

“(5D) For the purposes of the next application of subsection (4) after 18 April 1990 in relation to the rate specified in paragraph 33 (1) (b), the last substituted rate referred to in that subsection is to be taken to be the rate worked out under subsection (5B).”;

Commencement: Day of Royal Assent

- (h) by inserting in subsection (6) “or amount” after “rate” (first occurring);

Commencement: 13 December 1989

- (j) by inserting in subsection (6) “or relevant amount” after “rate” (second occurring).

Commencement: 13 December 1989

38. After section 34A of the Principal Act the following section is inserted:

Indexation of income test ‘free area’

“34B. (1) In this section:

‘**index number**’, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter;

‘**relevant amount**’ means the amount specified in sub-subparagraph 33 (12) (a) (i) (A) or (B);

‘**relevant year**’ means the year starting on 1 July 1991 and each subsequent year.

“(2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number is to be disregarded for the purposes of this section.

“(3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard is to be had only to index numbers published in terms of the new reference base.

“(4) Where the factor worked out under subsection (5) in relation to a relevant year is greater than 1, this Act, and any Act that refers to this Act, have effect as if for each relevant amount there were substituted, on the first day of that year:

- (a) subject to paragraph (b)—the amount worked out by multiplying by that factor:
 - (i) where subparagraph (ii) does not apply—the relevant amount; or
 - (ii) if, because of another application or other applications of this section, this Act has had effect as if another amount was substituted, or other amounts were successively substituted, for the relevant amount—the substituted amount or the last substituted amount, as the case may be; or
- (b) where the amount worked out under paragraph (a) is not a multiple of \$1—an amount equal to:
 - (i) if the amount so worked out exceeds the next lower amount that is such a multiple by 50 cents or more—the next highest amount that is such a multiple; or
 - (ii) if the amount so worked out exceeds the next lower amount that is such a multiple by less than 50 cents—that next lower amount.

“(5) The factor to be worked out for the purposes of subsection (4) in relation to a relevant year is the number (calculated to 3 decimal places) worked out by dividing the index number for the March quarter immediately preceding the relevant year by the index number for the March quarter immediately preceding the first-mentioned March quarter.

“(6) Where the factor worked out under subsection (5) in relation to a relevant year would, if it were calculated to 4 decimal places, end with a number greater than 4, the factor worked out under that subsection in relation to that relevant year is to be taken to be the factor calculated to 3 decimal places under subsection (5) and increased by 0.001.

“(7) Where, because of the application of this section, this Act has effect as if another amount were substituted for a relevant amount on the first day of a year, the substitution, in so far as it affects instalments of

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

pensions, benefits and allowances under this Act, has effect in relation to every instalment of such a pension, benefit or allowance that falls due on or after the first day of that year.”.

Commencement: Day of Royal Assent

Calculation of income in respect of children

39. Section 35 of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) Subsection (1) does not apply where the pensioner’s only dependent child, or each of the pensioner’s dependent children:

- (a) has turned 18; and
- (b) is a prescribed student child; and
- (c) is not a child in respect of whom the pensioner or his or her spouse receives child disability allowance under Part XII.”.

Commencement: 1 January 1990

Rent assistance

40. Section 36 of the Principal Act is amended:

- (a) by inserting in paragraph (2) (b) “or (2A)” after “(2)”;

Commencement: 1 November 1989

- (b) by omitting the definition of “maximum amount” in subsection (5) and substituting the following definition:

“‘maximum amount’, in relation to a person, means:

- (a) from 13 December 1989 to 12 June 1990 (inclusive):
 - (i) if there is at least one relevant child in relation to the person—\$1,300; and
 - (ii) in any other case—\$1,040; and
- (b) from 13 June 1990 to 19 September 1990 (inclusive):
 - (i) if there are 3 or more relevant children in relation to the person—\$1,820; and
 - (ii) if there are only 1 or 2 relevant children in relation to the person—\$1,560; and
 - (iii) in any other case—\$1,300; and
- (c) on and after 20 September 1990:
 - (i) if there are 3 or more relevant children in relation to the person—\$2,080; and
 - (ii) if there are only 1 or 2 relevant children in relation to the person—\$1,820; and
 - (iii) in any other case—\$1,560;”;

Commencement: 13 December 1989

- (c) by inserting “, in the case of a married person, to” after “person,

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

or” in paragraph (a) of the definition of “relevant child” in subsection (5).

Commencement: 13 June 1989

Interpretation

41. Section 43 of the Principal Act is amended by omitting from subsection (1) the definition of “qualifying child” and substituting the following definition:

“**‘qualifying child’**, in relation to a person, means a dependent child of that person, or a child who, if he or she were not in receipt of income from employment exceeding \$100 per week, would be a dependent child of that person, being a child:

- (a) who is under 16; or
- (b) in respect of whom the person is qualified to receive a child disability allowance under Part XII;

where:

- (c) the child is a natural or adopted child of the person; or
- (d) the child is in the legal custody of the person; or
- (e) if the person has ever been a married person—the child was being maintained by the person immediately before the person became a single person; or
- (f) the child:
 - (i) has been wholly or substantially in the care and control of the person for a period of at least 12 months immediately before the day when the person lodged a claim for sole parent’s pension; and
 - (ii) in the Secretary’s opinion, is likely to remain wholly or substantially in the person’s care and control permanently or indefinitely;”.

Commencement: 1 January 1990

Sole parents required to claim maintenance in some cases

42. Section 47 of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

“(a) the sole parent is entitled to claim maintenance from another person for:

- (i) himself or herself; or
- (ii) a dependent child of the sole parent; or
- (iii) a child who, if he or she were not in receipt of income from employment exceeding \$100 per week, would be a dependent child of the sole parent; and”.

Commencement: 1 January 1990

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Rent assistance

43. Section 50 of the Principal Act is amended by omitting the definition of “maximum amount” in subsection (3) and substituting the following definition:

“**‘maximum amount’**, in relation to a person, means:

- (a) from 13 December 1989 to 12 June 1990 (inclusive):
 - (i) if there is at least one dependent child of the person for whom there is, within the meaning of section 49, an applicable amount—\$1,300; and
 - (ii) in any other case—\$1,040; and
- (b) from 13 June 1990 to 19 September 1990 (inclusive):
 - (i) if there are 3 or more dependent children of the person for whom there are, within the meaning of section 49, applicable amounts—\$1,820; and
 - (ii) if there are only 1 or 2 dependent children of the person for whom there are, within the meaning of section 49, applicable amounts—\$1,560; and
 - (iii) in any other case—\$1,300; and
- (c) on and after 20 September 1990:
 - (i) if there are 3 or more dependent children of the person for whom there are, within the meaning of section 49, applicable amounts—the amount specified in subparagraph (c) (i) of the definition of ‘maximum amount’ in subsection 36 (5); and
 - (ii) if there are only 1 or 2 dependent children of the person for whom there are, within the meaning of section 49, applicable amounts—the amount specified in subparagraph (c) (ii) of the definition of ‘maximum amount’ in subsection 36 (5); and
 - (iii) in any other case—the amount specified in subparagraph (c) (iii) of the definition of ‘maximum amount’ in subsection 36 (5);”.

Commencement: 13 December 1989

Amount in respect of person’s income or assets

44. Section 51 of the Principal Act is amended by omitting from paragraph (1) (b) “\$2,080” and substituting “the amount specified in subparagraph 33 (12) (a) (i) (A)”.

Commencement: Day of Royal Assent

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

45. Part VIII of the Principal Act is repealed and the following Part is substituted:

“PART VIII—BEREAVEMENT PAYMENTS

Entitlement of surviving pensioner on death of pensioner spouse

“66. (1) Where a member of a pensioner couple dies (other than a social security pensioner whose spouse is a veterans pensioner), this section applies.

“(2) Subject to this section, there is payable to the surviving pensioner, on each of the next 7 pension pay days after the deceased pensioner’s death, the sum of:

- (a) the amount that would have been payable to the surviving pensioner; and
- (b) the amount that would have been payable to the deceased pensioner; on the pay day concerned if the deceased pensioner had not died.

“(3) Where the Secretary becomes aware of the death at a time when the first available pension pay day is one of the 7 pension pay days after the death:

- (a) if the amount that would be payable to the surviving pensioner as an unmarried person on the pension pay day before the first available pension pay day after the notification day is equal to or more than the amount payable to him or her on that pension pay day under subsection (2)—the surviving pensioner’s entitlements under this Act are to be worked out, with effect from the first pension pay day after the death, having regard to the fact that the surviving pensioner is an unmarried person, and the surviving pensioner has no entitlement under subsection (2); or
- (b) in any other case:
 - (i) the surviving pensioner’s entitlements under this Act are to be worked out, with effect from the first available pension pay day after the notification day, having regard to the fact that the surviving pensioner is an unmarried person; and
 - (ii) there is payable to the surviving pensioner as a lump sum an amount worked out using the formula:

$$(7 - \text{PPD}) \times (\text{CMR} - \text{NR})$$

where:

‘PPD’ [Pension Pay Days] means the number of pension pay days after the death of the deceased pensioner and before the first available pension pay day;

‘CMR’ [Combined Married Rate] means the sum of:

- (a) the amount that would have been payable to the surviving pensioner; and

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(b) the amount that would have been payable to the deceased pensioner;

on the pension pay day before the first available pension pay day if the deceased pensioner had not died;

'NR' [New Rate] means the amount that would have been payable to the surviving pensioner as an unmarried person on the pension pay day before the first available pension pay day; and

(iii) the person has no further entitlement under subsection (2).

"(4) Where:

(a) the surviving pensioner dies within 14 weeks after the death of the deceased pensioner; and

(b) the Secretary has not become aware of the death of the deceased pensioner before the death of the surviving pensioner;

there is payable, to such person as the Secretary thinks appropriate, in respect of the first deceased pensioner, as a lump sum, an amount worked out using the formula:

$$(7 - \text{PPD}) \times (\text{CMR} - \text{NR})$$

where:

'PPD' [Pension Pay Days] means the number of pension pay days in the period from and including the day after the first deceased pensioner's death to and including the day of the surviving pensioner's death;

'CMR' [Combined Married Rate] means the sum of:

(a) the amount that would have been payable to the surviving pensioner; and

(b) the amount that would have been payable to the deceased pensioner;

on the pension pay day after the surviving pensioner's death if neither the deceased pensioner nor the surviving pensioner had died;

'NR' [New Rate] means the amount that would have been payable to the surviving pensioner as an unmarried person on the pension pay day after the surviving pensioner's death if he or she had not died.

"(5) Subsection (2) does not apply in respect of any pension pay day after the death of the surviving pensioner.

"(6) Where, immediately before the death of a member of a pensioner couple, a direction under subsection 33 (2) or (2A) was in force in respect of the deceased pensioner or his or her spouse, the amounts referred to in subsection (2), subparagraph (3) (b) (ii) and subsection (4) are to be worked out as if the 2 pensioners had been living together and no direction had been in force under subsection 33 (2) or (2A).

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

“(7) A person’s entitlements under this section are instead of, and not in addition to, any entitlements the person would, but for this section, have to a prescribed pension.

“(8) A person covered by this section may, by written notice to the Secretary, choose not to receive payments under this section and to receive instead any payments by way of a prescribed pension to which the person would be entitled but for subsection (7).

“(9) Where a person chooses as provided by subsection (8):

- (a) this Act, or Part III of the *Veterans' Entitlements Act 1986*, has effect accordingly; and
- (b) the person may not withdraw that choice after the Department has taken all the action required to give effect to that choice.

“(10) Where:

- (a) after the death of a social security pensioner or a veterans pensioner, an amount to which the pensioner would have been entitled if he or she had not died has been paid under this Act or under Part III of the *Veterans' Entitlements Act 1986*; and
- (b) this section applies in relation to the death of the pensioner; and
- (c) the Secretary is not satisfied that the surviving pensioner has not had the benefit of the amount;

then:

- (d) the amount is not recoverable from the surviving pensioner or from the personal representative of the deceased pensioner, except to the extent (if any) that the amount exceeds the amount payable to the surviving pensioner under this section; but
- (e) the amount payable to the surviving pensioner under this section is reduced by the amount referred to in paragraph (a).

“(11) Where:

- (a) within the period of 14 weeks after the death of a social security pensioner or a veterans pensioner, an amount to which the pensioner would have been entitled if he or she had not died has been paid under this Act or under Part III of the *Veterans' Entitlements Act 1986* into an account with a bank, credit union or building society (in this subsection called the ‘**financial institution**’); and
- (b) this section applies in relation to the death of the pensioner; and
- (c) the financial institution pays to the surviving spouse of the deceased pensioner, out of that account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (a);

then, in spite of anything in any other law, the financial institution is not liable to any action, claim or demand by the Commonwealth, the personal representative of the deceased pensioner, or anyone else, in respect of the payment of that money to the surviving spouse.

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

“(12) Where this section applies in relation to the death of a veterans pensioner:

- (a) a reference to an amount that would have been payable to the deceased pensioner is a reference to an amount that would have been payable to the deceased pensioner under Part III of the *Veterans' Entitlements Act 1986*; and
- (b) a reference to an amount that would have been payable to the deceased pensioner on a pension pay day is, in relation to a social security pension pay day (in this subsection called ‘**the relevant social security pension pay day**’), a reference to:
 - (i) where the first Thursday after the deceased pensioner's death was a social security pension pay day—an amount that would have been payable to the deceased pensioner on the veterans pension pay day after the relevant social security pension pay day; or
 - (ii) in any other case—an amount that would have been payable to the deceased pensioner on the veterans pension pay day before the relevant social security pension pay day.

“(13) A reference in this section to an amount that would be payable to a surviving pensioner as an unmarried person is a reference to:

- (a) where the surviving pensioner was receiving a carer's pension because he or she was caring for the deceased pensioner—the amount that would be payable to the surviving pensioner if the surviving pensioner were qualified to receive a carer's pension as an unmarried person; or
- (b) where the surviving pensioner was receiving a wife's pension—the amount that would be payable to the surviving pensioner if the surviving pensioner were qualified to receive a widow's pension.

“(14) In this section:

‘**first available pension pay day**’, in relation to the death of a pensioner, means the first social security pension pay day after the notification day for which it is practicable to terminate or adjust the payments being made under this Act in respect of the deceased pensioner and the surviving pensioner;

‘**notification day**’, in relation to the death of a pensioner, means the day on which the Secretary becomes aware of the death;

‘**social security pension pay day**’ means a pension pay day within the meaning of this Act;

‘**veterans pension pay day**’ means a pension pay day within the meaning of the *Veterans' Entitlements Act 1986*.

Entitlement of carer on death of person cared for

“67. (1) Where:

- (a) a person dies; and

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(b) before the person's death, a person other than the deceased person's spouse (in this section called the 'carer') was, because he or she cared for the deceased person, qualified to receive a carer's pension; subsection (2) applies.

"(2) The carer is, during the period of 14 weeks after the deceased person's death, qualified to receive a carer's pension as if the deceased person had not died, but the rate at which the pension is payable is to be determined having regard to the carer's actual circumstances.

"(3) A person's entitlements under this section are instead of, and not in addition to, any entitlements the person would, but for this section, have to a prescribed pension.

"(4) A person covered by this section may, by written notice to the Secretary, choose not to receive payments under this section and to receive instead any payments by way of a prescribed pension to which the person would be entitled but for subsection (3).

"(5) Where a person chooses as provided by subsection (4):

- (a) this Act, or Part III of the *Veterans' Entitlements Act 1986*, has effect accordingly; and
- (b) the person may not withdraw that choice after the Department has taken all the action required to give effect to that choice.

Entitlement of sole parent pensioner on death of qualifying child

"68. (1) Where:

- (a) a child of a sole parent pensioner dies; and
 - (b) the child was the only qualifying child of the sole parent pensioner;
- subsection (2) applies.

"(2) The sole parent pensioner is, during the period of 14 weeks after the deceased child's death, qualified to receive a sole parent's pension as if the deceased child had not died, but the rate at which the pension is payable is to be determined having regard to the sole parent pensioner's actual circumstances.

"(3) Subsection (2) does not apply in respect of any part of the period of 14 weeks mentioned in that subsection after the sole parent pensioner stops being a single person within the meaning of Part V.

"(4) Without limiting the generality of subsection (2), the rate at which the sole parent's pension is payable is not to include any amount by way of a child-related payment within the meaning of section 69.

"(5) A person's entitlements under this section are instead of, and not in addition to, any entitlements the person would, but for this section, have to a prescribed pension.

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

“(6) A person covered by this section may, by written notice to the Secretary, choose not to receive payments under this section and to receive instead any payments by way of a prescribed pension to which the person would be entitled but for subsection (5).

“(7) Where a person chooses as provided by subsection (6):

- (a) this Act has effect accordingly; and
- (b) the person may not withdraw that choice after the Department has taken all the action required to give effect to that choice.

“(8) In this section:

‘**qualifying child**’ has the same meaning as it has in Part V;

‘**sole parent pensioner**’ means a person who is receiving sole parent’s pension under Part V.

Entitlement of parent or guardian on death of dependent child

“69. (1) Where:

- (a) a child dies; and
- (b) before the child died, a person was in receipt of a qualifying child-related payment in respect of that child;

subsection (2) applies.

“(2) Subject to this section, there is payable to each person who was, before the child’s death, in receipt of a child-related payment in respect of that child, in respect of the period of 14 weeks after the child’s death, an amount worked out using the formula:

PCRP – CCRP

where:

‘**PCRP**’ [Previous Child-Related Payments] means the amount that would have been payable to the person in respect of that period in child-related payments if the child had not died;

‘**CCRP**’ [Current Child-Related Payments] means the amount (if any) that is, after the child’s death, payable to the person in respect of that period in child-related payments.

“(3) Where the Secretary becomes aware of the death of the deceased child within 14 weeks after that death, subsection (4) or (5) applies.

“(4) Except where subsection (5) applies:

- (a) there is payable to the person to whom family allowance under Part X was paid in respect of the child, as a lump sum, so much of the total of:
 - (i) the amount payable to that person under subsection (2) in respect of that child; and
 - (ii) any amount payable to any other person under subsection (2) in respect of that child;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

- as has not already been paid pursuant to subsection (2); and
- (b) there is no further entitlement under subsection (2) in respect of that child.

“(5) Where family allowance under Part X is payable in respect of the child is, under section 86, shared between 2 persons:

- (a) there is payable to each person, as a lump sum, so much of the amount payable to the person under subsection (2) in respect of that child as has not already been paid to the person; and
- (b) there is no further entitlement under subsection (2) in respect of that child.

“(6) In this section:

‘child-related payment’ means:

- (a) additional pension under subsection 33 (3) or (4); or
- (b) additional pension under or by reference to section 49; or
- (c) family allowance supplement under Part IX; or
- (d) additional benefit under subsection 118 (5) or (11); or
- (e) additional remote area allowance under subsection 22 (5); or
- (f) family allowance under Part X; or
- (g) double orphan’s pension under Part XI; or
- (h) child disability allowance under Part XII; or
- (j) an amount:
- (i) by way of rent assistance payable to a person under section 36, 50, 74 or 120; or
- (ii) by way of incentive allowance payable to a person under section 31 or 143;

because the person is receiving a payment referred to in another paragraph of this definition;

‘qualifying child-related payment’ means:

- (a) a payment referred to in paragraph (a), (b), (c) or (d) of the definition of ‘child-related payment’; or
- (b) a payment of additional service pension under subsection 47 (3) or 48 (3) of the *Veterans’ Entitlements Act 1986*.

Entitlement of estate of deceased pensioner

“70. (1) Where a prescribed pensioner who is not a member of a pensioner couple dies, there is payable, to such person as the Secretary thinks appropriate, an amount equal to the amount that would have been payable under this Act, to the deceased pensioner, if he or she had not died, on the pension pay day after his or her death.

“(2) Where an amount is paid pursuant to subsection (1) in respect of a deceased pensioner, the Commonwealth is not liable to any action, claim

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

or demand for any further payment under that subsection in respect of that deceased pensioner.

“(3) In this section:

‘prescribed pensioner’ means a person who is in receipt of a pension or allowance referred to in paragraph (a), (c) or (d) of the definition of ‘prescribed pension’ in subsection 3 (1).

Part applies in spite of section 168

“71. This Part has effect in spite of anything in section 168.”.

Commencement: 1 January 1990

Rate of allowance

46. Section 74 of the Principal Act is amended:

- (a) by omitting from subsection (2) “increased by \$20 per week” and substituting “increased by the maximum amount per week in relation to the person”;
- (b) by adding at the end the following subsection:

“(8) In this section:

‘maximum amount per week’, in relation to a person, means:

- (a) from 13 December 1989 to 12 June 1990 (inclusive)—\$25 per week; and
- (b) from 13 June 1990 to 19 September 1990 (inclusive):
 - (i) if there are 3 or more relevant children in relation to the person—\$35 per week; and
 - (ii) if there are only 1 or 2 relevant children in relation to the person—\$30 per week; and
- (c) on and after 20 September 1990:
 - (i) if there are 3 or more relevant children in relation to the person—the amount per week worked out by dividing by 52 the amount specified in subparagraph (c) (i) of the definition of ‘maximum amount’ in subsection 36 (5); or
 - (ii) if there are only 1 or 2 relevant children in relation to the person—the amount per week worked out by dividing by 52 the amount specified in subparagraph (c) (ii) of the definition of ‘maximum amount’ in subsection 36 (5);

‘relevant child’, in relation to a person, means a child in respect of whom the person is qualified to receive an allowance.”.

Commencement: 13 December 1989

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Interpretation

47. Section 79 of the Principal Act is amended by omitting from subsection (1) the definition of "prescribed educational scheme".

Commencement: 1 January 1990

Repeal of section 81

48. Section 81 of the Principal Act is repealed.

Commencement: 1 January 1990

Qualification for family allowance

49. Section 82 of the Principal Act is amended:

(a) by inserting after paragraph (1) (a) the following paragraph:

“(aa) if the child has turned 16, the child is not a prescribed student child;”;

(b) by inserting after paragraph (2) (a) the following paragraph:

“(aa) if the child is under 16 years, the child:

(i) is a full-time student; or

(ii) is not in receipt of income from employment exceeding \$100 per week;”;

(c) by adding at the end of subsection (2) the following paragraph:

“; (c) if the child has turned 16, the child is not a prescribed student child.”.

Commencement: 1 January 1990

Family allowance not payable in respect of certain student children

50. Section 84 of the Principal Act is amended by omitting from subsection (2) "Subject to section 81, subsection" and substituting "Subsection".

Commencement: 1 January 1990

Income test for family allowances

51. Section 85 of the Principal Act is amended:

(a) by inserting in subsection (1) the following definition:

“‘notional notifiable event’ means an event specified by the Secretary in writing for the purposes of this definition, being an event that is specified in some or all notices given under subsection 163 (1) to persons who are granted family allowance;”;

(b) by inserting after subsection (3) the following subsection:

“(3AA) Where:

(a) a person who has lodged a claim for a family allowance is qualified to receive family allowance; and

(b) since the end of the last year of income of the person, a

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

notional notifiable event has occurred in relation to the person; and

(c) the taxable income of the person for the year of income in which the notional notifiable event occurred (in this subsection called the 'event year of income') exceeds each of:

(i) 125% of the taxable income of the person for the last year of income; and

(ii) the income threshold in relation to the person;

the total amount of family allowance payable to the person on each family allowance pay day occurring before the person's entitlement is next assessed is the amount worked out using the formula:

$$\text{Maximum amount} - \left[\frac{\text{Excess income event year}}{26 \times 4} \right]$$

where:

'Maximum amount' means the maximum total amount of family allowance that could be payable to the person on a family allowance pay day (not including any amount payable to the person in respect of a child covered by subsection 84 (2));

'Excess income event year' means the amount by which the taxable income of the person for the event year of income exceeds the income threshold in relation to the person.”;

(c) by inserting in subsection (4) “, (3AA)” after “(3)”.

Commencement: 1 January 1990

Amount of family allowance

52. Section 88 of the Principal Act is amended by omitting paragraph (1) (b) and substituting the following paragraph:

“(b) where:

(i) there are 4 or more children in respect of whom family allowance is payable and the child is not one of the 3 eldest; or

(ii) family allowance is payable in respect of the child, and in respect of other children, to a person or group of people specified in relation to those children in directions in force under subsection 161 (2) and the Secretary has determined that this paragraph should apply in relation to the child;

the amount payable is \$24.”.

Commencement: 31 December 1989

Qualification for double orphan's pension

53. Section 95 of the Principal Act is amended by omitting paragraph (1) (a) and substituting the following paragraph:

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

“(a) a family allowance under Part X in respect of a child is payable to a person, or would be payable to a person but for paragraph 82 (1) (aa) or (2) (c), subsection 82 (6) or section 85; and”.

Commencement: 1 January 1990

Application of Part X

54. Section 97 of the Principal Act is amended by omitting “(other than section 81)”.

Commencement: 1 January 1990

Qualification for allowance

55. Section 102 of the Principal Act is amended by omitting paragraph (1) (a) and substituting the following paragraph:

“(a) a family allowance under Part X in respect of a child is payable to a person, or would be payable to a person:

(i) but for paragraph 82 (1) (aa) or (2) (c), subsection 82 (6) or section 85; or

(ii) if the child was not in receipt of income from employment exceeding \$100 per week; and”.

Commencement: 1 January 1990

Interpretation

56. Section 115 of the Principal Act is amended:

(a) by inserting “, (5)” after “(4)” in the definition of “dependant” in subsection (1);

Commencement: 1 January 1990

(b) by inserting in subsection (1) the following definitions:

“**homeless person** means a person who is an unmarried person, without dependants, who:

(a) either:

(i) does not live, and for a continuous period of at least 2 weeks has not lived, at a home of the parents, or of a parent, of the person because the parents are not, or neither parent is, prepared to allow the person to live at such a home; or

(ii) does not live at a home of the parents, or of a parent, of the person because domestic violence, incestuous harassment or other such exceptional circumstances make it unreasonable to expect the person to live at such a home; and

(b) is not receiving continuous support, whether directly or indirectly and whether pecuniary or otherwise, from a parent of the person or from another person who is

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

acting as the person's guardian on a long-term basis;
and

- (c) is not receiving, on a continuous basis, any payment in the nature of income support (other than a benefit) from the Commonwealth, a State or a Territory;

'independent young person' means a person who:

- (a) does not live, and for a continuous period of at least 6 months has not lived, at a home of the parents, or of a parent, of the person; and
- (b) has, at a time when the person was not living at such a home, been employed on a full-time basis for a period of, or for periods that total, at least 13 weeks; and
- (c) does not receive regular financial support from a parent of the person;”.

Commencement: 1 January 1990

Work test not required to be satisfied by certain persons in full-time training or voluntary work

57. Section 116A of the Principal Act is amended:

- (a) by omitting “or (5)” from the definition of “excepted day” in subsection (1) and substituting “, (3A), (3B), (5), (5A) or (5B)”;
- (b) by inserting after subsection (3) the following subsections:

“(3A) Where:

- (a) a person who has not turned 18 is, on a day during a relevant period under subsection 116 (1), engaged in an approved full-time training course; and
- (b) the person started the course on or after 1 January 1990; and
- (c) the person had been a qualified beneficiary for a continuous period of at least 3 months immediately before he or she started the course;

then, subject to subsection (4), the person is not required to satisfy the Secretary of either of the matters set out in subparagraphs 116 (1) (c) (i) and (ii) in respect of that day.

“(3B) Where:

- (a) a person who has turned 55 and is in receipt of unemployment benefit is, on a day during a relevant period for the purposes of subsection 116 (1), engaged in an approved full-time training course; and
- (b) the person started the course on or after 1 January 1990;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

then, subject to subsection (4), the person is not required to satisfy the Secretary of either of the matters set out in subparagraphs 116 (1) (c) (i) and (ii) in respect of that day.”;

- (c) by inserting in subsection (4) “, (3A) or (3B)” after “(3)” (wherever occurring);
- (d) by inserting after subsection (5) the following subsections:

“(5A) Where:

- (a) a person who has not turned 18 is, on a day during a relevant period under subsection 116 (1), engaged in full-time voluntary work with an approved organisation; and
- (b) the person started working for the organisation on or after 1 January 1990; and
- (c) the person had been a qualified beneficiary for a continuous period of at least 3 months immediately before he or she started working for the organisation;

then, subject to subsection (6), the person is not required to satisfy the Secretary of either of the matters set out in subparagraphs 116 (1) (c) (i) and (ii) in respect of that day.

“(5B) Where:

- (a) a person who has turned 55 and is in receipt of unemployment benefit is, on a day during a relevant period for the purposes of subsection 116 (1), engaged in full-time voluntary work with an approved organisation; and
- (b) the person started working for the organisation on or after 1 January 1990;

then, subject to subsection (6), the person is not required to satisfy the Secretary of either of the matters set out in subparagraphs 116 (1) (c) (i) and (ii) in respect of that day.”;

- (e) by inserting in subsection (6) “, (5A) or (5B)” after “(5)” (wherever occurring);
- (f) by omitting from paragraph (6) (b) “whether because of that subsection or subsection (3)” and substituting “because of subsection (3), (3A), (3B), (5), (5A) or (5B)”;
- (g) by adding at the end the following subsection:

“(8) Subsections (3), (3B), (5) and (5B) do not apply in relation to a person to whom subsection 116B (3) or (5) applies, or would apply but for subsection 116B (4) or (6).”.

Commencement: 1 January 1990

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

58. After section 116A of the Principal Act the following section is inserted:

Work test not required to be satisfied by certain older persons in full-time training or voluntary work or in substantial part-time work

“116B. (1) In this section:

‘approved full-time training course’ means a course in relation to which an approval under subsection (2) is in force;

‘approved organisation’ means an organisation in relation to which an approval under subsection (2) is in force;

‘average male full-time weekly earnings’, in relation to employment undertaken during a calendar year, means the amount set out under the headings ‘males—full-time adults—average weekly ordinary time earnings’ in the document entitled ‘Average Weekly Earnings, Australia, Preliminary’ published by the Australian Statistician most recently before 1 January in that calendar year;

‘excepted day’, in relation to a person, means a day in respect of which, because of subsection (3) or (5), the person is not required to satisfy the Secretary of either of the matters set out in subparagraphs 116 (1) (c) (i) and (ii);

‘qualified beneficiary’ means a person who is in receipt of:

- (a) unemployment benefit; or
- (b) sickness benefit; or
- (c) special benefit; or
- (d) sole parent’s pension; or
- (e) payments as a trainee in full-time training under a program included in the programs known as Labour Force Programs;

‘year’ means a calendar year.

“(2) The National Director of the Commonwealth Employment Service may, for the purposes of this section, by writing:

- (a) approve full-time training courses of up to 13 weeks duration, being courses considered by the National Director to be vocationally useful; and
- (b) approve organisations that offer persons full-time voluntary work, being organisations that the National Director considers provide vocationally useful voluntary work.

“(3) Where:

- (a) a person who has turned 55 is, on a day during a relevant period for the purposes of subsection 116 (1), engaged in an approved full-time training course; and
- (b) the person started the course on or after 1 January 1990; and
- (c) the person had been a qualified beneficiary for a continuous period

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

of at least 12 months immediately before he or she started the course;

then, subject to subsection (4), the person is not required to satisfy the Secretary of either of the matters set out in subparagraphs 116 (1) (c) (i) and (ii) in respect of that day.

“(4) Subsection (3) does not apply in relation to a day in a year in relation to a person if:

- (a) there are already 130 days in the year that are excepted days in relation to the person; or
- (b) having regard to opportunities, or possible opportunities, for employment that became available to the person on or before the day, the Secretary considers that subsection (3) should not apply in relation to the day.

“(5) Where:

- (a) a person who has turned 55 is, on a day during a relevant period for the purposes of subsection 116 (1), engaged in full-time voluntary work with an approved organisation; and
- (b) the person started working for the organisation on or after 1 January 1990; and
- (c) the person had been a qualified beneficiary for a continuous period of at least 12 months immediately before he or she started working for the organisation;

then, subject to subsection (6), the person is not required to satisfy the Secretary of either of the matters set out in subparagraphs 116 (1) (c) (i) and (ii) in respect of that day.

“(6) Subsection (5) does not apply in relation to a day in a year in relation to a person if:

- (a) there are already 130 days in the year that are excepted days in relation to the person; or
- (b) there are already 65 consecutive working days in the year that are excepted days in relation to the person because of the person's work for that organisation; or
- (c) having regard to opportunities, or possible opportunities, for employment that became available to the person on or before the day, the Secretary considers that subsection (5) should not apply in relation to the day.

“(7) Where a person who has turned 55:

- (a) is in receipt of unemployment benefit; and
- (b) on or after 1 January 1990, commences in employment in respect of which he or she earns at least 35% of average male full-time weekly earnings; and
- (c) has been a qualified beneficiary for a continuous period of at least 12 months immediately before commencing that employment;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

the person is to be taken to have satisfied the Secretary of all the matters set out in subparagraphs 116 (1)(c) (i) and (ii) in respect of any period while the person remains in that employment.

“(8) A decision of the National Director of the Commonwealth Employment Service for the purposes of this section in relation to the approval of training courses or organisations is not a decision of an officer for the purposes of Part XIX.”.

Commencement: 1 January 1990

Rate of unemployment and sickness benefit

59. Section 118 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) “and has no dependants” and substituting “, has no dependants and is not covered by paragraph (aa)”;

Commencement: 1 January 1990

- (b) by inserting after paragraph (1) (a) the following paragraph:

“(aa) where the beneficiary:

- (i) is an unmarried person; and
- (ii) has not turned 18; and
- (iii) has no dependants; and
- (iv) is an independent young person or a homeless person; \$95.10 per week;”;

Commencement: 1 January 1990

- (c) by omitting from paragraph (1) (d) “and has a dependant” and substituting “with a dependant or an unmarried person, without a dependant, who has turned 60 and who has been in receipt of benefit continuously for at least the last 6 months”;

Commencement: 1 June 1990

- (d) by inserting in subparagraph (4) (a) (i) “or a child referred to in paragraph (5) (b)” after “dependent child”;

Commencement: 1 January 1990

- (e) by omitting subsection (5) and substituting the following subsection:

“(5) Where an unmarried person who is qualified to receive an unemployment benefit or a sickness benefit has:

- (a) at least one dependent child:

- (i) who is under 18; or
- (ii) who is a student child who is not a prescribed student child; or
- (iii) in respect of whom the person receives child disability allowance under Part XII; or

- (b) at least one natural or adopted child:

- (i) who has turned 16 but has not turned 18; and

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- (ii) who is living with the person; and
- (iii) to whom a benefit or allowance under this Part is payable, or would be payable but for the operation of section 125 or 127, where the rate of that benefit or allowance is determined, or would be determined, under paragraph 118 (1) (a);

the rate of benefit applicable to that person under the preceding subsections is, subject to subsection (6) but in spite of section 10, increased by an amount per week worked out by dividing by 52 the amount specified in subsection 33 (3).”;

Commencement: 1 January 1990

- (f) by inserting in paragraph (6) (a) “including a child referred to in paragraph (5) (b)” after “children”;

Commencement: 1 January 1990

- (g) by omitting subsection (8).

Commencement: 1 January 1990

Indexation of unemployment and sickness benefits etc.

60. Section 119 of the Principal Act is amended:

- (a) by inserting “(aa)” after “(a)” in the definition of “junior or intermediate rate” in subsection (1);

Commencement: 31 December 1990

- (b) by inserting “or subsection 121A (4)” after “(b)” in the definition of “junior or intermediate rate” in subsection (1);

Commencement: 31 December 1989

- (c) by inserting in subsection (1) the following definition:

“**‘employment amount’** means the amount specified in:

- (a) sub-subparagraph (b) (i) (B) of the definition of ‘dependent child’ in subsection 3 (1); or
- (b) the definition of ‘qualifying child’ in subsection 43 (1); or
- (c) subparagraph 47 (a) (iii); or
- (d) subparagraph 82 (2) (aa) (ii); or
- (e) subparagraph 102 (1) (a) (ii);”;

Commencement: 31 December 1990

- (d) by inserting after subsection (4A) the following subsection:

“(4B) Where the factor ascertained under subsection (5) in relation to a year to which this section applies is greater than one,

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

this Act has effect as if for each employment amount there were substituted, on the first day of that year:

- (a) subject to paragraph (b), the amount calculated by multiplying by that factor:
 - (i) in a case to which subparagraph (ii) does not apply—the employment amount; or
 - (ii) if, by virtue of another application or other applications of this section, this Act has effect as if another amount or other amounts were substituted for the employment amount—the substituted amount or the last substituted amount, as the case may be; or
- (b) in a case where the amount so calculated is not a multiple of 5 cents—an amount equal to:
 - (i) if the amount so calculated exceeds the next lower amount that is such a multiple by 2.5 cents or more—the next highest amount that is such a multiple; or
 - (ii) if the amount so calculated exceeds the next lower amount that is such a multiple by less than 2.5 cents—that next lower amount.”;

Commencement: 31 December 1990

- (e) by omitting from subsection (5) “and (4A)” and substituting “, (4A) and (4B)”;

Commencement: 31 December 1990

- (f) by inserting in paragraph (5) (b) “or (4B)” after “(4A)”;

Commencement: 31 December 1990

- (g) by inserting after subsection (5) the following subsections:

“(5A) The rate specified in paragraph 118 (1) (d) during the relevant period starting on 18 April 1990 and ending when a new rate is substituted under subsection (4) is to be taken for all purposes to be the sum of:

- (a) the rate that would, under subsection (4), be substituted for that rate on 18 April 1990; and
- (b) \$2 per week.

“(5B) The rate specified in paragraph 118 (1) (f) during the relevant period starting on 18 April 1990 and ending when a new rate is substituted under subsection (4) is, to be taken for all purposes to be the sum of:

- (a) the rate that would, under subsection (4), be substituted for that rate on 18 April 1990; and
- (b) \$1.65 per week.

“(5C) For the purposes of the next application of subsection (4) after 18 April 1990 in relation to the rate specified in paragraph

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

118 (1) (d), the last substituted rate referred to in that subsection is to be taken to be the rate worked out under subsection (5A).

“(5D) For the purposes of the next application of subsection (4) after 18 April 1990 in relation to the rate specified in paragraph 118 (1) (f), the last substituted rate referred to in that subsection is to be taken to be the rate worked out under subsection (5B).”.

Commencement: Day of Royal Assent

Rent assistance

61. Section 120 of the Principal Act is amended:

- (a) by omitting “who is receiving” from paragraph (a) of the definition of “entitlement period” in subsection (1) and substituting “(other than a person to whom paragraph (b) or (c) applies) who is qualified to receive”;

Commencement: 1 June 1990

- (b) by adding at the end of the definition of “entitlement period” in subsection (1) the following word and paragraph;

“and (c) in relation to a person who is qualified to receive an unemployment or sickness benefit and who has turned 60—any period in respect of which the person pays, or is liable to pay, rent at a weekly rate exceeding the threshold amount;”;

Commencement: 1 June 1990

- (c) by inserting “or, in the case of a married person, to the person’s spouse” after “person” (second occurring) in the definition of “relevant child” in subsection (1);

Commencement: 13 June 1989

- (d) by inserting in subsection (1) the following definition:

“‘**maximum amount**’, in relation to a person, means:

- (a) from 13 December 1989 to 12 June 1990 (inclusive):

(i) if there is at least one relevant child in relation to the person—\$25; and

(ii) in any other case—\$20; and

- (b) from 13 June 1990 to 19 September 1990 (inclusive):

(i) if there are 3 or more relevant children in relation to the person—\$35; and

(ii) if there are only 1 or 2 relevant children in relation to the person—\$30; and

(iii) in any other case—\$25; and

- (c) on and after 20 September 1990:

(i) if there are 3 or more relevant children in relation to the person—the amount worked out by dividing by 52 the amount specified in

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- subparagraph (c) (i) of the definition of 'maximum amount' in subsection 36 (5); and
- (ii) if there are only 1 or 2 relevant children in relation to the person—the amount worked out by dividing by 52 the amount specified in subparagraph (c) (ii) of the definition of 'maximum amount' in subsection 36 (5); and
- (iii) in any other case—the amount worked out by dividing by 52 the amount specified in subparagraph (c) (iii) of the definition of 'maximum amount' in subsection 36 (5);”;

Commencement: 13 December 1989

- (e) by omitting from paragraph (5) (b) “\$10” and substituting “the maximum amount in relation to the person”;

Commencement: 13 December 1989

- (f) by omitting from paragraph (7) (b) “\$20” and substituting “the maximum amount in relation to the person”.

Commencement: 13 December 1989

Parental income test

62. Section 121A of the Principal Act is amended:

- (a) by omitting paragraph (c) of the definition of “person to whom this section applies” in subsection (1) and substituting the following paragraph:

“(c) an independent young person;”;

- (b) by omitting paragraph (f) of the definition of “person to whom this section applies” in subsection (1) and substituting the following paragraph:

“(f) a homeless person, or a person who would be a homeless person if the words ‘, and for a continuous period of at least 2 weeks has not lived’ were omitted from the definition of ‘homeless person’ in section 115;”.

Commencement: 1 January 1990

Income and assets test

63. Section 122 of the Principal Act is amended:

- (a) by omitting from subsection (1) “Subject to subsection (2), where” and substituting “Where”;

Commencement: 1 September 1990

- (b) by omitting from subsection (1) “a person” and substituting “an unmarried person”;

Commencement: 1 September 1990

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(c) by omitting subsection (2) and substituting the following subsections:

“(1A) Where the income of a married person to whom an unemployment benefit or a sickness benefit is payable exceeds the threshold rate for that person, the rate per week of that benefit is to be reduced:

(a) where the income does not exceed the threshold rate by more than \$80 per fortnight—by the amount worked out using the formula:

$$\frac{\text{Actual income} - \text{Threshold amount}}{4}$$

where:

‘Actual income’ means the person’s income per fortnight;

‘Threshold amount’ means the amount per fortnight of the person’s threshold rate; or

(b) in any other case—by the amount worked out using the formula:

$$20 + \left(\frac{\text{Actual income} - (\text{Threshold amount} + 80)}{2} \right)$$

where:

‘Actual income’ means the person’s income per fortnight;

‘Threshold amount’ means the amount per fortnight of the person’s threshold rate.

“(2) Where the spouse of a person covered by subsection (1A) is in receipt of a prescribed pension, the rate per week of the benefit payable to the person is to be reduced by one-half of the amount which, but for this subsection, would have been the amount of the reduction under subsection (1A).”;

Commencement: 1 September 1990

(d) by omitting subsection (3);

Commencement: 18 November 1989

(e) by omitting subsection (4) and substituting the following subsection:

“(4) For the purposes of subsection (1A), the income of a married person includes the income of the person’s spouse.”;

Commencement: 1 September 1990

(f) by inserting after subsection (4) the following subsection:

“(4A) Where, under subsection 12A (3), a person’s spouse is to be taken for certain purposes not to have received part or all (in this subsection called the ‘disregarded amount’) of a payment to which the spouse has become entitled, the disregarded amount is to be disregarded in determining the income of the person’s spouse for the purposes of subsection (4).”;

Commencement: Day of Royal Assent

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- (g) by omitting from subsection (6) “subsection (1)” and substituting “subsections (1) and (1A)”;

Commencement: 1 September 1990

- (h) by omitting subsection (7) and substituting the following subsection:

“(7) For the purposes of this section, the definition of ‘income’ in subsection 3 (1) has effect as if paragraph (t) were omitted and the following paragraph were substituted:

‘(t) a payment to the person for board or lodging provided by the person to his or her father, mother, son, daughter, brother or sister;’”;

Commencement: 18 November 1989

- (j) by adding at the end the following subsection:

“(11) In this section:

‘**income from personal exertion**’ means income earned, derived or received by a person by way of payment for personal exertion by the person, but does not include income of the person received as compensation for the person’s inability to earn, derive or receive income through personal exertion;

‘**threshold rate**’, in relation to a person who has an income, means:

- (a) where the person’s income does not include any income from personal exertion by the person or his or her spouse—\$60 per fortnight; or
- (b) where all the person’s income is from personal exertion by the person or his or her spouse—\$90 per fortnight; or
- (c) in any other case:
 - (i) the sum of the person’s income per fortnight from personal exertion by the person or his or her spouse and so much of the other income as does not exceed \$60 per fortnight; or
 - (ii) \$90 per fortnight;whichever is less.”.

Commencement: 1 September 1990

Waiting period

64. Section 125 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) “paragraphs (b), (c), (d), (e) and (f)” and substituting “the other paragraphs of this subsection”;
- (b) by inserting in paragraph (1) (a) “or she” after “he” (wherever occurring);
- (c) by adding at the end of paragraphs (1) (a), (b), (c) and (d) “and”;

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- (d) by inserting in paragraph (1) (b) "or her" after "him";
- (e) by inserting in paragraph (1) (b) "or she" after "he" (wherever occurring);
- (f) by inserting after paragraph (1) (e) the following paragraph:

“(ea) in a case where:

- (i) a person who has not turned 18 has made a claim for unemployment benefit; and
- (ii) at some time within the period of 13 weeks ending on the day on which the claim was made, the person had ceased to be in receipt of unemployment benefit; and
- (iii) the person had been a qualified beneficiary for a continuous period of at least 9 months immediately before so ceasing to be in receipt of unemployment benefit;

from and including the day on which the person became unemployed or the day on which the claim was made, whichever is the later; and”;

- (g) by inserting after subsection (2) the following subsection:

“(2AA) Paragraph (1) (e) or (ea) does not apply to a person who has made a claim for unemployment benefit if:

- (a) unemployment benefit is not payable to him or her because of section 126; or
- (b) unemployment benefit would not have been payable to him or her because of section 126 if the claim had been made earlier.”.

Commencement: 1 January 1990

Benefit not payable to full-time students

65. Section 136 of the Principal Act is amended:

- (a) by omitting paragraph (3) (b) and substituting the following paragraph:

“(b) who would be a homeless person if the words ‘, and for a continuous period of at least 2 weeks has not lived,’ were omitted from subparagraph (a) (i) of the definition of ‘homeless person’ in section 115.”;

Commencement: 1 January 1990

- (b) by adding at the end of subsection (4) the following paragraph:

“(j) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students.”;

Commencement: 1 July 1989

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(c) by omitting subsection (4) and substituting the following subsection:

“(4) In this section:

‘prescribed educational scheme’ includes:

- (a) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; and
- (b) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; and
- (c) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students;

but does not include the ABSTUDY Tertiary scheme to the extent that it applies to part-time students.”.

Commencement: 1 January 1990

Incentive allowance

66. Section 143 of the Principal Act is amended by omitting the definition of “relevant rate” in subsection (2) and substituting the following definition:

“‘relevant rate’, in relation to a person to whom sheltered employment allowance has been granted, means:

- (a) from 13 December 1989 to 12 June 1990 (inclusive):
 - (i) if there is at least one relevant child in relation to the person—\$25 per week; and
 - (ii) in any other case—\$20 per week; and
- (b) from 13 June 1990 to 19 September 1990 (inclusive):
 - (i) if there are 3 or more relevant children in relation to the person—\$35 per week; and
 - (ii) if there are only 1 or 2 relevant children in relation to the person—\$30 per week; and
 - (iii) in any other case—\$25; and
- (c) on and after 20 September 1990:
 - (i) if there are 3 or more relevant children in relation to the person—the amount per week worked out by dividing by 52 the amount specified in subparagraph (c) (i) of the definition of ‘maximum amount’ in subsection 36 (5); and
 - (ii) if there are only 1 or 2 relevant children in relation to the person—the amount per week worked out by dividing by 52 the amount specified in subparagraph (c) (ii) of the definition of ‘maximum amount’ in subsection 36 (5); and
 - (iii) in any other case—the amount per week worked out by dividing by 52 the amount specified in subparagraph

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(c) (iii) of the definition of 'maximum amount' in subsection 36 (5);";

Commencement: 13 December 1989

Incentive allowance

67. Section 143 of the Principal Act is amended by omitting the definition of "relevant child" in subsection (2) and substituting the following definition:

"**'relevant child'**, in relation to a person to whom sheltered employment allowance has been granted, means:

- (a) in any case—a child in respect of whom a sum under subsection 33 (4) is being taken into account in determining the amount of instalments of sheltered employment allowance that are payable to the person; and
- (b) except where the person is a married person whose spouse is also in receipt of sheltered employment allowance—a child who would, but for subsection 33 (19), be taken into account in determining the amount of instalments of sheltered employment allowance that are payable to the person;".

Commencement: Day of Royal Assent

Reductions in rate of pension

68. Section 153 of the Principal Act is amended by omitting from subsection (4) "69" and substituting "251A".

Commencement: 1 January 1990

Claims

69. Section 158 of the Principal Act is amended by omitting paragraph (1) (b).

Commencement: 1 January 1990

Cancellation, suspension or variation of pension etc.

70. Section 168 of the Principal Act is amended:

- (a) by inserting in paragraph (4) (a) "except where paragraph (caa), (cab) or (cac) applies," before "if the determination";

Commencement: 1 January 1990

- (b) by inserting after paragraph (4) (c) the following paragraphs:

"(caa) if:

- (i) the determination is made as a result of the Secretary forming the opinion for the purposes of subsection 3 (13) that a person will not, or would not, receive payments under a prescribed educational scheme; and
- (ii) the Secretary is notified that the person has been refused payment under a prescribed educational scheme within 28 days after the person is notified of that refusal;

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

on the day when the determination is made or on such earlier or later day as is specified in the determination;

(cab) if:

- (i) the determination is made because, under paragraph 3 (13) (b), a dependent child is not qualified to receive a payment under a prescribed educational scheme; and
- (ii) the dependent child, or another person, was previously in receipt of a payment under a prescribed educational scheme in respect of that child, and the child or other person has since ceased to receive that payment; and
- (iii) the Secretary was notified, within 28 days after the payment was granted, that it was no longer being received;

on the day when the determination is made or such earlier or later day as is specified in the determination;

(cac) if:

- (i) the determination is made because, under subparagraph 3 (13) (a) (ii), a dependent child is not qualified to receive payments under any of the prescribed educational schemes; and
- (ii) no applications have been made for payments in respect of that child under any of the prescribed educational schemes; and
- (iii) the Secretary is satisfied that it is reasonable for such applications not to be made; and
- (iv) the dependent child ceased to be a prescribed student child because of the operation of subparagraph 3 (13) (a) (ii) within 3 months after becoming a prescribed student child;

on the day on which the dependent child became a prescribed student child;”;

Commencement: 1 January 1990

(c) by adding at the end the following subsection:

“(5) In spite of subsection (4), where:

- (a) on or before 1 May 1990 a person advises the Department that he or she has a compulsorily preserved superannuation benefit; and
- (b) as a result of that advice, the Secretary makes a determination under subsection (3) relating to a pension, benefit or allowance payable to the person;

the determination takes effect:

- (c) on 1 February 1990; or

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(d) on the day when the person acquired the compulsorily preserved superannuation benefit; whichever is later.”.

Commencement: 1 February 1990

Some decisions are not reviewable by the Social Security Appeals Tribunal

71. Section 178 of the Principal Act is amended by inserting before paragraph (a) the following paragraphs:

- “(aa) subsection 12AA (1);
- (ab) subsection 12AD (2);”.

Commencement: Day of Royal Assent

The Social Security Appeals Tribunal's powers on review

72. Section 182 of the Principal Act is amended by inserting before paragraph (5) (a) the following paragraphs:

- “(aa) subsection 12AA (1);
- (ab) subsection 12AD (2);”.

Commencement: Day of Royal Assent

Repeal of section 237

73. Section 237 of the Principal Act is repealed.

Commencement: 1 January 1990

Employment entry payment—unemployment benefit recipients

74. Section 237A of the Principal Act is amended:

- (a) by inserting in paragraph (1) (e) “or section 237B” after “section”;
- (b) by inserting in paragraph (1A) (e) “or section 237B” after “section”.

Commencement: 1 January 1990

75. After section 237A of the Principal Act the following section is inserted:

Employment entry payment—job search allowance recipients

“237B. (1) Where:

- (a) after the commencement of this section, a person who has not turned 18 commences employment; and
- (b) immediately before commencing the employment:
 - (i) the person was in receipt of job search allowance; and
 - (ii) the person had been a qualified beneficiary for a continuous period of at least 9 months; and
- (c) because the person commences the employment, the person stops being qualified to receive job search allowance; and

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

- (d) in the opinion of the Secretary, the employment is likely to continue for more than 4 weeks; and
- (e) the person has not, within the last 12 months, received a payment under this section;

the person is entitled to an employment entry payment of \$50.

“(2) Where:

- (a) after the commencement of this section, a married person (in this subsection called the ‘eligible person’) commences employment; and
- (b) immediately before the eligible person commenced the employment:
 - (i) the eligible person’s spouse was in receipt of job search allowance and either:
 - (A) the rate of that benefit or allowance was worked out taking into account an amount under subsection 118 (2) in respect of the eligible person; or
 - (B) the eligible person was in receipt of special benefit or sickness benefit; and
 - (ii) the eligible person’s spouse had been a qualified beneficiary for a continuous period of at least 9 months; and
- (c) the income earned by the eligible person in respect of the employment results in job search allowance ceasing to be payable to the eligible person’s spouse; and
- (d) in the opinion of the Secretary, the employment is likely to continue for more than 4 weeks; and
- (e) the eligible person has not, within the last 12 months, received a payment under this section;

the eligible person is entitled to an employment entry payment of \$50.

“(3) Where the Secretary is satisfied that:

- (a) a person has entered an agreement under which the person is to be employed; and
- (b) on the commencement of that employment, the person would, but for receiving a payment under this subsection, be entitled to a payment under subsection (1) or (2);

the following provisions have effect:

- (c) subject to paragraph (d), the person is entitled to an employment entry payment of \$50, which is payable to the person at such time as the Secretary decides, not being a time more than 14 days before the person is to commence that employment;
- (d) the person is not entitled to the employment entry payment unless the Secretary is still satisfied as mentioned in paragraphs (a) and (b) at the time at which the payment is payable to the person.

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

“(4) In spite of subsections (1), (2) and (3):

- (a) a person is not entitled to a payment under this section unless the person has made a claim for the payment; and
- (b) a person is not entitled to a payment under this section if a claim for the payment is made more than 28 days after the commencement of the employment in respect of which the claim is made.

“(5) In this section:

‘qualified beneficiary’ means a person who is in receipt of:

- (a) unemployment benefit; or
- (b) sickness benefit; or
- (c) job search allowance; or
- (d) special benefit; or
- (e) payments as a trainee in full-time training under a program included in the programs known as Labour Force Programs.”.

Commencement: 1 January 1990

Offences

76. Section 239 of the Principal Act is amended:

- (a) by omitting from subsection (10) “this section” and substituting “subsection (7)”;

Commencement: Day of Royal Assent

- (b) by adding at the end the following subsections:

“(11) Where:

- (a) a person is convicted of an offence against subsection (1); and
 - (b) the court orders him or her to pay an amount of more than \$30,000 to the Commonwealth under subsection (7); and
 - (c) the offence involved a scheme to defraud the Commonwealth;
- the court may, on application by the Commonwealth, order the person to pay to the Commonwealth interest on the amount mentioned in paragraph (b), at the rate of 20% per annum, in respect of the period or periods in respect of which the person was paid pension, benefit or allowance as mentioned in subsection (7).

“(12) In this section:

‘scheme to defraud the Commonwealth’ includes either of the following:

- (a) a scheme involving the making of a series of false or misleading statements;
- (b) a scheme involving obtaining a series of payments of pension, benefit or allowance or instalments of pension, benefit or allowance under this Act (being

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

payments that were not payable) by means of impersonation or a fraudulent device.”.

Commencement: 1 January 1990

Recovery of overpayments

77. Section 246 of the Principal Act is amended:

- (a) by omitting from subsection (2) “(other than a funeral benefit under Part VIII)”;
- (b) by omitting from paragraph (2A)(b) “(other than a funeral benefit under Part VIII)”.

Commencement: 1 January 1990

78. After section 251 of the Principal Act the following section is inserted:

Prescribed persons—means test for certain provisions of this Act and National Health Act

“251A. (1) This section provides a means test for the purposes of such provisions of this Act and the *National Health Act 1953* as refer to prescribed persons within the meaning of this section.

“(2) The following persons are prescribed persons under this section:

- (a) in a case to which paragraph (b) or (c) does not apply—a person (other than a person who is permanently blind) whose annual rate of income exceeds the prescribed rate of income applicable to the person;
- (b) in the case of a person whose annual rate of pension, benefit or allowance is determined under or by reference to paragraph 33 (12) (b) or 51 (1) (b) of this Act, not being a person to whom section 7 of this Act or section 53 of the *Veterans' Entitlements Act 1986* applies—a person the value of whose property exceeds the prescribed property value applicable to the person;
- (c) in the case of a person whose annual rate of service pension, wife's service pension or carer's service pension under Part III of the *Veterans' Entitlements Act 1986* is determined under or by reference to paragraph 47 (5) (b) or 48 (4) (b) of that Act, not being a person to whom section 53 of that Act applies—a person the value of whose property calculated under subsections 35 (12) and (13) and section 50 of that Act, exceeds the prescribed property value applicable to the person under subsection 83 (2) of that Act.

“(3) Subject to subsection (4), the prescribed rate of income applicable to a person is:

- (a) for an unmarried person—\$4,732 per annum; or
- (b) for a married person—\$4,056 per annum.

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

“(4) Where a person has at least one dependent child, the prescribed rate of income applicable to the person under subsection (3) is increased:

- (a) if the person is unmarried—by \$1,040 per annum; or
- (b) if the person is married—by \$520 per annum;

in respect of each child.

“(5) In spite of subsections (3) and (4), where:

- (a) on or after 1 January 1988, the annual rate of income of a person increases so that it exceeds the prescribed rate of income applicable to the person; and
- (b) immediately before the increase, the annual rate of the person's income did not exceed that prescribed rate of income; and
- (c) the amount of the excess is not more than 25% of that prescribed rate of income;

the person is not, while the amount of the excess continues to be not more than 25% of that prescribed rate of income, a prescribed person at any time during the period of 13 weeks starting on the first pension pay day after that increase occurred.

“(6) Where:

- (a) subsection (5) applies to a person; and
- (b) the annual rate of income of the person increases so that it exceeds by more than 25% the prescribed rate of income applicable to the person;

the person becomes a prescribed person under this section, and subsection (5) does not apply to the person on a further occasion unless the annual rate of income of the person falls below that prescribed rate of income.

“(7) For the purposes of subsection (1), the prescribed property value applicable to a person is:

- (a) in the case of an unmarried person to whom subparagraph 4 (1) (a) (i) applies—\$109,500; or
- (b) in the case of any other unmarried person—the amount referred to in paragraph (a) increased by twice the difference between the amount referred to in paragraph 8 (d) and the amount referred to in paragraph 8 (c); or
- (c) in the case of a married person to whom subparagraph 4 (1) (a) (ii) applies—\$78,500; or
- (d) in the case of any other married person—the amount referred to in paragraph (c) increased by the difference between the amount referred to in paragraph 8 (d) and the amount referred to in paragraph 8 (c).

“(8) In this section:

‘income’ includes, in the case of a person to whom section 7 of this Act or section 53 of the *Veterans' Entitlements Act 1986* applies, any

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

amount per annum that is taken into account under subsection (3) of the section concerned in relation to the person.”.

Commencement: 1 January 1990

**PART 6—AMENDMENTS OF SOCIAL SECURITY AND
VETERANS' AFFAIRS LEGISLATION AMENDMENT ACT 1988**

Principal Act

79. In this Part, “Principal Act” means the *Social Security and Veterans' Affairs Legislation Amendment Act 1988*⁵.

Commencement: Day of Royal Assent

Consequential amendments

80. The Principal Act is amended as set out in Schedule 1.

Commencement: 12 December 1989

**PART 7—AMENDMENTS OF SOCIAL SECURITY AND
VETERANS' AFFAIRS LEGISLATION AMENDMENT ACT (No. 3)
1989**

Principal Act

81. In this Act, “Principal Act” means the *Social Security and Veterans' Affairs Legislation Amendment Act (No. 3) 1989*⁶.

Commencement: Day of Royal Assent

Reduction of rate by reference to taxable income

82. Section 31 of the Principal Act is amended by omitting “current” from the definition of “Excess income event year” in new subsection (1A) and substituting “event”.

Commencement: Immediately before the commencement of paragraph 31 (a) of the Principal Act

Notice to insurers

83. Section 45 of the Principal Act is amended by omitting from paragraph (b) “(8)” and substituting “(8A)”.

Commencement: Immediately before the commencement of paragraph 45 (b) of the Principal Act

Pension, benefit or allowance may be paid to bank etc.

84. Section 48 of the Principal Act is amended by inserting in new subsection 248A (1) “being an account maintained by the pensioner,” after “pensioner,”.

Commencement: Immediately before the commencement of section 48 of the Principal Act

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

**PART 8—AMENDMENTS OF VETERANS' AFFAIRS LEGISLATION
AMENDMENT ACT 1987**

Principal Act

85. In this Part, “Principal Act” means the *Veterans' Affairs Legislation Amendment Act 1987*.

Commencement: Day of Royal Assent

Repeal of transitional provisions

86. Section 82 of the Principal Act is repealed.

Commencement: Day of Royal Assent

**PART 9—AMENDMENTS OF VETERANS' AFFAIRS LEGISLATION
AMENDMENT ACT 1988**

Principal Act

87. In this Part, “Principal Act” means the *Veterans' Affairs Legislation Amendment Act 1988*.

Commencement: 22 December 1988

Application

88. Section 3 of the Principal Act is amended:

(a) by omitting from subsection (1) “, 12, 13, 14, 15,” and substituting “and 12, paragraphs 14 (a) and 15 (a) and sections”;

(b) by inserting after subsection (2) the following subsection:

“(2A) The amendments made by section 13 and paragraphs 14 (b) and 15 (b) apply to determinations made under the *Veterans' Entitlements Act 1986* on or after the day on which this Act receives the Royal Assent, to the extent that such determinations relate to periods starting on or after that day.

Commencement: Day of Royal Assent”;

(c) by omitting from subsection (8) “41,”;

(d) by inserting after subsection (8) the following subsection:

“(8A) The amendment made by section 41 applies to determinations made under the *Seamen's War Pensions and Allowances Act 1940* on or after the day on which this Act receives the Royal Assent, to the extent that such determinations relate to periods starting on or after that day.

Commencement: Day of Royal Assent”.

Commencement: 22 December 1988

**PART 10—AMENDMENTS OF VETERANS' ENTITLEMENTS ACT
1986**

Principal Act

89. In this Part, “**Principal Act**” means the *Veterans' Entitlements Act 1986*.

Commencement: Day of Royal Assent

Interpretation

90. Section 5 of the Principal Act is amended:

(a) by inserting in subsection (1) the following definitions:

“**‘account’**, in relation to a credit union or building society, means an account maintained by a person with the credit union or building society to which are credited moneys received on deposit by the credit union or building society from that person;

‘building society’ means an organisation registered as a permanent building society under a law of a State or Territory;

‘credit union’ means an organisation registered as a credit union under a law of a State or Territory;”;

Commencement: Day of Royal Assent

(b) by inserting in subsection (1) the following definition:

“**‘pension pay day’** means:

(a) the Thursday falling on 28 December 1989; and

(b) each succeeding alternate Thursday;”;

Commencement: 28 December 1989

(c) by adding at the end the following subsection:

“(14) Where a determination has been made under this Act that a pension or allowance is payable as from a particular day (in this subsection called the **‘day of effect’**) that is not a pension pay day, the pension or allowance is payable on and from the next pension pay day after the day of effect.”.

Commencement: 28 December 1989

Increased rates of pension in certain cases

91. Section 27 of the Principal Act is amended by altering the table in subsection (1) as follows:

(a) omit “96.90”, substitute “104.40”;

(b) omit “65.40”, substitute “70.40”;

(c) omit “56.20” (wherever occurring), substitute “60.50”;

(d) omit “28.00” (wherever occurring), substitute “30.20”;

(e) omit “14.80” (wherever occurring), substitute “15.90”;

(f) omit “21.70”, substitute “23.40”.

Commencement: 16 November 1989

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Interpretation

92. Section 35 of the Principal Act is amended:

(a) by inserting after paragraph (aa) of the definition of "income" in subsection (1) the following paragraphs:

"(ab) in the case of an unmarried person—an amount or amounts paid to or on behalf of the person on or after 1 November 1989 under an agreement under which repayment of the amounts is secured by a mortgage of the person's principal home, to the extent that the total amount owed by the person from time to time under such agreements does not exceed \$40,000;

(ac) in the case of a married person—an amount or amounts paid to or on behalf of the person or his or her spouse on or after 1 November 1989 under an agreement under which repayment of the amounts is secured by a mortgage of the principal home of the person or the spouse, to the extent that the total amount owed by the person and the spouse from time to time under such agreements does not exceed \$40,000;"

Commencement: 1 November 1989

(b) by inserting after paragraph (ac) of the definition of "income" in subsection (1) the following paragraph:

"(ad) where the person has not reached pensionable age—any return on a compulsorily preserved superannuation benefit of the person;"

Commencement: 1 February 1990

(c) by inserting after paragraph (m) of the definition of "income" in subsection (1) the following paragraph:

"(ma) a payment received by a trainee in part-time training under a program included in the programs known as the Labour Force Programs, where the trainee is also in receipt of:

(i) a pension under Part III; or

(ii) a pension under Part IV or V or Schedule 1B of the *Social Security Act 1947*; or

(iii) an allowance under Part XIV or XVI of the *Social Security Act 1947*;"

Commencement: 1 January 1990

(d) by omitting paragraph (u) from the definition of "income" in subsection (1) and substituting the following paragraph:

"(u) the value of any board or lodging received by the person;"

Commencement: 16 November 1989

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

- (e) by inserting after paragraph (b) of the definition of "ineligible property owner" in subsection (1) the following paragraph:

“(ba) who:

- (i) is a married person; and
- (ii) is in approved respite care and has remained, or the Commission is satisfied is likely to remain, in that care for at least 14 consecutive days;”;

Commencement: 1 November 1989

- (f) by inserting after paragraph (c) of the definition of "market-linked investment" in subsection (1) the following word and paragraph:

“or (ca) a superannuation benefit vested in a person held in a superannuation fund (unless a superannuation pension funded by that benefit is presently payable to the person);”;

Commencement: 1 February 1990

- (g) by omitting paragraph (d) of the definition of "rent" in subsection (1) and substituting the following:

“(d) at regular intervals greater than 3 months, if the Commission is satisfied the amounts should be treated as rent for the purposes of this Part;

and includes amounts payable by a married person or his or her spouse for approved respite care for the married person in a nursing home, where the person has remained, or the Commission is satisfied that the person is likely to remain, in that care for at least 14 consecutive days;”;

Commencement: 1 November 1989

- (h) by inserting “(including an investment in the nature of superannuation)” after “investment” (first occurring) in the definition of “return” in subsection (1);

Commencement: 1 February 1990

- (j) by inserting in subsection (1) the following definitions:

“**‘accruing return investment’** means an arrangement by a person that consists of or includes an investment of money, being an investment:

(a) that produces:

- (i) a fixed rate or quantifiable rate of return, whether or not that rate varies from time to time; or
- (ii) a rate of return that may be reasonably approximated; and

(b) the value of which from time to time is unlikely to decrease as a result of market changes;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

'approved deposit fund' means a fund that is an approved deposit fund for the purposes of Subdivision AA of Division 2 of Part III of the Assessment Act;

'Assessment Act' means the *Income Tax Assessment Act 1936*;

'deferred annuity' means an annuity that is a deferred annuity for the purposes of Subdivision AA of Division 2 of Part III of the Assessment Act;

'determination of entitlement', in relation to a person, means a determination:

- (a) whether the person is qualified to receive a pension or allowance under this Part; or
- (b) of the rate at which a pension or allowance under this Part is payable to the person;

'eligible investment' means an investment that satisfies all of the following conditions:

- (a) money or property invested is paid or transferred by the investor directly or indirectly to a body corporate or into a trust fund;
- (b) the assets that represent money or property invested (in this definition called the **'investment assets'**) are held otherwise than in the names of investors;
- (c) the investor does not, either alone or jointly with a relative or relatives of the investor, have effective control over the management of the investment assets;
- (d) the investor has a legally enforceable right to share in any distribution of the income or profits derived from the investment assets;

'friendly society' means:

- (a) a society registered as a friendly society under a law in force in a State or Territory; or
- (b) a society that had, before 13 December 1987, been approved for the purpose of the definition of 'friendly society' in subsection 115 (1) of the *Social Security Act 1947*;

and, for the purpose of the definition of 'market-linked investment' in this subsection, includes a society that has been approved for the purpose of the definition of 'friendly society' in subsection 115 (1) of the *Social Security Act 1947* on or after 13 December 1987;

'investment product' means a class of market-linked investments specified in a notice under subsection 12B (2) of the *Social Security Act 1947*;

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

'market-linked investment' means:

- (a) an investment in:
 - (i) an approved deposit fund; or
 - (ii) a deferred annuity; or
 - (iii) a public unit trust; or
 - (iv) an insurance bond; or
- (b) an investment with a friendly society; or
- (c) an eligible investment other than an investment referred to in paragraph (a) or (b);

not being:

- (d) an accruing return investment; or
- (e) an investment consisting of the acquisition of real property, stock or shares;

'public unit trust' means a unit trust that:

- (a) except where paragraph (b) applies—was, in relation to the unit trust's last year of income, a public unit trust for the purposes of Division 6B of Part III of the Assessment Act; or
- (b) where the first year of income of the unit trust has not yet finished—has, at some time since the trust was established, satisfied at least one of the paragraphs of subsection 102G (1) of the Assessment Act;

'return', in relation to an investment, means any increase, whether of a capital or income nature and whether or not distributed, in the value or amount of the investment;

'statutory rate of return' means 11% per annum or such lower percentage per annum as is specified in a notice in force under subsection 12E (1) of the *Social Security Act 1947*;

Commencement: Day of Royal Assent

(k) by inserting in subsection (1) the following definitions:

“**'actual market exchange rate'**, in relation to a foreign currency, means the on-demand airmail buying rate in relation to that foreign currency available at the Commonwealth Bank of Australia;

'applicable exchange rate', in relation to a foreign exchange period, means:

- (a) except where paragraph (b) applies—the base exchange rate worked out under section 37AC by reference to the actual market exchange rates available during a month of the year falling within the immediately preceding foreign exchange period; or
- (b) if a re-assessed exchange rate is applicable under section 37AD—that re-assessed exchange rate;

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

'foreign exchange period' means:

- (a) each period starting at the beginning of a relevant period within the meaning of section 198 and ending on the day before the pension pay day that falls closest to the middle of that relevant period; and
- (b) each period starting on a pension pay day referred to in paragraph (a) and ending on the day before the beginning of the next relevant period within the meaning of section 198;";

Commencement: Day of Royal Assent

(m) by inserting in subsection (1) the following definition:

'pensionable age' means:

- (a) for a veteran who is a woman—55 years of age; and
- (b) for a veteran who is a man—60 years of age; and
- (c) for any other woman—60 years of age; and
- (d) for any other man—65 years of age;";

Commencement: Day of Royal Assent

(n) by inserting in subsection (1) the following definition:

'respite period', in relation to a person who is in approved respite care, means the period:

- (a) starting when the person is admitted to that care; and
- (b) ending when the person:
 - (i) is discharged from that care; or
 - (ii) dies while still in that care;";

Commencement: 1 November 1989

(o) by inserting in subsection (1) the following definitions:

'prescribed educational scheme' means any of the following schemes:

- (a) the AUSTUDY scheme;
- (b) the ABSTUDY scheme, to the extent that it provides means-tested allowances;
- (c) the Assistance for Isolated Children Scheme;
- (d) the Veterans' Children Education Scheme;
- (e) the Post-Graduate Awards Scheme;

'student child' means a person who:

- (a) has turned 16 but has not turned 25; and
- (b) is receiving full-time education at a school, college or university;";

Commencement: 1 January 1990

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(p) by inserting in subsection (1) the following definitions:

“**‘pensioner couple’** in Division 5A, means:

- (a) 2 service pensioners each of whom is a married person because of being the spouse of the other pensioner; or
- (b) a service pensioner and a social security pensioner each of whom is a married person because of being the spouse of the other pensioner;

‘social security pensioner’ in Division 5A, means:

- (a) a person who is in receipt of a pension under Part IV of the *Social Security Act 1947*; or
- (b) a person referred to in paragraph (d) of the definition of ‘single person’ in subsection 43 (1) of that Act who is in receipt of a pension under Part V of that Act; or
- (c) a person who is in receipt of an allowance under Part XIV or XVI of that Act instead of a pension under Part IV or V of that Act that the person is qualified to receive;”;

Commencement: 1 January 1990

(q) by inserting in subsection (1) the following definition:

“**‘employed child’** means a child who:

- (a) has not turned 16; and
- (b) is not in full-time education; and
- (c) is in receipt of income from employment exceeding \$100 per week;”;

Commencement: 1 January 1990

(r) by inserting in subsection (1) the following definitions:

“**‘assessable growth component’**, in relation to an amount of superannuation benefit, means so much (if any) of the return as is attributable to the assessable period;

‘assessable period’, in relation to a person, means any period during which the person received a relevant pension, except any such period occurring before a continuous period of at least 2 years during which the person did not receive relevant pension;

‘compulsorily preserved superannuation benefit’, in relation to a person, means a superannuation benefit of a person the person’s access to which is restricted pursuant to:

- (a) paragraph 23 (ja) of the Assessment Act as in force at any time before 18 December 1987; or
- (b) section 23FB of the Assessment Act as in force at any time before 18 December 1987; or

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- (c) regulations made under section 7 or 8 of the *Occupational Superannuation Standards Act 1987*; or
- (d) a provision of the trust deed or contract concerned that imposes restrictions corresponding to those imposed by a provision referred to in paragraph (c);

'immediate annuity' means an annuity that is presently payable;

'superannuation benefit', in relation to a person, means a benefit arising directly or indirectly from amounts contributed (whether by the person or by any other person) to a superannuation fund in respect of the person;

'superannuation fund' means a superannuation fund as defined for the purposes of Subdivision AA of Division 2 of Part III of the Assessment Act, other than a fund covered by subparagraph (ia) of the definition of 'superannuation fund' in subsection 27A (1) of that Act;

'superannuation pension' has the same meaning as it has in Subdivision AA of Division 2 of Part III of the Assessment Act;";

Commencement: 1 February 1990

(s) by inserting in subsection (1) the following definitions:

'deductible amount', in relation to an immediate annuity or a superannuation pension, is the amount that would be the deductible amount in relation to the annuity or superannuation pension in relation to a year of income under subsection 27H (2) of the Assessment Act if 'undeducted purchase price' had the same meaning in that subsection as 'non-assessable purchase price' has in this Act;

'non-assessable purchase price':

- (a) in relation to an immediate annuity other than a roll-over immediate annuity—has the same meaning as 'undeducted purchase price' has in Subdivision AA of Division 2 of Part III of the Assessment Act; or
- (b) in relation to a roll-over immediate annuity—means the roll-over purchase price; or
- (c) in relation to a superannuation pension—has the same meaning as 'undeducted purchase price' has in Subdivision AA of Division 2 of Part III of the Assessment Act;

'purchase price', in relation to an annuity, has the meaning that it has in Subdivision AA of Division 2 of Part III of the Assessment Act;

'relevant number', in relation to an annuity, has the meaning that it has in section 27H of the Assessment Act;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

'residual capital value', in relation to an annuity, has the meaning that it has in Subdivision AA of Division 2 of Part III of the Assessment Act;

'rolled-over amount', in relation to an annuity, has the meaning that it has in Subdivision AA of Division 2 of Part III of the Assessment Act;

'roll-over immediate annuity', means an immediate annuity the purchase price of which consists wholly of a rolled-over amount or rolled-over amounts;

'roll-over purchase price', in relation to a roll-over immediate annuity, means:

(a) except where paragraph (b) applies—either the sum of the following amounts:

(i) the amount that would, under Subdivision AA of Division 2 of Part III of the Assessment Act, be the undeducted purchase price of the annuity;

(ii) the amount that is the upper limit under section 159SG of the Assessment Act for the year of income in which the annuity was purchased;

or the purchase price of the annuity, whichever is less;
or

(b) where:

(i) the roll-over immediate annuity, and another roll-over immediate annuity, have been purchased using the same rolled-over amount or rolled-over amounts in the name of the same person; and

(ii) the roll-over purchase price of the other roll-over immediate annuity has previously been worked out under paragraph (a) for the purposes of this Act;

the amount that would, under Subdivision AA of Division 2 of Part III of the Assessment Act, be the undeducted purchase price of the annuity;”;

Commencement: 19 April 1990

(t) by inserting after subsection (8) the following subsection:

“(9) In paragraphs (ab) and (ac) of the definition of ‘income’ in subsection (1):

(a) a reference to an amount owed by the person or his or her spouse is a reference to the principal amount secured by the mortgage concerned and does not include a reference to any amount representing mortgage fees, interest or any similar

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

liability the repayment of which is also secured by the mortgage; and

- (b) a reference to a mortgage of the person's principal home includes:
- (i) a reference to a mortgage of property (being the person's principal home) of which the person is not the sole owner; and
 - (ii) a reference to a mortgage of property (being the person's principal home) of which the person's spouse is an owner, even if the person has no beneficial interest in the property;

but does not include a reference to a mortgage of property in which neither the person nor his or her spouse has any beneficial interest.”;

Commencement: 1 November 1989

- (u) by inserting after subsection (9) the following subsections:

“(10) For the purposes of this Act, an annuity or superannuation pension is to be taken to be presently payable at all times after, but not before, the commencement of the first period in respect of which the annuity or superannuation pension is payable.

“(10A) For the purposes of the definition of ‘accruing return investment’ in subsection (1), a superannuation benefit vested in a person that is held in a superannuation fund is to be taken to be an investment of that person, unless a superannuation pension funded by that benefit is presently payable to the person.”;

Commencement: 1 February 1990

- (w) by adding at the end the following subsection:

“(19) A person is to be taken for the purposes of this Part to be in approved respite care if the person is:

- (a) a benefit respite care patient, or a leave respite care patient, as defined in the *National Health Act 1953* as modified by the National Health (Nursing Home Respite Care) Regulations; or
- (b) an eligible person as defined in the *Aged or Disabled Persons Homes Act 1954* occupying a respite care place as defined in that Act.”.

Commencement: 1 November 1989

Method of calculation of income

93. Section 37 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- “(1AA) A reference in subsection (1) to a child is a reference to a child:
- (a) who is under 18 (other than an employed child); or

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- (b) who is a student child who is not in receipt of payments under a prescribed educational scheme and in respect of whom no other person is in receipt of such payments; or
- (c) in respect of whom the veteran or his or her spouse receives child disability allowance under Part XII of the *Social Security Act 1947*.”.

Commencement: 1 January 1990

94. The Principal Act is amended by inserting after Division 1 of Part III the following Division:

“Division 1AA—Conversion of foreign currency amounts

Application of Division

“37AA. (1) The Commission may determine in writing that this Division applies in relation to a foreign currency.

“(2) This Division applies in relation to a foreign currency in relation to which a determination under subsection (1) is in force.

“(3) This Division applies for the purposes of Part III and sections 82 and 83, and not otherwise.

Conversion of foreign currency amounts

“37AB. The value in Australian currency of a payment received by a person in foreign currency is to be worked out using the applicable exchange rate.

Base exchange rate

“37AC. The base exchange rate for a foreign currency for a foreign exchange period is the average (calculated to 4 decimal places) of the actual market exchange rates available on each working day of the first month of the year to start during the immediately preceding foreign exchange period.

Re-assessed exchange rate

“37AD. (1) Where for 10 consecutive working days:

- (a) starting after a month of the year in relation to which section 37AC operates; and
- (b) ending before the next month of the year in relation to which section 37AC operates;

the actual market exchange rate available differs from:

- (c) except where paragraph (d) applies—the base exchange rate for the next foreign exchange period; or
- (d) where a re-assessed exchange rate has already been worked out under this subsection for the purposes of the next foreign exchange period—the last re-assessed exchange rate so worked out;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

by at least 10% of that base exchange rate or last re-assessed exchange rate, as the case may be, the re-assessed exchange rate for a foreign currency is the average (calculated to 4 decimal places) of the actual market exchange rates available on those consecutive working days.

“(2) The Commission must determine in writing the day on which a re-assessed exchange rate becomes applicable.

“(3) The day determined under subsection (2) is to be no later than 6 weeks after the tenth consecutive working day covered by subsection (1).

“(4) A re-assessed exchange rate:

(a) becomes applicable on the day determined under subsection (2), unless a new re-assessed exchange rate has already become applicable; and

(b) remains applicable until:

(i) a new re-assessed exchange rate becomes applicable; or

(ii) the commencement of the next exchange period the base exchange rate for which has been worked out by reference to working days later than those by reference to which the re-assessed exchange rate was worked out.

“(5) Subsection (1) does not apply to a working day if the actual market exchange rate available on that day has been used to work out a re-assessed exchange rate in a previous application of that subsection.

Rounding off of exchange rates

“37AE. Where an exchange rate worked out under this Division would, if it were calculated to 5 decimal places, end in a number greater than 4, the rate worked out is to be taken to be the rate calculated to 4 decimal places and increased by 0.0001.”

Commencement: Day of Royal Assent

95. Section 37B of the Principal Act is repealed and the following section is substituted:

Superannuation benefits received before pensionable age

“37B. (1) Where:

(a) a person becomes entitled to receive an amount that was, until the person became so entitled, a compulsorily preserved superannuation benefit; and

(b) the person has not reached pensionable age;

the person is, for the purposes of this Act, to be taken to receive one fifty-second of the assessable growth component of that amount as income of the person during each week in the period of 12 months starting on the day when the person becomes entitled to receive that amount.

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

“(2) Subsection (1) does not apply in relation to any amount received by a person by way of a superannuation pension or a payment under an immediate annuity.”.

Commencement: 1 February 1990

96. After section 37B of the Principal Act the following section is inserted:

Immediate annuities and superannuation pensions

“37BA. (1) For the purpose of working out the annual rate of income of a person from an immediate annuity, the person is to be taken to receive from that annuity each year an amount worked out by reducing the amount payable each year by the deductible amount in relation to the annuity.

“(2) For the purpose of working out the annual rate of income of a person from a superannuation pension, the person is to be taken to receive from that pension each year an amount worked out by reducing the amount payable each year by the deductible amount in relation to the superannuation pension.”.

Commencement: 19 April 1990

Eligibility for carer's service pension

97. Section 41 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

“(1) Subject to this Part, where a person personally provides constant care and attention for a severely handicapped veteran, who is in receipt of a service pension under this Part, in a home of the person and the veteran, the person is eligible to receive a carer's service pension under this Part.”;

(b) by omitting from subsection (2) “a relative of a severely handicapped veteran” and substituting “a person”;

(c) by omitting from subsection (2) “the veteran” and substituting “a severely handicapped veteran”;

(d) by omitting from subsection (2) “the relative” and substituting “the person”;

(e) by omitting the definition of “relative” from subsection (3).

Commencement: 1 November 1989

Claim for service pension etc.

98. Section 43 of the Principal Act is amended:

(a) by omitting from subsection (2) “the relative of” and substituting “a person who is caring for”;

Commencement: 1 November 1989

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(b) by omitting paragraph (3) (c) and substituting the following paragraph:

“(c) if the claim is for a carer’s service pension for a person who is caring for a veteran, that person is the prescribed person.”;

Commencement: 1 November 1989

(c) by inserting after subsection (4) the following subsection:

“(4A) A veteran is not entitled to lodge a claim for a service pension provided for in section 39 unless the veteran:

(a) being a woman, has not turned 60; or

(b) being a man, has not turned 65.”;

Commencement: 1 April 1990

(d) by omitting paragraph (5) (b) and substituting the following paragraph:

“(b) a person is not eligible to lodge a claim for a carer’s service pension unless the person is an Australian resident and is in Australia.”.

Commencement: 1 November 1989

Rate of veteran’s service pension

99. Section 47 of the Principal Act is amended:

(a) by inserting after subsection (2) the following subsection:

“(2A) Where the Commission is satisfied that:

(a) a married person or his or her spouse has entered approved respite care; and

(b) the person or spouse remained, or is likely to remain, in that approved respite care for at least 14 consecutive days;

the Commission may direct that the maximum rate of pension under this Part in relation to the married person is, during the respite period, the rate specified in paragraph (1) (a).

“(2B) A direction under subsection (2A) has effect from such day (being a day not earlier than 3 months before the Commission is notified that the person has entered approved respite care) as is determined by the Commission.”;

Commencement: 1 November 1989

(b) by inserting in paragraph (3) (a) “(not being an employed child)” after “child”;

Commencement: 1 January 1990

(c) by inserting in paragraph (3) (b) “(not being an employed child)” after “child”;

Commencement: 1 January 1990

(d) by inserting in paragraph (3) (e) “or (2A)” after “(2)”;

Commencement: 1 November 1989

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(e) by omitting paragraph (3) (e) and substituting the following paragraph:

“(e) if the veteran is an unmarried veteran or a married veteran in relation to whom a direction under subsection (2) or (2A) is in force and he or she has at least one such child:

- (i) who is under 18 (other than an employed child); or
- (ii) who is a student child who is not in receipt of payments under a prescribed educational scheme and in respect of whom no other person is in receipt of such payments; or
- (iii) in respect of whom the veteran or his or her spouse receives child disability allowance under Part XII of the *Social Security Act 1947*;

an amount per year equal to the amount specified in subsection 33 (3) of the *Social Security Act 1947*.”;

Commencement: 1 January 1990

(f) by inserting after subsection (5A) the following subsection:

“(5B) Subsection (5A) does not apply in relation to a veteran if:

(a) child support is not payable under the *Child Support (Assessment) Act 1989* to the veteran for a child, but the veteran is entitled to make an application for assessment of child support under Part 5 of that Act for the child payable by another person and:

- (i) the veteran has not properly made such an application or an application under Part 6 of that Act for acceptance of an agreement in relation to the child; or
- (ii) the veteran has properly made an application of either kind, but:

(A) the veteran has subsequently withdrawn the application; or

(B) after child support has become payable by the other person under that Act for the child, the veteran has ended the entitlement to child support; or

(b) child support is payable under the *Child Support (Assessment) Act 1989* to the veteran for a child and:

- (i) the veteran is entitled to make an application under section 128 of that Act; but
- (ii) an application by the veteran under that section is not in force.”.

Commencement: Day of Royal Assent

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Rate of wife's service pension

100. Section 48 of the Principal Act is amended:

- (a) by inserting in subsection (2) "or (2A)" after "47 (2)";

Commencement: 1 November 1989

- (b) by inserting after subsection (4A) the following subsection:

“(4B) Subsection (4A) does not apply in relation to a person who is a wife or widow if:

- (a) child support is not payable under the *Child Support (Assessment) Act 1989* to the person for a child, but the person is entitled to make an application for assessment of child support under Part 5 of that Act for the child payable by another person and:

- (i) the person has not properly made such an application or an application under Part 6 of that Act for acceptance of an agreement in relation to the child; or

- (ii) the person has properly made an application of either kind, but:

(A) the person has subsequently withdrawn the application; or

(B) after child support has become payable by the other person under that Act for the child, the person has ended the entitlement to child support; or

- (b) child support is payable under the *Child Support (Assessment) Act 1989* to the person for a child and:

- (i) the person is entitled to make an application under section 128 of that Act; but

- (ii) an application by the person under that section is not in force.”.

Commencement: Day of Royal Assent

Earnings credit

101. Section 49B of the Principal Act is amended:

- (a) by omitting the definition of "credit amount" from subsection (1);

- (b) by inserting after subsection (1) the following subsection:

“(1A) A person is to be taken to have a credit amount for the purposes of this section in relation to a fortnight ending on a Wednesday if the person's annual permissible income in that fortnight equals or exceeds the person's annual rate of income in that fortnight, and the amount of that credit amount is one twenty-sixth of the person's annual permissible income.”;

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(c) by adding at the end the following subsection:

“(4) This section does not apply in relation to a person the annual rate of whose pension is reduced by an amount worked out under paragraph 47 (5) (b) or 48 (4) (b).”.

Commencement: 19 April 1990

Calculation of value of property

102. Section 50 of the Principal Act is amended:

(a) by omitting subparagraph (1) (a) (iia) and substituting the following subparagraph:

“(iia) the value of any superannuation pension, or of any other annuity except an annuity to which subsection (9A) applies;”;

Commencement: 19 April 1990

(b) by inserting after subparagraph (1) (a) (iia) the following subparagraph:

“(iib) any amount received by the person within the immediately preceding period of 90 days that is excluded from the definition of ‘income’ in subsection 35 (1) by paragraph (ab) or (ac) of that definition;”;

Commencement: 1 November 1989

(c) by inserting after subparagraph (1) (a) (iib) the following subparagraph:

“(iic) where the person has not reached pensionable age—the value of any compulsorily preserved superannuation benefit of the person;”;

Commencement: 1 February 1990

(d) by inserting after subsection (9) the following subsections:

“(9A) This subsection applies to an annuity where:

- (a) the Commission determines under subsection (9B) that the annuity should not be disregarded under paragraph (1) (a) (iia); or
- (b) the annuity is an immediate annuity purchased on or after 15 August 1989; or
- (c) the annuity became presently payable on or after 15 August 1989.

“(9B) Where:

- (a) an annuity is able to be disposed of; or
- (b) a substantial part of the income under the annuity is or may be deferred;

the Commission may determine in writing that the annuity should not be disregarded under paragraph (1) (a) (iia).

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

“(9C) The value of an annuity described in paragraph (9A) (b) or (c) is:

(a) the amount worked out using the formula:

$$\left[\left(\frac{\text{RN} - (\text{YE} + 1)}{\text{RN}} \right) \times (\text{PP} - \text{RCV}) \right] + \text{RCV}$$

where:

‘PP’ [Purchase Price] means the purchase price of the annuity;

‘RCV’ [Residual Capital Value] means the residual capital value of the annuity;

‘RN’ [Relevant Number] means the relevant number in relation to the annuity;

‘YE’ [Years Elapsed] means the number of full years that have elapsed since the annuity became presently payable; or

(b) the residual capital value of the annuity;
whichever is greater.”;

Commencement: 19 April 1990

(e) by inserting after subsection (11) the following subsections:

“(11A) Where:

(a) a determination of entitlement of a person has been made having regard to a relevant number in relation to an annuity, being a number that was determined as mentioned in paragraph (c) of the definition of ‘relevant number’ in section 27H of the Assessment Act; and

(b) the person appealed against the determination of the number; and

(c) on appeal, a lower number is substituted for the original relevant number;

the Commission must make a new determination of entitlement having regard to the lower relevant number.

“(11B) Where the Commission makes a new determination of entitlement under subsection (11A), there is payable to the person the amount worked out using the formula:

New amount – Actual amount

where:

‘New amount’ means the amount of pension, under this Part that would have been payable to the person at the new rate determined under subsection (11A) in respect of the period starting:

(a) if the appeal concerned was instituted within 3

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

months after the person was notified of the original decision about the relevant number—when that decision was made; or

(b) in any other case—when the appeal concerned was instituted;

and ending when the new determination takes effect;

'Actual amount' means the amount of pension under this Part that was paid to the person in respect of the period specified in the definition of 'New amount'.

Commencement: 19 April 1990

Special provisions relating to residents of retirement villages

103. Section 50A of the Principal Act is amended:

(a) by omitting paragraphs (2) (d) and (e) and substituting the following word and paragraph:

“and (d) the person's property is to be taken to include property the value of which is equal to the amount of the person's entry contribution.”;

(b) by omitting paragraphs (4) (e) and (f) and substituting the following word and paragraph:

“and (e) the person's property is to be taken to include property the value of which is equal to the amount of the person's entry contribution.”;

(c) by omitting paragraphs (6) (f) and (g) and substituting the following word and paragraph:

“and (f) the person's property is to be taken to include property the value of which is equal to the amount of the person's entry contribution.”;

(d) by omitting subparagraphs (7) (f) (ii) and (iii) and substituting the following word and subparagraph:

“and (ii) the property of the person's spouse is to be taken to include property the value of which is equal to the amount of the spouse's entry contribution;”;

(e) by omitting subparagraphs (9) (f) (ii) and (iii) and substituting the following word and subparagraph:

“and (ii) the person's property is to be taken to include property the value of which is equal to the amount of the person's entry contribution;”;

(f) by omitting paragraphs (11) (g) and (h) and substituting the following word and paragraph:

“and (g) the person's property is to be taken to include property the value of which is equal to the amount of the person's entry contribution.”;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(g) by inserting after subsection (11) the following subsections:

“(11AA) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not eligibly separated from that spouse; and
- (c) the principal home of the spouse is also in a retirement village; and
- (d) the person's entry contribution, and the entry contribution of the spouse, were each more than the extra allowable amount concerned;

then, for the purposes of this Part:

- (e) the person and the spouse are each to be taken to have a right or interest in a principal home to which subparagraph 50 (1) (a) (ii) applies; and
- (f) the value of the principal home of each person is to be taken to be the total amount paid or agreed to be paid to obtain for the person concerned his or her current right to reside in the retirement village concerned; and
- (g) any right or interest of the person in:
 - (i) the more valuable of the 2 principal homes; or
 - (ii) where the value of the 2 principal homes is the same—the principal home of the younger person;(in this subsection called the ‘more valuable principal home’) is to be disregarded in calculating the actual value of the person's property for the purposes of this Part; and
- (h) any right or interest of the spouse in the more valuable principal home is to be disregarded in calculating the actual value of the spouse's property for the purposes of this Part; and
- (j) the property of the person whose principal home is not the more valuable principal home is to be taken to include property the value of which is equivalent to the amount of that person's entry contribution.

“(11AB) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not eligibly separated from that spouse; and
- (c) the principal home of the spouse is also in a retirement village; and
- (d) the person's entry contribution, and the entry contribution of

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

the spouse, were each less than or equal to the extra allowable amount concerned;

then, for the purposes of this Part, whether or not the person or the spouse actually has any right or interest in relation to his or her principal home and whatever the value of any such right or interest:

- (e) the person and the spouse are each to be taken not to have a right or interest in relation to the person's principal home or the spouse's principal home; and
- (f) the person's property is to be taken to include the total amount paid or agreed to be paid to obtain for the person his or her current right to reside in the retirement village; and
- (g) the spouse's property is to be taken to include the total amount paid or agreed to be paid to obtain for the spouse his or her current right to reside in a retirement village.

“(11AC) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not eligibly separated from that spouse; and
- (c) the principal home of the spouse is not in a retirement village; and
- (d) the right or interest of the person's spouse in his or her principal home would, but for this section, be disregarded because of subparagraph 50 (1) (a) (ii);

then, for the purposes of this Part:

- (e) the person and the spouse are each to be taken to have a right or interest in a principal home to which subparagraph 50 (1) (a) (ii) applies; and
- (f) the value of the principal home of the person is to be taken to be the amount of the person's entry contribution; and
- (g) any right or interest of the person in:
 - (i) the more valuable of the 2 principal homes; or
 - (ii) where the value of the 2 principal homes is the same—the principal home that is not in a retirement village;(in this subsection called the ‘**more valuable principal home**’) is to be disregarded in calculating the actual value of the person's property for the purposes of this Part; and
- (h) any right or interest of the spouse in the more valuable principal home is to be disregarded in calculating the actual value of the spouse's property for the purposes of this Part; and

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

- (j) the property of the person whose principal home is not the more valuable principal home is to be taken to include property the value of which is equivalent to the value of the less valuable principal home.

“(11AD) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not eligibly separated from that spouse; and
- (c) the principal home of the spouse is not in a retirement village; and
- (d) the spouse does not have a right or interest in his or her principal home that is to be disregarded because of subparagraph 50 (1) (a) (ii); and
- (e) the person's entry contribution was equal to or less than the amount that would be the extra allowable amount if the person was an unmarried person;

then, whether or not the person or the spouse actually has any right or interest in relation to the person's principal home and whatever the value of any such right or interest, the following provisions apply for the purposes of the application of this Part to the person and to the spouse:

- (f) both the person, and the spouse, are to be taken not to have a right or interest in relation to the person's principal home; and
- (g) the person's property is to be taken to include property the value of which is equal to the amount of the person's entry contribution.

“(11AE) Where:

- (a) a married person's principal home is in a retirement village; and
- (b) the person does not share that principal home with his or her spouse but is not eligibly separated from that spouse; and
- (c) the principal home of the spouse is not in a retirement village; and
- (d) the spouse does not have a right or interest in his or her principal home that is to be disregarded because of subparagraph 50 (1) (a) (ii); and
- (e) the person's entry contribution was more than the amount that would be the extra allowable amount if the person was an unmarried person;

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

then, for the purposes of this Part, the person and the spouse are each to be taken to have a right or interest in a principal home to which subparagraph 50 (1) (a) (ii) applies.”;

(h) by inserting after subsection (12) the following subsections:

“(12A) A reference in this section to an amount paid or agreed to be paid to obtain an unmarried person’s current right to live in a retirement village includes, where the person was a married person when he or she took up residence in the retirement village, a reference to any amount paid or agreed to be paid to obtain for the person any current right that the person has to share his or her principal home in the retirement village with a spouse.

“(12B) A reference in this section to a person becoming entitled to take up residence in a retirement village is a reference to a person becoming entitled to take up residence in a retirement village pursuant to the agreement under which the person’s current right to live in the retirement village arises.

“(12C) Where a person who has a right to live in a retirement village under an agreement enters into a new agreement under which the person obtains a right to live in the retirement village (whether in different accommodation or not), then, for the purposes of this section, the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village is the sum of the following amounts:

- (a) the total amount paid pursuant to the new agreement to obtain for the person that right;
- (b) so much (if any) of:
 - (i) any amount paid pursuant to an earlier agreement to obtain for the person a right to live in the retirement village; and
 - (ii) any amount that was, or would have been, payable to the person upon the termination of an earlier agreement;

as in the Commission’s opinion ought to be attributed to the cost of the person’s current right to live in the retirement village.”;

(j) by omitting paragraphs (a), (b) and (c) of the definition of “entry contribution” in subsection (13) and substituting the following paragraphs:

“(a) in the case of an unmarried person—the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village; or

(b) in the case of a married person who shares his or her principal home with his or her spouse—an amount equal to half of the total amount paid or agreed to be paid to obtain

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

for the person or the spouse or both of them their current right to live in the retirement village; or

- (c) in the case of a married person who is eligibly separated from his or her spouse—the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village; or
- (d) in the case of a married person who does not share his or her principal home with his or her spouse but who is not eligibly separated from that spouse:
 - (i) where the principal home of the spouse is not in a retirement village—the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village; or
 - (ii) where the principal home of the spouse is also in a retirement village—an amount equal to half of the total amount paid or agreed to be paid to obtain for the person and the spouse the current right of each of them to live in a retirement village; or
- (e) in the case of an unmarried person who:
 - (i) was a married person when he or she took up residence in the retirement village; and
 - (ii) has stopped being a married person since taking up residence;

the total amount paid or agreed to be paid to obtain for the person his or her current right to live in the retirement village;”.

Commencement: 13 June 1989

Pension loans scheme

104. Section 51 of the Principal Act is amended by omitting paragraph (10) (b) and substituting the following paragraph:

- “(b) if the person dies and is survived by a spouse to whom an amount is payable under Division 5A—the last pension pay day on which such an amount is payable.”.

Commencement: 1 January 1990

Disposal of property or income

105. Section 52 of the Principal Act is amended by omitting from subparagraphs (10) (b) (iii) and (11) (b) (iii) “69” and substituting “251A”.

Commencement: 1 January 1990

Rent assistance

106. Section 55 of the Principal Act is amended:

- (a) by inserting in paragraph (2) (b) “or (2A)” after “(2)”;

Commencement: 1 November 1989

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

(b) by omitting the definition of “maximum amount” in subsection (11) and substituting the following definition:

“‘maximum amount’, in relation to a service pensioner, means:

(a) from 13 December 1989 to 12 June 1990 (inclusive):

(i) if there is at least one relevant child in relation to the service pensioner—\$1,300; and

(ii) in any other case—\$1,040; and

(b) from 13 June 1990 to 19 September 1990 (inclusive):

(i) if there are 3 or more relevant children in relation to the service pensioner—\$1,820; and

(ii) if there are only 1 or 2 relevant children in relation to the service pensioner—\$1,560; and

(iii) in any other case—\$1,300; and

(c) on and after 20 September 1990:

(i) if there are 3 or more relevant children in relation to the service pensioner—\$2,080; and

(ii) if there are only 1 or 2 relevant children in relation to the service pensioner—\$1,820; and

(iii) in any other case—\$1,560;”;

Commencement: 13 December 1989

(c) by inserting “, in the case of a married person,” after “pensioner or” in paragraph (a) of the definition of “relevant child” in subsection (11).

Commencement: 13 June 1989

107. After Division 5 of Part III of the Principal Act the following Division is inserted:

“Division 5A—Bereavement payments

Entitlement of surviving service pensioner on death of pensioner spouse

“57A. (1) Where a member of a pensioner couple dies (other than a service pensioner whose spouse is a social security pensioner), this section applies.

“(2) Subject to this section, there is payable to the surviving pensioner, on each of the next 7 pension pay days after the deceased pensioner’s death, the sum of:

(a) the amount that would have been payable to the surviving pensioner under this Part; and

(b) the amount that would have been payable to the deceased pensioner; on the pay day concerned if the deceased pensioner had not died.

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

“(3) Where the Commission becomes aware of the death at a time when the first available pension pay day is one of the 7 pension pay days after the death:

- (a) if the amount that would be payable to the surviving pensioner under this Part if he or she were an unmarried veteran who was eligible for a service pension on the pension pay day before the first available pension pay day after the notification day is equal to or more than the amount payable to him or her on that pension pay day under subsection (2)—the surviving pensioner’s entitlements under this Part for the period of 14 weeks after the death of the deceased pensioner are to be worked out, with effect from the first pension pay day after the death, as if the surviving pensioner were an unmarried veteran, and the surviving pensioner has no entitlement under subsection (2); or
- (b) in any other case:
 - (i) the surviving pensioner’s entitlements under this Part are to be worked out, with effect from the first available pension pay day after the notification day, having regard to the fact that the surviving pensioner is an unmarried person; and
 - (ii) there is payable to the surviving pensioner as a lump sum an amount worked out using the formula:

$$(7 - \text{PPD}) \times (\text{CMR} - \text{NR})$$

where:

‘PPD’ [Pension Pay Days] means the number of pension pay days after the death of the deceased pensioner and before the first available pension pay day;

‘CMR’ [Combined Married Rate] means the sum of:

- (a) the amount that would have been payable to the surviving pensioner under this Part; and
- (b) the amount that would have been payable to the deceased pensioner;

on the pension pay day before the first available pension pay day if the deceased pensioner had not died;

‘NR’ [New Rate] means the amount that would be payable to the surviving pensioner under this Part as an unmarried person on the pension pay day before the first available pension pay day; and

- (iii) the surviving pensioner has no further entitlement under subsection (2).

“(4) Where:

- (a) the surviving pensioner dies within 14 weeks after the death of the deceased pensioner; and

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

(b) the Commission has not become aware of the death of the deceased pensioner before the death of the surviving pensioner;
there is payable, to such person as the Commission thinks appropriate, in respect of the first deceased pensioner, as a lump sum, an amount worked out using the formula:

$$(7 - \text{PPD}) \times (\text{CMR} - \text{NR})$$

where:

'PPD' [Pension Pay Days] means the number of pension pay days in the period from and including the day after the first deceased pensioner's death to and including the day of the surviving pensioner's death;

'CMR' [Combined Married Rate] means the sum of:

(a) the amount that would have been payable to the surviving pensioner under this Part; and

(b) the amount that would have been payable to the deceased pensioner;

on the pension pay day after the surviving pensioner's death if neither the deceased pensioner nor the surviving pensioner had died;

'NR' [New Rate] means the amount that would have been payable to the surviving pensioner under this Part as an unmarried person on the pension pay day after the surviving pensioner's death if he or she had not died.

"(5) Subsection (2) does not apply in respect of any pension pay day after the death of the surviving pensioner.

"(6) Where, immediately before the death of a member of a pensioner couple, a direction under subsection 47 (2) or (2A) was in force in respect of the deceased pensioner or his or her spouse, the amounts referred to in subsection (2), subparagraph (3) (b) (ii) and subsection (4) are to be worked out as if the 2 pensioners had been living together and no direction had been in force under subsection 47 (2) or (2A).

"(7) A person's entitlements under this section are instead of, and not in addition to, any entitlements the person would, but for this section, have to a relevant pension.

"(8) A person covered by this section may, by written notice to the Commission, choose not to receive payments under this section and to receive instead any payments by way of a relevant pension to which the person would be entitled but for subsection (7).

"(9) Where a person chooses as provided by subsection (8):

(a) this Part, or the *Social Security Act 1947*, has effect accordingly; and

(b) the person may not withdraw that choice after the Department has taken all the action required to give effect to that choice.

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

“(10) Where:

- (a) after the death of a service pensioner or a social security pensioner, an amount to which the pensioner would have been entitled if he or she had not died has been paid under this Part or under the *Social Security Act 1947*; and
- (b) this section applies in relation to the death of the pensioner; and
- (c) the Commission is not satisfied that the surviving pensioner has not had the benefit of the amount;

then:

- (d) the amount is not recoverable from the surviving pensioner or from the personal representative of the deceased pensioner, except to the extent (if any) that the amount exceeds the amount payable to the surviving pensioner under this section; but
- (e) the amount payable to the surviving pensioner under this section is reduced by the amount referred to in paragraph (a).

“(11) Where:

- (a) within the period of 14 weeks after the death of a service pensioner or a social security pensioner, an amount to which the pensioner would have been entitled if he or she had not died has been paid under this Part or under the *Social Security Act 1947* into an account with a bank, credit union or building society (in this subsection called the ‘**financial institution**’); and
- (b) this section applies in relation to the death of the pensioner; and
- (c) the financial institution pays to the surviving spouse of the deceased pensioner, out of that account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (a);

then, in spite of anything in any other law, the financial institution is not liable to any action, claim or demand by the Commonwealth, the personal representative of the deceased pensioner, or anyone else, in respect of the payment of that money to the surviving spouse.

“(12) Where this section applies in relation to the death of a social security pensioner:

- (a) a reference to an amount that would have been payable to the deceased pensioner is a reference to an amount that would have been payable to the deceased pensioner under the *Social Security Act 1947*; and
- (b) a reference to an amount that would have been payable to the deceased pensioner on a pension pay day is, in relation to a veterans pension pay day (in this subsection called ‘**the relevant veterans pension pay day**’), a reference to:
 - (i) where the first Thursday after the deceased pensioner’s death was a veterans pension pay day—an amount that would have been payable to the deceased pensioner on the social security

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

pension pay day after the relevant veterans pension pay day;
or

- (ii) in any other case—an amount that would have been payable to the deceased pensioner on the social security pension pay day before the relevant veterans pension pay day.

“(13) A reference in this section to an amount that would be payable to a surviving pensioner as an unmarried person is a reference to:

- (a) where the surviving pensioner was receiving a carer's service pension because he or she was caring for the deceased pensioner—the amount that would be payable to the surviving pensioner if the surviving pensioner were entitled to receive a carer's service pension as an unmarried person; or
- (b) where the surviving pensioner was receiving a wife's service pension—the amount that would be payable to the surviving pensioner if she were entitled to receive a wife's service pension under section 66.

“(14) In this section:

'first available pension pay day', in relation to the death of a pensioner, means the first pension pay day after the notification day for which it is practicable to terminate or adjust the payments being made under this Part in respect of the deceased pensioner and the surviving pensioner;

'notification day', in relation to the death of a pensioner, means the day on which the Commission becomes aware of the death;

'relevant pension' includes a pension under Part V or VI or Schedule 1B of the *Social Security Act 1947*;

'social security pension pay day' means a pension pay day within the meaning of the *Social Security Act 1947*;

'veterans pension pay day' means a pension pay day within the meaning of this Act.

Entitlement of carer on death of veteran cared for

“57B. (1) Where:

- (a) a veteran dies; and
- (b) before the veteran's death, a person other than the deceased veteran's spouse (in this section called the **'carer'**) was, because he or she cared for the deceased veteran, entitled to receive a carer's service pension;

subsection (2) applies.

“(2) The carer is, during the period of 14 weeks after the deceased veteran's death, eligible to receive a carer's service pension as if the deceased veteran had not died, but the rate at which the pension is payable is to be determined having regard to the carer's actual circumstances.

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

“(3) A person’s entitlements under this section are instead of, and not in addition to, any entitlements the person would, but for this section, have to a relevant pension.

“(4) A person covered by this section may, by written notice to the Commission, choose not to receive payments under this section and to receive instead any payments by way of a relevant pension to which the person would be entitled but for subsection (3).

“(5) Where a person chooses as provided by subsection (4):

- (a) this Part, or the *Social Security Act 1947*, has effect accordingly; and
- (b) the person may not withdraw that choice after the Department has taken all the action required to give effect to that choice.

“(6) In this section:

‘relevant pension’ includes a pension under Part V or VI or Schedule 1B of the *Social Security Act 1947*.

Entitlement of parent or guardian on death of dependent child

“57C. (1) Where:

- (a) a child dies; and
- (b) before the child died, a person was in receipt of a qualifying child-related payment in respect of that child;

subsection (2) applies.

“(2) Subject to this section, there is payable to each person who was, before the child’s death, in receipt of a child-related payment in respect of that child, in respect of the period of 14 weeks after the child’s death, an amount worked out using the formula:

PCRP – CCRP

where:

‘PCRP’ [Previous Child-Related Payments] means the amount that would have been payable to the person in respect of that period in child-related payments if the child had not died;

‘CCRP’ [Current Child-Related Payments] means the amount (if any) that is, after the child’s death, payable to the person in respect of that period in child-related payments.

“(3) Where the Commission becomes aware of the death of the deceased child within 14 weeks after that death:

- (a) there is payable to the person who was in receipt of the qualifying child-related payment in respect of a child, as a lump sum, so much of the total of:
 - (i) the amount payable to that person under subsection (2) in respect of that child; and

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

- (ii) any amount payable to any other person under subsection (2) in respect of that child;
as has not already been paid pursuant to subsection (2); and
- (b) there is no further entitlement under subsection (2) in respect of that child.

“(4) In this section:

‘child-related payment’ means:

- (a) additional service pension under subsection 47 (3) or 48 (3);
or
- (b) additional remote area allowance under subsection 57 (7); or
- (c) an amount by way of rent assistance payable to a person under section 55 because the person, or his or her spouse, is receiving:
 - (i) a payment referred to in paragraph (a); or
 - (ii) additional pension under subsection 33 (3) or (4), or additional benefit under subsection 118 (5) or (11) of the *Social Security Act 1947*;

‘qualifying child-related payment’ means a payment of additional service pension under subsection 47 (3) or 48 (3).

Entitlement of estate of deceased pensioner

“57D. (1) Where a service pensioner who is not a member of a pensioner couple dies, there is payable, to such person as the Commission thinks appropriate, an amount equal to the amount that would have been payable under this Part, to the deceased pensioner, if he or she had not died, on the pension pay day after his or her death.

“(2) Where an amount is paid pursuant to subsection (1) in respect of a deceased pensioner, the Commonwealth is not liable to any action, claim or demand for any further payment under that subsection in respect of that deceased pensioner.

Part applies in spite of section 58

“57E. This Part has effect in spite of anything in section 58.”.

Commencement: 1 January 1990

Cancellation, suspension or variation of service pension

108. Section 58 of the Principal Act is amended by inserting after subsection (3A) the following subsection:

“(3B) In spite of subsection (3A), where:

- (a) on or before 1 May 1990 a person advises the Commission that he or she has a compulsorily preserved superannuation benefit; and

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

- (b) as a result of that advice, the Commission makes a determination under subsection (3) relating to a service pension payable to the person;

the determination takes effect:

- (c) on 1 February 1990; or
(d) on the day when the person acquired the compulsorily preserved superannuation benefit;

whichever is later.”.

Commencement: 1 February 1990

Repeal of section 65

- 109.** Section 65 of the Principal Act is repealed.

Commencement: 1 January 1990

Clothing allowance

- 110.** Section 97 of the Principal Act is amended:

- (a) by altering the table in subsection (1) as follows:
- (i) omit “6.20”, substitute “6.70”;
 - (ii) omit “2.90” (wherever occurring), substitute “3.10”;
 - (iii) omit “4.00” (wherever occurring), substitute “4.30”;
- (b) by omitting from subsection (2) “\$6.20” and substituting “\$6.70”;
- (c) by omitting from subsection (3) “\$2.90” and substituting “\$3.10”.

Commencement: 16 November 1989

Attendant allowance

- 111.** Section 98 of the Principal Act is amended:

- (a) by altering the table in subsection (1) as follows:
- (i) omit “72.60” (wherever occurring), substitute “78.20”;
 - (ii) omit “145.20” (wherever occurring), substitute “156.40”;

Commencement: 16 November 1989

- (b) by omitting from subsection (2) “\$72.60” and substituting “\$78.20”;

Commencement: 16 November 1989

- (c) by inserting after subsection (4) the following subsection:

“(4A) Attendant allowance is not payable to a veteran where a carer’s service pension under section 41:

- (a) is payable; or
- (b) would be payable, but for action that has been taken pursuant to paragraph 58 (1) (b) or subsection 205 (2);

to a person because the person is caring for the veteran.”.

Commencement: 1 November 1989

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

112. After section 98 of the Principal Act the following section is inserted:

Bereavement payment in respect of disabled veterans

“98A. (1) This section applies where a married veteran who is in receipt of a disability pension dies.

“(2) The widow or widower of the deceased veteran is entitled, in respect of the period of 12 weeks after the deceased veteran’s death, to payments at:

- (a) the rate at which the disability pension would have been payable to the deceased veteran, if he or she had not died, on the first available pension pay day after the Commission becomes aware of the death; or
 - (b) the general rate in force on that pension pay day;
- whichever is lower.

“(3) Where:

- (a) the widow or widower dies within 12 weeks after the death of the deceased veteran; and
 - (b) the Commission has not become aware of the death of the deceased veteran before the death of the widow or widower;
- there is payable, to such person as the Commission thinks appropriate, in respect of the deceased veteran, an amount worked out using the formula:

$$6 \times \text{Deceased veteran's amount}$$

where:

‘Deceased veteran’s amount’ means:

- (a) the amount of disability pension that would have been payable to the deceased veteran, if he or she had not died, on the first available pension pay day after the death of the widow or the widower; or
- (b) the amount that would have been payable to the deceased veteran, if he or she had not died, on the first available pension pay day after the death of the widow or widower, at the general rate in force on that pension pay day;

whichever is lower.

“(4) Subsection (2) does not apply:

- (a) if the Commission does not become aware of the veteran’s death until after the death of the widow or widower; or
- (b) in respect of any pension pay day after the death of the widow or widower.

“(5) Where:

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

- (a) within the period of 12 weeks after the death of a veteran, an amount to which the veteran would have been entitled if he or she had not died has been paid by way of a disability pension into an account with a bank, credit union or building society (in this subsection called the **'financial institution'**); and
- (b) this section applies in relation to the death of the veteran; and
- (c) the financial institution pays to the widow or widower of the deceased veteran, out of that account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (a);

then, in spite of anything in any other law, the financial institution is not liable to the Commonwealth, the personal representative of the deceased veteran, or anyone else, for any loss incurred because of the payment of that money to the widow or widower.

“(6) In this section:

'disability pension' means a pension under Part II or IV, other than a pension payable to a person as a dependant of a deceased veteran;

'first available pension pay day', in relation to the death of a veteran, means the first pension pay day after the Commission becomes aware of the death for which it is practicable to terminate or adjust the payments being made by way of disability pension in respect of the deceased veteran;

'married veteran' has the same meaning as it has in Part III;

'widow' has the same meaning as it has in Part III;

'widower' has the same meaning as it has in Part III.”.

Commencement: Day of Royal Assent

Funeral benefits—veterans

113. Section 99 of the Principal Act is amended by omitting paragraph (4) (a) and substituting the following paragraph:

“(a) a sum of \$550 or an amount equal to the amount paid or payable in respect of the funeral of the deceased veteran, whichever is less; and”.

Commencement: 1 January 1990

Funeral benefits—dependants of deceased veterans

114. Section 100 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) A funeral benefit under this section in respect of a deceased dependant of a deceased veteran is a sum of \$550 or an amount equal to the amount paid or payable in respect of the funeral of the deceased dependant, whichever is less.”.

Commencement: 1 January 1990

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Repeal of section 101

115. Section 101 of the Principal Act is repealed.

Commencement: 1 January 1990

Recreation transport allowance

116. Section 104 of the Principal Act is amended by altering the table in subsection (1) as follows:

(a) omit "38.60" (wherever occurring), substitute "41.60";

(b) omit "19.30" (wherever occurring), substitute "20.80".

Commencement: 16 November 1989

Application

117. Section 111 of the Principal Act is amended by omitting from paragraph (1) (c) " , 100 or 101" and substituting "or 100".

Commencement: 1 January 1990

Time for applying for funeral benefit

118. Section 113 of the Principal Act is amended:

(a) by omitting from subsection (1) " , 100 or 101" and substituting "or 100";

(b) by omitting subsection (4);

(c) by omitting from subsection (5) " , 100 or 101" and substituting "or 100";

(d) by omitting from subsection (5) " , (3) or (4)" and substituting "or (3)".

Commencement: 1 January 1990

Review of decision etc.

119. Section 115 of the Principal Act is amended by omitting from paragraph (1) (b) " , 100 or 101" and substituting "or 100".

Commencement: 1 January 1990

Instalments of pension

120. Section 121 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsections:

“(1) A fortnightly instalment of pension is payable to a person on each pension pay day on which the person is entitled to receive pension.

“(1A) Where a person becomes entitled to receive pension on a pension pay day that occurs before the day (in this subsection called the ‘entitlement day’) on which, but for the operation of subsection 20 (1) or (2), 21 (2) or 46 (3), the person would have become entitled to receive that pension, any instalment of that pension that,

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

but for this subsection, would have been payable to the person on that pension pay day is payable to the person:

- (a) if the entitlement day is a pension pay day—on the entitlement day; or
 - (b) in any other case—on the first pension pay day after the entitlement day.”;
- (b) by omitting subsection (5) and substituting the following subsection:
- “(5) In this section:
- ‘pension’ includes an allowance under this Act, other than Victoria Cross allowance.”.

Commencement: 28 December 1989

121. After section 122 of the Principal Act the following section is inserted:

Pension, benefit or allowance may be paid to bank etc.

“122A. (1) The Commission may direct that the whole or a part of the amount of a pension is to be paid, at such intervals as it directs, to the credit of an account nominated from time to time by the pensioner, being an account maintained by the pensioner, either alone or jointly or in common with another person, with a bank, credit union or building society, and payment is to be made accordingly.

“(2) In this section:

‘pension’ means a pension or allowance under this Act;

‘pensioner’ means a person to whom a pension is payable, whether on his or her own behalf or on behalf of another person.”.

Commencement: Day of Royal Assent

Pensions etc. absolutely inalienable

122. Section 125 of the Principal Act is amended by omitting subsection (3).

Commencement: Day of Royal Assent

Variation of certain rates and amounts

123. Section 198 of the Principal Act is amended:

- (a) by omitting the definition of “relevant period” in subsection (1) and substituting the following definition:

“ ‘relevant period’ means:

- (a) in relation to a relevant rate:
 - (i) the period starting on 15 November 1989 and ending on 17 April 1990; and
 - (ii) the period starting on 18 April 1990 and ending on 19 September 1990; and

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- (iii) the period of 6 months starting on 20 September 1990; and
 - (iv) each subsequent period of 6 months; or
- (b) in relation to a rent assistance amount:
- (i) the period of 6 months starting on 20 March 1991; and
 - (ii) each subsequent period of 6 months;”;

Commencement: 13 December 1989

(b) by inserting in subsection (1) the following definition:

“‘rent assistance amount’ means the amount specified in subparagraph (c) (i), (ii) or (iii) of the definition of ‘maximum amount’ in subsection 55 (1);”;

Commencement: 13 December 1989

(c) by omitting from paragraph (4) (a) “paragraph (b) or (c)” and substituting “the other paragraphs of this subsection”;

Commencement: 22 May 1986

(d) by inserting after paragraph (4) (a) the following paragraph:

“(aa) where the rate calculated under paragraph (a) for the purposes of paragraph 47 (1) (a) or (b) is not a multiple of \$2.60 per year—a rate equal to:

- (i) if the rate so calculated exceeds the next lower rate that is such a multiple by \$1.30 per year or more—the next higher rate that is such a multiple; or
- (ii) if the rate so calculated exceeds the next lower rate that is such a multiple by less than \$1.30 per year—that next lower rate;”;

Commencement: 22 May 1986

(e) by inserting after subsection (4) the following subsection:

“(4A) Where the factor worked out under subsection (5) in relation to a relevant period in relation to a rent assistance amount is greater than 1, this Act has effect as if for each rent assistance amount there were substituted, on the first day of that period:

- (a) subject to paragraph (b)—the amount worked out by multiplying by that factor:
 - (i) where subparagraph (ii) does not apply—the rent assistance amount; or
 - (ii) if, because of another application or other applications of this section, this Act has had effect as if another amount were substituted, or other amounts were successively substituted, for the rent assistance amount—the substituted amount or the last substituted amount, as the case may be; or

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

- (b) where the amount worked out under paragraph (a) is not a multiple of \$2.60—an amount equal to:
 - (i) if the amount so worked out exceeds the next lower amount that is such a multiple by \$1.30 or more—the next highest amount that is such a multiple; or
 - (ii) if the amount so worked out exceeds the next lower amount that is such a multiple by less than \$1.30—that next lower amount;”;

Commencement: 13 December 1989

(f) by inserting in subsection (5) “or (4A)” after “(4)”;

Commencement: 13 December 1989

(g) by inserting after subsection (5) the following subsections:

“(5A) The rate specified in paragraph 30 (1) (a) during the relevant period starting on 18 April 1990 and ending when a new rate is substituted under subsection (4) is to be taken for all purposes to be the sum of:

- (a) the rate that would, under subsection (4), be substituted for that rate on 18 April 1990; and
- (b) \$104 per annum.

“(5B) The rate specified in paragraph 47 (1) (a) during the relevant period starting on 18 April 1990 and ending when a new rate is substituted under subsection (4) is to be taken for all purposes to be the sum of:

- (a) the rate that would, under subsection (4), be substituted for that rate on 18 April 1990; and
- (b) \$104 per annum.

“(5C) The rate specified in paragraph 47 (1) (b) during the relevant period starting on 18 April 1990 and ending when a new rate is substituted under subsection (4) is to be taken for all purposes to be the sum of:

- (a) the rate that would, under subsection (4), be substituted for that rate on 18 April 1990; and
- (b) \$85.80 per annum.

“(5D) For the purposes of the next application of subsection (4) after 18 April 1990 in relation to the rate specified in paragraph 30 (1) (a), the last substituted rate referred to in that subsection is to be taken to be the rate worked out under subsection (5A).

“(5E) For the purposes of the next application of subsection (4) after 18 April 1990 in relation to the rate specified in paragraph 47 (1) (a), the last substituted rate referred to in that subsection is to be taken to be the rate worked out under subsection (5B).

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

“(5F) For the purposes of the next application of subsection (4) after 18 April 1990 in relation to the rate specified in paragraph 47 (1) (b), the last substituted rate referred to in that subsection is to be taken to be the rate worked out under subsection (5C).”.

Commencement: Day of Royal Assent

124. After section 198A of the Principal Act the following sections are inserted:

Indexation of income test ‘free area’

“198B. (1) In this section:

‘**index number**’, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter;

‘**relevant amount**’ means the amount specified in:

- (a) sub-subparagraph 47 (4) (a) (i) (A); or
- (b) sub-subparagraph 47 (5) (a) (i) (A) or (B); or
- (c) subparagraph 48 (4) (a) (i);

‘**relevant year**’ means the year starting on 1 July 1991 and each subsequent year.

“(2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number is to be disregarded for the purposes of this section.

“(3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard is to be had only to index numbers published in terms of the new reference base.

“(4) Where the factor worked out under subsection (5) in relation to a relevant year is greater than 1, this Act, and any Act that refers to this Act, have effect as if for each relevant amount there were substituted, on the first day of that year:

- (a) subject to paragraph (b)—the amount worked out by multiplying by that factor:
 - (i) where subparagraph (ii) does not apply—the relevant amount; or
 - (ii) if, because of another application or other applications of this section, this Act has had effect as if another amount was substituted, or other amounts were successively substituted,

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

for the relevant amount—the substituted amount or the last substituted amount, as the case may be; or

- (b) where the amount worked out under paragraph (a) is not a multiple of \$1—an amount equal to:
- (i) if the amount so worked out exceeds the next lower amount that is such a multiple by 50 cents or more—the next highest amount that is such a multiple; or
 - (ii) if the amount so worked out exceeds the next lower amount that is such a multiple by less than 50 cents—that next lower amount.

“(5) The factor to be worked out for the purposes of subsection (4) in relation to a relevant year is the number (calculated to 3 decimal places) worked out by dividing the index number for the March quarter immediately preceding the relevant year by the index number for the March quarter immediately preceding the first-mentioned March quarter.

“(6) Where the factor worked out under subsection (5) in relation to a relevant year would, if it were calculated to 4 decimal places, end with a number greater than 4, the factor worked out under that subsection in relation to that relevant year is to be taken to be the factor calculated to 3 decimal places under subsection (5) and increased by 0.001.

“(7) Where, because of the application of this section, this Act has effect as if another amount were substituted for a relevant amount on the first day of a year, the substitution, in so far as it affects instalments of pensions, benefits and allowances under this Act, has effect in relation to every instalment of such a pension, benefit or allowance that falls due on or after the first day of that year.

Indexation of employment amount

“198C. (1) In this section:

‘index number’, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter;

‘relevant amount’ means the amount specified in paragraph (c) of the definition of ‘employed child’ in subsection 35 (1);

‘relevant year’ means the year starting on 1 January 1991 and each subsequent year.

“(2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number is to be disregarded for the purposes of this section.

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

“(3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard is to be had only to index numbers published in terms of the new reference base.

“(4) Where the factor worked out under subsection (5) in relation to a relevant year is greater than 1, this Act has effect as if for the relevant amount there were substituted, on the first day of that year:

- (a) subject to paragraph (b)—the amount worked out by multiplying by that factor:
 - (i) where subparagraph (ii) does not apply—the relevant amount; or
 - (ii) if, because of another application or other applications of this section, this Act has had effect as if another amount was substituted, or other amounts were successively substituted, for the relevant amount—the substituted amount or the last substituted amount, as the case may be; or
- (b) where the amount worked out under paragraph (a) is not a multiple of 5 cents—an amount equal to:
 - (i) if the amount so worked out exceeds the next lower amount that is such a multiple by 2.5 cents or more—the next highest amount that is such a multiple; or
 - (ii) if the amount so worked out exceeds the next lower amount that is such a multiple by less than 2.5 cents—that next lower amount.

“(5) The factor to be worked out for the purposes of subsection (4) in relation to a relevant year is the number (calculated to 3 decimal places) worked out by dividing the index number for the June quarter immediately preceding the relevant year by the index number for the June quarter immediately preceding the first-mentioned June quarter.

“(6) Where the factor worked out under subsection (5) in relation to a relevant year would, if it were calculated to 4 decimal places, end with a number greater than 4, the factor worked out under that subsection in relation to that relevant year is to be taken to be the factor calculated to 3 decimal places under subsection (5) and increased by 0.001.

“(7) Where, because of the application of this section, this Act has effect as if another amount were substituted for the relevant amount on the first day of a year, the substitution, in so far as it affects instalments of pensions and allowances under this Act, has effect in relation to every instalment of such a pension or allowance that falls due on or after the first day of that year.”.

Commencement: Day of Royal Assent

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Recovery of overpayments

125. Section 205 of the Principal Act is amended by omitting subsection (4).

Commencement: 1 January 1990

Order for repayment of pension etc.

126. Section 211 of the Principal Act is amended:

(a) by adding at the end the following subsections:

“(3) Where:

(a) the Court makes an order under subsection (1) for the payment to the Commonwealth of an amount of money; and

(b) the clerk, or other appropriate officer, of the Court signs a certificate specifying:

(i) the amount ordered to be paid to the Commonwealth;
and

(ii) the person by whom the amount is to be paid; and

(c) the certificate is filed in a court (which may be the Court) having civil jurisdiction to the extent of the amount to be paid;

the certificate is enforceable in all respects as a final judgment of the court in which the certificate is filed.

“(4) In spite of anything in this Act or any other law, a person is not to be imprisoned in respect of a failure to pay an amount payable to the Commonwealth under this section.”;

Commencement: Day of Royal Assent

(b) by adding at the end the following subsections:

“(5) Where:

(a) a person is convicted of an offence against subsection 208 (1) or (2); and

(b) the court orders him or her to pay an amount of more than \$30,000 to the Commonwealth under subsection (1); and

(c) the offence involved a scheme to defraud the Commonwealth;

the court may, on application by the Commonwealth, order the person to pay to the Commonwealth interest on the amount mentioned in paragraph (b), at the rate of 20% per annum, in respect of the period or periods in respect of which the person was paid pension, allowance or other benefit as mentioned in subsection (1).

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

“(6) In this section:

‘scheme to defraud the Commonwealth’ includes either of the following:

- (a) a scheme involving the making of a series of false or misleading statements;
- (b) a scheme involving obtaining a series of payments of pension, allowance or other benefit or instalments of pension, allowance or other benefit under this Act (being payments that were not payable) by means of impersonation or a fraudulent device.”.

Commencement: 1 January 1990

Minor amendments

127. The Principal Act is amended as set out in Schedule 2.

Commencement: 1 March 1989

**PART 11—AMENDMENTS OF VETERANS' ENTITLEMENTS
(TRANSITIONAL PROVISIONS AND CONSEQUENTIAL
AMENDMENTS) ACT 1986**

Principal Act

128. In this Part, “Principal Act” means the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*¹⁰.

Commencement: Day of Royal Assent

Restrictions on dual pensions

129. Section 10 of the Principal Act is amended:

- (a) by omitting from subsection (1) “or a pension under Part IV or V of the *Social Security Act 1947*” and substituting “a pension under Part IV of the *Social Security Act 1947* or a social security widow’s pension”;
- (b) by omitting from paragraph (3) (b) “a pension under Part IV or V of the *Social Security Act 1947*” and substituting “a pension under Part IV of the *Social Security Act 1947* or a social security widow’s pension”;
- (c) by omitting from paragraph (4) (a) “a pension under Part IV or V of the *Social Security Act 1947*” and substituting “a pension under Part IV of the *Social Security Act 1947* or a social security widow’s pension”;
- (d) by omitting from paragraph (4) (b) “paragraph (a)” and substituting “subsection (1)”;
- (e) by omitting from subsection (6) “a pension under Part IV or V of the *Social Security Act 1947*” and substituting “a pension under

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Part IV of the *Social Security Act 1947* or a social security widow's pension”;

(f) by adding at the end the following subsection:

“(7) In this section:

‘social security widow’s pension’ means a pension payable to a woman who had been dependent upon, or living with, a man before the man’s death, under:

- (a) Part IV of the *Social Security Act 1947* as in force before 2 July 1987; or
- (b) Part V of the *Social Security Act 1947* as in force between 2 July 1987 and 28 February 1989 (inclusive); or
- (c) Part VI or Schedule 1B of the *Social Security Act 1947* as in force on and after 1 March 1989”.

Commencement: 1 March 1989

Retrospective operation of decisions

130. Section 21 of the Principal Act is amended:

- (a) by omitting from paragraph (1A) (a) “in this subsection called the determining body” and substituting “(in this subsection called the **‘determining body’**)”;

Commencement: 22 December 1988

- (b) by inserting after paragraph (3) (a) the following paragraphs:

“(aa) where the decision is made on review of a decision made on or after 1 January 1985 by the Commission about the rate at which pension is payable to a person, where the Repatriation Review Tribunal had previously, on application under section 107VC of the *Repatriation Act 1920* as in force before 1 January 1985, granted the person’s claim for pension—a date that is not earlier than the operative date set by the Repatriation Review Tribunal in relation to the grant of the claim for pension; or

(ab) where the decision is made on review of a decision made on or after 1 January 1985 by the Commission about the rate at which pension is payable to a person, where the Repatriation Review Tribunal had referred the matter to the Commission under section 107VJ of the *Repatriation Act 1920* as in force before 1 January 1985—a date that is not earlier than the date of that reference; or”.

Commencement: Day of Royal Assent

Child of a person

131. Section 23 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) “Part VI of the *Social Security*

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

Act 1947” and substituting “Part IVAAA of the *Social Security Act 1947* as then in force”;

- (b) by omitting from subsection (1) “be read as if ‘VI or’ were omitted from subparagraph (b) (iii) of that definition” and substituting “be read as if ‘or V’ were omitted from that definition”;
- (c) by omitting from paragraph (3) (a) “Part VI of the *Social Security Act 1947*” and substituting “Part IVAAA of the *Social Security Act 1947* as then in force”;
- (d) by omitting from subsection (3) “be read as if ‘VI or’ were omitted from subparagraph (b) (iii) of that definition” and substituting “be read as if ‘or V’ were omitted from that definition”.

Commencement: 1 March 1989

Repeal of section 32

132. Section 32 of the Principal Act is repealed.

Commencement: Day of Royal Assent

**PART 12—AMENDMENTS OF WAR PRECAUTIONS ACT REPEAL
ACT 1920**

Principal Act

133. In this Part, “Principal Act” means the *War Precautions Act Repeal Act 1920*¹¹.

Commencement: Day of Royal Assent

Regulations

134. Section 22 of the Principal Act is amended:

- (a) by omitting paragraph (g) and substituting the following paragraph:

“(g) penalties not exceeding a fine of \$1,000 for breaches of regulations made under this section.”;

- (b) by adding at the end the following subsections:

“(2) The penalty, upon conviction, for a breach of subregulation 2 (1) of the Protection of Word ‘Anzac’ Regulations involving the assumption or use of the word ‘Anzac’ or any word resembling the word ‘Anzac’ in connection with any trade, business, calling or profession or in connection with any entertainment or any lottery or art union or as the name or part of the name of a private residence, boat, vehicle, charitable or other institution, or any building in connection therewith, is imprisonment for a period not exceeding 12 months.

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

“(3) The penalty, upon conviction, for a breach of subregulation 3 (1) of the Protection of Word ‘Anzac’ Regulations involving the use of the word ‘Anzac’, or any word resembling the word ‘Anzac’ as the name or part of the name of a street, road or park is imprisonment for a period not exceeding 12 months.”.

Commencement: Day of Royal Assent

SCHEDULE 1

Section 80

**AMENDMENTS OF SOCIAL SECURITY AND VETERANS' AFFAIRS
LEGISLATION AMENDMENT ACT 1988 RELATING TO RENT
ASSISTANCE**

Subsection 13 (2):

Omit the subsection.

Subsection 14 (2):

Omit the subsection.

Subsection 15 (2):

Omit the subsection.

Subsection 16 (2):

Omit the subsection.

Subsection 16 (3):

Omit the subsection.

Subsection 17 (2):

Omit the subsection.

Subsection 29 (2):

Omit the subsection.

SCHEDULE 2

Section 127

**MINOR AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT
1986**

Subsection 5 (1) (definition of "child"):

Omit " , a benefit under Part VI or XIII", substitute "or Schedule 1B, an allowance under Part VI, a benefit under Part XIII".

Subsection 35 (1) (definition of "income support pension"):

- (a) Insert "or Schedule 1B" after "Part IV or V" in paragraph (d).
- (b) Omit "VI or" from paragraph (e).
- (c) Insert "VI," after "Part" in paragraph (f).

Paragraph 37 (1) (a):

Omit " , a benefit under Part VI", substitute "or Part V,".

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

SCHEDULE 2—continued

Subsection 37 (1A):

Omit “96”, substitute “82”.

Subparagraph 42 (1) (b) (i):

Insert “or Schedule 1B” after “or V”.

Subparagraph 42 (1) (b) (ii):

Omit “VI or”.

Subparagraph 42 (1) (b) (iii):

Insert “VI or” after “Part”.

Subsection 47 (4):

- (a) Insert “or V” after “Part IV”.
- (b) Omit “, a benefit under Part VI”.

Subparagraph 49B (2) (a) (i):

Insert “or Schedule 1B” after “or VI”.

Subparagraph 55 (3) (b) (ii):

Insert “or Schedule 1B” after “or V”.

Subparagraph 55 (3) (b) (iii):

Omit “VI or”.

Subparagraph 55 (3) (b) (iv):

Insert “VI or” after “Part”.

Paragraph 55 (6) (a):

Omit “, a benefit under Part IV or XIII, an allowance under Part”, substitute “or Schedule 1B, a benefit under Part XIII, an allowance under Part VI or”.

Paragraph 55 (9) (c):

Omit “96”, substitute “82”.

Subparagraph 63 (4) (a) (ii):

Insert “or Schedule 1B” after “or V”.

Subparagraph 63 (4) (a) (iii):

Omit “a benefit”, substitute “an allowance”.

Subsection 65 (1) (definition of “pension”):

Omit “a benefit under”.

Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989

SCHEDULE 2—continued

Subsection 65 (1) (definition of “pensioner”):

Omit “‘unmarried person’ in subsection 53 (1) of that Act—a benefit under Part VI”, substitute “‘single person’ in subsection 43 (1) of that Act—a pension under Part V”.

Subsection 65 (5):

Omit “a widow’s pension under Part V, or a supporting parent’s benefit under Part VI,” substitute “a sole parent’s pension under Part V, a widowed person’s allowance under Part VI, or a class B widow’s pension under Schedule 1B”.

NOTES

1. No. 42, 1974, as amended. For previous amendments, see No. 58, 1975; Nos. 59, 91, 101, 109 and 157, 1976; No. 75, 1977; Nos. 36, 89 and 133, 1978; Nos. 53 and 123, 1979; No. 132, 1980; Nos. 118 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 54 and 139, 1983; Nos. 15, 46, 63, 120, 135 and 165, 1984; Nos. 24, 65, 70, 95 and 167, 1985; Nos. 28, 75 and 94, 1986; Nos. 44, 131 and 132, 1987; Nos. 85, 87, 99 and 155, 1988; and Nos. 59, 84 and 95, 1989.
2. No. 95, 1953, as amended. For previous amendments, see No. 68, 1955; Nos. 55 and 95, 1956; No. 92, 1957; No. 68, 1958; No. 72, 1959; No. 16, 1961; No. 82, 1962; No. 77, 1963; No. 37, 1964; Nos. 100 and 146, 1965; No. 44, 1966; Nos. 14 and 100, 1967; No. 100, 1968; No. 102, 1969; No. 41, 1970; No. 85, 1971; No. 114, 1972; Nos. 49 and 202, 1973; No. 37, 1974; Nos. 1, 13 and 93, 1975; Nos. 1, 60, 91, 99, 108, 157 and 177, 1976; Nos. 98 and 100, 1977; Nos. 36, 88, 132 and 189, 1978; Nos. 54, 91 and 122, 1979; Nos. 117 and 131, 1980; Nos. 40, 74, 92, 118, 163 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 35, 54 and 139, 1983; Nos. 46, 63, 72, 120, 135 and 165, 1984; Nos. 24, 53, 65, 70, 95, 127 and 167, 1985; Nos. 28, 75, 94 and 115, 1986; Nos. 22, 44, 72, 118, 131 and 132, 1987; and Nos. 79, 87, 99, 155, 1988; and Nos. 59 and 95, 1989.
3. No. 60, 1940, as amended. For previous amendments, see No. 77, 1946; No. 80, 1950; Nos. 17 and 75, 1952; No. 70, 1953; No. 32, 1954; No. 40, 1955; No. 45, 1957; No. 48, 1958; No. 59, 1959; No. 46, 1960; No. 47, 1961; Nos. 64 and 113, 1964; No. 65, 1965; No. 43, 1966; No. 102, 1967; No. 67, 1968; No. 96, 1969; No. 61, 1970; Nos. 18 and 69, 1971; Nos. 16 and 83, 1972; Nos. 6 and 106, 1973; Nos. 4, 25 and 90, 1974; Nos. 35 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; No. 129, 1978; Nos. 18 and 124, 1979; No. 129, 1980; No. 160, 1981; Nos. 80 and 100, 1982; No. 70, 1983; Nos. 90 and 97, 1984; Nos. 90, 95 and 127, 1985; Nos. 28, 29 and 106, 1986; Nos. 78, 88 and 130, 1987; Nos. 35 and 134, 1988; and No. 164, 1989.
4. No. 26, 1947, as amended. For previous amendments, see Nos. 38 and 69, 1948; No. 16, 1949; Nos. 6 and 26, 1950; No. 22, 1951; Nos. 41 and 107, 1952; No. 51, 1953; No. 30, 1954; Nos. 15 and 38, 1955; Nos. 67 and 98, 1956; No. 46, 1957; No. 44, 1958; No. 57, 1959; No. 45, 1961; Nos. 1 and 95, 1962; No. 46, 1963; Nos. 3 and 63, 1964; Nos. 57 and 152, 1965; No. 41, 1966; Nos. 10 and 61, 1967; No. 65, 1968; No. 94, 1969; Nos. 2 and 59, 1970; Nos. 16 and 67, 1971; Nos. 1, 14, 53 and 79, 1972; Nos. 1, 26, 48, 103 and 216, 1973; Nos. 2, 23 and 91, 1974; Nos. 34, 56, 101 and 110, 1975; Nos. 26, 62 and 111, 1976; No. 159, 1977; No. 128, 1978, No. 121,

*Social Security and Veterans' Affairs Legislation
Amendment (No. 4) No. 164, 1989*

NOTES—continued

1979 (as amended by Nos. 37 and 98, 1982); No. 130, 1980; Nos. 61 and 170, 1981; No. 159, 1981 (as amended by No. 98, 1982); Nos. 37, 38 and 148, 1982; Nos. 4 and 36, 1983; No. 69, 1983 (as amended by No. 78, 1984); Nos. 46, 78, 93, 120, 134 and 165, 1984; Nos. 24, 52, 95, 127 and 169, 1985; Nos. 5, 28, 33, 106, 130 and 152, 1986; Nos. 77, 88 and 130, 1987; Nos. 13, 35, 58, 75 and 85, 1988; Nos. 133 and 135, 1988 (as amended by No. 84, 1989); and Nos. 59, 83, 84 and 164, 1989.

5. No. 135, 1988. For previous amendments, see No. 84, 1989.
6. No. 163, 1989.
7. No. 78, 1987.
8. No. 134, 1988.
9. No. 27, 1986, as amended. For previous amendments, see Nos. 106 and 130, 1986; Nos. 78, 88 and 130, 1987; Nos. 13, 35, 75, 99 and 134, 1988; No. 135, 1989 (as amended by No. 84, 1989); and Nos. 59, 83 and 164, 1989.
10. No. 28, 1986, as amended. For previous amendments, see Nos. 29, 106 and 130, 1986; Nos. 78 and 130, 1987; No. 134, 1988; and No. 93, 1989.
11. No. 54, 1920, as amended. For previous amendments, see No. 36, 1921; No. 39, 1922; No. 34, 1923; No. 23, 1928; No. 45, 1934; No. 10, 1955; No. 62, 1958; No. 93, 1966; No. 216, 1973; No. 37, 1976; and No. 65, 1985.

*[Minister's second reading speech made in—
House of Representatives on 22 November 1989
Senate on 30 November 1989]*