



# **Social Security and Veterans' Affairs Legislation Amendment Act (No. 2) 1990**

**No. 119 of 1990**

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## **An Act relating to social security and veterans' affairs**

*[Assented to 28 December 1990]*

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. 2) 1990*.

#### **Commencement**

2. (1) Subject to subsections (2), (3) and (4), this Act commences on the day on which it receives the Royal Assent.

(2) Sections 4, 5 and 6, paragraph 7 (g), sections 8, 19, 20 and 21, paragraph 22 (g) and section 23 are taken to have commenced on 22 August 1990.

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(3) Paragraphs 7 (a) to (f) and 22 (a) to (f) (inclusive) commence on 1 March 1991.

(4) Sections 9 and 10 and paragraphs 41 (aa) and 42 (aa) commence on 1 January 1991.

**PART 2—AMENDMENTS OF SOCIAL SECURITY ACT 1947**

**Principal Act**

3. In this Part, 'Principal Act' means the *Social Security Act 1947*<sup>1</sup>.

**Calculation of value of property**

4. Section 4 of the Principal Act is amended:

- (a) by inserting in subparagraph (1) (a) (i) "or in subsection 4B (14)" after "subparagraph (v)";
- (b) by inserting in subparagraph (1) (a) (ii) "or in subsection 4B (14)" after "subparagraph (v)";
- (c) by omitting from subparagraph (1) (a) (v) "has acquired for valuable consideration, or has retained" and substituting "acquired for valuable consideration, or retained, before 22 August 1990".

**Special provisions relating to residents of retirement villages or certain residences**

5. Section 4B of the Principal Act is amended by adding at the end thereof the following subsections:

“(14) Where:

- (a) the residence that is the principal home of a person is a private residence; and
- (b) the person has acquired for valuable consideration, or has retained, a right to accommodation for life, or a life interest, in that residence; and
- (c) subparagraph 4 (1) (a) (v) does not apply to the right or interest; this section applies as if:
  - (d) the home were in a retirement village; and
  - (e) the amount of the value of the right or interest were the total amount paid to obtain for the person his or her current right to live in the retirement village.

“(15) For the purposes of subsection (14), the value of a right or interest is:

- (a) except where paragraph (b) applies—the amount paid, or agreed to be paid, for the right or interest; or
- (b) where the Secretary considers that, for any special reason in

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any particular case, that value is another amount—that other amount.”.

6. (1) After section 4B of the Principal Act the following section is inserted:

**Income from loans**

“4C. (1) In this section:

**‘interest’**, in relation to a loan, includes any payment for the use of the money lent;

**‘loan rate’** means 10% or, if there is a lower rate determined under subsection (7), that lower rate.

“(2) For the purposes of this section, there is a loan by a person if, but not only if, the person has debentures, bonds or other securities.

“(3) For the purposes of this section, there is no loan by a person because the person has money in an account with a bank, building society or credit union.

“(4) For the purposes of this Act, where:

(a) there is a loan by a person; and

(b) the person is paid interest on the loan; and

(c) the rate per year of the interest is less than the loan rate;

the rate per year of the interest is taken to be the loan rate.

“(5) For the purposes of this Act, where interest paid on a loan is not received, or accounted for, at least as frequently as each anniversary of the making of the loan, interest on the loan is taken to be received by the lender on each such anniversary.

“(6) For the purposes of this Act, where:

(a) there is a loan by a person; and

(b) the person is not paid interest on the loan;

the person is taken to receive on each anniversary of the making of the loan interest on the loan at the loan rate per year.

“(7) The Minister may from time to time, by notice in writing, determine a rate of less than 10% that is to be the loan rate for the purposes of this section.

“(8) A notice by the Minister under subsection (7) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

“(9) Where this section applies, Division 2 of Part 1 does not apply.”.

(2) The amendment made by subsection (1) applies to loans by a person entered into, or acquired, by the person after 21 August 1990.

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**Disposal of income or property**

7. Section 6 of the Principal Act is amended:

- (a) by omitting from subsection (1) "\$4,000" (wherever occurring) and substituting "\$10,000";
- (b) by omitting from subsection (2) "\$2,000" (wherever occurring) and substituting "\$10,000";
- (c) by inserting in subsection (3) "before 1 March 1991" after "property" (second occurring);
- (d) by omitting from subsection (3) "anniversary" and substituting "of the first 5 anniversaries";
- (e) by adding at the end of subsection (3) "and is to cease to be included after the fifth anniversary of that day";
- (f) by inserting after subsection (3) the following subsection:

“(3A) Where an amount is included in the value of the property of a person under subsection (1) or (2) because of a disposition of property after 28 February 1991, the amount is to cease to be included in that value after the fifth anniversary of the day on which that disposition took place.”;

- (g) by inserting after subsection (10) the following subsection:

“(10A) Where, under subsection 4B (15), the value of a right or interest is less than the amount paid, or agreed to be paid, for the right or interest, then, for the purposes of subsection (10), so much of the amount paid, or agreed to be paid, as exceeds the value is not consideration for the right or interest.”.

8. After section 6 of the Principal Act the following section is inserted:

**Income from deprived property**

“6A. (1) In this section:

**‘property rate’** means 10% or, if there is a lower rate determined under subsection (3), that lower rate.

“(2) Where, because of section 6, the value of a person’s property for the purposes of this Act includes the value of property disposed of after 21 August 1990:

- (a) the person is taken to obtain income from that property so disposed of; and
- (b) that income is taken to be whichever is the higher of interest on the value of that property so disposed of at the property rate per year or the amount calculated in accordance with subsection 6 (8).

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“(3) The Minister may from time to time, by notice in writing, determine a rate of less than 10% that is to be the property rate for the purposes of this section.

“(4) A notice by the Minister under subsection (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

9. After section 52 of the Principal Act the following sections are inserted:

**Provision of tax file numbers**

“52A. (1) A sole parent’s pension that a person is qualified to receive under Division 2 is not to be paid to the person:

(a) where:

- (i) the person is in Australia; and
- (ii) the Secretary requires the person to give the Secretary, in writing, a statement of the person’s tax file number; and
- (iii) the person does not comply with the requirement within 28 days; or

(b) where:

- (i) the person is married; and
- (ii) the person’s spouse is in Australia; and
- (iii) the Secretary requires the person to give the Secretary, in writing, a statement of the person’s spouse’s tax file number; and
- (iv) the person does not comply with the requirement within 28 days.

“(2) Subsection (1) is satisfied in relation to a person’s tax file number if:

(a) the Secretary is given:

- (i) where the person is the qualified person—an employment declaration by the person; or
- (ii) where the person is the qualified person’s spouse—a declaration by the person in a form approved by the Secretary; and

(b) the declaration states either:

- (i) that the person has a tax file number but does not know what it is and has asked the Commissioner of Taxation to inform him or her of the number; or
- (ii) that an application by the person for a tax file number is pending; and

(c) where subparagraph (b) (i) applies—the person has given the

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Secretary a document authorising the Commissioner of Taxation to tell the Secretary:

- (i) whether the person has a tax file number; and
  - (ii) if so—the tax file number; and
- (d) where subparagraph (b) (ii) applies—the person has given the Secretary a document authorising the Commissioner to tell the Secretary:
- (i) if a tax file number is issued to the person—the tax file number; or
  - (ii) if the application is refused—that the application has been refused; or
  - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (e) the Commissioner of Taxation has not told the Secretary that the person has no tax file number or that an application by the person for a tax file number has been refused; and
- (f) where the declaration states that an application by the person for a tax file number is pending—the application has not been withdrawn.

“(3) The Secretary may waive the requirement for a statement of the qualified person’s spouse’s tax file number if satisfied that the person:

- (a) does not know that number; and
- (b) can obtain none of the following from the spouse:
  - (i) that number;
  - (ii) the statement of that number;
  - (iii) a declaration under subparagraph (2) (a) (ii).

**Tax file numbers**

“52B. (1) In spite of section 8WA of the *Taxation Administration Act 1953*, the Secretary may request a person to quote a tax file number for the purpose of enabling a payment of a sole parent’s pension to be made to the person or the person’s spouse.

“(2) Where the Secretary is given a document referred to in paragraph 52A (2) (c) or (d) in relation to a person, the Commissioner of Taxation may:

- (a) tell the Secretary whether the person has a tax file number; or
- (b) in spite of section 8WB of the *Taxation Administration Act 1953*, tell the Secretary the person’s tax file number; or
- (c) tell the Secretary if the person’s application for a tax file number is refused; or
- (d) tell the Secretary if the person withdraws his or her application for a tax file number.

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“(3) In spite of section 8WB of the *Taxation Administration Act 1953*, the Secretary may record:

- (a) a tax file number quoted in a statement given to the Secretary for the purpose of section 52A; or
- (b) a tax file number communicated to the Secretary by the Commissioner of Taxation.”.

10. After section 76 of the Principal Act the following sections are inserted:

**Provision of tax file numbers**

“77. (1) A family allowance supplement that a person is qualified to receive is not to be paid to the person:

- (a) where:
  - (i) the Secretary requires the person to give the Secretary, in writing, a statement of the person's tax file number; and
  - (ii) the person does not comply with the request within 28 days; or
- (b) where:
  - (i) the person is married; and
  - (ii) the person's spouse is in Australia; and
  - (iii) the Secretary requires the person to give the Secretary, in writing, a statement of the person's spouse's tax file number; and
  - (iv) the person does not comply with the requirement within 28 days.

“(2) Subsection (1) is satisfied in relation to a person's tax file number if:

- (a) the Secretary is given a declaration by the person in a form approved by the Secretary; and
- (b) the declaration states either:
  - (i) that the person has a tax file number but does not know what it is and has asked the Commissioner of Taxation to inform him or her of the number; or
  - (ii) that an application by the person for a tax file number is pending; and
- (c) where subparagraph (b) (i) applies—the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:
  - (i) whether the person has a tax file number; and
  - (ii) if so—the tax file number; and
- (d) where subparagraph (b) (ii) applies—the person has given the

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Secretary a document authorising the Commissioner to tell the Secretary:

- (i) if a tax file number is issued to the person—the tax file number; or
  - (ii) if the application is refused—that the application has been refused; or
  - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (e) the Commissioner of Taxation has not told the Secretary that the person has no tax file number or that an application by the person for a tax file number has been refused; and
- (f) where the declaration states that an application by the person for a tax file number is pending—the application has not been withdrawn.

“(3) The Secretary may waive the requirement for a statement of the qualified person’s spouse’s tax file number if satisfied that the person:

- (a) does not know that number; and
- (b) can obtain none of the following from the spouse:
  - (i) that number;
  - (ii) the statement of that number;
  - (iii) a declaration by the spouse under paragraph (2) (a).

**Tax file numbers**

“77A. (1) In spite of section 8WA of the *Taxation Administration Act 1953*, the Secretary may request a person to quote a tax file number for the purpose of enabling a payment of a family allowance supplement to be made to the person or the person’s spouse.

“(2) Where the Secretary is given a document referred to in paragraph 77 (2) (c) or (d) in relation to a person, the Commissioner of Taxation may:

- (a) tell the Secretary whether the person has a tax file number; or
- (b) in spite of section 8WB of the *Taxation Administration Act 1953*, tell the Secretary the person’s tax file number; or
- (c) tell the Secretary if the person’s application for a tax file number is refused; or
- (d) tell the Secretary if the person withdraws his or her application for a tax file number.

“(3) In spite of section 8WB of the *Taxation Administration Act 1953*, the Secretary may record:

- (a) a tax file number quoted in a statement given to the Secretary for the purpose of section 77; or



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- (b) a tax file number communicated to the Secretary by the Commissioner of Taxation.”.

**11.** After section 91 of the Principal Act the following sections are inserted:

**Provision of tax file numbers**

“91A. (1) A family allowance that a person is qualified to receive, being an allowance the claim for which was lodged after the commencement of this section, is not to be paid to the person:

(a) where:

- (i) the Secretary requires the person to give the Secretary, in writing, a statement of the person's tax file number; and
- (ii) the person does not comply with the request within 28 days; or

(b) where:

- (i) the person is married; and
- (ii) the person's spouse is in Australia; and
- (iii) the Secretary requires the person to give the Secretary, in writing, a statement of the person's spouse's tax file number; and
- (iv) the person does not comply with the requirement within 28 days.

“(2) Subsection (1) is satisfied in relation to a person's tax file number if:

(a) the Secretary is given a declaration by the person in a form approved by the Secretary; and

(b) the declaration states either:

- (i) that the person has a tax file number but does not know what it is and has asked the Commissioner of Taxation to inform him or her of the number; or
- (ii) that an application by the person for a tax file number is pending; and

(c) where subparagraph (b) (i) applies—the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:

- (i) whether the person has a tax file number; and
- (ii) if so—the tax file number; and

(d) where subparagraph (b) (ii) applies—the person has given the Secretary a document authorising the Commissioner to tell the Secretary:

- (i) if a tax file number is issued to the person—the tax file number; or

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- (ii) if the application is refused—that the application has been refused; or
  - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (e) the Commissioner of Taxation has not told the Secretary that the person has no tax file number or that an application by the person for a tax file number has been refused; and
- (f) where the declaration states that an application by the person for a tax file number is pending—the application has not been withdrawn.

“(3) The Secretary may waive the requirement for a statement of the qualified person’s spouse’s tax file number if satisfied that the person:

- (a) does not know that number; and
- (b) can obtain none of the following from the spouse:
  - (i) that number;
  - (ii) the statement of that number;
  - (iii) a declaration by the spouse under paragraph (2) (a).

**Tax file numbers**

“91B. (1) In spite of section 8WA of the *Taxation Administration Act 1953*, the Secretary may request a person to quote a tax file number for the purpose of enabling a payment of a family allowance to be made to the person or the person’s spouse.

“(2) Where the Secretary is given a document referred to in paragraph 91A (2) (c) or (d) in relation to a person, the Commissioner of Taxation may:

- (a) tell the Secretary whether the person has a tax file number; or
- (b) in spite of section 8WB of the *Taxation Administration Act 1953*, tell the Secretary the person’s tax file number; or
- (c) tell the Secretary if the person’s application for a tax file number is refused; or
- (d) tell the Secretary if the person withdraws his or her application for a tax file number.

“(3) In spite of section 8WB of the *Taxation Administration Act 1953*, the Secretary may record:

- (a) a tax file number quoted in a statement given to the Secretary for the purpose of section 91A; or
- (b) a tax file number communicated to the Secretary by the Commissioner of Taxation.”.

**PART 3—AMNESTY IN RELATION TO CERTAIN LIABILITIES  
UNDER SOCIAL SECURITY ACT 1947**

**Interpretation**

**12. (1)** In this Part:

“**amnesty period**” means the period from 22 August 1990 to 2 October 1990 (inclusive);

“**child allowance**” means an allowance under Part IX, X or XII, or a pension under Part XI, of the Pension Act;

“**event**” includes a change of circumstances but does not include the making of a false or misleading statement to an officer;

“**pension**” means a pension, benefit or allowance under the Pension Act;

“**Pension Act**” means the *Social Security Act 1947*;

“**transgression period**”, in relation to a person and a pension, means the period:

- (a) beginning on the earliest day before 22 August 1990 in respect of which the person received that pension or a related pension; and
- (b) ending on the expiration of 22 August 1990.

**(2)** Subject to subsection (1), except so far as the contrary intention appears, expressions used in this Part have the same meaning as in the Pension Act.

**Related pensions**

**13.** For the purposes of this Part, 2 pensions are related if:

- (a) both pensions are child allowances; or
- (b) neither pension is a child allowance.

**Effect on the Pension Act**

**14.** This Part has effect in spite of anything in the Pension Act.

**Persons not to be liable under Pension Act in certain cases of failure to notify**

**15. (1)** Subject to subsections (2) and (3), where:

- (a) a person has received a pension in respect of a period that included 22 August 1990; and
- (b) because of an event during the person's transgression period for the pension:
  - (i) the person ceased to be eligible for, or entitled to be paid, the pension or a related pension; or
  - (ii) the rate at which the person was entitled to be paid the pension or a related pension decreased; and
- (c) before the amnesty period, the person failed to comply with an

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obligation under the Pension Act to notify the Department of the event; and

- (d) during the amnesty period, the person has informed, or informs, the Department of the event;

then:

- (e) the person is not guilty of an offence in respect of the failure; and

- (f) where, because of the failure:

- (i) the pension or a related pension that should have ceased to be paid continued to be paid; or

- (ii) an amount of the pension or of a related pension that should not have been paid was paid;

the person is not indebted to the Commonwealth in respect of the payment.

(2) Subsection (1) does not apply where the person, before informing the Department, had been:

- (a) charged with an offence in respect of the failure; or

- (b) informed in writing by an officer or by the Director of Public Prosecutions that:

- (i) proceedings had been, or would be, instituted in respect of such an offence; or

- (ii) an amount paid because of the failure is recoverable by the Commonwealth.

(3) Subsection (1) does not apply where, before 22 August 1990, the person notified the Department of the possibility of the payment to the person of an amount of pension that should not have been paid because of the event.

**Persons not to be liable under Pension Act in certain cases of false or misleading statements**

16. (1) Subject to subsections (2) and (3), where:

- (a) a person has received a payment of a pension in respect of a period that included 22 August 1990; and

- (b) the person made a false or misleading statement to an officer that:

- (i) resulted in the pension or a related pension being paid to the person during the person's transgression period for the pension:

- (A) at a time when the person was not eligible for, or entitled to be paid, the pension or related pension; or

- (B) at a higher rate than the rate at which the person

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was entitled to be paid the pension or related pension; or

- (ii) that prevented the cancellation of, or a reduction of the rate of, the pension or a related pension being paid to the person during the person's transgression period for the pension; and
- (c) where subparagraph (b) (i) applies—at the time of making the statement, the person did not know that the statement was false or misleading; and
- (d) during the amnesty period, the person has informed, or informs, the Department of the making of the false or misleading statement;

then:

- (e) the person is not guilty of any offence in respect of the making of the statement; and
- (f) where, because of the statement:
  - (i) the pension or a related pension that should have ceased to be paid continued to be paid; or
  - (ii) an amount of the pension or of a related pension that should not have been paid was paid;

the person is not indebted to the Commonwealth in respect of the payment.

(2) Subsection (1) does not apply where the person, before informing the Department, had been:

- (a) charged with an offence in respect of the statement; or
- (b) informed in writing by an officer or by the Director of Public Prosecutions that:
  - (i) proceedings had been, or would be, instituted in respect of such an offence; or
  - (ii) an amount paid because of the statement is recoverable by the Commonwealth.

(3) Subsection (1) does not apply where, before 22 August 1990, the person notified the Department of the possibility of the payment to the person of an amount of pension that should not have been paid because of the statement.

**Part not to affect liability of officers**

17. Nothing in this Part affects the criminal or civil liability of a person who, at the time when that liability arose, was an officer or was otherwise employed in the Department.

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**PART 4—AMENDMENTS OF VETERANS' ENTITLEMENTS  
ACT 1986**

**Principal Act**

**18.** In this Part, “Principal Act” means the *Veterans' Entitlements Act 1986*<sup>2</sup>.

**Calculation of value of property**

**19.** Section 50 of the Principal Act is amended:

- (a) by inserting in subparagraph (1)(a)(i) “or in subsection 50A (14)” after “subparagraph (iv)”;
- (b) by inserting in subparagraph (1)(a)(ii) “or in subsection 50A (14)” after “subparagraph (iv)”;
- (c) by omitting from subparagraph (1)(a)(iv) “has acquired for valuable consideration, or has retained” and substituting “acquired for valuable consideration, or retained, before 22 August 1990”.

**Special provisions relating to residents of retirement villages or certain residences**

**20.** Section 50A of the Principal Act is amended by adding at the end thereof the following subsections:

“(14) Where:

- (a) the residence that is the principal home of a person is a private residence; and
- (b) the person has acquired for valuable consideration, or has retained, a right to accommodation for life, or a life interest, in that residence; and
- (c) subparagraph 50 (1)(a)(iv) does not apply to the right or interest;

this section applies as if:

- (d) the home were in a retirement village; and
- (e) the amount of the value of the right or interest were the total amount paid to obtain for the person his or her current right to live in the retirement village.

“(15) For the purposes of subsection (14), the value of a right or interest is:

- (a) except where paragraph (b) applies—the amount paid, or agreed to be paid, for the right or interest; or
- (b) where the Secretary considers that, for any special reason in any particular case, that value is another amount—that other amount.”.

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21. (1) After section 50A of the Principal Act the following section is inserted:

**Income from loans**

“50B. (1) In this section:

‘**interest**’, in relation to a loan, includes any payment for the use of the money lent;

‘**loan rate**’ means 10% or, if there is a lower rate determined under subsection 4C (7) of the *Social Security Act 1947*, that lower rate.

“(2) For the purposes of this section, there is a loan by a person if, but not only if, the person has debentures, bonds or other securities.

“(3) For the purposes of this section, there is no loan by a person because the person has money in an account with a bank, building society or credit union.

“(4) For the purposes of this Act, where:

(a) there is a loan by a person; and

(b) the person is paid interest on the loan; and

(c) the rate per year of the interest is less than the loan rate;

the rate per year of the interest is taken to be the loan rate.

“(5) For the purposes of this Act, where interest paid on a loan is not received, or accounted for, at least as frequently as each anniversary of the making of the loan, interest on the loan is taken to be received by the lender on each such anniversary.

“(6) For the purposes of this Act, where:

(a) there is a loan by a person; and

(b) the person is not paid interest on the loan;

the person is taken to receive on each anniversary of the making of the loan interest on the loan at the loan rate per year.

“(7) Where this section applies, Division 1A of Part III does not apply.”.

(2) The amendment made by subsection (1) applies to loans by a person entered into, or acquired, by the person after 21 August 1990.

**Disposal of income or property**

22. Section 52 of the Principal Act is amended:

(a) by omitting from subsection (1) “\$4,000” (wherever occurring) and substituting “\$10,000”;

(b) by omitting from subsection (2) “\$2,000” (wherever occurring) and substituting “\$10,000”;

(c) by inserting in subsection (3) “before 1 March 1991” after “property” (second occurring);

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- (d) by omitting from subsection (3) “anniversary” and substituting “of the first 5 anniversaries”;
- (e) by adding at the end of subsection (3) “and is to cease to be included after the fifth anniversary of that day”;
- (f) by inserting after subsection (3) the following subsection:

“(3A) Where an amount is included in the value of the property of a person under subsection (1) or (2) because of a disposition of property after 28 February 1991, the amount is to cease to be included in that value after the fifth anniversary of the day on which that disposition took place.”;
- (g) by inserting after subsection (10) the following subsection:

“(10A) Where, under subsection 50A (15), the value of a right or interest is less than the amount paid, or agreed to be paid, for the right or interest, then, for the purposes of subsection (10), so much of the amount paid, or agreed to be paid, as exceeds the value is not consideration for the right or interest.”.

23. After section 52 of the Principal Act the following section is inserted:

**Income from deprived property**

“52A. (1) In this section:

‘**property rate**’ means 10% or, if there is a lower rate determined under subsection 6A (3) of the *Social Security Act 1947*, that lower rate.

“(2) Where, because of section 52, the value of a person’s property for the purposes of this Act includes the value of property disposed of after 21 August 1990:

- (a) the person is taken to obtain income from that property so disposed of; and
- (b) that income is taken to be whichever is the higher of interest on the value of that property so disposed of at the property rate per year or the amount calculated in accordance with subsection 52 (8).”.

24. After section 128 of the Principal Act the following sections are inserted:

**Provision of tax file numbers**

“128A. (1) In this section:

‘**income payment**’ means:

- (a) a pension under Part II, III or IV; or
- (b) a temporary incapacity allowance under section 107; or
- (c) a loss of earnings allowance under section 108; or



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(d) an allowance under this Act payable to a person in receipt of a pension referred to in paragraph (a).

“(2) An income payment that a person is eligible to receive is not to be paid to the person where:

- (a) the Secretary requires the person to give the Secretary, in writing, a statement of the person's tax file number and a statement of the person's spouse's tax file number; and
- (b) the person does not comply with that requirement.

“(3) An allowance under a scheme within the meaning of Part VII that a person is eligible to receive is not to be paid to the person where:

- (a) the Secretary requires the person to give the Secretary, in writing, a statement of the person's tax file number and a statement of the person's spouse's tax file number; and
- (b) the person does not comply with that requirement.

“(4) Subsection (2) or (3) is satisfied in relation to a person's tax file number if:

- (a) the Secretary is given:
  - (i) where the person is the qualified person and the pension or allowance is assessable income for the purposes of the *Income Tax Assessment Act 1936*—an employment declaration by the person; or
  - (ii) in any other case—a declaration by the person in a form approved by the Secretary; and
- (b) the declaration states either:
  - (i) that the person has a tax file number but does not know what it is and has asked the Commissioner of Taxation to inform him or her of the number; or
  - (ii) that an application by the person for a tax file number is pending; and
- (c) where subparagraph (b) (i) applies—the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:
  - (i) whether the person has a tax file number; and
  - (ii) if so—the tax file number; and
- (d) where subparagraph (b) (ii) applies—the person has given the Secretary a document authorising the Commissioner to tell the Secretary:
  - (i) if a tax file number is issued to the person—the tax file number; or
  - (ii) if the application is refused—that the application has been refused; or

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- (iii) if the application is withdrawn—that the application has been withdrawn; and
- (e) the Commissioner of Taxation has not told the Secretary that the person has no tax file number or that an application by the person for a tax file number has been refused; and
- (f) where the declaration states that an application by the person for a tax file number is pending—the application has not been withdrawn.

**Tax file numbers**

“128B. (1) In spite of section 8WA of the *Taxation Administration Act 1953*, the Secretary may request a person to quote a tax file number for the purpose of enabling a payment of income payments within the meaning of section 128A to be made to the person or the person's spouse.

“(2) Where the Secretary is given a document referred to in paragraph 128A (4) (c) or (d) in relation to a person, the Commissioner of Taxation may:

- (a) tell the Secretary whether the person has a tax file number; or
- (b) in spite of section 8WB of the *Taxation Administration Act 1953*, tell the Secretary the person's tax file number; or
- (c) tell the Secretary if the person's application for a tax file number is refused; or
- (d) tell the Secretary if the person withdraws his or her application for a tax file number.

“(3) In spite of section 8WB of the *Taxation Administration Act 1953*, the Secretary may record:

- (a) a tax file number quoted in a statement given to the Secretary for the purpose of section 128A; or
- (b) a tax file number communicated to the Secretary by the Commissioner of Taxation.”.

**PART 5—AMNESTY IN RELATION TO CERTAIN LIABILITIES  
UNDER VETERANS' ENTITLEMENTS ACT 1986**

**Interpretation**

**25. (1)** In this Part:

“**amnesty period**” means the period from 22 August 1990 to 2 October 1990 (inclusive);

“**Entitlements Act**” means the *Veterans' Entitlements Act 1986*;

“**event**” includes a change of circumstances but does not include the making of a false or misleading statement to an officer;

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**“pension”** means a pension, benefit or allowance under the Entitlements Act;

**“transgression period”**, in relation to a person, means the period:

- (a) beginning on the earliest day before 22 August 1990 in respect of which the person received a pension; and
- (b) ending on the expiration of 22 August 1990.

(2) Subject to subsection (1), except so far as the contrary intention appears, expressions used in this Part have the same meaning as in the Entitlements Act.

**Effect on the Entitlements Act**

26. This Part has effect in spite of anything in the Entitlements Act.

**Persons not to be liable under Entitlements Act in certain cases of failure to notify**

27. (1) Subject to subsections (2) and (3), where:

- (a) a person has received a pension in respect of a period that included 22 August 1990; and
- (b) because of an event during the person's transgression period:
  - (i) the person ceased to be eligible for, or entitled to be paid, the pension or another pension; or
  - (ii) the rate at which the person was entitled to be paid the pension or another pension decreased; and
- (c) before the amnesty period, the person failed to comply with an obligation under the Entitlements Act to notify the Department of the event; and
- (d) during the amnesty period, the person has informed, or informs, the Department of the event;

then:

- (e) the person is not guilty of an offence in respect of the failure; and
- (f) where, because of the failure:
  - (i) the pension or another pension that should have ceased to be paid continued to be paid; or
  - (ii) an amount of the pension or of another pension that should not have been paid was paid;

the person is not indebted to the Commonwealth in respect of the payment.

(2) Subsection (1) does not apply where the person, before informing the Department, had been:

- (a) charged with an offence in respect of the failure; or
- (b) informed in writing by an officer or by the Director of Public Prosecutions that:

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- (i) proceedings had been, or would be, instituted in respect of such an offence; or
- (ii) an amount paid because of the failure is recoverable by the Commonwealth.

(3) Subsection (1) does not apply where, before 22 August 1990, the person notified the Department of the possibility of the payment to the person of an amount of pension that should not have been paid because of the event.

**Persons not to be liable under Entitlements Act in certain cases of false or misleading statements**

**28. (1)** Subject to subsections (2) and (3), where:

- (a) a person has received a payment of a pension in respect of a period that included 22 August 1990; and
- (b) the person made a false or misleading statement to an officer that:
  - (i) resulted in the pension or another pension being paid to the person during the person's transgression period for the pension:
    - (A) at a time when the person was not eligible for, or entitled to be paid, the pension or other pension; or
    - (B) at a higher rate than the rate at which the person was entitled to be paid the pension or other pension; or
  - (ii) that prevented the cancellation of, or a reduction of the rate of, the pension or another pension being paid to the person during the person's transgression period; and
- (c) where subparagraph (b) (i) applies—at the time of making the statement, the person did not know that the statement was false or misleading; and
- (d) during the amnesty period, the person has informed, or informs, the Department of the making of the false or misleading statement;

then:

- (e) the person is not guilty of any offence in respect of the making of the statement; and
  - (f) where, because of the statement:
    - (i) the pension or another pension that should have ceased to be paid continued to be paid; or
    - (ii) an amount of the pension or of another pension that should not have been paid was paid;
- the person is not indebted to the Commonwealth in respect of the payment.

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(2) Subsection (1) does not apply where the person, before informing the Department, had been:

- (a) charged with an offence in respect of the statement; or
- (b) informed in writing by an officer or by the Director of Public Prosecutions that:
  - (i) proceedings had been, or would be, instituted in respect of such an offence; or
  - (ii) an amount paid because of the statement is recoverable by the Commonwealth.

(3) Subsection (1) does not apply where, before 22 August 1990, the person notified the Department of the possibility of the payment to the person of an amount of pension that should not have been paid because of the statement.

**Part not to affect liability of officers**

29. Nothing in this Part affects the criminal or civil liability of a person who, at the time when that liability arose, was an officer or was otherwise employed in the Department.

**PART 6—AMENDMENT OF SEAMEN'S WAR PENSIONS AND ALLOWANCES ACT 1940**

**Principal Act**

30. In this Part, “Principal Act” means the *Seamen's War Pensions and Allowances Act 1940*<sup>3</sup>.

31. After section 32 of the Principal Act the following sections are inserted:

**Provision of tax file numbers**

“32AA. (1) A pension under this Act that a person is qualified to receive is not to be paid to the person where:

- (a) the Secretary requires the person to give the Secretary, in writing, a statement of the person's tax file number and the person's spouse's tax file number; and
- (b) the person does not comply with that requirement.

“(2) Subsection (1) is satisfied in relation to a person's tax file number if:

- (a) the Secretary is given a declaration by the person in a form approved by the Secretary; and
- (b) the declaration states either:
  - (i) that the person has a tax file number but does not know what it is and has asked the Commissioner of Taxation to inform him or her of the number; or

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- (ii) that an application by the person for a tax file number is pending; and
- (c) where subparagraph (b) (i) applies—the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:
  - (i) whether the person has tax file number; and
  - (ii) if so—the tax file number; and
- (d) where subparagraph (b) (ii) applies—the person has given the Secretary a document authorising the Commissioner to tell the Secretary:
  - (i) if a tax file number is issued to the person—the tax file number; or
  - (ii) if the application is refused—that the application has been refused; or
  - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (e) the Commissioner of Taxation has not told the Secretary that the person has no tax file number or that an application by the person for a tax file number has been refused; and
- (f) where the declaration states that an application by the person for a tax file number is pending—the application has not been withdrawn.

**Tax file numbers**

“32AB. (1) In spite of section 8WA of the *Taxation Administration Act 1953*, the Secretary may request a person to quote a tax file number for the purpose of enabling a payment of pension under this Act to be made to the person or the person’s spouse.

“(2) Where the Secretary is given a document referred to in paragraph 32AA (2) (c) or (d) in relation to a person, the Commissioner of Taxation may:

- (a) tell the Secretary whether the person has a tax file number; or
- (b) in spite of section 8WB of the *Taxation Administration Act 1953*, tell the Secretary the person’s tax file number; or
- (c) tell the Secretary if the person’s application for a tax file number is refused; or
- (d) tell the Secretary if the person withdraws his or her application for a tax file number.

“(3) In spite of section 8WB of the *Taxation Administration Act 1953*, the Secretary may record:

- (a) a tax file number quoted in a statement given to the Secretary for the purpose of section 32AA; or

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- (b) a tax file number communicated to the Secretary by the Commissioner of Taxation.”.

**PART 7—AMNESTY IN RELATION TO CERTAIN LIABILITIES  
UNDER SEAMEN'S WAR PENSIONS AND ALLOWANCES ACT  
1940**

**Interpretation**

**32. (1)** In this Part:

“**amnesty period**” means the period from 22 August 1990 to 2 October 1990 (inclusive);

“**event**” includes a change of circumstances but does not include the making of a false or misleading statement to an officer;

“**pension**” means a pension or allowance under the Seamens Act;

“**Seamens Act**” means the *Seamen's War Pensions and Allowances Act 1940*;

“**transgression period**”, in relation to a person, means the period:

- (a) beginning on the earliest day before 22 August 1990 in respect of which the person received that pension or a related pension; and
- (b) ending on the expiration of 22 August 1990.

(2) Subject to subsection (1), except so far as the contrary intention appears, expressions used in this Part have the same meaning as in the Seamens Act.

**Effect on the Seamens Act**

**33.** This Part has effect in spite of anything in the Seamens Act.

**Persons not to be liable under Seamens Act in certain cases of failure to notify**

**34. (1)** Subject to subsections (2) and (3), where:

- (a) a person has received a pension in respect of a period that included 22 August 1990; and
- (b) because of an event during the person's transgression period:
- (i) the person ceased to be eligible for, or entitled to be paid, the pension or another pension; or
- (ii) the rate at which the person was entitled to be paid the pension or another pension decreased; and
- (c) before the amnesty period, the person failed to comply with an obligation under the Seamens Act to notify the Department of the event; and
- (d) during the amnesty period, the person has informed, or informs, the Department of the event;

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then:

(e) the person is not guilty of an offence in respect of the failure; and

(f) where, because of the failure:

(i) the pension or another pension that should have ceased to be paid continued to be paid; or

(ii) an amount of the pension or of another pension that should not have been paid was paid;

the person is not indebted to the Commonwealth in respect of the payment.

(2) Subsection (1) does not apply where the person, before informing the Department, had been:

(a) charged with an offence in respect of the failure; or

(b) informed in writing by an officer or by the Director of Public Prosecutions that:

(i) proceedings had been, or would be, instituted in respect of such an offence; or

(ii) an amount paid because of the failure is recoverable by the Commonwealth.

(3) Subsection (1) does not apply where, before 22 August 1990, the person notified the Department of the possibility of the payment to the person of an amount of pension that should not have been paid because of the event.

**Persons not to be liable under Seamens Act in certain cases of false or misleading statements**

**35. (1)** Subject to subsections (2) and (3), where:

(a) a person has received a payment of a pension in respect of a period that included 22 August 1990; and

(b) the person made a false or misleading statement to an officer that:

(i) resulted in the pension or another pension being paid to the person during the person's transgression period for the pension:

(A) at a time when the person was not eligible for, or entitled to be paid, the pension or other pension; or

(B) at a higher rate than the rate at which the person was entitled to be paid the pension or other pension; or

(ii) that prevented the cancellation of, or a reduction of the rate of, the pension or another pension being paid to the person during the person's transgression period; and



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- (c) where subparagraph (b) (i) applies—at the time of making the statement, the person did not know that the statement was false or misleading; and
- (d) during the amnesty period, the person has informed, or informs, the Department of the making of the false or misleading statement; and

then:

- (e) the person is not guilty of any offence in respect of the making of the statement; and
- (f) where, because of the statement:
  - (i) the pension or another pension that should have ceased to be paid continued to be paid; or
  - (ii) an amount of the pension or of another pension that should not have been paid was paid—

the person is not indebted to the Commonwealth in respect of the payment.

(2) Subsection (1) does not apply where the person, before informing the Department, had been:

- (a) charged with an offence in respect of the statement; or
- (b) informed in writing by an officer or by the Director of Public Prosecutions that:
  - (i) proceedings had been, or would be, instituted in respect of such an offence; or
  - (ii) an amount paid because of the statement is recoverable by the Commonwealth.

(3) Subsection (1) does not apply where, before 22 August 1990, the person notified the Department of the possibility of the payment to the person of an amount of pension that should not have been paid because of the statement.

**Part not to affect liability of officers**

36. Nothing in this Part affects the criminal or civil liability of a person who, at the time when that liability arose, was an officer or was otherwise employed in the Department.

**PART 8—AMENDMENTS OF INCOME TAX  
ASSESSMENT ACT 1936**

**Principal Act**

37. In this Part, “Principal Act” means the *Income Tax Assessment Act 1936*<sup>4</sup>.

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**Quotation of tax file number in employment declaration**

**38.** Section 202CB of the Principal Act is amended:

- (a) by omitting from paragraph (6) (a) “or a sickness benefit” and substituting “, a sickness benefit or a sole parent’s pension”;
- (b) by adding at the end of paragraph (6) (b) “or pension”;
- (c) by adding at the end thereof the following subsection:

**[Persons receiving benefits under Veterans' Entitlements Act]**

“(7) Subsections (2) to (4) do not apply to an employment declaration given to the Secretary to the Department of Veterans' Affairs:

- (a) by a person who is an applicant for a pension or allowance under the *Veterans' Entitlements Act 1986*; or
- (b) by a person who is an employee for the purposes of this Part because of the receipt by the person of such a pension or allowance.”.

**Effect of incorrect quotation of tax file number**

**39.** Section 202CE of the Principal Act is amended:

- (a) by omitting from paragraph (7) (a) “or a sickness benefit” and substituting “, a sickness benefit or a sole parent’s pension”;
- (b) by adding at the end of paragraph (7) (b) “or pension” after “benefit”;
- (c) by adding at the end thereof the following subsection:

**[Persons receiving benefits under Veterans' Entitlements Act]**

“(8) Subsection (6) does not apply to an employment declaration given to the Secretary to the Department of Veterans' Affairs:

- (a) by a person who is an applicant for a pension or allowance under the *Veterans' Entitlements Act 1986*; or
- (b) by a person who is an employee for the purposes of this Part because of the receipt by the person of such a pension or allowance.”.

**PART 9—AMENDMENTS OF TAXATION ADMINISTRATION  
ACT 1953**

**Principal Act**

**40.** In this Part, “**Principal Act**” means the *Taxation Administration Act 1953*.

**Unauthorised requirement etc. that tax file number be quoted**

**41.** Section 8WA of the Principal Act is amended:

- (a) by omitting from subsection (5) “section 138A” and substituting “sections 91B and 138A”;

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(b) by inserting in subsection (5) "52B, 77A," after "sections".

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

“(6) This section has effect subject to:

(a) section 128B of the *Veterans' Entitlements Act 1986*; and

(b) section 32AB of the *Seamen's War Pensions and Allowances Act 1940*.”.

**Unauthorised recording etc. of tax file number**

42. Section 8WB of the Principal Act is amended:

(a) by omitting from subsection (3) "section 138A" and substituting "sections 91B and 138A";

(b) by inserting in subsection (3) "52B, 77A," after "section".

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

“(4) This section has effect subject to:

(a) section 128B of the *Veterans' Entitlements Act 1986*; and

(b) section 32AB of the *Seamen's War Pensions and Allowances Act 1940*.”.

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**NOTES**

1. 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, 5 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, 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 Nos. 84 and 164, 1989); Nos. 59, 83, 84, 163 (as amended by No. 164, 1989) and 164, 1989; and No. 56, 1990.
2. No. 27, 1986, as amended. For previous amendments, see Nos. 106 and 130, 1986; Nos. 78 (as amended by No. 164, 1989), 88 and 130, 1987; Nos. 13, 35, 75, 99 and 134 (as amended by No. 164, 1989), 1988; No. 135, 1989 (as amended by No. 84, 1989); Nos. 59, 83, 163 and 164, 1989; and No. 56, 1990.
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;

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**NOTES—continued**

- 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; Nos. 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. 27, 1936, as amended. For previous amendments, see No. 88, 1936; No. 5, 1937; No. 46, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; Nos. 22 and 50, 1942; No. 10, 1943; Nos. 3 and 28, 1944; Nos. 4 and 37, 1945; No. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; Nos. 4, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; Nos. 50, 53, 56, 98, 143, 165 and 205, 1976; Nos. 57, 126 and 127, 1977; Nos. 36, 57, 87, 90, 123, 171 and 172, 1978; Nos. 12, 19, 27, 43, 62, 146, 147 and 149, 1979; Nos. 19, 24, 57, 58, 124, 133, 134 and 159, 1980; Nos. 61, 92, 108, 109, 110, 111, 154 and 175, 1981; Nos. 29, 38, 39, 76, 80, 106 and 123, 1982; Nos. 14, 25, 39, 49, 51, 54 and 103, 1983; Nos. 14, 42, 47, 63, 76, 115, 124, 165 and 174, 1984; No. 123, 1984 (as amended by No. 65, 1985); Nos. 47, 49, 104, 123, 168 and 174, 1985; No. 173, 1985 (as amended by No. 49, 1986); Nos. 41, 46, 48, 51, 109, 112 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); No. 52, 1986 (as amended by No. 141, 1987); No. 90, 1986 (as amended by No. 141, 1987); Nos. 23, 58, 61, 120, 145 and 163, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); No. 139, 1987 (as amended by Nos. 11 and 78, 1988); Nos. 8, 11, 59, 75, 78, 80, 87, 95, 97, 127 and 153, 1988; Nos. 2, 11, 56, 70, 73, 97, 105, 107, 129, 163 and 167, 1989; No. 97, 1989 (as amended by No. 105, 1989); and Nos 20, 35, 37, 45, 57, 58, 60 and 61, 1990.
5. No. 1, 1953, as amended. For previous amendments, see Nos. 28, 39, 40 and 52, 1953; No. 18, 1955; No. 39, 1957; No. 95, 1959; No. 17, 1960; No. 75, 1964; No. 155, 1965; No. 93, 1966; No. 120, 1968; No. 216, 1973; No. 133, 1974; No. 37, 1976; Nos. 19 and 59, 1979; Nos. 39 and 117, 1983; No. 123, 1984; No. 65, 1985 (as amended by No. 193, 1985); Nos. 4, 47, 104, 123 and 168, 1985; Nos. 41, 46, 48, 112, 144 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); Nos. 120 and 145, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); Nos. 95 and 97, 1988; Nos. 105, 107, 124, 163 and 167, 1989; and Nos. 20 and 61, 1990.

*[Minister's second reading speech made in—  
House of Representatives on 23 August 1990  
Senate on 10 October 1990]*