



# Social Security Legislation Amendment Act 1990

No. 6 of 1991

## TABLE OF PROVISIONS PART 1—PRELIMINARY

Section	
1.	Short title
2.	Commencement
	<b>PART 2—AMENDMENTS OF THE SOCIAL SECURITY ACT 1947</b>
3.	Principal Act
4.	Application
5.	Interpretation
6.	Insertion of new section: 3AA. Calculation of income
7.	Calculation of value of property
8.	Income from loans
9.	Insertion of new section: 4D. Income from certain money
10.	Disposal of income or property
11.	Pension reduction amounts
12.	Earnings credit
13.	Insertion of new section: 12AAA. Personal care support schemes
14.	Accruing return investments
15.	Market-linked investments
16.	Special provisions about certain investments made or acquired before 9 September 1988
17.	Determinations of entitlement of persons holding market-linked investments
18.	Treatment of costs of investments
19.	Certain capital amounts taken to be received over 12 months
20.	Secrecy
21.	Interpretation

**TABLE OF PROVISIONS—continued**

<b>Section</b>	
22.	Rate of pension
23.	Indexation of certain rates
24.	Calculation of income in respect of children
25.	Rent assistance
26.	Carer's pension
27.	Insertion of new section: 42A. Provision of tax file numbers
28.	Rent assistance
29.	Tax file numbers
30.	Insertion of new section: 58C. Provision of tax file numbers
31.	Entitlement of parent or guardian on death of dependent child
32.	Entitlement of estate of deceased pensioner
33.	Rate of allowance
34.	Reduction of rate by reference to taxable income
35.	Tax file numbers
36.	Qualification for family allowance
37.	Entitlement to receive family allowance ceases after 3 years absence of recipient or child
38.	Family allowance not payable in respect of certain student children
39.	Income test for family allowances
40.	Provision of tax file numbers
41.	Tax file numbers
42.	Application of family allowance
43.	Insertion of new section: 116C. Persons with certain assets not qualified for unemployment benefit
44.	Insertion of new section: 117AA. Person with certain assets not qualified for sickness benefit
45.	Rate of unemployment and sickness benefit
46.	Entitlement to unemployment or sickness benefits etc.
47.	Rent assistance
48.	Special arrangement for victims of major disasters
49.	When benefits payable
50.	Provision of tax file numbers
51.	Insertion of new section: 125B. Provision of tax file numbers—special benefit
52.	Education leavers
53.	Special benefit
54.	Rate of special benefit
55.	Benefit not payable to full-time students
56.	Tax file numbers
57.	Insertion of new section: 143A. Provision of tax file numbers
58.	Insertion of new section: 148A. Provision of tax file numbers
59.	Insertion of new section: 151A. Provision of tax file numbers
60.	Heading to Part XVIA
61.	Interpretation
62.	Insertion of new section: 151AB. Entitlements under Part limited to residents of Australia
63.	Insertion of new sections: 151HA. Qualifications for pharmaceutical allowance 151HB. Pharmaceutical allowance only payable after supplement period 151HC. Rate of pharmaceutical allowance 151HD. Payment of pharmaceutical allowance
64.	Pharmaceutical supplements in addition to advance pharmaceutical supplements
65.	Rate increases not to apply to advance pensioners A during advance payment period
66.	Pharmaceutical allowance not payable to advance pensioners B during advance payment period

**TABLE OF PROVISIONS—continued**

<b>Section</b>	
67.	Maximum benefit
68.	Insertion of new Part:
	<b>PART XVIIIA—DISASTER RELIEF PAYMENT</b>
	157A. Interpretation
	157B. Declaration of major disaster
	157C. Disaster relief payment
	157D. Rate of relief payment
69.	Claims
70.	Making a lodgment of claims etc.
71.	Manner of payment etc.
72.	Some decisions are not reviewable by the Social Security Appeals Tribunal
73.	Insertion of new section:
	219A. Conditions of members
74.	Acting appointments
75.	Insertion of new section:
	237C. Employment entry payment—sole parent's pension recipients
76.	Insertion of new section:
	245A. Restrictions on dual pensions
77.	Insertion of new section:
	245B. Recoverable payments
78.	Recovery of overpayments
79.	Pension, benefit or allowance may be paid to bank etc.
80.	Write-off, waiver etc.
81.	Insertion of clause in Schedule 1B:
	7A. Provision of tax file numbers
82.	Schedule 1
83.	New Schedule 6
	<b>PART 3—AMENDMENTS OF THE SOCIAL SECURITY AND VETERANS' ENTITLEMENTS (MAINTENANCE INCOME TEST) AMENDMENT ACT 1988</b>
84.	Principal Act
85.	Application
86.	Saving for certain existing pensions
	<b>PART 4—AMENDMENTS OF THE FIRST HOME OWNERS ACT 1983</b>
87.	Principal Act
88.	Insertion of new section:
	17B. Provision of tax file numbers
	<b>PART 5—AMENDMENTS OF THE HEALTH INSURANCE ACT 1973</b>
89.	Principal Act
90.	Repeal of section 4D and substitution of new section:
	4D. Certain disadvantaged persons
	<b>PART 6—AMENDMENTS OF THE NATIONAL HEALTH ACT 1953</b>
91.	Principal Act
92.	Interpretation
93.	Insertion of new section:
	4AAA. Certain pensioners
	<b>PART 7—AMENDMENT OF THE INCOME TAX ASSESSMENT ACT 1936</b>
94.	Principal Act
95.	Objects of this Part

**TABLE OF PROVISIONS—*continued***

**Section**

**PART 8—AMENDMENTS OF THE TAXATION ADMINISTRATION ACT  
1953**

- 96. Principal Act
- 97. Unauthorised requirement etc. that tax file number be quoted
- 98. Unauthorised recording etc. of tax file number

**SCHEDULE 1**

**NEW SCHEDULE 1 OF SOCIAL SECURITY ACT 1947:  
AGREEMENT ON SOCIAL SECURITY BETWEEN  
THE GOVERNMENT OF AUSTRALIA  
AND  
THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND**

**SCHEDULE 2**

**NEW SCHEDULE 6 OF SOCIAL SECURITY ACT 1947:  
AGREEMENT BETWEEN AUSTRALIA AND MALTA  
ON SOCIAL SECURITY**



# Social Security Legislation Amendment Act 1990

No. 6 of 1991

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## An Act to amend the law relating to social welfare, and for related purposes

[Assented to 8 January 1991]

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 Legislation Amendment Act 1990*.

*Commencement: Day of Royal Assent*

#### Commencement

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

*Commencement: Day of Royal Assent*

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

**Principal Act**

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

*Commencement: Day of Royal Assent*

**Application**

4. (1) The amendments of the Principal Act made by paragraphs 5 (a), (f) to (k) (inclusive) and (p), section 6, paragraph 7 (b) and sections 14, 15, 16, 17, 18, 19, 24, 37, 71, 76 and 79 apply in relation to payments under that Act that fall due on or after the day on which this Act receives the Royal Assent and the amendment made by section 37 does not affect any payment by way of family allowance made before that day.

*Commencement: Day of Royal Assent*

(2) The amendments of the Principal Act made by paragraph 5 (q), apply in relation to payments under that Act that fall due on or after 1 January 1991.

*Commencement: 1 January 1991*

(3) The amendments of the Principal Act made by paragraph 5 (t) and section 11 are made for the avoidance of doubt.

*Commencement: Day of Royal Assent*

(4) The amendments of the Principal Act made by section 10 apply in relation to a person’s disposal of property on or after 22 August 1990.

*Commencement: 22 August 1990*

(5) The subsections of the Principal Act omitted by sections 23 and 46 are taken never to have applied.

*Commencement: 20 March 1991*

(6) The amendments of the Principal Act made by sections 25, 28, 33 and 47 apply in relation to payments that fall due on or after 20 March 1991.

*Commencement: 20 March 1991*

(7) The amendments of the Principal Act made by sections 31 and 32 and paragraph 70 (1) (b) apply in relation to claims lodged on or after 1 December 1990.

*Commencement: 1 December 1990*

(8) The amendments of the Principal Act made by section 39 apply to payments under that Act made on or after 1 January 1991.

*Commencement: 1 January 1991*

**(9)** The amendments of the Principal Act made by sections 36 and 53 apply in relation to payments under that Act that fall due on or after 1 August 1990.

*Commencement: 1 August 1990*

**(10)** The amendments of the Principal Act made by sections 43, 44 and 49 and paragraph 69 (c) apply in relation to claims lodged on or after 1 February 1991.

*Commencement: 1 February 1991*

**(11)** The amendments of the Principal Act made by section 45 apply in relation to payments under that Act that fall due on or after 20 September 1990.

*Commencement: 20 September 1990*

**(12)** The amendment of the Principal Act made by section 49 applies in relation to claims made on or after 1 December 1990.

*Commencement: 1 December 1990*

**(13)** The amendments of the Principal Act made by sections 52 and 55 apply in relation to payments under that Act in respect of periods all or part of which occur on or after the day on which this Act receives the Royal Assent.

*Commencement: Day of Royal Assent*

**(14)** The amendment of the Principal Act made by paragraph 70 (1) (d) applies in relation to claims lodged on or after 29 December 1988.

*Commencement: 29 December 1988*

**(15)** The amendments of the Principal Act made by section 80 apply in relation to payments under that Act whenever made.

*Commencement: 1 January 1991*

**(16)** The amendments of the Principal Act made by paragraphs (7) (a) and (b) of the *Social Security and Veterans' Affairs Legislation Amendment Act (No. 2) 1990* apply in relation to disposals of property taking place on or after 1 March 1991.

*Commencement: 1 March 1991*

## **Interpretation**

**5.** Section 3 of the Principal Act is amended:

**(a)** by inserting " being income calculated having regard to section 3AA," after "Australia," in the definition of "income" in subsection (1);

*Commencement: Day of Royal Assent*

**(b)** by inserting "4C, 6A," after "section" (first occurring) in that definition;

*Commencement: 22 August 1990*

*Social Security Legislation Amendment No. 6, 1991*

(c) by inserting "4D," after "4C," in that definition;

*Commencement: 1 March 1991*

(d) by inserting "4C, 6A," after "section" in paragraph (aa) of that definition;

*Commencement: 22 August 1990*

(e) by inserting "4D," after "4C," in paragraph (aa) of that definition;

*Commencement: 1 March 1991*

(f) by inserting the following paragraph after paragraph (g) of that definition:

"(ga) a payment by a State or Territory for the purpose of assisting the person to purchase, or build, his or her own home;"

*Commencement: Day of Royal Assent*

(g) by inserting the following paragraph after paragraph (j) of that definition.

"(ja) where:

(i) there is a mortgage or other arrangement under which the person owes money; and

(ii) the person has insurance because of which payments under the arrangement are made by the insurer to the creditor when the person is unemployed or ill or another particular event occurs;

payments made to the creditor under the insurance;"

*Commencement: Day of Royal Assent*

(h) by omitting subparagraphs (na) (i) and (ii) of that definition and substituting the following subparagraphs:

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

(ii) an allowance under Part VI, XIV or XVI; or

(iii) a pension under Part III of the *Veterans' Entitlements Act 1986*;"

*Commencement: Day of Royal Assent*

(j) by inserting after paragraph (q) of that definition the following paragraphs:

"(qa) remuneration for serving, or being summoned to serve, on a jury; or

(qb) an allowance for travelling, or for other expenses, as a witness, other than an expert witness, in proceedings before a court, tribunal or commission;"

*Commencement: Day of Royal Assent*



*Social Security Legislation Amendment No. 6, 1991*

(k) by inserting the following paragraph after paragraph (v) of that definition:

“(va) a payment towards the cost of personal care support services for the person, being a payment under a scheme approved under section 12AAA;”;

*Commencement: Day of Royal Assent*

(m) by omitting “22” from the definition of “assurance of support debt” in subsection (1) and substituting “165”;

*Commencement: 19 December 1989*

(n) by omitting from subsection (1) the definition of “account” and substituting the following definition:

“‘**account**’, in relation to a financial institution, means an account maintained by a person with the institution to which is credited money received on deposit by the institution from that person;”;

*Commencement: 1 March 1991*

(p) by omitting from subsection (1) the definition of “assurance of support debt” and substituting the following definition:

“‘**assurance of support debt**’ means a debt due and payable by a person to the Commonwealth because of the operation of subregulation 165 (1) of the Migration Regulations in respect of the payment to another person of:

(a) unemployment benefit under section 116; or

(b) special benefit under Division 6 of Part XIII;”;

*Commencement: Day of Royal Assent*

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

“‘**prescribed student child**’ means:

(a) in section 82—a dependent child of a person, being a child who is over 16 and who is qualified to receive payments under a prescribed educational scheme other than the Assistance for Isolated Children Scheme; or

(b) elsewhere in the Act—a dependent child of a person, being a child who is over 16 and who is qualified to receive payments under a prescribed educational scheme;”;

*Commencement: 1 January 1991*

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

“‘**employment declaration**’ has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*;

“‘**financial institution**’ means a bank, building society, credit union or other institution that receives money on deposit;

*Social Security Legislation Amendment No. 6, 1991*

**'tax file number'** has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*;

*Commencement: 22 August 1990*

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

**" 'income support payment' means:**

- (a) invalid pension; or
- (b) sole parent's pension; or
- (c) wife's pension; or
- (d) class B widow's pension; or
- (e) widowed person's allowance; or
- (f) carer's pension; or
- (g) sheltered employment allowance; or
- (h) rehabilitation allowance; or
- (j) unemployment benefit; or
- (k) sickness benefit; or
- (m) special benefit;

*Commencement: 1 June 1990*

(t) by omitting from paragraph (5) (a) all the words from and including "sum" and substituting:

"sum of what, but for this subsection but having regard to section 4, would be:

- (i) the value of the property, or property of that kind, of the person; and
- (ii) the value of the property, or property of that kind, of the person's spouse; and
- (iii) the value of the property, or property of that kind, of the person and the person's spouse; and"

*Commencement: Day of Royal Assent*

6. After section 3A of the Principal Act the following section is inserted:

**Calculation of income**

**"3AA. (1) This section applies to the calculation for the purposes of this Act of a person's income, other than income of the person because of Division 2.**

**"(2) Where:**

- (a) the person carries on any business; and
- (b) the value of all trading stock on hand at the end of a year exceeds the value of all trading stock on hand at the beginning of that year;

the income of the person for that year by way of profits includes the amount of the excess.

“(3) Where:

- (a) the person carries on any business; and
- (b) the value of all trading stock on hand at the beginning of a year exceeds the value of all trading stock on hand at the end of that year;

the income of the person for that year by way of profits shall be reduced by the amount of the excess.

“(4) The income of the person is the gross income of the person reduced by, and only by:

- (a) losses and outgoings that are allowable deductions for the purposes of section 51 of the *Income Tax Assessment Act 1936*; and
- (b) depreciation that is an allowable deduction for the purposes of subsection 54 (1) of that Act; and
- (c) amounts that are allowable deductions under subsection 82AAC (1) of that Act.”.

*Commencement: Day of Royal Assent*

#### **Calculation of value of property**

7. Section 4 of the Principal Act is amended:

(a) by inserting after subparagraph (1)(a)(xi) the following subparagraph:

“(xia) insurance or compensation payments made because of loss of, or damage to, buildings, plant or personal effects, being insurance or payments received by the person within the immediately preceding period of 12 months or such longer period as the Secretary, for any special reason in any particular case, allows;”;

*Commencement: 22 August 1990*

(b) by omitting paragraph (8)(b) and substituting the following paragraphs:

“(b) so much of any period during which the person resides in a nursing home as is not later than 2 years after the start of the period; and

(c) any period during which:

- (i) the person resides in a nursing home; and
- (ii) the residence is, or because of paragraph (a) or (b) continues to be, the principal home of the person’s spouse; and

(d) any period:

- (i) during which the person resides in a nursing home; and
- (ii) where the person’s spouse died while paragraph (c) applied and while a resident of a nursing

home—within the 2 years immediately after the person's spouse became such a resident; and

- (e) any period:
  - (i) during which the person resides in a nursing home; and
  - (ii) where the person's spouse died while paragraph (c) applied but not while a resident of a nursing home—within the 2 years immediately after the death.”.

*Commencement: Day of Royal Assent*

### **Income from loans**

8. Section 4C of the Principal Act is amended:

- (a) by inserting in subsection (1) the following definition:  
“**‘entry contribution’** has the same meaning as in section 4B;”;
- (b) by omitting subsection (3) and substituting the following subsection:

“(3) For the purposes of this section, there is no loan by a person:

- (a) because the person has money in an account with a financial institution; or
- (b) because of any entry contribution of the person.”;

- (c) by inserting after subsection (6) the following subsection:

“(6A) The Minister may, by notice in writing, determine that this section does not apply to specified loans or a specified class of loans.”.

*Commencement: 22 August 1990*

9. (1) After section 4C of the Principal Act the following section is inserted:

### **Income from certain money**

“4D. (1) In this section:

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

**‘available money’**, in relation to a person, means money held by, or on behalf of, the person, but does not include the person's deposit money or money to which section 4C applies;

**‘deposit money’**, in relation to a person, means the person's money that is deposited in an account with a financial institution;

**‘income money’**, in relation to a person at any time, means so much of:

- (a) the person's deposit money; and
- (b) the person's available money;

at that time as exceeds \$2,000.

“(2) For the purposes of this section, a person’s deposit money on which interest is paid is not to be treated as income money of the person at a particular time unless such of:

(a) the person’s deposit money on which a lower, or no interest is paid; and

(b) the person’s available money;

as does not exceed \$2,000 has not been so treated at that time.

“(3) For the purposes of this Act, where interest is not paid on income money of a person, the person is taken to receive interest on that money at the rate per year of the assumed rate.

“(4) Subject to subsection (5), for the purposes of this Act, where the rate per year of interest paid on income money of a person is less than the assumed rate, the person is taken to be paid interest on that money at the rate per year of the assumed rate.

“(5) The Minister may, by notice in writing, determine that this section does not apply to specified income money of a person or of a class of persons.

“(6) For the purposes of this section, where interest paid on deposit money is not received, or accounted for, at least as frequently as each anniversary of the making of the deposit, interest on the money is taken to be received by the depositor on each such anniversary.

“(7) The Minister may from time to time, by notice in writing, determine a rate of less than 10% that is to be the assumed 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) Where a person:

(a) was not a prescribed person within the meaning of section 251A of the Principal Act on 28 February 1991; and

(b) would have been a prescribed person on that day if the amendments made by subsection (1) had been in force on that day;

then, for the purposes of this Act and other laws of the Commonwealth, the person does not become a prescribed person unless and until he or she would have become so if the amendments had not been made.

*Commencement: 1 March 1991*

### **Disposal of income or property**

**10.** Section 6 of the Principal Act is amended:

(a) by omitting from subsection (10) “diminishes, directly or

indirectly, the value” and substituting “directly or indirectly destroys, disposes of, or diminishes the value of, all or part”;

(b) by omitting from subsection (10) “equal to the amount of the diminution in the value of that property” and substituting:

“equal to:

(c) the value of the property destroyed; or

(d) the value of the property disposed of; or

(e) the amount by which the value of the property whose value was diminished was so diminished;”;

(c) by omitting from subsection (11) “diminishes, directly or indirectly, the rate of income of the person” and substituting “directly or indirectly destroys or disposes of the source of, or disposes of or diminishes, the income;”;

(d) by omitting from subsection (11) “that diminution” and substituting “the diminution of the income because of the destruction, disposal or diminution”.

*Commencement: 22 August 1990*

### **Pension reduction amounts**

11. Section 8 of the Principal Act is amended by inserting “, or to whose spouse,” after “whom” in paragraph (c).

*Commencement: Day of Royal Assent*

### **Earnings credit**

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

(a) by omitting from subsection (1) the definition of “earnings credit” and substituting the following definition:

“‘earnings credit’, in relation to a person receiving a pension and to a fortnight beginning on variation day or a later fortnight, means:

(a) in the case of the fortnight in which the person commences to receive the pension (if commencing on or after variation day)—the credit amount (if any) of the person for that fortnight; or

(b) in the case of any other fortnight—the amount of the earnings credit (if any) of the person for the fortnight immediately before the relevant fortnight increased by the credit amounts (if any) of the person for the relevant fortnight and decreased by the amount (if any) by which the person’s earnings credit was reduced in the relevant fortnight because of subsection (3);

or \$1,000, whichever is the lesser amount;”;

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

‘pensioner couple’ has the same meaning as in Part VIII;

**'social security couple'** means a pensioner couple both of whose members are social security pensioners;

**'social security pensioner'** has the same meaning as in Part VIII;

**'social security-veterans couple'** means a pensioner couple other than a social security couple;

**'variation day'** means the earliest pension pay-day on or after 1 October 1990;

**'variation earnings credit'**, in relation to a person, means the person's earnings credit (within the meaning of this section as in force immediately before the commencement of this definition) for the last week of the fortnight immediately before variation day;

**'veterans earnings credit'** means an earnings credit within the meaning of section 49B of the *Veterans' Entitlements Act 1986*;

- (c) by omitting subsection (1A) and substituting the following subsections:

“(1A) For the purposes of this section, the earnings credit of a social security pensioner for the fortnight immediately before variation day is:

- (a) in the case of a person who is not a member of a pensioner couple—the person's variation earnings credit; or
- (b) in the case of a person who is a member of a social security couple—an amount equal to one-half of the sum of the person's variation earnings credit and the person's spouse's variation earnings credit; or
- (c) in the case of a person who is a member of a social security-veterans couple—an amount equal to one-half of the sum of the person's variation earnings credit and the person's spouse's variation earnings credit within the meaning of section 49B of the *Veterans' Entitlements Act 1986*.

“(1B) A social security pensioner has a credit amount for the purposes of this section in relation to a fortnight beginning on a pension pay-day 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  $1/26$  of the person's annual permissible income.

“(1C) A social security pensioner who is a member of a social security couple has a credit amount for the purposes of this section in relation to a fortnight beginning on a pension pay-day if the person's spouse's annual permissible income in that fortnight equals or exceeds the person's spouse's annual rate of income in that fortnight, and the amount of that credit amount is  $1/26$  of the person's spouse's annual permissible income.

*Social Security Legislation Amendment No. 6, 1991*

“(1D) A social security pensioner who is a member of a social security-veterans couple has a credit amount for the purposes of this section in relation to a fortnight beginning on a pension pay-day if the person’s spouse’s annual permissible income (within the meaning of section 49B of the *Veterans’ Entitlements Act 1986*) in that fortnight equals or exceeds the person’s spouse’s annual rate of income within the meaning of that section in that fortnight and the amount of that credit amount is 1/26 of that annual permissible income of the spouse.

“(1E) For the purposes of this section, where a social security pensioner who is a member of a pensioner couple becomes entitled to a payment for remunerative work undertaken by the person during a particular fortnight:

- (a) only half of the payment is taken to be income of the person; and
- (b) half of the payment is taken to be income of the person’s spouse.

“(1F) For the purposes of this section, where the member of a social security-veterans couple who is not a social security pensioner becomes entitled to a payment for remunerative work undertaken by the member during a particular fortnight, half of the payment is taken to be income of the member’s spouse.”.

- (d) by omitting from paragraphs (3)(b) and (c) “week” and substituting “fortnight”;
- (e) by inserting in subsection (4) “(7) (b) or” after “33”.

*Commencement: 1 October 1990*

13. After section 12A of the Principal Act the following section is inserted in Division 1 of Part 1:

**Personal care support schemes**

“12AAA. The Minister may, in writing signed by the Minister, declare that a scheme for the provision of personal care support services is an approved scheme for the purposes of this Act.”.

*Commencement: Day of Royal Assent*

**Accruing return investments**

14. Section 12C of the Principal Act is amended:

- (a) by omitting from subsection (1) “, or makes” and substituting “or acquired, or makes or acquires”;

*Commencement: Day of Royal Assent*

- (b) by adding at the end of subsection (1) “, or acquired, by the person”;

*Commencement: Day of Royal Assent*

- (c) by inserting in subsection (2) “or acquires,” after “makes,”;



*Commencement: Day of Royal Assent*

**(d)** by inserting in paragraph (2) (b) “, or acquired, by the person” after “made”;

*Commencement: Day of Royal Assent*

**(e)** by adding at the end of subsection (2) “, or acquired, by the person”;

*Commencement: Day of Royal Assent*

**(f)** by inserting in subsection (3) “or acquired,” after “made,”;

*Commencement: Day of Royal Assent*

**(g)** by inserting in paragraph (3) (b) “, or acquired, by the person” after “made”;

*Commencement: Day of Royal Assent*

**(h)** by omitting from subsection (3) “becomes entitled to receive” (first occurring) and substituting “realises the investment and receives”;

*Commencement: Day of Royal Assent*

**(j)** by inserting after subsection (3) the following subsections:

“(3A) For the purposes of subsection (3), a person realises an investment if, and only if:

- (a) all or part of the amount invested is withdrawn; or
- (b) all or part of the return on the investment is paid to another person; or
- (c) the investment matures; or
- (d) the investment is assigned by the person to another person; or
- (e) the investment is disposed of by the person otherwise than in the way referred to in paragraph (d).

“(3B) For the purposes of subsection (3), where a person assigns or otherwise disposes of an investment, the person is taken to receive by way of a return on the investment the amount of the return at the date of the disposal.

“(3C) For the purposes of subsection (3), where a person realises an investment in circumstances where the return on the investment is paid to another person, the return is taken to be received by the person realising the investment.

“(3D) For the purposes of subsection (3), where a person’s investment matures, the person is taken to receive by way of return on the investment the amount of the return at the date of the maturity.”;

*Commencement: Day of Royal Assent*

**(k)** by omitting from subsection (4) “section 12B” and substituting “subsection 3 (1)”;

*Commencement: 19 December 1989*

**(m)** by omitting subsection (5) and substituting the following subsection:

“(5) A person receives an amount for the purposes of subsection (3) if the person receives an amount under an arrangement of the kind referred to in the definition of ‘accruing return investment’ in subsection 3(1) to the extent that subsection (1) or (2) does not apply to the receipt.”

*Commencement: Day of Royal Assent*

### **Market-linked investments**

**15.** Section 12D of the Principal Act is amended:

- (a)** by inserting in subsection (1) “or acquires” after “makes”;
- (b)** by inserting in paragraph (1) (a) “, or acquired, by the person” after “made”;
- (c)** by adding at the end the following subsections:

“(3) Where a person:

**(a)** made or acquired a market-linked investment before 9 September 1988; and

**(b)** either:

**(i)** realised the investment before the commencement of this subsection; or

**(ii)** realises the investment after that commencement; so as to receive an amount by way of return on that investment;

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

“(4) For the purposes of subsection (3), a person realises an investment if, and only if:

**(a)** all or part of the amount invested is withdrawn; or

**(b)** all or part of the return on the investment is paid to another person; or

**(c)** the investment matures; or

**(d)** the investment is assigned by the person to another person; or

**(e)** the investment is disposed of by the person otherwise than in the way referred to in paragraph (d).

“(5) For the purposes of subsection (3), where a person assigns or otherwise disposes of an investment, the person is taken to receive by way of a return on the investment the amount of the return at the date of the disposal.

“(6) For the purposes of subsection (3), where a person realises an investment in circumstances where the return on the investment is paid to another person, the return is taken to be received by the person realising the investment.

“(7) For the purposes of subsection (3), where a person’s investment matures, the person is taken to receive by way of return on the investment the amount of the return at the date of the maturity.”

*Commencement: Day of Royal Assent*

**Special provisions about certain investments made or acquired before 9 September 1988**

16. Section 12G of the Principal Act is amended:

- (a) by inserting in paragraph (1) (a) “or acquired” after “made”;
- (b) by inserting in subsection (1) “, or acquired, by the person” after “made” (last occurring);
- (c) by inserting in paragraph (2) (b) “, or acquired, by the person” after “made” (wherever occurring).

*Commencement: Day of Royal Assent*

**Determinations of entitlement of persons holding market-linked investments**

17. Section 12J of the Principal Act is amended by inserting in subsection (1) “or acquired” after “made” (second occurring).

*Commencement: Day of Royal Assent*

**Treatment of costs of investments**

18. Section 12K of the Principal Act is amended by inserting “, or acquired,” after “made” in the definition of “investment costs” in subsection (3).

*Commencement: Day of Royal Assent*

**Certain capital amounts taken to be received over 12 months**

19. Section 12L of the Principal Act is amended:

- (a) by omitting from subsection (1) “being an amount of a capital nature”;
- (b) by inserting before paragraph (1) (a) the following paragraph:
  - “(aa) income by way of periodic payments;”;
- (c) by inserting in paragraph (1) (c) “, or acquired, by the person” after “made”; and
- (d) by omitting subsection (2) and substituting the following subsection:

“(2) A person receives an amount for the purposes of subsection (1) if the person receives an amount under an arrangement of the kind referred to in the definition of ‘accruing

*Social Security Legislation Amendment No. 6, 1991*

return investment' in subsection 3(1) to the extent that subsection 12C(1) or (2) does not apply to the receipt.”.

*Commencement: Day of Royal Assent*

**Secrecy**

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

- (a) by inserting in subsection (2) “(whether alive or dead)” after “person” (second occurring);
- (b) by omitting subsection (4E);
- (c) by inserting after subsection (5A) the following subsection:

“(5B) Where a person:

(a) solicits the disclosure of protected information from an officer; and

(b) in doing so:

(i) makes a representation that the person knows is untrue; or

(ii) makes a representation:

(A) about whose truth the person is reckless; and

(B) that is untrue;

the person is guilty of an offence, whether or not any protected information is actually disclosed.”;

- (d) by inserting in subsection (15) “(5A), after “subsection”.

*Commencement: Day of Royal Assent*

**Interpretation**

**21.** Section 20 of the Principal Act is amended by inserting after paragraph (a) of the definition of “remote area” in subsection (1) the following paragraphs:

- “(aa) those parts of Australia referred to in Part II of that Schedule that are further than 250 kilometres by the shortest practicable surface route from the nearest urban centre with a census population (within the meaning of that Act) of 2,500 or more;
- (ab) those places in Australia that, for the purposes of that Act, are treated as if they were in a part of Australia referred to in paragraph (a) or (aa);”.

*Commencement: 1 January 1991*

**Rate of pension**

**22.** Section 33 of the Principal Act is amended by omitting subsection (4A).

*Commencement: 20 September 1990*

**Indexation of certain rates**

23. Section 34 of the Principal Act is amended by omitting subsections (5E), (5F), (5G) and (5H).

*Commencement: 20 March 1991*

**Calculation of income in respect of children**

24. Section 35 of the Principal Act is amended:

- (a) by inserting in paragraphs (1) (a) and (b) “an aboriginal study assistance scheme,” before “the AUSTUDY scheme”;
- (b) by adding at the end the following subsection:

“(3) In this section:

‘**aboriginal study assistance scheme**’ means:

- (a) the ABSTUDY Scheme; or
- (b) the Aboriginal Overseas Study Assistance Scheme; or
- (c) a scheme prescribed for the purposes of this definition.”.

*Commencement: Day of Royal Assent*

**Rent assistance**

25. Section 36 of the Principal Act is amended by omitting from paragraph (1) (a) “\$1,040” and substituting “\$1,300”.

*Commencement: 20 March 1991*

**Carer’s pension**

26. Section 39 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (a) “in a home of the person and of the other person;” and substituting “; and”;
- (b) by omitting paragraph (b) and substituting the following paragraph:

“(b) the other person is a severely handicapped person who is in receipt of a prescribed pension; and”.

- (c) by inserting after paragraph (b) the following paragraph:

“(ba) the person and the other person live in the same home or in adjacent homes; and”;

*Commencement: 1 January 1991*

27. After section 42 of the Principal Act the following section is inserted in Part IV:

**Provision of tax file numbers**

“42A. (1) An age pension, invalid pension, wife’s pension or carer’s pension that a person is qualified to receive 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 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
  - (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).”.

*Commencement: 1 January 1991*

**Rent assistance**

28. Section 50 of the Principal Act is amended by omitting from paragraph (1) (a) “\$1,040” and substituting “\$1,300”.

*Commencement: 20 March 1991*

**Tax file numbers**

29. Section 52B of the Principal Act is repealed.

*Commencement: 1 January 1991*

30. After section 58B of the Principal Act the following section is inserted in Part VI:

**Provision of tax file numbers**

“58C. (1) A widowed person’s allowance 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
- (b) 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
  - (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.”.

*Commencement: 1 January 1991*

#### **Entitlement of parent or guardian on death of dependent child**

31. Section 69 of the Principal Act is amended by inserting after subsection (5) the following subsection:

“(5A) Where:

- (a) a person dies; and
- (b) but for the death, an amount would have been payable to the person under this section in respect of the death of a child; and
- (c) where the person died before the child—the amount is not payable to another person; and
- (d) within 3 months after the death of the child, the person’s spouse lodges a claim for the payment of the amount;

that amount is payable to the person’s spouse.”.

*Commencement: 1 December 1990*

#### **Entitlement of estate of deceased pensioner**

32. Section 70 of the Principal Act is amended:

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

“(2A) Where:

- (a) a family pensioner who is not a member of a pensioner couple dies; and
- (b) but for the death, an amount would have been payable to the pensioner under section 69;

that amount is payable to such person as the Secretary thinks appropriate.”;

- (b) by inserting in subsection (3) the following definition:

“‘family pensioner’ means a person who is in receipt of:



*Social Security Legislation Amendment No. 6, 1991*

- (a) a pension or allowance referred to in paragraph (a), (b), (c) or (d) of the definition of 'prescribed pension' in subsection 3 (1); or
- (b) an allowance under Part IX;".

*Commencement: 1 December 1990*

**Rate of allowance**

33. Section 74 of the Principal Act is amended by omitting from paragraph (2) (c) "\$20" and substituting "\$25".

*Commencement: 20 March 1991*

**Reduction of rate by reference to taxable income**

34. Section 74B of the Principal Act is amended by omitting from subsections (5) and (6) all words after "taken to be" and substituting "a debt due to the Commonwealth".

*Commencement: 1 January 1991*

**Tax file numbers**

35. Section 77A of the Principal Act is repealed.

*Commencement: Day of Royal Assent*

**Qualification for family allowance**

36. Section 82 of the Principal Act is amended:

- (a) by omitting from subsection (3) "resident" (wherever occurring) and substituting "inhabitant";
- (b) by inserting after subsection (3) the following subsection:

“(4) In subsection (3):

‘Australian inhabitant’ means:

- (a) an Australian resident; or
- (b) the holder of a PRC (temporary) entry permit under regulations made under the *Migration Act 1958*; or
- (c) the holder of a refugee (temporary) entry permit under those regulations.”.

*Commencement: 1 August 1990*

**Entitlement to receive family allowance ceases after 3 years absence of recipient or child**

37. Section 83 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

“(1) Where a person:

- (a) left, or leaves, Australia on or after 18 May 1986; and
- (b) continues to be absent from Australia for more than 3 years;

the person is not qualified to receive family allowance in respect of a child at any time after the first 3 years of the absence while the person remains absent from Australia.

“(2) Where a child:

(a) either:

(i) left, or leaves, Australia; or

(ii) was, or is, born outside Australia;

on or after 18 May 1986; and

(b) continues to be absent from Australia for more than 3 years; a person is not qualified to receive family allowance in respect of that child at any time after the first 3 years of the absence while the child remains absent from Australia.”.

*Commencement: Day of Royal Assent*

#### **Family allowance not payable in respect of certain student children**

**38.** Section 84 of the Principal Act is amended:

(a) by omitting from paragraph (2)(b) “the rate of which is increased by reference to the child”;

(b) by inserting in paragraph (2)(c) “74A,” before “74B”;

*Commencement: Day of Royal Assent*

#### **Income test for family allowances**

**39.** Section 85 of the Principal Act is amended:

(a) by omitting from subsection (3) “Subject to subsection (4), where” and substituting “Where”;

(b) by omitting from subsection (3) all words after paragraph (b) and substituting “family allowance is not payable to the person.”;

(c) by omitting from subsection (3AA) all words after paragraph (c) and substituting “family allowance is not payable to the person.”;

(d) by omitting from subsection (3A) “subsections (4) and (5)” and substituting “subsection (4)”;

(e) by omitting from subsection (3A) all words after paragraph (b) and substituting “family allowance is not payable to the person.”;

(f) by omitting subsections (4) and (5) and substituting the following subsection:

“(4) This section does not affect a person’s entitlement to family allowance in respect of a child where, because of the child there is a payment to the person of:

(a) double orphan’s pension; or

(b) child disability allowance; or

(c) a prescribed pension at a rate which includes an amount in respect of the child.”.

*Commencement: 1 January 1991*

**Provision of tax file numbers**

**40.** Section 91A of the Principal Act is amended by omitting from subsection (1) “, being an allowance the claim for which was lodged after the commencement of this section,”.

*Commencement: 1 January 1991*

**Tax file numbers**

**41.** Section 91B of the Principal Act is repealed.

*Commencement: 1 January 1991*

**Application of family allowance**

**42.** Section 93 of the Principal Act is amended by inserting “education,” after “maintenance,”.

*Commencement: 1 January 1991*

**43.** After section 116B of the Principal Act the following section is inserted:

**Persons with certain assets not qualified for unemployment benefit**

“116C. (1) Where paragraph 125 (1) (c) or (d) or subsection 128 (2) applies to a person, this section does not apply to that person.

“(2) Where, on the day on which a person lodges a claim for unemployment benefit, the value of the person’s liquid assets exceeds the person’s maximum reserve, the person is not qualified to receive an unemployment benefit during the 4 weeks commencing on the day on which the person became unemployed.

“(3) Where:

(a) on the day on which a person becomes unemployed, the value of the person’s liquid assets exceeds the person’s maximum reserve; and

(b) the person lodges a claim for unemployment benefit;

the person is not qualified to receive an unemployment benefit during the 4 weeks commencing on that day.

“(4) Where subsection (2) or (3) applies to a person, then, for the purposes of paragraph 125 (1) (a), (aa), (b), (e) or (ea) and despite subsection 125 (2), the person:

(a) is taken to have become unemployed; and

(b) where the person lodged the claim for benefit before the end of the 4 weeks of disqualification—is taken to have made the claim;

at the end of those 4 weeks.

“(5) Where the Secretary is satisfied that the application of the 4 weeks waiting period required by this section will cause undue long

term disadvantage or significant hardship to a person, the Secretary may:

- (a) waive the 4 weeks waiting period; and
- (b) authorise payment of the benefit to the person.

“(6) Where a person:

- (a) became incapacitated for work; and
- (b) because of section 117AA was not qualified to receive sickness benefit during the 4 weeks commencing on the day on which the person became incapacitated; and
- (c) during those 4 weeks ceased to be incapacitated; and
- (d) during those 4 weeks registered as being unemployed by the Commonwealth Employment Service; and
- (e) within 14 days after the day on which the person registered, lodged a claim for unemployment benefit;

then:

- (f) for the purposes of subsections (2) and (3), the person is taken to have become unemployed on the day on which the person became incapacitated; and
- (g) for the purposes of subsections (4) and (7), the 4 weeks of disqualification are the 4 weeks referred to in paragraph (b).

“(7) For the purposes of subsection 116(3), the 4 weeks of disqualification is taken to be a waiting period within the meaning of that subsection.

“(8) For the purposes of this section, the liquid assets of a person’s spouse or of a person and the person’s spouse are taken to be liquid assets of the person.

“(9) Where:

- (a) during the 4 weeks immediately before a person lodged a claim for unemployment benefit, the person or the person’s spouse transferred liquid assets to a person of any age who is the natural or adopted child of the person or of the person’s spouse; and
- (b) either:
  - (i) the person transferring receives no consideration or inadequate consideration, in money or money’s worth for transferring; or
  - (ii) the Secretary is satisfied that the purpose, or the dominant purpose, of transferring, was to enable the claimant to obtain unemployment benefit;

then, for the purposes of this section, the transfer is taken not to have occurred.

“(10) In this section:

**'liquid assets'**, in relation to a person, means cash, and readily realisable property, of the person and includes:

- (a) the person's shares and debentures in a public company within the meaning of the *Companies Act 1981*; and
- (b) amounts deposited with, or lent to, a bank or other financial institution by the person, whether or not the amount can be withdrawn or repaid immediately; and
- (c) amounts due, and able to be paid, to the person by, or on behalf of, a former employer of the person;

but does not include an amount that is a qualifying eligible termination payment for the purposes of Subdivision AA of Part III of the *Income Tax Assessment Act 1936*;

**'maximum reserve'**, in relation to a person, means:

- (a) in the case of an unmarried person without a dependent child—\$5,000; or
- (b) in the case of any other person—\$10,000.”.

*Commencement: 1 February 1991*

44. After section 117 of the Principal Act the following section is inserted:

**Persons with certain assets not qualified for sickness benefit**

“117AA. (1) Where subsection 125 (5) or 128 (1) applies to a person, this section does not apply to that person.

“(2) Where, on the day on which a person lodges a claim for sickness benefit, the value of the person's liquid assets exceeds the person's maximum reserve, the person is not qualified to receive a sickness benefit during the 4 weeks commencing on the day on which the person became incapacitated for work.

“(3) Where:

- (a) on the day on which a person becomes incapacitated for work, the value of the person's liquid assets exceeds the person's maximum reserve; and
- (b) the person lodges a claim for sickness benefit;

the person is not qualified to receive a sickness benefit during the 4 weeks commencing on that day.

“(4) Where subsections (2) or (3) applies to a person, then, for the purposes of paragraphs 125 (3) (a) and (b) and despite subsection 125 (4), the person:

- (a) is taken to have become incapacitated for work; and
- (b) where the person lodged the claim for benefit before the end of the 4 weeks of disqualification—is taken to have made the claim;

at the end of those 4 weeks.

“(5) Where a person:

- (a) became unemployed; and
- (b) because of section 116C was not qualified to receive an unemployment benefit during the 4 weeks commencing on the day on which the person became unemployed; and
- (c) during those 4 weeks became incapacitated for work; and
- (d) within those 4 weeks lodged a claim for sickness benefit;

then:

- (e) for the purposes of subsections (2) and (3), the person is taken to have become incapacitated for work on the day on which the person became unemployed; and
- (f) for the purposes of subsections (4) and (6), the 4 weeks of disqualification are the 4 weeks referred to in paragraph (b).

“(6) For the purposes of subsection 117(3), the 4 weeks of disqualification is taken to be a waiting period within the meaning of that subsection.

“(7) For the purposes of this section, the liquid assets of a person’s spouse or of a person and the person’s spouse are taken to be liquid assets of the person.

“(8) Where:

- (a) during the 4 weeks immediately before a person lodged a claim for sickness benefit, the person or the person’s spouse transferred liquid assets to a person of any age who is the natural or adopted child of the person or of the person’s spouse; and
- (b) either:
  - (i) the person transferring receives no consideration or inadequate consideration, in money or money’s worth for transferring; or
  - (ii) the Secretary is satisfied that the purpose, or the dominant purpose, of transferring, was to enable the claimant to obtain sickness benefit;

then, for the purposes of this section, the transfer is taken not to have occurred.

“(9) In this section:

‘liquid assets’ has the same meaning as in section 116C;

‘maximum reserve’, in relation to a person, means:

- (a) in the case of an unmarried person without a dependent child—\$5,000; or
- (b) in the case of any other person—\$10,000.”.

*Commencement: 1 February 1991*

**Rate of unemployment and sickness benefit**

45. Section 118 of the Principal Act is amended:

- (a) by inserting in subsection (2A) “or (2AA)” after “subsection (2)”;
- (b) by inserting in subsection (3) “or (2AA)” after “subsection (2)” (first occurring);
- (c) by inserting in subsection (3) “or (2AA), as the case may be” after “subsection (2)” (second occurring);
- (d) by inserting in subsection (3) “or (2AA), as the case may be,” after “subsection (2)” (third occurring);
- (e) by omitting subsection (5A).

*Commencement: 20 September 1990*

**Entitlement to unemployment or sickness benefits etc.**

46. Section 119 of the Principal Act is amended by omitting subsections (5E) to (5M) (inclusive).

*Commencement: 20 March 1991*

**Rent assistance**

47. Section 120 of the Principal Act is amended by omitting “\$20” from the definition of “threshold amount” in subsection (1) and substituting “\$25”.

*Commencement: 20 March 1991*

**Special arrangement for victims of major disasters**

48. Section 122BA of the Principal Act is repealed.

*Commencement: 22 August 1990*

**When benefits payable**

49. Section 125 of the Principal Act is amended:

- (a) by inserting after paragraph (1) (a) the following paragraph:
  - “(aa) in a case where none of the later paragraphs of this subsection applies and the Secretary is satisfied that the person would suffer severe financial hardship if the benefit were paid under paragraph (a)—from and including the day on which the person became unemployed or the day on which the person made a claim for the benefit, whichever was the later; and”;
- (b) by inserting in subsection (2AA) “(aa),” after “Paragraph (1)”;
- (c) by omitting from subsection (4) “If” and substituting “Subject to section 117AA, if”.

*Commencement: 1 February 1991*

**Provision of tax file numbers**

**50.** Section 125A of the Principal Act is amended:

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

“(1A) An unemployment benefit or a sickness benefit that a person is qualified to receive under Division 2 is not to be paid, or continue to be paid, to the person where:

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

(b) by omitting from subsection (2) all words before paragraph (b) and substituting the following:

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

- (a) the Secretary is given:
  - (i) in the case of subsection (1)—an employment declaration by the person; or
  - (ii) in the case of subsection (1A)—a declaration by the person in a form approved by the Secretary; and”;

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

“(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) a statement of that number;
  - (iii) a declaration by the spouse under paragraph (2) (a).”.

*Commencement: 1 January 1991*

**51.** After section 125A of the Principal Act the following section is inserted:

**Provision of tax file numbers—special benefit**

“125B. (1) A special benefit 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 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).”.

*Commencement: 1 January 1991*

#### **Education leavers**

52. Section 127 of the Principal Act is amended by omitting from subsection (1) “course of education of at least 6 month’s duration on a full time basis” and substituting “full-time course of education of at least 6 month’s duration”.

*Commencement: Day of Royal Assent*

#### **Special benefit**

53. Section 129 of the Principal Act is amended by omitting paragraph (3) (a) and substituting the following paragraph:

- “(a) the person is:
- (i) an Australian resident; or
  - (ii) a citizen of New Zealand who is exempted under section 106 of the *Migration Act 1958* from the requirement for entry permits; or
  - (iii) a person to whom refugee status within the meaning of that Act has been granted; or
  - (iv) an applicant for that status who has been advised by the Department of Immigration, Local Government and Ethnic Affairs that he or she has a substantial claim to that status; or
  - (v) the holder of a PRC (temporary) entry permit, under regulations made under that Act; or
  - (vi) an applicant for a permit referred to in subparagraph (v) who has been advised by the Department of Immigration, Local Government and Ethnic Affairs that he or she is eligible for the permit; and”.

*Commencement: 1 August 1990*

#### **Rate of special benefit**

54. Section 130 of the Principal Act is amended:

- (a) by omitting subsection 130 (2A); and
- (b) by omitting from subsection (3) the definition of “major disaster”.

*Commencement: 22 August 1990*

**Benefit not payable to full-time students**

**55. Section 136 of the Principal Act is amended:**

(a) by omitting paragraph (1)(b) and substituting the following paragraph:

“(b) the person is enrolled, otherwise than in compliance with a requirement made of the person under section 170, in a full-time course of education or of vocational training.”;

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

“(2) Subject to subsection (2AA), for the purposes of paragraph (1)(b), a person who enrolls in a course is taken to be so enrolled from the day on which the person commences it until the day on which the person:

(a) completes it; or

(b) abandons it; or

(c) serves notice on its provider that the person:

(i) wishes to withdraw from it; or

(ii) wishes to withdraw from such number of subjects that the person's course will no longer be a full-time one.

“(2AA) For the purposes of paragraph (1)(b), a person who enrolls in a course is not taken to be so enrolled during periods of deferment.”;

(c) by omitting from paragraph (2A)(a) “course of education on a full time basis” and substituting “full-time course of education”.

*Commencement: Day of Royal Assent*

**Tax file numbers**

**56. Section 138A of the Principal Act is repealed.**

*Commencement: 1 January 1991*

**57. After section 143 of the Principal Act the following section is inserted:**

**Provision of tax file numbers**

“143A. (1) A sheltered employment allowance 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 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).”.

*Commencement: 1 January 1991*

**58.** After section 148 of the Principal Act the following section is inserted in Part XV:

**Provision of tax file numbers**

“148A. (1) A mobility allowance 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 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

*Social Security Legislation Amendment No. 6, 1991*

- (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).”.**

*Commencement: 1 January 1991*

**59.** After section 151 of the Principal Act the following section is inserted in Part XVI:

**Provision of tax file numbers**

**“151AA. (1) A rehabilitation allowance 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 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).”.

*Commencement: 1 January 1991*

### **Heading to Part XVIA**

**60.** The heading to Part XVIA is amended by inserting “AND ALLOWANCE” after “SUPPLEMENT”.

*Commencement: 1 November 1990*

### **Interpretation**

**61.** Section 151A of the Principal Act is amended:

- (a) by omitting “from payments under this Act or the *Veterans*’

*Entitlements Act 1986* of more than \$10 per week;” from subparagraph (b) (ii) of the definition of “advance pensioner B” and substituting:

“from:

- (A) payments under this Act or the *Veterans’ Entitlements Act 1986*; or
- (B) payments of any benefit that the person is entitled to receive under the law of a foreign country the amount of which reduces by an equivalent amount pension or allowance payable under this Act; or
- (C) periodic payments by way of compensation, being payments to which Part XVII applies;

of more than \$10 per week.”;

- (b) by omitting “from payments under this Act, or the *Veterans’ Entitlements Act 1986*, of more than \$10 per week;” from paragraph (b) of the definition of “continuing advance pensioner A” and substituting:

“from:

- (i) payments under this Act or the *Veterans’ Entitlements Act 1986*; or
- (ii) payments of any benefit that the person is entitled to receive under the law of a foreign country the amount of which reduces by an equivalent amount pension or allowance payable under this Act; or
- (iii) periodic payments by way of compensation, being payments to which Part XVII applies;

of more than \$10 per week.”;

- (c) by omitting “is not reduced under this Act on the basis of the person’s income, maintenance income or property;” from paragraph (b) of the definition of “eligible pensioner” and substituting:

“is:

- (i) not reduced under this Act on the basis of the person’s income, maintenance income or property; or
- (ii) so reduced but only:
  - (A) under Part XVII because of the receipt of periodic payments by way of compensation; or
  - (B) by an amount equivalent to the amount of benefit to which the person is entitled under the law of a foreign country;”;

- (d) by omitting the definition of “**disqualified advance pensioner**”;

- (e) by inserting the following definitions:

“**allowance pensioner**” means a person who:

- (a) is in receipt of:



- (i) an age pension; or
- (ii) an invalid pension; or
- (iii) a carer's pension; or
- (iv) a class B widow's pension; or
- (v) a wife's pension; or
- (vi) a sole parent's pension; or
- (vii) a widowed person's allowance; or
- (viii) a sheltered employment allowance; or
- (ix) a rehabilitation allowance; or
- (x) a sickness benefit; or
- (xi) a job search allowance; and

(b) is not a prescribed person within the meaning of section 251A;

and includes a special allowance pensioner;

**'pharmaceutical allowance'** means the allowance payable under section 151HA;

**'special allowance pensioner'** means a person who:

- (a) is in receipt of an unemployment benefit or a special benefit; and
- (b) is over 60 years of age; and
- (c) has been in receipt of:
  - (i) any pension or benefit under this Act; or
  - (ii) a service pension under the *Veterans' Entitlements Act 1986*;

continuously for at least 6 months; and

(d) is not a prescribed person within the meaning of section 251A;”.

*Commencement: 1 November 1990*

**62.** After section 151A of the Principal Act the following section is inserted:

**Entitlements under Part limited to residents of Australia**

“151AB. (1) Notwithstanding any other provision of this Part, a person is not qualified to receive a pharmaceutical supplement or an advance pharmaceutical supplement on a pay-day during the supplement period on which he or she:

- (a) is not an Australian resident; or
- (b) is absent from Australia.

“(2) Where, because of subsection (1), an advance pensioner A is not qualified to receive an advance pharmaceutical supplement payable under section 151F, then:

- (a) the pensioner is never qualified to receive an advance pharmaceutical supplement payable under section 151G; and
- (b) subsection 151J (1) does not affect the person's qualification to receive a pharmaceutical supplement under section 151B.

“(3) Notwithstanding any other provision of this Part, a person is not qualified to receive a pharmaceutical allowance on a pay-day on which he or she:

- (a) is not an Australian resident; or
- (b) is absent from Australia.”.

*Commencement: 1 November 1990*

**63.** After section 151H of the Principal Act the following sections are inserted:

**Qualifications for pharmaceutical allowance**

“151HA. Subject to sections 151HB, 151K and 151L, an allowance pensioner is qualified to receive a pharmaceutical allowance.

**Pharmaceutical allowance only payable after supplement period**

“151HB. Persons are only qualified to receive pharmaceutical allowances after the supplement period.

**Rate of pharmaceutical allowance**

“151HC. (1) The rate of pharmaceutical allowance for an unmarried person is \$2.50 per week.

“(2) Subject to subsection (3), the rate of pharmaceutical allowance for a married person is \$1.25 per week.

“(3) Where paragraph 33 (1) (a) or subsection 33 (2) or 118 (1B) applies to a married person, the rate of pharmaceutical allowance payable to the person is \$2.50 per week.

**Payment of pharmaceutical allowance**

“151HD. A person's pharmaceutical allowance is payable on each day after the supplement period on which a pension, allowance or benefit because of which the person is an allowance pensioner is paid to or in respect of the person and on which the person is qualified for the allowance.”.

*Commencement: 1 November 1990*

**Pharmaceutical supplements in addition to advance pharmaceutical supplements**

**64.** Section 151J of the Principal Act is amended by omitting from subsection (2) “9” and substituting “19”.

*Commencement: 1 November 1990*

**Rate increases not to apply to advance pensioners A during advance payment period**

65. Section 151K of the Principal Act is amended:

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

“151K. (1) If an advance pensioner A has received at least one advance pharmaceutical supplement under section 151G, then pharmaceutical allowance is not payable to the pensioner during the pensioner’s advance payment period.”;

(b) by omitting “8 November 1990” from paragraph (a) of the definition of “advance payment period” in subsection (2) and substituting “20 March 1991”.

*Commencement: 1 November 1990*

**Pharmaceutical allowance not payable to advance pensioners B during advance payment period**

66. Section 151L of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“151L. (1) If an advance pensioner B has received at least one pharmaceutical supplement under section 151H, then pharmaceutical allowance is not payable to the pensioner during the pensioner’s advance payment period.”.

*Commencement: 1 November 1990*

**Maximum benefit**

67. Section 151N of the Principal Act is amended:

(a) by omitting paragraph (1) (b) and substituting:

“(b) pharmaceutical allowances;”;

(b) by omitting paragraph (2) (c) and substituting the following paragraph:

“(c) pharmaceutical allowances;”;

(c) by omitting from paragraph (2) (e) “2-½” and substituting “2.5”.

*Commencement: 1 November 1990*

68. After Part XVII of the Principal Act the following Part is inserted:

**“PART XVIIA—DISASTER RELIEF PAYMENT**

**Interpretation**

“157A. In this Part:

‘major disaster’ means a disaster to which a declaration under section 157B applies.

**Declaration of major disaster**

“157B. (1) The Minister may, by notice in the *Gazette*, declare that a disaster, whether naturally occurring or otherwise, that:

- (a) caused a significant number of deaths, serious illnesses or serious injuries; and
- (b) caused severe and widespread damage to property;

is a major disaster for the purposes of this Part.

“(2) The Minister may, by writing signed by the Minister, delegate to the Secretary the Minister’s powers under subsection (1).”.

**Disaster relief payment**

“157C. Where:

- (a) because of a major disaster:
  - (i) a person’s principal residence is severely damaged; or
  - (ii) there is a significant interruption to a person’s source of livelihood; and
- (b) when the person was affected by the disaster, he or she:
  - (i) was a resident of Australia; and
  - (ii) was not an illegal entrant within the meaning of the *Migration Act 1958*;

the person is entitled to:

- (c) where the person is not in receipt of an income support payment—a disaster relief payment for one fortnight; or
- (d) where the person is in receipt of an income support payment—a supplementary payment by way of a disaster relief payment for one fortnight.

**Rate of relief payment**

“157D. The fortnightly rate of a disaster relief payment is 1/26 of the sum of:

- (a) in the case of an unmarried person—the annual rate of pension under Part IV prescribed by paragraph 33 (1) (a):
  - (i) where the person has a dependent child described in subsection 33 (3)—increased by the amount by which rates are increased under that subsection; and
  - (ii) where the person has a dependent child or dependent children—further increased by the amount by which pension under Part IV would be increased under subsection 33 (4); and
- (b) in the case of a married person—the annual rate of pension under Part IV prescribed by paragraph 33 (1) (b) increased, where the person has a dependent child or dependent children, by the amount by which pension under Part IV would be increased under subsection 33 (4); and

*Social Security Legislation Amendment No. 6, 1991*

- (c) the amount that, if section 36 applied to the person, would be paid to the person under that section.”.

*Commencement: 22 August 1990*

**Claims**

**69.** Section 158 of the Principal Act is amended:

- (a) by adding at the end of paragraphs (1) (a), (c), (d) and (e) “or”;

*Commencement: 22 August 1990*

- (b) by inserting after paragraph (1) (g) the following word and paragraph:

“; or (h) a payment under Part XVIIIA;”;

*Commencement: 22 August 1990*

- (c) by inserting in subsection (2) “, otherwise than because of section 116C or 117AA,” after “allowance,”.

*Commencement: 1 February 1991*

**Making and lodgment of claims etc.**

**70. (1)** Section 159 of the Principal Act is amended:

- (a) by inserting in paragraph (2) (a) “, IX or X” after “Part VI”;

*Commencement: 1 December 1990*

- (b) by inserting after subsection (4) the following subsection:

“(4AAA) Where:

- (a) a person who is receiving an allowance under Part IX or X in respect of a child dies; and

- (b) a person lodges a claim for an allowance under Part IX or X, as the case may be, in respect of the child within 3 months after the death;

the claim is taken to have been lodged on the day of the death.”;

*Commencement: 1 December 1990*

- (c) by inserting after subsection (4B) the following subsection:

“(4BA) Where:

- (a) at any time on or after 1 January 1991 and before 1 April 1991, a child was over 16 and qualified to receive payments under the Assistance for Isolated Children Scheme; and

- (b) a person or institution makes a claim for an allowance under Part IX or X in respect of the child before 1 April 1991;

the claim is taken to have been lodged on 1 January 1991 or the day immediately after the last day on which family allowance was paid in respect of the child, whichever is the later.”;

*Commencement: 1 January 1991*

(d) by inserting after subsection (4C) the following subsection:

“(4CA) Where:

(a) a person lodges:

(i) a claim for an allowance under Part XII; and

(ii) a claim for an allowance under Part IX or X (in this subsection called a ‘family allowance’);

after he or she became qualified to receive the allowances; and

(b) subsection (4C) applies to the claim referred to in subparagraph (a) (i);

the claim for the family allowance is, for the purposes of this Act, taken to have been lodged on:

(c) if the person became qualified to receive the family allowance more than 12 months before the day on which the claim for it was in fact lodged—the day occurring 12 months before that day; or

(d) in any other case—the day on which the person became qualified to receive the family allowance.”;

*Commencement: 29 December 1988*

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

“(4E) A claim for a disaster relief payment under Part XVIIA must not be lodged later than 2 weeks after the day on which the person lodging the claim was affected by the disaster to which the claim relates or after such longer period as the Secretary, for any special reason in any particular case, allows.

“(4F) If a person lodges a claim for an income support payment within 2 weeks after lodging a claim for a disaster relief payment under Part XVIIA, the claim for the income support payment is, for the purposes of this Act, taken to have been lodged on the day when the person was affected by the disaster to which the disaster relief payment relates.”.

*Commencement: 22 August 1990*

(2) If a major disaster occurred after 22 August 1990 and before the day on which this Act receives the Royal Assent, subsections 159 (4E) and (4F) of the Principal Act as amended by paragraph (1) (e) apply in relation to that disaster as if the references in them to the day on which a person was affected by the disaster were references to the day on which this Act receives the Royal Assent.

*Commencement: Day of Royal Assent*

#### **Manner of payment etc.**

71. Section 161 of the Principal Act is amended:

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

*Social Security Legislation Amendment No. 6, 1991*

“(1) Subject to this section, a pension is to be paid to the credit of an account nominated from time to time by the payee.

“(1A) Where a payee has not nominated an account for the purposes of subsection (1), then, subject to subsection (1C), that pension is not to be paid.

“(1B) Where:

(a) a pension is not being paid to a person because of subsection (1A); and

(b) the person nominates an account for the purposes of subsection (1);

the pension (including any amounts that would have been paid but for subsection (1A)) is to be paid under subsection (1).

“(1C) The Secretary may direct that the whole or a part of an amount of pension that is payable to a person may be paid to the person otherwise than as provided by subsection (1), and payment is to be made accordingly.”;

(b) by omitting from subsections (2) and (3) “, benefit or allowance under this Act”;

(c) by omitting from subsection (5) “, benefit or allowance” (wherever occurring);

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

“(6) In this section:

‘**account**’, in relation to a person, means an account maintained by the person, either alone or jointly or in common with another person, with a bank, credit union or building society;

‘**payee**’, in relation to a pension, means:

(a) except where paragraph (b) applies—the pensioner; or

(b) where the Secretary has directed that a pension be paid to a person other than the pensioner under subsection (2)—that other person;

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

‘**pensioner**’ means a person entitled to a pension under this Act.”.

*Commencement: Day of Royal Assent*

**Some decisions are not reviewable by the Social Security Appeals Tribunal**

72. Section 178 of the Principal Act is amended:

(a) by omitting “(aa)” (second occurring) and substituting “(ac)”;

*Commencement: 28 December 1989*

(b) by omitting paragraph (ac) and substituting the following paragraph:

“(ac) section 151B;”.

*Commencement: 22 August 1990*

73. After section 219 of the Principal Act the following section is inserted:

**Conditions of members**

“219A. (1) The National Convener and the senior members of the Social Security Appeals Tribunal hold office on such terms and conditions (if any) in respect of matters not provided for by this Part as are determined by the Governor-General in writing.

“(2) A member, other than a member referred to in subsection (1), holds office on such terms and conditions (if any) in respect of matters not provided for by this Part as are determined by the Minister in writing.”.

*Commencement: Day of Royal Assent*

**Acting appointments**

74. Section 220 of the Principal Act is amended by omitting subsections (3) and (4) and substituting the following subsections:

“(3) The Minister may appoint a person to act as a full-time senior member:

- (a) in the place of a person who has ceased to be such a member; or
- (b) during any period, or during all periods, when such a member is absent from duty or from Australia or is, for any reason, unable to perform the functions of such a member;

but a person appointed to act under paragraph (a) is not to continue to act for more than 6 months.

“(4) The Minister may appoint a person to act as a part-time senior member:

- (a) in the place of a person who has ceased to be such a member; or
- (b) during any period, or during all periods, when such a member is absent from duty or from Australia or is, for any reason, unable to perform the functions of such a member;

but a person appointed to act under paragraph (a) is not to continue to act for more than 6 months.”.

*Commencement: Day of Royal Assent*

75. After section 237B of the Principal Act the following section is inserted:

**Employment entry payment—sole parent’s pension recipients**

“237C. (1) In this section:

‘**threshold amount**’ means the maximum amount per week that an unmarried person with one child under 13 years of age could earn from



employment without ceasing to be qualified to receive unemployment benefit.

“(2) Where:

- (a) after the commencement of this section, a person commences employment, or has an increase in income from employment, so that the person’s income from employment exceeds the threshold amount; and
- (b) immediately before the commencement of employment or the increase, the person was in receipt of sole parent’s pension; and
- (c) in the opinion of the Secretary, the person’s income from employment is likely to continue to exceed the threshold amount per week for at least 4 weeks; and
- (d) the person has not, within the last 12 months, received payment under this section or section 237A or 237B;

the person is entitled to an employment entry payment of \$100.”.

*Commencement: 1 January 1991*

76. After section 245 of the Principal Act the following section is inserted:

**Restrictions on dual pensions**

“245A. (1) In this section:

‘**service pension**’ means a service pension within the meaning of Part III of the *Veterans’ Entitlements Act 1986* and includes a wife’s service pension and a carer’s service pension within the meaning of that Part;

‘**social security pension**’ means a pension, benefit or allowance under this Act.

“(2) This section applies notwithstanding sections 168 and 169 but it is subject to the other provisions of this Act and to the *Veterans’ Entitlements Act 1986*.

“(3) Where:

- (a) a person is receiving a social security pension; and
- (b) the person becomes entitled to receive:
  - (i) another social security pension; or
  - (ii) a service pension;

the pension referred to in paragraph (a) is, by force of this subsection, cancelled when the person becomes so entitled.

“(4) Where:

- (a) a person is receiving a social security pension; and
- (b) the person’s spouse becomes entitled to receive:
  - (i) a social security pension; or
  - (ii) a service pension; and

(c) the person ceases to be entitled to the pension referred to in paragraph (a) because of the person's spouse's entitlement; the person's pension is, by force of this subsection, cancelled when the person's spouse becomes entitled to the spouse's pension.

“(5) Where:

(a) a person is receiving a social security pension; and

(b) the person's spouse becomes entitled to receive:

(i) a social security pension; or

(ii) a service pension; and

(c) the rate of the person's pension is reduced because of the person's spouse's entitlement;

the reduction of that rate takes place, by force of this subsection, when the person's spouse becomes entitled to the spouse's pension.

“(6) A person who is receiving a service pension is not entitled to receive a social security pension.

“(7) Where a payment of a pension cancelled under this section is made on or after the day on which the pension was cancelled, the payment is, for the purposes of subsection 246 (2) a debt due to the Commonwealth.

“(8) For the purposes of subsection (7), where the amount of a pension cancelled under this section is less than the amount of the pension because of which it was cancelled, the cancelled pension is not taken to have been cancelled until the day immediately after the day on which the last payment of it was made.”.

*Commencement: Day of Royal Assent*

### **Recoverable payments**

77. After section 245A of the Principal Act, the following section is inserted:

“245B. (1) For the purposes of this Act, an amount that has been paid by way of pension, benefit or allowance under this Act, is not a debt due to the Commonwealth unless:

(a) section 5 applies to it; or

(b) subsection 74B (5) or (6) applies to it; or

(c) subsection 245A (7) applies to it; or

(d) subsection 246 (1) applies to it; or

(e) the person to whom it was paid knew, or could reasonably be expected to have known, that its payment was incorrect; or

(f) the person in respect of whom it was paid was not qualified for it and it was not payable; or

(g) it was part of a payment made at a rate that exceeded the maximum rate for such a payment payable to the person.

“(2) Without limiting the application of subsection (1) to amounts paid after 1 January 1991, that subsection applies to amounts of the one kind paid to a person throughout a period commencing, and not ending, before that day.”.

*Commencement: 1 January 1991*

### **Recovery of overpayments**

78. Section 246 of the Principal Act is amended by omitting from paragraph (2) (a) “should not have been paid” and substituting “is a debt due to the Commonwealth”.

*Commencement: 1 January 1991*

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

79. Section 248A of the Principal Act is repealed.

*Commencement: Day of Royal Assent*

### **Write-off, waiver etc.**

80. Section 251 of the Principal Act is amended:

- (a) by inserting in subsection (2) “, (3A) or (3B)” after “(3)”;
- (b) by inserting in subsection (2) “, action under section 162 (in this section called ‘**garnishee action**’) or action under subsection 246 (2) (in this section called ‘**withholding action**’),” after “proceedings”;
- (c) by inserting in subsection (3) “, garnishee action or withholding action” after “proceedings”;
- (d) by inserting after subsection (3) the following subsections:

“(3A) Where:

- (a) under subsection (2) or (3), proceedings or action for the recovery of an amount must be commenced within a particular period; and
- (b) within that period, part of the amount is paid or the person owing the amount acknowledges that he or she owes it;

proceedings or action for the recovery of the balance of the amount or the amount, as the case may be, may be commenced within the period of 6 years beginning on the day of payment or acknowledgment.

“(3B) Where:

- (a) under subsection (2) or (3), action for the recovery of an amount must be commenced within a particular period; and
- (b) within that period, a review of a file, or other internal Departmental activity, relating to action for the recovery of the amount occurs;

action for the recovery of the amount or the balance of the amount, as the case requires, may be commenced within 6 years after the end of the activity or action, as the case requires.”.

*Commencement: 1 January 1991*

**81.** Schedule 1B to the Principal Act is amended by inserting after clause 7 the following clause:

**Provision of tax file numbers**

“7A. (1) A class B widow’s pension 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
- (b) the person does not comply with that 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
  - (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.”.

*Commencement: 1 January 1991*

### **Schedule 1**

82. Schedule 1 to the Principal Act is repealed and the Schedule set out in Schedule 1 to this Act is substituted.

*Commencement: Day of Royal Assent*

### **New Schedule 6**

83. The Principal Act is amended by adding at the end the Schedule set out in Schedule 2 to this Act.

*Commencement: Day of Royal Assent*

## **PART 3—AMENDMENTS OF THE SOCIAL SECURITY AND VETERANS’ ENTITLEMENTS (MAINTENANCE INCOME TEST) AMENDMENT ACT 1988**

### **Principal Act**

84. In this Part, “**Principal Act**” means the *Social Security and Veterans’ Entitlements (Maintenance Income Test) Amendment Act 1988*.

*Commencement: Day of Royal Assent*

### **Application**

85. The amendments of the Principal Act made by this Part apply on and after the first pay-day (within the meaning of section 21 of the Principal Act as amended) on or after the day on which this Act receives the Royal Assent.

*Commencement: Day of Royal Assent*

### **Saving for certain existing pensions**

86. Section 21 of the Principal Act is amended:

(a) by inserting in subsection (1) the following definitions in their respective appropriate alphabetical positions:

“ **‘pay-day’** means a pension pay-day within the meaning of the Social Security Act or the Veterans’ Entitlements Act;

**‘threshold fortnight’**, in relation to a person, means a fortnight in which the amount of any qualifying pension that the person is eligible to receive in the fortnight because of this section is less than what, but for this section, would be the amount of that qualifying pension for the person in the fortnight;”;

(b) by inserting after paragraph (2) (d) the following word and paragraph:

“or (e) the first pay-day after a threshold fortnight for the person.”.

*Commencement: Day of Royal Assent*

**PART 4—AMENDMENTS OF THE FIRST HOME OWNERS ACT  
1983**

**Principal Act**

**87.** In this Part, “Principal Act” means the *First Home Owners Act 1983*<sup>3</sup>.

*Commencement: 1 January 1991*

**88.** After section 17A of the Principal Act the following section is inserted in Division 1 of Part III:

**Provision of tax file numbers**

“17B. (1) Assistance is not payable to an applicant or applicants for the assistance where:

(a) the Secretary:

- (i) in the case of a sole applicant—requires the applicant to give the Secretary, in writing, a statement of the applicant’s tax file number; and
- (ii) in the case of joint applicants—requires the applicants to give the Secretary, in writing, statements of each applicant’s tax file number; and

(b) the requirement is not complied with within 60 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

- (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) In this section, ‘**employment declaration**’ and ‘**tax file number**’ have the same meanings as in Part VA of the *Income Tax Assessment Act 1936*.”.

*Commencement: 1 January 1991*

## **PART 5—AMENDMENTS OF THE HEALTH INSURANCE ACT 1973**

### **Principal Act**

89. In this Part, “**Principal Act**” means the *Health Insurance Act 1973*<sup>4</sup>.

*Commencement: 1 June 1990*

90. Section 4D of the Principal Act is repealed and the following section is substituted:

### **Certain disadvantaged persons**

“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; or
- (d) special benefit;

under the *Social Security Act 1947*.

“(2) Where:

- (a) either:
  - (i) the person or the person’s spouse commences employment; or
  - (ii) there is an increase in the income of the person or of the person’s spouse from employment; and
- (b) the person has been a qualified recipient for a continuous period of 12 months immediately before the commencement of the new employment or increase; and
- (c) because of the new employment or increase, the person stops being a person to whom this section applies;

the person is a disadvantaged person for the period of 6 months after stopping.

“(3) In this section:

**‘Commonwealth allowance’** means any of the following allowances paid by the Commonwealth:

- (a) formal training allowance;
- (b) adult migrant education allowance;
- (c) English as a second language allowance;

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

- (a) an income support payment within the meaning of the *Social Security Act 1947*; or
- (b) a Commonwealth allowance.”.

*Commencement: 1 June 1990*

## **PART 6—AMENDMENTS OF THE NATIONAL HEALTH ACT 1953**

### **Principal Act**

**91.** In this Part, **“Principal Act”** means the *National Health Act 1953*<sup>5</sup>.

*Commencement: 1 June 1990*

### **Interpretation**

**92.** Section 4 of the Principal Act is amended:

- (a) by adding “and includes a person who is a pensioner because of section 4AAA;” at the end of the definition of “pensioner” in subsection (1);
- (b) by omitting paragraph (a) of the definition of “social security beneficiary” in subsection (1) and substituting the following paragraph:
  - “(a) a person who is in receipt of:
    - (i) an income support payment within the meaning of the *Social Security Act 1947*; or
    - (ii) a Commonwealth allowance; or”;
- (c) by inserting in subsection (1) the following definition in its appropriate alphabetical position:
  - “**‘Commonwealth allowance’** means any of the following allowances paid by the Commonwealth:
    - (a) formal training allowance;
    - (b) adult migrant allowance;
    - (c) English as a second language allowance;”.

*Commencement: 1 June 1990*



*Social Security Legislation Amendment No. 6, 1991*

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

**Certain pensioners**

“4AAA. (1) This section applies to a person to whom paragraph (aa) of the definition of ‘pensioner’ in subsection 4 (1) applies.

“(2) Where:

(a) either:

(i) the person or the person’s spouse commences employment; or

(ii) there is an increase in the income of the person or of the person’s spouse from employment; and

(b) the person has been in receipt of a pension, allowance or benefit described in paragraph (a) of the definition of ‘social security beneficiary’ in subsection 4 (1) for a continuous period of 12 months immediately before the commencement of the new employment or increase; and

(c) because of the new employment or increase, the person stops being a person to whom this section applies;

the person is a pensioner for the purposes of this Act for the period of 6 months after stopping.”.

*Commencement: 1 June 1990*

**PART 7—AMENDMENT OF THE INCOME TAX  
ASSESSMENT ACT 1936**

**Principal Act**

94. In this Part, “Principal Act” means the *Income Tax Assessment Act 1936*.

*Commencement: 1 January 1991*

**Objects of this Part**

95. Section 202 of the Principal Act is amended by adding at the end the following word and paragraph:

“; and (e) to facilitate the administration of any legislation enacted by the Parliament under which pensions, allowances, benefits or other payments are provided by the Commonwealth.”.

*Commencement: 1 January 1991*

**PART 8—AMENDMENTS OF THE TAXATION  
ADMINISTRATION ACT 1953**

**Principal Act**

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

*Commencement: 1 January 1991*

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

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

- (a) by inserting in paragraph (1) (a) “or legislation described in paragraph 202 (e) of the *Income Tax Assessment Act 1936*” after “taxation law”;
- (b) by omitting from paragraph (1) (a) “to the first-mentioned person”;
- (c) by omitting subsections (5) and (6).

*Commencement: 1 January 1991*

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

**98.** Section 8WB of the Principal Act is amended:

- (a) by omitting from paragraph (1) (d) “or (d)” and substituting “(d) or (e)”;
- (b) by omitting from paragraph (1) (e) “or (d)” and substituting “(d) or (e)”;
- (c) by omitting subsections (3) and (4).

*Commencement: 1 January 1991*

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**SCHEDULE 1**

Section 82

**New Schedule 1**

“ SCHEDULE 1

Section 65

**AGREEMENT**

**ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF  
AUSTRALIA**

**AND**

**THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN IRELAND**

The Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland,

Wishing to strengthen the existing friendly relations between the two countries;

**SCHEDULE 1—continued**

Having established reciprocity in the field of social security by means of an Agreement signed by the Parties at Canberra on 29 January 1958, which was amended by a further Agreement signed at Canberra on 16 August 1962 and by other Agreements set out in Exchanges of Notes at Canberra on 6 March 1975 and at London on 29 and 31 December 1986;

Wishing to consolidate the above Agreements and their extensions and modifications into a single document; and

Wishing to extend and modify the scope of that reciprocity and to take account of changes in their legislation;

Have agreed as follows:

**PART I  
GENERAL PROVISIONS**

**ARTICLE 1**

**DEFINITIONS**

(1) For the purpose of this Agreement, unless the context otherwise requires:

‘benefit’ means pension, allowance or benefit payable under the legislation of one (or the other) Party and includes any increase payable for a dependant;

‘competent authority’ means, in relation to the territory of the United Kingdom, the Secretary of State for Social Security for Great Britain, the Department of Health and Social Services for Northern Ireland, the Department of Health and Social Security of the Isle of Man, the Social Security Committee of the States of the Island of Jersey or the States of Guernsey Insurance Authority, as the case may require, and, in relation to Australia the Secretary to the Department of Social Security;

‘competent institution’ means the institution from which the person concerned is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Party where that institution is situated;

‘contribution’, in relation to the legislation of the United Kingdom, does not include a reduced rate contribution payable by a married woman or a widow, or a graduated contribution within the meaning of that legislation;

‘employed person’ means a person who, in the applicable legislation, comes within the definition of an employed earner or of an employed person or is treated as such and the words “person is employed” shall be construed accordingly;

**SCHEDULE 1—continued**

**‘employment’** means employment as an employed person and the words ‘employ’, ‘employed’ or ‘employer’ shall be construed accordingly;

**‘equivalent period’** means, in relation to the United Kingdom, a period for which contributions appropriate to the benefit in question have been credited under the legislation of that Party;

**‘family allowance’**, in relation to the United Kingdom, includes child benefit payable under the legislation of the United Kingdom, and, in relation to Australia means family allowance payable under the legislation of Australia;

**‘former Agreement’** means the Agreement on Social Security signed at Canberra on 29 January 1958, on behalf of the Parties, as amended by the Agreement on Social Security signed at Canberra on 16 August 1962 and by the Agreements set out in the Exchanges of Notes at Canberra on 6 March 1975 and at London on 29 and 31 December 1986;

**‘full standard rate’** means, in relation to any benefit payable under the legislation of the United Kingdom, the rate at which the beneficiary would be qualified to receive that benefit if the relevant contribution conditions were fully satisfied;

**‘gainfully occupied’** means employed or self-employed;

**‘Guernsey’** means the Islands of Guernsey, Alderney, Herm and Jethou;

**‘income support’** means income support payable under the legislation of Great Britain and Northern Ireland and supplementary benefit payable under the legislation of the Isle of Man;

**‘legislation’** means the legislation specified in Article 2 which, in relation to the United Kingdom, is in force in any part of the territory of the United Kingdom and, in relation to Australia, is in force in Australia;

**‘means test’** means any provision of the legislation of Australia which affects the payment or rate of a benefit on account of income or property;

**‘qualified to receive’** means, in relation to the United Kingdom, entitled to receive subject to any disqualification or any provision about claiming, hospital treatment or overlapping benefits which may be appropriate;

**‘retirement pension’** means retirement pension or old age pension payable under the legislation of the United Kingdom and includes a contributory old age pension under that legislation and any graduated retirement benefit constituted by an increase in the weekly rate of retirement pension under that legislation, but excludes additional (earnings-related) pension payable under that legislation;

**‘self-employed person’** means a person who, in the applicable

**SCHEDULE 1—continued**

legislation, comes within the definition of a self-employed earner or of a self-employed person or is treated as such, and the words 'person is self-employed' shall be construed accordingly;

'spouse carer's pension' means a carer's pension payable to a husband under the legislation of Australia;

'territory' means in relation to the United Kingdom, Great Britain, Northern Ireland and also the Isle of Man, the Island of Jersey and Guernsey;

'widow' means, in relation to Australia, a de jure widow but does not include a woman who is the de facto spouse of a man;

'widow's benefit' means, in relation to the United Kingdom, widow's allowance, widow's payment, widowed mother's allowance (including any graduated retirement benefit constituted by an increase in the weekly rate of widowed mother's allowance), widowed father's allowance or widow's pension under the legislation of any part of the United Kingdom.

(2) In the application by a Party of this Agreement in relation to a person, any term not defined in this Article shall, unless the context otherwise requires, have the meaning ascribed to it in the legislation of the Parties or, in the event of a conflict of meaning, by whichever of the legislation of the Parties is the more applicable to the circumstances of that person.

(3) Any reference in this Agreement to 'Article' means an Article of this Agreement, and any reference to a 'paragraph' is a reference to a paragraph of the Article in which the reference is made, unless it is stated to the contrary.

**ARTICLE 2**

**SCOPE OF LEGISLATION**

(1) The provisions of this Agreement shall apply:

(a) in relation to the territory of the United Kingdom, to:

- (i) the Social Security Acts 1975 to 1989 and the Social Security (Northern Ireland) Acts 1975 to 1989;
- (ii) the Social Security Acts 1975 to 1989 (Acts of Parliament) as those Acts apply to the Isle of Man by virtue of Orders made, or having effect as if made, under the Social Security Act 1982 (an Act of Tynwald);
- (iii) the Social Security (Jersey) Law, 1974;
- (iv) the Social Insurance (Guernsey) Law, 1978;
- (v) the Child Benefit Act 1975, the Child Benefit (Northern Ireland) Order 1975 and the Child Benefit Act 1975 (an Act of Parliament) as that Act applies to the Isle of Man by virtue of Orders made, or having effect as if made,

**SCHEDULE 1—continued**

under the Social Security Act 1982 (an Act of Tynwald); the Family Allowances (Jersey) Law, 1972 and the Family Allowances (Guernsey) Law, 1950;

and to the legislation which was repealed or consolidated by those Acts, Laws or Orders or repealed by legislation consolidated by them; and

(b) in relation to Australia, to the Social Security Act 1947.

(2) Subject to the provisions of paragraphs (3) and (4) this Agreement shall apply also to any laws, orders and regulations which supersede, replace, amend, supplement or consolidate the legislation specified in paragraph (1).

(3) This Agreement shall not affect any benefits payable under the legislation of either Party except in the manner set out in this Agreement.

(4) This Agreement shall not apply to legislation on social security of the Institutions of the European Communities or to any convention or agreement on social security which either Party has concluded with a third party or to any laws, orders or regulations which amend the legislation specified in paragraph (1) for the purpose of giving effect to such a convention or agreement but shall not prevent either Party from taking into account under its legislation the provisions of any other convention or agreement which that Party has concluded with a third party.

(5) Subject to the provisions of paragraph (2), this Agreement shall apply, unless the Parties agree otherwise, only to benefits described in the legislation specified in paragraph (1) at the date of coming into force of this Agreement and for which specific provision is made in this Agreement.

**PART II**

**RETIREMENT PENSIONS, AGE PENSIONS AND BENEFITS FOR WIDOWS**

**ARTICLE 3**

**RETIREMENT PENSIONS**

(1) For the purpose of determining entitlement to retirement pension under the legislation of any part of the territory of the United Kingdom, a person who is permanently resident in that part of the territory shall be treated as if he or she, or, in the case of a claim made by a married woman or a widow by virtue of her husband's insurance, her husband, had paid contributions under the legislation of that part of the territory for any period during which that person or that person's husband, as the case may be:

(a) was resident in Australia and had attained the age of sixteen years; and

**SCHEDULE 1—continued**

- (b) being a woman had not attained the age of sixty years, or sixty-five years in the case of Guernsey or Jersey, or being a man had not attained the age of sixty-five years.

**(2) Where:**

- (a) a woman claiming retirement pension by virtue of her own insurance had been, but is not at the time of the claim, married, and chooses to have her former husband's contributions taken into account for the purpose of her claim; and
- (b) her former husband had been resident in Australia for any period between the ages of sixteen years and sixty-five years;

her former husband shall be treated, for the purpose of her claim, as if he had paid contributions under the legislation of the territory of the United Kingdom for any period referred to in sub-paragraph (b).

(3) Where a person who is permanently resident in any part of the territory of the United Kingdom was receiving an age pension, otherwise than by virtue of this Agreement or the former Agreement, at the time when he or she was last in Australia, and was over pensionable age at that time, he or she shall, if not qualified by virtue of the preceding paragraphs of this Article to receive retirement pension at the full standard rate under the legislation of that part of the territory of the United Kingdom, be treated as if he or she satisfied the contribution conditions for such a pension.

(4) Any pension which is awarded by virtue of this Article shall continue to be payable if the pensioner ceases to be permanently resident in one part of the territory of the United Kingdom and becomes permanently resident in another part of the territory of the United Kingdom, and the competent authority of the latter part of the territory of the United Kingdom shall not determine entitlement under this Article.

(5) Any pension which is awarded by virtue of this Article shall cease to be payable if the pensioner ceases to be permanently resident in the territory of the United Kingdom.

(6) Where a person is entitled to receive a benefit by virtue of the provisions of this Article, the rate of benefit which he or she would otherwise be entitled to receive, but for this paragraph, shall be reduced by the amount of benefit which is payable by virtue of the legislation of Australia in accordance with the provisions of Article 8 (7).

**ARTICLE 4**

**AGE PENSIONS**

(1) Where a person is qualified to receive an age pension under the legislation of Australia otherwise than by virtue of the provisions of

**SCHEDULE 1—continued**

this Agreement, or the former Agreement, that pension shall be payable and the provisions of this Article shall not apply under that legislation.

(2) For the purpose of any claim by a person to receive an age pension under the legislation of Australia, that person shall be treated as an Australian resident for any period prior to that person's last arrival in Australia for which:

(a) that person; or

(b) if that person is a woman who is or has been married, her husband,

paid contributions, or had earnings or contributions credited, under the legislation of the United Kingdom.

(3) For the purpose of applying paragraph (2), any period during which the person (being a woman) and her husband both paid contributions or had earnings or contributions credited to them shall be counted only once.

(4) For the purpose of applying paragraph (2), a period when the person or, if the person is a woman who is or has been married, her husband paid contributions or had earnings or contributions credited, which coincided with a period in which that person was an Australian resident, shall be counted only once.

(5) A person who receives from Australia a wife's pension or a spouse carer's pension by virtue of the fact that the spouse of that person receives an age pension by virtue of this Article, shall, for the purpose of this Agreement, be deemed to receive that pension by virtue of this Agreement.

**ARTICLE 5**

**UK BENEFITS FOR WIDOWS**

(1) For the purpose of determining entitlement to widow's benefit under the legislation of any part of the territory of the United Kingdom, a widow who is permanently resident in that part of the territory shall be treated as if her husband had paid contributions under the legislation of that part of the territory for any period during which he was resident in Australia between the ages of sixteen years and sixty-five years.

(2) Where a widow who is permanently resident in any part of the territory of the United Kingdom was receiving a pension payable to widows under the legislation of Australia, otherwise than by virtue of this Agreement or the former Agreement, at the time when she was last in Australia, and is not qualified by virtue of paragraph (1) to receive widow's allowance, widowed mother's allowance or widow's pension at the full standard rate under the legislation of that part of the territory of the United Kingdom where she is permanently resident, she shall be qualified under that legislation to receive at the full standard rate:



**SCHEDULE 1—continued**

- (a) widow's allowance if she had been receiving a pension payable to widows under the legislation of Australia for less than one year in the case of Jersey and 26 weeks in the case of Guernsey; or
  - (b) widowed mother's allowance if she is not qualified to receive widow's allowance or if she has ceased to be qualified to receive widow's allowance, and if she has a child in her family or if she has residing with her a person under the age of nineteen years or sixteen years in the case of Jersey or eighteen years in the case of Guernsey, and the pension payable to widows which she was receiving at the time when she was last in Australia was being paid to her on the basis that that child or person was her dependent child; or
  - (c) widow's pension or retirement pension, as the case may require, if she is not qualified to receive widow's allowance, or widowed mother's allowance but had reached the age of fifty-five years or forty years where that widow is permanently resident in Jersey or Guernsey, either before she last left Australia or when she ceased to be qualified to receive widow's allowance or widowed mother's allowance.
- (3) Any pension which is awarded by virtue of this Article shall continue to be payable if the pensioner ceases to be permanently resident in one part of the territory of the United Kingdom and becomes permanently resident in another part of the territory of the United Kingdom, and the competent authority of the latter part of the territory of the United Kingdom shall not determine entitlement under this Article.
- (4) Any widow's benefit which is awarded by virtue of this Article shall cease to be payable if the widow ceases to be permanently resident in the territory of the United Kingdom.
- (5) Where a person is entitled to receive a benefit by virtue of the provisions of this Article, the rate of benefit which she would otherwise be entitled to receive, but for this paragraph, shall be reduced by the amount of benefit which is payable by virtue of the legislation of Australia in accordance with the provisions of Article 8 (7).
- (6) The provisions contained in this Article shall apply, in an equal and opposite way to widowed father's allowance under the legislation of Jersey.
- (7) In the case of widows' benefits payable under the legislation of Jersey, contribution credits shall only be awarded to widows permanently resident in Jersey.
- (8) In the case of widow's benefit payable under the legislation of Guernsey:
- (a) Class 3 contributions shall be credited only to a widow who is permanently resident in Guernsey;

**SCHEDULE 1—continued**

- (b) where Class 3 contributions have not been credited to a widow under the provisions of sub-paragraph (a) above and the rate of old age pension which would be payable is less than the rate of widow's benefit payable immediately before pension age is attained the rate of old age pension shall be adjusted so that it is equal to the rate of widow's benefit which was payable, or which would be payable, if widow's benefit were payable beyond pension age.

**ARTICLE 6**

**UK WIDOWED MOTHER'S ALLOWANCE—CHILD IN AUSTRALIA**

Where a woman would be qualified under the legislation of the United Kingdom, otherwise than by virtue of this Agreement or the former Agreement, to receive widowed mother's allowance, including an allowance for a child, if her child were in the territory of the United Kingdom, she shall be qualified to receive that allowance for any period during which the child is in Australia.

**ARTICLE 7**

**AUSTRALIAN BENEFITS FOR WIDOWS**

(1) Where a person is qualified to receive a pension payable to widows under the legislation of Australia otherwise than by virtue of the provisions of this Agreement or the former Agreement, that pension shall be payable and the provisions of this Article shall not apply under that legislation.

(2) For the purpose of any claim to receive a pension payable to widows under the legislation of Australia, a widow shall be treated as if she had been an Australian resident during any period for which her husband (or her last husband if more than one) had paid contributions or had had earnings or contributions credited to him under the legislation of the United Kingdom.

(3) For the purpose of applying paragraph (2), any period when the widow was an Australian resident which coincided with a period when her husband (or her last husband if more than one) had paid contributions or had had earnings or contributions credited to him shall be counted only once.

**ARTICLE 8**

**CONVERSION OF AUSTRALIAN RESIDENCE**

(1) For the purpose of calculating entitlement under the legislation of Great Britain, Northern Ireland or the Isle of Man, to any benefit in accordance with Articles 3 and 5, periods of residence in Australia before 6 April 1975 shall be treated as if they had been contribution or equivalent periods completed under that legislation.

**SCHEDULE 1—continued**

(2) For the purpose of calculating entitlement under the legislation of Great Britain, Northern Ireland or the Isle of Man, to any benefit in accordance with Articles 3 and 5, periods of residence in Australia on or after 6 April 1975 shall be treated as if a Class 3 contribution had been paid under that legislation for each week of residence.

(3) Notwithstanding the provisions of paragraph (2), where residence in Australia during any tax year beginning on or after 6 April 1975 is for a period of less than the complete tax year then for each week of that period during which a person satisfies the competent authority that he or she was employed in Australia:

- (a) for each week up to 5 April 1987, a person shall be treated as having paid a contribution as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit under the legislation of Great Britain, Northern Ireland or the Isle of Man;
- (b) for each week commencing on or after 6 April 1987, a person shall be treated as having earnings on which primary Class 1 contributions have been paid under the legislation of Great Britain, Northern Ireland or the Isle of Man; these earnings shall be treated as equivalent to two-thirds of that year's upper earnings limit.

(4) For the purpose of calculating entitlement under the legislation of Guernsey to any benefit in accordance with Articles 3 and 5, residence in Australia between the ages of sixteen years and sixty-five years shall be treated as if a Class 3 contribution had been paid under the legislation of Guernsey for each week of residence.

(5) For the purpose of calculating entitlement under the legislation of Jersey to any benefit in accordance with Articles 3 and 5, a person shall be treated:

- (a) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years, being a week in the relevant quarter, as having paid contributions which derive a quarterly contribution factor of 0.077 for that quarter;
- (b) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years, being a week in a relevant year, as having paid contributions which derive an annual contribution factor of 0.0193 for that year.

(6) Where it is not possible to determine accurately the periods of time in which certain insurance periods were completed under the legislation of the United Kingdom, such periods shall be treated as if they did not overlap with periods of residence in Australia, and they shall be taken into account to the best advantage of the beneficiary.

**SCHEDULE 1—continued**

(7) For the purpose of calculating the rate of any benefit payable to a person under the legislation of the United Kingdom in accordance with the provisions of Articles 3, 5 or 13, the amount of any Australian benefit to be taken into account shall be initially the rate which that person is receiving at the date of entitlement to the United Kingdom benefit, and thereafter the rate which that person is receiving:

- (a) on the date on which the latest uprating order, made by the Secretary of State for Social Security under section 63 of the Social Security Act 1986, came into effect; or
- (b) in respect of Guernsey, on the date on which the latest Ordinance made under Section 19 of the Social Insurance (Guernsey) Law, 1978 came into effect; or
- (c) in respect of Jersey, annually on 1 October in accordance with Article 13 of the Social Security (Jersey) Law 1974.

(8) Notwithstanding the provisions of paragraph (7), where a person referred to in that paragraph has the rate of that Australian benefit reduced under the legislation of Australia upon being absent from Australia for 12 months, the benefit payable to that person under the legislation of the United Kingdom shall be adjusted upon that reduction occurring.

**ARTICLE 9**

**CONVERSION OF UK EARNINGS FACTORS OR  
CONTRIBUTION FACTORS**

In order to convert to a period of contributions or credits for the purposes of Articles 4 and 7:

- (a) the competent authority of Great Britain, Northern Ireland or the Isle of Man shall divide any earnings factor achieved in any tax year commencing after 5 April 1975 under its legislation, by that year's lower earnings limit;
- (b) the competent authority of Jersey shall multiply any contribution factor achieved by a person under its legislation:
  - (i) by thirteen in the case of a quarterly contribution factor; and
  - (ii) by fifty-two in the case of an annual contribution factor.

The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated, subject to a maximum of the number of weeks during which the person was subject to that legislation in a quarter or in a year, shall be treated as representing the number of weeks of contributions or credits completed under that legislation.

**SCHEDULE 1—continued**

**PART III**

**UK FAMILY ALLOWANCE AND GUARDIAN'S ALLOWANCE**

**ARTICLE 10**

**FAMILY ALLOWANCE**

- (1) Where a person who has been resident in Australia becomes permanently resident in the territory of the United Kingdom, the period during which that person was resident in Australia shall be treated, for the purpose of a claim by the person for family allowance under the legislation of the United Kingdom, as a period during which that person was resident in that territory.
- (2) For the purpose of any claim to family allowance under the legislation of Guernsey, a person whose place of birth is in Australia shall be treated as if his or her place of birth was in Guernsey.
- (3) In the case of Jersey, family allowance shall only be paid in respect of a child who is ordinarily resident in Jersey.

**ARTICLE 11**

**GUARDIAN'S ALLOWANCE**

- (1) Where a person who is permanently resident in the territory of the United Kingdom claims guardian's allowance under the legislation of any part of that territory for a child who is permanently resident there, each complete week during which either parent of that child was resident in Australia after reaching sixteen years of age shall be treated as if that week had been a complete week of residence in that part of the territory of the United Kingdom or as if that parent had been an insured person under the legislation of Guernsey.
- (2) If either parent of a child referred to in paragraph (1) was born in Australia, that parent shall be treated as if he or she had been born in the United Kingdom.

**PART IV**

**SICKNESS BENEFITS AND INVALIDITY BENEFITS**

**ARTICLE 12**

**AUSTRALIAN SICKNESS BENEFIT**

Where a person who is temporarily absent from any part of the territory of the United Kingdom and who is legally in Australia claims sickness benefit under the legislation of Australia, that person shall, for the purpose of that claim, be deemed to be an Australian resident.

**SCHEDULE 1—continued**

**ARTICLE 13**

**UK SICKNESS BENEFIT AND INVALIDITY BENEFIT**

(1) Where a person who is permanently resident in the territory of the United Kingdom and is ordinarily gainfully occupied, or would be, but for his or her incapacity for work, claims sickness or invalidity benefit under the legislation of the relevant part of that territory, then, for the purpose of calculating entitlement to those benefits, periods during which that person was in Australia shall be treated in accordance with the provisions of this Article.

(2) For the purpose of calculating entitlement under the legislation of Great Britain, Northern Ireland or the Isle of Man to sickness or invalidity benefit:

- (a) periods of gainful occupation completed in Australia before 6 April 1975 shall be treated as if they had been contribution or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man; and
- (b) periods completed as a self-employed person in Australia after 5 April 1975 shall be treated as if they have been contribution periods completed as a self-employed person or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man.

(3) For the purpose of calculating an earnings factor for assessing entitlement to sickness or invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man, a person shall be treated for each week beginning in a relevant tax year, during which he or she was an employed person in Australia, as follows:

- (a) for each week commencing on or after 6 April 1975 and up to 5 April 1987, as having a contribution paid as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit; and
- (b) for each week beginning in a relevant tax year commencing on or after 6 April 1987, as having earnings on which primary Class 1 contributions have been paid. These earnings shall be treated as equivalent to two-thirds of that year's upper earnings limit.

(4) For the purpose of calculating entitlement under the legislation of Guernsey to sickness or invalidity benefit:

- (a) periods during which a person was gainfully occupied as an employed person in Australia shall be treated as if they had been contribution or equivalent periods completed as an employed person under the legislation of Guernsey; and
- (b) periods during which a person was gainfully occupied as a self-employed person in Australia shall be treated as if they had

**SCHEDULE 1—continued**

been contribution or equivalent periods completed as a self-employed person under the legislation of Guernsey.

(5) For the purpose of calculating entitlement under the legislation of Jersey to any benefit in accordance with this Article, a person shall be treated:

- (a) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years being a week in the relevant quarter, as having paid contributions which derive a quarterly contribution factor of 0.077 for that quarter;
- (b) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years being a week in a relevant year, as having paid contributions which derive an annual contribution factor of 0.0193 for that year.

(6) For the purpose of calculating entitlement under the legislation of the relevant part of the territory of the United Kingdom to sickness or invalidity benefit, a person shall be treated as if he or she had had earnings or contributions credited to him or her:

- (a) as an employed person for any week during which he or she was in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he or she was or would ordinarily have been employed; and
- (b) as a self-employed person for any other week during which he or she was in Australia and was incapable of work, if that week was part of a period during which he or she was or would ordinarily have been self-employed.

(7) Where a person who is permanently resident in the territory of the United Kingdom was receiving a sickness benefit, an invalid pension, a sheltered employment allowance or a rehabilitation allowance under the legislation of Australia when he or she was last in Australia and is incapable of work at the time when he or she arrives in the territory of the United Kingdom, he or she shall be treated under the legislation of the United Kingdom as if, at that time and for so long as he or she continues from that time to be incapable of work, he or she satisfied the contribution conditions under which sickness or invalidity benefit is payable.

(8) For the purpose of any claim to invalidity benefit under the legislation of the United Kingdom, any period in respect of which a person received sickness benefit or an invalid pension under the legislation of Australia shall be treated as if it were a period of entitlement to sickness benefit or invalidity benefit completed under the legislation of the United Kingdom.

**SCHEDULE 1—continued**

(9) Nothing in this Article shall diminish any right which a person has, apart from this Agreement, to receive sickness or invalidity benefit under the legislation of the United Kingdom.

(10) Where a person is entitled to receive a benefit by virtue of the provisions of this Article, the rate of benefit which he or she would otherwise be entitled to receive, but for this paragraph, shall be reduced by the amount of benefit which is payable by virtue of the legislation of Australia in accordance with the provisions of Article 8 (7).

**PART V**

**UK UNEMPLOYMENT BENEFIT**

**ARTICLE 14**

(1) Where a person who is permanently resident in the territory of the United Kingdom except for Jersey claims unemployment benefit under the legislation of any part of that territory, then, for the purpose of calculating entitlement to that benefit, periods during which that person was in Australia shall be treated in accordance with the provisions of this Article.

(2) Periods of gainful occupation as an employed person in Australia before 6 April 1975 shall be treated as if they had been contribution or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man.

(3) For the purpose of calculating an earnings factor for assessing entitlement to unemployment benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man, a person shall be treated for each week beginning in a relevant tax year, during which he or she was an employed person in Australia, as follows:

- (a) for each week commencing on or after 6 April 1975 and up to 5 April 1987, as having a contribution paid as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit; and
- (b) for each week beginning in a relevant tax year commencing on or after 6 April 1987, as having earnings on which primary Class 1 contributions have been paid. These earnings shall be treated as equivalent to two-thirds of that year's upper earnings limit.

(4) For the purpose of calculating entitlement to unemployment benefit under the legislation of Guernsey, periods during which a person was gainfully occupied as an employed person in Australia shall be treated as if they had been contribution or equivalent periods completed as an employed person under the legislation of Guernsey.

(5) A person shall be treated as if he or she had had earnings or contributions credited to him or her as an employed person for any



**SCHEDULE 1—continued**

week during which he or she was in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he or she was or would ordinarily have been gainfully occupied under a contract of service.

(6) Nothing in this Article shall diminish any right which a person has, apart from this Agreement, to receive unemployment benefit under the legislation of the United Kingdom.

(7) The provisions of this Article shall not apply to a person who claims unemployment benefit under the legislation of Guernsey and who has not paid 26 contributions as an employed person under that legislation.

**PART VI  
MISCELLANEOUS PROVISIONS**

**ARTICLE 15**

**TEMPORARY ABSENCES**

(1) A benefit which is payable to a person by Australia under Part II of this Agreement shall not cease to be payable solely where the person is absent from Australia and the competent authority of Australia is satisfied that the absence is temporary. After the person has been temporarily absent from Australia for a period of 12 months at any one time that person shall then be deemed to have departed permanently from Australia.

(2) Where a person, who is qualified to receive any benefit under the legislation of the United Kingdom, would be qualified to receive also an increase of that benefit for a dependant if the dependant were in that territory, he or she shall be qualified to receive that increase while the dependant is temporarily in Australia.

**ARTICLE 16**

**CALCULATION OF AUSTRALIAN BENEFITS**

(1) Subject to paragraph (5), the provisions of this Article shall apply, in relation to the territory of the United Kingdom, only to retirement pensions and widows' benefits, and, in relation to Australia only to age pensions, wives' pensions, spouse carer's pensions and pensions payable to widows, being benefits payable under the legislation of Australia solely by virtue of this Agreement; and, for the purpose of applying those provisions, the effect of any provision of the legislation of any part of the territory of the United Kingdom which concerns overlapping benefits shall be disregarded.

(2) Subject to the provisions of paragraph (3), where a person who is qualified to receive an Australian benefit also receives a United Kingdom benefit, the rate of that Australian benefit shall be set by:

**SCHEDULE 1—continued**

- (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation the United Kingdom benefit received by that person;
  - (b) deducting the amount of the United Kingdom benefit received by that person from the maximum rate of that Australian benefit; and
  - (c) applying to the remaining benefit obtained under sub-paragraph (b) the relevant rate calculation set out in the legislation of Australia using as the person's income the amount calculated under sub-paragraph (a).
- (3) Where a married person is, or both that person and his or her spouse are, in receipt of a United Kingdom benefit or benefits, each of them shall be deemed, for the purpose of paragraph (2) and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or the total of both of those benefits, as the case may be.
- (4) If a person would receive an Australian benefit except for the operation of paragraph (2) or except for that person's failure to claim the benefit, then for the purpose of a claim by that person's spouse for a payment under the legislation of Australia that person shall be deemed to receive that benefit.
- (5) The reference in paragraph (4) to a payment under the legislation of Australia to the spouse of a person is a reference to a payment of:
- (a) an age pension;
  - (b) an invalid pension;
  - (c) an unemployment benefit;
  - (d) a sickness benefit;
  - (e) a sheltered employment allowance; or
  - (f) a rehabilitation allowance,
- under that legislation, whether payable by virtue of this Agreement or otherwise.
- (6) For the purpose of this Article 'benefit' includes any additional earnings-related pension, incremental addition, invalidity allowance and age addition payable with the benefit.

**ARTICLE 17**

**DUAL ENTITLEMENT IN AUSTRALIA**

**Where:**

- (a) a claim is made for a benefit payable by Australia, by virtue of this Agreement; and
- (b) there are reasonable grounds for believing that the claimant may also be entitled, whether by virtue of this Agreement or

**SCHEDULE 1—continued**

otherwise, to a benefit that is payable under the legislation of the United Kingdom and that, if paid, would affect the amount of the first-mentioned benefit,  
that first-mentioned benefit shall not be paid until a claim is duly lodged for payment of the second-mentioned benefit and the first-mentioned benefit shall not continue to be paid if the claim for the second-mentioned benefit is not actively pursued.

**ARTICLE 18**

**DUAL ENTITLEMENT IN UK**

Where a person is qualified to receive a benefit under the legislation of the United Kingdom pursuant to Articles 3, 5 or 13 and is also qualified to receive an Australian benefit, the rate of that Australian benefit shall be determined under the legislation of Australia but in that determination the amount of the benefit payable under the legislation of the United Kingdom shall be disregarded in the computation of that person's income.

**ARTICLE 19**

**RECOVERY OF BENEFIT**

(1) Where a benefit is payable by a Party to a person in respect of a past period (in this Article referred to as 'the first benefit'), and

- (a) for all or part of that same period, the other Party has paid to that person a benefit under its legislation (in this Article referred to as 'the second benefit'); and
- (b) the amount of the second benefit would have been reduced had the first benefit been paid during that period, the competent authority of the former Party, at the request of the competent authority of the latter Party, shall:
- (c) deduct from the first benefit an amount equal to the amount of the second benefit that would not have been paid had the first benefit been paid on a periodical basis throughout that past period; and
- (d) transmit any sum deducted in accordance with sub-paragraph (c) above to the competent authority of the latter Party.

Any balance shall be paid by the former Party direct to the person.

(2) Where the United Kingdom has paid a benefit to a person in respect of a past period and:

- (a) for all or part of that same period, Australia has paid to that person a benefit under its legislation; and
- (b) the amount of the benefit paid by Australia would have been reduced had the United Kingdom paid its benefit during that period, the competent authority of Australia may determine that:

**SCHEDULE 1—continued**

- (c) the amount of its benefit which would not have been paid had the United Kingdom paid its benefit on a periodical basis throughout that period is a debt due by that person to Australia; and
  - (d) the amount, or any part, of that debt may be recovered from future benefits which Australia may pay under its legislation to that person.
- (3) A reference in paragraphs (1) or (2) to a payment under the legislation of a Party means a benefit payable whether by virtue of this Agreement or otherwise.
- (4) Where a person has received income support under the legislation of Great Britain, Northern Ireland or the Isle of Man for a period for which that person subsequently becomes entitled to any benefit under the legislation of Australia, the competent institution of Australia, at the request of and on behalf of the competent institution of Great Britain, Northern Ireland or the Isle of Man, shall withhold from the benefit due for that period the amount by which the income support paid exceeded what would have been paid had the benefit under the legislation of Australia been paid before the amount of income support was determined, and shall transmit the amount withheld to the competent institution of Great Britain, Northern Ireland or the Isle of Man.

**ARTICLE 20**

**MEANING OF PERMANENTLY RESIDENT**

For the purpose of applying the provisions of this Agreement, a person shall be treated as permanently resident in the territory of the United Kingdom if he or she is ordinarily resident in that territory and the competent authority of that territory is satisfied that it is that person's intention to remain so resident permanently.

**ARTICLE 21**

**GAINFUL OCCUPATION IN AUSTRALIA**

For the purpose of Articles 13 and 14, a person shall be treated as having been gainfully occupied in Australia during:

- (a) any period of service, whether in Australia or elsewhere, in the Defence Force of Australia; and
- (b) any period of absence from Australia during which that person was an employee and was treated as being a resident of Australia within the meaning of any Act relating to the imposition, assessment and collection of a tax upon incomes in force in Australia.

**SCHEDULE 1—continued**

**PART VII  
ADMINISTRATION**

**ARTICLE 22**

**ADMINISTRATIVE ARRANGEMENTS**

The competent authorities of the United Kingdom of Great Britain and Northern Ireland and the Secretary to the Department of Social Security for the Government of Australia shall make whatever administrative arrangements are necessary from time to time in order to implement this Agreement.

**ARTICLE 23**

**DISCLOSURE OF INFORMATION**

- (1) The competent authorities may supply to each other such information as is necessary for the operation of this Agreement or of the legislation of each territory to which this Agreement applies as if the matter involved the application of their own legislation.
- (2) Any information received by a competent authority pursuant to paragraph (1) shall be protected in the same manner as information obtained under the legislation of that territory and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with matters, including the determination of appeals, arising under the provisions of this Agreement and of the legislation to which this Agreement applies and shall be used only for those purposes.
- (3) In no case shall the provisions of paragraphs (1) and (2) be construed so as to impose on the competent authority of either Party the obligation:
  - (a) to carry out administrative measures which are at variance with the laws or the administrative practice of either Party; or
  - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of either Party.
- (4) The competent authorities shall notify each other of legislation that supersedes, amends, supplements or replaces the legislation within the scope of this Agreement in relation to their respective Parties, promptly after the first-mentioned legislation is enacted.
- (5) The appropriate competent authority shall also provide copies of the relevant legislation and of related explanatory material and any further amplification or clarification that the other competent authority may request.

**SCHEDULE 1—continued**

**PART VIII  
TRANSITIONAL AND FINAL PROVISIONS**

**ARTICLE 24**

**TRANSITIONAL PROVISIONS**

(1) No provision of this Agreement shall confer any right to receive any payment of a benefit for a period before the date of the entry into force of this Agreement.

(2) Any contribution which a person has paid or earnings or contributions credited under the legislation of the United Kingdom before the date of the entry into force of this Agreement, and any period during which a person was resident in Australia before that date, shall be taken into account for the purpose of determining the right to receive a benefit in accordance with the provisions of this Agreement under the legislation of Australia and under the legislation of the United Kingdom respectively.

(3) Subject to paragraph (4), where, on the date on which this Agreement enters into force, a person:

- (a) is in receipt of a benefit under the legislation of either Party by virtue of the former Agreement; or
- (b) is qualified to receive a benefit referred to in sub-paragraph (a) and, where a claim for that benefit is required, has claimed that benefit,

no provision of this Agreement shall affect the entitlement to receive that benefit.

(4) The rate of a benefit which is payable by virtue of paragraph (3) shall, subject to this Agreement, be assessed in accordance with the provisions of the legislation of the relevant Party.

**ARTICLE 25**

**ENTRY INTO FORCE**

(1) The Agreement shall enter into force on a date to be specified in Notes exchanged by the Parties through the Diplomatic channel notifying each other that all matters as are necessary to give effect to this Agreement have been finalised.

(2) Subject to the provisions of Article 24, the former Agreement shall terminate on the date of entry into force of this Agreement.

**ARTICLE 26**

**TERMINATION PROVISIONS**

(1) Subject to paragraph (2), this Agreement shall remain in force until the expiration of twelve months from the date on which either Party

**SCHEDULE 1—continued**

receives from the other written notice through the diplomatic channel of the intention of the other Party to terminate this Agreement.

(2) In the event that this Agreement is terminated in accordance with paragraph (1), the Agreement shall continue to have effect in relation to all persons who by virtue of this Agreement:

- (a) at the date of termination, are in receipt of benefits; or
- (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed this Agreement.

Done in duplicate at London this 1st day of October 1990.

For the Government of  
Australia:  
Graham Richardson

For the Government of the  
United Kingdom of Great  
Britain and Northern  
Ireland:  
Caithness”.

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**SCHEDULE 2**

Section 83

New Schedule 6

“ SCHEDULE 6

Section 65

AGREEMENT

between

AUSTRALIA

and

MALTA

ON SOCIAL SECURITY

Australia and Malta,

Wishing to strengthen the existing friendly relations between the two countries, and

Resolved to co-ordinate their social security systems;

Have agreed as follows:

PART 1

GENERAL PROVISIONS

ARTICLE 1

Interpretation

1. In this Agreement, unless the context otherwise requires:
  - . ‘**applicable rate**’ means, in relation to Malta, the rate that would otherwise have been payable to a claimant had the number of totalised contributions been all paid or credited under the legislation of Malta;
  - . ‘**benefit**’ means, in relation to a Party, a benefit for which provision is made in the legislation of that Party, and includes any additional amount, increase or supplement that is payable, in addition to that benefit, to or in respect of a person who qualifies for that additional amount, increase or supplement under the legislation of that Party;
  - . ‘**Competent Authority**’ means, in relation to Australia, the Secretary of the Department of Social Security and, in relation to Malta, the Director of Social Security;
  - . ‘**Competent Institution**’ means, in relation to Australia the Competent Authority for Australia and in relation to Malta, the Competent Authority for Malta;
  - . ‘**legislation**’ means, in relation to a Party, the laws specified in Article 2 in relation to that Party;



**SCHEDULE 2—continued**

- . **‘period of insurance’** means, the period of contributions or any equivalent period which has been or can be used to acquire the right to a benefit under the legislation of Malta, but does not include any period deemed pursuant to Article 9 to be a period of insurance;
  - . **‘period of residence in Australia’**, in relation to a person, means a period defined as such in the legislation of Australia, but does not include any period deemed pursuant to Article 7 to be a period in which that person was an Australian resident;
  - . **‘territory’** means, in relation to Australia, Australia as defined in the legislation of Australia and in relation to Malta, Malta as defined in the Constitution of Malta; and
  - . **‘widow’** means, in relation to Australia, a de jure widow but does not include a woman who is the de facto spouse of a man.
2. In the application by a Party of this Agreement in relation to a person, any term not defined in this Article shall, unless the context otherwise requires, have the meaning assigned to it in the legislation of either Party or, in the event of a conflict of meaning, by whichever of those laws is the more applicable to the circumstances of that person.

**ARTICLE 2**

Legislative Scope

1. Subject to paragraph 2, this Agreement shall apply to the following laws, as amended at the date of signature of this Agreement, and to any laws that subsequently amend, supplement or replace them:
- (a) in relation to Australia: the Social Security Act 1947 in so far as the Act provides for, applies to or affects:
    - (i) age pensions;
    - (ii) invalid pensions;
    - (iii) wives’ pensions; and
    - (iv) pensions payable to widows; and
  - (b) in relation to Malta: the Social Security Act, 1987 as it provides for, applies to or affects:
    - (i) contributory pensions in respect of retirement;
    - (ii) contributory pensions in respect of invalidity;
    - (iii) contributory pensions in respect of widowhood; and
    - (iv) non-contributory assistance and pensions.
2. Notwithstanding the provisions of paragraph 1 the legislation of either Party shall not include any laws made at any time for the purpose of giving effect to any reciprocal agreement on Social Security entered into by either Party.

**SCHEDULE 2—continued**

3. This Agreement shall apply to laws which extend the legislation of either Party to new categories of beneficiaries only if the two Parties so agree in a Protocol to this Agreement.
4. In respect of non-contributory assistance and pensions payable under the legislation of Malta, a citizen of Australia shall have the same rights as a citizen of Malta.

**ARTICLE 3**

**Personal Scope**

This Agreement shall apply to any person who:

- (a) is or has been an Australian resident; or
- (b) is or has been an insured person under the legislation of Malta, and, where applicable, to other persons in regard to the rights they derive from the person described above.

**ARTICLE 4**

**Equality of Treatment**

Subject to this Agreement, all persons to whom this Agreement applies shall be treated equally by a Party in regard to rights and obligations which arise whether directly under the legislation of that Party or by virtue of this Agreement.

**PART II**

**PROVISIONS RELATING TO  
AUSTRALIAN BENEFITS**

**ARTICLE 5**

**Residence or Presence in Malta or a Third State**

1. Where a person would be qualified under the legislation of Australia or by virtue of this Agreement for a benefit except that he or she is not an Australian resident and in Australia on the date on which he or she lodges a claim for that benefit but he or she:
  - (a) is an Australian resident or residing in the territory of Malta or a third State with which Australia has concluded an agreement on social security that includes provision for co-operation in the assessment and determination of claims for benefits; and
  - (b) is in Australia, or the territory of Malta or that third State, that person shall be deemed, for the purposes of lodging that claim, to be an Australian resident and in Australia on that date.
2. Paragraph 1 shall not apply to a claimant for a wife's pension who has never been an Australian resident.

**SCHEDULE 2—continued**

**ARTICLE 6**

**Spouse Related Australian Benefits**

For the purposes of this Agreement, a person who receives from Australia an Australian benefit due to the fact that the spouse of that person receives, by virtue of this Agreement, another Australian benefit shall be deemed to receive that first-mentioned benefit by virtue of this Agreement.

**ARTICLE 7**

**Totalisation for Australia**

1. Where a person to whom this Agreement applies has claimed an Australian benefit under this Agreement and has accumulated:
  - (a) a period as an Australian resident that is less than the period required to qualify him or her, on that ground, under the legislation of Australia for a benefit; and
  - (b) a period of residence in Australia equal to or greater than the minimum period identified in accordance with paragraph 4 for that person,and has accumulated a period of insurance, then for the purposes of a claim for that Australian benefit, that period of insurance shall be deemed, only for the purposes of meeting any minimum qualifying periods for that benefit set out in the legislation of Australia, to be a period in which that person was an Australian resident.
2. For the purposes of paragraph 1, where a person:
  - (a) has been an Australian resident for a continuous period which is less than the minimum continuous period required by the legislation of Australia for entitlement of that person to a benefit; and
  - (b) has accumulated a period of insurance in two or more separate periods that equals or exceeds in total the minimum period referred to in subparagraph (a),the total of the periods of insurance shall be deemed to be one continuous period.
3. For all purposes of this Article, where a period by a person as an Australian resident and a period of insurance coincide, the period of coincidence shall be taken into account once only by Australia as a period as an Australian resident.
4. The minimum period of residence in Australia which a person must have accumulated before paragraph 1 applies shall be as follows:
  - (a) for the purposes of an Australian benefit that is payable to a person residing outside Australia, the minimum period required shall be one year, of which at least 6 months must be continuous; and

**SCHEDULE 2—continued**

- (b) for the purposes of an Australian benefit that is payable to an Australian resident, no minimum period shall be required.
5. For the purposes of a claim by a person for a pension payable to a widow, that person shall be deemed to have accumulated a period of insurance for any period for which her spouse accumulated a period of insurance but any period during which the person and her spouse both accumulated periods of insurance shall be taken into account once only.
  6. Where a person receives in Malta a contributory pension in respect of retirement by virtue of this Agreement, Australia shall, for the purposes of this Article, regard the period during which that person receives that pension, up to the age of 65, as a period of insurance.

**ARTICLE 8**

**Calculation of Australian Benefits**

1. Subject to paragraph 2, where an Australian benefit is payable, whether by virtue of this Agreement or otherwise, to a person who is outside Australia the rate of that benefit shall be determined according to the legislation of Australia but when assessing the income of that person for the purposes of calculating the rate of the Australian benefit only a proportion of any Maltese contributory pension in respect of retirement, invalidity or widowhood which is received by that person shall be regarded as income. That proportion shall be calculated by multiplying the number of whole months accumulated by that person in a period of residence in Australia (not exceeding 300) by the amount of that Maltese benefit and dividing that product by 300.
2. A person referred to in paragraph 1 shall only be entitled to receive the concessional assessment of income described in that paragraph for any period during which the rate of that person's Australian benefit is proportionalised under the legislation of Australia.
3. Where an Australian benefit is payable, whether by virtue of this Agreement or otherwise to a person who is resident in the territory of Malta, Australia shall disregard, when assessing the income of that person any non-contributory assistance and pension paid to that person by Malta.
4. Subject to the provisions of paragraph 5, where an Australian benefit is payable only by virtue of this Agreement to a person who is in Australia, the rate of that benefit shall be determined by:
  - (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation the Maltese benefit received by that person;

**SCHEDULE 2—continued**

- (b) deducting the amount of the Maltese benefit received by that person from the maximum rate of that Australian benefit; and
  - (c) applying to the remaining benefit obtained under subparagraph (b) the relevant rate calculation set out in the legislation of Australia, using as the person's income the amount calculated under subparagraph (a).
5. Where a married person is, or both that person and his or her spouse are, in receipt of a Maltese benefit or benefits, each of them shall be deemed, for the purpose of paragraph 4 and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or the total of both of those benefits, as the case may be.
  6. If a person would receive an Australian benefit except for the operation of paragraph 5 or except for that person's failure to claim the benefit, then for the purposes of a claim by that person's spouse for a payment under the legislation of Australia that person shall be deemed to receive that benefit.
  7. The reference in paragraph 6 to a payment under the legislation of Australia to the spouse of a person is a reference to a payment of any benefit, pension or allowance payable under the Social Security Act 1947 as amended from time to time and whether payable by virtue of this Agreement or otherwise.

**PART III**

**PROVISIONS RELATING TO MALTESE BENEFITS**

**ARTICLE 9**

**Totalisation for Malta**

1. Where this Agreement applies and there is a period of insurance that is:
  - (a) less than the period necessary to give a claimant entitlement to the benefit claimed under the legislation of Malta; and
  - (b) equal to or greater than the minimum period mentioned in paragraph 3 for that benefit,then any period of residence in Australia by the contributor to whom that period of insurance was credited shall be deemed to be a period of insurance.
2. For the purposes of this Article, where a period of insurance and a period of residence in Australia coincide, the period of coincidence shall be taken into account once only as a period of insurance.
3. The minimum period of insurance to be taken into consideration for purposes of paragraph 1 shall be 52 paid contributions. However, subject to paragraph 5, where the period of insurance, not being

**SCHEDULE 2—continued**

less than 52 paid contributions, does not entitle a person to a Maltese benefit, but the period of insurance in Malta and the period of residence in Australia together entitle such person to a Maltese benefit, they shall be taken into account.

4. The provisions of this Article shall not apply in the case of a Two-Thirds Pension (Retirement) or a Survivor's Pension (Widowhood) unless:
  - (a) in the case of a Two-Thirds Pension, the person concerned would have paid at least 156 contributions under the legislation of Malta after the 22nd January, 1979; and
  - (b) in the case of a Survivor's Pension, the husband of the widow concerned would have paid at least 156 contributions under the legislation of Malta after the 22nd January, 1979.
5. For the purposes of a claim by a person for a contributory widow's pension the contributor, provided the contributor meets the requirements of subparagraph 1 (b), shall be deemed to have also accumulated a period of residence in Australia for any period for which the claimant accumulated a period of residence in Australia but any period during which the contributor and the claimant both accumulated periods of residence in Australia shall be taken into account once only.

**ARTICLE 10**

Calculation of Maltese Benefits

1. Where Malta pays non-contributory assistance or pension by virtue of this Agreement, the rate of that benefit shall be determined according to the legislation of Malta.
2. Where a contributory benefit is payable by Malta to a claimant by virtue of this Agreement the rate of that benefit shall be calculated as follows:
  - (a) in the case of a pension in respect of retirement other than a Two-Thirds Pension, by multiplying the applicable rate of that pension attributable to the claimant by the number of reckonable contributions (not exceeding 2400) on which that pension would have otherwise been calculated under the legislation of Malta and dividing the product by the number of totalised contributions aggregated under Article 9 (not exceeding 2400);
  - (b) in the case of a Two-Thirds Pension, the rate of that pension shall be calculated according to the following formula:

$$\frac{\text{P.I.} \times 2 \times \left( \frac{T_1}{Y} + \frac{T_2}{10} \right) \times \left( \frac{C_1}{T_1} + \frac{C_2}{T_2} \right)}{600}$$

**SCHEDULE 2—continued**

but that pension shall not be payable if the formula  $\frac{\left(\frac{T1}{Y} + \frac{T2}{10}\right)}{2}$  gives

a result that is less than 15

where:

- P.I. = the claimant's pensionable income or re-assessed pensionable income (as the case may be) according to the legislation of Malta;
- C1 = the number of reckonable contributions (not exceeding 1000) during any period prior to the last 10 calendar years immediately before retirement;
- C2 = the number of reckonable contributions (not exceeding 500) within the last 10 calendar years immediately before retirement;
- T1 = the number of totalised contributions (not exceeding 1000) aggregated under Article 9 during any period prior to the last 10 calendar years immediately before retirement;
- T2 = the number of totalised contributions (not exceeding 500) aggregated under Article 9 within the last 10 calendar years immediately before retirement; and
- Y = the number of reckonable years (not exceeding 20) prior to the last 10 calendar years immediately before retirement.

- (c) in the case of a pension in respect of invalidity, by multiplying the applicable rate of that pension attributable to the claimant by the number of reckonable contributions (not exceeding 2400) on which that pension would have otherwise been calculated under the legislation of Malta and dividing the product by the number of reckonable totalised contributions aggregated under Article 9 (not exceeding 2400);
- (d) in the case of a pension in respect of widowhood other than a Survivor's Pension by multiplying the applicable rate of that pension attributable to the claimant by the number of reckonable contributions (not exceeding 2400) on which that pension would have otherwise been calculated under the legislation of Malta relating to her late husband and dividing the product by the number of totalised contributions aggregated under Article 9 (not exceeding 2400); and
- (e) in the case of a Survivor's Pension at 5/6 of the rate of pension arrived at in accordance with the provisions of paragraph 2 (b).
3. Any statutory pension additional rates that are applicable to certain benefits covered by this Agreement that are payable under the legislation of Malta, payment of which is also linked to a yearly contribution average, shall be calculated in the same manner as that indicated in paragraph 2, as the case may require.

**SCHEDULE 2—continued**

4. Where Malta pays a Maltese benefit to a person only by virtue of the Agreement it shall deduct any statutory pension deductions that would be deducted if those pensions were paid solely under the legislation of Malta provided that any service pension for war service or wife's service pension paid to that person by Australia as defined in and payable under its Veterans' Entitlement Act 1986 shall not for the purposes of this Agreement or otherwise under the legislation of Malta be treated as a service pension as defined in the legislation of Malta.
5. Any pension arrived at in accordance with paragraphs 2, 3 and 4 shall be rounded up to the nearest whole cent.
6. In this Article 'reckonable contribution' and 'reckonable year' shall have the meanings given to them in the legislation of Malta.

**PART IV**

**MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS**

**ARTICLE 11**

**Lodgement of Documents**

1. A claim, notice or appeal concerning a benefit, whether payable by a Party by virtue of this Agreement or otherwise, may be lodged in the territory of either of the Parties in accordance with an Administrative Arrangement made pursuant to Article 15 at any time after the Agreement enters into force.
2. The date on which a claim, notice or appeal referred to in paragraph 1 is lodged with the Competent Institution of the other Party shall be treated, for all purposes concerning the matter to which it relates, as the date of lodgement of that document with the Competent Institution of the first Party.
3. In relation to Australia, the reference in paragraph 2 to an appeal document is a reference to a document concerning an appeal that may be made to an administrative body established by, or administratively for the purposes of, the Social Security Act 1947 of Australia as amended from time to time.
4. In relation to Malta, the reference in paragraph 2 to an appeal document is a reference to a document concerning an appeal that may be made to the Umpire for the purposes of the Social Security Act, 1987 of Malta as amended from time to time.



**SCHEDULE 2—continued**

**ARTICLE 12**

**Determination of Claims**

1. In determining the eligibility or entitlement of a person to a benefit by virtue of this Agreement:
  - (a) a period as an Australian resident and a period of insurance; and
  - (b) any event or fact which is relevant to that entitlement, shall, subject to this Agreement, be taken into account in so far as those periods or those events are applicable in regard to that person no matter when they were accumulated or occurred.
2. The commencement date for payment of a benefit payable by virtue of this Agreement shall be determined in accordance with the legislation of the Party concerned but in no case shall that date be a date earlier than the date on which this Agreement enters into force.
3. Where:
  - (a) a claim is made for a benefit payable by one of the Parties by virtue of this Agreement; and
  - (b) there are reasonable grounds for believing that the claimant may also be entitled, whether by virtue of this Agreement or otherwise, to a benefit that is payable by the other Party and that, if paid, would affect the amount of the first-mentioned benefit, that first-mentioned benefit shall not be paid until a claim is duly lodged for payment of the second-mentioned benefit and the first-mentioned benefit shall not continue to be paid if the claim for the second-mentioned benefit is not actively pursued.
4. Where:
  - (a) a benefit is paid or payable by a Party to a person in respect of a past period;
  - (b) for all or part of that period, the other Party has paid to that person a benefit under its legislation; and
  - (c) the amount of the benefit paid by that other Party would have been reduced had the benefit paid or payable by the first Party been paid during that period;then
  - (d) the amount that would not have been paid by the other Party had the benefit described in subparagraph (a) been paid throughout that past period shall be a debt due by that person to the other Party; and
  - (e) the other Party may determine that the amount, or any part, of that debt may be deducted from future payments of a benefit payable by that Party to that person.

**SCHEDULE 2—continued**

5. Where the first Party has not yet paid the arrears of benefit described in subparagraph 4 (a) to the person:
  - (a) that Party shall, at the request of the other Party, pay the amount of the debt described in subparagraph 4 (d) to the other Party and shall pay any excess to the person; and
  - (b) any shortfall in those arrears may be recovered by the other Party under subparagraph 4 (e).
6. The Competent Institution receiving a request under paragraph 5 shall take the action set out in an Administrative Arrangement made pursuant to Article 15, to recoup the amount of the overpayment and to transfer it to the other Competent Institution.
7. A reference in paragraphs 3, 4 and 5 to a benefit, in relation to Australia, means a pension, benefit or allowance that is payable under the Social Security Act 1947 of Australia as amended from time to time, and in relation to Malta, means any pension, benefit, allowance or assistance that is payable under the Social Security Act, 1987 of Malta.

**ARTICLE 13**

**Payment of Benefits**

1. The benefits payable by virtue of this Agreement and listed in this paragraph shall be payable within and outside the territories of both Parties:
  - (a) for Australia:
    - (i) age pensions;
    - (ii) invalid pensions;
    - (iii) wives' pensions;
    - (iv) pensions payable to widows who were widowed while both they and their husbands were Australian residents;
    - (v) class B widows' pensions; and
  - (b) for Malta: contributory pensions in respect of retirement, invalidity and widowhood.
2. A pension payable to a widow whether payable by virtue of this Agreement or otherwise, shall be paid by Australia in the territories of both Parties with no limitation by time.
3. If a Party imposes legal or administrative restrictions on the transfer of its currency abroad, both Parties shall adopt measures as soon as practicable to guarantee the rights to payment of benefits derived under this Agreement. Those measures shall operate retrospectively to the time the restrictions were imposed.
4. A party that imposes restrictions described in paragraph 3 shall inform the other Party of those restrictions within one calendar

**SCHEDULE 2—continued**

month of their imposition and shall adopt the measures described in paragraph 3 within 3 months of the imposition of those restrictions. If the other Party is not so informed or if the necessary measures are not adopted within the set time the other Party may treat such a failure as a material breach of the Agreement for the purposes of Article 60 of the Vienna Convention on the Law of Treaties.

5. A benefit payable by a Party by virtue of this Agreement to a person outside the territory of that Party shall be paid without deduction for government administrative fees and charges for processing and paying that benefit.
6. The payment outside Australia of an Australian benefit that is payable by virtue of this Agreement shall not be restricted by those provisions of the legislation of Australia which prohibit the payment of a benefit to a former Australian resident who returns to Australia becoming again an Australian resident, and lodges a claim for an Australian benefit and leaves Australia within 12 months of the date of that return.

**ARTICLE 14**

**Exchange of Information and Mutual Assistance**

1. The Competent Authorities and Competent Institutions responsible for the application of this Agreement:
  - (a) shall communicate to each other any information necessary for the application of this Agreement or of the Social Security Laws of the Parties;
  - (b) shall lend their good offices and furnish assistance to one another with regard to the determination or payment of any benefit under this Agreement or the legislation to which this Agreement applies as if the matter involved the application of their own legislation;
  - (c) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation in so far as these changes affect the application of this Agreement; and
  - (d) at the request of one to the other, assist each other in relation to the implementation of agreements on social security entered into by either of the Parties with third States, to the extent and in the circumstances specified in an Administrative Arrangement made pursuant to Article 15.
2. The assistance referred to in paragraph 1 shall be provided free of charge, subject to any Administrative Arrangement made pursuant to Article 15.

**SCHEDULE 2—continued**

3. Unless disclosure is required under the laws of a Party, any information about an individual which is transmitted in accordance with this Agreement to a Competent Authority or a Competent Institution of that Party by a Competent Authority or a Competent Institution of the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies.
4. In no case shall the provisions of paragraphs 1 and 3 be construed so as to impose on the Competent Authority or Competent Institution of a Party the obligation:
  - (a) to carry out administrative measures at variance with the laws or the administrative practice of that Party or the other Party;  
or
  - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that Party or the other Party.
5. In the application of this Agreement, the Competent Authority and the Competent Institution of a Party may communicate with the other in the official language of that Party.

**ARTICLE 15**

**Administrative Arrangement**

The Competent Authorities of the Parties shall make whatever Administrative Arrangement is necessary from time to time in order to implement this Agreement.

**ARTICLE 16**

**Resolution of Difficulties**

1. The Competent Authorities of the Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.
2. The Parties shall consult promptly at the request of either concerning matters which have not been resolved by the Competent Authorities in accordance with paragraph 1.
3. Any dispute between the Parties concerning the interpretation of this Agreement which has not been resolved or settled by consultation in accordance with paragraph 1 or 2 shall, at the request of either Party, be submitted to arbitration.
4. Unless the Parties mutually determine otherwise, the arbitral tribunal shall consist of three arbitrators, of whom each Party shall appoint one and the two arbitrators so appointed shall appoint a third who shall act as president; provided that if the two arbitrators fail to agree, the President of the International Court of Justice shall be requested to appoint the president.

**SCHEDULE 2—continued**

5. The arbitrators shall determine their own procedures.
6. The decision of the arbitrators shall be final and binding.
7. Unless the Parties otherwise agree, the place of arbitration shall be in the territory of the Party which did not raise the matter in dispute.

**ARTICLE 17**

**Review of Agreement**

Where a Party requests the other to meet to review this Agreement, the Parties shall meet for that purpose no later than 6 months after that request was made and, unless the Parties otherwise arrange, their meeting shall be held in the territory of the Party to which that request was made.

**PART V—FINAL PROVISIONS**

**ARTICLE 18**

**Entry into Force and Termination**

1. This Agreement shall enter into force one month after an exchange of notes by the Parties through the diplomatic channel notifying each other that all constitutional or legislative matters as are necessary to give effect to this Agreement have been finalized.
2. Subject to paragraph 3, this Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other a note through the diplomatic channel indicating the intention of the other Party to terminate this Agreement.
3. In the event that this Agreement is terminated in accordance with paragraph 2, the Agreement shall continue to have effect in relation to all persons who:
  - (a) at the date of termination, are in receipt of benefits; or
  - (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits, by virtue of this Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

**SCHEDULE 2—continued**

**DONE** in duplicate at Canberra this fifteenth day of August 1990.

**FOR AUSTRALIA:**  
**Graham Richardson**

**FOR MALTA:**  
**Louis Galea”.**

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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, 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, 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 Nos. 56 and 80, 84 and 119, 1990.
2. No. 13, 1988, as amended. For previous amendments, see No. 83, 1989.
3. No. 46, 1983 as amended. For previous amendments, see No. 23, 1985; No. 141, 1987; Nos. 38, 133 and 155, 1988; No. 59, 1989; and Nos. 3, 106 and 141, 1990.
4. 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, 132 and 141, 1987; Nos. 85, 87, 99 and 155, 1988; No. 95, 1989; and No. 3, 1990.

*Social Security Legislation Amendment No. 6, 1991*

**NOTES—continued**

5. 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; Nos. 79, 87, 99 and 155, 1988; No. 95, 1989; and No. 3, 1990.
6. 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, 61 and 87, 119 and 135, 1990; and No. 4, 1991.
7. 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, 60, 61, 110, 119 and 136, 1990.

[*Minister's second reading speech made in—  
House of Representatives on 18 October 1990  
Senate on 13 November 1990*]