



# Social Security (Rewrite) Transition Act 1991

No. 70 of 1991

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# **Social Security (Rewrite) Transition Act 1991**

**No. 70 of 1991**

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**An Act to repeal the *Social Security Act 1947* and to make consequential, savings and transitional provisions for the transition to the *Social Security Act 1991*, and for related purposes**

*[Assented to 25 June 1991]*

The Parliament of Australia enacts:

## **PART 1—PRELIMINARY**

### **Short title**

**1.** This Act may be cited as the *Social Security (Rewrite) Transition Act 1991*.

**Commencement**

2. This Act commences immediately after the *Social Security Act 1991* commences.

**PART 2—REPEAL OF THE 1947 ACT**

**Repeal of the 1947 Act**

3. The *Social Security Act 1947* is repealed.

**PART 3—SAVINGS AND TRANSITIONALS**

**Insertion of schedule of savings and transitional provisions into the *Social Security Act 1991***

4. After Schedule 1 to the *Social Security Act 1991*, the Schedule set out in Schedule 1 to this Act is inserted.

**Other amendments of the *Social Security Act 1991* of a transitional nature**

5. The *Social Security Act 1991* is amended as set out in Schedule 2.

**PART 4—CONSEQUENTIAL AMENDMENTS OF OTHER ACTS**

**Consequential amendments of other Acts**

6. The Acts specified in Schedule 3 are amended as set out in that Schedule.

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**SCHEDULE 1**

Section 4

**NEW SCHEDULE 1A TO THE SOCIAL SECURITY ACT 1991**

**SCHEDULE 1A**

**SAVINGS AND TRANSITIONAL PROVISIONS**

**PART 1—GENERAL**

**Correspondence of pensions, benefits and allowances**

1. (1) For the purposes of this Schedule, a pension, benefit or allowance under this Act and a pension, benefit or allowance under the 1947 Act that have the same name correspond to each other.

**SCHEDULE 1—continued**

- (2)** For the purposes of this Schedule:
- (a) a wife's pension under the 1947 Act and a wife pension under this Act correspond to each other; and
  - (b) a carer's pension under the 1947 Act and a carer pension under this Act correspond to each other; and
  - (c) a sole parent's pension under the 1947 Act and a sole parent pension under this Act correspond to each other; and
  - (d) a widowed person's allowance under the 1947 Act and a widowed person allowance under this Act correspond to each other; and
  - (e) a class B widow's pension under the 1947 Act and a widow B pension under this Act correspond to each other; and
  - (f) an age pension under the 1947 Act payable because of section 26 of that Act and a special needs age pension under this Act correspond to each other; and
  - (g) an invalid pension under the 1947 Act payable because of section 29 of that Act and a special needs invalid pension under this Act correspond to each other; and
  - (h) a wife's pension under the 1947 Act payable because of subsection 37 (2) of that Act and a special needs wife pension under this Act correspond to each other; and
  - (i) a sole parent's pension under the 1947 Act payable because of subsection 46 (1) of that Act and a special needs sole parent pension under this Act correspond to each other; and
  - (j) a class B widow's pension under the 1947 Act payable because of subclause 4 (1) of Schedule 1B to that Act and a special needs widow B pension under this Act correspond to each other.

**Correspondence of provisions**

**2. (1)** If one provision of the 1947 Act and one provision of this Act have the same legal effect, the 2 provisions correspond to each other.

**(2)** If:

- (a) one provision of the 1947 Act has a particular legal effect in relation to a number of payment types; and
- (b) a provision of this Act has that legal effect in relation to only one of those payment types;

the provisions correspond to each other for the purposes of applying this Schedule to that payment type.

**(3)** In this clause:

**“legal effect”** includes conferring the power to issue an instrument;

**“payment type”** means a pension, benefit or allowance.

**SCHEDULE 1—continued**

**PART 2—SAVINGS AND TRANSITIONAL PROVISIONS  
APPLICABLE ON THE TRANSITION FROM THE 1947 ACT TO  
THIS ACT**

***Division 1—Savings***

**Saving of pensions, benefits and allowances**

**3. (1)** If a determination granting a claim for a pension, benefit or allowance under the 1947 Act is in force immediately before 1 July 1991, the determination has effect, from 1 July 1991, as if it were a determination under this Act granting a claim for the corresponding pension, benefit or allowance under this Act.

Note: for the statutory authority for the determination under the 1947 Act see subsection 168 (3) of that Act.

**(2)** If a determination directing the making of a payment of a pension, benefit or allowance under the 1947 Act is in force immediately before 1 July 1991, the determination has effect, from 1 July 1991, as if it were a determination under this Act directing the making of a payment of the corresponding pension, benefit or allowance under this Act.

Note: for the statutory authority for the determination under the 1947 Act see subsection 168 (3) of that Act.

**(3)** If a determination of the rate of a pension, benefit or allowance under the 1947 Act is in force immediately before 1 July 1991, the determination has effect, from 1 July 1991, as if it were a determination under this Act of the rate of the corresponding pension, benefit or allowance under this Act.

Note: for the statutory authority for the determination under the 1947 Act see subsections 168 (1) and (3) of that Act.

**(4)** This clause's principal effect is to allow the continued payment of pensions, benefits and allowances granted under the 1947 Act without the need for a new claim by the recipient.

**Instruments in force under the 1947 Act on 30 June 1991**

**4. (1)** An instrument that was in force under a provision of the 1947 Act immediately before 1 July 1991 has effect, from 1 July 1991, as if it were an instrument made under the corresponding provision of this Act.

**SCHEDULE 1—continued**

**(2) Without limiting subclause (1), the instrument may be:**

- (a) a determination; or**
- (b) a direction; or**
- (c) an approval; or**
- (d) a notice; or**
- (e) a declaration; or**
- (f) an authorisation.**

**(3) Subclause (1) does not apply to:**

- (a) a determination to which clause 3 applies; or**
- (b) a delegation under section 14 or 231 of the 1947 Act.**

**(4) If an instrument to which subclause (1) applies was, when made, to have effect only for a limited period, the instrument has effect under subsection (1) only for so much of the period as had not already expired before 1 July 1991.**

**Saving of claims for pensions, benefits, allowances etc.**

**5. (1) If:**

- (a) a person has lodged a claim for a pension, benefit or allowance under the 1947 Act before 1 July 1991; and**
- (b) the claim has not been determined before 1 July 1991;**

**the claim has effect from 1 July 1991 as if it were a claim for a corresponding pension, benefit or allowance under this Act.**

**(2) If:**

- (a) a person has lodged a claim for an employment entry payment under the 1947 Act before 1 July 1991; and**
- (b) the claim has not been determined before 1 July 1991;**

**the claim has effect from 1 July 1991 as if it were a claim for an employment entry payment under this Act.**

**(3) If:**

- (a) subclause (1) applies to a claim; and**
- (b) the claim is granted under this Act;**

**the determination granting the claim may have a date of effect before 1 July 1991.**

**(4) If:**

- (a) subclause (1) applies to a claim; and**
- (b) the claim is granted under this Act; and**
- (c) the determination granting the claim has a date of effect before 1 July 1991;**

**the payment of instalments during the period that starts on the date of effect of the determination and ends on 30 June 1991 is to be made under this Act and the person making the claim has no rights under the 1947 Act arising from the claim.**

**SCHEDULE 1—continued**

**Application to participate in the pensions loan scheme**

**6. (1) If:**

(a) a person has made a request under subsection 5 (2) of the 1947 Act before 1 July 1991; and

(b) the request has not been determined before 1 July 1991;

the request has effect from 1 July 1991 as if it had been made under subsection 1136 (1) of this Act.

**(2) If:**

(a) subclause (1) applies to a request; and

(b) the request is granted under this Act;

the 1947 Act has effect, for the period that starts on the day on which the request was made and ends on 30 June 1991, as if the request had been granted under the 1947 Act.

**Application to take advantage of hardship rules—pensions**

**7. (1) If:**

(a) a person who was receiving a social security pension made a request under subsection 7 (1) of the 1947 Act before 1 July 1991; and

(b) the request was not determined before 1 July 1991;

the request has effect, from 1 July 1991, as if it had been made under subsection 1129 (1) of this Act.

**(2)** A decision in response to the request will have a date of effect before 1 July 1991 (see subsection 1129 (2) of this Act).

**(3) If:**

(a) subclause (1) applies to a request; and

(b) the request is granted under this Act; and

(c) the date of effect of the decision to grant the request is before 1 July 1991;

the 1947 Act has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1991, as if the decision had been made under the 1947 Act.

**Application to take advantage of hardship rules—benefits**

**8. (1) If:**

(a) a person who was receiving a social security benefit has made a request under subsection 7 (1) of the 1947 Act before 1 July 1991; and

(b) the request has not been determined before 1 July 1991;

the request has effect, from 1 July 1991, as if it had been made under subsection 1131 (1) of this Act.

**SCHEDULE 1—continued**

(2) A decision in response to the request will have a date of effect before 1 July 1991 (see subsection 1131 (3) of this Act).

(3) If:

- (a) subclause (1) applies to a request; and
- (b) the request is granted under this Act; and
- (c) the date of effect of the decision to grant the request is before 1 July 1991;

the 1947 Act has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1991, as if the decision had been made under the 1947 Act.

**Application for determination of rate of return on market-linked investment**

9. (1) If:

- (a) a person made an application under subsection 12F (2) of the 1947 Act before 1 July 1991; and
- (b) the application was not determined before 1 July 1991;

the application has effect as if it had been made under subsection 1089 (1) of this Act.

(2) The date of effect of the decision in response to the application will be the date on which the application was received by the Secretary (see subsection 1091 (1) of this Act).

(3) If:

- (a) subclause (1) applies to an application; and
- (b) the application is granted under this Act;

the 1947 Act has effect, for the period that starts on the date on which the application was received by the Secretary and ends on 30 June 1991, as if the decision had been made under section 12F of the 1947 Act.

**Application for amount owing at recipient's death**

10. If:

- (a) a person made an application under subsection 161(4) of the 1947 Act; and
- (b) the application was not determined before 1 July 1991;

the application has effect, from 1 July 1991, as if it had been made under the corresponding provision of this Act and:

- (c) this Act has effect as if the amount in respect of which the application was made were an amount payable under this Act; and

(d) the application has no effect for the purposes of the 1947 Act.



**SCHEDULE 1—continued**

**Power to obtain information about payments and debts under the 1947 Act**

**11. (1)** If a provision of this Act gives the Secretary power to request a person to give information or produce a document relevant to a pension, benefit or allowance under this Act, the power extends to requesting a person to give information or produce a document relevant to the corresponding pension, benefit or allowance under the 1947 Act.

**(2)** If a provision of this Act gives the Secretary power to request a person to give information or produce a document relevant to a debt owed under or as a result of this Act, the power extends to requesting a person to give information or produce a document relevant to a debt owed under or as a result of the 1947 Act.

***Division 2—Review of decisions***

**Unfinalised reviews of decisions—internal review**

**12. (1)** If:

(a) a person made an application under subsection 173 (1) of the 1947 Act before 1 July 1991; and

(b) the application was not determined before 1 July 1991;

the application has effect, from 1 July 1991, as if it were an application under subsection 1240 (1) of this Act.

**(2)** The date of effect of the decision made in response to the application may be before 1 July 1991.

**(3)** If:

(a) subclause (1) applies to an application; and

(b) the date of effect of the decision made in response to the application is before 1 July 1991;

the decision has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1991, as if it were a decision under section 174 of the 1947 Act.

**Unfinalised reviews of decisions—SSAT review**

**13. (1)** If:

(a) a person made an application under subsection 177 (1) of the 1947 Act before 1 July 1991; and

(b) the application was not determined before 1 July 1991;

the application has effect, from 1 July 1991, as if it were an application under subsection 1247 (1) of this Act.

**(2)** The date of effect of a decision made in response to the application may be before 1 July 1991.

**SCHEDULE 1—continued**

**(3) If:**

- (a) subclause (1) applies to an application; and
- (b) the date of effect of the decision made in response to the application is before 1 July 1991;

the decision has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1991, as if it were a decision under section 182 of the 1947 Act.

**Application to be joined as a party to SSAT review**

**14. If:**

- (a) a person made an application under subsection 181 (2) of the 1947 Act; and
- (b) the application was not determined before 1 July 1991;

the application has effect, from 1 July 1991, as if it were an application under subsection 1260 (2) of this Act.

**Unfinalised reviews of decisions—review by AAT**

**15. (1) If:**

- (a) a person made an application under subsection 205 (1) of the 1947 Act before 1 July 1991; and
- (b) the application was not determined before 1 July 1991;

the application has effect, from 1 July 1991, as if it were an application under subsection 1283 (1) of this Act.

(2) The date of effect of the decision made in response to the application may be before 1 July 1991.

**(3) If:**

- (a) subclause (1) applies to an application; and
- (b) the date of effect of the decision made in response to the application is before 1 July 1991;

the decision has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1991, as if it were a decision made under Division 4 of Part XIX of the 1947 Act.

***Division 3—Social Security Appeals Tribunal***

**Appointment of members**

**16. (1) An appointment of a person as:**

- (a) National Convener of the Social Security Appeals Tribunal; or
- (b) a senior member of the Social Security Appeals Tribunal;

that was in force immediately before 1 July 1991 has effect after 1 July 1991 as if it had been made under subsection 1324 (1) of this Act.

(2) An appointment of a person as an ordinary member of the Social Security Appeals Tribunal that was in force immediately before

**SCHEDULE 1—continued**

1 July 1991 has effect, from 1 July 1991, as if it had been made under subsection 1324 (2) of this Act.

(3) An appointment that has effect under subclause (1) or (2) has effect under that subsection for the remainder of the term of appointment unexpired as at 30 June 1991.

**Acting appointments**

17. An acting appointment under section 220 of the 1947 Act that was in force immediately before 1 July 1991 has effect, from 1 July 1991, as if it had been made under section 1326 of this Act.

**Leave of absence**

18. Leave of absence granted under section 225 of the 1947 Act has effect for the purposes of this Act as if it had been granted under section 1331 of this Act.

**Approval to engage in outside employment**

19. An approval given under section 226 of the 1947 Act has effect for the purposes of this Act as if it had been granted under section 1332 of this Act.

***Division 4—Continuation of earlier savings provisions***

**Papua New Guinea pensions (changes introduced in 1973 and 1975)**

20. (1) If a pension was, immediately before 16 September 1975, payable to a person in Papua New Guinea because of section 14 of the *Social Services Act (No. 2) 1973*, the pension continues to be payable to the person as if the Papua New Guinea area formed part of Australia.

(2) Subclause (1) only applies to the person while the person remains in the Papua New Guinea area.

(3) If the person leaves the Papua New Guinea area other than to come to Australia, the person is to be taken, for the purposes of Part 4.2 of this Act, to leave Australia.

(4) In this clause:

“**Papua New Guinea area**” means the area that comprised Papua New Guinea immediately before 16 September 1975.

**Widow’s pension—mental hospital patient partners (changes introduced on 1 November 1980)**

21. (1) If:

(a) immediately before 1 November 1980:

(i) a woman was receiving a widow’s pension under the 1947 Act; and

**SCHEDULE 1—continued**

(ii) the woman's husband was a mental hospital patient; and  
(b) at all times since 1 November 1980, the woman's husband has continued to be a mental hospital patient; and  
(c) the woman has an SPP child;  
the woman is to be taken to satisfy paragraph 249 (1) (a) of this Act (sole parent pension).

**(2) If:**

(a) immediately before 1 November 1980:  
(i) a woman was receiving a widow's pension under the 1947 Act; and  
(ii) the woman's husband was a mental hospital patient; and  
(b) at all times since 1 November 1980, the woman's husband has continued to be a mental hospital patient; and  
(c) the woman does not have an SPP child;  
the woman is to be taken to satisfy paragraph 362 (1) (c) of this Act (widow B pension).

(3) For the purposes of subclauses (1) and (2), if the woman's husband is absent from the mental hospital for a continuous period of 4 weeks or more, he is to be taken to cease to be a mental hospital patient at the end of the 4 week period that starts when the absence starts.

**(4) If:**

(a) subclause (1) or (2) applies to a woman; and  
(b) the woman is qualified for a wife pension; and  
(c) the rate at which a wife pension would be payable to the woman is higher than the rate at which a sole parent or widow B pension would be payable to the woman;

the following provisions apply:

- (d) subclauses (1) and (2) do not prevent the grant to her of a wife pension;  
(e) the grant of a wife pension to her may take effect on and from the date on which the woman became qualified for the wife pension at the higher rate;  
(f) if she is granted a wife pension, subclause (1) or (2) is to be taken to have ceased to apply to her on the day on which the grant of the wife pension takes effect.

**Benevolent homes (changes introduced on 1 January 1981)**

**22. (1) If:**

- (a) immediately before 1 January 1981:  
(i) a person was receiving an age, invalid or class B widow pension under the 1947 Act; and

**SCHEDULE 1—continued**

- (ii) the person was an inmate of a benevolent home; and
  - (iii) the person's pension was being dealt with in accordance with section 50 or 80 of the 1947 Act; and
- (b) at all times since 1 January 1981, the person has been an inmate of a benevolent home;
- the following provisions apply to the person's pension in spite of anything in section 60, 113, 274 or 381 of this Act:
- (c) the person is to be paid so much of the person's pension as does not exceed:
    - (i) if the person is receiving rent assistance—\$1,164.80 per year; or
    - (ii) if the person is not receiving rent assistance—\$1,112.80 per year; and
  - (d) the balance (if any) is to be paid to the person controlling the benevolent home for the maintenance of the pensioner in the home.

(2) Subclause (1) stops applying to the person's pension if the amount payable under that subclause to the person controlling the benevolent home equals or exceeds the pensioner contribution that would otherwise be payable to that person under section 60, 113, 274 or 381 of this Act.

**Dependent child—pension, benefit and Labour Force Program recipients (changes introduced on 1 November 1984)**

**23. (1) If:**

- (a) immediately before 1 November 1984:
  - (i) one person (in this subclause called the “adult”) was receiving family allowance; and
  - (ii) another person (in this subclause called the “child”) was receiving:
    - (A) a social security pension or benefit; or
    - (B) payments under a program in the Labour Force Program; and
- (b) at all times since 1 November 1984:
  - (i) the adult has continued to receive family allowance; and
  - (ii) the child has continued to receive a pension, benefit or payments of a kind referred to in subparagraph (a) (ii);subsection 5 (6) of this Act does not operate to prevent the child being a dependent child for the purposes of working out:
  - (c) whether the adult is qualified for a pension, benefit or allowance under this Act; or
  - (d) the rate at which a pension, benefit or allowance under this Act is payable to the adult.

**SCHEDULE 1—continued**

**(2) If:**

- (a) immediately before 1 November 1984:
  - (i) one person (in this subclause called the “**adult**”) was receiving double orphan’s pension; and
  - (ii) another person (in this subclause called the “**child**”) was receiving:
    - (A) a social security pension or benefit; or
    - (B) payments under a program in the Labour Force Program; and
- (b) at all times since 1 November 1984:
  - (i) the adult has continued to receive the double orphan’s pension; and
  - (ii) the child has continued to receive a pension, benefit or payment of a kind referred to in subparagraph (a) (ii);

subsection 5 (6) of this Act does not operate to prevent the child being a dependent child for the purposes of working out:

- (c) whether the adult is qualified for a pension, benefit or allowance under this Act; or
- (d) the rate at which a pension, benefit or allowance under this Act is payable to the adult.

**(3) If:**

- (a) immediately before 1 November 1984:
  - (i) one person (in this subclause called the “**adult**”) was receiving handicapped child’s allowance; and
  - (ii) another person (in this subclause called the “**child**”) was receiving:
    - (A) a social security pension or benefit; or
    - (B) payments under a program in the Labour Force Program; and
- (b) at all times since 1 November 1984:
  - (i) the adult has continued to receive the handicapped child’s allowance or child disability allowance; and
  - (ii) the child has continued to receive a pension, benefit or payment of a kind referred to in subparagraph (a) (ii);

subsection 5 (6) of this Act does not operate to prevent the child being a dependent child for the purposes of working out:

- (c) whether the adult is qualified for a pension, benefit or allowance under this Act; or
- (d) the rate at which a pension, benefit or allowance under this Act is payable to the adult.

**SCHEDULE 1—continued**

**(4) If:**

**(a) immediately before 1 November 1984:**

**(i) one person (in this subclause called the “adult”) was receiving:**

**(A) a social security pension or benefit; or**

**(B) a mobility allowance or service pension under the *Repatriation Act 1920*; and**

**(ii) another person (in this subclause called the “child”) was receiving:**

**(A) a social security pension or benefit; or**

**(B) payments under a Labour Force Program; and**

**(b) at all times since 1 November 1984:**

**(i) the adult has continued to receive a pension, benefit or allowance of a kind referred to in subparagraph (a) (i); and**

**(ii) the child has continued to receive a pension, benefit or payment of a kind referred to in subparagraph (a) (ii);**

subsection 5 (6) of this Act does not operate to prevent the child being a dependent child for the purposes of working out:

**(c) whether the adult is qualified for a pension, benefit or allowance under this Act; or**

**(d) the rate at which a pension, benefit or allowance is payable to the adult under this Act.**

**Rent assistance for sickness beneficiaries (changes introduced on 13 December 1987)**

**24. (1) If:**

**(a) immediately before 13 December 1987:**

**(i) a person was receiving sickness benefit; and**

**(ii) the person’s sickness benefit rate included an amount by way of rent assistance; and**

**(b) the person has been receiving sickness benefit at all times since 13 December 1987;**

the amount of rent assistance to be included in the person’s sickness benefit rate is to be calculated as if section 120 of the 1947 Act, as in force immediately before 13 December 1987, had continued to apply to the person.

**(2) Subclause (1) ceases to apply to the person if, apart from this clause, a higher rate of rent assistance would apply to the person.**

**Rates of some pensions—education payments made (changes introduced on 1 January 1987)**

**25. (1) If:**

**(a) immediately before 1 January 1987:**

**SCHEDULE 1—continued**

- (i) a person was receiving a social security pension; and
  - (ii) payments were being made to the person under:
    - (A) the Tertiary Education Assistance Scheme; or
    - (B) the Adult Secondary Education Assistance Scheme;or
    - (C) the Secondary Allowance Scheme; and
  - (b) on or after 1 January 1987, the person becomes eligible to receive payments under the AUSTUDY Scheme;
- the rate of that pension for the continuation period is to be:
- (c) the rate at which the pension was payable immediately before 1 January 1987; or
  - (d) if:
    - (i) the person was receiving a pension of that kind immediately before 21 October 1986; and
    - (ii) the rate at which the pension was payable to the person immediately before 21 October 1986 is higher than the rate at which the pension was payable to the person immediately before 1 January 1987;the rate at which the pension was payable to the person immediately before 21 October 1986.

(2) For the purposes of subclause (1), the **continuation period** is the period that commences on the day on which the person becomes eligible to receive payments under the AUSTUDY Scheme and ends when the person ceases to be eligible to receive payments under that Scheme.

(3) If:

- (a) immediately before 1 September 1987, a person was receiving a widow's pension or a supporting parent's benefit under the 1947 Act; and
- (b) on 1 September 1987, the person was eligible to receive payments under the AUSTUDY Scheme for a full-time course of education that the person had commenced before 1 September 1987; and
- (c) the person has a dependent child; and
- (d) if this subclause had not been enacted, the person would not be qualified for a sole parent pension or a widow B pension under this Act because the child had turned 16;

the person's qualification for a sole parent pension or widow B pension under this Act continues during the continuation period as if the child had not turned 16.

(4) For the purposes of subclause (3), the **continuation period** is the period that commences on 1 September 1987 and ends on the day on



**SCHEDULE 1—continued**

which the person ceases to be eligible to receive payments under the AUSTUDY Scheme in respect of the course of education.

**(5) If:**

(a) immediately before 1 January 1988:

- (i) a person was receiving a social security pension; and
- (ii) the person was eligible to receive payments under a relevant Aboriginal Tertiary Education Scheme; and
- (iii) payments were being made to, or in respect of, the person under the Aboriginal Study Assistance Scheme; and

(b) the person continues to be eligible to receive payments under the Aboriginal Study Assistance Scheme on or after 1 January 1988;

the rate of the person's pension is not, during the continuation period, to exceed the rate at which it was payable immediately before the commencement of section 1 of the *Social Security Amendment Act 1988*.

**(6) For the purposes of subsection (5):**

(a) the **relevant Aboriginal Tertiary Education Schemes** are:

- (i) in relation to a time before 1 January 1989—the Aboriginal Study Assistance Scheme; or
- (ii) in relation to a time on or after 1 January 1989—the ABSTUDY Tertiary Scheme; and

(b) the **continuation period** is the period that starts on 1 January 1988 and ends on the day on which the person ceases to be eligible to receive payments under the Aboriginal Study Assistance Scheme.

**Maintenance income test (changes introduced on 17 June 1988)**

**26. (1) If:**

(a) in the fortnight that ended on 16 June 1988:

- (i) a person was receiving a social security pension, social security benefit or service pension; and
- (ii) the person had maintenance income; and

(b) at all times since 17 June 1988, the person has been receiving a social security pension, social security benefit or service pension; and

(c) subsection 21 (4) of the *Social Security and Veterans' Entitlements (Maintenance Income Test) Amendment Act 1988* has not ceased to apply to the person; and

(d) in a fortnight the person's total income would otherwise be less than it was in the fortnight that ended on 16 June 1988;

**SCHEDULE 1—continued**

the person's social security pension or benefit amount in that fortnight is to be such that the person's total income for the fortnight is equal to the person's total income for the fortnight that ended on 16 June 1988.

**(2)** Subclause (1):

- (a) has effect in spite of anything else in this Act; and
- (b) has effect subject to subclause (3); and
- (c) does not apply if:

- (i) the person was required by or under the 1947 Act or the Veterans' Entitlements Act to notify the Department of the maintenance income that the person had in the fortnight that ended on 16 June 1988; and
- (ii) the person failed to notify the Department of the maintenance income as required by or under that Act.

**(3)** If subclause (1) ceases to apply to the person, this clause will not apply to the person at any time after that cessation.

**(4)** The person's social security pension or benefit amount in the fortnight is not to exceed:

- (a) if the person had a dependent child or dependent children immediately before 17 June 1988—the amount of the social security pension, social security benefit or service pension received in the fortnight that ended on 16 June 1988; or
- (b) if the person did not have a dependent child immediately before 17 June 1988—the amount of the social security pension, social security benefit or service pension received by the person in the fortnight that ended on 16 June 1988 increased to take account of any indexation increases, but no other increases, after 16 June 1988.

**(5)** If:

- (a) the person's total income for the fortnight that ended on 16 June 1988 included an extra payment; and
- (b) after 26 June 1989 the person is no longer entitled to an extra payment of the same kind because of a change in the person's circumstances; and
- (c) the change in circumstances is not a change in the person's other income;

the person's total income for the fortnight that ended on 16 June 1988 is to be taken, for the purposes of subclause (1) after the change in circumstances, to have been reduced by the amount of the extra payment.

Note: for "extra payment" see subclause (7) below.

**SCHEDULE 1—continued**

(6) If the amount of:

- (a) a benefit or allowance received by the person under the 1947 Act in the fortnight that ended on 16 June 1988; or
- (b) a pension received by the person under Part III of the Veterans' Entitlements Act in the fortnight that ended on 16 June 1988;

is less than the amount of the person's fortnightly rate of benefit, allowance or pension, the amount of the benefit, allowance or pension received by the person in that fortnight is to be taken, for the purposes of this clause, to be the amount of the person's fortnightly rate of the benefit, allowance or pension.

(7) In this clause:  
“extra payment” means:

- (a) an additional payment for a partner made under:
  - (i) subsection 118 (2) of the 1947 Act; or
  - (ii) Module C of Benefit Rate Calculator A of this Act; or
  - (iii) Module C of Benefit Rate Calculator B of this Act; or
- (b) additional amounts for dependent children under:
  - (i) subsection 33 (3) or (4) of the 1947 Act; or
  - (ii) this Act; or
  - (iii) paragraph 47 (3)(a), (b), (c) or (e) of the Veterans' Entitlements Act;
- (c) an amount by way of rent assistance under the 1947 Act, this Act or the Veterans' Entitlements Act; or
- (d) an amount by way of remote area allowance under the 1947 Act, this Act or the Veterans' Entitlements Act;

“indexation increase”, in relation to a social security pension, social security benefit or service pension, means an increase in the rate at which the pension or benefit is payable that has occurred because of an indexation provision;

“indexation provision” means a provision of this Act, the 1947 Act or the Veterans' Entitlements Act that provides for the rate of a pension or benefit to be increased periodically by reference to the quarterly All Groups Consumer Price Index numbers published by the Australian Statistician;

“ordinary income” does not include an amount that is disregarded under this Act, the 1947 Act or the Veterans' Entitlements Act because of an earnings credit scheme;

“total income”, for a person in a period, means the sum of:

- (a) the person's ordinary income and maintenance income received in that period; and
- (b) any social security pension, social security benefit or service pension received by the person in that period;

**SCHEDULE 1—continued**

reduced by so much of that amount as:

- (c) was received as arrears of payments due to the person before that period; and
- (d) the Secretary is satisfied should be disregarded for the purposes of this clause.

**Rent assistance—boarders and lodgers (changes introduced on 13 June 1989)**

**27. (1) If:**

(a) immediately before 13 June 1989:

- (i) a person was receiving a social security pension, a social security benefit or family allowance supplement under the 1947 Act; and
- (ii) the person's pension, benefit or allowance rate included an amount by way of rent assistance in respect of payments made for board and lodging; and

(b) at all times since 13 June 1989, the person:

- (i) has been receiving a social security pension, a social security benefit or family allowance supplement; and
- (ii) has been a boarder;

the amount by way of rent assistance included in the person's pension, benefit or allowance rate is not to fall below the floor amount.

**(2) If:**

- (a) a decision is made under the 1947 Act on or after 13 June 1989 that a person is entitled to rent assistance under that Act in respect of a period; and
- (b) the period starts before 13 June 1989; and
- (c) the period continued until at least 12 June 1989;

the person is to be taken, for the purposes of this clause, to have been receiving rent assistance under that Act immediately before 13 June 1989.

**(3) If:**

- (a) immediately before 13 June 1989, a person was receiving rent assistance under or because of the Veterans' Entitlements Act in respect of payments for board and lodging; and
- (b) after that date, the person becomes entitled to be paid a social security pension, social security benefit or family allowance supplement under the 1947 Act or this Act; and
- (c) subsection 30 (1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988* had not ceased to apply to the person until the person became entitled to that pension, benefit or allowance; and

**SCHEDULE 1—continued**

(d) at all times since the person becomes entitled to that pension, benefit or allowance, the person:

- (i) has been receiving a social security pension, a social security benefit or family allowance supplement; and
- (ii) has been a boarder;

the amount of rent assistance included in the person's pension, benefit or allowance rate is not to fall below the person's floor amount.

(4) For the purposes of subclauses (1) and (3), the person's **floor amount** is the amount by way of rent assistance that would be included in the person's pension, benefit or allowance rate if:

- (a) that amount were calculated, subject to paragraph (b), under the 1947 Act as in force immediately before 13 June 1989; and
- (b) the 1947 Act as in force at that time were modified as follows:

- (i) the following paragraph applied instead of paragraph 36 (1) (a):

- “(a) the person pays, or is liable to pay, rent, other than government rent, at a rate exceeding \$1,040 per year;”;

- (ii) “the amount specified in paragraph (1) (a)” were substituted for “\$780” in paragraph 36 (3) (a);

- (iii) “rent, other than Government rent, at a rate exceeding \$1,040” were substituted for “rent at a rate exceeding \$780” in paragraph 50 (1) (a);

- (iv) the following paragraph applied instead of paragraph 50 (2) (b):

- “(b) the amount worked out using the formula:

$$0.5 \times (\text{ARP} - \text{RT})$$

where:

‘**ARP**’ is the annual rent paid or payable by the person;

‘**RT**’ is the amount specified in paragraph (1) (a).”;

- (v) “rent, other than Government rent, at a rate exceeding \$20” were substituted for “rent at a rate exceeding \$15” in paragraph 74 (2) (c);

- (vi) “the amount specified in paragraph (c)” were substituted for “\$15” (last occurring) in subsection 74 (2);

- (vii) “the threshold amount” were substituted for “\$15” in paragraphs (a) and (b) of the definition of “entitlement period” in subsection 120 (1);

- (viii) the following definition were inserted in subsection 120 (1):

**SCHEDULE 1—continued**

“**threshold amount**” means \$20.”;

- (ix) “rent, other than Government rent, paid or payable by the person exceeds the threshold amount” were substituted for “rent paid, or payable, by the person exceeds \$15” in paragraph 120 (5) (a);
  - (x) “rent, other than Government rent, paid or payable by a person exceeds the threshold amount” were substituted for “rent paid or payable by the person exceeds \$15” in paragraph 120 (7) (a); and
- (c) any increases in the amounts being paid by the person from time to time for board and lodging above the level being paid immediately before 12 June 1989 were disregarded.

(5) Subclause (1) or (2) ceases to apply to a person’s pension, benefit or allowance rate when the amount of rent assistance that the person would be entitled to because of that subsection is less than (or equal to) the amount of rent assistance that the person is entitled to under this Act.

(6) Subclause (1) or (2) will not apply to a person again once it has ceased to apply to the person.

(7) References in this clause to **payments for board and lodging** include references to payments for accommodation and other services that are provided to a person who is residing in a nursing home.

(8) In this clause:

“**boarder**” means a person who ordinarily lives on premises where the person is provided with board and lodging.

**Rent assistance—retirement village residents (changes introduced on 13 June 1989)**

**28. (1) If:**

(a) immediately before 3 November 1988:

- (i) a person was receiving a social security pension, social security benefit or family allowance supplement; and
- (ii) the person’s pension, benefit or allowance rate included an amount by way of rent assistance under the 1947 Act; and

(b) at all times since 3 November 1988:

- (i) the person has been entitled to a social security pension, social security benefit or family allowance supplement; and
- (ii) the person’s principal home has been in a retirement village;

**SCHEDULE 1—continued**

the person is to be taken not to be an ineligible homeowner for the purposes of this Act.

(2) If:

(a) immediately after 13 June 1989:

(i) a person was receiving a service pension; and

(ii) the person's pension rate included an amount by way of rent assistance because of the operation of subsection 31 (1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988*; and

(b) after 13 June 1989, the person began to receive a social security pension, social security benefit or family allowance supplement under the 1947 Act or this Act; and

(c) subsection 31 (1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988* applied to the person at all times between 13 June 1989 and the person's commencing to receive the social security pension, social security benefit or family allowance supplement; and

(d) at all times since the person commenced to receive the social security pension, social security benefit or family allowance supplement:

(i) the person has continued to receive a social security pension, social security benefit or family allowance supplement; and

(ii) the person's principal home has continued to be in the retirement village;

the person is to be taken not to be an ineligible property owner for the purposes of this Act.

(3) If subclause (1) or (2) ceases to apply to the person, that subsection does not apply to the person again.

**Additional free area—prescribed student children (changes introduced on 1 January 1990)**

**29. (1)** The provision of this Act that denies additional free area for prescribed student children does not apply to the calculation of a person's pension or benefit rate if:

(a) the person was receiving a social security pension or benefit immediately before 1 January 1990; and

(b) the person's income was, immediately before 1 January 1990, being reduced by an amount in respect of a child because of section 35 of the 1947 Act; and

(c) the person has, at all times since 1 January 1990:

(i) been receiving a social security pension or benefit; and

**SCHEDULE 1—continued**

- (ii) had a dependent child who has turned 18 and is a prescribed student child.

(2) The provision of this Act that denies additional free area for prescribed student children is point 1064-E5 of Pension Rate Calculator A.

**Guardian allowance—prescribed student children (changes introduced on 1 January 1990)**

30. (1) The provisions of this Act that deny guardian allowance for prescribed student children do not apply to the calculation of a person's pension or benefit rate if:

- (a) the person was receiving a social security pension or benefit immediately before 1 January 1990; and
- (b) the rate of pension or benefit payable to the person, immediately before 1 January 1990, included an amount under subsection 33 (3) or 118 (5) of the 1947 Act; and
- (c) the person has, at all times since 1 January 1990:
  - (i) been receiving a social security pension or benefit; and
  - (ii) had a dependent child who has turned 18 and is a prescribed student child.

(2) The provisions of this Act that deny guardian allowance for prescribed student children are:

- (a) point 1064-C8 of Pension Rate Calculator A; and
- (b) point 1065-C7 of Pension Rate Calculator B; and
- (c) point 1067-E7 of Benefit Rate Calculator A; and
- (d) point 1068-E8 of Benefit Rate Calculator B.

**Benefit rates—under 21 partnered rate (changes introduced on 20 September 1990)**

31. If:

- (a) immediately before 20 September 1990:
  - (i) a person was receiving unemployment benefit, job search allowance or sickness benefit; and
  - (ii) the person had not turned 21; and
  - (iii) the person was a member of a couple; and
- (b) the person does not have a dependent child;
- (c) the person has at all times since 20 September 1990 been receiving unemployment benefit, job search allowance or sickness benefit;

this Act applies to the person as if:

- (d) if the person has not turned 18—the person's maximum basic rate were the amount specified in column 3A against items 3



**SCHEDULE 1—continued**

and 4 in Table B in point 1067-B1 of Benefit Rate Calculator A; or

- (e) if the person has turned 18—the person’s maximum basic rate were the amount specified in column 3A against items 6 and 8 in Table B in point 1068-B1 of Benefit Rate Calculator B.

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**SCHEDULE 2**

Section 5

**OTHER AMENDMENTS OF THE SOCIAL SECURITY ACT 1991  
OF A TRANSITIONAL NATURE**

**Section 5 (6):**

Add at the end the following Note:

“Note 2: this subsection may not apply if the young person has been receiving the pension, benefit or payment since 1 November 1984: see clause 23 in Schedule 1A.”.

**Subsection 23 (1) (definition of “assurance of support debt”):**

Insert “or section 129 of the 1947 Act” after “this Act”.

**Subsection 23 (1) (definition of “compensation debt”):**

Insert “of this Act or subsection 153 (2) or (3) of the 1947 Act” after “section 1166 or 1170”.

**Section 1064—Pension Rate Calculator A—point 1064-C8:**

Add at the end the following Note:

“Note: this point may not apply to a person who has been receiving guardian allowances since 1 January 1990: see clause 30 in Schedule 1A.”.

**Section 1064—Pension Rate Calculator A—point 1064-E5:**

Add at the end the following Note:

“Note: this point may not apply to a person who has been receiving additional free area since 1 January 1990: see clause 29 in Schedule 1A.”.

**Section 1065—Pension Rate Calculator B—point 1065-C7:**

Add at the end the following Note:

“Note: this point may not apply to a person if the person has been receiving guardian allowance since 1 January 1990: see clause 30 in Schedule 1A.”.

**Section 1067—Benefit Rate Calculator A—point 1067-B1:**

Add at the end the following Note:

“Note 7: if the person has been receiving the benefit since 20 September 1990 and item 3 or item 4 applies to the person, the person’s maximum basic rate may be the amount specified in column 3A rather than the amount specified in column 3B: see clause 31 in Schedule 1A.”.

**SCHEDULE 2—continued**

**Section 1067—Benefit Rate Calculator A—point 1067-E7:**

Add at the end the following Note:

“Note: this point may not apply to a person if the person has been receiving guardian allowance since 1 January 1990: see clause 30 in Schedule 1A.”.

**Section 1068—Benefit Rate Calculator B—point 1068-B1:**

Add at the end the following Note:

“Note 7: if the person has been receiving the benefit since 20 September 1990 and item 6 or 8 applies to the person, the person’s maximum basic rate may be the amount specified in column 3A rather than the amount specified in column 3B: see clause 31 in Schedule 1A.”.

**Section 1068—Benefit Rate Calculator B—point 1068-E8:**

Add at the end the following Note:

“Note: this point may not apply to a person if the person has been receiving guardian allowance since 1 January 1990: see clause 30 in Schedule 1A.”.

**Paragraph 1223 (1) (a):**

Insert “or the 1947 Act” after “under this Act”.

**Subparagraph 1223 (2) (b) (ii):**

Insert “or the 1947 Act” after “this Act”.

**Paragraph 1224 (1) (a):**

Insert “or the 1947 Act” after “under this Act”.

**Subparagraph 1224 (1) (b) (ii):**

Insert “or the 1947 Act” after “this Act”.

**Paragraph 1224 (1) (c):**

Insert “of this Act or section 246 of the 1947 Act” after “section 1223”.

**Subsection 1226 (1):**

Omit the subsection, substitute the following subsection:

“(1) If a person is liable to pay an amount to the Commonwealth because of:

- (a) a notice by the Secretary under section 1174 of this Act or section 154 of the 1947 Act (compensation payers); or
- (b) a notice by the Secretary under section 1179 of this Act or section 155 of the 1947 Act (insurers);

the amount is a debt due to the Commonwealth and is recoverable by the Commonwealth by means of legal proceedings.

Note 1: for ‘compensation payer’ see subsection 17 (1).

Note 2: for ‘legal proceedings’ see section 1232.”.

**SCHEDULE 2—continued**

**After section 1230:**

Insert the following section in Part 5.2:

**Debt from failure before 1 July 1991 to comply with garnishee notice under the 1947 Act**

“1230A. (1) If:

- (a) a person (in this section called the ‘garnishee debtor’) was given a notice under section 162 of the 1947 Act in respect of a debt due by another person (in this section called the ‘original debtor’) under the 1947 Act; and
- (b) the garnishee debtor failed to comply with the notice before 1 July 1991 to the extent that he or she was capable of complying with it;

then the amount of the debt outstanding (worked out under subsection (2)) is recoverable from the garnishee debtor by the Commonwealth by means of:

- (c) legal proceedings; or
- (d) garnishee notice.

Note 1: for ‘legal proceedings’ see section 1232.

Note 2: for ‘garnishee notice’ see section 1233.

“(2) The amount of the debt outstanding is the amount equal to:

- (a) as much of the amount required by the notice under section 162 of the 1947 Act to be paid by the garnishee debtor as the garnishee debtor was able to pay; or
- (b) as much of the debt due by the original debtor at the time when the notice was given as remains due from time to time;

whichever is the lesser.

“(3) If the Commonwealth recovers:

- (a) the whole or a part of the debt due by the garnishee debtor under subsection (1); or
- (b) the whole or a part of the debt due by the original debtor;

then:

- (c) both debts are reduced by the amount that the Commonwealth has so recovered; and
- (d) the amount specified in the notice under section 162 of the 1947 Act is to be taken to be reduced by the amount so recovered.

“(4) A reference in subsection (3) to the Commonwealth recovering the whole or a part of a debt includes a reference to the Commonwealth recovering, under the 1947 Act, the whole or a part of the debt.

“(5) In this section:

**SCHEDULE 2—continued**

**'person'** includes:

- (a) the Commonwealth; and
- (b) a State; and
- (c) a Territory; and
- (d) any authority of the Commonwealth, a State or Territory.”.

**Section 1238:**

Add at the end the following subsection:

“(2) This Part applies as if:

- (a) a decision under the 1947 Act were a decision under this Act; and
- (b) a rate of return decision (within the meaning of section 12M of the 1947 Act) were a rate of return decision for the purposes of this Act.”.

**Section 1245:**

Add at the end the following subsection:

“(2) This Part applies as if:

- (a) a decision under the 1947 Act were a decision under this Act; and
- (b) a rate of return decision (within the meaning of section 12M of the 1947 Act) were a rate of return decision for the purposes of this Act.”.

**Section 1282:**

Add at the end the following subsection:

“(2) This Part applies as if:

- (a) a decision under the 1947 Act were a decision under this Act; and
- (b) a rate of return decision (within the meaning of section 12M of the 1947 Act) were a rate of return decision for the purposes of this Act.”.

**Section 1322:**

Repeal the section, substitute the following section:

**Social Security Appeals Tribunal**

“1322. (1) The Social Security Appeals Tribunal established under section 216 of the 1947 Act continues in existence.

“(2) The Social Security Appeals Tribunal consists of:

- (a) a National Convener; and

**SCHEDULE 2—continued**

- (b) such number of senior members as are appointed in accordance with this Act; and
- (c) such number of other members as are appointed in accordance with this Act.”.

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**SCHEDULE 3**

Section 6

**CONSEQUENTIAL AMENDMENTS OF OTHER ACTS**

***Albury-Wodonga Development Act 1973***

**Subsection 12 (3):**

Omit “*Social Services Act 1947*”, substitute “*Social Security Act 1991*”.

***Commonwealth Employees’ Rehabilitation and Compensation Act 1988***

**Paragraphs 4 (7) (a) and (b):**

Omit the paragraphs, substitute the following paragraphs:

- “(a) family allowance under the *Social Security Act 1991*; and
- (b) family allowance supplement under that Act; and
- (c) child disability allowance under that Act; and
- (d) double orphan pension under that Act;”.

**Subsection 37 (6):**

Omit “an amount under Part XVI of the *Social Security Act 1947*”, substitute “rehabilitation allowance under the *Social Security Act 1991*”.

***Defence (Re-establishment) Act 1965***

**Section 46A (definition of “Social Security Act”):**

Omit “1947”, substitute “1991”.

**Subsection 48 (2):**

Omit the subsection, substitute the following subsections:

“(2) A person’s rehabilitation allowance rate is the rate equal to the sum of:

**SCHEDULE 3—continued**

- (a) the rate at which invalid pension would be payable to the disabled person under the Social Security Act if the disabled person were receiving an invalid pension under that Act; and
- (b) the rate at which any wife pension would be payable under that Act to another person if the disabled person were receiving an invalid pension under that Act.

**Note:** these rates will be worked out using the following Rate Calculators in the *Social Security Act 1991*

- Pension Rate Calculator A for a person who is not permanently blind.
- Pension Rate Calculator B for a person who is permanently blind

“(2A) For the purposes of subsection (1):

- (a) the disabled person’s ordinary income (within the meaning of the Social Security Act) is to be taken to be nil; and
- (b) the other person’s ordinary income (within the meaning of the Social Security Act) is to be taken to be nil.”.

**Subsection 48 (4):**

Omit the subsection, substitute the following subsection:

“(4) While a disabled person is receiving a rehabilitation allowance under this Part, any social security pension or benefit (within the meaning of the Social Security Act) that would otherwise be payable to the disabled person is to be suspended.”.

**Subsection 49A (1) (definition of “Social Security Act”):**

Omit “1947”, substitute “1991”.

**Subsection 49C (2):**

Omit the subsection, substitute the following subsections:

“(2) A disabled person’s rehabilitation allowance rate is the rate equal to the sum of:

- (a) the rate at which invalid pension would be payable to the disabled person under the Social Security Act if the disabled person were receiving an invalid pension under that Act; and
- (b) the rate at which any wife pension would be payable under that Act to another person if the disabled person were receiving an invalid pension under that Act.

**Note.** these rates will be worked out using the following Rate Calculators in the *Social Security Act 1991*.

- Pension Rate Calculator A for a person who is not permanently blind.
- Pension Rate Calculator B for a person who is permanently blind

“(2A) For the purposes of subsection (1):

- (a) the disabled person’s ordinary income (within the meaning of the Social Security Act) is to be taken to be nil; and

**SCHEDULE 3—continued**

- (b) the other person's ordinary income (within the meaning of the Social Security Act) is to be taken to be nil.”.

**Subsection 49C (5):**

Omit the subsection, substitute the following subsection:

“(5) While a disabled person is receiving a rehabilitation allowance under this Part, any social security pension or benefit (within the meaning of the Social Security Act) that would otherwise be payable to the disabled person is to be suspended.”.

***Disability Services Act 1986***

**Section 17 (definition of “rehabilitation allowance”):**

Omit the definition, substitute the following definition:

“‘rehabilitation allowance’ means a rehabilitation allowance under the *Social Security Act 1991*;”.

**Subsection 22 (4) (paragraph (a) of the definition of “pensioner or beneficiary”):**

Omit the paragraph, substitute the following paragraph:

“(a) is receiving a social security pension or benefit within the meaning of the *Social Security Act 1991*; or”.

**Subsection 24 (6):**

Omit the subsection, substitute the following subsection:

“(6) The following sections of the *Social Security Act 1991* apply in relation to allowances under this section as if an allowance under this section were an age pension under that Act:

- (a) sections 61 to 64 (method of payment);
- (b) section 65 (claim for amounts owing at recipient's death);
- (c) sections 66 and 67 (protection of payment);
- (d) section 1224 (debt arising from recipients' contravention);
- (e) sections 1233 to 1237 (recovery, write-off and waiver).”.

**Subsection 28 (2):**

Omit “1947”, substitute “1991”.

**Subsection 28 (4):**

Omit “1947”, substitute “1991”.

***Handicapped Persons Assistance Act 1974***

**Section 27 (definition of “normal employment”):**

Omit paragraph (b), substitute the following paragraph:

“(b) full-time engagement (other than as an employee) of the person

**SCHEDULE 3—continued**

in any employment, occupation or business that provides, or will provide, the person with an income at an annual rate not less than an amount per year equal to the aggregate of:

- (i) the maximum basic rate of age pension that would be payable to the person under the *Social Security Act 1991* if the person:
  - (A) were receiving an age pension under that Act; and
  - (B) were not a member of a couple (within the meaning of that Act); and
- (ii) the amount that would be the person's ordinary income free area for the purposes of the *Social Security Act 1991* if:
  - (A) the person were receiving an age pension under that Act; and
  - (B) the person were not a member of a couple (within the meaning of that Act);

Note 1: the maximum basic rate is to be found in Pension Rate Calculator A (point 1064-B1—Table B—item 1—column 3) in the *Social Security Act 1991*

Note 2: the free area is to be found in Pension Rate Calculator A (point 1064-E4—Table E-1—item 1—column 3) in the *Social Security Act 1991*.

***Health Insurance Act 1973***

**Subsection 3 (1) (sub-subparagraph (aa) (iii) (C) of the definition of “dependant”):**

Omit “Part III of the *Social Security Act 1947*”, substitute “the *Social Security Act 1991*”.

**Subsection 3 (1) (paragraph (c) of the definition of “dependant”):**

Omit “a dependant of the disadvantaged person for the purposes of Part VII of the *Social Security Act 1947*”, substitute “a DSS benefit dependant of the disabled person”.

**Subsection 3 (1):**

Insert the following definition:

“‘DSS benefit dependant’, in relation to the recipient of an unemployment benefit, job search allowance, sickness benefit or special benefit under the *Social Security Act 1991*, means a person in respect of whom the recipient's benefit or allowance rate is increased by way of:

- (a) additional payment for a partner; or
- (b) dependent child add-on;”.



**SCHEDULE 3—continued**

**Paragraph 3 (7) (a):**

Omit “supporting parent’s benefit under the *Social Security Act 1947*”, substitute “sole parent pension under the *Social Security Act 1991*”.

**Paragraph 3 (7) (b):**

Omit “benefit”, substitute “pension”.

**Subsection 3 (7):**

Omit “unless that benefit”, substitute “unless that pension”.

**Subsection 3 (10) (paragraph (a) of the definition of “pension”):**

Omit “1947”, substitute “1991”.

**Subsection 4C (1):**

Omit “1947” (wherever occurring), substitute “1991”.

**Paragraph 4C (2) (a):**

Omit “of Part VIIA”.

**Paragraph 4D (1) (a):**

Omit “parent’s”, substitute “parent”.

**Subsection 4D (1):**

Omit “1947”, substitute “1991”.

**Subparagraph 4D (2) (b) (i):**

Omit “parent’s”, substitute “parent”.

**Subsection 4D (3) (definition of “qualified recipient”):**

- (a) omit “wife’s”, substitute “wife”;
- (b) omit “carer’s”, substitute “carer”;
- (c) omit “1947”, substitute “1991”.

**Subsection 4D (3) (definition of “unemployment beneficiary”):**

Omit “1947”, substitute “1991”.

**Subsection 5B (12) (subparagraph (a) (i) of the definition of “allowable income”):**

Omit “married person”, substitute “member of a couple (within the meaning of the *Social Security Act 1991*)”.

**Subsection 5B (12) (definitions of “child” and “dependant”):**

Omit the definitions, substitute the following definitions:  
“‘child’, in relation to a person, means a child (whether or not under the age of 16 years) for whom the person, or the person’s partner

**SCHEDULE 3—continued**

(within the meaning of the *Social Security Act 1991*), receives family allowance under the *Social Security Act 1991* (otherwise than because of subsection 5 (10) of that Act);

**‘dependant’**, in relation to a person, means:

(a) the person’s partner (within the meaning of the *Social Security Act 1991*) if the partner:

- (i) in a case where the person is receiving unemployment benefit or job search allowance under the *Social Security Act 1991*—is a DSS benefit dependant of the person; or
- (ii) in any other case—would be a DSS benefit dependant of the person if the person were receiving unemployment benefit or job search allowance under that Act; or

(b) a child of the person;”.

**Subsection 5B (12) (definition of “income”):**

Omit “income of the person for the purposes of the *Social Security Act 1947*”, substitute “ordinary income of the person for the purposes of the *Social Security Act 1991*”.

**Subsection 5B (12) (paragraph (a) of the definition of “income”):**

Omit the paragraph, substitute the following paragraph:

“(a) a social security pension or benefit within the meaning of the *Social Security Act 1991*;”.

**Subsection 5B (12) (paragraph (da) of the definition of “income”):**

Omit “Part VII of the *Social Security Act 1947*”, substitute “the *Social Security Act 1991*”.

**Subsection 5B (12) (definition of “unemployment benefit”):**

Omit “Part VII of the *Social Security Act 1947*”, substitute “the *Social Security Act 1991*”.

**Subsection 5D (8) (definition of “job search allowance”):**

Omit “Part XIII of the *Social Security Act 1947*”, substitute “the *Social Security Act 1991*”.

**Subsection 5D (8) (definition of “unemployment benefit”):**

Omit “under that Part”, substitute “under the *Social Security Act 1991*”.

**Subsection 5E (12) (definition of “special benefit”):**

Omit “Part VII of the *Social Security Act 1947*”, substitute “the *Social Security Act 1991*”.

**SCHEDULE 3—continued**

**Section 5F:**

Omit “Part XIX of the *Social Security Act 1947*”, substitute “Chapter 6 of the *Social Security Act 1991*”.

**Section 130H:**

Omit “section 17 of the *Social Security Act 1947*”, substitute “sections 1312 to 1321 of the *Social Security Act 1991*”.

***Homeless Persons Assistance Act 1974***

**Section 3 (definition of “homeless person”):**

Omit “Part VI of the *Social Security Act 1947*”, substitute “the *Social Security Act 1991*”.

***Migration Act 1958***

**Subsection 4 (1) (definition of “aged parent”):**

Omit “1947”, substitute “1991”.

***National Crime Authority Act 1984***

**Schedule 1:**

Omit “*Social Security Act 1947*, section 17”, substitute “*Social Security Act 1991*, sections 1312 to 1321”.

***National Health Act 1953***

**Subsection 4 (1) (subparagraph (c) (iii) of the definition of “dependant”):**

Omit “Part III of the *Social Security Act 1947*”, substitute “the *Social Security Act 1991*”.

**Subsection 4 (1) (paragraph (a) of the definition of “pensioner”):**

Omit the paragraph, substitute the following paragraph:

“(a) a person to whom or in respect of whom a social security pension (within the meaning of the *Social Security Act 1991*) is being paid and who is qualified for fringe benefits in accordance with a Division of that Act but is not a person to whom subparagraph (aa) (ii) applies;”.

**Subsection 4 (1) (paragraph (aa) of the definition of “pensioner”):**

Omit “1947” (wherever occurring), substitute “1991”.

**SCHEDULE 3—continued**

**Subsection 4 (1) (paragraph (ab) of the definition of “pensioner”):**

Omit “117A (2) of the *Social Security Act 1947*”, substitute “589 (2) of the *Social Security Act 1991*”.

**Subsection 4 (1) (definition of “social security beneficiary”):**

(a) insert “job search allowance,” after “unemployment benefit,”.

(b) omit “1947” (wherever occurring), substitute “1991”.

**Paragraph 4 (1D) (a):**

Omit “supporting parent’s benefit under the *Social Security Act 1947*”, substitute “sole parent pension under the *Social Security Act 1991*”.

**Paragraph 4 (1D) (b):**

Omit “benefit”, substitute “pension”.

**Subsection 4 (1D):**

Omit “that benefit”, substitute “that pension”.

**Paragraph 4 (1D) (d):**

Omit “1947”, substitute “1991”.

**Subsection 4 (3) (paragraph (a) of the definition of “pension”):**

Omit “1947”, substitute “1991”.

**Subsection 84 (1) (paragraph (a) of the definition of “concessional beneficiary”):**

Omit the paragraph, substitute the following paragraph:

“(a) a person to whom or in respect of whom a social security pension (within the meaning of the *Social Security Act 1991*) is being paid; or”.

**Subsection 84 (1) (paragraph (aa) of the definition of “concessional beneficiary”):**

Omit “1947”, substitute “1991”.

**Subsection 84 (1) (sub-subparagraph (a) (iii) (C) of the definition of “dependant”):**

Omit “Part III of the *Social Security Act 1947*”, substitute “the *Social Security Act 1991*”.

***Re-establishment and Employment Act 1945***

**Paragraphs 151 (a) and (b):**

Omit the paragraphs, substitute the following paragraphs:

“(a) a rehabilitation allowance under the *Social Security Act 1991* at the same rate as the rate of invalid pension that would be

**SCHEDULE 3—continued**

payable to the disabled person for the time being under that Act if the disabled person were receiving an invalid pension under that Act; and

- (b) an amount equal to the rate of wife pension that would be payable to the disabled person's wife under that Act if the disabled person were receiving an invalid pension under that Act.”.

***Registration of Deaths Abroad Act 1984***

**Subsection 3 (1) (paragraph (c) of the definition of “prescribed person”):**  
Omit “1947”, substitute “1991”.

***Seamen's Compensation Act 1911***

**Schedule 1 (paragraph (2A)):**

Omit “child endowment paid under Part VI of the *Social Services Act 1947-1973* in respect of”, substitute “family allowance under the *Social Security Act 1991* for”.

***Seamen's War Pensions and Allowances Act 1940***

**Subsection 3 (1) (definition of “child”):**

Omit “a pension under Part IV or V or Schedule 1B, an allowance under Part VI, a benefit under Part XIII or a rehabilitation allowance under Part XVI of the *Social Security Act 1947*”, substitute “a social security pension (within the meaning of the *Social Security Act 1991*) other than a sheltered employment allowance under that Act or a social security benefit (within the meaning of that Act)”.

**Paragraph 55A (1) (c):**

Insert “, the *Social Security Act 1991*” after “1947”.

**Paragraph 55A (1) (d):**

Insert “, the *Social Security Act 1991*” after “1947”.

**Subsection 55A (8) (paragraph (b) of the definition of “excluded amount”):**

Insert “or the *Social Security Act 1991*” after “1947”.

**Subparagraph 55AA (b) (ii):**

Insert “or the *Social Security Act 1991*” after “1947”.

**Subsection 55D (1):**

Insert “or the *Social Security Act 1991*” after “1947”.

**Subsection 55D (2):**

Omit “1947”, substitute “1991”.

**SCHEDULE 3—continued**  
***Sex Discrimination Act 1984***

**Paragraph 40 (2) (a):**

Omit “1947”, substitute “1991”.

***Student Assistance Act 1973***

**Subsection 3 (1) (definition of “late payment charge”):**

After paragraph (b), insert the following paragraph:

“(ba) section 1229, or any other prescribed provision, of the *Social Security Act 1991*”.

**Subsection 3 (1) (definition of “Social Security or Veterans’ legislation overpayment”):**

After paragraph (a) insert the following paragraph:

“(aa) an amount paid under the *Social Security Act 1991*:

- (i) that should not have been paid; or
- (ii) that was paid solely because of a decision under:
  - (A) subsection 533 (2) of that Act; or
  - (B) subsection 604 (2) of that Act; or
  - (C) subsection 675 (2) of that Act; or
  - (D) subsection 738 (2) of that Act; or”.

***Tuberculosis Act 1948***

**Subsection 9 (3):**

- (a) omit “income”, substitute “ordinary income”.
- (b) omit “*Social Services Act 1947-1973*”, substitute “*Social Security Act 1991*”.

***War Gratuity Act 1945***

**Section 28:**

- (a) omit “property”, substitute “assets”.
- (b) omit “income”, substitute “ordinary income”.
- (c) omit “1947”, substitute “1991”.

*Social Security (Rewrite) Transition No. 70, 1991*

*[Minister's second reading speech made in—  
House of Representatives on 13 March 1991  
Senate on 14 May 1991]*