



Veterans' Entitlements (Rewrite) Transition Act 1991

No. 73 of 1991

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Veterans' Entitlements (Rewrite) Transition Act 1991

No. 73 of 1991

An Act to make consequential amendments and savings and transitional provisions relating to the *Veterans' Entitlements Amendment Act 1991*

[Assented to 25 June 1991]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. (1) This Act may be cited as the *Veterans' Entitlements (Rewrite) Transition Act 1991*.

(2) In this Act, "Principal Act" means the *Veterans' Entitlements Act 1986*¹.

Commencement

2. (1) Subject to subsection (2), this Act commences on 1 July 1991, immediately after the commencement of the *Veterans' Entitlements Amendment Act 1991*.

(2) Section 19 commences immediately after the commencement of section 22.

PART 2—SAVINGS AND TRANSITIONAL PROVISIONS

Division 1—General

Interpretation

3. In this Part:

“former Part III” means Part III of the Principal Act as in force immediately before 1 July 1991;

“new Part III” means Part III of the Principal Act as in force on 1 July 1991.

Correspondence of pensions

4. For the purposes of this Part:

- (a) a service pension granted to a person because of section 38 of the former Part III and an age service pension under the new Part III correspond to each other; and
- (b) a service pension granted to a person because of section 39 of the former Part III and an invalidity service pension under the new Part III correspond to each other; and
- (c) a wife's service pension granted to a person because of section 40 of the former Part III and a wife service pension under the new Part III correspond to each other; and
- (d) a carer's service pension granted to a person because of section 41 of the former Part III and a carer service pension under the new Part III correspond to each other.

Correspondence of provisions

5. (1) If one provision of the former Part III and one provision of the new Part III have the same legal effect, the 2 provisions correspond to each other.

(2) If:

- (a) one provision of the former Part III has a particular legal effect in relation to different types of service pension; and
- (b) a provision of the new Part III has that legal effect in relation to only one of those types of service pension;

the provisions correspond to each other for the purposes of applying this Part (Savings and Transitional Provisions) to that payment type.

- (3) In this section:
“legal effect” includes conferring the power to issue an instrument.

Division 2—Savings

General aim of Division

6. The main aim of this Division is to allow:

- (a) the continued payment of pensions that were granted under the former Part III; and
- (b) the continuation of processes (such as claims and applications) that were begun under the former Part III;

without the need for people to make new claims or begin those processes again.

Saving of pensions and qualifying service determinations

7. (1) If a determination granting a claim for a pension, or a decision that a person has rendered qualifying service, under the former Part III is in force immediately before 1 July 1991, the determination or decision has effect, from 1 July 1991, as if it were a determination under the new Part III granting a claim for the corresponding pension under the new Part III or granting a claim for a qualifying service determination under the new Part III.

Note: for the statutory authority for the determination and decision under the former Part III see subsections 46 (1) and 43 (6) and section 59 of that Act.

(2) If a determination directing the making of a payment of a pension under the former Part III is in force immediately before 1 July 1991, the determination has effect, from 1 July 1991, as if it were a determination under the new Part III directing the making of a payment of the corresponding pension under the new Part III.

Note: for the statutory authority for the determination under the former Part III see subsection 46 (2) and section 59 of that Act.

(3) If a determination of the rate of a pension under the former Part III is in force immediately before 1 July 1991, the determination has effect, from 1 July 1991, as if it were a determination under the new Part III of the rate of the corresponding pension under the new Part III.

Note: for the statutory authority for the determination under the former Part III see subsections 46 (2) and 58 (1) and (3) and section 59 of that Act.

Instruments in force on 30 June 1991

8. (1) If:

- (a) an instrument made under a provision of the Principal Act is in force immediately before 1 July 1991; and
- (b) the provision under which it was made is repealed on 1 July 1991; and

- (c) a provision with the same legal effect is included in the Principal Act as in force on 1 July 1991;

the instrument has effect as if it were an instrument made under the provision referred to in paragraph (c).

- (2) Without limiting subsection (1), the instrument may be:

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

(3) If an instrument to which subsection (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 and qualifying service determinations

9. (1) If:

- (a) a person has lodged a claim for:
 - (i) a pension; or
 - (ii) a decision that the person has rendered qualifying service; under the former Part III; 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:

- (c) a corresponding pension; or
- (d) a qualifying service determination;

under the new Part III.

- (2) If:

- (a) subsection (1) applies to a claim; and
- (b) a claim is granted under the new Part III;

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

- (3) If:

- (a) subsection (1) applies to a claim; and
- (b) the claim is granted under the new Part III; 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 the new Part III and the person making the claim has no rights under the former Part III arising from the claim.

Unfinalised internal reviews

10. (1) If:

- (a) a person has made an application under subsection 59 (1) of the former Part III before 1 July 1991; and
 - (b) the application has not been determined before 1 July 1991;
- the application has effect, from 1 July 1991, as if it were an application under subsection 57A (1) of the new Part III.

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

(3) If:

- (a) subsection (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 59 of the former Part III.

Application to participate in the pension loans scheme

11. (1) If:

- (a) a person has made a request under subsection 51 (2) of the former Part III 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 52ZD (1) of the new Part III.

(2) If:

- (a) subsection (1) applies to a request; and
 - (b) the request is granted under this Act;
- the former Part III 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 former Part III.

Application to take advantage of hardship rules

12. (1) If:

- (a) a person made a request under subsection 53 (1) of the former Part III 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 52Y (1) of the new Part III.

(2) A decision in response to the request will have a date of effect before 1 July 1991 (see subsection 52Y (3) of the new Part III).

(3) If:

- (a) subsection (1) applies to a request; and

- (b) the request is granted under the new Part III; and
- (c) the date of effect of the decision to grant the request is before 1 July 1991;

the former Part III 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 former Part III.

Payment of service pension to agent

13. If a pensioner has made a request in relation to a service pension, wife's service pension or carer's service pension under subsection 122 (2) of the Principal Act before 1 July 1991, the request has effect, from 1 July 1991, as if it had been made under subsection 58D (1) of the new Part III.

Request to terminate service pension

14. If a pensioner has made a request in relation to a service pension or wife's service pension under subsection 124 (1) of the Principal Act before 1 July 1991, the request has effect, from 1 July 1991, as if it had been made under subsection 56J (1) of the new Part III.

Cancellation or suspension where person fails to draw instalments

15. If the Commission has cancelled or suspended a service pension or wife's service pension under subsection 124 (2) of the Principal Act before 1 July 1991, the cancellation or suspension has effect, from 1 July 1991, as if it had been made under section 56K of the new Part III.

Deduction of tax from service pension

16. If a pensioner has made a request under subsection 125 (2) of the Principal Act before 1 July 1991, the request has effect, from 1 July 1991, as if it had been made under section 58H of the new Part III.

Division 3—Transitional (1990 Budget)

Fringe benefits test—interest attributed to money not invested or invested at a low rate of interest (changes introduced on 1 March 1991)

17. If a person:
- (a) was not a prescribed person within the meaning of section 82 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 54 (1) of the *Veterans' Affairs Legislation Amendment Act 1991* (interest attributed to money not invested or invested at a low rate of interest) had been in force on that day;

then, for the purposes of the Principal Act and other laws of the Commonwealth, the person is taken to be eligible for fringe benefits under Division 15 of the Principal Act if:

- (c) the person would not, at any time between 28 February and 1 July 1991, have become a prescribed person within the meaning of section 82 if the amendments referred to in paragraph (b) had not been made; and
- (d) the person would not, at any time after 30 June 1991, cease to be eligible for fringe benefits under Division 15 of the Principal Act if that Act did not contain Division 8A of Part III.

PART 3—INDEXATION AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986

Indexation amendments

- 18. The Principal Act is amended as set out in Schedule 1.

PART 4—1990 BUDGET AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986

1990 Budget amendments

- 19. The Principal Act is further amended as set out in Schedule 2.

PART 5—CONSEQUENTIAL AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986

Consequential amendments of the *Veterans' Entitlements Act 1986*

- 20. The Principal Act is further amended as set out in Schedule 3.

PART 6—CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Consequential amendments of other Acts

- 21. The Acts specified in Schedule 4 are amended as set out in that Schedule.

PART 7—MINOR AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986

Minor amendments of the *Veterans' Entitlements Act 1986*

- 22. The Principal Act is further amended as set out in Schedule 5.

SCHEDULE 1

Section 18

**INDEXATION AMENDMENTS OF THE VETERANS'
ENTITLEMENTS ACT 1986**

After section 5N:

Insert:

Indexation and rate adjustment definitions

“5NA. (1) In this Act, unless the contrary intention appears: ‘**current figure**’, as at a particular time and in relation to an amount that is to be indexed or adjusted under Division 21 of Part III, means:

- (a) if the amount has not yet been indexed or adjusted under Division 21 before that time—the amount; and
- (b) if the amount has been indexed or adjusted under Division 21 before that time—the amount most recently substituted for the amount under Division 21 before that time;

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

Publication of substituted index numbers

“(2) Subject to subsection (3), if at any time (whether before or after the commencement of this section), the Australian Statistician publishes an index number for a quarter in substitution for an index number previously published by the Australian Statistician for that quarter, the publication of the later index number is to be disregarded for the purposes of this section.

Change to CPI reference base

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

After Division 20:

Insert the following Division in Part III:

“Division 21—Indexation

“Subdivision A—Preliminary

Analysis of Division

“59. This Division provides for:

- (a) the indexation, in line with CPI (Consumer Price Index) increase, of the amounts in column 2 of the CPI Indexation Table at the end of section 59B; and

SCHEDULE 1—continued

(b) the adjustment of other amounts in line with the increase in the amounts indexed.

Indexed and adjusted amounts

“59A. The following Table sets out:

- (a) each amount that is to be indexed or adjusted under this Division; and
- (b) the abbreviation used in this Division for referring to that amount; and
- (c) the provision or provisions in which that amount is to be found.

INDEXED AND ADJUSTED AMOUNTS TABLE			
column 1 item	column 2 description of amount	column 3 abbreviation	column 4 provisions in which amount specified
1.	Maximum basic rates Maximum basic rates for service pension	pension MBR	*Service Pension Rate Calculator Where There Are No Dependent Children—point 41-B1—Table B—column 3—all amounts *Service Pension Rate Calculator Where There Are Dependent Children—point 42-B1—Table B—column 3—all amounts *Service Pension Rate Calculator For Blinded Veterans—point 43-B1—Table B—column 3—all amounts *Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-B1—Table B—column 3—all amounts
2.	Child amounts Service pension dependent child add-on for child who has not turned 13	pension under 13 child add-on	*Service Pension Rate Calculator Where There Are Dependent Children—point 42-C3—Table C-2—column 3—item 1

SCHEDULE 1—continued

INDEXED AND ADJUSTED AMOUNTS TABLE—continued			
column 1 item	column 2 description of amount	column 3 abbreviation	column 4 provisions in which amount specified
3.	Service pension dependent child add-on for child who has turned 13 but has not turned 16	pension 13-15 child add-on	*Service Pension Rate Calculator for Blinded Veterans—point 43-C3—Table C-2—column 3— item 1 *Service Pension Rate Calculator Where There Are Dependent Children—point 42-C3—Table C-2—column 3— item 2 *Service Pension Rate Calculator for Blinded Veterans—point 43-C3—Table C-2—column 3— item 2
4.	Guardian allowance for service pension	pension guardian allowance	*Service Pension Rate Calculator Where There Are Dependent Children— point 42-C7 *Service Pension Rate Calculator for Blinded Veterans—point 43-C3—Table C-2—column 3— item 4
5.	Permissible child earnings Amount that a child who is not in full-time education and is under 16 can earn from employment without ceasing to be a dependent child	permissible child earnings limit	* paragraph 5F (3) (c)
6.	Rent assistance Maximum rent assistance for service pension	pension MRA	*Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C6—Table C-1—column 4— all amounts *Service Pension Rate Calculator Where There Are Dependent Children—point 42-D6—Table D-1—column 4— all amounts

SCHEDULE 1—continued

INDEXED AND ADJUSTED AMOUNTS TABLE—continued			
column 1 item	column 2 description of amount	column 3 abbreviation	column 4 provisions in which amount specified
7.	Income free area Ordinary income free area for service pension	pension free area	*Service Pension Rate Calculator for Widows and Non-illness Separated Wives— point 44-C6—Table C-1—column 4—all amounts *Service Pension Rate Calculator Where There Are No Dependent Children— point 41-D4—Table D-1—column 3—all amounts *Service Pension Rate Calculator Where There Are Dependent Children—point 42-E4 —Table E-1—column 3—all amounts *Service Pension Rate Calculator for Widows and Non-illness Separated Wives— point 44-D4
8.	Fringe benefits income free area	fringe benefits free area	*Fringe Benefits Income Test Calculator—point 53B-4—Table B-2— column 3
9.	Assets value limits Assets value limit for service pension for property owner who is not a member of a couple	pension “single” property owner AVL	*Service Pension Rate Calculator Where There Are No Dependent Children— point 41-F3—Table F-1—column 3A— item 1 *Service Pension Rate Calculator Where There Are Dependent Children—point 42-G3 —Table G-1—column 3A— item 1 *Service Pension Rate Calculator for Widows

SCHEDULE 1—continued

INDEXED AND ADJUSTED AMOUNTS TABLE—continued			
column 1 item	column 2 description of amount	column 3 abbreviation	column 4 provisions in which amount specified
10.	Assets value limit for service pension for non-property owner who is not a member of a couple	pension “single” non-property owner AVL	and Non-illness Separated Wives— point 44-F3—Table F-1—column 3A— item 1 *Service Pension Rate Calculator Where There Are No Dependent Children— point 41-F3—Table F-1—column 3B— item 1 *Service Pension Rate Calculator Where There Are Dependent Children—point 42-G3 —Table G-1—column 3B— item 1 *Service Pension Rate Calculator for Widows and Non-illness Separated Wives— point 44-F3—Table F-1—column 3B— item 1
11.	Assets value limit for service pension for property owner who is a member of a couple	pension “partnered” property owner AVL	*Service Pension Rate Calculator Where There Are No Dependent Children— point 41-F3—Table F-1—column 3A— items 2 and 3 *Service Pension Rate Calculator Where There Are Dependent Children—point 42-G3 —Table G-1—column 3A— items 2 and 3 *Service Pension Rate Calculator for Widows and Non-illness Separated Wives— point 44-F3—Table F-1—column 3A— items 2 and 3

SCHEDULE 1—continued

INDEXED AND ADJUSTED AMOUNTS TABLE—continued			
column 1 item	column 2 description of amount	column 3 abbreviation	column 4 provisions in which amount specified
12.	Assets value limit for service pension for non-property owner who is a member of a couple	pension “partnered” non-property owner AVL	*Service Pension Rate Calculator Where There Are No Dependent Children—point 41-F3—Table F-1—column 3B— items 2 and 3 *Service Pension Rate Calculator Where There Are Dependent Children—point 42-G3—Table G-1—column 3B— items 2 and 3 *Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-F3—Table F-1—column 3B— items 2 and 3
13.	Assets value limit for some illness separated retirement village and granny flat residents	special illness separated resident AVL	* paragraph 52S (5) (g), paragraph 52T (3) (e), paragraph 52U (2) (e)
14.	Assets value limit for fringe benefits for property owner who is not a member of a couple	fringe benefits “single” property owner AVL	*Fringe Benefits Assets Test Calculator—point 53C-2—Table—column 3A— item 1
15.	Assets value limit for fringe benefits for non-property owner who is not a member of a couple	fringe benefits “single” non-property owner AVL	*Fringe Benefits Assets Test Calculator—point 53C-2—Table—column 3B— item 1
16.	Assets value limit for fringe benefits for property owner who is a member of a couple	fringe benefits “partnered” property owner AVL	*Fringe Benefits Assets Test Calculator—point 53C-2—Table—column 3A— item 2
17.	Assets value limit for fringe benefits for non-property owner who is a member of a couple	fringe benefits “partnered” non-property owner AVL	*Fringe Benefits Assets Test Calculator—point 53C-2—Table—column 3B— item 2

SCHEDULE 1—continued

“Subdivision B—CPI indexation

CPI Indexation Table

“59B. (1) An amount referred to in the following CPI Indexation Table is to be indexed under this Division on each indexation day for the amount, using the reference quarter and base quarter for the amount and indexation day and rounding off to the nearest multiple of the rounding amount:

CPI INDEXATION TABLE					
column 1	column 2	column 3	column 4	column 5	column 6
item	amount	indexation day(s)	reference quarter (most recent before indexation day)	base quarter	rounding base
1.	Maximum basic rates pension MBR	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$2.60
2.	Permissible child earnings permissible child earnings limit	1 January	June	highest June quarter before reference quarter	\$0.05
3.	Rent assistance pension MRA	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$2.60

SCHEDULE 1—continued

CPI INDEXATION TABLE—continued					
column 1	column 2	column 3	column 4	column 5	column 6
item	amount	indexation day(s)	reference quarter (most recent before indexation day)	base quarter	rounding base
4.	Income free areas pension free area	1 July	March	most recent March quarter before reference quarter	\$26.00
5.	fringe benefits income free area	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$52.00
6.	Assets value limits pension "single" property owner AVL	13 June	December	most recent December quarter before reference quarter	\$250.00
7.	pension "partnered" property owner AVL	13 June	December	most recent December quarter before reference quarter	\$250.00
8.	pension "partnered" non-property owner AVL	13 June	December	most recent December quarter before reference quarter	\$250.00

SCHEDULE 1—continued

CPI INDEXATION TABLE—continued					
column 1	column 2	column 3	column 4	column 5	column 6
item	amount	indexation day(s)	reference quarter (most recent before indexation day)	base quarter	rounding base
9.	fringe benefits "single" property owner AVL	13 June	December	most recent December quarter before reference quarter	\$250.00
10.	fringe benefits "partnered" property owner AVL	13 June	December	most recent December quarter before reference quarter	\$250.00

SCHEDULE 1—continued

Highest quarter

“(2) A reference in the CPI Indexation Table to the highest of a group of quarters is a reference to the quarter in that group that has the highest index number.

Indexation of amounts

“59C. (1) If an amount is to be indexed under this Subdivision on an indexation day, this Act has effect as if the indexed amount were substituted for that amount on that day.

“(2) This is how to work out the indexed amount for an amount that is to be indexed under this Subdivision on an indexation day:

Method statement

- Step 1.* Use section 59D to work out the indexation factor for the amount on the indexation day.
- Step 2.* Work out the current figure for the amount immediately before the indexation day.
- Step 3.* Multiply the current figure by the indexation factor: the result is the **provisional indexed amount**.
- Step 4.* Use section 59E to round off the provisional indexed amount: the result is the **indexed amount**.

Note: for 'current figure' see subsection 5NA (1).

Indexation factor

“59D. (1) Subject to subsections (2) and (3), the indexation factor for an amount that is to be indexed under this Subdivision on an indexation day is:

$$\frac{\text{index number for most recent reference quarter}}{\text{index number for base quarter}}$$

worked out to 3 decimal places.

Note: for 'reference quarter' and 'base quarter' see the CPI Indexation Table in section 59B.

“(2) If an indexation factor worked out under subsection (1) would, if it were worked out to 4 decimal places, end in a number that is greater than 4, the indexation factor is to be increased by 0.001.

“(3) If an indexation factor worked out under subsections (1) and (2) would be less than 1, the indexation factor is to be increased to 1.

Rounding off indexed amounts

“59E. (1) If a provisional indexed amount is a multiple of the rounding base, the provisional indexed amount becomes the indexed amount.

SCHEDULE 1—continued

Note 1: for 'provisional indexed amount' see Step 3 in subsection 59C (2).

Note 2: for 'rounding base' see the CPI Indexation Table in section 59B.

“(2) If a provisional indexed amount is not a multiple of the rounding base, the indexed amount is the provisional indexed amount rounded up or down to the nearest multiple of the rounding base.

“(3) If a provisional indexed amount is not a multiple of the rounding base but is a multiple of half the rounding base, the indexed amount is the provisional indexed amount rounded up to the nearest multiple of the rounding base.

“Subdivision C—Adjustment of other rates

Adjustment of pension child add-ons

“59F. (1) This Act has effect as if, on 1 January each year, each pension under 13 child add-on were replaced with the amount that is the pension under 13 child add-on for the purposes of Part 3.16 (Indexation) of the Social Security Act on that day.

“(2) This Act has effect as if, on 1 January each year, each pension 13-15 child add-on were replaced with the amount that is the pension 13-15 child add-on for the purposes of Part 3.16 (Indexation) of the Social Security Act on that day.

Adjustment of pension guardian allowance

“59G. This Act has effect as if, on 1 January each year, the pension guardian allowance were replaced with the amount that is the pension guardian allowance for the purposes of Part 3.16 (Indexation) of the Social Security Act on that day.

Adjustment of pension “single” non-property owner AVL

“59H. This Act has effect as if, on 13 June each year, the amount worked out in accordance with the following formula were substituted for the pension ‘single’ non-property owner AVL:

$$\text{pension 'single' property owner AVL} + 2 \times \left(\begin{array}{c} \text{pension} \\ \text{'partnered'} \\ \text{non-property} \\ \text{owner AVL} \end{array} - \begin{array}{c} \text{pension} \\ \text{'partnered'} \\ \text{property} \\ \text{owner} \\ \text{AVL} \end{array} \right)$$

where:

pension ‘single’ property owner AVL is the current figure, as at that 13 June, for the pension ‘single’ property owner AVL;

pension ‘partnered’ non-property owner AVL is the current figure, as at that 13 June, for the pension ‘partnered’ non-property owner AVL;

SCHEDULE 1—continued

pension 'partnered' property owner AVL is the current figure, as at that 13 June, for the pension 'partnered' property owner AVL.

Adjustment of special illness separated resident AVL

“59J. This Act has effect as if, on 13 June each year, the amount worked out in accordance with the following formula were substituted for each special illness separated retirement village resident AVL:

$$\frac{\text{pension 'partnered' property owner AVL} + \text{pension 'partnered' non-property owner AVL}}{2}$$

Adjustment of fringe benefits AVLS

“59K. (1) This Act has effect as if, on 13 June each year, the amount worked out in accordance with the following formula were substituted for the fringe benefits 'single' non-property owner AVL:

$$\text{fringe benefits 'single' property owner AVL} + 2 \times \left[\text{pension 'partnered' non-property owner AVL} - \text{pension 'partnered' property owner AVL} \right]$$

where:

fringe benefits 'single' property owner AVL is the current figure, as at that 13 June, for the fringe benefits 'single' property owner AVL;

pension 'partnered' non-property owner AVL is the current figure, as at that 13 June, for the pension 'partnered' non-property owner AVL;

pension 'partnered' property owner AVL is the current figure, as at that 13 June, for the pension 'partnered' property owner AVL.

“(2) This Act has effect as if, on 13 June each year, the amount worked out in accordance with the following formula were substituted for the fringe benefits 'partnered' non-property owner AVL:

$$\text{fringe benefits 'partnered' property owner AVL} + \left[\text{pension 'partnered' non-property owner AVL} - \text{pension 'partnered' property owner AVL} \right]$$

where:

fringe benefits 'partnered' property owner AVL is the current figure, as at that 13 June, for the fringe benefits 'partnered' property owner AVL;

pension 'partnered' non-property owner AVL is the current figure, as at that 13 June, for the pension 'partnered' non-property owner AVL;

SCHEDULE 1—continued

pension ‘partnered’ property owner AVL is the current figure, as at that 13 June, for the pension ‘partnered’ property owner AVL.”.

SCHEDULE 2

Section 19

**1990 BUDGET AMENDMENTS OF THE VETERANS’
ENTITLEMENTS ACT 1986**

Section 5 (Index):

Insert the following terms in their respective appropriate alphabetical positions (determined on a letter-by-letter basis):

“Aboriginal study assistance scheme	5F (1)
available money	5H (1)
deposit money	5H (1)
entry contribution	52M
financial institution	5Q (1)
granny flat interest	5L (8A)
tax file number	5Q (1)”.

Subsection 5B (2):

Omit the subsection, substitute:

“(2) A reference in this Act to a person, or a unit of the Defence Force, that was **allotted for duty** in an operational area is a reference:

- (a) in the case of duty that was carried out in an operational area described in item 1, 2, 3, 4, 5, 6, 7 or 8 of Schedule 2 (in column 1)—to a person, or unit of the Defence Force, that is allotted for duty in the area (whether retrospectively or otherwise) by written instrument issued by the Defence Force for use by the Commission in determining a person’s eligibility for entitlements under this Act; or
- (b) in the case of duty that was carried out in an operational area described in item 9 or 10 of Schedule 2 (in column 1)—to a person, or unit of the Defence Force, that is allotted for duty in the area (whether retrospectively or otherwise) by written instrument signed by the Vice Chief of the Defence Force for use by the Commission in determining a person’s eligibility for entitlements under this Act; or
- (c) to a person, or unit of the Defence Force, that is, by written instrument signed by the Minister for Defence, taken to have been allotted for duty in an operational area described in item 4 or 8 in Schedule 2 (in column 1).”.

SCHEDULE 2—continued

Subsection 5F (1):

Insert:

“ ‘**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;”.

Subsection 5H (1):

Insert:

“ ‘**available money**’, in relation to a person, means money that:

- (a) is held by or on behalf of the person; and
- (b) is not deposit money of the person; and
- (c) is not money to which Division 8B of Part III (income from loans) applies;

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

After paragraph 5H (8) (o):

Insert:

“(oa) a payment by a State or Territory for the purpose of assisting people to purchase or build their own homes;”.

Paragraph 5H (8) (w):

Add at the end:

“or (ix) a widowed person allowance; or
(x) a widow B pension;”.

After paragraph 5H (8) (y):

Insert:

“(ya) a payment towards the cost of personal care support services for the person that is made under a scheme approved under section 35A of the Social Security Act;”.

Subsection 5L (1):

Insert:

“ ‘**granny flat interest**’ has the meaning given by subsection (8A);”.

Subparagraph 5L (4) (a) (ii):

Omit the subparagraph, substitute:

“(ii) the person’s right or interest in the home:
(A) gives the person reasonable security of tenure in the home; and
(B) is not a granny flat interest; and”.

SCHEDULE 2—continued

Subparagraph 5L (4) (b) (ii):

Omit the subparagraph, substitute:

- “(ii) the person’s right or interest, or the partner’s right or interest, in the home:
- (A) gives the person or the person’s partner reasonable security of tenure in the home; and
 - (B) is not a granny flat interest; and”.

After subsection 5L (8):

Insert:

Granny flat interest

“(8A) A person has a **granny flat interest** in the person’s principal home if:

- (a) the residence that is the person’s principal home is a private residence; and
- (b) the person has acquired for valuable consideration or has retained:
 - (i) a right to accommodation for life in the residence; or
 - (ii) a life interest in the residence.”.

Paragraph 5L (7) (b):

Omit the paragraph, substitute:

- “(b) any period (not exceeding 2 years) during which the person is residing in a nursing home; and
- (c) any period during which:
- (i) the person is residing 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 partner or non-illness separated wife; and
- (d) where:
- (i) the person is residing in a nursing home; and
 - (ii) while paragraph (c) applies, the person’s partner or non-illness separated wife dies while a resident of a nursing home; and
 - (iii) the person’s partner or non-illness separated wife had resided in a nursing home for less than 2 years;
- the period of 2 years from the beginning of that residence; and
- (e) where:
- (i) the person is residing in a nursing home; and
 - (ii) while paragraph (c) applies, the person’s partner or non-illness separated wife dies (but not while a resident of a nursing home);

SCHEDULE 2—continued

the period of 2 years from that death.

Note: for 'residing in a nursing home', see subsection 5N (8)."

Subsection 5Q (1) (definition of "account"):

Omit the definition, substitute:

"'account', in relation to a financial institution, means the account maintained by a person with the institution to which is credited money received on deposit by the institution from that person;"

Subsection 5Q (1) (after the definition of "determination of entitlements"):

Insert:

"'financial institution' means a bank, building society, credit union or other institution that receives money on deposit;"

Subsection 5Q (1) (after paragraph (a) of the definition of "remote area"):

Insert:

- "(aa) those parts of Australia referred to in Part II of that Schedule to that Act 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; and
- (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); and"

Subsection 5Q (1):

Add at the end:

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

Section 5S:

Add at the end:

"(2) Subsection (1) does not apply to a temporary incapacity allowance (under section 107) or a loss of earnings allowance (under section 108)."

Sub-subparagraphs 7A (1) (a) (iii) (B) and (iv) (B):

Omit "while the person", substitute "as a person who".

Subparagraph 7A (1) (a) (iii):

Omit "or 8", substitute " , 8, 9 or 10".

SCHEDULE 2—continued

Subparagraph 7A (1) (a) (v):

Omit the subparagraph.

Paragraph 7A (1) (b):

After “Strategic Reserve)” insert “in the area described in item 3 of Schedule 2 (in column 1) during the period specified in column 2 of that Schedule opposite to that description”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—after point 42-C3):

Insert:

Failure to reasonably pursue maintenance claim

“42-C3A. If:

- (a) a person who has a dependent child is entitled to claim maintenance from someone else for the child; and
- (b) the Commission considers it reasonable that the person should take action to obtain the maintenance; and
- (c) the person does not take the action that the Commission considers reasonable to obtain the maintenance;

there is no dependent child add-on for that dependent child.”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-E10—after paragraph (d)):

Insert:

“(da) under an Aboriginal study assistance scheme; or”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-E10):

Add at the end:

“Note: for ‘Aboriginal study assistance scheme’ see section 5F.”.

Section 43 (Service Pension Rate Calculator for Blinded Veterans—after point 43-C3):

Insert:

Failure to reasonably pursue maintenance claim

“43-C3A. If:

- (a) a person who has a dependent child is entitled to claim maintenance from someone else for the child; and
- (b) the Commission considers it reasonable that the person should take action to obtain the maintenance; and
- (c) the person does not take the action that the Commission considers reasonable to obtain the maintenance;

SCHEDULE 2—continued

point 43-C3 does not apply to the person.”.

Section 44 (Service Pension Rate Calculator—point 44-D8—after paragraph (d)):

Insert:

“(da) under an Aboriginal study assistance scheme; or”.

Section 44 (Service Pension Rate Calculator—point 44-D8):

Add at the end:

“Note: for ‘Aboriginal study assistance scheme’ see section 5F.”.

Section 46 (Table—items 1, 2, 3 and 4):

After “made” insert “or acquired”.

Paragraph 46A (1) (a):

Omit the paragraph, substitute:

“(a) is not income in the form of periodic payments; and”.

Paragraph 46A (1) (d):

After “made” insert “, or acquired, by the person”.

Subsection 46A (2):

Omit “becoming entitled to receive an amount includes a reference to the person becoming entitled to receive”, substitute “receiving an amount includes a reference to a person receiving”.

Paragraph 46B (1) (a):

After “made” insert “or acquired”.

Sub-subparagraph 46B (1) (b) (ii) (A):

After “made” insert “, or acquired, by the person”.

Paragraph 46B (1) (c):

Omit “becomes entitled to receive”, substitute “realises the investment and receives”.

Subsection 46B (2):

Omit “becoming entitled to receive an amount includes a reference to the person becoming entitled to receive”, substitute “receiving an amount includes a reference to a person receiving”.

After section 46B:

Insert:

SCHEDULE 2—continued

Realisation of investment

“46BA. For the purposes of section 46B, a person **realises an investment** if, and only if:

- (a) all or part of the amount of the investment 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).

Receiving by way of a return

“46BB. For the purposes of section 46B:

- (a) 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; and
- (b) 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; and
- (c) 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.”.

Sub-subparagraph 46C (b) (ii) (A):

After “made” insert “, or acquired, by the person”.

Section 46C:

After “made” (wherever occurring) insert “or acquired”.

Section 46D:

- (a) After “makes” insert “or acquires”.
- (b) After “made” insert “or acquired”.

Subsection 46G (2):

- (a) After “making” insert “or acquiring”.
- (b) After “make” insert “or acquire”.

Section 46J:

- (a) After “made” insert “or acquired”.
- (b) Add at the end:

“(2) For the purposes of subsection (1), a person **realises an investment** if, any only if:

SCHEDULE 2—continued

- (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).

“(3) For the purposes of subsection (1):

- (a) 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; and
- (b) 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; and
- (c) 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.”.

Paragraph 46K (1) (a):

After “made” insert “or acquired”.

Subsection 46K (1):

After “made” (last occurring) insert “, or acquired, by the person”.

Paragraph 46K (2) (b):

After “made” insert “, or acquired, by the person”.

Section 46L:

After “makes” insert “or acquires”.

Paragraph 46L (a):

After “made” insert “or acquired, by the person”.

Subsection 46P (1):

After “made” (second occurring) insert “or acquired”.

Subsection 46Q (2):

- (a) After “making” insert “or acquiring”.
- (b) After “make” insert “or acquire”.

After Division 8 of Part III:

Insert:

SCHEDULE 2—continued

“Division 8A—Interest attributed to money not invested or invested at a low rate of interest

Application of this Division and Division 8

“46v. If this Division applies to a person’s available money or deposit money, Division 8 does not apply to the return on that money.

Basic concept—income money and interest received

“46w. (1) For the purposes of this Division, a person has **income money** at a particular time if the sum of:

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

at that time is greater than \$2,000.

“(2) This is how to work out which money forms part of the person’s income money:

Method statement

- Step 1.* Start with the amount of \$2,000 that is referred to in subsection (1).
- Step 2.* Set off against this amount any available money of the person.
- Step 3.* Set off against the remainder any deposit money of the person that does not attract interest.
- Step 4.* Set off against the remainder any deposit money of the person that does attract interest: this money is to be set off in ascending order of interest rate.
- Step 5.* Any available money or deposit money that can be set off under Steps 2 to 4 is not income money of the person.
- Step 6.* Any available money or deposit money that can not be set off under Steps 2 to 4 is income money of the person at that time.

“(3) For the purposes of subsection (2):

- (a) if available money or deposit money is to be set off against an amount, only so much of the money as does not exceed the amount can be set off against the amount; and
- (b) if the person does not have money of a particular kind, the amount to be set off is nil and the amount left after the setting off is called the **‘remainder’**.

“(4) For the purposes of this Division, if:

- (a) interest is paid on deposit money; and

SCHEDULE 2—continued

(b) the interest is received or accounted for less frequently than the anniversary of the making of the deposit;
interest on the deposit money is taken to be received by the depositor on each anniversary of the making of the deposit.

Income money that does not attract interest

“46X. (1) If:

- (a) money is income money of a person; and
- (b) interest is not paid on that money;

the person is taken to receive interest on that money at the assumed rate.

Note: for ‘assumed rate of interest’ see section 46ZA.

“(2) Subsection (1) has effect subject to section 46Z.

Income money that attracts low interest

“46Y. (1) If:

- (a) money is income money of a person; and
- (b) the rate per year at which interest is paid on the money is less than the assumed rate;

the person is taken to receive interest on that money at the assumed rate.

Note: for ‘assumed rate of interest’ see section 46ZA.

“(2) Subsection (1) has effect subject to section 46Z.

Certain income money to be disregarded

“46Z. (1) The Minister may determine that this Division does not apply to:

- (a) specified income money of a person; or
- (b) specified income money of a class of persons.

“(2) A determination under subsection (1) is to be made by notice in writing.

“(3) If:

- (a) a person has income money; and
- (b) a determination under subsection (1) applies to the income money;

the income money is to be disregarded for the purposes of applying this Division to the person.

Assumed rate of interest on income money

“46ZA. The assumed rate of interest is:

- (a) 10% per year; or

SCHEDULE 2—continued

- (b) if a lower rate is determined under subsection 1099F (2) of the Social Security Act—that lower rate.

“Division 8B—Interest attributed to money on loan

Application of this Division

“46ZB. (1) This Division applies to loans by a person entered into, or acquired, by the person after 21 August 1990.

“(2) If this Division applies to a person’s loan, Division 8 does not apply to the return on the loan.

Basic concepts—loan and interest

“46ZC. For the purposes of this Division:

- (a) there is a **loan** by a person if, but not only if, the person has:
- (i) debentures; or
 - (ii) bonds; or
 - (iii) other securities; and
- (b) there is no **loan** by a person:
- (i) because the person has money in an account with a financial institution; or
 - (ii) because of any entry contribution of the person; and
- (c) the **interest** on a loan includes any payment for the use of the money that is lent; and
- (d) if the **interest** that is paid on a loan is received or accounted for less frequently than each anniversary of the making of the loan, interest on the loan is taken to be **received** by the lender on each anniversary of the making of the loan.

Note 1: the money excluded by subparagraph (b) (i) is dealt with under Division 8A of this Part.

Note 2: for ‘financial institution’ see subsection 5Q (1) and for ‘entry contribution’ see section 52M.

Loans that do not attract interest

“46ZD. (1) If:

- (a) there is a loan by a person; and
- (b) the person is not paid interest on the loan;

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

Note: for ‘assumed loan rate’ see section 46ZG.

“(2) Subsection (1) has effect subject to section 46ZF.

Loans that attract a low rate of interest

“46ZE. (1) If:

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

SCHEDULE 2—continued

- (b) the person is paid interest on the loan; and
 - (c) the rate of interest is less than the assumed loan rate;
- the person is taken to receive interest on the loan at the assumed loan rate.

Note: for 'assumed loan rate' see section 46ZG.

“(2) Subsection (1) has effect subject to section 46ZF.

Certain loans to be disregarded

“46ZF. (1) The Minister may determine that this Division does not apply to:

- (a) a specified loan; or
- (b) a specified class of loans.

“(2) A determination under subsection (1) is to be made by notice in writing.

“(3) If:

- (a) there is a loan by a person; and
 - (b) a determination under subsection (1) applies to the loan;
- the loan is to be disregarded for the purposes of applying this Division to the person.

Assumed loan rate of interest

“46ZG. The assumed loan rate is:

- (a) 10% per year; or
- (b) if a lower rate is determined under subsection 1099L (2) of the Social Security Act—that lower rate.

“Division 8C—Income attributed to deprived assets

Application of this Division

“46ZH. This Division applies to dispositions of assets that occur after 21 August 1990.

Income attributed to deprived assets

“46ZJ. If:

- (a) a person disposes of an asset; and
 - (b) the value of the asset is included in the value of the person's assets under section 52G or 52H;
- the following provisions have effect:
- (c) the person is taken to obtain income from the asset; and
 - (d) the income is taken to be:
 - (i) interest on the value of the asset at the assumed property rate; or

SCHEDULE 2—continued

- (ii) the amount calculated in accordance with subsection 48D (3);
whichever is the higher.

Note: for 'assumed property rate' see section 46ZK.

Assumed property rate

"46ZK. The assumed property rate is:

- (a) 10% per year; or
- (b) if a lower rate is determined under subsection 1099P (2) of the Social Security Act—that lower rate."

Subsection 48 (2):

Omit the subsection, substitute:

"(2) For the purposes of subsection (1), the value of any granny flat interest of the person is taken not to be consideration received by the person.

Note: for 'granny flat interest' see subsection 5L (8A)."

Section 49A:

Repeal the section, substitute:

Earnings credit account

"49A. (1) If:

- (a) a person is receiving a service pension (other than a carer service pension); and
- (b) either:
 - (i) the person is not a member of a couple; or
 - (ii) the person is a member of a couple and the person's partner is receiving neither a service pension (other than a carer service pension) nor a social security pension (other than a carer pension);

the person has an individual earnings credit account.

"(2) If:

- (a) a person is receiving a service pension (other than a carer pension); and
- (b) the person's partner is receiving a service pension (other than a carer service pension) or a social security pension (other than a carer pension);

the person and the partner have a joint earnings credit account.

"(3) If at a particular time:

- (a) subsection (1) ceases to apply to 2 people; and

SCHEDULE 2—continued

(b) subsection (2) applies to create a joint earnings credit account for them;

the balance of the joint earnings credit account at that time is the sum of the balances of their individual accounts immediately before that time.

“(4) If at a particular time:

(a) subsection (2) ceases to apply to 2 people; and

(b) subsection (1) applies to create an individual earnings credit account for either or both of them;

the balance of the individual earnings credit account or accounts at that time is 50% of the balance of their joint earnings credit account immediately before that time.”.

Section 49B (Earnings Credit Account Balance Calculator—point 49B-A1):

Omit:

Account balance calculation

“49B-A1. This is how to work out the balance of the person’s earnings credit account.”;

substitute:

Individual account balance calculation

“49B-A1. If the person has an individual earnings credit account, this is how to work out the balance of the account.”.

Section 49B (Earnings Credit Account Balance Calculator—points 49B-A2, 49B-A3 and 49B-A4):

Omit the points, substitute:

Individual account balance not to exceed \$1,000

“49B-A2. The balance of an individual account is not to exceed \$1,000.

Joint account balance calculation

“49B-A3. If the person has a joint earnings credit account with the person’s partner, this is how to work out the balance of the account:

SCHEDULE 2—continued

Method statement

- Step 1.* Work out the opening balance of the account using MODULE B below.
- Step 2.* If the person or the person's partner has an earnings credit, add the amount of the earnings credit to the account: see MODULE C below.
- Step 3.* If the person or the person's partner draws on the account, deduct from the account the amount drawn: see MODULE D below.

Joint account balance not to exceed \$2,000

“49B-A4. The balance of a joint account is not to exceed \$2,000.

Balance not to be in debit

“49B-A5. The balance of an earnings credit account is not to fall below nil.

EC accounting periods

“49B-A6. The earnings credit accounting periods are:

- (a) the fortnight that starts on the first pension payday on or after 1 July 1991; and
- (b) the succeeding fortnights.”.

Section 49B (Earnings Credit Account Balance Calculator—point 49B-B1):

Omit “is nil.”, substitute:

“is:

- (c) if the person has an individual earnings credit account—nil; or
- (d) if the person has a joint earnings credit account with the person's partner and this point also applies to the partner—nil; or
- (e) if the person has a joint earnings credit account with the person's partner and this point does not apply to the partner—the balance of the partner's individual earnings credit account immediately before the person commenced to receive the pension.”.

Section 49B (Earnings Credit Account Balance Calculator—point 49B-B2):

Omit “is the amount of the person's earnings credit immediately before 1 July 1991 under section 49B.”, substitute:

“is:

SCHEDULE 2—continued

- (a) if the person has an individual earnings credit account—the amount of the person's earnings credit immediately before 1 July 1991 under section 49B; or
- (b) if the person has a joint earnings credit account with the person's partner—the sum of:
 - (i) the amount of the person's earnings credit immediately before 1 July 1991 under section 49B; and
 - (ii) the amount of the partner's earnings credit immediately before 1 July 1991 under section 49B or section 12A of the *Social Security Act 1947*."

Section 49B (Earnings Credit Account Balance Calculator—point 49B-C1):

Omit "The person", substitute "A person".

Section 49B (Earnings Credit Account Balance Calculator—point 49B-D1):

Omit "The person", substitute "A person".

Paragraphs 52 (1) (a) and (b):

Omit the paragraphs, substitute:

- "(a) if the person is not a member of a couple—the value of any right or interest of the person in the person's principal home that:
- (i) is a right or interest that gives the person reasonable security of tenure in the home; and
 - (ii) is not a granny flat interest in the home;
- (b) if the person is a member of a couple—the value of any right or interest of the person in one residence that is the principal home of the person, of the person's partner or of both of them that:
- (i) is a right or interest that gives the person or the person's partner reasonable security of tenure in the home; and
 - (ii) is not a granny flat interest in the home;"

Paragraph 52 (1) (fa):

Omit the paragraph, substitute:

"(fa) if:

- (i) the person has a granny flat interest in the person's principal home; and
- (ii) the granny flat interest gives the person reasonable security of tenure in the home; and
- (iii) the person acquired or retained the granny flat interest before 22 August 1990;

SCHEDULE 2—continued

the value of the granny flat interest;”.

Subsection 52E (2):

Omit the subsection, substitute:

“(2) For the purposes of subsection (1), the value of any granny flat interest of the person is taken not to be consideration received by the person.

Note: for ‘granny flat interest’ see subsection 5L (8A).”.

Subsection 52G (1):

Omit “1 June 1984”, substitute “1 March 1986”.

Subsection 52G (1):

Insert “for the period of 5 years that starts on the day on which the disposition takes place” after “assets” (fourth occurring).

Paragraph 52G (1) (b):

Omit “\$2,000”, substitute “\$10,000”.

Paragraph 52G (1) (c):

Omit “\$2,000”, substitute “\$10,000”.

Subsection 52G (2):

Omit the subsection, substitute:

“(2) If:

- (a) a person disposes of an asset before 1 March 1991; and
- (b) an amount (in this subsection called the ‘**relevant amount**’) is included in the value of the person’s assets under subsection (1) because of the disposition;

the amount that is to be included in that value under that subsection is to be reduced, on each anniversary of the day on which the disposition took place, by an amount equal to 10% of the relevant amount.

Note 1: for ‘disposes of an asset’ see section 52E.

Note 2: for ‘amount of disposition’ see section 52F.”.

Subsection 52H (1):

Omit “1 June 1984”, substitute “1 March 1986”.

Paragraph 52H (1) (b):

Omit “\$4,000”, substitute “\$10,000”.

Paragraph 52H (1) (c):

Insert “for the period of 5 years that starts on the day on which the disposition takes effect” after “assets” (first occurring).

SCHEDULE 2—continued

Subparagraph 52H (1) (c) (i):

Omit “\$4,000”, substitute “\$10,000”.

Paragraph 52H (1) (d):

Insert “for the period of 5 years that starts on the day on which the disposition takes place” after “assets” (first occurring).

Subparagraph 52H (1) (d) (i):

Omit “\$4,000”, substitute “\$10,000”.

Subsection 52H (1) (Notes 1 and 2):

Omit the Notes.

Subsection 52H (2):

Omit the subsection, substitute:

“(2) If:

(a) a person disposes of an asset before 1 March 1991; and

(b) an amount (in this subsection called the ‘**relevant amount**’) is included in the value of the person’s or the person’s partner’s assets under subsection (1) because of the disposition;

the amount that is to be included in that value under that subsection is to be reduced, on each anniversary of the day on which the disposition took place, by an amount equal to 10% of the relevant amount.

Note 1: for ‘disposes of an asset’ see section 52E.

Note 2: for ‘amount of disposition’ see section 52F.”.

Heading to Subdivision C of Division 14 of Part III:

Add at the end “*and granny flats*”.

Section 52K:

Repeal the section, substitute:

Retirement village and granny flat residents

“52K. For the purposes of this Subdivision:

(a) a person is a **retirement village resident** if the person’s principal home is in a retirement village; and

(b) a person is a **granny flat resident** if the person has a granny flat interest in the person’s principal home.

Application of Subdivision to granny flat residents

“52KA. This Subdivision applies to a granny flat resident only if the resident acquired or retained the person’s granny flat interest in the person’s principal home on or after 22 August 1990.”.

SCHEDULE 2—continued

Section 52L:

Insert “or granny flat” after “retirement village”.

Subsection 52M (1):

Insert “or granny flat” after “retirement village” (first occurring).

Paragraph 52M (1) (a):

Insert “or granny flat” after “retirement village”.

Paragraph 52M (1) (b):

Insert “or granny flat” after “retirement village”.

Paragraph 52M (1) (c):

Insert “or granny flat” after “retirement village”.

Paragraph 52M (1) (d):

Insert “or granny flat” after “retirement village” (wherever occurring).

Paragraph 52M (1) (e):

Insert “or granny flat” after “retirement village” (wherever occurring).

Paragraph 52M (1) (f):

Insert “or granny flat” after “retirement village” (wherever occurring).

After subsection 52M (1):

Insert:

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

- (a) the total amount paid to obtain for a person his or her current right to live in a granny flat is the amount equal to the value of the person’s granny flat interest; and
- (b) the value of a person’s granny flat interest is:
 - (i) unless subparagraph (ii) applies—the amount paid, or agreed to be paid, for the interest; or
 - (ii) if the Secretary considers that, for any special reason in any particular case, that value should be another amount—that other amount.”.

After subsection 52N (2):

Insert:

SCHEDULE 2—continued

Granny flat residence

“(2A) A granny flat resident’s extra allowable amount is:

- (a) if the resident is not a member of a couple—the amount that, as at the time when the resident becomes entitled to the granny flat interest, is the difference between the pension ‘single’ property owner AVL and the pension ‘single’ non-property owner AVL; or
- (b) if the resident is a member of an illness separated couple—the amount that, as at the time when the resident becomes entitled to the granny flat interest, is the difference between the pension ‘single’ property owner AVL and the pension ‘single’ non-property owner AVL; or
- (c) in any other case—the amount that, as at the time when the resident becomes entitled to the granny flat interest, is the difference between the pension ‘partnered’ property owner AVL and the pension ‘partnered’ non-property owner AVL.”.

Subsection 52Q (1):

Insert “or granny flat” after “retirement village”.

Paragraph 52Q (2) (a):

Insert “or granny flat resident” after “retirement village”.

Paragraph 52Q (3) (a):

Insert “or granny flat” after “retirement village”.

Subsection 52R (1):

Insert “or granny flat” after “retirement village”.

Paragraph 52R (2) (a):

Insert “or granny flat” after “retirement village”.

Paragraph 52R (3) (a):

Insert “or granny flat” after “retirement village”.

Subsection 52S (1):

Insert “or granny flat” after “retirement village” (first occurring).

Paragraph 52S (1) (b):

Insert “or granny flat” after “retirement village”.

Paragraph 52S (2) (a):

Insert “or granny flat” after “retirement village”.

SCHEDULE 2—continued

Paragraph 52S (3) (a):

Insert “or granny flat” after “retirement village”.

Paragraph 52S (5) (a):

Insert “or granny flat” after “retirement village”.

Subsection 52T (1):

Insert “or granny flat” after “retirement village” (first occurring).

Paragraph 52T (1) (b):

Insert “or granny flat” after “retirement village”.

Paragraph 52T (2) (a):

Insert “or granny flat” after “retirement village”.

Paragraph 52T (3) (a):

Insert “or granny flat” after “retirement village”.

Subsection 52U (1):

Insert “or granny flat” after “retirement village” (first occurring).

Paragraph 52U (1) (b):

Insert “or granny flat” after “retirement village”.

Paragraph 52U (2) (a):

Insert “or granny flat” after “retirement village”.

Paragraph 52U (4) (a):

Insert “or granny flat” after “retirement village”.

Subsection 52V (1):

Insert “or granny flat” after “retirement village” (first occurring).

Paragraph 52V (1) (b):

Insert “or granny flat” after “retirement village”.

Paragraph 52V (2) (a):

Insert “or granny flat” after “retirement village”.

Paragraph 52V (2) (d):

Insert “or granny flat” after “retirement village”.

Paragraph 52V (2) (e):

Insert “or granny flat” after “retirement village”.

SCHEDULE 2—continued

Paragraph 52V (3) (a):

Insert “or granny flat” after “retirement village”.

Paragraph 52V (3) (e):

Insert “or granny flat” after “retirement village”.

Subsection 52W (1):

Insert “or granny flat” after “retirement village” (first occurring).

Paragraph 52W (1) (b):

Insert “or granny flat” after “retirement village”.

Subsection 52W (2):

Insert “or granny flat” after “retirement village” (first occurring).

Subparagraph 52W (2) (c) (ii):

Insert “or granny flat” after “retirement village”.

Subsection 52X (1):

Insert “or granny flat” after “retirement village” (first occurring).

Paragraph 52X (1) (b):

Insert “or granny flat” after “retirement village”.

Paragraph 52X (2) (a):

Insert “or granny flat” after “retirement village”.

Paragraph 52X (3) (a):

Insert “or granny flat” after “retirement village”.

Section 53B (Fringe Benefits Income Test Calculator—point 53B-9—after paragraph (d)):

Insert:

“(da) under an Aboriginal study assistance scheme; or”.

Section 53B (Fringe Benefits Income Test Calculator—point 53B-9):

Add at the end:

“Note: for ‘Aboriginal study assistance scheme’ see section 5F.”.

Paragraph 54 (4) (c):

After “period within which” insert “, and the manner in which”.

Paragraph 54A (3) (c):

After “period within which” insert “, and the manner in which”.

SCHEDULE 3

Section 20

**CONSEQUENTIAL AMENDMENTS OF THE VETERANS'
ENTITLEMENTS ACT 1986**

Paragraph 10 (1) (a):

Omit "wife", substitute "partner".

Subparagraph 10 (2) (a) (i):

Omit "husband", substitute "partner".

Subparagraphs 11 (1) (a) (i), (ii) and (iii):

Omit the subparagraphs, substitute:

"(i) the partner of the veteran;

(ii) a non-illness separated wife of the veteran;

(iii) a widow of the veteran;

(iv) a child of the veteran;"

After subsection 11 (1):

Insert:

"Note: a veteran may have more than one dependant of the kind referred to in subparagraphs (i) to (iii) at the same time."

Subsection 13 (11):

Omit all words from and including "veteran described in paragraph (a)", substitute "person (including a deceased person) who is, because of section 7, taken to have rendered eligible war service".

Paragraph 30 (2) (a):

Omit "if the spouse of the deceased veteran is also dead", substitute "if there is no widow or widower of the veteran".

Paragraph 30 (2) (b):

Omit "if the spouse of the deceased veteran is alive", substitute "if there is a widow or widower of the veteran".

Subsection 30 (4):

Omit the subsection.

Paragraph 74 (12) (a):

Omit "spouse", substitute "widow".

Paragraph 80 (2) (a):

Omit the paragraph.

SCHEDULE 3—continued

Paragraph 80 (2) (c):

Omit “sub-section 5 (1)”, substitute “paragraph (a) of the definition of ‘veteran’ in subsection 5C (1)”.

Paragraph 81 (2) (b):

Omit “, not being a service pension, a wife’s service pension or a carer’s service pension”, substitute “(other than a service pension)”.

Sections 82 and 83:

Repeal the sections.

Paragraph 85 (4) (aa):

(a) Omit “36 (a) (i)”, substitute “7A (1) (a) (i)”.

(b) Omit “35 (1)”, substitute “5B (1)”.

Subsection 85 (5):

Omit the subsection, substitute:

“(5) A veteran referred to in section 53D is eligible to be provided with treatment under this Part for any injury suffered, or disease contracted, by the veteran, whether before or after the commencement of this Act.

Note: section 53D refers to veterans receiving age or invalidity service pension who satisfy the fringe benefits tests in Division 15 of Part III.”.

Subsections 85 (5A) and (6):

Omit the subsections.

Paragraph 85 (7) (b):

Omit “or a wife’s service pension”, substitute “(other than a carer service pension)”.

Paragraph 85 (7) (d):

Omit “or wife’s service pension”.

Subsection 85 (8):

Omit “, or wife’s service pension,”.

Paragraph 86 (5) (a):

Omit “(6),”.

Section 95:

Repeal the section.

Subsection 98 (4A):

Omit “carer’s service pension under section 41”, substitute “carer service pension under Division 6 of Part III”.

SCHEDULE 3—continued

Paragraph 98 (4A) (b):

Omit the paragraph, substitute:

“(b) would be payable, but for action taken:

- (i) under section 56E (cancellation or suspension) because the person has contravened a provision of this Act (other than subsection 54 (6) or 128 (4)); or
- (ii) under subsection 205 (2) (deductions to recover overpayments);

in relation to a carer service pension;”.

Subsection 98A (1):

Omit the subsection, substitute:

“(1) This section applies where a veteran dies if the veteran was, immediately before his or her death:

- (a) a member of a couple; and
- (b) receiving a disability pension.”.

Subsection 98A (6) (definitions of “married veteran”, “widow” and “widower”):

Omit the definitions.

Paragraph 113 (1) (c):

Omit “spouse”, substitute “partner or non-illness separated wife”.

Subsection 115 (5):

- (a) Omit “60 and 62” (twice occurring), substitute “57D, 57E and 57F”.
- (b) Omit “59” (twice occurring), substitute “Division 19 of Part III”.
- (c) Omit “60”, substitute “57F”.

Section 118A (subparagraphs (a) (i) and (ii) of the definition of “eligible pensioner”):

Omit the subparagraphs, substitute:

- “(i) who is receiving a service pension; and
- (ii) whose rate of service pension is not reduced because of:
 - (A) Modules D, E or F of the Service Pension Rate Calculator at the end of section 41; or
 - (B) Modules E, F or G of the Service Pension Rate Calculator at the end of section 42; or
 - (C) Modules C or D of the Service Pension Rate Calculator at the end of section 43; or

SCHEDULE 3—continued

(D) Modules D, E or F of the Service Pension Rate Calculator at the end of section 44; or”.

Section 118A (definition of “special wife service pensioner”):

Omit the definition, substitute:

“ ‘special wife service pensioner’ means a woman who either:

(a) is:

- (i) a non-illness separated wife who is receiving wife service pension; and
- (ii) is neither the partner of an eligible pensioner within the meaning of section 118A of this Act nor the partner of an eligible 1947 Act pensioner or eligible 1991 Act pensioner within the meaning of section 19A of the Social Security Act; or

(b) is:

- (i) receiving wife service pension because of paragraph 38 (1) (c) or (d); and
- (ii) is neither the partner of an eligible pensioner within the meaning of section 118A of this Act nor the partner of an eligible 1947 Act pensioner or eligible 1991 Act pensioner within the meaning of section 19A of the Social Security Act;”.

Subsection 118D (2):

Omit the subsection, substitute:

“(2) The rate of pharmaceutical supplement for a person:

- (a) who is partnered (partner receiving pension or benefit); and
- (b) who is not a special wife service pensioner;

is \$2.50 per fortnight.

Note: for ‘partnered (partner receiving pension or benefit)’ see paragraph 5E (5) (c).”.

Subsection 118F (2):

Omit the subsection, substitute:

“(2) The amount of advance pharmaceutical supplement for a person:

- (a) who is partnered (partner receiving pension or benefit); and
- (b) who is not a special wife service pensioner;

is \$25 per fortnight.

Note: for ‘partnered (partner receiving pension or benefit)’ see paragraph 5E (5) (c).”.

Section 118G:

Omit “spouse” (wherever occurring), substitute “partner or non-illness separated wife”.

SCHEDULE 3—continued

Subsection 118G (4):

Omit the subsection, substitute:

“(4) The amount of a further advance pharmaceutical supplement for a person:

(a) who is partnered (partner receiving pension or benefit); and

(b) who is not a special wife service pensioner;

is \$17.50 per fortnight.

Note: for ‘partnered (partner receiving pension or benefit)’ see paragraph 5E (5) (c).”.

Section 118H:

Omit “spouse” (wherever occurring), substitute “partner or non-illness separated wife”.

Subsection 118H (5):

Omit “Where paragraph 47 (1) (b) applies to a person (other than a special wife service pensioner),”, substitute “Where a person:

(a) is partnered (partner receiving pension or benefit); and

(b) is not a special wife service pensioner;”.

Subparagraph 118J (3) (b) (ii):

Omit “to whom paragraph 47 (1) (b) applies”, substitute “who is partnered (partner receiving pension or benefit)”.

Paragraph 118JA (a):

Omit the paragraph, substitute:

“(a) a service pension; or”.

Subsection 118JB (2):

Omit the subsection, substitute:

“(2) The rate of pharmaceutical allowance for a person:

(a) who is partnered (partner receiving pension or benefit); and

(b) who is not a special wife service pensioner;

is \$2.50 per fortnight.

Note: for ‘partnered (partner receiving pension or benefit)’ see paragraph 5E (5) (c).”.

Subparagraph 118K (2) (b) (ii):

Omit “to whom paragraph 47 (1) (b) applies”, substitute “who is partnered (partner receiving pension or benefit)”.

Subsection 118M (1):

Omit all words from and including “‘X’ means”, substitute:

“‘X’ means:

(a) except where paragraph (b) applies—5; or

SCHEDULE 3—continued

(b) in the case of a person (other than a special wife service pensioner) who is partnered (partner receiving pension or benefit)—2.5.”.

Subsections 118N (1) and (2):

Omit “to whom paragraph 47 (1) (b) applies”, substitute “who is partnered (partner receiving pension or benefit)”.

Paragraph 119 (1) (b):

Omit the paragraph, substitute the following:

“(b) a review, under Division 19 of Part III, of a decision of the Commission with respect to a service pension or qualifying service;”.

Paragraph 119 (1) (e):

Omit “, a wife’s service pension or a carer’s service pension”.

Subsection 119 (2) (paragraph (a) of the definition of “application”):

Omit “, a wife’s service pension or a carer’s service pension”.

Subsection 119 (2) (paragraph (b) of the definition of “claim”):

Omit the paragraph, substitute:

“(b) a claim for service pension or other benefit under Part III; or
(c) a claim for a qualifying service determination under Part III.”.

Subsections 121 (1A):

Omit “, 21 (2) or 46 (3)”, substitute “or 21 (2)”.

Subsections 121 (2), (3) and (4):

Omit the subsections.

Subsection 123 (1) (paragraph (c) of the definition of “child”):

Omit “spouse”, substitute “partner or non-illness separated wife”.

Subsection 123 (1) (definition of “de facto spouse”):

Omit the definition.

Subsection 123 (1) (definition of “spouse”):

Omit the definition.

Subsection 123 (2):

Omit “5 (1)”, substitute “5F (1)”.

Paragraph 123D (1) (a):

(a) Omit “spouse”, substitute “widow or widower”.

(b) Omit “spouses”, substitute “widows or widowers”.

SCHEDULE 3—continued

Paragraphs 123D (1) (b), (c) and (d):

Omit “spouse”, substitute “widow or widower”.

Subsections 124 (1) and (2):

Omit “, III”.

Paragraphs 124 (4) (a) and (5) (a):

Omit “, III”.

Paragraph 124 (6) (a):

Omit the paragraph.

Subsection 125 (2):

Omit the subsection.

Subsection 126 (4):

(a) Omit “or 43”, substitute “, 35B, 36D, 37D, 38D or 39D”.

(b) Omit “section 59”, substitute “Division 19 of Part III, section”.

Subsection 126A (2):

Omit “purposes of paragraph 43 (1) (a)”, substitute “purpose under paragraph 35D (b), 36F (b), 37F (b), 38F (b) or 39F (b) (as the case requires)”.

Subsections 128A (2) and (3):

Omit “person’s spouse’s tax file number”, substitute “tax file number of the person’s partner or non-illness separated wife”.

Subsection 128B (1):

Omit “spouse”, substitute “partner or non-illness separated wife”.

Subsections 132 (3) and (4):

Omit “or 60”, substitute “or 57F”.

Subsection 132 (12):

(a) Omit “or 43”, substitute “, 35B, 36D, 37D, 38D or 39D”.

(b) Omit “section 59”, substitute “Division 19 of Part III, section”.

Subsection 174 (2):

Omit the subsection, substitute:

“(2) In this Part:

‘veteran’ includes:

(a) a Commonwealth veteran; and

(b) an allied veteran; and

SCHEDULE 3—continued

- (c) an Australian mariner; and
- (d) an allied mariner; and
- (e) a member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68 (1).”.

Subsection 175 (2):

Omit the subsection, substitute:

“(2) Where the Commission, under section 57B, affirms a decision of the Commission referred to in section 57 or sets it aside and substitutes another decision for it, a person may apply to the Administrative Appeals Tribunal for a review of the decision so affirmed or substituted.

“(2A) A person’s right to apply to the Administrative Appeals Tribunal under subsection (2) is subject to section 29 of the *Administrative Appeals Tribunal Act 1975*.

Note: section 29 of the *Administrative Appeals Tribunal Act 1975* deals with the manner of applying for review.”.

Paragraph 176 (3) (a):

Omit “62”, substitute “57E”.

Subsection 176 (8):

Omit all words from and including “under sub-section 58 (1)”, substitute:

- “(a) to cancel or suspend a service pension under section 56E; or
 - (b) to reduce the rate of a service pension under section 56D; or
 - (c) to increase the rate of a service pension under section 56C;
- and the decision was one that was:
- (d) affirmed by the Commission under section 57B; or
 - (e) made by the Commission in substitution for a decision set aside under section 57B;

the Administrative Appeals Tribunal need not make another decision in substitution for the decision set aside by it.”.

Subsection 177 (5):

Omit “59” (3 times occurring), substitute “57B”.

Subsection 189 (5) (definition of “pension”):

Omit “, a wife’s service pension, a carer’s service pension,”.

Subsection 198 (1) (definition of “relevant amount”):

Omit the definition.

SCHEDULE 3—continued

Subsection 198 (1) (paragraphs (f), (g) and (h) of the definition of “relevant rate”):

Omit the paragraphs.

Subsection 198 (1) (definition of “relevant year”):

Omit the definition.

Subsection 198 (1) (definition of “rent assistance amount”):

Omit the definition.

Paragraphs 198 (4) (aa) and (c):

Omit the paragraphs.

Subsection 198 (4A):

Omit the subsection.

Subsection 198 (5):

Omit “or (4A)”.

Subsections 198 (5B), (5C), (5E) and (5F):

Omit the subsections.

Subsections 198 (6), (7), (8) and (9):

Omit the subsections.

Subsection 198 (10):

- (a) Omit “relevant year”.
- (b) Omit “or year” (wherever occurring).

Sections 198B and 198C:

Repeal the sections.

Subsection 201 (5) (definition of “veteran”):

Omit the definition, substitute:

“ ‘veteran’ includes:

- (a) a Commonwealth veteran; and
- (b) an allied veteran; and
- (c) an Australian mariner; and
- (d) an allied mariner; and
- (e) a member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68 (1).”.

SCHEDULE 3—continued

Section 207:

Repeal the section.

SCHEDULE 4

Section 21

CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Defence Service Homes Act 1918

Subsection 4 (1) (paragraphs (ga) and (gb) of the definition of "Australian Soldier"):

Omit "5 (12)", substitute "5B (2)".

Disability Services Act 1986

Paragraph 22 (4) (b):

Omit ", a wife's service pension or a carer's service pension".

Health Insurance Act 1973

Paragraph 3 (10) (b):

Omit ", a wife's service pension or a carer's service pension".

National Health Act 1953

Subsection 4 (1) (paragraph (b) of the definition of "pensioner"):

Omit the paragraph, substitute:

"(b) a person:

- (i) who is receiving a service pension under Part III of the *Veterans' Entitlements Act 1986*; and
- (ii) who is eligible for fringe benefits under section 53A of that Act;".

Paragraph 4 (3) (b):

Omit ", a wife's service pension or a carer's service pension".

Paragraph 84 (1) (paragraph (b) of the definition of "concessional beneficiary"):

Omit ", a wife's service pension or a carer's service pension".

Public Service Act 1922

Subsection 7 (1) (paragraphs (e) and (f) of the definition of "Returned Soldier"):

Omit "5 (12)", substitute "5B (2)".

SCHEDULE 4—continued

Seamen's War Pensions and Allowances Act 1940

Subsection 21 (11):

Omit “carer’s service pension under section 41”, substitute “carer service pension under Part III”.

Paragraph 21 (11) (b):

Omit the paragraph, substitute:

“(b) would be payable, but for action taken:

- (i) under section 56E (cancellation or suspension) of that Act because the person has contravened a provision of that Act (other than subsection 54 (6) or 128 (4)); or
- (ii) under subsection 205 (2) (deductions to recover overpayments) of that Act;

in relation to a carer service pension;”.

Subsection 24B (6) (definition of “married Australian mariner”):

Omit “married veteran”, substitute “veteran who is a member of a couple”.

Subsection 24B (6) (definitions of “widow” and “widower”):

Omit “Part III”, substitute “section 5E”.

Paragraph 32AA (1) (a):

Omit “person’s spouse’s tax file number”, substitute “tax file number of the person’s partner or non-illness separated wife”.

Subsection 32AB (1):

Omit “spouse”, substitute “partner or non-illness separated wife”.

Social Security Act 1991

Subparagraph 8 (8) (y) (viii):

Omit “Division 5A of”.

Subsection 23 (1) (paragraph (f) of the definition of “dependent child add-on”):

Omit the paragraph, substitute:

“(f) Service Pension Rate Calculator Where There Are Dependent Children (point 42-C3) or Service Pension Rate Calculator For Blinded Veterans (point 43-C3);”.

Subsection 23 (1) (paragraph (f) of the definition of “guardian allowance”):

Omit the paragraph, substitute:

“(f) Service Pension Rate Calculator Where There Are Dependent Children (point 42-C5);”.

SCHEDULE 4—continued

Subsection 23 (1) (paragraph (b) of the definition of “service pension”):

Omit the paragraph, substitute:

“(b) an invalidity service pension under Part III of the Veterans’ Entitlements Act; or”.

Section 1064 (Pension Rate Calculator A—point 1064-C2—Note 3):

Omit “invalid”, substitute “invalidity”.

Section 1064 (Pension Rate Calculator A—point 1064-C5):

Omit “paragraph 47 (3) (b) of the VEA”, substitute:

“the following provisions of the VEA:

- (a) Service Pension Rate Calculator Where There Are Dependent Children (point 42-C3);
- (b) Service Pension Rate Calculator For Blinded Veterans (point 43-C3)”.

Section 1064 (Pension Rate Calculator A—point 1064-J2—subparagraph (b) (ii)):

Omit “paragraph 47 (3) (a), (b) or (c) of the VEA”, substitute:

“the following provisions of the VEA:

- (A) Service Pension Rate Calculator Where There Are Dependent Children (point 42-C3);
- (B) Service Pension Rate Calculator For Blinded Veterans (point 43-C3)”.

Section 1065 (Pension Rate Calculator B—point 1065-C1—Note 3):

Omit “invalid”, substitute “invalidity”.

Section 1065 (Pension Rate Calculator B—point 1065-C5):

Omit “paragraph 47 (3) (b) of the Veterans’ Entitlements Act”, substitute:

“the following provisions of the VEA:

- (a) Service Pension Rate Calculator Where There Are Dependent Children (point 42-C3);
- (b) Service Pension Rate Calculator For Blinded Veterans (point 43-C3)”.

Section 1065 (Pension Rate Calculator B—point 1065-F2—subparagraph (b) (ii)):

Omit “paragraph 47 (3) (a), (b) or (c) of the VEA”, substitute:

“the following provisions of the VEA:

- (A) Service Pension Rate Calculator Where There Are Dependent Children (point 42-C3);

SCHEDULE 4—continued

(B) Service Pension Rate Calculator For Blinded Veterans (point 43-C3)”.

Section 1067 (Benefit Rate Calculator A—point 1067-K4—paragraph (b)):

Omit “section 57 of the VEA”, substitute:
“the following provisions of the VEA:

- (i) Service Pension Rate Calculator Where There Are No Dependent Children (point 41-G1);
- (ii) Service Pension Rate Calculator Where There Are Dependent Children (point 42-H1);
- (iii) Service Pension Rate Calculator For Blinded Veterans (point 43-E1);
- (iv) Service Pension Rate Calculator For Widows And Non-Illness Separated Wives (point 44-G1)”.

Section 1068 (Benefit Rate Calculator B—point 1068-J4—paragraph (b)):

Omit “section 57 of the VEA”, substitute:
“the following provisions of the VEA:

- (i) Service Pension Rate Calculator Where There Are No Dependent Children (point 41-G1);
- (ii) Service Pension Rate Calculator Where There Are Dependent Children (point 42-H1);
- (iii) Service Pension Rate Calculator For Blinded Veterans (point 43-E1);
- (iv) Service Pension Rate Calculator For Widows And Non-Illness Separated Wives (point 44-G1)”.

Section 1115 (Earnings Credit Account Balance Calculator—point 1115-B3—paragraph (b)):

Omit “section 49B”, substitute “Division 11 of Part III”.

Subsection 1192 (1):

Omit “(and any other Act that refers to this Act)”.

Subsections 1199 (1) and (3):

Omit “(and any other Act that refers to this Act)”.

Subsections 1200 (1) and (3):

Omit “(and any other Act that refers to this Act)”.

Subsections 1201 (1) and (3):

Omit “(and any other Act that refers to this Act)”.

SCHEDULE 4—continued

Subsection 1234 (3):

Omit “subsection 42 (1)”, substitute “section 36C, 37C, 38C or 39C”.

Section 1235:

Omit “subsection 42 (1)”, substitute “section 36C, 37C, 38C or 39C”.

Social Security and Veterans' Affairs Legislation Amendment Act 1988

Section 30:

Repeal the section, substitute:

Rent assistance—boarders and lodgers (changes introduced on 12 June 1989)

“30. (1) If:

(a) immediately before 12 June 1989:

- (i) a person was receiving a service pension under or because of the *Veterans' Entitlements Act 1986*; and
- (ii) the person's service pension rate included an amount by way of rent assistance in respect of payments made for board and lodging; and

(b) at all times since 12 June 1989, the person:

- (i) has been receiving a service pension; and
- (ii) has been a boarder;

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

“(2) If:

- (a) a decision is made under the *Veterans' Entitlements Act 1986* on or after 12 June 1989 that a person is entitled to rent assistance under that Act in respect of a period; and
- (b) the period starts before 12 June 1989; and
- (c) the period continued until at least 11 June 1989;

the person is to be taken, for the purposes of this section, to have been receiving rent assistance under that Act immediately before 12 June 1989.

“(3) If:

- (a) immediately before 12 June 1989, a person was receiving rent assistance under or because of the *Social Security Act 1947* in respect of payments for board and lodging; and
- (b) after that date, the person becomes entitled to be paid a service pension under the *Veterans' Entitlements Act 1986*; and

SCHEDULE 4—continued

- (c) subsection 18 (1) had not ceased to apply to the person until the person became entitled to that service pension; and
- (d) at all times since the person became entitled to that service pension the person:
 - (i) has been receiving a service pension; and
 - (ii) has been a boarder;

the amount of rent assistance included in the person's service pension rate is not to fall below the person's floor amount.

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

- (a) that amount were calculated, subject to paragraph (b), under the *Veterans' Entitlements Act 1986* as in force immediately before 12 June 1989; and
- (b) the *Veterans' Entitlements Act 1986* as in force at that time were modified as follows:
 - (i) the following paragraph applied instead of paragraph 55 (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 subparagraph 55 (3) (a) (i); 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 11 June 1989 were disregarded.

“(5) Subsection (1) or (3) ceases to apply to a person's service pension 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 the *Veterans' Entitlements Act 1986*.

“(6) Subsection (1) or (3) will not apply to a person again once it has ceased to apply to the person.

“(7) References in this section 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 section:

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

Section 31:

Repeal the section, substitute:

SCHEDULE 4—continued

Rent assistance—retirement village residents (changes introduced on 12 June 1989)

“31. (1) If:

(a) immediately before 3 November 1988:

- (i) a person was receiving a service pension; and
- (ii) the person's service pension rate included an amount by way of rent assistance under or because of the *Veterans' Entitlements Act 1986*; and

(b) at all times since 3 November 1988:

- (i) the person has been entitled to a service pension; and
- (ii) the person's principal home has been in a retirement village;

the person is to be taken not to be an ineligible property owner for the purposes of the *Veterans' Entitlements Act 1986*.

“(2) If:

(a) immediately after 12 June 1989:

- (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 because of the operation of subsection 19 (1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988*; and

(b) after 12 June 1989, the person began to receive a service pension under the *Veterans' Entitlements Act 1986*; and

(c) subsection 19 (1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988* applied to the person at all times between 12 June 1989 and the person's commencing to receive the service pension; and

(d) at all times since the person commenced to receive the service pension:

- (i) the person has continued to receive a service pension; 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 the *Veterans' Entitlements Act 1986*.

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

SCHEDULE 4—continued

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

Subsection 4 (3):

Omit “paragraph 47 (3) (e)” (last occurring), substitute:
“point 42-C7 of the Rate Calculator at the end of section 42 or by item 4 of Table C-2 of the Rate Calculator at the end of section 43 of the *Veterans' Entitlements Act 1986*”.

Subsection 4 (4):

Omit all words from and including “then”, substitute:
“then:

- (a) from that commencement until 30 June 1991, the person's income is to continue to be reduced, by an amount in respect of that child worked out under section 37 of that Act until:
 - (i) the child stops being a dependent child; or
 - (ii) the person is no longer entitled to receive any kind of pension or allowance under Part III of that Act; and
- (b) on and after 1 July 1991, if neither subparagraph (a) (i) nor (ii) has applied, the person's ordinary income free area is increased, in respect of the child, in accordance with:
 - (i) points 42-E4 and 42-E7 of the Rate Calculator at the end of section 42; or
 - (ii) points 44-D4 and 44-D5 of the Rate Calculator at the end of section 44;(as the case requires) until:
 - (iii) the child stops being a dependent child; or
 - (iv) the person is no longer entitled to receive any kind of pension under Part III of that Act.”.

***Social Security and Veterans' Entitlements (Maintenance Income Test)
Amendment Act 1988***

Section 21:

Repeal the section, substitute:

Maintenance income test (changes introduced on 17 June 1988)

“21. (1) If:

- (a) in the fortnight that ended on 16 June 1988:
 - (i) a person was receiving a service pension or a social security pension or social security benefit; and
 - (ii) the person had maintenance income; and
- (b) at all times since 17 June 1988, the person has been receiving

SCHEDULE 4—continued

a service pension or a social security pension or social security benefit; and

(c) immediately before the commencement of this section, subsection 21 (4) of the *Social Security and Veterans' Entitlements (Maintenance Income Test) Amendment Act 1988* had 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;

the person's service pension 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) Subsection (1):

(a) has effect in spite of anything else in the *Veterans' Entitlements Act*; and

(b) has effect subject to subclause (3); and

(c) does not apply if:

(i) the person was required by or under the *Social Security Act 1947* 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 subsection (1) ceases to apply to the person, this section will not apply to the person at any time after that cessation.

“(4) The person's service pension 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 service pension or social security pension or social security benefit 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 service pension or social security pension or social security benefit 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

SCHEDULE 4—continued

- (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 subsection (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.

“(6) If the amount of:

- (a) a pension received by the person under Part III of the Veterans' Entitlements Act in the fortnight that ended on 16 June 1988; or
(b) a benefit or allowance received by the person under the *Social Security Act 1947* 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 section, 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 *Social Security Act 1947*; or
(ii) Module C of Benefit Rate Calculator A of the *Social Security Act 1991*; or
(iii) Module C of Benefit Rate Calculator B of the *Social Security Act 1991*; or
(b) additional amounts for dependent children under:
(i) subsection 33 (3) or (4) of the *Social Security Act 1947*; or
(ii) the *Social Security Act 1991*; or
(iii) the Veterans' Entitlements Act;
(c) an amount by way of rent assistance under the *Social Security Act 1947*, the *Social Security Act 1991* or the Veterans' Entitlements Act; or
(d) an amount by way of remote area allowance under the *Social Security Act 1947*, the *Social Security Act 1991* or the Veterans' Entitlements Act;

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

SCHEDULE 4—continued

'indexation provision' means a provision of the *Social Security Act 1947*, the *Social Security Act 1991* 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 the *Social Security Act 1947*, the *Social Security Act 1991* 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 service pension, social security pension or social security benefit received by the person in that period;

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 section."

Veterans' Affairs Legislation Amendment Act 1990

Subsection 93 (1):

Omit all words from and including "subsection 5 (12)", substitute "subsection 5B (2) of the *Veterans' Entitlements Act 1986* applies in relation to the person as if the amendments made by section 19 of the *Veterans' Entitlements (Rewrite) Transition Act 1991* (as it relates to subsection 5B (2)) had not been made."

Subsection 93 (2):

Omit "paragraphs 37 (b) and (c) of this Act", substitute "section 19 of the *Veterans' Entitlements (Rewrite) Transition Act 1991* (as it relates to subsection 5B (2))".

Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986

Paragraph 4 (1) (d):

Omit the paragraph, substitute:

"(d) **'widow'** has the same meaning as in section 5E of the *Veterans' Entitlements Act*."

Paragraph 4 (2) (b):

Omit "sub-section 5 (1)", substitute "paragraph (a) of the definition of 'veteran' in subsection 5C (1)".

SCHEDULE 4—continued

Paragraph 5 (4) (c):

Omit “Part III of”.

Paragraph 8 (1) (b):

Omit “sub-section 35 (1)”, substitute “paragraph (a) or (b) of the definition of ‘veteran’ in subsection 5C (1)”.

Subsection 8 (2):

Omit “wife” (first occurring), substitute “partner or non-illness separated wife”.

Paragraph 8 (2) (a):

Omit “wife’s”, substitute “wife”.

Paragraph 8 (2) (b):

Omit “sub-section 35 (1)”, substitute “paragraph (a) or (b) of the definition of ‘veteran’ in subsection 5C (1)”.

Subsection 8 (3):

Omit “carer’s”, substitute “carer”.

Subsection 8 (4) (b):

Omit the paragraph, substitute:

“(b) ‘partner’, ‘non-illness separated wife’ and ‘widow’ have the same meanings as in section 5E of the Veterans’ Entitlements Act; and”.

Subsection 8 (4) (c):

Omit the paragraph.

Section 9:

Repeal the section.

Subsection 10 (2):

(a) Omit “section 42”, substitute “sections 36C, 37C, 38C and 39C”.

(b) Omit “, a wife’s service pension or a carer’s service pension, as the case requires,”.

Paragraphs 10 (3) (a) and (4) (b):

Omit “, a wife’s service pension or a carer’s service pension”.

Paragraph 10 (4) (a):

Omit “a pension under Part IV of the *Social Security Act 1947*”, substitute “an age, invalid, wife or carer pension under the *Social Security Act 1991*”.

SCHEDULE 4—continued

Subsection 10 (5):

- (a) Omit “*Social Security Act 1947*”, substitute “*Social Security Act 1991*”.
- (b) Omit “, a wife’s service pension or a carer’s service pension”.

Paragraph 10 (7) (c):

Omit “on and after 1 March 1989.”, substitute “between 1 March 1989 and 30 June 1991 (inclusive); or”.

Subsection 10 (7):

Add at the end:

“(d) Part 2.7 (widowed person allowance) or Part 2.8 (widow B pension) as in force on and after 1 July 1991.”.

Subsection 13 (2):

Omit “58 (1)”, substitute “section 56E”.

Paragraph 14 (5) (a) (first occurring):

- (a) Omit “unmarried”.
- (b) After “commencing date”, insert “and was neither legally married nor a member of a couple immediately before death”.

Paragraph 14 (5) (a) (second occurring):

Omit “sub-section 5 (1)”, substitute “paragraph (a) of the definition of ‘veteran’ in subsection 5C (1)”.

Paragraph 14 (9) (b):

Omit “sub-section 5 (1)”, substitute “paragraph (a) of the definition of ‘veteran’ in subsection 5C (1)”.

Subsection 20 (2):

Omit “section 59”, substitute “Division 19 of Part III”.

Subsection 22 (2):

Omit “Section 62 of the Veterans’ Entitlements Act extends”, substitute “Sections 57D and 57E of the Veterans’ Entitlements Act extend”.

Paragraph 22 (4) (b):

Omit “62”, substitute “57E”.

Subsection 23 (1):

- (a) Omit “sub-section 5 (1)”, substitute “subsection 5F (1)”.
- (b) Omit “ ‘or V ’ ”, substitute “paragraph (f)”.

SCHEDULE 4—continued

Subsection 23 (3):

- (a) Omit “sub-section 5 (1)”, substitute “subsection 5F (1)”.
- (b) Omit “section 83”, substitute “Division 15 of Part III”.
- (c) Omit “ ‘or V’ ”, substitute “paragraph (f)”.

Subsection 23 (4):

Omit “sub-section 35 (8)”, substitute “subsection 5F (4)”.

Section 28:

Omit “sub-section 35 (8)”, substitute “subsection 5F (4)”.

Section 29:

Omit “sub-section 50 (8)”, substitute “subsection 5L (7)”.

Subsection 30 (1):

Omit “section 51”, substitute “Subdivision E of Division 14 of Part III”.

Subsection 30 (2):

- (a) Omit “Section 51”, substitute “Subdivision E of Division 14 of Part III”.
- (b) Omit “section 51” (twice occurring), substitute “that Subdivision”.
- (c) Omit “51 (4) (c)”, substitute “52ZB (1) (d)”.

Subsection 30 (3):

Omit “51”, substitute “52ZF”.

Subsection 31 (2):

Omit “section 52”, substitute “Division 10 of Part III”.

Subsection 31 (3):

Omit “section 52”, substitute “Subdivision B of Division 14 of Part III”.

Section 39:

Omit “sub-section 125 (2)”, substitute “section 58H”.

Section 40:

Omit “, wife’s service pension or carer’s service pension, as the case may be,”.

Section 45:

Before “section 127” (wherever occurring), insert “section 54 or”.

SCHEDULE 4—continued

Subsection 45 (3):

- (a) Omit “Subsections”, substitute “Sections 56, 56A and 56B and subsections”.
- (b) After “served on the person under section”, insert “54 or”.

Paragraph 45 (3) (a):

After “a notice under”, insert “section 54 or”.

Paragraph 45 (3) (b):

After “a reference in”, insert “sections 56, 56A and 56B and in”.

Subsection 45 (5):

- (a) Omit “wife’s service pension or carer’s service pension”.
- (b) Omit “in pursuance of section 55”, substitute “by an amount for rent assistance under Part III”.

SCHEDULE 5

Section 22

**MINOR AMENDMENTS OF THE VETERANS' ENTITLEMENTS
ACT 1986**

Section 5 (Index of definitions):

- (a) Omit:
 "approved respite care" 5R",
 substitute:
 "approved respite care" 5R (8)".
- (b) After:
 "deductible amount" 5J",
 insert:
 "defence-caused injury, defence-caused disease" 5D (2)".
- (c) After:
 "Income Tax Assessment Act" 5N (1)",
 insert:
 "ineligible property owner" 5N (1)".
- (d) After:
 "in-kind housing maintenance" 5K",
 omit:
 "ineligible property owner" 5N (1)".
- (e) Omit:
 "President" 5A (1)",
 insert
 "President" 5A".
- (f) Omit:
 "qualifying service" 7A",
 substitute:
 "qualifying service" 5C (1),
 7A".
- (g) Before:
 "war to which this Act applies" 5B (1)",
 insert:
 "war-caused injury, war-caused disease" 5D (2)".

Paragraph 5B (1) (b):

Omit "3 September 1945", substitute "29 October 1945".

Paragraph 5F (3) (c):

Omit "\$100", substitute "\$107.70".

SCHEDULE 5—continued

Subsection 5F (3):

Add at the end:

“Note: the amount in paragraph (c) is indexed annually in line with CPI increases (see sections 59B to 59E).”.

Subsection 5G (1) (Note):

- (a) Omit “section 5”, substitute “section 4”.
- (b) Omit “section 7”, substitute “section 15”.

Subsection 5M (5):

Omit “than” (second occurring), substitute “that”.

Paragraph 5P (a):

Omit “from”, substitute “that starts on the day after”.

Subsection 5Q (1) (paragraph (c) of the definition of “determination of entitlement”):

Omit “or allowance”.

After section 5S:

Insert:

Lodgment of claims and documents

“5T. (1) For the purposes of this Act, a claim, application or other document is taken to have been:

- (a) forwarded to, or delivered at, an office of the Department in Australia if the claim, application or document is:
 - (i) forwarded to, or delivered at, a place approved by the Commission for the purposes of this subsection; or
 - (ii) delivered to a person approved by the Commission for the purposes of this subsection; and
- (b) received at an office of the Department in Australia on the day on which it is received at that place or delivered to that person.

“(2) The Commission may approve a place within or outside Australia for the purposes of subparagraph (1) (a) (i).

“(3) For the purposes of this Act, a claim or application is taken to have been made on the day on which it is received at an office of the Department in Australia.

Notes

“5U. For the purposes of this Act, a Note is taken to be part of:

- (a) if the Note immediately follows a section that does not contain subsections—the section; or

SCHEDULE 5—continued

- (b) if the Note immediately follows a subsection—the subsection; or
- (c) if the Note immediately follows a point in a Rate Calculator—the point; or
- (d) if the Note immediately follows a Step in a Method statement and is aligned with the text of the Step—the Step; or
- (e) if the Note immediately follows a Table—the Table; or
- (f) if the Note immediately follows a paragraph and is aligned with the text of the paragraph—the paragraph.”.

Paragraph 35 (1) (d):

Add at the end:

“and to qualifying service claims (for example, review provisions)”.

After paragraph 36P (1) (d):

Insert:

- “and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not eligible for payments under this Subdivision is less than the sum of:
 - (i) the amount that would otherwise be payable to the person under section 36Q (continued payment of partner’s pension); and
 - (ii) the amount that would otherwise be payable to the person under section 36S (person’s continued rate);”.

Paragraph 37 (1) (c):

Omit “work; and”, substitute “work.”.

Paragraph 37 (1) (d):

Omit the paragraph.

After paragraph 37P (1) (d):

Insert:

- “and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not eligible for payments under this Subdivision is less than the sum of:
 - (i) the amount that would otherwise be payable to the person under section 37Q (continued payment of partner’s pension); and
 - (ii) the amount that would otherwise be payable to the person under section 37S (person’s continued rate);”.

SCHEDULE 5—continued

Subsection 38N (3):

Omit “Widow or Non-illness Separated Wife Rate Calculator”, substitute “Service Pension Rate Calculator for Widows and Non-illness Separated Wives”.

Paragraph 39A (1) (c):

Omit “section 58K”, substitute “subsection 58K (2)”.

After paragraph 39R (1) (d):

Insert:

“and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not eligible for payments under this Subdivision is less than the sum of:

- (i) the amount that would otherwise be payable to the person under section 39S (continued payment of partner’s pension); and
- (ii) the amount that would otherwise be payable to the person under section 39U (person’s continued rate);”.

Subsection 39N (2):

Omit “‘Frozen Rate’ Widow Service Pension Calculator”, substitute “Service Pension Rate Calculator for ‘Frozen Rate’ Widows”.

Subsection 40 (1) (Note):

Omit the Note, substitute:

“Note 1: the additional amounts referred to in paragraph (b) are amounts for children and rent assistance.

Note 2: ‘additional amounts’ in paragraph (d) at this time means only remote area allowance.”.

Subsection 40C (2) (Table—column 1):

Omit “Widow or Non-illness Separated Wife Service Pension Rate Calculator”, substitute “Service Pension Rate Calculator for Widows and Non-illness Separated Wives”.

Subsection 41 (4):

Omit “‘Frozen Rate’ Widow Service Pension Rate Calculator”, substitute “Service Pension Rate Calculator for ‘Frozen Rate’ Widows”.

Subsection 41 (5):

After “partner were receiving” insert “a service pension or”.

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-B1—Table B):

Omit the Table, substitute:

SCHEDULE 5—continued

TABLE B MAXIMUM BASIC RATES			
column 1 item	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of a couple	\$7,841.60	\$301.60
2.	Partnered (partner getting neither pension nor benefit)	\$7,841.60	\$301.60
3.	Partnered (partner getting pension or benefit)	\$6,539.00	\$251.50
4.	Member of an illness separated or respite care couple	\$7,841.60	\$301.60

Note 1: for 'member of a couple', 'partnered (partner getting neither pension nor benefit)', 'partnered (partner getting pension or benefit)' see section 5E, and for 'illness separated couple' and 'respite care couple' see subsections 5R (5) and (6).

Note 2: the maximum basic rates are indexed 6 monthly in line with CPI increases (see sections 59B to 59E)."

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C2):

- (a) Omit "\$1,040", substitute "\$1,300".
- (b) Omit "\$40", substitute "\$50".

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C6—Table C-1):

Omit the Table, substitute:

TABLE C-1 RATE OF RENT ASSISTANCE			
column 1 item	column 2 family situation	column 3 rate A	column 4 rate B
1.	Not member of a couple	$\frac{\text{Annual rent} - \$1,300}{2}$	\$1,612
2.	Partnered—partner does not have rent increased pension	$\frac{\text{Annual rent} - \$1,300}{2}$	\$1,612
3.	Partnered—partner has rent increased pension	$\frac{\text{Annual rent} - \$1,300}{4}$	\$806

Note 1: for 'member of a couple' and 'partnered' see section 5E.

Note 2: for 'partner with a rent increased pension' see point 41-C5.

Note 3: the rate B amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E)."

SCHEDULE 5—continued

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C10—Method statement—Step 1):

Omit “disability income”, substitute “**disability pension income**”.

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C10—Method statement—Step 5):

Omit “disability income excess”, substitute “**disability pension income excess**”.

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C10—Method statement—Step 6):

Omit “rent assistance reduction amount”, substitute “**rent assistance reduction amount**”.

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C10—Method statement—Step 7):

Omit “rate of rent assistance” (second occurring), substitute “**rate of rent assistance**”.

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C12—Table C-2—Note 3):

Add at the end “(see sections 59B to 59E)”.

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C12—Table C-2—RENT ASSISTANCE EXAMPLES):

Omit the examples, substitute:

“RENT ASSISTANCE EXAMPLES

Example 1:

William is a service pensioner who is not a member of a couple. He pays \$100 per week rent for his flat.

He does not receive any disability pension.

Item 1 in Table C-1 applies to William.

Rate A for William is:

$$\frac{(\$100 \times 52) - \$1,300}{2} = \frac{\$5,200 - \$1,300}{2} = \frac{\$3,900}{2} = \$1,950$$

Rate B for William is \$1,612. The lesser rate is \$1,612. This is the yearly rate of William's rent assistance amount.

Example 2:

John and Mary are members of a pensioner couple. They rent a house for \$150 per week.

John receives a 100% disability pension (\$5,434 per year) and Mary receives a 50% disability pension (\$105.30 per year).

Item 3 applies to them.

Rate A for John is:

$$\frac{(\$150 \times 52) - \$1,300}{4} = \frac{\$7,800 - \$1,300}{4} = \frac{\$6,500}{4} = \$1,625$$

SCHEDULE 5—continued

Rate B for John is \$650. The lesser rate is \$650. This is the maximum rate of rent assistance John can receive. As he and Mary receive disability pension, the rent assistance income test applies.

John's disability pension income is:

$$\frac{\$5,434 + \$105.30}{2} = \frac{\$5,539.30}{2} = \$2,769.65$$

Item 3 of Table C-2 applies. John's disability pension income excess is:

$$\$2,769.65 - \$1,820 = \$949.65$$

The reduction in rent assistance would be $\frac{\$949.65}{2} = \474.80 (rounded to the nearest 10 cents).

Therefore the rent assistance John will receive is \$331.20 (\$806 - \$474.80).

The same calculation applies to Mary's yearly rate of rent assistance amount."

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-D4—Table D-1—Note 3):

Add at the end "(see sections 59B to 59E)".

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-F3—Table F-1):

Omit the Table, substitute:

TABLE F-1 ASSETS VALUE LIMIT			
column 1 item	column 2 person's family situation	column 3 assets value limit	
		column 3A either person or partner property owner	column 3B neither person nor partner property owner
1.	Not member of a couple	\$110,750	\$190,250
2.	Partnered (partner getting neither pension nor benefit)	\$78,750	\$118,500
3.	Partnered (partner getting pension or benefit)	\$78,750	\$118,500

Note 1: for 'member of a couple', 'partnered (partner getting neither pension nor benefit)' and 'partnered (partner getting pension or benefit)' see section 5E.

Note 2: for 'property owner' see section 5L.

Note 3: items 2 and 3 apply to members of illness separated and respite care couples.

Note 4: the assets value limits are indexed annually in line with CPI increases (see sections 59B to 59E)."

SCHEDULE 5—continued

Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-G3):

Omit “or a respite care couple”.

Subsection 42 (3):

Omit “ ‘Frozen Rate’ Widow Service Pension Rate Calculator”, substitute “Service Pension Rate Calculator for ‘Frozen Rate’ Widows”.

Subsection 42 (4):

After “partner were receiving”, insert “a service pension or”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-B1—Table B):

Omit the Table, substitute:

TABLE B MAXIMUM BASIC RATES			
column 1 item	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of a couple	\$7,841.60	\$301.60
2.	Partnered (partner getting neither pension nor benefit)	\$7,841.60	\$301.60
3.	Partnered (partner getting pension or benefit)	\$6,539.00	\$251.50
4.	Member of an illness separated or respite care couple	\$7,841.60	\$301.60

Note 1: for ‘member of a couple’, ‘partnered (partner getting neither pension nor benefit)’, ‘partnered (partner getting pension or benefit)’ see section 5E, and for ‘illness separated couple’ and ‘respite care couple’ see subsections 5R (5) and (6).

Note 2: the maximum basic rates are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-C2—Table C-1—Key):

After “person is receiving neither”, insert “a”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-C3—Table C-2):

Omit the Table, substitute:

SCHEDULE 5—continued

TABLE C-2 ADD-ON FOR DEPENDENT CHILD			
column 1 item	column 2 child's age	column 3 rate per year	column 4 rate per fortnight
1.	under 13	\$1,378	\$53
2.	13 or over but under 16	\$2,009.80	\$77.30
3.	16 or over	\$884	\$34

Note 1: the item 1 rate is adjusted annually (see section 59F) so that the combined family allowance and additional pension amounts for children covered by this item do not fall below 15% of the combined pensioner couple maximum basic rate.

Note 2: the item 2 rate is adjusted annually (see section 59F) so that the combined family allowance and additional pension amounts for children covered by this item do not fall below 20% of the combined pensioner couple maximum basic rate.

Note 3: the item 3 rate is not indexed.

Note 4: there may be situations where 2 veterans who are not members of the same couple are entitled to a dependent child add-on for the same child. For example, a child may be substantially dependent on a veteran with whom the child is living (the child's mother) and also substantially dependent on another veteran (the child's father) who is no longer the mother's partner and is contributing substantially to the maintenance of the child. If the child is substantially dependent on each veteran, both veterans are entitled to dependent child add-on for the child.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-C5—paragraph (b)):

After "illness separated", insert "or respite care".

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-C7):

Omit the point, substitute:

Rate of guardian allowance

"42-C7. The rate of guardian allowance is \$722.80 a year (\$27.80 a fortnight).

Note: the rate is adjusted annually (see section 59G)."

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-D2):

(a) Omit "\$1,040", substitute "\$1,300".

(b) Omit "\$40", substitute "\$50".

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-D6—Table D-1):

Omit the Table, substitute:

SCHEDULE 5—continued

TABLE D-1 RATE OF RENT ASSISTANCE				
column 1 item	column 2 family situation	column 3 rate A	column 4 rate B	
			column 4A 1 or 2 pension increase children	column 4B 3 or more pension increase children
1.	Not member of a couple	<u>Annual rent — \$1,300</u> 2	\$1,182.40	\$2,150.20
2.	Partnered—partner does not have rent increased pension	<u>Annual rent — \$1,300</u> 2	\$1,182.40	\$2,150.20
3.	Partnered—partner has rent increased pension	<u>Annual rent — \$1,300</u> 4	\$941.20	\$1,075.10

Note 1: for 'member of a couple' and 'partnered' see section 5E.

Note 2: for 'partner with a rent increased pension' see point 42-D5.

Note 3: the rate B amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E)."

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-D10—Method statement—Step 1):

After "disability" (second occurring), insert "pension".

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-D10—Method statement—Step 5):

After "disability" (third occurring), insert "pension".

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-D12—Table D-2—Note 3):

Add at the end "(see sections 59B to 59E)".

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-D16):

(a) Omit paragraph (a), substitute:

"(a) under Part III of this Act; or".

(b) Omit paragraphs (b), (d) and (e).

SCHEDULE 5—continued

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-D16—RENT ASSISTANCE EXAMPLES):

Omit the examples, substitute:

“RENT ASSISTANCE EXAMPLES

Example 1:

Frederick is a service pensioner who is not a member of a couple. Frederick pays \$100 per week rent for a flat and does not receive any disability pension. He has one dependent child.

Item 1 in Table D-1 applies to Frederick.

Rate A for Frederick is:

$$\frac{(\$100 \times 52) - \$1,300}{2} = \frac{\$5,200 - \$1,300}{2} = \frac{\$3,900}{2} = \$1,950$$

Rate B for Frederick is \$1,882.40. The lesser rate is \$1,882.40. This is the yearly rate of Frederick's rent assistance amount.

Example 2:

Peter and Cheryl are members of a pensioner couple. They rent a house for \$150 per week. They have one dependent child. Peter receives a 100% disability pension (\$5,434 per year) and Cheryl receives a 50% disability pension (\$105.30 per year).

Item 3 applies to them.

Rate A for Peter is:

$$\frac{(\$150 \times 52) - \$1,300}{4} = \frac{\$7,800 - \$1,300}{4} = \frac{\$6,500}{4} = \$1,625$$

Rate B for Peter is \$941.20. The lesser rate is \$941.20. This is the provisional rate of rent assistance Peter can receive. As he and Cheryl receive disability pension, the rent assistance income test applies.

Peter's disability pension income is:

$$\frac{\$5,434 + \$105.30}{2} = \frac{\$5,539.30}{2} = \$2,769.65$$

Item 3 of Table D-2 applies. Peter's disability pension excess is:

$$\$2,769.65 - (\$1,820 + \$624) = \$325.65$$

The reduction in rent assistance would be $\frac{\$325.65}{2} = \162.80 (rounded to the nearest 10 cents).

Therefore the rent assistance Peter will receive is \$778.40 (\$941.20 - \$162.80).

The same calculation applies to Cheryl's yearly rate of rent assistance amount.”

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-E4—Table E-1—Note 3):

Add at the end “(see sections 59B to 59E).”

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-E10—ORDINARY INCOME FREE AREA EXAMPLES—Example 1—last sentence):

Omit “limit”.

SCHEDULE 5—continued

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-E10—ORDINARY INCOME FREE AREA EXAMPLES—Example 2—last sentence):

Omit “\$1,820-\$312”, substitute “\$1,820+\$312”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-G3—Table G-1):

Omit the Table, substitute:

“

TABLE G-1 ASSETS VALUE LIMIT			
column 1 item	column 2 person's family situation	column 3 assets value limit	
		column 3A either person or partner property owner	column 3B neither person nor partner property owner
1.	Not member of a couple	\$110,750	\$190,250
2.	Partnered (partner getting neither pension nor benefit)	\$78,750	\$118,500
3.	Partnered (partner getting pension or benefit)	\$78,750	\$118,500

Note 1: for 'member of a couple', 'partnered (partner getting neither pension nor benefit)' and 'partnered (partner getting pension or benefit)' see section 5E.

Note 2: for 'property owner' see section 5L.

Note 3: items 2 and 3 apply to members of illness separated and respite care couples.

Note 4: the assets value limits are indexed annually in line with CPI increases (see sections 59B to 59E).

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—Module H):

Add at the end:

“42-H6. If 2 persons have a veteran pensioner add-on for the same child, additional allowance is not payable to either veteran for that child except as directed by the Commission. The Commission may direct that additional allowance is payable either to one of the veterans or to both of the veterans.”.

Subsection 43 (2):

Omit “‘Frozen Rate’ Widow Service Pension Rate Calculator”, substitute “Service Pension Rate Calculator for ‘Frozen Rate’ Widows”.

SCHEDULE 5—continued

Subsection 43 (3):

After “partner were receiving” insert “a service pension or”.

Section 43 (Service Pension Rate Calculator for Blinded Veterans—point 43-B1—Table B):

Omit the Table, substitute:

TABLE B MAXIMUM BASIC RATES			
column 1 item	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of a couple	\$7,841.60	\$301.60
2.	Partnered (partner getting neither pension nor benefit)	\$7,841.60	\$301.60
3.	Partnered (partner getting pension or benefit)	\$6,539	\$251.50
4.	Member of an illness separated or respite care couple	\$7,841.60	\$301.60

Note 1: for 'member of a couple', 'partnered (partner getting neither pension nor benefit)', 'partnered (partner getting pension or benefit)' see section 5E, and for 'illness separated couple' and 'respite care couple' see subsections 5R (5) and (6).

Note 2: the maximum basic rates are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”

Section 43 (Service Pension Rate Calculator for Blinded Veterans—point 43-C3—Table C-2):

Omit the Table, substitute:

SCHEDULE 5—continued

TABLE C-2			
APPLICABLE AMOUNT FOR DEPENDENT CHILDREN			
column 1	column 2	column 3	column 4
item	additional amount	rate per year	rate per fortnight
1.	Amount applicable if veteran has a dependent child who has not turned 13	\$1,378	\$53
2.	Amount applicable if veteran has a dependent child who has turned 13 but has not turned 16	\$2,009.80	\$77.30
3.	Amount applicable if veteran has a dependent child who has turned 16 (over 16 child add-on)	\$884	\$34
4.	Amount applicable if veteran has a dependent child or dependent children and either is not a member of a couple or is a member of an illness separated or respite care couple	\$722.80	\$27.80

Note 1: the item 1 rate is adjusted annually (see section 59F) so that the combined family allowance and additional pension amounts for children covered by this item do not fall below 15% of the combined pensioner couple maximum basic rate.

Note 2: the item 2 rate is adjusted annually (see section 59F) so that the combined family allowance and additional pension amounts for children covered by this item do not fall below 20% of the combined pensioner couple maximum basic rate.

Note 3: the item 3 rate is not adjusted.

Note 4: the item 4 rate is adjusted annually (see section 59G).

Note 5: there may be situations where 2 veterans who are not members of the same couple are entitled to a dependent child add-on for the same child. For example, a child may be substantially dependent on a veteran with whom the child is living (the child's mother) and also substantially dependent on another veteran (the child's father) who is no longer the mother's partner and is contributing substantially to the maintenance of the child. If the child is substantially dependent on each veteran, both veterans are entitled to dependent child add-on for the child."

Section 43 (Service Pension Rate Calculator for Blinded Veterans—point 43-D2):

- (a) Omit "\$1,040", substitute "\$1,300".
- (b) Omit "\$40", substitute "\$50".

SCHEDULE 5—continued

Section 43 (Service Pension Rate Calculator for Blinded Veterans—Module E):

Add at the end:

“43-E6. If 2 persons have a veteran pensioner add-on for the same child, additional allowance is not payable to either veteran for that child except as directed by the Commission. The Commission may direct that additional allowance is payable either to one of the veterans or to both of the veterans.”.

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-B1—Table B):

Omit the Table, substitute:

TABLE B MAXIMUM BASIC RATES			
column 1 item	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of a couple	\$6,539	\$251.50
2.	Partnered (partner getting neither pension nor benefit)	\$6,539	\$251.50
3.	Partnered (partner getting pension or benefit)	\$6,539	\$251.50

Note 1: for 'member of a couple', 'partnered (partner getting neither pension nor benefit)' and 'partnered (partner getting pension or benefit)' see section 5E.

Note 2: the maximum basic rates are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”.

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-C2):

- (a) Omit “\$1,040”, substitute “\$1,300”.
- (b) Omit “\$40”, substitute “\$50”.

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-C6—Table C-1):

Omit the Table, substitute:

SCHEDULE 5—continued

TABLE C-1 RATE OF RENT ASSISTANCE					
col. 1 item	column 2 family situation	column 3 rate A	column 4 rate B		
			column 4A no pension increase children	column 4B 1 or 2 pension increase children	column 4C 3 or more pension increase children
1.	Not member of a couple Partnered— partner does not have rent increased pension Partnered— partner has rent increased pension	<u>Annual rent—\$1,300</u> 2	\$1,612	—	—
2.		<u>Annual rent—\$1,300</u> 2	\$1,612	—	—
3.		<u>Annual rent—\$1,300</u> 4	\$806	\$941.20	\$1,075.10

Note 1: for 'member of a couple' and 'partnered' see section 5E.

Note 2: for 'partner with a rent increased pension' see point 44-C5.

Note 3: the rate B amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-C10—Method statement—Step 1):

Omit "disability income", substitute "disability pension income".

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-C10—Method statement—Step 5):

Omit "disability income", substitute "disability pension income".

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-C12—Table C-2—Note 3):

Add at the end "(see sections 59B to 59E)".

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-C17):

(a) Omit paragraph (a), substitute:

"(a) under Part III of this Act; or".

SCHEDULE 5—continued

(b) Omit paragraphs (b), (d) and (e).

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-D1—Method statement—Step 2):

After “ordinary” insert “income”.

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-D4):

Add at the end:

“Note: this amount is indexed annually in line with CPI increases (see sections 59B to 59E).”.

Section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives—point 44-F3—Table F-1):

Omit the Table, substitute:

TABLE F-1 ASSETS VALUE LIMIT			
column 1 item	column 2 person's family situation	column 3 assets value limit	
		column 3A either person or partner property owner	column 3B neither person nor partner property owner
1.	Not member of a couple	\$110,750	\$190,250
2.	Partnered (partner getting neither pension nor benefit)	\$78,750	\$118,500
3.	Partnered (partner getting pension or benefit)	\$78,750	\$118,500

Note 1: for 'member of a couple', 'partnered (partner getting neither pension nor benefit)' and 'partnered (partner getting pension or benefit)' see section 5E.

Note 2: for 'property owner' see section 5L.

Note 3: the assets value limits are indexed annually in line with CPI increases (see sections 59B to 59E).

Subsection 46B (2):

Omit “section 5H”, substitute “subsection 5J (1)”.

Section 48:

Add at the end:

“(2) For the purposes of subsection (1), the value of any right or interest of the person of a kind referred to in paragraph 52 (1) (fa) is taken not to be consideration received by the person.”.

SCHEDULE 5—continued

After subsection 52 (1):

Insert:

“Note: for ‘principal home’ and other assets test definitions see section 5L.”

After paragraph 52 (1) (f):

Insert:

“(fa) if the person:

- (i) has a right to accommodation for life, or a life interest, in a private residence that is the principal home of the person; and
- (ii) acquired or retained that right or life interest for valuable consideration;

the value of that right or interest;”

Section 52E:

Add at the end:

“(2) For the purposes of subsection (1), the value of any right or interest of the person of a kind referred to in paragraph 52 (1) (fa) is taken not to be consideration received by the person.”

Section 52N:

Add at the end:

“(4) In this section, ‘pension “single” property owner AVL’, ‘pension “single” non-property owner AVL’, ‘pension “partnered” property owner AVL’ and ‘pension “partnered” non-property owner AVL’ have the same meaning as in Division 21.”

Paragraph 52P (a):

Omit “or”, substitute “for”.

Subparagraph 52S (5) (e) (iii):

Omit “sections 52”, substitute “subsection 52 (1)”.

Paragraph 52S (5) (g):

Omit “\$92,250”, substitute “\$98,625”.

Subsection 52S (5) (Note):

Add at the end “(see section 59j)”.

Paragraph 52T (3) (e):

Omit “\$92,250”, substitute “\$98,625”.

Subsection 52T (3) (Note):

Add at the end “(see section 59j)”.

SCHEDULE 5—continued

Paragraph 52U (2) (e):

Omit "\$92,250", substitute "\$98,625".

Subsection 52U (2) (Note):

Add at the end "(see section 59j)".

Section 53B (Fringe Benefits Income Test Calculator):

Omit the Calculator, substitute:

FRINGE BENEFITS INCOME TEST CALCULATOR

"53B-1. This is how to work out whether a person satisfies the fringe benefits income test:

Method statement

- Step 1.* Work out the amount of the person's ordinary income on an annual basis.
- Step 2.* Work out the person's fringe benefits income using points 53B-2 to 53B-11 below.
- Step 3.* Work out the person's fringe benefits income free area using point 53B-12 below.
- Step 4.* Compare the fringe benefits income with the fringe benefits income free area: if the person's fringe benefits income does not exceed the person's fringe benefits income free area, the person satisfies the fringe benefits income test.

Fringe benefits income of person without dependent children

"53B-2. If a person has no dependent children, the person's **fringe benefits income** is the person's annual rate of ordinary income.

Fringe benefits income of person with dependent child or children

"53B-3. Subject to point 53B-4, if a person has a dependent child or dependent children, the person's **fringe benefits income** is worked out using Table B-1.

Fringe benefits income of widows and non-illness separated wives

"53B-4. If:

- (a) a person is receiving wife service pension; and
- (b) her rate of wife service pension is calculated under section 44 (Service Pension Rate Calculator for Widows and Non-illness Separated Wives); and
- (c) she is a member of a couple; and
- (d) her partner is receiving an age service pension or invalidity service pension; and

SCHEDULE 5—continued

- (e) the partner's service pension rate includes a child add-on for a child or child add-ons for children;

the person's **fringe benefits income** is the person's annual rate of ordinary income less \$156.

Note: a woman's rate of wife service pension may be calculated under the Service Pension Rate Calculator for Widows and Non-illness Separated Wives, and she may also be a member of a couple. This situation arises if she has entered a de facto relationship since she was widowed or separated.

Effect of certain child payments on widows and non-illness separated wives

"53B-5. If:

- (a) a person's fringe benefits income is calculated under point 53B-4; and
- (b) the person's partner receives a payment for or in respect of a child of the partner (other than a payment referred to in point 53B-9);

the amount of \$156 referred to in point 53B-4 is reduced by 50% of the annual amount of that payment.

How to calculate fringe benefits income under point 53B-3

"53B-6. If a person has a dependent child or dependent children and point 53B-4 does not apply to the person, use Table B-1 to work out the person's fringe benefits income reduction amount (column 3). Multiply the fringe benefits income reduction amount by the number of dependent children the person has. Take away the result from the person's annual rate of ordinary income. The result is the person's **fringe benefits income**.

Note: for 'dependent child' see section 5F.

TABLE B-1 FRINGE BENEFITS INCOME REDUCTION AMOUNT		
column 1 item	column 2 person's family situation	column 3 reduction amount
1.	not member of a couple	\$312
2.	member of a couple	\$156

Effect of certain child payments on fringe benefits income reduction amount

"53B-7. The fringe benefits income reduction amount for a dependent child of a person is reduced by the annual amount of any payment received by the person or the person's partner for or in respect of that particular child. The payments referred to in point 53B-9 do not result in a reduction.

SCHEDULE 5—continued

“53B-8. The fringe benefits income reduction amount for a dependent child of a person who is partnered (partner getting pension) is reduced by 50% of the annual amount of any payment received by the person or the person’s partner for or in respect of that particular child. The payments referred to in point 53B-9 do not result in a reduction.

Note: for ‘partnered (partner getting pension)’ see section 5E.

“53B-9. No reduction is to be made under point 53B-5, 53B-7 or 53B-8 for a payment:

- (a) under this Act; or
- (b) of maintenance income; or
- (c) under the Social Security Act; or
- (d) under the AUSTUDY Scheme; or
- (e) under the Assistance for Isolated Children Scheme; or
- (f) that is similar in nature to family allowance and that prevents a family allowance from being paid under section 837 of the Social Security Act.

Financial hardship cases

“53B-10. For the purposes of point 53B-1, a person’s fringe benefits income is to be taken to include an amount per year that is taken into account under subsection 52Z (5).

Changes in income rate (13 week buffer)

“53B-11. If on a particular day a person’s annual rate of fringe benefits income increases from a rate below or equal to the person’s fringe benefits income free area to a rate not more than 25% above that free area, the person is to be taken to satisfy the fringe benefits income test until:

- (a) the end of the period of 13 weeks starting on the first pension payday after that day; or
- (b) the person’s annual rate of fringe benefits income exceeds 125% of that free area;

whichever happens first.

Fringe benefits income free area

“53B-12. A person’s fringe benefits income free area is worked out using Table B-2. Work out which family situation in the Table applies to the person. The fringe benefits income free area is the corresponding amount in column 3 plus an additional corresponding amount in column 4 for each dependent child of the person.

SCHEDULE 5—continued

TABLE B-2 FRINGE BENEFITS INCOME FREE AREA			
column 1 item	column 2 person's family situation	column 3 basic free area	column 4 additional free area
1.	not member of a couple	\$5,356	\$1,040
2.	member of a couple	\$4,576	\$520

Note: the basic free area is indexed in line with CPI increases (see sections 59B to 59E).”.

**Section 53C (Fringe Benefits Assets Test Calculator—
point 53C-2—Table):**

Omit the Table, substitute:

“

TABLE FRINGE BENEFITS ASSETS VALUE LIMIT			
column 1 item	column 2 person's family situation	column 3 assets value limit	
		column 3A either person or partner property owner	column 3B neither person nor partner property owner
1.	Not member of a couple	\$126,250	\$205,750
2.	Member of a couple	\$90,250	\$130,000

Note 1: for 'property owner' see subsection 5L (4).

Note 2: the column 3A amounts are indexed in line with CPI increases (see sections 59B to 59E).

Note 3: the column 3B amounts are adjusted annually (see section 59K).”.

Subsection 53D (1) (Note 1):

Omit “service pensioner”, substitute “veteran”.

Section 56K:

Repeal the section, substitute:

Pension may be cancelled or suspended if instalments not drawn

“56K. If a service pensioner has not drawn instalments of his or her age service pension, invalidity service pension or wife service pension for a continuous period of 6 months, the Commission may cancel or suspend the pension.

Note 1: an example of a situation where this section is intended to apply is where a person has closed his or her bank account and cannot be contacted to make new banking or other

SCHEDULE 5—continued

arrangements for payment of the person's service pension. It is not intended to apply where a pensioner is accumulating pension instalments in a bank account.

Note 2: if the Commission cancels or suspends a veteran's age service pension or invalidity service pension and the veteran's partner receives a wife service pension, the wife service pension will also be terminated (under section 56E). Similarly, if a person has been receiving carer service pension because of caring for the veteran, that carer service pension will also be cancelled or suspended."

NOTE

1. No. 27, 1986, as amended. For previous amendments, see Nos. 106 and 130, 1986; Nos. 78, 88 and 130, 1987; Nos. 13, 35, 75, 99, 134 and 135, 1988; Nos. 59, 83, 84, 93, 163 and 164, 1989; Nos. 56, 84 and 119, 1990; and Nos. 2 and 00, 1991.

NOTES ABOUT SECTION AND POINT HEADINGS

1. Immediately after Schedule 5 of this Act comes into operation on 1 July 1991, the heading to point 41-G3 in section 41 of the *Veterans' Entitlements Act 1986* is altered by omitting "*and respite care*".
2. Immediately after Schedule 3 of this Act comes into operation on 1 July 1991:
 - (a) the headings to subsections 52N(1) and (2) are altered by omitting "*Residence*" and substituting "*Retirement village residence*";
 - (b) the heading to section 52S is altered by inserting "**or granny flat or granny flats**" after "**villages**";
 - (c) the heading to section 52T is altered by inserting "**or granny flat**" after "**village**";
 - (d) the heading to section 52U is altered by inserting "**or granny flat**" after "**village**";
 - (e) the heading to section 52V is altered by inserting "**or granny flats**" after "**villages**";
 - (f) the heading to section 52W is altered by inserting "**or granny flat**" after "**village**";
 - (g) the heading to section 52X is altered by inserting "**or granny flat**" after "**village**".

[*Minister's second reading speech made in—
House of Representatives on 16 May 1991
Senate on 29 May 1991*]