



Social Security Legislation Amendment Act 1992

No. 81 of 1992

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SCHEDULE 1

**CONSEQUENTIAL, MINOR AND TECHNICAL AMENDMENTS OF THE
SOCIAL SECURITY ACT 1991**

SCHEDULE 2

AMENDMENTS OF OTHER ACTS

SCHEDULE 3

NEW SCHEDULE TO SOCIAL SECURITY ACT 1991



Social Security Legislation Amendment Act 1992

No. 81 of 1992

**An Act to amend the *Social Security Act 1991*, and for
related purposes**

[Assented to 30 June 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

5 **1.** This Act may be cited as the *Social Security Legislation
Amendment Act 1992*.

Commencement

2.(1) The following provisions commence on the day on which this
Act receives the Royal Assent:

(a) Part 1;

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- (b) Divisions 1, 4, 6, 7, 9, 10, 12, 13, 15 and 16 of Part 2;
 - (c) Division 3 of Part 2 (other than paragraphs 11(a) and (c) and sections 23, 24, 25, 27, 28, 29 and 31 to 36);
 - (d) Division 11 of Part 2 (other than sections 69 to 75);
 - (e) section 110; 5
 - (f) Part 3;
 - (g) Part 1 of Schedule 1 and Part 1 of Schedule 2;
 - (h) Schedule 3.
- (2) Sections 69 to 75 commence on the day on which this Act receives the Royal Assent, immediately after the commencement of Part 1 of Schedule 1. 10
- (3) Sections 82 to 99, 101, 103 to 109 and 111 are taken to have commenced on 1 July 1991.
- (4) Part 2 of Schedule 1 and Part 2 of Schedule 2 are taken to have commenced on 1 July 1991. 15
- (5) Part 3 of Schedule 2 is taken to have commenced on 1 July 1991, immediately after the commencement of Part 1 of Schedule 2 of the *Veterans' Affairs Legislation Amendment Act 1991*.
- (6) Division 8 of Part 2 is taken to have commenced on 24 July 1991. 20
- (7) Division 5 of Part 2 and Part 3 of Schedule 1 are taken to have commenced on 12 November 1991.
- (8) Part 4 of Schedule 1 is taken to have commenced on 12 November 1991, immediately after the commencement of Part 3 of the *Social Security (Disability and Sickness Support) Amendment Act 1991*. 25
- (9) Part 4 of Schedule 2 is taken to have commenced on 26 November 1991.
- (10) Sections 100 and 102 and Part 5 of Schedule 1 are taken to have commenced on 13 December 1991, immediately after the commencement of Division 6 of Part 2 of the *Social Security Legislation Amendment Act (No. 4) 1991*. 30
- (11) Part 6 of Schedule 1 is taken to have commenced on 12 March 1992.
- (12) Part 7 of Schedule 1 is taken to have commenced on 12 March 1992, immediately after the commencement of Division 4 of Part 2 of the *Social Security Legislation Amendment Act (No. 4) 1991*. 35
- (13) Part 5 of Schedule 2 commences on 30 June 1992.
- (14) The following provisions commence on 1 July 1992:
- (a) Division 2 of Part 2;

(b) paragraphs 11(a) and (c) and sections 23, 24, 25, 27, 28, 29 and 31 to 36;

(c) Part 8 of Schedule 1 and Part 6 of Schedule 2.

5 (15) Part 7 of Schedule 2 commences on 1 July 1992, immediately after the commencement of sections 76, 82, 87 and 93 of the *Social Security Legislation Amendment Act (No. 3) 1991*.

Application

10 3. The amendment made in Part 6 of Schedule 2 inserting section 24ABZAA in the *Income Tax Assessment Act 1936* applies to payments of telephone allowance made on or after 1 July 1992.

PART 2—AMENDMENTS OF THE SOCIAL SECURITY ACT 1991

Division 1—Preliminary

Principal Act

15 4. In this Part, “Principal Act” means the *Social Security Act 1991*¹.

Division 2—Telephone allowance

Family relationships definitions—couples

20 5. Section 4 of the Principal Act is amended by inserting after subsection (9) the following subsection:

Temporarily separated couple

“(9A) Two people are members of a temporarily separated couple if they:

- 25 (a) are members of a couple for the purposes of this Act; and
(b) are legally married to each other; and
(c) are living separately and apart from each other but not on a permanent basis; and
(d) are neither an illness separated nor a respite care couple.

Note: for ‘member of a couple’ see subsection 4(2) and section 24.”.

30 6. After Part 2.24 of the Principal Act the following Part is inserted in Chapter 2:

“PART 2.25—TELEPHONE ALLOWANCE

“Division 1—Qualification for and payability of telephone allowance

Qualification for telephone allowance

35 “1061Q.(1) A person is qualified for a telephone allowance if:
(a) the person is receiving a social security pension; and

- (b) either:
- (i) the person satisfies the fringe benefits ordinary income test and the fringe benefits assets test; or
 - (ii) the person is permanently blind; and
- (c) the person is a telephone subscriber. 5

Note 1: for 'telephone subscriber' see subsection (5).

Note 2: to work out whether a person satisfies the fringe benefits ordinary income test, use the Fringe Benefits Ordinary Income Test Calculator at the end of section 1071.

Note 3: to work out whether a person satisfies the fringe benefits assets test, use the Fringe Benefits Assets Test Calculator at the end of section 1072.

- “(2) A person is qualified for a telephone allowance if:
- (a) the person is receiving newstart allowance; and
 - (b) the person has turned 60; and
 - (c) the person is a telephone subscriber.

Note: for 'telephone subscriber' see subsection (5).

- “(3) A person is qualified for a telephone allowance if: 10
- (a) the person is receiving job search allowance or special benefit; and
 - (b) the person has been receiving:
 - (i) a social security pension; or
 - (ii) a social security benefit; or 15
 - (iii) a service pension;continuously for the last 12 months; and
 - (c) the person has turned 60; and
 - (d) the person is a telephone subscriber.

Note: for 'telephone subscriber' see subsection (5).

- “(4) A person is qualified for a telephone allowance if: 20
- (a) the person is a person to whom any of the following provisions applies:
 - (i) paragraph (aaa) or (aab) of the definition of 'concessional beneficiary' in subsection 84(1) of the *National Health Act 1953*; 25
 - (ii) section 4AAA of the *National Health Act 1953*;
 - (iii) section 146T or 146U of this Act; and
 - (b) the person is a telephone subscriber.

Note: for 'telephone subscriber' see subsection (5).

- “(5) In this section: 30
- 'telephone subscriber'** means:
- (a) a person who has a telephone service connected in Australia in his or her name; or
 - (b) a person:

- (i) to whom paragraph (a) does not apply; and
- (ii) who is a member of a couple (other than an illness separated, temporarily separated or respite care couple); and
- 5 (iii) whose partner has a telephone service connected in Australia in the partner's name.

Note: for 'member of a couple', 'illness separated couple', 'temporarily separated couple' and 'respite care couple' see section 4.

Telephone allowance not payable in some circumstances

"1061R. Even though a person is qualified for a telephone allowance, the allowance is not payable to the person:

- 10 (a) if the person is absent from Australia; or
- (b) if the person is receiving a telephone allowance under the Veterans' Entitlements Act or the *Seamen's War Pensions and Allowances Act 1940*; or
- (c) if:
 - 15 (i) the person is a member of a couple (other than an illness separated, temporarily separated or respite care couple); and
 - (ii) the person's partner is receiving a telephone allowance because of:
 - 20 (A) subsection 118Q(3) of the Veterans' Entitlements Act; or
 - (B) a determination under subsection 5R(1) of the Veterans' Entitlements Act.

Note 1: for 'member of a couple', 'illness separated couple', 'temporarily separated couple' and 'respite care couple' see section 4.

Note 2: subsection 118Q(3) of the Veterans' Entitlements Act covers certain categories of World War 1 veterans.

Note 3: the relevant determination under subsection 5R(1) of the Veterans' Entitlements Act provides eligibility for telephone allowance to certain categories of World War 1 Australian mariners.

“Division 2—Rate of telephone allowance

Rate of telephone allowance

“1061S.(1) A person’s rate of telephone allowance is worked out using the following Table:

TELEPHONE ALLOWANCE RATE TABLE		
column 1 item	column 2 person’s situation	column 3 rate per year
1.	Not member of a couple	\$51.80
2.	Partnered (partner getting neither social security pension nor social security benefit) and person getting pension or benefit before 12 March 1992	\$51.80
3.	Partnered (partner getting neither social security pension nor social security benefit) and person not getting pension or benefit before 12 March 1992	\$25.90
4.	Partnered (partner getting social security pension or social security benefit but not getting telephone allowance)	\$51.80
5.	Partnered (partner getting social security pension or social security benefit and getting telephone allowance)	\$25.90
6.	Member of an illness separated, temporarily separated or respite care couple	\$51.80
7.	Partnered (partner not getting telephone allowance under the VEA or the SWPAA)	\$51.80
8.	Partnered (partner getting telephone allowance under the VEA or the SWPAA)	\$25.90

Note: the amounts in column 3 (except the item 2 amount) are indexed or adjusted annually in line with CPI increases (see sections 1191 to 1194).

“(2) If item 7 or 8 applies to a person, neither item 2 nor 3 applies to the person. 5

“(3) Item 2 does not apply to a person if the rate of telephone allowance that would be payable to the person if item 2 applied is less than the rate that would otherwise be payable.

Note: because the item 2 rate is not indexed it may eventually become a lower rate than other rates in the Table.

“(4) In this section: 10

‘person getting pension or benefit before 12 March 1992’ means a person to whom clause 41 of Schedule 1A applies;

‘person not getting pension or benefit before 12 March 1992’ means a person to whom clause 41 of Schedule 1A does not apply;

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Note: clause 41 of Schedule 1A applies to people who were receiving social security pension or benefit before 12 March 1992 and who meet certain other conditions.

'SWPAA' means the *Seamen's War Pensions and Allowances Act 1940*.

"Division 3—Payment of telephone allowance

Commencement of telephone allowance

5 "1061T. A telephone allowance becomes payable to a person on the first day on which:

- (a) the person is qualified for the allowance; and
- (b) no provision of this Act makes the allowance not payable to the person.

Note 1: for qualification see section 1061Q.

Note 2: for the circumstances in which telephone allowance is not payable see section 1061R.

Payment by instalments

10 "1061U.(1) A full instalment of telephone allowance is payable to a person on each telephone allowance payday on which:

- (a) the person is qualified for the allowance; and
- (b) the allowance is payable to the person.

"(2) In this section:

15 **'telephone allowance payday'** means:

(a) if the person is receiving a social security pension—the first pension payday that falls on or after:

- (i) 1 January; and
- (ii) 20 March; and
- 20 (iii) 1 July; and
- (iv) 20 September; or

(b) if the person is receiving a social security benefit—the first payday on which an instalment of the benefit would normally be paid to the person that falls on or after:

- 25 (i) 1 January; and
- (ii) 20 March; and
- (iii) 1 July; and
- (iv) 20 September.

Calculation of amount of instalment

30 "1061V. The amount of an instalment of telephone allowance is the amount worked out by dividing the amount of the annual rate of the telephone allowance by 4.

Instalments to be paid to person or nominee

“1061VA.(1) Subject to subsection (3), instalments of a person’s telephone allowance are to be paid to that person.

“ (2) The Secretary may direct that the whole or part of the instalments of a person’s telephone allowance is to be paid to someone else on behalf of the person. 5

“ (3) If the Secretary gives a direction under subsection (2), the instalments are to be paid in accordance with the direction.

Payment into bank account etc.

“1061VB.(1) An amount that is to be paid to a person under section 1061VA is to be paid in the manner set out in this section. 10

“ (2) Subject to this section, the amount is to be paid to the credit of a bank account, credit union account or building society account nominated and maintained by the person.

“ (3) The account may be an account that is maintained by the person either alone or jointly or in common with another person. 15

“ (4) Where the person has not nominated an account for the purposes of subsection (2), then, subject to subsections (5) and (7), the amount is not to be paid.

“ (5) Where: 20
 (a) an amount has not been paid because of subsection (4); and
 (b) the person nominates an account for the purposes of subsection (2);

the amount is to be paid under subsection (2).

“ (6) The Secretary may direct that the whole or part of the amount be paid to the person in a different way from that provided for by subsection (2). 25

“ (7) If the Secretary gives a direction under subsection (6), the amount is to be paid in accordance with the direction.

Where allowance payday would fall on public holiday etc. 30

“1061VC. If the Secretary is satisfied that an amount of telephone allowance that would normally be paid on a particular day cannot reasonably be paid on that day (because, for example, it is a public holiday or a bank holiday), the Secretary may direct that the amount be paid on an earlier day. 35

Payment of allowance after death

“1061VD.(1) If:
 (a) a telephone allowance is payable to a person; and
 (b) the person dies; and

- (c) at the date of the person's death the person had not received an amount of telephone allowance payable to him or her; and
- (d) another person applies to receive that amount; and
- (e) the application is made:

- 5 (i) within 6 months after the death; or
- (ii) within a further period allowed by the Secretary in special circumstances;

the Secretary may pay the amount to the person who, in the Secretary's opinion, is best entitled to it.

- 10 “(2) If the Secretary pays an amount of telephone allowance under subsection (1), the Commonwealth has no further liability to any person in respect of that amount of telephone allowance.

“Division 4—Protection of telephone allowance

Telephone allowance to be absolutely inalienable

- 15 “1061W.(1) Subject to subsections (2) and (3) and section 1359, telephone allowance is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

Payments to Commissioner of Taxation at recipient's request

- 20 “(2) The Secretary may make deductions from the instalments of telephone allowance payable to a person where the recipient asks the Secretary:

- (a) to make the deductions; and
- 25 (b) to pay the amounts to be deducted to the Commissioner of Taxation.

Note: the Secretary must make deductions from a person's pension, benefit or allowance if requested by the Commissioner of Taxation (see section 1359).

Deductions from instalments with recipient's consent

- “(3) The Secretary may make deductions from the instalments of telephone allowance payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.

30 Effect of garnishee or attachment order

“1061X.(1) If:

- (a) a person has an account with a financial institution; and
- (b) instalments of telephone allowance payable to the person (whether on the person's own behalf or not) are being paid to
- 35 the credit of that account; and

(c) a court order in the nature of a garnishee order comes into force in respect of the account;
the court order does not apply to the saved amount (if any) in the account.

“(2) The saved amount is worked out as follows:

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Method statement

- Step 1.* Work out the amount (if any) of telephone allowance payable to the person that has been paid to the credit of the account during the 4 week period immediately before the court order came into force.
- Step 2.* Subtract from that amount the total amount withdrawn from the account during the same 4 week period: the result is the **saved amount**.

“(3) This section applies to an account whether it is maintained by a person:

- (a) alone; or
(b) jointly with another person; or
(c) in common with another person.

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“Division 5—Recipient obligations

Secretary may require notice of the happening of an event or a change in circumstances

“1061Y.(1) The Secretary may give a person to whom a telephone allowance is being paid a notice that requires the person to inform the Department if:

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- (a) a specified event or change of circumstances occurs; or
(b) the person becomes aware that a specified event or change of circumstances is likely to occur.

“(2) An event or change of circumstances is not to be specified in a notice under subsection (1) unless the occurrence of the event or change of circumstances might affect the payment of the allowance.

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“(3) A notice under subsection (1):

- (a) must be in writing; and
(b) may be given personally or by post; and
(c) must specify how the person is to give the information to the Department; and
(d) must specify the period within which the person is to give the information to the Department; and
(e) must specify that the notice is a recipient notification notice given under this Act.

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“(4) The period specified under paragraph (3)(d) must end at least 14 days after:

- (a) the day on which the event or change of circumstances occurs; or
- 5 (b) the day on which the person becomes aware that the event or change of circumstances is likely to occur.

“(5) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.

10 “(6) A person must not, without reasonable excuse, refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: \$1,000 or imprisonment for 6 months, or both.

15 “(7) A person must not, in purporting to comply with a notice under subsection (1), knowingly or recklessly give information that is false or misleading in a material particular.

Penalty: Imprisonment for 2 years.

Note: subsections 4B(2) and 4B(3) of the *Crimes Act 1914* allow a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment.

“(8) This section extends to:

- 20 (a) acts, omissions, matters and things outside Australia whether or not in a foreign country; and
- (b) all persons irrespective of their nationality or citizenship.

Secretary may require recipient to give particular information relevant to payment of telephone allowance

25 “1061Z.(1) The Secretary may give a person to whom a telephone allowance is being paid a notice that requires the person to give the Department a statement about a matter that might affect the payment of the allowance to the person.

“(2) A notice under subsection (1):

- 30 (a) must be in writing; and
- (b) may be given personally or by post; and
- (c) must specify how the person is to give the information to the Department; and
- (d) must specify the period within which the person is to give the information to the Department; and
- 35 (e) must specify that the notice is a recipient statement notice given under this Act.

“(3) The period specified under paragraph (2)(d) must end at least 14 days after the day on which the notice is given.

“(4) A statement given in response to a notice under subsection (1) must be in writing and in accordance with a form approved by the Secretary.

“(5) A person must not, without reasonable excuse, refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice. 5

Penalty: \$1,000 or imprisonment for 6 months, or both.

“(6) A person must not, in purporting to comply with a notice under subsection (1), knowingly or recklessly give information that is false or misleading in a material particular. 10

Penalty: Imprisonment for 2 years.

Note: subsections 4B(2) and 4B(3) of the *Crimes Act 1914* allow a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment.

“(7) This section extends to:

- (a) acts, omissions, matters and things outside Australia whether or not in a foreign country; and
- (b) all persons irrespective of their nationality or citizenship.”. 15

Indexed and adjusted amounts

7. Section 1190 of the Principal Act is amended by adding at the end of the Table the following items:

“50.	Rate of telephone allowance for a person who is not a member of a couple	TA ‘single’ rate	[section 1061S— Table—column 3— item 1]
51.	Rate of telephone allowance for a person with a partner where the partner is getting neither pension nor benefit	TA ‘partnered’ (item 3) rate	[section 1061S— Table—column 3— item 3]
52.	Rate of telephone allowance for a person with a partner where the partner is getting pension or benefit but not getting telephone allowance	TA ‘partnered’ (item 4) rate	[section 1061S— Table—column 3— item 4]
53.	Rate of telephone allowance for a person with a partner where the partner is getting pension or benefit and getting telephone allowance	TA ‘partnered’ (item 5) rate	[section 1061S— Table—column 3— item 5]
54.	Rate of telephone allowance for a member of an illness separated or respite care couple	TA ‘partnered’ (item 6) rate	[section 1061S— Table—column 3— item 6]
55.	Rate of telephone allowance for a person with a partner where the partner is getting service pension but not getting telephone allowance	TA ‘partnered’ (item 7) rate	[section 1061S— Table—column 3— item 7]

56.	Rate of telephone allowance for a person with a partner where the partner is getting service pension and getting telephone allowance	TA 'partnered' (item 8) rate	[section 1061S—Table—column 3—item 8]”.
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CPI Indexation Table

8. Section 1191 of the Principal Act is amended by adding at the end of the Table in subsection (1) the following item:

“33.	TA 'single' rate	20 September	June	most recent June quarter before reference quarter	\$0.80”.
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Rounding off indexed amounts

- 5 9. Section 1194 of the Principal Act is amended:
- (a) by omitting from subsection (2) “(5) and (6)” and substituting “(5), (6) and (7)”;
- (b) by omitting from subsection (3) “(5) and (6)” and substituting “(5), (6) and (7)”;
- 10 (c) by adding at the end the following subsection:
- “(7) If a provisional indexed amount for a telephone allowance rate is not a multiple of 80 cents, the indexed amount is the provisional indexed amount rounded up to the nearest multiple of 80 cents.”.

15 10. After section 1206A of the Principal Act the following section is inserted:

Adjustment of certain telephone allowance rates

“1206B.(1) This Act has effect as if, on 20 September each year, there were substituted for:

- 20 (a) the TA 'partnered' (item 4) rate; and
- (b) the TA 'partnered' (item 6) rate; and
- (c) the TA 'partnered' (item 7) rate;

the amount of the current figure, as at 20 September, for the TA 'single' rate.

Note 1: for 'TA "partnered" (item 4) rate', 'TA "partnered" (item 6) rate' and 'TA "partnered" (item 7) rate' see items 52, 54 and 55 of the Indexed and Adjusted Amounts Table in section 1190.

Note 2: for 'current figure' see subsection 20(1).

Note 3: for 'TA "single" rate' see item 50 of the Indexed and Adjusted Amounts Table in section 1190.

- 25 “(2) This Act has effect as if, on 20 September each year, there were substituted for:
- (a) the TA 'partnered' (item 3) rate; and
- (b) the TA 'partnered' (item 5) rate; and

(c) the TA 'partnered' (item 8) rate;
the amount worked out using the following formula:

$$\frac{\text{TA 'single' rate}}{2}$$

where:

'TA "single" rate' is the current figure, as at 20 September, for the TA 'single' rate. 5

Note 1: for 'TA "partnered" (item 4) rate', 'TA "partnered" (item 6) rate' and 'TA "partnered" (item 7) rate' see items 52, 54 and 55 of the Indexed and Adjusted Amounts Table in section 1190.

Note 2: for 'TA "single" rate' see item 50 of the Indexed and Adjusted Amounts Table in section 1190.

Note 3: for 'current figure' see subsection 20(1)."

Division 3—Bereavement payments

General definitions

11. Section 23 of the Principal Act is amended:

(a) by omitting "and (4AA)" from the definition of "receive" in subsection (1) and substituting ", (4AA) and (4AB)"; 10

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

"'long-term social security recipient', as at a particular time, means:

(a) a person who, at that time, has had social security recipient status continuously for the previous 52 weeks; 15
or

(b) a person:

(i) who has not, at that time, had social security recipient status continuously for the previous 52 weeks; and 20

(ii) who had social security recipient status at the beginning of the previous 52 weeks; and

(iii) who did not lose social security recipient status for more than 6 weeks of the previous 52 weeks; 25

Note: for 'social security recipient status' see subsection 23(1).

'social security recipient status', for the purposes of the definition of 'long-term social security recipient' means status as:

(a) a recipient of a social security pension, a social security benefit or a service pension; or

(b) a benefit increase partner;"; 30

(c) by inserting after subsection (4AA) the following subsection:

"(4AB) For the purposes of this Act, a person who is receiving a payment under section 592C, 660R, 728X or 771C is taken

to be receiving a job search allowance, newstart allowance, sickness allowance or special benefit, as the case may be.”.

Date of effect of favourable determination

12. Section 80 of the Principal Act is amended:

5 (a) by omitting from subsection (5) “subsection (5A)” and substituting “subsections (5A) and (5B)”;

(b) by inserting after subsection (5A) the following subsection:

“(5B) If:

10 (a) the favourable determination is made following the death of the person’s partner; and

(b) before the partner died, the partner:

(i) was not receiving a social security pension or a service pension; and

(ii) was not a long-term social security recipient; and

15 (c) within the period of 4 weeks that starts on the day after the day on which the partner dies:

(i) the person notifies the Department orally or in writing of their partner’s death; or

20 (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day on which the partner died.

Note 1: for ‘long-term social security recipient’ see subsection 23(1).

Note 2: if the person’s partner is receiving a social security pension or service pension or is a long-term social security recipient, the person is entitled to bereavement payments and this subsection does not apply to the person.”.

Date of effect of favourable determination

13. Section 146D of the Principal Act is amended:

25 (a) by omitting from subsection (5) “subsection (5A)” and substituting “subsections (5A) and (5B)”;

(b) by inserting after subsection (5A) the following subsection:

“(5B) If:

30 (a) the favourable determination is made following the death of the person’s partner; and

(b) before the partner died, the partner:

(i) was not receiving a social security pension or a service pension; and

(ii) was not a long-term social security recipient; and

35 (c) within the period of 4 weeks that starts on the day after the day on which the partner dies:

- (i) the person notifies the Department orally or in writing of their partner's death; or
- (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day on which the partner died. 5

Note 1: for 'long-term social security recipient' see subsection 23(1).

Note 2: if the person's partner is receiving a social security pension or service pension or is a long-term social security recipient, the person is entitled to bereavement payments and this subsection does not apply to the person."

Continuation of wife pension for bereavement period

14. Section 186 of the Principal Act is amended by adding at the end the following Note:

"Note: a person who remains qualified for a wife pension for the bereavement period may, in some circumstances, be automatically transferred to a sole parent pension after the end of the bereavement period without making a claim for that pension (see subsection 259(3))."

Date of effect of favourable determination 10

15. Section 233 of the Principal Act is amended:

- (a) by omitting from subsection (5) "subsection (5A)" and substituting "subsections (5A) and (5B)";
- (b) by inserting after subsection (5A) the following subsection:

"(5B) If: 15

(a) the favourable determination is made following the death of the person's partner; and

(b) before the partner died, the partner:

(i) was not receiving a social security pension or a service pension; and 20

(ii) was not a long-term social security recipient; and

(c) within the period of 4 weeks that starts on the day after the day on which the partner dies:

(i) the person notifies the Department orally or in writing of their partner's death; or 25

(ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day on which the partner died.

Note 1: for 'long-term social security recipient' see subsection 23(1).

Note 2: if the person's partner is receiving a social security pension or service pension or is a long-term social security recipient, the person is entitled to bereavement payments and this subsection does not apply to the person."

Qualification for payments under this Subdivision

16. Section 237 of the Principal Act is amended by adding at the end of subsection (1) the following Note:

“Note: a person who is qualified for payments under this Subdivision for the death of the person’s partner may, in some circumstances, be automatically transferred to a sole parent pension after the end of the bereavement period without making a claim for that pension (see subsection 259(4)).”.

Provisional commencement day

5 17. Section 255 of the Principal Act is amended:

(a) by omitting from subsection (1) “(2) and (3)” and substituting “(2), (3), (4) and (5)”;

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

10 “(5) If a person is not required to make a claim for the sole parent pension because of subsection 259(3) or (4), the person’s provisional commencement day is the day immediately after the end of the bereavement period.”.

Backdating—death of partner

18. Section 256 of the Principal Act is amended:

15 (a) by omitting from paragraph (b) all words after “parent” and substituting:

“pension:

(i) on the day on which the partner dies; or

(ii) within 4 weeks after the day on which the partner dies;”;

20 (b) by omitting from the Note “855” and substituting “255”.

Need for a claim

19. Section 259 of the Principal Act is amended:

(a) by omitting from subsection (1) “A”, and substituting “Subject to subsections (3) and (4), a”;

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

“(3) If:

(a) a person is receiving a wife pension; and

(b) the person’s partner dies; and

30 (c) immediately before the end of the bereavement period the person is qualified for wife pension; and

(d) immediately after the end of that period the person is qualified for sole parent pension;

the person does not have to make a claim for the sole parent pension.

35 “(4) If:

(a) a person is receiving a carer pension for caring for the person’s partner; and

- (b) the person's partner dies; and
 - (c) immediately before the end of the bereavement period the person is qualified for carer pension; and
 - (d) immediately after the end of that period the person is qualified for sole parent pension; 5
- the person does not have to make a claim for the sole parent pension.”.

Date of effect of favourable determination

20. Section 299 of the Principal Act is amended:

- (a) by omitting from subsection (5) “subsection (5A)” and substituting “subsections (5A) and (5B)”; 10
- (b) by inserting after subsection (5A) the following subsection:

“(5B) If:

- (a) the favourable determination is made following the death of the person's partner; and 15
- (b) before the partner died, the partner:
 - (i) was not receiving a social security pension or a service pension; and
 - (ii) was not a long-term social security recipient; and
- (c) within the period of 4 weeks that starts on the day after the day on which the partner dies: 20
 - (i) the person notifies the Department orally or in writing of their partner's death; or
 - (ii) the Secretary otherwise becomes aware of the death; 25

the determination takes effect on the day on which the partner died.

Note 1: for 'long-term social security recipient' see subsection 23(1).

Note 2: if the person's partner is receiving a social security pension or service pension or is a long-term social security recipient, the person is entitled to bereavement payments and this subsection does not apply to the person.”.

Backdating—death of partner

21. Section 367 of the Principal Act is amended by omitting from paragraph (b) all words after “widow B” and substituting: 30
“pension:

- (i) on the day on which the partner dies; or
- (ii) within 4 weeks after the day on which the partner dies;”.

Ordinary waiting period

22. Section 538 of the Principal Act is amended: 35

- (a) by inserting after paragraph (e) the following paragraph:
“(ea) the following conditions apply:

- (i) the person is a member of a couple;
- (ii) the person's partner dies;
- (iii) immediately before the partner's death the partner was receiving a social security benefit in relation to which the person was the benefit increase partner;
- (iv) within the period of 4 weeks that starts on the day after the day on which the partner dies the former benefit increase partner claims a job search allowance; or";

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

"Note 7: for 'benefit increase partner' see subsection 4(10)."

23. After Subdivision A of Division 9 of Part 2.11 of the Principal Act the following Subdivision is inserted:

Subdivision AB—Death of recipient (bereavement payments for benefit increase partner)

Deceased recipient and surviving partner

"592A. If:

- (a) a person is a member of a couple; and
- (b) the person dies;

then, for the purposes of this Subdivision:

- (c) the person is the **deceased recipient**; and
- (d) the person's partner is the **surviving partner**.

Qualification for payments under this Subdivision

"592B.(1) If:

- (a) immediately before the deceased recipient dies, the recipient:
 - (i) was receiving a job search allowance; and
 - (ii) was a long-term social security recipient; and
- (b) the surviving partner was a benefit increase partner in relation to the recipient's job search allowance;

the partner is qualified for payments under this Subdivision to cover the bereavement period.

Note: for 'long-term social security recipient' see subsection 23(1).

"(2) The surviving partner may choose not to receive payments under this Subdivision.

"(3) An election under subsection (2):

- (a) must be made by written notice to the Secretary; and
- (b) may be made after the surviving partner has been paid an amount or amounts under this Subdivision; and

- (c) cannot be withdrawn after the Department has taken all the action required to give effect to that election.

Continued payment of deceased recipient's allowance

“592C. If the surviving partner is qualified for payments under this Subdivision, there is payable to the partner: 5

- (a) on each of the deceased recipient's paydays in the bereavement rate continuation period an amount equal to the amount that would have been payable to the recipient if the recipient had not died; and

- (b) on each of what would have been the recipient's paydays in the bereavement lump sum period an amount equal to the amount that would be payable to the partner if: 10

- (i) the partner was not a member of a couple; and
- (ii) the partner was receiving job search allowance.

Note: a surviving partner who is receiving payments under this section is taken to be receiving job search allowance (see subsection 23(4AB)).

Lump sum payable in some circumstances 15

“592D. If:

- (a) the surviving partner is qualified for payments under this Subdivision in relation to the deceased recipient's death; and
- (b) the first available bereavement adjustment payday occurs before the end of the bereavement period; 20

there is payable to the partner as a lump sum an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

- Step 1.* Take the amount that, if the deceased recipient had not died, would have been payable to the recipient on the recipient's payday immediately before the first available bereavement adjustment payday: the result is called the **notional combined rate**.
- Step 2.* Take the amount of job search allowance that, if the surviving partner was not a member of a couple and was receiving job search allowance, would have been payable to the partner on the recipient's payday immediately before the first available bereavement adjustment payday: the result is called the **surviving partner's individual rate**.
- Step 3.* Take the surviving partner's individual rate away from the notional combined rate: the result is called the **deceased recipient's instalment component**.
- Step 4.* Work out the number of the deceased recipient's paydays in the lump sum bereavement period.
- Step 5.* Multiply the deceased recipient's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the partner under this section.

Effect of death of person entitled to payments under this Subdivision

"592E. If:

- 5 (a) the surviving partner is qualified for payments under this Subdivision; and
 - (b) the surviving partner dies within the bereavement period; and
 - (c) the Secretary does not become aware of the deceased recipient's death before the partner dies;
- 10 there is payable, to such person as the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

- Step 1.* Work out the amount that, if neither the surviving partner nor the deceased recipient had died, would have been payable to the recipient on the recipient's payday immediately after the day on which the recipient dies: the result is called the **notional combined rate**.
- Step 2.* Work out the number of the deceased recipient's paydays in the period that commences on the day after the partner dies and ends on the day on which the bereavement period ends.
- Step 3.* Multiply the notional combined rate by the number obtained in Step 2: the result is the amount of the lump sum payable under this section.

Matters affecting payments under this Subdivision

“592F.(1) If:

- (a) the surviving partner is qualified for payments under this Subdivision; and 5
- (b) after the deceased recipient died, an amount to which the recipient would have been entitled if the recipient had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act; and 10
- (c) the Secretary is not satisfied that the partner has not had the benefit of that amount;

the following provisions have effect:

- (d) the amount referred to in paragraph (b) is not recoverable from the partner or from the recipient's personal representative, except to the extent (if any) that the amount exceeds the amount payable to the partner under this Subdivision; 15
- (e) the amount payable to the partner under this Subdivision is to be reduced by the amount referred to in paragraph (b).

“(2) If: 20

- (a) the surviving partner is qualified for payments under this Subdivision; and
- (b) the amount to which the deceased recipient would have been entitled if the recipient had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank, credit union or building society (in this subsection called the ‘**financial institution**’); and 25

- (c) the financial institution pays to the partner, out of the account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (b);

5 the financial institution is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the recipient's personal representative or anyone else in respect of the payment of that money to the partner.”.

Amendment of Subdivision heading

10 **24.** The heading to Subdivision B of Division 9 of Part 2.11 of the Principal Act is amended by adding at the end “(*other cases*)”.

Death of recipient

25. Section 592A in Subdivision B of Division 9 of Part 2.11 of the Principal Act is renumbered as section 592G.

Ordinary waiting period

15 **26.** Section 620 of the Principal Act is amended:

- (a) by inserting after paragraph (f) the following paragraph:

“(fa) the following conditions apply:

- (i) the person is a member of a couple;
- (ii) the person's partner dies;
- 20 (iii) immediately before the partner's death the partner was receiving a social security benefit in relation to which the person was the benefit increase partner;
- (iv) within the period of 4 weeks that starts on the day
- 25 after the day on which the partner dies the former benefit increase partner claims a newstart allowance; or”;

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

“Note 7: for 'benefit increase partner' see subsection 4(10).”.

30 **27.** After Subdivision A of Division 9 of Part 2.12 of the Principal Act the following Subdivision is inserted:

“Subdivision AB—Death of recipient (bereavement payments for benefit increase partner)

Deceased recipient and surviving partner

“660P. If:

- 35 (a) a person is a member of a couple; and
(b) the person dies;

then, for the purposes of this Subdivision:

- (c) the person is the **deceased recipient**; and

(d) the person's partner is the **surviving partner**.

Qualification for payments under this Subdivision

“660Q.(1) If:

(a) immediately before the deceased recipient dies, the recipient:

(i) was receiving a newstart allowance; and

(ii) was a long-term social security recipient; and

(b) the surviving partner was a benefit increase partner in relation to the recipient's newstart allowance;

the partner is qualified for payments under this Subdivision to cover the bereavement period.

Note: for 'long-term social security recipient' see subsection 23(1).

“(2) The surviving partner may choose not to receive payments under this Subdivision.

“(3) An election under subsection (2):

(a) must be made by written notice to the Secretary; and

(b) may be made after the surviving partner has been paid an amount or amounts under this Subdivision; and

(c) cannot be withdrawn after the Department has taken all the action required to give effect to that election.

Continued payment of deceased recipient's allowance

“660R. If the surviving partner is qualified for payments under this Subdivision, there is payable to the partner:

(a) on each of the deceased recipient's paydays in the bereavement rate continuation period an amount equal to the amount that would have been payable to the recipient if the recipient had not died; and

(b) on each of what would have been the recipient's paydays in the bereavement lump sum period an amount equal to the amount that would be payable to the partner if:

(i) the partner was not a member of a couple; and

(ii) the partner was receiving newstart allowance.

Note: a surviving partner who is receiving payments under this section is taken to be receiving newstart allowance (see subsection 23(4AB)).

Lump sum payable in some circumstances

“660S. If:

(a) the surviving partner is qualified for payments under this Subdivision in relation to the deceased recipient's death; and

(b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the partner as a lump sum an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

- Step 1.* Take the amount that, if the deceased recipient had not died, would have been payable to the recipient on the recipient's payday immediately before the first available bereavement adjustment payday: the result is called the **notional combined rate**.
- Step 2.* Take the amount of newstart allowance that, if the surviving partner was not a member of a couple and was receiving newstart allowance, would have been payable to the partner on the recipient's payday immediately before the first available bereavement adjustment payday: the result is called the **surviving partner's individual rate**.
- Step 3.* Take the surviving partner's individual rate away from the notional combined rate: the result is called the **deceased recipient's instalment component**.
- Step 4.* Work out the number of the deceased recipient's paydays in the lump sum bereavement period.
- Step 5.* Multiply the deceased recipient's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the partner under this section.

5 Effect of death of person entitled to payments under this Subdivision

“660T. If:

- (a) the surviving partner is qualified for payments under this Subdivision; and
- (b) the surviving partner dies within the bereavement period; and
- 10 (c) the Secretary does not become aware of the deceased recipient's death before the partner dies;

there is payable, to such person as the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

- Step 1.* Work out the amount that, if neither the surviving partner nor the deceased recipient had died, would have been payable to the recipient on the recipient's payday immediately after the day on which the recipient dies: the result is called the **notional combined rate**.
- Step 2.* Work out the number of the deceased recipient's paydays in the period that commences on the day after the partner dies and ends on the day on which the bereavement period ends.
- Step 3.* Multiply the notional combined rate by the number obtained in Step 2: the result is the amount of the lump sum payable under this section.

Matters affecting payments under this Subdivision

“660U.(1) If:

- (a) the surviving partner is qualified for payments under this Subdivision; and 5
- (b) after the deceased recipient died, an amount to which the recipient would have been entitled if the recipient had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act; and 10
- (c) the Secretary is not satisfied that the partner has not had the benefit of that amount;

the following provisions have effect:

- (d) the amount referred to in paragraph (b) is not recoverable from the partner or from the recipient's personal representative, except to the extent (if any) that the amount exceeds the amount payable to the partner under this Subdivision; 15
- (e) the amount payable to the partner under this Subdivision is to be reduced by the amount referred to in paragraph (b).

“(2) If:

- (a) the surviving partner is qualified for payments under this Subdivision; and 20
- (b) the amount to which the deceased recipient would have been entitled if the recipient had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank, credit union or building society (in this subsection called the ‘**financial institution**’); and 25

- (c) the financial institution pays to the partner, out of the account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (b);

5 the financial institution is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the recipient's personal representative or anyone else in respect of the payment of that money to the partner.”.

Amendment of Subdivision heading

10 28. The heading to Subdivision B of Division 9 of Part 2.12 of the Principal Act is amended by adding at the end “(other cases)”.

Death of recipient

29. Section 660P in Subdivision B of Division 9 of Part 2.12 of the Principal Act is renumbered as section 660V.

Ordinary waiting period

15 30. Section 693 of the Principal Act is amended:

- (a) by inserting after paragraph (d) the following paragraph:

“; or (e) the following conditions apply:

- 20 (i) the person is a member of a couple;
(ii) the person's partner dies;
(iii) immediately before the partner's death the partner was receiving a social security benefit in relation to which the person was the benefit increase partner;
25 (iv) within the period of 4 weeks that starts on the day after the day on which the partner dies the former benefit increase partner claims a sickness allowance.”;

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

“Note 3: for 'benefit increase partner' see subsection 4(10).”.

30 31. After Subdivision A of Division 9 of Part 2.14 of the Principal Act the following Subdivision is inserted:

“Subdivision AB—Death of recipient (bereavement payments for benefit increase partner)

Deceased recipient and surviving partner

“728V. If:

- 35 (a) a person is a member of a couple; and
(b) the person dies;

then, for the purposes of this Subdivision:

- (c) the person is the **deceased recipient**; and

(d) the person's partner is the **surviving partner**.

Qualification for payments under this Subdivision

“728W.(1) If:

(a) immediately before the deceased recipient dies, the recipient:

(i) was receiving a sickness allowance; and 5

(ii) was a long-term social security recipient; and

(b) the surviving partner was a benefit increase partner in relation to the recipient's sickness allowance;

the partner is qualified for payments under this Subdivision to cover the bereavement period. 10

Note: for 'long-term social security recipient' see subsection 23(1).

“(2) The surviving partner may choose not to receive payments under this Subdivision.

“(3) An election under subsection (2):

(a) must be made by written notice to the Secretary; and

(b) may be made after the surviving partner has been paid an amount or amounts under this Subdivision; and 15

(c) cannot be withdrawn after the Department has taken all the action required to give effect to that election.

Continued payment of deceased recipient's allowance

“728X. If the surviving partner is qualified for payments under this Subdivision, there is payable to the partner: 20

(a) on each of the deceased recipient's paydays in the bereavement rate continuation period an amount equal to the amount that would have been payable to the recipient if the recipient had not died; and 25

(b) on each of what would have been the recipient's paydays in the bereavement lump sum period an amount equal to the amount that would be payable to the partner if:

(i) the partner was not a member of a couple; and

(ii) the partner was receiving sickness allowance. 30

Note: a surviving partner who is receiving payments under this section is taken to be receiving sickness allowance (see subsection 23(4AB)).

Lump sum payable in some circumstances

“728Y. If:

(a) the surviving partner is qualified for payments under this Subdivision in relation to the deceased recipient's death; and

(b) the first available bereavement adjustment payday occurs before the end of the bereavement period; 35

there is payable to the partner as a lump sum an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

- Step 1.* Take the amount that, if the deceased recipient had not died, would have been payable to the recipient on the recipient's payday immediately before the first available bereavement adjustment payday: the result is called the **notional combined rate**.
- Step 2.* Take the amount of sickness allowance that, if the surviving partner was not a member of a couple and was receiving sickness allowance, would have been payable to the partner on the recipient's payday immediately before the first available bereavement adjustment payday: the result is called the **surviving partner's individual rate**.
- Step 3.* Take the surviving partner's individual rate away from the notional combined rate: the result is called the **deceased recipient's instalment component**.
- Step 4.* Work out the number of the deceased recipient's paydays in the lump sum bereavement period.
- Step 5.* Multiply the deceased recipient's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the partner under this section.

5 Effect of death of person entitled to payments under this Subdivision

“728Z. If:

- (a) the surviving partner is qualified for payments under this Subdivision; and
- (b) the surviving partner dies within the bereavement period; and
- 10 (c) the Secretary does not become aware of the deceased recipient's death before the partner dies;

there is payable, to such person as the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

<i>Method statement</i>	
<i>Step 1.</i>	Work out the amount that, if neither the surviving partner nor the deceased recipient had died, would have been payable to the recipient on the recipient's payday immediately after the day on which the recipient dies: the result is called the notional combined rate .
<i>Step 2.</i>	Work out the number of the deceased recipient's paydays in the period that commences on the day after the partner dies and ends on the day on which the bereavement period ends.
<i>Step 3.</i>	Multiply the notional combined rate by the number obtained in Step 2: the result is the amount of the lump sum payable under this section.

Matters affecting payments under this Subdivision

“728ZA.(1) If:

- (a) the surviving partner is qualified for payments under this Subdivision; and 5
- (b) after the deceased recipient died, an amount to which the recipient would have been entitled if the recipient had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act; and 10
- (c) the Secretary is not satisfied that the partner has not had the benefit of that amount;

the following provisions have effect:

- (d) the amount referred to in paragraph (b) is not recoverable from the partner or from the recipient's personal representative, except to the extent (if any) that the amount exceeds the amount payable to the partner under this Subdivision; 15
- (e) the amount payable to the partner under this Subdivision is to be reduced by the amount referred to in paragraph (b).

“(2) If: 20

- (a) the surviving partner is qualified for payments under this Subdivision; and
- (b) the amount to which the deceased recipient would have been entitled if the recipient had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank, credit union or building society (in this subsection called the ‘**financial institution**’); and 25

(c) the financial institution pays to the partner, out of the account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (b);

5 the financial institution is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the recipient's personal representative or anyone else in respect of the payment of that money to the partner.”.

Amendment of Subdivision heading

10 32. The heading to Subdivision B of Division 9 of Part 2.14 of the Principal Act is amended by adding at the end “*(other cases)*”.

Death of recipient

33. Section 728V in Subdivision B of Division 9 of Part 2.14 of the Principal Act is renumbered as section 728ZB.

15 34. After Subdivision A of Division 9 of Part 2.15 of the Principal Act the following Subdivision is inserted:

“Subdivision AB—Death of recipient (bereavement payments for benefit increase partner)

Deceased recipient and surviving partner

“771A. If:

- 20 (a) a person is a member of a couple; and
(b) the person dies;

then, for the purposes of this Subdivision:

- (c) the person is the **deceased recipient**; and
(d) the person's partner is the **surviving partner**.

25 **Qualification for payments under this Subdivision**

“771B.(1) If:

- (a) immediately before the deceased recipient dies, the recipient:
(i) was receiving a special benefit; and
(ii) was a long-term social security recipient; and
30 (b) the surviving partner was a benefit increase partner in relation to the recipient's special benefit;

the partner is qualified for payments under this Subdivision to cover the bereavement period.

Note: for 'long-term social security recipient' see subsection 23(1).

35 “(2) The surviving partner may choose not to receive payments under this Subdivision.

“(3) An election under subsection (2):

- (a) must be made by written notice to the Secretary; and

- (b) may be made after the surviving partner has been paid an amount or amounts under this Subdivision; and
- (c) cannot be withdrawn after the Department has taken all the action required to give effect to that election.

Continued payment of deceased recipient's allowance 5

“771C. If the surviving partner is qualified for payments under this Subdivision, there is payable to the partner:

- (a) on each of the deceased recipient's paydays in the bereavement rate continuation period an amount equal to the amount that would have been payable to the recipient if the recipient had not died; and 10
- (b) on each of what would have been the recipient's paydays in the bereavement lump sum period an amount equal to the amount that would be payable to the partner if:
 - (i) the partner was not a member of a couple; and 15
 - (ii) the partner was receiving special benefit.

Note: a surviving partner who is receiving payments under this section is taken to be receiving special benefit (see subsection 23(4AB)).

Lump sum payable in some circumstances

“771D. If:

- (a) the surviving partner is qualified for payments under this Subdivision in relation to the deceased recipient's death; and 20
- (b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the partner as a lump sum an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

- Step 1.* Take the amount that, if the deceased recipient had not died, would have been payable to the recipient on the recipient's payday immediately before the first available bereavement adjustment payday: the result is called the **notional combined rate**.
- Step 2.* Take the amount of special benefit that, if the surviving partner was not a member of a couple and was receiving special benefit, would have been payable to the partner on the recipient's payday immediately before the first available bereavement adjustment payday: the result is called the **surviving partner's individual rate**.
- Step 3.* Take the surviving partner's individual rate away from the notional combined rate: the result is called the **deceased recipient's instalment component**.
- Step 4.* Work out the number of the deceased recipient's paydays in the lump sum bereavement period.
- Step 5.* Multiply the deceased recipient's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the partner under this section.

Effect of death of person entitled to payments under this Subdivision

“771E. If:

- 5 (a) the surviving partner is qualified for payments under this Subdivision; and
- (b) the surviving partner dies within the bereavement period; and
- (c) the Secretary does not become aware of the deceased recipient's death before the partner dies;
- 10 there is payable, to such person as the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

- Step 1.* Work out the amount that, if neither the surviving partner nor the deceased recipient had died, would have been payable to the recipient on the recipient's payday immediately after the day on which the recipient dies: the result is called the **notional combined rate**.
- Step 2.* Work out the number of the deceased recipient's paydays in the period that commences on the day after the partner dies and ends on the day on which the bereavement period ends.
- Step 3.* Multiply the notional combined rate by the number obtained in Step 2: the result is the amount of the lump sum payable under this section.

Matters affecting payments under this Subdivision

“771F.(1) If:

- (a) the surviving partner is qualified for payments under this Subdivision; and 5
- (b) after the deceased recipient died, an amount to which the recipient would have been entitled if the recipient had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act; and 10
- (c) the Secretary is not satisfied that the partner has not had the benefit of that amount;

the following provisions have effect:

- (d) the amount referred to in paragraph (b) is not recoverable from the partner or from the recipient's personal representative, except to the extent (if any) that the amount exceeds the amount payable to the partner under this Subdivision; 15
- (e) the amount payable to the partner under this Subdivision is to be reduced by the amount referred to in paragraph (b).

“(2) If: 20

- (a) the surviving partner is qualified for payments under this Subdivision; and
- (b) the amount to which the deceased recipient would have been entitled if the recipient had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank, credit union or building society (in this subsection called the **'financial institution'**); and 25

- (c) the financial institution pays to the partner, out of the account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (b);

5 the financial institution is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the recipient's personal representative or anyone else in respect of the payment of that money to the partner.”.

Amendment of Subdivision heading

10 35. The heading to Subdivision B of Division 9 of Part 2.15 of the Principal Act is amended by adding at the end “(other cases)”.

Death of recipient

36. Section 771A in Subdivision B of Division 9 of Part 2.15 of the Principal Act is renumbered as section 771G.

Date of effect of favourable determination

15 37. Section 820 of the Principal Act is amended:

(a) by omitting from subsection (5) “If” and substituting “Subject to subsection (5A), if”;

(b) by inserting after subsection (5) the following subsection:

“(5A) If:

20 (a) the favourable determination is made following the death of the person's partner; and

(b) before the partner died, the partner:

(i) was not receiving a social security pension or a service pension; and

25 (ii) was not a long-term social security recipient; and

(c) within the period of 4 weeks that starts on the day after the day on which the partner dies:

(i) the person notifies the Department orally or in writing of their partner's death; or

30 (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day on which the partner died.

Note 1: for 'long-term social security recipient' see subsection 23(1).

Note 2: if the person's partner is receiving a social security pension or service pension or is a long-term social security recipient, the person is entitled to bereavement payments and this subsection does not apply to the person.”.

Division 4—Job search allowance and newstart allowance

Family relationships definitions—children

38. Section 5 of the Principal Act is amended by omitting Note 1 to subsection (3) and substituting the following Note:

“Note 1: this rule is modified for:

- (a) sole parent pension (see subsection 250(2)); and
- (b) special needs sole parent pension (see subsection 776(2)); and
- (c) certain categories of recipients of job search allowance, sickness allowance and newstart allowance (see point 1068-B2).”.

Definitions

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39. Section 23 of the Principal Act is amended:

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

“**‘assurance of support debt’** means a debt due and payable by a person to the Commonwealth because of the operation of:

10

- (a) subregulation 165(1) of the Migration Regulations as in force on or before 19 December 1991; or
- (b) Regulation 164C of the Migration Regulations as in force after 19 December 1991; or
- (c) any provision of the Migration Regulations as in force after 19 December 1991 that has substantially the same effect as the regulation referred to in paragraph (b);

15

in respect of the payment to another person of:

- (d) job search allowance under Part 2.11 of this Act; or
- (e) newstart allowance under Part 2.12 of this Act; or
- (f) special benefit under Part 2.15 of this Act; or
- (g) unemployment benefit under section 116 of the 1947 Act; or
- (h) job search allowance under section 117A of the 1947 Act; or
- (i) special benefit under section 129 of the 1947 Act;”;

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25

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

“**‘assurance of support’** means an assurance of support within the meaning of the Migration Regulations.”.

40. After section 517 of the Principal Act the following section is inserted:

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Assurance of support

“517A. A person is not qualified for job search allowance in respect of a period if the Secretary is satisfied that throughout the period:

- (a) an assurance of support was in force in respect of the person (in this section called the ‘assuree’); and
- (b) the person who gave the assurance of support was willing and able to provide an adequate level of support to the assuree; and
- (c) it was reasonable for the assuree to accept that support.

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Note: for ‘assurance of support’ see subsection 23(1).”.

41. After section 596 of the Principal Act the following section is inserted:

Assurance of support

- 5 “596A. A person is not qualified for newstart allowance in respect of a period if the Secretary is satisfied that throughout the period:
- (a) an assurance of support was in force in respect of the person (in this section called the ‘assuree’); and
 - (b) the person who gave the assurance of support was willing and able to provide an adequate level of support to the assuree; and
 - 10 (c) it was reasonable for the assuree to accept that support.

Note: for ‘assurance of support’ see subsection 23(1).”.

Job search training supplement

42. Section 560 of the Principal Act is amended:

- (a) by omitting from subsection (1) “is to” and substituting “may”;
- 15 (b) by omitting subsections (2) and (3) and substituting the following subsections:

“(2) The job search training supplement is made up of one or more of the following:

- 20 (a) an amount to assist with the person’s expenses in undertaking the training (in this section called the ‘**training component**’);
- (b) an amount to assist with the person’s expenses in living away from the person’s usual residence while undertaking the training (in this section called the ‘**living away from home component**’);
- 25 (c) an amount to assist with the person’s expenses in maintaining the person’s usual residence while living away from that residence and undertaking the training (in this section called the ‘**home base maintenance component**’).

30 “(3) A person is to receive an amount for the training component only if the person has turned 21.

“(4) The maximum amount of the training component is \$60.00 per fortnight.

35 “(5) The maximum amount of the living away from home component is:

- (a) if the person has turned 18—\$40.00 per fortnight; or
- (b) if the person has not turned 18—\$30.00 per fortnight.

“(6) The maximum amount of the home base maintenance component is \$75.80 per fortnight.

40 “(7) The Employment Secretary is to calculate the amount (if any) of the job search training supplement by determining:

- (a) which of the 3 components the person is to receive; and

- (b) the appropriate amount for each component that the person is to receive.”.

Newstart training supplement

43. Section 644 of the Principal Act is amended:

- (a) by omitting from subsection (1) “is to” and substituting “may”; 5
- (b) by omitting subsections (2) and (3) and substituting the following subsections:

“(2) The newstart training supplement is made up of one or more of the following:

- (a) an amount to assist with the person’s expenses in undertaking the training (in this section called the ‘training component’); 10
- (b) an amount to assist with the person’s expenses in living away from the person’s usual residence while undertaking the training (in this section called the ‘living away from home component’); 15
- (c) an amount to assist with the person’s expenses in maintaining the person’s usual residence while living away from that residence and undertaking the training (in this section called the ‘home base maintenance component’). 20

“(3) A person is to receive an amount for the training component only if the person has turned 21.

“(4) The maximum amount of the training component is \$60.00 per fortnight. 25

“(5) The maximum amount of the living away from home component is \$40.00 per fortnight.

“(6) The maximum amount of the home base maintenance component is \$75.80 per fortnight.

“(7) The Employment Secretary is to calculate the amount (if any) of the newstart training supplement by determining: 30

- (a) which of the 3 components the person is to receive; and
- (b) the appropriate amount for each component that the person is to receive.”.

Rate of job search allowance (under 18) and sickness allowance (under 18) 35

44. Section 1067 of the Principal Act is amended in point 1067-B1 of Benefit Rate Calculator A:

- (a) by omitting from paragraph (c) of item 1 in column 2 of Table B “has turned 16 and”; 40
- (b) by omitting from paragraph (c) of item 2 in column 2 of Table B “has turned 16 and”.

Rate of job search allowance (18 or over) and newstart allowance and sickness allowance (18 or over)

45. Section 1068 of the Principal Act is amended in Benefit Rate Calculator B:

- 5 (a) by adding at the end of Note 2 to Table B in point 1068-B1 “and point 1068-B2”;
- (b) by inserting after point 1068-B1 the following point in Module B:

Meaning of “dependent child”

10 “1068-B2. For the purposes of items 1, 2, 3, 4, 5, 10 and 11 of Table B in point 1068-B1, a young person who has not turned 16 can be a **dependent child** of a person even though:

- (a) the young person is not in full-time education; and
- (b) the young person is in receipt of income from employment; and
- 15 (c) the rate of that income exceeds \$107.70 per week.

Note 1: a young person covered by this point would not normally count as a dependent child (see subsection 5(3)).

Note 2: the amount in paragraph (c) is indexed annually in line with CPI increases (see sections 1191 to 1194).”.

Indexed and adjusted amounts

46. Section 1190 of the Principal Act is amended by omitting from column 4 in item 40 of the Indexed and Adjusted Amounts Table:

20 “[paragraph 839(2)(c)]
 [subparagraph 953(b)(ii)]”, and substituting:

 “[paragraph 776(2)(c)]
 [paragraph 839(2)(c)]
 [subparagraph 953(b)(iv)]
 [paragraph 1068-B2(c)]”.

25 ***Division 5—Sickness allowance***

Qualification for sickness allowance

47. Section 666 of the Principal Act is amended:

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

30 “(7) If:

- (a) a person who is incapacitated for work has turned 18;
 and
- (b) the person was receiving job search allowance immediately before the person became so incapacitated;
 and
- 35 (c) the Secretary does not expect the person to be incapacitated for a period longer than 6 weeks;

 the person is not qualified for sickness allowance under subsection (1) for the period of 6 weeks beginning on the day
40 the person became incapacitated.

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Note: a person described in this subsection may continue to be qualified for job search allowance for up to 6 weeks (see subsection 514(3)).”;

- (b) by omitting subsection (8) and substituting the following subsection:

“(8) If:

(a) a person who is incapacitated for work was receiving newstart allowance immediately before the person became so incapacitated; and 5

(b) the Secretary does not expect the person to be incapacitated for a period longer than 13 weeks; the person is not qualified for sickness allowance under subsection (1) for the period of 13 weeks beginning on the day the person became incapacitated. 10

Note: a person described in this subsection may continue to be qualified for newstart allowance for up to 13 weeks (see subsection 594(2)).”.

Division 6—Special benefit

Qualification for special benefit

48. Section 729 of the Principal Act is amended:

- (a) by omitting subparagraph (2)(f)(ii); 15
(b) by omitting from subparagraph (2)(f)(iii) “that Act” and substituting “the *Migration Act 1958*”.

Division 7—Income test definitions

Income test definitions

49. Section 8 of the Principal Act is amended: 20

- (a) by inserting after paragraph (8)(v) the following paragraph:

“(va) a payment made by the Mark Fitzpatrick Trust to a person by way of assistance with expenses incurred in relation to a person who has medically acquired HIV infection;”;

- (b) by adding at the end of subsection (8) the following paragraph: 25

“(zk) an amount paid by a buyer under a sale leaseback agreement.”.

Division 8—Certain unlisted property trusts

Market-linked investments made or acquired before 9 September 1988 30

50. Section 1082 of the Principal Act is amended:

- (a) by omitting from subsection (1) “If” and substituting “Subject to subsection (4), if”;

- (b) by omitting from subsection (2) “this section” and substituting “subsection (1)”; 35

- (c) by adding at the end the following subsections:

“(4) This section does not apply to the realisation of a person’s market-linked investment if:

- (a) the investment is in a public unit trust; and
- (b) the trust is a property trust; and
- 5 (c) the trust is not listed on a stock exchange; and
- (d) the person made or acquired the investment before 9 September 1988; and
- (e) the investment is realised on or after 24 July 1991 and before 23 July 1992; and
- 10 (f) the investment is realised due to a restructuring of the trust.

“(5) For the purposes of paragraph (4)(f), a person’s investment is realised due to a restructuring if:

- 15 (a) in realising the investment the person exchanges the investment for an investment in another public unit trust that is a property trust; and
- (b) the same manager manages both the investments referred to in paragraph (a).”.

Division 9—Attributed interest

20 **Basic concept—income money and interest received**

51. Section 1099B of the Principal Act is amended in the Method statement:

- (a) by inserting after Step 2 the following Note:
“Note: for the treatment of the money of members of a couple see subsection (2A).”;
- (b) by inserting after Step 3 the following Note:
“Note: for the treatment of the money of members of a couple see subsection (2B).”;
- 25 (c) by inserting after Step 4 the following Note:
“Note: for the treatment of the money of members of a couple see subsection (2C).”;
- (d) by inserting after subsection (2) the following subsections:
 - “**(2A)** If a person is a member of a couple, to work out the amount of the person’s available money:
 - 30 (a) add the person’s available money (if any) and the person’s partner’s available money (if any); and
 - (b) divide the result by 2.
 - “**(2B)** If a person is a member of a couple, to work out the amount of the person’s deposit money that does not attract interest:
 - 35 (a) add the person’s deposit money (if any) that does not attract interest and the person’s partner’s deposit money (if any) that does not attract interest; and

(b) divide the result by 2.

“(2C) If a person is a member of a couple, to work out the amount of the person’s deposit money that attracts a particular rate of interest:

- (a) add the person’s deposit money (if any) that attracts that rate of interest and the person’s partner’s deposit money (if any) that attracts that rate of interest; and 5
- (b) divide the result by 2.”.

Division 10—Special residences and special residents

Assets test definitions 10

52. Section 11 of the Principal Act is amended:

- (a) by omitting from subsection (1) the definition of “granny flat interest”;
- (b) by omitting subparagraph (4)(a)(ii) and substituting the following subparagraph: 15
 - “(ii) the person’s right or interest in the home gives the person reasonable security of tenure in the home; and”;
- (c) by omitting subparagraph (4)(b)(ii) and substituting the following subparagraph:
 - “(ii) the person’s right or interest, or the partner’s right or interest, in the home gives the person, or the person’s partner, reasonable security of tenure in the home; and”; 20
- (d) by omitting subsection (9).

Retirement villages definitions

53. Section 12 of the Principal Act is amended: 25

- (a) by inserting in subsection (1) the following definition:
 - “‘retirement village resident’ has the meaning given by subsection (5);”;
- (b) by omitting subsections (5) and (6) and substituting the following subsection: 30
 - “(5) A person is a retirement village resident if the person’s principal home is in a retirement village.”.

54. After section 12 of the Principal Act the following sections are inserted:

Granny flat definitions 35

“12A.(1) In this Act, unless the contrary intention appears:
‘granny flat interest’ has the meaning given by subsection (2);
‘granny flat resident’ has the meaning given by subsection (3).

“(2) 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
- 5 (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.

10 “(3) A person is a granny flat resident if the person has a granny flat interest in the person’s principal home.

Sale leaseback definitions

- “12B.(1) In this Act, unless the contrary intention appears:
- ‘deferred payment amount’ has the meaning given by subsections (6) and (7);
 - 15 ‘initial payment amount’ has the meaning given by subsection (4);
 - ‘sale leaseback agreement’ has the meaning given by subsections (2) and (3);
 - ‘sale leaseback home’ has the meaning given by subsection (9);
 - 20 ‘sale leaseback resident’ has the meaning given by subsections (10) and (11).

- “(2) An agreement is a sale leaseback agreement, in relation to a person, if:
- (a) under the agreement the person agrees to sell his or her principal home; and
 - 25 (b) the residence that is the person’s principal home is a private residence; and
 - (c) under the agreement the person retains a right to accommodation in the residence; and
 - 30 (d) under the agreement the buyer is to pay an amount when the person vacates the residence or when the person dies.

“(3) An agreement is also a sale leaseback agreement if the Secretary is satisfied that the agreement is substantially similar in its effect to an agreement referred to in subsection (2).

35 “(4) The initial payment amount, in relation to a sale leaseback agreement, is the amount that the Secretary determines to be the initial amount that the buyer is to pay under the sale leaseback agreement.

- “(5) In making the determination the Secretary is to have regard to the following:
- 40 (a) the consideration to be provided by the parties to the sale leaseback agreement;
 - (b) when that consideration is to be provided;

- (c) the payments that are to be made under the sale leaseback agreement;
- (d) when those payments are to be made;
- (e) any other relevant matters.

“(6) The deferred payment amount, in relation to a sale leaseback agreement, is the total amount to be paid by the buyer under the sale leaseback agreement less the initial payment amount. 5

“(7) If the Secretary considers that, for any special reason in a particular case, the deferred payment amount should be another amount, the deferred payment amount is that other amount. 10

Note: sections 1123 to 1128 (disposal of assets) may be relevant to working out the deferred payment amount.

“(8) Without limiting subsection (7), the Secretary may consider that the deferred payment amount should be another amount if:

- (a) the parties to the sale leaseback agreement are not at arm’s length; or
- (b) the parties to the sale leaseback agreement have undervalued the sale leaseback home so as to reduce the total amount to be paid by the buyer under the agreement. 15

“(9) A residence is a sale leaseback home if the residence is subject to a sale leaseback agreement.

“(10) A person is a sale leaseback resident if: 20

- (a) the person’s principal home is subject to a sale leaseback agreement; and
- (b) the person is a party to the sale leaseback agreement.

“(11) If a person is a member of a couple, the person is a sale leaseback resident if: 25

- (a) the person lives in the sale leaseback home; and
- (b) the person’s partner is a sale leaseback resident.

Note: subsection (11) will only be used if a person is not a sale leaseback resident under subsection (10).

Special residence and residents definitions

“12C.(1) In this Act, unless the contrary intention appears: 30
‘special residence’ has the meaning given by subsection (2);
‘special resident’ has the meaning given by subsection (3).

“(2) A residence is a special residence if the residence is:

- (a) in a retirement village; or
- (b) a granny flat; or
- (c) a sale leaseback home. 35

“(3) A person is a special resident if the person is:

- (a) a retirement village resident; or
- (b) a granny flat resident; or
- (c) a sale leaseback resident.

5 “(4) In Division 5 of Part 3.12 (sections 1145A to 1157), a reference to the **actual value** of the assets of a member of a couple is a reference to the value of the assets that are actually assets of the person rather than the person’s partner, that is, the value that would be the value of the person’s assets apart from the couple’s assets deeming provisions.

“(5) In subsection (4):

10 **‘couple’s assets deeming provisions’** means:

- (a) Pension Rate Calculator A (point 1064-G2); and
- (b) Pension Rate Calculator C (point 1066-G2); and
- (c) section 531; and
- (d) section 602; and
- 15 (e) section 672; and
- (f) subsection 895(2); and
- (g) section 734; and
- (h) Fringe Benefits Assets Test Calculator (point 1072-1).”.

20 **Certain assets to be disregarded in calculating the value of a person’s assets**

55. Section 1118 is amended:

- (a) by omitting from subparagraph (1)(a)(i) “and”;
- (b) by omitting subparagraph (1)(a)(ii);
- (c) by omitting from subparagraph (1)(b)(i) “and”;
- 25 (d) by omitting subparagraph (1)(b)(ii);
- (e) by inserting after paragraph (1)(g) the following paragraphs:

“(ga) if:

- (i) the person has a granny flat interest in the person’s principal home; and
 - 30 (ii) the person is a person to whom subsection 1150(2), 1151(2), 1152(2), 1152(5), 1153(2), 1154(2), 1155(2), 1156(2) or 1157(2) applies;
- the value of the granny flat interest;

Note: a person described in subparagraph (ii) will have acquired or retained the granny flat interest on or after 22 August 1990 (see section 1145A).

(gb) if:

- (i) the person is a sale leaseback resident; and
- 35 (ii) the person is a person to whom subsection 1150(2), 1151(2), 1152(2), 1152(5), 1153(2), 1154(2), 1155(2), 1156(2) or 1157(2) applies;

the value of any right or interest of the person in the sale leaseback home;”;

- (f) by omitting “11(9)” from Note 1 to subsection (1) and substituting “12A(2)”.

56. Section 1145 of the Principal Act is repealed. 5

Entry contribution

57. Section 1147 of the Principal Act is amended:

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

“(1) A special resident’s entry contribution is: 10

(a) if the resident is not a member of a couple—the resident’s individual residence contribution; or

(b) if the resident is a member of a couple, shares the resident’s principal home with the resident’s partner and is not a member of an illness separated couple—an amount equal to 50% of the resident’s individual residence contribution and of the partner’s individual residence contribution; or 15

(c) if the resident is a member of an illness separated couple—the resident’s individual residence contribution; or 20

(d) if:

(i) the resident is a member of an ordinary couple with different principal homes; and

(ii) the principal home of the resident’s partner is not a special residence; 25

the resident’s individual residence contribution; or

(e) if:

(i) the resident is a member of an ordinary couple with different principal homes; and 30

(ii) the principal home of the resident’s partner is also a special residence;

an amount equal to 50% of the resident’s individual residence contribution and of the partner’s individual residence contribution. 35

“(1A) A special resident’s entry contribution is the resident’s individual residence contribution plus the amount paid, or agreed to be paid, for the resident’s current right (if any) to share the resident’s principal home with a partner if:

- (a) the resident was a member of a couple at the time when the resident took up residence in the retirement village or granny flat; and 40

(b) the resident has ceased to be a member of a couple.

“(1B) A special resident’s entry contribution is the resident’s individual residence contribution if:

- 5 (a) the resident was a member of a couple at the time when the sale leaseback agreement was entered into; and
(b) the resident has ceased to be a member of a couple.

“(1C) For the purposes of this Division, the individual residence contribution is:

- 10 (a) for a retirement village resident—the total amount paid, or agreed to be paid, for the resident’s current right to live in the retirement village; and
(b) for a granny flat resident—the total amount paid, or agreed to be paid, for the resident’s current right to live in the granny flat; and
15 (c) for a sale leaseback resident—the deferred payment amount.

Note: for ‘deferred payment amount’ see section 12B.

“(1D) For the purposes of paragraph (1C)(b):

- 20 (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
25 (ii) if the Secretary considers that, for any special reason in any particular case, that value should be another amount—that other amount.”;
(b) by omitting from subsection (2) “subsection (1)” and substituting “subsections (1), (1A) and (1B)”.

Extra allowable amount

30 **58.** Section 1148 of the Principal Act is amended by inserting after subsection (2A) the following subsection:

“(2B) A sale leaseback resident’s **extra allowable amount** is:

- 35 (a) if the resident is not a member of a couple—the amount that, as at the time when the sale leaseback agreement is entered into, is the difference between the pension ‘single’ homeowner AVL and the pension ‘single’ non-homeowner AVL; or
(b) if the resident is a member of an illness separated couple—the amount that, as at the time when the sale leaseback agreement is entered into, is the difference between the pension ‘single’ homeowner AVL and the pension ‘single’ non-homeowner AVL;
40 or

- (c) in any other case—the amount that, as at the time when the sale leaseback agreement is entered into, is the difference between the pension ‘partnered’ homeowner AVL and the pension ‘partnered’ non-homeowner AVL.”.

Residents who are not members of a couple 5

59. Section 1150 of the Principal Act is amended:

- (a) by omitting from subsection (1) “retirement village or granny flat” and substituting “special”;
- (b) by omitting from paragraph (2)(a) “retirement village or granny flat” and substituting “special”; 10
- (c) by omitting from paragraph (3)(a) “retirement village or granny flat” and substituting “special”.

Members of couples

60. Section 1151 of the Principal Act is amended:

- (a) by omitting from subsection (1) “retirement village or granny flat” and substituting “special”; 15
- (b) by omitting from paragraph (2)(a) “retirement village or granny flat” and substituting “special”;
- (c) by omitting from paragraph (3)(a) “retirement village or granny flat” and substituting “special”. 20

Members of illness separated couples (both in special residences)

61. Section 1152 of the Principal Act is amended:

- (a) by omitting from subsection (1) “retirement village or granny flat” (first occurring) and substituting “special”;
- (b) by omitting from paragraph (1)(b) “retirement village or granny flat” and substituting “special residence”; 25
- (c) by omitting from paragraph (2)(a) “retirement village or granny flat” and substituting “special”;
- (d) by omitting from paragraph (3)(a) “retirement village or granny flat” and substituting “special”; 30
- (e) by omitting from paragraph (5)(a) “retirement village or granny flat” and substituting “special”.

Members of illness separated couples (partner not in special residence and partner homeowner)

62. Section 1153 of the Principal Act is amended: 35

- (a) by omitting from subsection (1) “retirement village or granny flat” (first occurring) and substituting “special”;
- (b) by omitting from paragraph (1)(b) “in a retirement village or granny flat” and substituting “a special residence”;
- (c) by omitting from paragraph (2)(a) “retirement village or granny flat” and substituting “special”; 40

- (d) by omitting from paragraph (3)(a) “retirement village or granny flat” and substituting “special”.

Members of illness separated couples (partner not in special residence and partner not homeowner)

- 5 **63.** Section 1154 of the Principal Act is amended:
- (a) by omitting from subsection (1) “retirement village or granny flat” (first occurring) and substituting “special”;
 - (b) by omitting from paragraph (1)(b) “in a retirement village or granny flat” and substituting “a special residence”;
 - 10 (c) by omitting from paragraph (2)(a) “retirement village or granny flat” and substituting “special”;
 - (d) by omitting from paragraph (4)(a) “retirement village or granny flat” and substituting “special”.

15 **Members of ordinary couple with different principal homes (both in special residences)**

- 64.** Section 1155 of the Principal Act is amended:
- (a) by omitting from subsection (1) “retirement village or granny flat” (first occurring) and substituting “special”;
 - 20 (b) by omitting from paragraph (1)(b) “in a retirement village or granny flat” and substituting “a special residence”;
 - (c) by omitting from paragraph (2)(a) “retirement village or granny flat” and substituting “special”;
 - (d) by omitting paragraph (2)(d) and substituting the following paragraph:
25 “(d) the value of the resident’s principal home is taken to be the resident’s individual residence contribution; and”;
 - (e) by omitting paragraph (2)(e) and substituting the following paragraph:
30 “(e) the value of the partner’s principal home is taken to be the partner’s individual residence contribution; and”;
 - (f) by omitting from paragraph (3)(a) “retirement village or granny flat” and substituting “special”;
 - (g) by omitting paragraph (3)(d) and substituting the following paragraph:
35 “(d) the resident’s assets are taken to include an amount equal to the resident’s individual residence contribution; and”;
 - (h) by omitting paragraph (3)(e) and substituting the following paragraph:
40 “(e) the partner’s assets are taken to include an amount equal to the partner’s individual residence contribution.”.

Members of ordinary couple with different principal homes (partner not in special residence and partner homeowner)

65. Section 1156 of the Principal Act is amended:
- (a) by omitting from subsection (1) “retirement village or granny flat” (first occurring) and substituting “special”; 5
 - (b) by omitting from paragraph (1)(b) “in a retirement village or granny flat” and substituting “a special residence”;
 - (c) by omitting from subsection (2) “retirement village or granny flat” (first occurring) and substituting “special”;
 - (d) by omitting from subparagraph (2)(c)(ii) “in a retirement village or granny flat” and substituting “a special residence”. 10

Members of ordinary couple with different principal homes (partner not in special residence and partner not homeowner)

66. Section 1157 of the Principal Act is amended:
- (a) by omitting from subsection (1) “retirement village or granny flat” (first occurring) and substituting “special”; 15
 - (b) by omitting from paragraph (1)(b) “in a retirement village or granny flat” and substituting “a special residence”;
 - (c) by omitting from paragraph (2)(a) “retirement village or granny flat” and substituting “special”; 20
 - (d) by omitting from paragraph (3)(a) “retirement village or granny flat” and substituting “special”.

Adjustment of special illness separated special resident AVL

67. Section 1205 of the Principal Act is amended by omitting “retirement village” and substituting “special”. 25

Division 11—Compensation recovery

Compensation recovery definitions

68. Section 17 of the Principal Act is amended:
- (a) by omitting from subparagraph (3)(a)(i) “disease or injury” and substituting “a disease, injury or condition”; 30
 - (b) by omitting from the Note to the definition of “average weekly earnings” in subsection (1) “(6)” and substituting “(5)”;
 - (c) by inserting after paragraph (3)(a) the following paragraph:
 - “(ab) 50% of the payment if the following circumstances apply: 35
 - (i) the payment represents that part of a person’s entitlement to periodic compensation payments that the person has chosen to receive in the form of a lump sum; and
 - (ii) the entitlement to periodic compensation payments arose from the settlement (either with 40

or without admission of liability) of a claim that is, in whole or in part, related to a disease, injury or condition; and

5 (iii) the claim was settled, either by consent judgment being entered in respect of the settlement or otherwise, on or after 9 February 1988; or”;

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

10 “(4A) For the purposes of this Act, a payment of arrears of periodic compensation payments is not a lump sum compensation payment.”;

(e) by omitting paragraph (7)(c).

Secretary may require notice of the happening of an event or a change in circumstances

69. Section 132 of the Principal Act is amended:

15 (a) by omitting from subsection (4) “The” and substituting “Subject to subsections (4A) and (4B), the”;

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

20 “(4B) If the notice requires information about receipt of a compensation payment, the period specified under paragraph (3)(d) in relation to that information must end at least 7 days after the day on which the person becomes aware that he or she has received or is to receive a compensation payment.”.

Secretary may require notice of the happening of an event or a change in circumstances

25 70. Section 284 of the Principal Act is amended:

(a) by omitting from subsection (4) “The” and substituting “Subject to subsections (4A) and (4B), the”;

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

30 “(4B) If the notice requires information about receipt of a compensation payment, the period specified under paragraph (3)(d) in relation to that information must end at least 7 days after the day on which the person becomes aware that he or she has received or is to receive a compensation payment.”.

Secretary may require notice of the happening of an event or a change in circumstances

35 71. Section 574 of the Principal Act is amended:

(a) by omitting from subsection (4) “The” and substituting “Subject to subsections (4A) and (4B), the”;

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

40 “(4B) If the notice requires information about receipt of a compensation payment, the period specified under paragraph

(3)(d) in relation to that information must end at least 7 days after the day on which the person becomes aware that he or she has received or is to receive a compensation payment.”.

Secretary may require notice of the happening of an event or a change in circumstances

5

72. Section 657 of the Principal Act is amended:

- (a) by omitting from subsection (4) “The” and substituting “Subject to subsections (4A) and (4B), the”;
- (b) by inserting after subsection (4A) the following subsection:

“(4B) If the notice requires information about receipt of a compensation payment, the period specified under paragraph (3)(d) in relation to that information must end at least 7 days after the day on which the person becomes aware that he or she has received or is to receive a compensation payment.”.

10

Secretary may require notice of the happening of an event or a change in circumstances

15

73. Section 727 of the Principal Act is amended:

- (a) by omitting from subsection (4) “The” and substituting “Subject to subsections (4A) and (4B), the”;
- (b) by inserting after subsection (4A) the following subsection:

“(4B) If the notice requires information about receipt of a compensation payment, the period specified under paragraph (3)(d) in relation to that information must end at least 7 days after the day on which the person becomes aware that he or she has received or is to receive a compensation payment.”.

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Secretary may require notice of the happening of an event or a change in circumstances

74. Section 759 of the Principal Act is amended:

- (a) by omitting from subsection (4) “The” and substituting “Subject to subsections (4A) and (4B), the”;
- (b) by inserting after subsection (4A) the following subsection:

“(4B) If the notice requires information about receipt of a compensation payment, the period specified under paragraph (3)(d) in relation to that information must end at least 7 days after the day on which the person becomes aware that he or she has received or is to receive a compensation payment.”.

30

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Secretary may require notice of the happening of an event or a change in circumstances

75. Section 808 of the Principal Act is amended:

- (a) by omitting from subsection (4) “The” and substituting “Subject to subsections (4A) and (4B), the”;

40

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

5 “(4B) If the notice requires information about receipt of a compensation payment, the period specified under paragraph (3)(d) in relation to that information must end at least 7 days after the day on which the person becomes aware that he or she has received or is to receive a compensation payment.”.

Pension, benefit or allowance not payable during lump sum preclusion period

10 76. Section 1165 of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:

Lump sum preclusion period

 “(3) If periodic compensation payments are made in respect of the lost earnings or lost earning capacity, the **lump sum preclusion period** is the period that:

- 15 (a) begins on the day after the last day of the periodic payments period; and
 (b) ends after the number of weeks specified in subsection (4).

Note: for ‘periodic payments period’ see section 17.

20 “(3A) If a person chooses to receive part of an entitlement to periodic compensation payments in the form of a lump sum, the **lump sum preclusion period** is the period that:

- (a) begins on the first day on which the person’s periodic compensation payment is a reduced payment because of that choice; and
 (b) ends after the number of weeks specified in subsection (4).

25 “(3B) If a person:

- (a) receives compensation in relation to an injury, disease or condition in the form of a lump sum (in this subsection called the ‘**first lump sum**’); and
30 (b) the person receives compensation in the form of a further lump sum (in this subsection called the ‘**second lump sum**’); and
 (c) the second lump sum is compensation in relation to the same injury, disease or condition;

the **lump sum preclusion period** for the second lump sum is the period that:

- 35 (d) begins on the day after the last day of the lump sum preclusion period for the first lump sum; and
 (e) ends after the number of weeks specified in subsection (4).

 “(3C) If none of subsections (3), (3A) and (3B) applies, the **lump sum preclusion period** is the period that:

- (a) begins on the day on which the loss of earnings or loss of earning capacity began; and
- (b) ends after the number of weeks specified in subsection (4).”.

77. After section 1174 of the Principal Act the following section is inserted:

5

Preliminary notice or recovery notice suspends liability to pay compensation

“1174A. If a compensation payer has been given a preliminary notice under section 1172 or a recovery notice under section 1174 in relation to the compensation payer’s liability, or possible liability, to pay compensation, the compensation payer is not liable to pay that compensation while the notice has effect.”.

10

Preliminary notice or recovery notice to insurer suspends both insurer’s and compensation payer’s liability

78. Section 1180 of the Principal Act is amended by omitting “compensation, the compensation payer is not liable to pay compensation while the notice has effect” and substituting:

15

“compensation:

- (a) the insurer is not liable to so indemnify the compensation payer; and
- (b) the compensation payer is not liable to pay that compensation; while the notice has effect”.

20

79. Schedule 1A of the Principal Act is amended by inserting after clause 25 the following clause:

Compensation payments (changes introduced on 15 June 1988)

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“25A. For the purposes of Part 3.14 of this Act, if:

- (a) a person received a compensation payment before 1 May 1987; and
- (b) apart from its date of receipt, the payment would be a payment by way of compensation within the meaning of Part XVII of the 1947 Act, as in force immediately before 1 July 1991; and
- (c) the payment was received by a person who was, immediately before 1 May 1987, qualified to receive a sickness benefit; and
- (d) Division 3A of Part VII of the 1947 Act, as in force at any time before 1 May 1987 (including that Division in its application by virtue of subsection 42(2) of the *Social Security and Veterans’ Affairs (Miscellaneous Amendments) Act 1986*), does not apply in relation to the sickness benefit;

30

35

the compensation payment is taken to have been received on or after 1 May 1987.”.

40

Deductions from instalments with recipient's consent

“(3) The Secretary may make deductions from the instalments of disability support pension payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

5

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Wife pension to be absolutely inalienable

84. Section 170 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- (b) by adding at the end the following subsection:

10

Deductions from instalments with recipient's consent

“(3) The Secretary may make deductions from the instalments of wife pension payable to a woman if she consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Carer pension to be absolutely inalienable

15

85. Section 220 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- (b) by adding at the end the following subsection:

Deductions from instalments with recipient's consent

20

“(3) The Secretary may make deductions from the instalments of carer pension payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Sole parent pension to be absolutely inalienable

25

86. Section 280 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- (b) by adding at the end the following subsection:

Deductions from instalments with recipient's consent

30

“(3) The Secretary may make deductions from the instalments of sole parent pension payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Widowed person allowance to be absolutely inalienable

87. Section 339 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- 5 (b) by adding at the end the following subsection:

Deductions from instalments with recipient’s consent

10 “(3) The Secretary may make deductions from the instalments of widowed person allowance payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Widow B pension to be absolutely inalienable

88. Section 387 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- 15 (b) by adding at the end the following subsection:

Deductions from instalments with recipient’s consent

20 “(3) The Secretary may make deductions from the instalments of widow B pension payable to a woman if she consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Job search allowance to be absolutely inalienable

89. Section 571 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- 25 (b) by adding at the end the following subsection:

Deductions from instalments with recipient’s consent

30 “(3) The Secretary may make deductions from the instalments of job search allowance payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Newstart allowance to be absolutely inalienable

90. Section 654 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- (b) by adding at the end the following subsection: 5

Deductions from instalments with recipient's consent

“(3) The Secretary may make deductions from the instalments of newstart allowance payable to a person if the recipient consents under section 1234A to the Secretary making the deductions. 10

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Sickness allowance to be absolutely inalienable

91. Section 724 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- (b) by adding at the end the following subsection: 15

Deductions from instalments with recipient's consent

“(3) The Secretary may make deductions from the instalments of sickness allowance payable to a person if the recipient consents under section 1234A to the Secretary making the deductions. 20

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Special benefit to be absolutely inalienable

92. Section 757 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- (b) by adding at the end the following subsection: 25

Deductions from instalments with recipient's consent

“(3) The Secretary may make deductions from the instalments of special benefit payable to a person if the recipient consents under section 1234A to the Secretary making the deductions. 30

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Special needs pension to be absolutely inalienable

93. Section 806 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;

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

Deductions from instalments with recipient's consent

5 “(3) The Secretary may make deductions from the instalments of special needs pension payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Family allowance to be absolutely inalienable

94. Section 869 of the Principal Act is amended:

10 (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;

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

Deductions from instalments with recipient's consent

15 “(3) The Secretary may make deductions from the instalments of family allowance payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Family allowance supplement to be absolutely inalienable

95. Section 928 of the Principal Act is amended:

20 (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;

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

Deductions from instalments with recipient's consent

25 “(3) The Secretary may make deductions from the instalments of family allowance supplement payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Child disability allowance to be absolutely inalienable

96. Section 976 of the Principal Act is amended:

30 (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;

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

Deductions from instalments with recipient's consent

“(3) The Secretary may make deductions from the instalments of child disability allowance payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

5

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Double orphan pension to be absolutely inalienable

97. Section 1019 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- (b) by adding at the end the following subsection:

10

Deductions from instalments with recipient's consent

“(3) The Secretary may make deductions from the instalments of double orphan pension payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

15

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Mobility allowance to be absolutely inalienable

98. Section 1052 of the Principal Act is amended:

- (a) by omitting from subsection (1) “subsection (2)” and substituting “subsections (2) and (3)”;
- (b) by adding at the end the following subsection:

20

Deductions from instalments with recipient's consent

“(3) The Secretary may make deductions from the instalments of mobility allowance payable to a person if the recipient consents under section 1234A to the Secretary making the deductions.

25

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

General effect of Chapter

99. Section 1222 of the Principal Act is amended:

- (a) by omitting from item 1 in the Table in subsection (2) “1231” and substituting “1231, 1234A”;
- (b) by omitting from item 2 in the Table in subsection (2) “1231” and substituting “1231, 1234A”;
- (c) by omitting from item 3 in the Table in subsection (2) “1231” and substituting “1231, 1234A”;
- (d) by omitting from item 4 in the Table in subsection (2) “1231” and substituting “1231, 1234A”;

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- (e) by omitting from item 5 in the Table in subsection (2) “1231” and substituting “1231, 1234A”;
- (f) by omitting from item 6 in the Table in subsection (2) “1231” and substituting “1231, 1234A”;
- 5 (g) by omitting from item 8 in the Table in subsection (2) “1231” and substituting “1231, 1234A”.

General effect of Chapter

100. Section 1222 of the Principal Act is amended by omitting from item 1A in the Table in subsection (2) “1231” and substituting “1231, 1234A”.

Overpayments arising under this Act

101. Section 1223 of the Principal Act is amended by omitting paragraph (1)(c) and substituting the following paragraphs:

- 15 “(c) if the person is receiving a pension, benefit or allowance under this Act—deductions from that person’s pension, benefit or allowance; or
- (ca) if section 1234A applies to another person who is receiving a pension, benefit or allowance under this Act—deductions from that other person’s pension, benefit or allowance; or”.

20 **Debts arising from prepayments**

102. Section 1223AA of the Principal Act is amended:

- (a) by omitting paragraph (1)(c) and substituting the following paragraphs:
 - 25 “(c) if the person is receiving a social security benefit under this Act—deductions from that person’s benefit; or
 - (ca) if section 1234A applies to another person who is receiving a pension, benefit or allowance under this Act—deductions from that other person’s pension, benefit or allowance; or”;
- 30 (b) by omitting from Note 1 to subsection (1) “section 1231” and substituting “sections 1231 and 1234A”.

Debts arising from automatic termination (transfer to new payment type)

103. Section 1223A of the Principal Act is amended:

- 35 (a) by omitting paragraph (1)(c) and substituting the following paragraphs:
 - “(c) if the person is receiving a pension, benefit or allowance under this Act—deductions from that person’s pension, benefit or allowance; or
 - 40 (ca) if section 1234A applies to another person who is receiving a pension, benefit or allowance under this

- Act—deductions from that other person’s pension, benefit or allowance; or”;
- (b) by omitting from Note 1 to subsection (1) “section 1231” and substituting “sections 1231 and 1234A”;
 - (c) by omitting paragraph (2)(c) and substituting the following paragraphs: 5
 - “(c) if the person is receiving a pension, benefit or allowance under this Act—deductions from that person’s pension, benefit or allowance; or
 - (ca) if section 1234A applies to another person who is receiving a pension, benefit or allowance under this Act—deductions from that other person’s pension, benefit or allowance; or”;
 - (d) by omitting from Note 1 to subsection (2) “section 1231” and substituting “sections 1231 and 1234A”. 15

Debts arising from automatic rate reductions because of partner starting to receive pension or benefit

104. Section 1223B of the Principal Act is amended:

- (a) by omitting paragraph (1)(c) and substituting the following paragraphs: 20
 - “(c) if the person is receiving a pension, benefit or allowance under this Act—deductions from that person’s pension, benefit or allowance; or
 - (ca) if section 1234A applies to another person who is receiving a pension, benefit or allowance under this Act—deductions from that other person’s pension, benefit or allowance; or”;
- (b) by omitting from Note 1 to subsection (1) “section 1231” and substituting “sections 1231 and 1234A”. 25

Debts arising from recipient’s contravention of Act 30

105. Section 1224 of the Principal Act is amended:

- (a) by omitting paragraph (2)(a) and substituting the following paragraphs: 35
 - “(a) if the person is receiving a pension, benefit or allowance under this Act—deductions from that person’s pension, benefit or allowance; or
 - (aa) if section 1234A applies to another person who is receiving a pension, benefit or allowance under this Act—deductions from that other person’s pension, benefit or allowance; or”;
- (b) by omitting from Note 1 to subsection (2) “section 1231” and substituting “sections 1231 and 1234A”. 40

Pension loans scheme debts

106. Section 1224A of the Principal Act is amended:

(a) by omitting paragraph (a) and substituting the following paragraphs:

5 “(a) if the person is receiving a pension, benefit or allowance under this Act—deductions from that person’s pension, benefit or allowance; or

10 (aa) if section 1234A applies to another person who is receiving a pension, benefit or allowance under this Act—deductions from that other person’s pension, benefit or allowance; or”;

(b) by omitting from Note 2 “section 1231” and substituting “sections 1231 and 1234A”.

Compensation debts

15 **107.** Section 1225 of the Principal Act is amended:

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

20 “(a) if the person is receiving a pension, benefit or allowance under this Act—deductions from that person’s pension, benefit or allowance; or

(aa) if section 1234A applies to another person who is receiving a pension, benefit or allowance under this Act—deductions from that other person’s pension, benefit or allowance; or”;

25 (b) by omitting from Note 2 to subsection (1) “section 1231” and substituting “sections 1231 and 1234A”.

Assurance of support debts

108. Section 1227 of the Principal Act is amended:

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

“(a) if the person is receiving a pension, benefit or allowance under this Act—deductions from that person’s pension, benefit or allowance; or

35 (aa) if section 1234A applies to another person who is receiving a pension, benefit or allowance under this Act—deductions from that other person’s pension, benefit or allowance; or”;

(b) by omitting from Note 2 to subsection (2) “section 1231” and substituting “sections 1231 and 1234A”.

40 **109.** Before section 1231 of the Principal Act the following section is inserted in Part 5.3:

Application of sections dealing with deductions

“1231AA. Sections 1231 and 1234A provide for debt recovery by deductions in the following situations:

- (a) section 1231—debt recovery from person who incurred the debt;
- (b) section 1234A—debt recovery by consent from person other than debtor.”.

5

Deductions from debtor’s pension, benefit or allowance

110. Section 1231 of the Principal Act is amended by omitting subsection (3).

10

111. After section 1234 of the Principal Act the following section is inserted in Part 5.3:

Deductions by consent from pension, benefit or allowance of person who is not the debtor

“1234A.(1) If:

15

- (a) a person (in this section called the ‘debtor’) incurs a debt under this Act or the 1947 Act; and
- (b) another person (in this section called the ‘consenting person’) is receiving a pension, benefit or allowance under this Act; and
- (c) for the purpose of the recovery of the debt, the consenting person consents to the deduction of an amount from the consenting person’s pension, benefit or allowance;

20

the Secretary may deduct the amount from the consenting person’s pension, benefit or allowance.

“(2) The debtor’s debt is reduced by an amount equal to the amount deducted from the consenting person’s pension, benefit or allowance.

25

“(3) The consenting person may revoke the consent at any time.”.

Division 15—Review of decisions

Application requirements

30

112. Section 1257 of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) A person may also apply to the SSAT for review of a decision by sending or delivering a written application to an office of the CES if the decision:

35

- (a) is about job search allowance or newstart allowance; and
- (b) was made by an officer of the Employment Department.

Note 1: ‘CES’ means Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Department’ see section 23.”.

Procedure on receipt of application for review by SSAT

113. Section 1261 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- “(1) If the application is sent or delivered to:
- 5 (a) an office of the Department; or
(b) an office of the CES;

the Secretary must send the application to the National Convener as soon as practicable and in any case not later than 7 days after the application is received at the office of the Department or the CES.

Note: ‘CES’ means Commonwealth Employment Service (see section 23).”.

10 Withdrawal of application for review

114. Section 1274 of the Principal Act is amended:

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

- “(2A) A withdrawal may also be made by sending or
15 delivering written notice of withdrawal to an office of the CES
if the application is for the review of a decision that:
- (a) is about job search allowance or newstart allowance; and
(b) was made by an officer of the Employment Department.

Note 1: ‘CES’ means Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Department’ see section 23.”;

- (b) by inserting in subsection (4) “or subsection (2A)” after
20 “subparagraph (2)(a)(ii)”;
- (c) by adding at the end of subsection (4) “or the CES”.

Division 16—Repeal of abrogation of privilege against self-incrimination

115. The following sections of the Principal Act are repealed:

Sections 70, 134, 174, 224, 286, 343, 391, 576, 659, 728A, 761, 810,
875, 932, 980, 1025, 1056 and 1309.

25 PART 3—FURTHER AMENDMENTS

Consequential, minor and technical amendments of the Social Security Act

116. The *Social Security Act 1991* is amended as set out in Schedule 1.

30 Amendments of other Acts

117. The Acts specified in Schedule 2 are amended as set out in that Schedule.

SCHEDULE 1

Section 116

**CONSEQUENTIAL, MINOR AND TECHNICAL AMENDMENTS
OF THE SOCIAL SECURITY ACT 1991**

PART 1—AMENDMENTS COMMENCING ON ROYAL ASSENT

Paragraph 4(4)(d):

Omit “paragraphs”, substitute “subparagraphs”.

Subsection 23(1) (definition of “exempt income”):

Omit “subsection 23(1)”, substitute “section 23”.

Subsection 23(1) (paragraphs (aa) and (k) of the definition of “waiting period”):

Omit the paragraphs.

Subsection 23(1) (paragraph (i) of the definition of “waiting period”):

Omit “or”.

Subsection 23(1) (paragraph (h) of the definition of “waiting period”):

Omit “689 to 691”, substitute “690 to 692”.

Subsection 46(1):

Omit “and (3)”, substitute “, (3) and (4)”.

Section 46:

Add at the end:

“(4) If a person is not required to make a claim for the age pension because of subsection 48(3), the person’s provisional commencement day is the day on which the person becomes qualified for age pension.”.

Subsection 48(1):

Omit “A”, substitute “Subject to subsection (3), a”.

Section 48:

Add at the end:

“(3) If:

- (a) a person is receiving a social security pension other than an age pension; and
- (b) the person becomes qualified for age pension; and
- (c) the Secretary determines that the person is to be automatically transferred to the age pension;

the person does not have to make a claim for the age pension.”.

SCHEDULE 1—continued

After subsection 68(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 68(5):

After “not” insert “, without reasonable excuse,”.

Subsection 69(5):

After “not” insert “, without reasonable excuse,”.

Section 94:

Add at the end:

“Note: a person who is receiving a disability support pension may be automatically transferred to the age pension if the person becomes qualified for the age pension (see subsection 48(3)).”.

Section 95:

Add at the end:

“Note: a person who is receiving a disability support pension may be automatically transferred to the age pension if the person becomes qualified for the age pension (see subsection 48(3)).”.

After subsection 132(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 132(5):

After “not” insert “, without reasonable excuse,”.

Subsection 133(5):

After “not” insert “, without reasonable excuse,”.

Subsection 147(1):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 147(1)(a):

Omit “is a woman who”.

Paragraphs 147(1A)(a) and (d):

Omit “person’s”, substitute “woman’s”.

SCHEDULE 1—continued

Paragraph 147(1A)(b):

Omit “person or the person’s”, substitute “woman or the woman’s”.

Paragraph 147(1A)(c):

Omit “person”, substitute “woman”.

Section 147:

Add at the end:

“Note: a woman who is receiving a wife pension may be automatically transferred to the age pension if the woman becomes qualified for the age pension (see subsection 48(3)).”.

Subsection 148(1):

Omit “person” (wherever occurring), substitute “woman”.

Paragraphs 148(1)(b) and (ba):

Omit “person’s”, substitute “woman’s”.

Subsection 148(2):

- (a) Omit “person”, substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Section 149:

- (a) Omit “person”, substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Subsection 150(1):

- (a) Omit “person’s”, substitute “woman’s”.
- (b) Omit “person”, substitute “woman”.

Subsection 150(2):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Subsection 150(3):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Subsection 150(4):

- (a) Omit “person”, substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.
- (c) Omit “he or she”, substitute “the woman”.

Subsection 150A(1):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s” (wherever occurring), substitute “woman’s”.

SCHEDULE 1—continued

Subsection 150A(2):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s” (wherever occurring), substitute “woman’s”.

Subsection 150A(3):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 150A(3)(a):

Omit “person’s”, substitute “woman’s”.

Subsection 150B(1):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 150B(1)(a):

Omit “person’s”, substitute “woman’s”.

Subsection 150B(2):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 150B(3):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 150B(4):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 151(1):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 151(2):

Omit “person” (wherever occurring), substitute “woman”.

Section 151 (Note 1):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 152(1):

Omit “person”, substitute “woman”.

Subsection 152(2):

Omit “person” (wherever occurring), substitute “woman”.

Section 155:

Omit “person” (wherever occurring), substitute “woman”.

Section 155 (Note 2):

Omit “person”, substitute “woman”.

SCHEDULE 1—continued

Paragraph 157(a):

Omit “person”, substitute “woman”.

Subsection 158(2):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 158(2)(a):

Omit “person’s”, substitute “woman’s”.

Subsection 158(3):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 158(3)(a):

Omit “person’s”, substitute “woman’s”.

Subsection 158(4):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 158(4)(a):

Omit “person’s”, substitute “woman’s”.

Section 159:

Omit “person’s”, substitute “woman’s”.

Section 160:

Omit “person” (wherever occurring), substitute “woman”.

Subsection 161(1):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 161(2):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 162(a):

Omit “person”, substitute “woman”.

Paragraph 162(b):

Omit “person’s”, substitute “woman’s”.

Subsection 163(2):

Omit “person”, substitute “woman”.

Subsection 163(3):

Omit “person”, substitute “woman”.

SCHEDULE 1—continued

Subsection 164(1):

Omit “person” (first occurring), substitute “woman”.

Paragraph 164(1)(a):

(a) Omit “person’s”, substitute “woman’s”.

(b) Omit “person” (second occurring), substitute “woman”.

Paragraph 164(1)(b):

Omit “person”, substitute “woman”.

Subsection 165(1):

(a) Omit “person’s”, substitute “woman’s”.

(b) Omit “person”, substitute “woman”.

Subsection 165(2):

(a) Omit “person’s”, substitute “woman’s”.

(b) Omit “person”, substitute “woman”.

Subsection 166(1):

Omit “person”, substitute “woman”.

Subsection 166(2):

Omit “person”, substitute “woman”.

Subsection 166(3):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 166(4):

Omit “person”, substitute “woman”.

Paragraph 166(5)(b):

Omit “person”, substitute “woman”.

Subsection 166(6):

Omit “person”, substitute “woman”.

Paragraphs 169(1)(a), (b) and (c):

Omit “person”, substitute “woman”.

Paragraph 169(1)(c):

Omit “person’s”, substitute “woman’s”.

Subsection 170(2):

(a) Omit “person”, substitute “woman”.

(b) Omit “the recipient”, substitute “she”.

SCHEDULE 1—continued

Subsection 172(1):

Omit “person” (wherever occurring), substitute “woman”.

Paragraphs 172(3)(c) and (d):

Omit “person”, substitute “woman”.

Paragraph 172(4)(b):

Omit “person”, substitute “woman”.

After subsection 172(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 172(5):

(a) Omit “person” (wherever occurring), substitute “woman”.

(b) After “not” insert “, without reasonable excuse,”.

Subsection 172(6):

Omit “person”, substitute “woman”.

Subsection 173(1):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 173(2)(d):

Omit “person”, substitute “woman”.

Subsection 173(5):

(a) Omit “person” (wherever occurring), substitute “woman”.

(b) After “not” insert “, without reasonable excuse,”.

Subsection 173(6):

Omit “person”, substitute “woman”.

Subsection 174(1):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 174(2):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 175(1)(a):

Omit “person’s”, substitute “woman’s”.

Paragraph 175(1)(b):

Omit “person”, substitute woman”.

SCHEDULE 1—continued

Section 175A:

Omit “person” (wherever occurring), substitute “woman”.

Section 175B:

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 175B(a):

Omit “person’s”, substitute “woman’s”.

Paragraphs 176(a), (b) and (d):

Omit “person”, substitute “woman”.

Subparagraphs 176(e)(i) and (ii):

Omit “person”, substitute “woman”.

Section 176:

Omit “person” (second last and last occurring), substitute “woman”.

Section 176 (Note):

(a) Omit “person”, substitute “woman”.

(b) Omit “person’s”, substitute “woman’s”.

Paragraphs 177(a), (b) and (d):

Omit “person” substitute “woman”.

Subparagraphs 177(e)(i) and (ii):

Omit “person”, substitute “woman”.

Section 177:

Omit “person” (last occurring), substitute “woman”.

Paragraphs 178(a), (b) and (d):

Omit “person”, substitute “woman”.

Paragraph 178(e):

Omit “person’s”, substitute “woman’s”.

Section 178:

Omit “person” (last occurring), substitute “woman”.

Paragraphs 179(a), (b), (c) and (d):

Omit “person”, substitute “woman”.

Section 179:

(a) Omit “person” (last occurring), substitute “woman”.

(b) Omit “person’s”, substitute “woman’s”.

SCHEDULE 1—continued

Section 182:

Omit “person”, substitute “woman”.

Section 182A:

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 182B(a):

Omit “person”, substitute “woman”.

Paragraph 183(1)(a):

Omit “person’s”, substitute “woman’s”.

Subparagraphs 183(1)(c)(i) and (ii):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 183(1):

Omit “person” (last occurring), substitute “woman”.

Paragraph 184(2)(a):

Omit “person’s”, substitute “woman’s”.

Paragraphs 184(2)(b) and (c):

Omit “person” (wherever occurring), substitute “woman”.

Paragraphs 184(3)(b) and (c):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 184(3):

Omit “person” (last occurring), substitute “woman”.

Paragraphs 184(4)(b) and (c):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 184(5)(a):

Omit “person”, substitute “woman”.

Paragraph 184(5)(b):

Omit “person’s” substitute “woman’s”.

Paragraph 185(4)(a):

Omit “person”, substitute “woman”.

Subsection 185(5):

Omit “person” (wherever occurring), substitute “woman”.

SCHEDULE 1—continued

Subsection 185(6):

Omit “person” (wherever occurring), substitute “woman”.

Paragraphs 186(1)(a) and (c):

Omit “person”, substitute “woman”.

Paragraph 186(1)(b):

Omit “person’s”; substitute “woman’s”.

Subsection 186(1):

Omit “person” (second occurring), substitute “woman”.

Section 187:

(a) Omit “person’s”, substitute “woman’s”.

(b) Omit “person” (wherever occurring), substitute “woman”.

Subsection 188(1):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 188(1)(b):

Omit “person’s”, substitute “woman’s”.

Subsection 188(1) (Note 1):

(a) Omit “person”, substitute “woman”.

(b) Omit “person’s”, substitute “woman’s”.

Subsection 188(1) (Note 2):

Omit “person’s”, substitute “woman’s”.

Subsection 188(2):

Omit “person”, substitute “woman”.

Paragraph 188(3)(b):

Omit “person”, substitute “woman”.

Section 189:

(a) Omit “person” (wherever occurring), substitute “woman”.

(b) Omit “person’s” (wherever occurring), substitute “woman’s”.

Section 190:

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 190(a):

Omit “person’s”, substitute “woman’s”.

SCHEDULE 1—continued

Section 190 (Lump Sum Calculator—Method statement—Step 1):

- (a) Omit “person”, substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Section 190 (Lump Sum Calculator—Method statement—Step 2):

Omit “person’s”, substitute “woman’s”.

Section 190 (Lump Sum Calculator—Method statement—Step 4):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Section 190 (Lump Sum Calculator—Method statement—Step 5):

Omit “person’s”, substitute “woman’s”.

Section 190 (Lump Sum Calculator—Method statement—Step 7):

Omit “person”, substitute “woman”.

Paragraph 191(a):

- (a) Omit “person”, substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Paragraph 191(b):

Omit “person”, substitute “woman”.

Paragraph 191(c):

- (a) Omit “person’s”, substitute “woman’s”.
- (b) Omit “person”, substitute “woman”.

Section 191 (Lump Sum Calculator—Method statement—Step 1):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Section 191 (Lump Sum Calculator—Method statement—Step 2):

Omit “person” substitute “woman”.

Section 191 (Lump Sum Calculator—Method statement—Step 4):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Section 191 (Lump Sum Calculator—Method statement—Step 5):

Omit “person’s” substitute “woman’s”.

Section 191 (Lump Sum Calculator—Method statement—Step 6):

Omit “person” substitute “woman”.

SCHEDULE 1—continued

Subsection 192(1):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s” (wherever occurring), substitute “woman’s”.

Subsection 192(2):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s” (wherever occurring), substitute “woman’s”.

Subsection 193(1):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 193(1)(c):

Omit “person’s”, substitute “woman’s”.

Subsection 193(2):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 193(2) (Note 1):

- (a) Omit “person”, substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Subsection 193(2) (Note 2):

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s” (wherever occurring), substitute “woman’s”.

Section 194:

- (a) Omit “person”, substitute “woman”.
- (b) Omit “person’s” (wherever occurring), substitute “woman’s”.

Section 195:

Omit “person” (wherever occurring), substitute “woman”.

Section 195 (Note):

Omit “person” (first occurring), substitute “woman”.

Section 195 (Lump Sum Calculator—Method statement—Step 1):

Omit “person”, substitute “woman”.

Section 195 (Lump Sum Calculator—Method statement—Step 2):

- (a) Omit “person”, substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Section 195 (Lump Sum Calculator—Method statement—Step 5):

Omit “person”, substitute “woman”.

SCHEDULE 1—continued

Section 195A:

- (a) Omit “person” (wherever occurring), substitute “woman”.
- (b) Omit “person’s” (wherever occurring), substitute “woman’s”.

Section 196:

Omit “person” (wherever occurring), substitute “woman”.

Section 196 (Note):

Omit “person” (wherever occurring), substitute “woman”.

Subsection 197(1):

- (a) Omit “person”, substitute “woman”.
- (b) Omit “person’s”, substitute “woman’s”.

Subsection 197(2):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 197(2)(b):

Omit “person’s”, substitute “woman’s”.

Subsection 197(3):

Omit “person” (wherever occurring), substitute “woman”.

Paragraph 197(3)(b):

Omit “person’s”, substitute “woman’s”.

Section 198:

Add at the end:

“Note: a person who is receiving a carer pension may be automatically transferred to the age pension if the person becomes qualified for the age pension (see subsection 48(3)).”.

After subsection 222(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 222(5):

After “not” insert “, without reasonable excuse,”.

Subsection 223(5):

After “not” insert “, without reasonable excuse,”.

SCHEDULE 1—continued

Section 249:

Add at the end:

“Note: a person who is receiving a sole parent pension may be automatically transferred to the age pension if the person becomes qualified for the age pension (see subsection 48(3)).”.

Subsection 250(1):

Add at the end:

“Note: for ‘young person’ see section 5.”.

Paragraph 250(2)(b):

Omit “wages”, substitute “employment”.

Subsection 250(2):

Add at the end:

“Note 3: for ‘young person’ see section 5.”.

Subsection 251(1):

Add at the end:

“Note: for ‘young person’ see section 5.”.

Subsection 251(2):

Add at the end:

“Note: for ‘young person’ see section 5.”.

After subsection 284(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 284(5):

After “not” insert “, without reasonable excuse,”.

Subsection 285(5):

After “not” insert “, without reasonable excuse,”.

Section 297:

Add at the end:

“Note: if a person seeks review of a cancellation decision under this section, a payment of the sole parent pension may be continued pending the outcome of the review. If the application for review is made within 14 days of notification of the decision, continued payment will be automatic (see section 1242 (Internal Review) and section 1252 (Review by Social Security Appeals Tribunal)). If the application is made after that time, continued payment is at the Secretary’s discretion (see section 1241 (Internal Review) and section 1251 (Review by Social Security Appeals Tribunal)).”.

SCHEDULE 1—continued

Subsection 300(1):

Omit the Note, substitute:

“Note: if the adverse determination depends on a discretion or opinion and a person affected by the determination applies for review, the Secretary may continue payment pending the outcome of the review (see section 1241 (Internal Review) and section 1251 (Review by Social Security Appeals Tribunal)).”.

Section 315:

Add at the end:

“Note: a person who is receiving a widowed person allowance may be automatically transferred to the age pension if the person becomes qualified for the age pension (see subsection 48(3)).”.

After subsection 341(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 341(5):

After “not” insert “, without reasonable excuse,”.

Subsection 342(5):

After “not” insert “, without reasonable excuse,”.

Section 362:

Add at the end:

“Note: a person who is receiving a widow B pension may be automatically transferred to the age pension if the person becomes qualified for the age pension (see subsection 48(3)).”.

Subsection 387(2):

- (a) Omit “person”, substitute “woman”.
- (b) Omit “the recipient”, substitute “she”.

After subsection 389(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 389(5):

After “not” insert “, without reasonable excuse,”.

Subsection 390(5):

After “not” insert “, without reasonable excuse,”.

SCHEDULE 1—continued

After subsection 574(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 574(5):

After “not” insert “, without reasonable excuse,”.

Subsection 575(5):

After “not” insert “, without reasonable excuse,”.

Subsection 623(5):

After “is to be” insert “reduced by a period equivalent to”.

After subsection 657(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 657(5):

After “not” insert “, without reasonable excuse,”.

Subsection 658(5):

After “not” insert “, without reasonable excuse,”.

After paragraph 663(2)(a):

Insert:

“(aa) the person has not turned 18; and”.

After subsection 727(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 727(5):

After “not” insert “, without reasonable excuse,”.

Subsection 728(5):

After “not” insert “, without reasonable excuse,”.

SCHEDULE 1—continued

After subsection 759(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 759(5):

After “not” insert “, without reasonable excuse,”.

Subsection 760(5):

After “not” insert “, without reasonable excuse,”.

Section 773:

Add at the end:

“Note: a person who is receiving a special needs disability support pension may be automatically transferred to the special needs age pension if the person becomes qualified for the special needs age pension (see subsection 789(3)).”.

Section 774:

Add at the end:

“Note 2: a person who is receiving a special needs wife pension may be automatically transferred to the special needs age pension if the person becomes qualified for the special needs age pension (see subsection 789(3)).”.

Section 775:

Add at the end:

“Note 2: a person who is receiving a special needs sole parent pension may be automatically transferred to the special needs age pension if the person becomes qualified for the special needs age pension (see subsection 789(3)).”.

Paragraph 776(2)(b):

Omit “wages”, substitute “employment”.

Paragraph 776(2)(c):

Omit “\$100”, substitute “\$107.70”.

Subsection 776(2):

Add at the end:

“Note 3: the amount in paragraph (c) is indexed annually in line with CPI increases (see sections 1191 to 1194).”.

Section 778:

Add at the end:

“Note 2: a person who is receiving a special needs widow B pension may be automatically transferred to the special needs age pension if the person becomes qualified for the special needs age pension (see subsection 789(3)).”.

SCHEDULE 1—continued

Subsection 784(1):

Omit “and (3)”, substitute “, (3) and (4)”.

Section 784:

Add at the end:

“(4) If a person is not required to make a claim for the special needs age pension because of subsection 789(3), the person’s provisional commencement day is the day on which the person becomes qualified for the special needs age pension.”.

Subsection 789(1):

Omit “A”, substitute “Subject to subsection (3), a”.

Section 789:

Add at the end:

“(3) If:

- (a) a person is receiving a special needs disability support pension, a special needs wife pension or a special needs sole parent pension; and
- (b) the person becomes qualified for a special needs age pension; and
- (c) the Secretary determines that the person is to be automatically transferred to the special needs age pension;

the person does not have to make a claim for the special needs age pension.”.

After subsection 808(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 808(5):

After “not” insert “, without reasonable excuse,”.

Subsection 809(5):

After “not” insert “, without reasonable excuse,”.

After subsection 873(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

SCHEDULE 1—continued

Subsection 873(5):

After “not” insert “, without reasonable excuse,”.

Subsection 874(5):

After “not” insert “, without reasonable excuse,”.

After subsection 930(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 930(5):

After “not” insert “, without reasonable excuse,”.

Subsection 931(5):

After “not” insert “, without reasonable excuse,”.

After subsection 978(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 978(5):

After “not” insert “, without reasonable excuse,”.

Subsection 979(5):

After “not” insert “, without reasonable excuse,”.

Subsection 991(1):

Add at the end:

“Note: for ‘young person’ see section 5.”.

Subsection 991(2):

Add at the end:

“Note 2: for ‘young person’ see section 5.”.

Subsection 992AA(1):

Add at the end:

“Note: for ‘young person’ see section 5.”.

SCHEDULE 1—continued

Subsection 992AA(2):

Add at the end:

“Note: for ‘young person’ see section 5.”.

Subsection 993(1):

Add at the end:

“Note 3: if the young person does not qualify as a double orphan under this subsection, and the young person is a refugee child, the young person may qualify as a double orphan under section 994.”.

Subsection 993(2):

Add at the end:

“Note 6: if the young person does not qualify as a double orphan under this subsection, and the young person is a refugee child, the young person may qualify as a double orphan under section 994.”.

Section 994:

Add at the end:

“Note 6: if the young person does not qualify as a double orphan under this section, and the young person is not a refugee child, the young person may qualify as a double orphan under section 993.”.

After subsection 1023(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 1023(5):

After “not” insert “, without reasonable excuse,”.

Subsection 1024(5):

After “not” insert “, without reasonable excuse,”.

After subsection 1054(4):

Insert:

“(4A) If a notice requires the person to inform the Department of any proposal by the person to leave Australia, subsection (4) does not apply to that requirement.”.

Subsection 1054(5):

After “not” insert “, without reasonable excuse,”.

Subsection 1055(5):

After “not” insert “, without reasonable excuse,”.

SCHEDULE 1—continued

After section 1061E:

Insert in Part 2.22:

“Division 4—Protection of pharmaceutical allowance

Pharmaceutical allowance to be absolutely inalienable

“1061EA.(1) Subject to subsections (2) and (3) and section 1359, pharmaceutical allowance is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

Payments to Commissioner of Taxation at recipient’s request

“(2) The Secretary may make deductions from the instalments of pharmaceutical allowance payable to a person where the recipient asks the Secretary:

- (a) to make the deductions; and
- (b) to pay the amounts to be deducted to the Commissioner of Taxation.

Note: the Secretary must make deductions from a person’s pension, benefit or allowance if requested by the Commissioner of Taxation (see section 1359).

Deductions from instalments with recipient’s consent

“(3) The Secretary may make deductions from the instalments of pharmaceutical allowance payable to a person if the person consents under section 1234A to the Secretary making the deductions.

Note: section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a pension, benefit or allowance.”.

Effect of garnishee or attachment order

“1061EB.(1) If:

- (a) a person has an account with a financial institution; and
- (b) instalments of pharmaceutical allowance payable to the person (whether on the person’s own behalf or not) are being paid to the credit of that account; and
- (c) a court order in the nature of a garnishee order comes into force in respect of the account;

the court order does not apply to the saved amount (if any) in the account.

SCHEDULE 1—continued

“(2) The saved amount is worked out as follows:

Method statement

- Step 1.* Work out the total amount of pharmaceutical allowance payable to the person that has been paid to the credit of the account during the 4 week period immediately before the court order came into force.
- Step 2.* Subtract from that amount the total amount withdrawn from the account during the same 4 week period: the result is the **saved amount**.

“(3) This section applies to an account whether it is maintained by a person:

- (a) alone; or
- (b) jointly with another person; or
- (c) in common with another person.”.

Section 1064 (Pension Rate Calculator A—point 1064-E12—Note):

Omit “Note”, substitute “Note 1”.

Section 1064 (Pension Rate Calculator A—point 1064-E12):

Add at the end:

“Note 2: this point is used for working out the DC excess and remaining excess for a person covered by item 5 of Table E-2. It is also used for working out the remaining excess for a person covered by item 6 of Table E-2.”.

Section 1064 (Pension Rate Calculator A—point 1064-F13—Note):

Omit “Note”, substitute “Note 1”.

Section 1064 (Pension Rate Calculator A—point 1064-F13):

Add at the end:

“Note 2: this point is used for working out the DC excess and remaining excess for a person covered by item 5 of Table F-2. It is also used for working out the remaining excess for a person covered by item 6 of Table F-2.”.

Section 1064 (Pension Rate Calculator A—point 1064-G6—Note):

Omit “Note”, substitute “Note 1”.

Section 1064 (Pension Rate Calculator A—point 1064-G6):

Add at the end:

“Note 2: this point is used for working out the DC excess and remaining excess for a person covered by item 5 of Table G-2. It is also used for working out the remaining excess for a person covered by item 6 of Table G-2.”.

SCHEDULE 1—continued

Subsection 1080(1):

Before “income” insert “ordinary”.

Subsection 1080(4):

Before “income” insert “ordinary”.

Subsection 1095(1):

Before “income” insert “ordinary”.

Subsection 1095(4):

Before “income” insert “ordinary”.

Section 1115 (Earnings Credit Account Balance Calculator—point 1115-C1—Note 1):

Omit “1115-A4”, substitute “1115-A6”.

Subsection 1118(4):

(a) Omit “1145”, substitute “1145A”.

(b) Omit “(retirement villages)”, substitute “(special residences)”.

Subsection 1121(6):

(a) Omit “1145”, substitute “1145A”.

(b) Omit “(retirement villages)”, substitute “(special residences)”.

Heading to Division 5 of Part 3.12:

Omit the heading, substitute:

“Division 5—Provisions relating to special residences and special residents”.

Section 1146:

Omit “retirement village or granny flat”, substitute “special”.

Subsection 1163(5) (Note):

Omit “section 23 of the *Social Security Amendment Act 1988*”, substitute “clause 25A of Schedule 1A”.

Paragraph 1174(1)(b):

Omit “lump sum payment”, substitute “lump sum preclusion”.

Paragraph 1174(4)(a):

Omit “lump sum payment”, substitute “lump sum preclusion”.

Paragraph 1174(5)(b):

Omit “lump sum payment”, substitute “lump sum preclusion”.

SCHEDULE 1—continued

Paragraph 1174(5)(c):

Omit “lump sum payment”, substitute “lump sum preclusion”.

Paragraph 1174(6)(b):

Omit “lump sum payment”, substitute “lump sum preclusion”.

Paragraph 1174(6)(c):

Omit “lump sum payment”, substitute “lump sum preclusion”.

Paragraph 1179(1)(b):

Omit “lump sum payments”, substitute “lump sum preclusion”.

Paragraph 1179(4)(a):

Omit “lump sum payment”, substitute “lump sum preclusion”.

Paragraph 1179(5)(b):

Omit “lump sum payments”, substitute “lump sum preclusion”.

Paragraph 1179(5)(c):

Omit “lump sum payment”, substitute “lump sum preclusion”.

Paragraph 1179(6)(b):

Omit “lump sum payments”, substitute “lump sum preclusion”.

Paragraph 1179(6)(c):

Omit “lump sum payment”, substitute “lump sum preclusion”.

Section 1190 (Table—item 34—columns 2 and 3):

Omit “retirement village”, substitute “special”.

Section 1206A (Note 1):

Omit “subsection 1061D(2)”, substitute “section 1061C”.

Subsection 1210(2):

Omit the subsection.

**Section 1210 (International Agreement Portability Rate Calculator—
point 1210-A1—Method statement—Step 3):**

Omit the Step, substitute:

“Step 3. Work out the rate that would be the person’s pension or allowance rate if this Rate Calculator did not apply to the person: the result is called the person’s **notional domestic rate**.

Note 1: for the treatment of income of the person see point 1210-A2.

Note 2: because the person is outside Australia he or she does not receive any rent assistance (see the relevant Rate Calculators).

Note 3: the rate is not proportioned (see subsections 1220B(1A) and 1221(3)).”.

SCHEDULE 1—continued

**Section 1210 (International Agreement Portability Rate Calculator—
after point 1210-A1):**

Insert:

Amounts to be treated as income

“1210-A2. If the scheduled international social security agreement concerned:

- (a) provides that certain amounts are to be treated as income of the person—those amount are to be treated as income of the person; and
- (b) provides that certain amounts are to be treated as not being income of the person—those amounts are to be treated as not being income of the person.”.

Subsection 1220B(1):

After “subsections” insert “(1A),”.

After subsection 1220B(1):

Insert:

“(1A) This section does not apply to a person if section 1210 applies to the person.”.

Subsection 1221(1):

Omit “This”, substitute “Subject to subsection (3), this”.

Section 1221:

Add at the end:

“(3) This section does not apply to a person if section 1210 applies to the person.”.

Subsection 1222(2) (Table):

Omit:

“

item	debt	means	provision
------	------	-------	-----------

 ”, substitute:

“

column 1	column 2	column 3	column 4
item	debt	means	provision

 ”.

SCHEDULE 1—continued

Subsection 1222(2) (Table—item 6):

Omit the item, substitute:

“

6.	1225 (compensation debt)	deductions legal proceedings garnishee notice	1231, 1234A 1232 1233
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”

Subsection 1222(2) (Table—item 8):

Omit the item, substitute:

“

8.	1227 (assurance of support debt)	deductions legal proceedings garnishee notice	1231, 1234A 1232 1233
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”

Section 1222A:

Omit the section, substitute:

Debts due to the Commonwealth

“1222A. If an amount has been paid by way of pension, benefit or allowance under this Act or the 1947 Act, the amount is a debt due to the Commonwealth if, and only if:

- (a) a provision of this Act or the 1947 Act expressly provides that it is; or
- (b) the amount:
 - (i) should not have been paid; and
 - (ii) was paid before 1 January 1991; and
 - (iii) was not an amount to which subsection 245B(2) of the 1947 Act applied.

Note 1: for the provisions of this Act that create debts due to the Commonwealth see sections 1135, 1223, 1223AA, 1223A, 1224, 1225 and 1226.

Note 2: paragraph 1222A(b) covers some debts under the 1947 Act which arose from amounts that stopped being paid to a person before 1 January 1991.”

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

Omit “and”.

Paragraph 1224(1)(c):

Omit the paragraph.

SCHEDULE 1—continued

After paragraph 1225(1)(b):

Insert:

“; or (c) garnishee notice.”.

Subsection 1225(1):

(a) After Note 3, insert:

“Note 4: for ‘garnishee notice’ see section 1233.”.

(b) Renumber Note 4 as Note 5.

After paragraph 1227(1)(aa):

Insert:

“(ab) legal proceedings; or”.

Subsection 1227(2) (Notes):

After Note 2, insert:

“Note 3: for ‘legal proceedings’ see section 1232.”.

Subsection 1227(2) (Notes):

(a) Renumber Note 3 as Note 4.

(b) Renumber Note 4 as Note 5.

Subsection 1229(1):

Omit “a penalty”, substitute “an additional”.

Subsection 1229(2):

Omit “penalty”, substitute “additional”.

Subsection 1233(1):

After “1224A,” insert “1225,”.

Subsection 1233(1):

Add at the end:

“; or (g) such percentage as is specified in the notice of each payment that the person becomes liable from time to time to make to the debtor until that debt is satisfied.”.

Subsection 1234(3):

(a) Omit “includes”, substitute “means”.

(b) Before paragraph (a), insert:

“(aa) a debt recoverable by the Commonwealth under Part 5.2; and”.

(c) Add at the end:

“Note: overpayments under section 1228 are not debts for the purposes of Part 5.2.”.

SCHEDULE 1—continued

Section 1235:

- (a) Omit “includes”, substitute “means”.
- (b) Before paragraph (a), insert:
 - “(aa) a debt recoverable by the Commonwealth under Part 5.2; and”.
- (c) Add at the end:

“Note: overpayments under section 1228 are not debts for the purposes of Part 5.2.”

Paragraph 1304(7)(a):

Before “refuse”, insert “without reasonable excuse,”.

Paragraph 1305(5)(a):

Before “refuse”, insert “without reasonable excuse,”.

Paragraph 1306(5)(a):

Before “refuse”, insert “without reasonable excuse,”.

Paragraph 1307(10)(a):

Before “refuse”, insert “without reasonable excuse,”.

Paragraph 1358(a):

After “1351(1)(b)”, insert “or subsection 239(7) of the 1947 Act”.

PART 2—AMENDMENTS COMMENCING ON 1 JULY 1991

Subsection 5(1) (definition of “maintained child”):

Omit the definition, substitute:

“‘**maintained child**’ has the meaning given by subsections (9A) and (9B);”.

After subsection 5(9):

Insert:

“(9A) For the purposes of this Act, a **maintained child**, in relation to a person, means a young person who:

- (a) is not a dependent child of the person; and
- (b) is being wholly or substantially maintained by the person.

“(9B) For the purposes of this Act, a young person is not to be treated as a **maintained child** of another person (in this subsection called the ‘**adult**’) unless:

- (a) if the adult is an Australian resident:
 - (i) the young person is an Australian resident; or
 - (ii) the young person is living with the adult; or

SCHEDULE 1—continued

(b) if the adult is not an Australian resident:

- (i) the young person is an Australian resident; or
- (ii) the young person has been an Australian resident and is living with the adult outside Australia; or
- (iii) the young person had been living with the adult in Australia and is living with the adult outside Australia.

Note: for 'Australian resident' see subsection 7(2)."

Paragraph 7(3)(d):

Omit "property", substitute "assets".

Subsection 23(1) (definition of "receive"):

Omit "and (4)", substitute ", (4) and (4AA)".

Subsection 23(2):

Omit the subsection, substitute:

"(2) For the purposes of this Act (other than section 735), a person is taken to be **receiving** a payment under this Act from the earliest day on which the payment is payable to the person even if the first instalment of the payment is not paid until a later day."

After subsection 23(4):

Insert:

"(4AA) For the purposes of this Act, a person is taken to be **receiving** a payment (other than a social security pension or a social security benefit) until the latest day on which the payment is payable to the person even if the last instalment of the payment is not paid until a later day."

Subsection 80(5):

Omit "If", substitute "Subject to subsection (5A), if".

After subsection 80(5):

Insert:

"(5A) If:

- (a) the favourable determination is made following the death of the person's partner; and
- (b) the favourable determination is made because the person elects not to receive bereavement payments; and
- (c) within the bereavement period:
 - (i) the person notifies the Department orally or in writing of their partner's death; or
 - (ii) the Secretary otherwise becomes aware of the death;

SCHEDULE 1—continued

the determination takes effect on the day after the day on which the partner died.”.

Subsection 82(2):

Add at the end:

“Note: if a person makes an election, the date of effect of any determination to increase the person’s rate of age pension may, in some circumstances, be the day after the day on which the person’s partner died (see subsection 80(5A)).”.

Sub-subparagraph 91(1)(b)(ii)(B):

Omit the sub-subparagraph.

Subsection 146D(5):

Omit “If”, substitute “Subject to subsection (5A), if”.

After subsection 146D(5):

Insert:

“(5A) If:

- (a) the favourable determination is made following the death of the person’s partner; and
- (b) the favourable determination is made because the person elects not to receive bereavement payments; and
- (c) within the bereavement period:
 - (i) the person notifies the Department orally or in writing of their partner’s death; or
 - (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day after the day on which the partner died.”.

Subsection 146F(2):

Add at the end:

“Note: if a person makes an election, the date of effect of any determination to increase the person’s rate of age pension may, in some circumstances, be the day after the day on which the person’s partner died (see subsection 146D(5A)).”.

Sub-subparagraph 146Q(1)(b)(ii)(B):

Omit the sub-subparagraph.

Subsection 233(5):

Omit “If”, substitute “Subject to subsection (5A), if”.

SCHEDULE 1—continued

After subsection 233(5):

Insert:

“(5A) If:

- (a) the favourable determination is made following the death of the person’s partner; and
- (b) the favourable determination is made because the person elects not to receive bereavement payments; and
- (c) within the bereavement period:
 - (i) the person notifies the Department orally or in writing of their partner’s death; or
 - (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day after the day on which the partner died.”.

Subsection 237(2):

Add at the end:

“Note: if a person makes an election, the date of effect of any determination to increase the person’s rate of age pension may, in some circumstances, be the day after the day on which the person’s partner died (see subsection 233(5A)).”.

Sub-subparagraph 246(1)(b)(ii)(B):

Omit the sub-subparagraph.

Subsection 299(5):

Omit “If”, substitute “Subject to subsection (5A), if”.

After subsection 299(5):

Insert:

“(5A) If:

- (a) the favourable determination is made following the death of the person’s partner; and
- (b) the favourable determination is made because the person elects not to receive bereavement payments; and
- (c) within the bereavement period:
 - (i) the person notifies the Department orally or in writing of their partner’s death; or
 - (ii) the Secretary otherwise becomes aware of the death; and

(d) before the partner’s death, subparagraph 249(1)(a)(iv) (illness separated couple) applied to the person and the person’s partner; the determination takes effect on the day after the day on which the partner died.”.

SCHEDULE 1—continued

Section 301:

Add at the end:

“Note: for the continued sole parent pension rate where this section applies to a person see section 310.”.

Section 302:

Omit the section.

Subsection 303(2):

Add at the end:

“Note: if a person makes an election, the date of effect of any determination to increase the person’s rate of sole parent pension may, in some circumstances, be the day after the day on which the person’s partner died (see subsection 299(5A)).”.

Paragraph 309(1)(c):

Omit “and”.

Paragraph 309(1)(d):

Omit the paragraph.

Sub-subparagraph 312(1)(b)(ii)(B):

Omit the sub-subparagraph.

Subsection 447(5):

Omit “If”, substitute “Subject to subsection (5A), if”.

After subsection 447(5):

Insert:

“(5A) If:

- (a) the favourable determination is made following the death of the person’s partner; and
- (b) the favourable determination is made because the person elects not to receive bereavement payments; and
- (c) within the bereavement period:
 - (i) the person notifies the Department orally or in writing of their partner’s death; or
 - (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day after the day on which the partner died.”.

Subsection 449(3):

Add at the end:

“Note: if a person makes an election, the date of effect of any determination to increase the person’s rate of sheltered employment allowance may, in some circumstances, be the day after the day on which the person’s partner died (see subsection 447(5A)).”.

SCHEDULE 1—continued

Sub-subparagraph 458(1)(b)(ii)(B):

Omit the sub-subparagraph.

Subsection 499(5):

Omit “If”, substitute “Subject to subsection (5A), if”.

After subsection 499(5):

Insert:

“(5A) If:

- (a) the favourable determination is made following the death of the person’s partner; and
- (b) the favourable determination is made because the person elects not to receive bereavement payments; and
- (c) within the bereavement period:
 - (i) the person notifies the Department orally or in writing of their partner’s death; or
 - (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day after the day on which the partner died.”.

Subsection 501(3):

Add at the end:

“Note: if a person makes an election, the date of effect of any determination to increase the person’s rate of rehabilitation allowance may, in some circumstances, be the day after the day on which the person’s partner died (see subsection 499(5A)).”.

Sub-subparagraph 510(1)(b)(ii)(B):

Omit the sub-subparagraph.

After subsection 532(3):

Insert:

“(3A) A job search allowance is not payable to a man if:

- (a) the man is an armed services widower; and
- (b) the man is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.

Note: for ‘armed services widower’ see subsection 4(1).”.

Paragraph 538(c):

Omit the paragraph, substitute:

“(c) the following circumstances apply:

- (i) the person has not turned 18; and
- (ii) the person has been registered for longer than 12 months

SCHEDULE 1—continued

- by the CES in an allowance category as being unemployed; and
- (iii) at some time in the 13 weeks immediately before the person's provisional commencement day, a job search allowance stopped being payable to the person; and
 - (iv) at no time during that 13 weeks:
 - (A) was a period of non-payment imposed on the person under Subdivision E (recipient non-compliance); or
 - (B) would a period of non-payment have been imposed on the person under that Subdivision if the person had claimed job search allowance; or”.

Paragraph 620(d):

Omit the paragraph, substitute:

“(d) the following circumstances apply:

- (i) at some time in the 13 weeks immediately before the person's provisional commencement day, a newstart allowance stopped being payable to the person; and
- (ii) at no time during the 13 weeks:
 - (A) was a period of non-payment imposed on the person under Subdivision F (recipient non-compliance); or
 - (B) would a period of non-payment have been imposed on the person under that Subdivision if the person had claimed newstart allowance; or”.

Subparagraph 661(2)(d)(ii):

Omit “person”, substitute “partner”.

Subparagraph 663(2)(c)(ii):

Omit “person”, substitute “partner”.

Sub-subparagraph 830(1)(b)(ii)(B):

Omit the sub-subparagraph.

Section 1067 (Benefit Rate Calculator A—paragraph 1067-G2(e)):

Omit “an income test parent”, substitute “a parent”.

After subsection 1131(1):

Insert:

“(1A) In subsection (1):
‘assets test’ does not include the parental means test in section 1067 (Benefit Rate Calculator A).”.

SCHEDULE 1—continued

Paragraph 1131(2)(b):

Omit the paragraph, substitute:

“(b) the rate of which is not less than the rate of newstart allowance or job search allowance that would be applicable to the person if that allowance were payable to the person.”.

Section 1221 (except the Pension Portability Rate Calculator):

Omit the section, substitute:

Pensions paid outside Australia

“1220A. If section 1220B or 1221 applies to a person, the person’s pension or allowance rate is to be the portability rate calculated using the Pension Portability Rate Calculator at the end of section 1221.

Note: paragraph 1220B(1)(d) gives priority to section 1221 if sections 1220B and 1221 could both apply to a person. If on its face section 1221 applies to a person, subsections 1220B(2), (3) and (5) are irrelevant in working out whether section 1221 applies to the person.

Rate of pensions paid outside Australia—general

“1220B.(1) Subject to subsections (2), (3), (4) and (5), this section applies to a person if:

- (a) the person commenced or commences to receive:
 - (i) an age pension; or
 - (ii) an invalid pension; or
 - (iii) a wife pension; or
 - (iv) a sole parent pension; or
 - (v) a widowed person allowance; or
 - (vi) a widow B pension;after 1 July 1986; and
- (b) the person left or leaves Australia after commencing to receive the pension or allowance; and
- (c) the person continues to be absent from Australia for more than 12 months; and
- (d) section 1221 (certain wife pensioners and widow B pensioners) does not apply to the person.

“(2) This section does not apply to a person if:

- (a) the person was an Australian resident on 8 May 1985; and
- (b) the person commences to receive the pension or allowance before 1 January 1996; and
- (c) the person’s absence from Australia commenced before 1 January 1996.

“(3) This section does not apply to a person if:

- (a) the person was an Australian resident on 8 May 1985; and

SCHEDULE 1—continued

(b) the person is in a country with which Australia does not have an agreement that affects the operation of this Act.

“(4) This section does not apply to a person if:

- (a) the person is receiving an invalid pension; and
- (b) the person became qualified to receive the invalid pension because of becoming permanently incapacitated for work or permanently blind while the person was an Australian resident.

“(5) This section does not apply to a person if:

- (a) the person is receiving a sole parent pension, a widowed person allowance or widow B pension; and
- (b) the person became qualified to receive the pension or allowance because of the death of the person’s former partner; and
- (c) immediately before the death of the person’s former partner, the former partner was an Australian resident; and
- (d) the person would have become qualified to receive:
 - (i) the sole parent pension apart from subsection 262(2); or
 - (ii) the widowed person allowance apart from subparagraph 315(1)(d)(iv); or
 - (iii) the widow B pension apart from subsection 372(2).

Rate of pensions paid outside Australia—certain wife pensioners and widow B pensioners

“1221.(1) This section applies to a person:

- (a) who is receiving a wife pension or a widow B pension; and
- (b) who is a person described in paragraph (a) of the definition of ‘entitled person’ in subsection 1216B(2); and
- (c) who leaves Australia and continues to be absent from Australia for more than 12 months.

“(2) Subsection (1) applies to a person whether or not the person commenced to receive the wife pension or widow B pension before, on or after 1 July 1986.”.

Subparagraph 1223(1)(b)(iii):

Omit the subparagraph.

Subsection 1232(2):

Omit “or (5)”, substitute “, (5) or (6)”.

Section 1232:

Add at the end:

“(6) If:

- (a) subsection (2) or (3) applies so that action under this section

SCHEDULE 1—continued

for the recovery of a debt must be commenced within a particular period; and

(b) within that period:

(i) action is taken under this section or section 1231 (deductions) or 1233 (garnishee notice) for the recovery of the debt; or

(ii) a review of a file relating to action for the recovery of the debt occurs; or

(iii) other internal Departmental activity relating to action for the recovery of the debt occurs;

action under this section for the recovery of the debt may be commenced within the period of 6 years after the end of the activity or action referred to in paragraph (b).”.

Paragraph 1304(1)(a):

After “is”, insert “or was”.

Paragraph 1304(1)(b):

Omit “, or has received.”.

After paragraph 1304(1)(b):

Insert:

“(ba) whether a pension, benefit or allowance under this Act was payable to a person who has received it; or”.

PART 3—AMENDMENTS COMMENCING ON 12 NOVEMBER 1991

Subsection 23(1) (paragraph (c) of the definition of “unused annual leave waiting period”):

Omit “689 to 691”, substitute “690 to 692”.

Section 146R:

(a) Omit Note 1.

(b) Omit “Note 2”, substitute “Note”.

Subsection 1170(2) (Table—item 3—column 4):

Omit “RHA” (first occurring).

Subparagraph 1220B(1)(a)(ii):

Omit “an invalid”, substitute “a disability support”.

Paragraph 1220B(4)(a):

Omit “an invalid”, substitute “a disability support”.

SCHEDULE 1—continued

Paragraph 1220B(4)(b):

(a) Omit “invalid”, substitute “disability support”.

(b) Omit “permanently incapacitated for”, substitute “unable to”.

Paragraph 1223A(3)(b):

Omit “103”, substitute “136”.

Subsection 1223A(3):

Add at the end:

“Note: paragraph (k) is relevant only to a person who received rehabilitation allowance after 12 November 1991 (because of the operation of clause 35 in Schedule 1A).”.

Subsection 1223B(2):

Add at the end:

“Note: paragraph (f) is relevant only to a person who received rehabilitation allowance after 12 November 1991 (because of the operation of clause 35 in Schedule 1A).”.

PART 4—AMENDMENTS COMMENCING ON 12 NOVEMBER 1991 IMMEDIATELY AFTER THE COMMENCEMENT OF PART 3 OF THE SOCIAL SECURITY (DISABILITY AND SICKNESS SUPPORT) AMENDMENT ACT 1991

Paragraph 1223A(3)(n):

Omit “684”, substitute “728D”.

Paragraph 1223B(2)(i):

Omit “728E”, substitute “728G”.

Schedule 1A (clause 35):

Omit the clause, substitute:

Rehabilitation allowance (changes introduced on 12 November 1991)

“35. If a determination granting a claim for rehabilitation allowance is in force in relation to a person’s participation in a rehabilitation program immediately before 12 November 1991, then:

(a) Part 2.10 of this Act; and

(b) the definition of ‘social security pension’ in subsection 23(1) of this Act;

as in force immediately before 12 November 1991 continue to apply to the person so long as the person continues to participate in the rehabilitation program.”.

SCHEDULE 1—continued

**PART 5—AMENDMENT COMMENCING
ON 13 DECEMBER 1991**

Subsection 5(9A):

Add at the end:

“; and (c) is not receiving a social security pension; and

(d) is not receiving a social security benefit.”.

PART 6—AMENDMENTS COMMENCING ON 12 MARCH 1992

**Section 1067 (Benefit Rate Calculator A—point 1067-A1—Method
statement—Note 2):**

Omit “Step 12 only if the person’s rate of benefit after Step 11”,
substitute “Step 11 only if the person’s rate of benefit after Step 10”.

Section 1067 (Benefit Rate Calculator A—paragraph 1067-J3(b)):

Omit “dependent”.

Section 1067 (Benefit Rate Calculator A—paragraph 1067-J5(c)):

Omit “dependent”.

Section 1068 (Benefit Rate Calculator B—point 1068-A1—Note 3):

Omit “Step 10 only if the person’s rate of benefit after Step 9”,
substitute “Step 9 only if the person’s rate of benefit after Step 8”.

Section 1068 (Benefit Rate Calculator B—paragraph 1068-H2(b)):

Omit “dependent”.

Section 1068 (Benefit Rate Calculator B—paragraph 1068-H4(c)):

Omit “dependent”.

**PART 7—AMENDMENT COMMENCING ON 12 MARCH 1992
IMMEDIATELY AFTER THE COMMENCEMENT OF
DIVISION 4 OF PART 2 OF THE SOCIAL SECURITY
LEGISLATION AMENDMENT ACT (NO. 4) 1991**

**Schedule 1A (clause 48—modification of point 1068-A1—Method
statement—Step 2):**

Omit “dependent”.

SCHEDULE 1—continued

PART 8—AMENDMENTS COMMENCING ON 1 JULY 1992

Section 3 (Index):

(a) Omit the following entries:

“actual value.	12(5)
allowance category	23(14A)
DSP non-compliance waiting period	105
family member	5A
granny flat interest	11(9)
retirement village resident	1145
SA non-compliance waiting period	698”.

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

“actual value	12C(4)
allowance category	23(4A)
Commonwealth funded employment program	23(1)
deferred payment amount	12B(6), (7)
family member	23(1)
fishing operations	11(1)
forest operations	11(1)
granny flat interest	12A(2)
granny flat resident	12A(3)
individual residence contribution	1147(1C)
initial payment amount	12B(4)
long-term social security recipient	23(1)
primary producer	11(1)
primary production	11(1)
retirement village resident	12(5)
sale leaseback agreement	12B(2), (3)
sale leaseback home	12B(9)
sale leaseback resident	12B(10), (11)
substitute care	5(1)
social security recipient status	23(1)
special residence	12C(2)
special resident	12C(3)
temporarily separated couple	4(9A)”.

Section 67:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB)”.

Subsection 83(1):

Omit “pension paydays”, substitute “partner’s paydays”.

Subparagraph 83(1)(b)(i):

Omit “pension”, substitute “partner’s”.

SCHEDULE 1—continued

Subparagraph 83(1)(b)(ii):

Omit “pension”, substitute “partner’s”.

Section 84 (Method statement):

- (a) Omit from Step 1 “pension”, substitute “person’s”.
- (b) Omit from Step 2 “pension”, substitute “partner’s”.
- (c) Omit from Step 3 “**combined pensioner couple rate**”, substitute “**combined rate**”.
- (d) Omit from Step 4 “pension”, substitute “person’s”.
- (e) Omit from Step 5 “pensioner couple”.
- (f) Omit from Step 6 “pension paydays”, substitute “paydays of the partner”.
- (g) Omit from Step 7 “of pension paydays in the bereavement lump sum period”, substitute “obtained in Step 6”.

Section 86 (Method statement):

- (a) Omit from Step 1 “pension”, substitute “person’s”.
- (b) Omit from Step 2 “pension”, substitute “partner’s”.
- (c) Omit from Step 3 “**combined pensioner couple rate**”, substitute “**combined rate**”.
- (d) Omit from Step 4 “pension”, substitute “person’s”.
- (e) Omit from Step 5 “pensioner couple”.
- (f) Omit from Step 6 “pension paydays”, substitute “paydays of the partner”.
- (g) Omit from Step 7 “4”, substitute “6”.

Section 92 (Note):

Omit “will also qualify for pharmaceutical allowance under Part 2.22”, substitute “may also qualify for pharmaceutical allowance under Part 2.22 and telephone allowance under Part 2.25”.

Section 129:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB).”.

Subsection 146G(1):

Omit “pension paydays”, substitute “partner’s paydays”.

Subparagraph 146G(1)(b)(i):

Omit “pension”, substitute “partner’s”.

SCHEDULE 1—continued

Subparagraph 146G(1)(b)(ii):

Omit “pension”, substitute “partner’s”.

Section 146H (Method statement):

- (a) Omit from Step 1 “pension”, substitute “person’s”.
- (b) Omit from Step 2 “pension”, substitute “partner’s”.
- (c) Omit from Step 3 “**combined pensioner couple rate**”, substitute “**combined rate**”.
- (d) Omit from Step 4 “pension”, substitute “person’s”.
- (e) Omit from Step 5 “pensioner couple”.
- (f) Omit from Step 6 “pension paydays”, substitute “paydays of the partner”.
- (g) Omit from Step 7 “of pension paydays in the bereavement lump sum period”, substitute “obtained in Step 6”.

Section 146K (Method statement):

- (a) Omit from Step 1 “pension”, substitute “person’s”.
- (b) Omit from Step 2 “pension”, substitute “partner’s”.
- (c) Omit from Step 3 “**combined pensioner couple rate**”, substitute “**combined rate**”.
- (d) Omit from Step 4 “pension”, substitute “person’s”.
- (e) Omit from Step 5 “pensioner couple”.
- (f) Omit from Step 6 “pension paydays”, substitute “paydays of the partner”.
- (g) Omit from Step 7 “4”, substitute “6”.

Section 146R (Note 2):

Omit “will also qualify for pharmaceutical allowance under Part 2.22”, substitute “may also qualify for pharmaceutical allowance under Part 2.22 and telephone allowance under Part 2.25”.

Section 171:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB).”.

Section 196 (Note):

Omit “will also qualify for pharmaceutical allowance under Part 2.22”, substitute “may also qualify for pharmaceutical allowance under Part 2.22 and telephone allowance under Part 2.25”.

SCHEDULE 1—continued

Section 221:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB).”.

Section 247 (Note):

Omit “will also qualify for pharmaceutical allowance under Part 2.22”, substitute “may also qualify for pharmaceutical allowance under Part 2.22 and telephone allowance under Part 2.25”.

Section 281:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB).”.

Section 313 (Note):

Omit “will also qualify for pharmaceutical allowance under Part 2.22”, substitute “may also qualify for pharmaceutical allowance under Part 2.22 and telephone allowance under Part 2.25”.

Section 340:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB).”.

Section 360 (Note):

Omit “will also qualify for pharmaceutical allowance under Part 2.22”, substitute “may also qualify for pharmaceutical allowance under Part 2.22 and telephone allowance under Part 2.25”.

Section 388:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB).”.

Section 408 (Note):

Omit “will also qualify for pharmaceutical allowance under Part 2.22”, substitute “may also qualify for pharmaceutical allowance under Part 2.22 and telephone allowance under Part 2.25”.

SCHEDULE 1—continued

Section 572:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB).”.

Section 655:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB).”.

Section 758:

Add at the end:

“Note: a person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X) or pharmaceutical allowance (see section 1061EB).”.

Subsection 823(1):

Omit “pension paydays”, substitute “partner’s paydays”.

Subparagraph 823(1)(b)(i):

Omit “pension”, substitute “partner’s”.

Subparagraph 823(1)(b)(ii):

Omit “pension”, substitute “partner’s”.

Section 824 (Method statement):

- (a) Omit from Step 1 “pension”, substitute “person’s”.
- (b) Omit from Step 2 “pension”, substitute “partner’s”.
- (c) Omit from Step 3 “**combined pensioner couple rate**”, substitute “**combined rate**”.
- (d) Omit from Step 4 “pension”, substitute “person’s”.
- (e) Omit from Step 5 “pensioner couple”.
- (f) Omit from Step 6 “pension paydays”, substitute “paydays of the partner”.
- (g) Omit from Step 7 “of pension paydays in the bereavement lump sum period”, substitute “obtained in Step 6”.

Section 826 (Method statement):

- (a) Omit from Step 1 “pension”, substitute “person’s”.
- (b) Omit from Step 2 “pension”, substitute “partner’s”.
- (c) Omit from Step 3 “**combined pensioner couple rate**”, substitute “**combined rate**”.
- (d) Omit from Step 4 “pension”, substitute “person’s”.

SCHEDULE 1—continued

- (e) Omit from Step 5 “pensioner couple”.
 - (f) Omit from Step 6 “pension paydays”, substitute “paydays of the partner”.
 - (g) Omit from Step 7 “4”, substitute “6”.
-

SCHEDULE 2

Section 117

AMENDMENTS OF OTHER ACTS

PART 1—AMENDMENTS COMMENCING ON ROYAL ASSENT

Data-matching Program (Assistance and Tax) Act 1990

Section 3:

Insert:

“**‘dependant’**, in relation to a person, includes anyone who is the person’s dependant for the purposes of any personal assistance or tax law;

‘personal assistance data’, in relation to a person, means:

- (a) the type of the person’s personal assistance; and
- (b) the rate or amount of that personal assistance; and
- (c) any information regarding overpayments of personal assistance to the person;”.

Section 3 (paragraph (t) of the definition of “family identity data”):

Omit “and address or addresses”, substitute “, address or addresses and date of birth”.

Section 3 (definition of “family identity data”):

Before paragraph (w), insert:

- “(v) surname, any other name, initial of any other name, sex and date of birth of any other child of a parent of the person if the child:
- (i) has not turned 25; and
 - (ii) is a dependant of a parent of the person;”.

Section 3 (paragraph (d) of the definition of “income data”):

After “assistance”, insert “data”.

Section 3 (subparagraph (b)(v) of the definition of “personal assistance”):

Omit “or”.

Section 3 (paragraph (b) of the definition of “personal assistance”):

Add at the end:

- “(vi) assistance under the Commonwealth rebate for apprentice full-time training scheme; or”.

SCHEDULE 2—continued

Section 3 (paragraph (c) of the definition of “personal assistance”):

Omit the paragraph, substitute:

- “(c) any pension, allowance or benefit dealt with by the Department of Social Security and known as any of the following:
- (i) age pension;
 - (ii) invalid pension;
 - (iii) disability support pension;
 - (iv) wife’s pension or wife pension;
 - (v) carer’s pension or carer pension;
 - (vi) supporting parent’s benefit;
 - (vii) sole parent’s pension or sole parent pension;
 - (viii) widowed person’s allowance or widowed person allowance;
 - (ix) widow’s pension class A or C;
 - (x) widow’s pension class B or widow B pension;
 - (xi) sheltered employment allowance;
 - (xii) rehabilitation allowance;
 - (xiii) job search allowance;
 - (xiv) job search training supplement;
 - (xv) unemployment benefit;
 - (xvi) newstart allowance;
 - (xvii) newstart training supplement;
 - (xviii) employment entry payment;
 - (xix) education entry payment;
 - (xx) sickness benefit;
 - (xxi) sickness allowance;
 - (xxii) special benefit;
 - (xxiii) family allowance;
 - (xxiv) family income supplement or family allowance supplement;
 - (xxv) handicapped child’s allowance or child disability allowance;
 - (xxvi) double orphan’s pension or double orphan pension;
 - (xxvii) mobility allowance;
 - (xxviii) remote area allowance;
 - (xxix) rent assistance;
 - (xxx) incentive allowance;
 - (xxxi) pharmaceutical allowance;
 - (xxxii) pharmaceutical supplement;
 - (xxxiii) advance pharmaceutical supplement;

SCHEDULE 2—continued

- (xxxiv) advance pharmaceutical allowance;
- (xxxv) disaster relief payment;
- (xxxvi) formal training allowance;
- (xxxvii) guardian allowance; or”.

Section 3 (definition of “personal assistance”):

Omit “and, in relation to a person, means personal assistance given to, or claimed by a person”, substitute:

“and, in relation to a person, means:

- (e) personal assistance that is being given to, has been given to, or claimed by, the person; or
- (f) personal assistance given to a person that has been suspended, cancelled or terminated;”.

Section 3 (paragraph (c) of the definition of “personal identity data”):

Omit the paragraph, substitute:

“(c) second other name or initial of second other name (if any);”.

Section 3 (paragraph (d) of the definition of “personal identity data”):

Omit the paragraph, substitute:

“(d) current address or addresses;”.

Section 7 (subparagraph 7(d) of Step 3):

Omit the subparagraph, substitute:

“(d) surname and any other name or initial of any other name of a spouse in respect of whom spouse rebate is claimed.”.

Section 7 (paragraph 12 of Step 5):

Omit the paragraph, substitute:

“12. The matching agency carries out **payment matching** by matching the following data given by assistance agencies in Step 1:

- (a) family identity data; and
- (b) if it is necessary to do so—personal assistance data;

to find out:

- (c) if personal assistance is being, or has been, given to, or is being claimed by, persons who might not be, or might not have been, entitled to it; and
- (d) if personal assistance is not being, or has not been, given to, or claimed by, persons who might be, or might have been, entitled to it.”.

SCHEDULE 2—continued

Section 7 (subparagraph 15(a) of Step 6):

Omit the subparagraph, substitute:

“(a) in the case of an assistance agency:

- (i) that personal assistance is being, or has been, given to, or is being claimed by, persons who might not be, or might not have been, entitled to it; and
- (ii) that personal assistance is not being, or has not been, given to, or claimed by, persons who might be, or might have been, entitled to it; or”.

Paragraph 10(1)(a):

(a) Omit “a source”, substitute “an assistance”.

(b) before subparagraph (i), insert:

- “(ia) inform a person that he or she may be entitled to personal assistance; or
- (ib) grant a claim for personal assistance; or”.

Paragraph 10(1)(a):

Add at the end:

“(v) correct the personal identity data it holds in relation to personal assistance that is being given to, has been given to, or claimed by, a person; or”.

Paragraph 10(1)(b):

Omit all words after “tax”, substitute:

“agency:

- (i) issue an assessment or an amended assessment of tax; or
- (ii) correct the personal identity data it holds in relation to a person; or”.

Subsection 10(2):

Omit the subsection, substitute:

“(2) Where a source agency receives particular information under Step 1, 4 or 6 of a data matching cycle, the agency must destroy that particular information within 90 days of its receipt unless, within those days:

- (a) the agency has considered that particular information and made a decision:
 - (i) to take action allowed by subsection (1) on the basis of that particular information; or
 - (ii) to carry out an investigation of the need to take action allowed by subsection (1) on the basis of that particular information; or

SCHEDULE 2—continued

- (b) the agency has, by using sampling procedures, identified that particular information as information that will form the basis for the agency:
- (i) to take action allowed by subsection (1) on the basis of that particular information; or
 - (ii) to carry out an investigation of the need to take action allowed by subsection (1) on the basis of that particular information.”.

Subsection 10(3):

Omit the subsection, substitute:

“(3) Subject to subsection (3A), a source agency must commence any action in relation to information it receives under subsection (1) within 12 months from the date that it receives the information from the matching agency.

“(3A) The Secretary to an assistance agency, the Commissioner of Taxation or a Deputy Commissioner of Taxation may grant an extension or extensions of time for up to 12 months each of the 12 month period referred to in subsection (3).

“(3B) The power to grant an extension or extensions of time referred to in subsection (3A) must not, despite any other law, be delegated.”.

Section 10:

Add at the end:

“(5) In this section:
‘**sampling procedures**’ means sampling procedures established by the source agency in consultation with the Privacy Commissioner.”.

Subsection 11(1):

Omit “Step 6”, substitute “Step 1, 4 or 6”.

Subparagraph 11(1)(e)(ii):

- (a) Omit “21”, substitute “28”.
- (b) Omit “receipt”, substitute “giving”.
- (c) Before “in writing” insert “orally or”.

Paragraph 11(1)(f):

Omit all words after “until”, substitute “the person has responded orally or in writing to the notice or the 28 days end, whichever occurs first”.

Subsection 11(2):

Omit “Step 6”, substitute “Step 1, 4 or 6”.

SCHEDULE 2—continued

Subparagraph 11(2)(a)(ii):

- (a) Omit “21”, substitute “28”.
- (b) Omit “receipt”, substitute “giving”.

Paragraph 11(2)(b):

Omit all words after “until”, substitute “the person has responded in writing to the notice or the 28 days end, whichever occurs first”.

After subsection 11(5):

Insert:

“(5A) If a person responds orally to a notice, the person receiving the oral response must make a written record of the response and note on the record the date of the response.”.

Income Tax Assessment Act 1936

Paragraph 202(e):

Omit the paragraph, substitute:

- “(e) to facilitate the administration of a provision of an Act, being a provision which authorises the collection of a tax file number as a condition to the giving of personal assistance within the meaning of the *Data-matching Program (Assistance and Tax) Act 1990*; and
- (f) to facilitate the administration of the *Data-matching Program (Assistance and Tax) Act 1990*.”.

PART 2—AMENDMENTS COMMENCING ON 1 JULY 1991

National Health Act 1953

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

Omit “subsection 589(2)”, substitute “section 514”.

Subparagraph 4AAA(2)(a)(ii):

Before “income” insert “ordinary”.

**PART 3—AMENDMENT COMMENCING ON 1 JULY 1991
IMMEDIATELY AFTER THE COMMENCEMENT OF PART 1
OF SCHEDULE 2 OF THE VETERANS’ AFFAIRS
LEGISLATION AMENDMENT ACT 1991**

Veterans’ Affairs Legislation Amendment Act 1991

Part 1 of Schedule 2 (amendments of section 533 of the *Social Security Act 1991*):

Omit the amendments.

SCHEDULE 2—continued

**PART 4—AMENDMENTS COMMENCING ON 26 NOVEMBER
1991**

Social Security Legislation Amendment Act (No. 3) 1991

Section 22:

- (a) After “the Notes” insert “to subsection (1)”.
- (b) Omit “(2)”, substitute “(1A)”.

PART 5—AMENDMENTS COMMENCING ON 30 JUNE 1992

Social Security Legislation Amendment Act (No. 3) 1991

Section 61:

Repeal the section.

Section 62:

Repeal the section.

Section 63:

Repeal the section.

Section 66:

Repeal the section.

Section 67:

Repeal the section.

Section 68:

Repeal the section.

Section 71:

Repeal the section.

Section 72:

Repeal the section.

Section 73:

Repeal the section.

Section 80:

Repeal the section.

Section 86:

Repeal the section.

SCHEDULE 2—continued

Section 88:

Omit “728Q”, substitute “728S”.

Section 89:

Omit “728R”, substitute “728T”.

Section 90:

Omit “728S”, substitute “728U”.

Section 91:

Repeal the section.

Section 96:

Repeal the section.

PART 6—AMENDMENTS COMMENCING ON 1 JULY 1992

Bankruptcy Act 1966

Section 139K (definition of “base income threshold amount”):

Omit “item 3”, substitute “item 2”.

Data-matching Program (Assistance and Tax) Act 1990

Section 3 (definition of “personal assistance”):

After subparagraph (c)(xxxv) insert:

“(xxxva) telephone allowance;”.

Income Tax Assessment Act 1936

Section 24AB (Index—after the entry for special needs wife pension):

Insert:

“Telephone allowance 24ABZAA”.

After section 24ABZA:

Insert:

Telephone allowance

“24ABZAA. Payments of telephone allowance under Part 2.25 of the *Social Security Act 1991* are exempt.”.

SCHEDULE 2—continued

**PART 7—AMENDMENTS COMMENCING ON 1 JULY 1992
IMMEDIATELY AFTER THE COMMENCEMENT OF
SECTIONS 76, 82, 87 AND 93 OF THE SOCIAL SECURITY
LEGISLATION AMENDMENT (NO. 3) ACT 1991**

Subsection 589A(1):

Add at the end:

“Note 3: for ‘long-term social security recipient’ see subsection 23(1).”.

Subsections 589A(5) and (6):

Omit the subsections.

Subsection 660LA(1):

Add at the end:

“Note 3: for ‘long-term social security recipient’ see subsection 23(1).”.

Subsections 660LA(5) and (6):

Omit the subsections.

Subsection 728PA(1):

Add at the end:

“Note 3: for ‘long-term social security recipient’ see subsection 23(1).”.

Subsections 728PA(5) and (6):

Omit the subsections.

Subsection 768A(1):

Add at the end:

“Note 3: for ‘long-term social security recipient’ see subsection 23(1).”.

Subsections 768A(5) and (6):

Omit the subsections.

SCHEDULE 3

Section 81

NEW SCHEDULE TO SOCIAL SECURITY ACT 1991

SCHEDULE 11

Section 1208

**AGREEMENT
BETWEEN
AUSTRALIA
AND
THE REPUBLIC OF AUSTRIA
ON SOCIAL SECURITY**

AUSTRALIA AND THE REPUBLIC OF AUSTRIA,

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

and

Resolved to co-operate in the field of social security;

Have agreed as follows:

PART I

INTERPRETATION AND SCOPE

GENERAL PROVISIONS

ARTICLE 1

Interpretation

1. In this Agreement:

- (a) “national” means, in relation to Australia, an Australian citizen; and, in relation to Austria, an Austrian citizen;
- (b) “legislation” means, in relation to Australia, the law specified in subparagraph 1(a) of Article 2; and, in relation to Austria, the laws, regulations and statutory instruments which relate to the branches of social security specified in subparagraph 1(b) of Article 2;
- (c) “competent authority” means in relation to Australia, the Secretary to the Department of Social Security; and, in relation to Austria, the Federal Minister responsible for the application of the legislation specified in subparagraph 1(b) of Article 2;
- (d) “institution” means, in relation to Australia, the Department of Social Security; and, in relation to Austria, the institution responsible for the application of the Austrian legislation;
- (e) “competent institution” means, in relation to Australia, the Department of Social Security; and, in relation to Austria, the

SCHEDULE 3—continued

institution competent under the Austrian legislation to deal with the matter in question;

- (f) “period of Australian working life residence”, in relation to a person, means a period defined as such in the legislation of Australia but does not include any period deemed pursuant to Article 6 to be a period in which that person was an Australian resident;
- (g) “period of insurance in Austria” means a period of insurance defined as such in the Austrian legislation;
- (h) “benefit” means, in relation to a Party, a benefit, pension or allowance for which provision is made in the legislation of that Party, and includes any additional amount, increase or supplement that is payable, in addition to that benefit, pension or allowance;
- (i) “carer pension” means, in relation to Australia, a carer pension payable to a partner under the legislation of Australia;
- (j) “widowed person” means, in relation to Australia, a person who:
 - (i) stops being a married person or becomes a single person because of the death of the person’s husband or wife; or
 - (ii) is a class B widow because of the death of her husband or because she is a dependent female,but does not include a person who has a new partner;
- (k) “refugee” means a person defined as a refugee in Article 1 of the Convention relating to the Status of Refugees, dated 28 July 1951, and the Protocol to that Convention, dated 31 January 1967;
- (l) “stateless person” means a person defined as a stateless person in Article 1 of the Convention relating to the Status of Stateless Persons, dated 28 September 1954.

2. In the application of this Agreement, any term not defined in this Article shall, unless the context otherwise requires, have the meaning assigned to it by the legislation of either Party.

ARTICLE 2

Legislative Scope

- 1. Subject to paragraph 2, this Agreement shall apply to:
 - (a) in relation to Australia: the *Social Security Act 1991* insofar as the Act provides for, applies to or affects:
 - (i) age pensions,
 - (ii) invalid pensions,
 - (iii) wife pensions,
 - (iv) carer pensions, and

SCHEDULE 3—continued

- (v) benefits payable to widowed persons; and
 - (b) in relation to Austria the legislation concerning pension insurance with the exception of the insurance for notaries.
2. Except as otherwise provided in paragraph 3 this Agreement shall also apply to any legislation which supersedes, replaces, amends, supplements or consolidates the legislation specified in paragraph 1.
3. Notwithstanding the provisions of paragraph 1:
- (a) the legislation of Australia shall not include any laws made, whether before or after the date of signature of this Agreement, for the purpose of giving effect to any agreement on social security; and
 - (b) this Agreement shall not affect any other agreement on social security which Austria has concluded with a third State, except as it contains provisions relating to the apportionment of insurance burdens.

ARTICLE 3

Personal Scope

This Agreement shall apply without any restriction based on nationality to any person who:

- (a) is or has been an Australian resident; or
 - (b) is or has been subject to the Austrian legislation,
- and where applicable, to any other person with respect to the rights he or she derives from such a person described in subparagraph (a) or (b).

ARTICLE 4

Equality of Treatment

1. Unless otherwise provided in this Agreement, nationals of one Party shall, in the application of the legislation of the other Party, receive equal treatment with the nationals of that other Party.
2. Benefits under the legislation of one Party shall be granted to nationals of the other Party resident outside the territories of both Parties, under the same conditions and to the same extent as they are granted to the nationals of the first Party who reside outside the territories of the Parties.
3. Paragraph 1 shall not apply to the provisions of the Austrian legislation concerning:
- (a) the participation of insured persons and employers in the administration of institutions and associations as well as adjudication in the field of social security;
 - (b) the apportionment of insurance burdens resulting from agreements with third States; or

SCHEDULE 3—continued

- (c) the insurance of persons employed at a diplomatic mission or consular post of Austria in a third State or by a member of such a mission or post.

4. Paragraph 1 shall apply with regard to the provisions of Austrian legislation concerning the taking into account of periods of war service and periods considered as such only to Australian nationals who were Austrian nationals immediately before 13 March 1938.

ARTICLE 5

Equivalence of Territories

1. Unless otherwise provided in this Agreement any provision of the legislation of a Party under which qualification for or payment of a benefit is dependent on a person being a resident of, and/or present in the territory of that Party shall not apply to nationals of either Party, refugees or stateless persons, or other persons who derive rights from the foregoing, who are resident in the territory of either Party and present in the territory of either Party.

2. Benefits of a Party are payable at the request of the beneficiary in the territory of the other Party.

3. Where the legislation of a Party provides that a benefit is payable outside the territory of that Party, then that benefit, when payable by virtue of this Agreement, is also payable outside the territories of both Parties.

4. In relation to Australia:

- (a) Paragraph 1 shall apply without regard to nationality.
- (b) Paragraph 1 shall not apply to a claimant for a wife pension or carer pension who has never been an Australian resident or to rental allowance.
- (c) Where qualification for an Australian benefit is subject to limitations as to time, then references to Australia in those limitations shall be read also as references to the territory of Austria.
- (d) Where a person would be qualified under the legislation of Australia or by virtue of this Agreement for an Australian benefit except for not being an Australian resident and in Australia on the date on which the claim for that benefit is lodged but:
 - (i) is an Australian resident or residing in the territory of Austria or a third State with which Australia has concluded an agreement on social security that includes provisions for cooperation in the assessment and determination of claims for benefits; and

SCHEDULE 3—continued

(ii) is in Australia, or in the territory of Austria or that third State,

that person shall be deemed, for the purposes of lodging that claim, to be an Australian resident and in Australia on that date.

5. As regards the Austrian legislation, paragraph 1 shall not apply to the compensatory supplement (Ausgleichszulage).

PART II

PROVISIONS CONCERNING AUSTRALIAN BENEFITS

ARTICLE 6

1. Where a person to whom this Agreement applies has claimed an Australian benefit under this Agreement and has, without the application of this Agreement, accumulated:

(a) a period as an Australian resident that is less than the period required to qualify him or her, on that ground, under the legislation of Australia for a benefit; and

(b) a period of Australian working life residence equal to or greater than the minimum period identified in accordance with paragraph 4 for that person

and has accumulated a period of insurance in Austria, then for the purposes of a claim for that Australian benefit, that period of insurance in Austria shall be deemed, only for the purposes of this Article for meeting any period required for qualification for that benefit set out in the legislation of Australia, to be a period in which that person was an Australian resident.

2. For the purposes of paragraph 1, where a person:

(a) has been an Australian resident for a continuous period which is less than the minimum continuous period required by the legislation of Australia for entitlement of that person to a benefit; and

(b) has accumulated a period of insurance in Austria in two or more separate periods that equals or exceeds in total the minimum period referred to in subparagraph (a),

the total of the periods of insurance in Austria shall be deemed to be one continuous period.

3. For all purposes of this Article, where a period by a person as an Australian resident and a period of insurance in Austria coincide, the period of coincidence shall be taken into account once only by Australia as a period as an Australian resident.

4. The minimum period of residence in Australia to be taken into account for the purposes of paragraph 1 shall be as follows:

SCHEDULE 3—continued

- (a) for the purposes of an Australian benefit that is payable to a person who is not an Australian resident, the minimum period shall be twelve months of which at least six months must be continuous; and
- (b) for the purposes of an Australian benefit that is payable to an Australian resident, no minimum.

5. For the purposes of a claim by a person for a pension payable to a widowed person, that person shall be deemed to have accumulated a period of insurance in Austria for any period for which his or her partner accumulated a period of insurance in Austria but any period during which the person and his or her partner both accumulated a period of insurance in Austria shall be taken into account once only.

ARTICLE 7

1. Subject to paragraph 2, where an Australian benefit is payable whether by virtue of this Agreement or otherwise to a person who is outside the territory of Australia, the rate of that benefit shall be determined according to the legislation of Australia but when assessing the income of that person for the purposes of calculating the rate of the Australian benefit only a proportion of any Austrian benefit which is received by that person shall be regarded as income. That proportion shall be calculated by multiplying the number of whole months accumulated by that person in a period of Australian working life residence (not exceeding 300) by the amount of that Austrian benefit and dividing that product by 300.

2. A person referred to in paragraph 1 shall only be entitled to receive the concessional assessment of income described in that paragraph for any period during which the rate of that person's Australian benefit is proportionalised under the legislation of Australia.

3. Where an Australian benefit is payable by virtue of this Agreement or otherwise to a person who is in Austria, any compensatory supplement or social assistance and similar means-tested payment paid by Austria to that person shall be disregarded by Australia in computing that person's income for the purposes of the legislation of Australia or the application of this Agreement.

4. Subject to the provisions of paragraph 5, where an Australian benefit is payable only by virtue of this Agreement to a person who is in Australia, the rate of that benefit shall be determined by:

- (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation the Austrian benefit received by that person;
- (b) deducting the amount of the Austrian benefit received by that person from the maximum rate of that Australian benefit; and

SCHEDULE 3—continued

- (c) applying to the remaining benefit obtained under subparagraph (b) the relevant rate calculation set out in the legislation of Australia, using as the person's income the amount calculated under subparagraph (a).

5. Where the rate of a benefit calculated in accordance with paragraph 4 is less than the rate of that benefit which would be payable under paragraphs 1, 2 and 3 if the person concerned were outside Australia, the first-mentioned rate shall be increased to an amount equivalent to the second-mentioned rate.

6. Where a married person is, or both that person and his or her partner are, in receipt of an Austrian benefit or benefits, each of them shall be deemed, for the purposes of paragraph 4 and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or total of both of those benefits, as the case may be.

7. For the purposes of paragraph 5, a comparison of the rates of the benefits shall be made as at:

- (a) the date of the first pension pay day occurring after the date from which the benefit is payable; and
- (b) each anniversary of that pension pay day for so long as the person concerned is entitled to the benefit;

using, in that comparison, the number of months of the period of Australian working life residence accumulated by the person at the date as at which the comparison is made.

ARTICLE 8

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

PART III

PROVISIONS CONCERNING AUSTRIAN BENEFITS

ARTICLE 9

If a person has completed periods of insurance in Austria and periods of Australian working life residence, those periods, insofar as they do not overlap, shall be added together for the purpose of qualification for an Austrian benefit.

ARTICLE 10

1. If a person who has completed periods of insurance in Austria and periods of Australian working life residence, or the survivor of such a person, is claiming a benefit, the competent institution for Austria shall determine the amount of the benefit in the following manner:

SCHEDULE 3—continued

- (a) the institution shall determine, in accordance with the Austrian legislation, whether the person concerned has an entitlement to a benefit by adding together the periods as provided in Article 9;
- (b) if entitlement to a benefit is determined to exist, the institution shall first calculate the theoretical amount of the benefit which would be payable if all the periods completed under the legislation of both Parties had been completed exclusively under the Austrian legislation; in cases where the amount of the benefit is independent of the duration of the period of insurance, this amount shall be taken to be the theoretical amount; and
- (c) the institution shall then calculate the partial benefit payable on the basis of the amount calculated in accordance with the provisions of subparagraph (b) in proportion to the ratio between the duration of the periods of insurance to be taken into consideration under the Austrian legislation and the total duration of the periods to be taken into consideration under the legislation of both Parties.

2. Where the periods of insurance to be taken into consideration under the Austrian legislation for the purpose of calculating the amount of a benefit are in aggregate less than twelve months, no benefit under that legislation shall be paid. However, the preceding sentence shall not apply if the entitlement to that benefit has been acquired under the Austrian legislation exclusively on the basis of periods of insurance completed under that legislation.

ARTICLE 11

The competent Austrian institution shall apply Articles 9 and 10 according to the following rules:

1. In determining the institution responsible for paying a benefit, only periods of insurance in Austria shall be taken into consideration.
2. Periods of Australian working life residence, during which the person concerned was employed or self-employed, shall be treated as periods of contributions.
3. Articles 9 and 10 shall apply neither to the conditions of entitlement to nor to the payment of the miners' long service allowance under the miners' pension insurance.
4. For the application of paragraph 1 of Article 10, the following shall apply:
 - (a) periods during which the insured person has been entitled to an age pension or invalid pension under the legislation of Australia shall be treated as if they were neutral periods;
 - (b) the basis of assessment shall be determined exclusively on periods of insurance in Austria;

SCHEDULE 3—continued

- (c) the contributions for supplementary insurance as well as the miners' supplementary benefit, the helpless person's allowance and the compensatory supplement shall be disregarded.
5. For the application of subparagraphs 1(b) and (c) of Article 10, overlapping periods under the legislation of the two Parties shall be taken into consideration as if they did not overlap.
6. If, for the application of subparagraph 1(c) of Article 10, the total duration of the periods to be taken into consideration under the legislation of both Parties exceeds the maximum number of months of insurance specified under the Austrian legislation for the calculation of the rate of increments, the partial pension payable shall be calculated in proportion to the ratio between the duration of the periods of insurance to be taken into consideration under the Austrian legislation and the above-mentioned maximum number of months of insurance.
7. For the calculation of the helpless person's allowance, subparagraphs 1(b) and (c) of Article 10 shall apply; Article 13 shall apply accordingly.
8. The amount calculated according to subparagraph 1(c) of Article 10 shall be increased, where applicable, by the increments for contributions for supplementary insurance as well as the miners' supplementary benefit, the helpless person's allowance and the compensatory supplement.
9. If the award of benefits under the miners' pension insurance depends on the completion of essentially mining activities, within the meaning of the Austrian legislation, in specific undertakings, then only those periods of Australian working life residence during which the person was employed in a similar occupation in similar undertakings shall be taken into consideration.
10. The special payments shall be payable in the same amount as the Austrian partial benefit; Article 13 shall apply accordingly.

ARTICLE 12

1. Where entitlement to a benefit exists under the Austrian legislation without the application of Article 9, the competent Austrian institution shall pay the pension which would be payable exclusively on the basis of the periods of insurance to be taken into consideration under that legislation, provided there is no entitlement to a corresponding benefit under the legislation of Australia.
2. The pension determined in accordance with paragraph 1 shall be recalculated in accordance with the provisions of Article 10 as soon as entitlement arises to a corresponding benefit under the legislation of Australia. This recalculation shall have effect from the date on which

SCHEDULE 3—continued

the benefit under the legislation of Australia becomes payable. The irrevocability of previous decisions shall not prevent this recalculation.

ARTICLE 13

If a person is entitled to a benefit under the Austrian legislation without the application of Article 9, and if such a benefit would be greater than the total of the Austrian benefit calculated in accordance with subparagraph 1(c) of Article 10 and the corresponding Australian benefit, the competent Austrian institution shall pay, as the partial benefit, its benefit so calculated increased by the difference between such total and the benefit which would be payable if the Austrian legislation alone were applied.

PART IV

MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

ARTICLE 14

Lodgement of Documents

1. The date on which a claim, notice or appeal concerning the determination or payment of a benefit under the legislation of a Party is lodged with an authority, institution or other competent body of the other Party shall be treated, for all purposes concerning the matter to which it relates, as the date of lodgement of that document with an authority, institution or other competent body of the first Party.
2. Any claim for a benefit under the legislation of a Party shall be considered to be a claim for the corresponding benefit under the legislation of the other Party for which the applicant may be qualified if the applicant provides information at the time of claim indicating that the person on whose record benefits are claimed has completed relevant periods of residence or of insurance under the legislation of the other Party and:
 - (a) the claim is lodged with the institution of the other Party; or
 - (b) the claim is lodged with the institution of the first Party and that institution sends the claim within three months of its lodgement with that institution to the competent institution of the other Party.
3. In the cases to which paragraphs 1 and 2 of this Article apply, the body to which the submission has been made shall forward the claim, notice or appeal without delay to the corresponding competent body of the other Party.

SCHEDULE 3—continued

ARTICLE 15

Advance Payments and Overpayments

1. Where an Austrian institution has made an advance payment to a person for any period and arrears of a corresponding benefit become payable for the same period under the legislation of Australia, the competent institution of Australia shall deduct from those arrears the amount paid by way of advance payment and shall transfer the amount so deducted to the Austrian institution. Where an Austrian institution has overpaid a benefit for any period for which the competent institution of Australia afterwards becomes liable to pay a corresponding benefit, the overpayment shall be regarded, for the purpose of the first sentence, as an advance payment.
2. Where
 - (a) an Austrian benefit is paid or payable to a person in respect of a past period;
 - (b) for all or part of that period, an Australian benefit has been paid to that person; and
 - (c) the amount of the Australian benefit would have been reduced had the Austrian benefit been paid during that period;then
 - (d) the amount of the Australian benefit that would not have been paid had the Austrian benefit described in subparagraph (a) been paid on a periodical basis throughout that past period, shall be a debt due by that person to the Commonwealth of Australia; and
 - (e) Australia may determine according to the legislation of Australia that the amount or any part of that debt may be deducted from future payments of Australian benefit payable to that person.
3. Where an Austrian institution has not yet paid the benefit described in subparagraph 2(a) to the person:
 - (a) the Austrian institution shall, at the request of the competent authority of Australia pay the amount of the benefit necessary to meet the debt described in subparagraph 2(d) to the competent institution of Australia and shall pay any excess to the person; and
 - (b) any shortfall may be recovered by the competent authority of Australia under subparagraph 2(e).

ARTICLE 16

Payment of Benefits

1. The benefit-paying institution of a Party may discharge its obligations under this Agreement in the national currency of that Party.
2. A benefit payable by a Party by virtue of this Agreement shall be paid by that Party without deduction for administrative fees and charges.

SCHEDULE 3—continued

ARTICLE 17

Administrative Arrangements and Mutual Assistance

1. The competent authorities of the Parties shall, by means of an Arrangement, establish the administrative measures necessary for the application of this Agreement.
2. The competent authorities shall inform each other of laws that amend, supplement or replace the legislation of their respective Parties.
3. The competent authorities and institutions of the Parties shall assist each other, including by the communication of any information, in applying the legislation specified in Article 2 and this Agreement, as if they were applying their own legislation. With the exception of cash expenditures relating thereto, such assistance shall be provided free of charge.
4. The laws of a Party concerning confidentiality shall apply to any information about an individual which is transmitted in accordance with this Agreement to that Party by the other Party. Such information shall be used only for purposes of applying this Agreement or the legislation of a Party.
5. The competent authorities of the Parties shall, in order to facilitate the application of this Agreement, particularly for the creation of a simple and fast liaison between the institutions concerned, establish liaison agencies.
6. The institutions and the competent authority of one Party may not reject claims or other documents submitted to them by reason only of the fact that they are written in an official language of the other Party.
7. If the competent institution of one Party requires an applicant or beneficiary who lives in the territory of the other Party to undergo a medical examination, such examination shall, at the request of that institution, be arranged or carried out by the institution of the latter Party at its expense.

ARTICLE 18

Exemption from Taxes and from Authentication

1. Any exemption or reduction provided for in the legislation of one Party for taxes, stamp duty, legal dues or registration fees for certificates or documents which have to be submitted for the application of this legislation shall be extended also to the respective certificates or documents which must be submitted for the application of this Agreement or the legislation of the other Party.
2. Documents and certificates of any kind which must be submitted for the application of this Agreement shall not require authentication.

SCHEDULE 3—continued

ARTICLE 19

Resolution of Difficulties

1. Disagreements arising in connection with the application of this Agreement shall, as far as possible, be resolved by mutual agreement between the competent authorities of the Parties.
2. If any such disagreement has not been resolved within a period of six months, either Party may submit the matter to binding arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Parties.

PART V

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 20

Transitional Provisions

1. This Agreement shall not establish any entitlement to payment of a benefit for a period before its entry into force.
2. In determining entitlement to a benefit under this Agreement, periods of insurance in Austria and periods as an Australian resident completed before the entry into force of this Agreement shall also be taken into consideration.
3. Subject to paragraph 1, this Agreement shall also apply to contingencies which are relevant to an entitlement which occurred before its entry into force, insofar as previously determined entitlements have not been settled by lump-sum payments. If in such cases the claim for a benefit which is payable only by virtue of this Agreement is submitted within one year from the date of entry into force of this Agreement, the benefit shall be determined and paid from that date; otherwise the benefit shall be paid from the date determined under the legislation of each Party.
4. Subject to the legislation of either Party this Agreement shall not result in any reduction in the amount of any benefit to which entitlement was established prior to its entry into force.

ARTICLE 21

Protection of Existing Rights

This Agreement shall not affect any existing rights under Austrian legislation of any person who has suffered disadvantages in the field of social security because of political or religious reasons or by reason of descent.

SCHEDULE 3—continued

ARTICLE 22

Entry into Force and Termination

1. This Agreement shall enter into force on the first day of the third month following the month in which notes are exchanged by the Parties through the diplomatic channel notifying each other that all matters as are necessary to give effect to this Agreement have been finalised.

2. Subject to paragraph 3, this Agreement shall remain in force until the expiration of twelve months from the date on which either Party receives from the other written notice through the diplomatic channel of the intention of the other Party to terminate this Agreement.

3. In the event that this Agreement is terminated in accordance with paragraph 2, the Agreement shall continue to have effect in relation to all persons who:

(a) at the date of termination, are in receipt of benefits; or

(b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits;

by virtue of this Agreement.

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

DONE in two copies at Canberra this first day of April, 1992 in the English and German languages, each text being equally authoritative.

FOR AUSTRALIA:
NEAL BLEWETT

FOR THE REPUBLIC OF AUSTRIA:
WALTER HIETSCH.

NOTE

1. No. 46, 1991, as amended. For previous amendments, see Nos. 68, 69, 70, 73, 74, 115, 116, 141, 175, 194 and 208, 1991; and 12, 1992.

**NOTES ABOUT SECTION HEADINGS IN THE
SOCIAL SECURITY ACT 1991**

1. On the day on which this Act receives the Royal Assent, the heading to section 665 is altered by omitting “**Claim**” and substituting “**Need for a claim**”.
2. On the day on which this Act receives the Royal Assent, the heading to section 1034AA is altered by omitting “**child disability allowance**” and substituting “**double orphan pension**”.
3. On the day on which this Act receives the Royal Assent, the heading to section 1229 is altered by omitting “**Penalty**” and substituting “**Additional amount**”.

[*Minister's second reading speech made in—
House of Representatives on 2 April 1992
Senate on 28 May 1992*]