



Social Security (1994 Budget and White Paper) Amendment Act 1994

No. 161 of 1994

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

The Parliament of Australia enacts:

[Assented to 16 December 1994]

Short title etc.

1.(1) This Act may be cited as the *Social Security (1994 Budget and White Paper) Amendment Act 1994*.

5 (2) In this Act, “**Principal Act**” means the *Social Security Act 1991*¹.

Commencement

2.(1) Section 1 and this section commence on the day on which this Act receives the Royal Assent.

(2) Section 3 and Schedule 1 commence on 20 March 1995.

- (3) Section 4 and Schedule 2 commence on 1 January 1995.
- (4) Section 5 and Schedule 3 commence on 1 January 1995.
- (5) Section 6 and Schedule 4 commence on 20 March 1995.
- (6) Section 7 and Schedule 5 commence on 20 March 1995.
- (7) Section 8 and Schedule 6 commence on the 28th day after the day on which this Act receives the Royal Assent. 5
- (8) Subject to subsection (9) of this section, section 9 and Schedule 7 commence on the day on which this Act receives the Royal Assent.
- (9) If this Act does not receive the Royal Assent before 9 December 1994: 10
- (a) Items 5 to 9 of Schedule 7 are taken to have commenced on that day; and
- (b) section 9 is taken to have commenced on that day to the extent necessary in order to enable those items to be taken to have commenced on that day. 15
- (10) Section 10 and Schedule 8 are taken to have commenced on 1 July 1994.
- Amendments relating to liquid assets test waiting periods**
3. The Principal Act is amended as set out in Schedule 1.
- Amendments relating to qualifying Australian residence** 20
4. The Principal Act is amended as set out in Schedule 2.
- Amendments relating to qualification for family payment and additional family payment**
5. The Principal Act is amended as set out in Schedule 3.
- Amendments relating to Activity Agreements** 25
6. The Principal Act is amended as set out in Schedule 4.
- Amendments relating to advance payments of job search allowance and newstart allowance**
7. The Principal Act is amended as set out in Schedule 5.
- Amendments relating to activity tests** 30
8. The Principal Act is amended as set out in Schedule 6.
- Amendments relating to assessable fringe benefits**
- 9.(1) The Principal Act is amended as set out in Schedule 7.

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(2) An amendment made by subsection (1) and Schedule 7 applies to all payments that fall due on or after the day on which the amendment commences.

(3) An amendment made by subsection (1) and Schedule 7 applies to all housing fringe benefits whether received before, on or after that day.

(4) If items 5 to 9 of Schedule 7 commence before the day on which this Act receives the Royal Assent, references in sections 1157S, 1157T and 1157TA of the Principal Act (as amended by those items) are, until that day, taken to be references to section 1157I of the Principal Act.

Amendments relating to superannuation investment products

10. The Principal Act is amended as set out in Schedule 8.

SCHEDULE 1

Section 3

**AMENDMENTS RELATING TO LIQUID ASSETS TEST
WAITING PERIODS**

**PART 1—SUBSEQUENT APPLICATIONS OF LIQUID ASSETS
TEST WAITING PERIODS**

1. Subsection 519(1):

Omit “subsections (5)”, substitute “subsections (4A), (5)”.

2. After subsection 519(4):

Insert:

“(4A) Subsection (1) does not apply to a person if, at any time during the 12 months preceding:

- (a) the day on which the person becomes unemployed; or
- (b) the day on which the person claims a job search allowance;

the person or their partner was serving a liquid assets test waiting period that started during that 12 months.”.

3. Subsection 598(1):

Omit “subsections (5)”, substitute “subsections (4A), (5)”.

4. After subsection 598(4):

Insert:

“(4A) Subsection (1) does not apply to a person if, at any time during the 12 months preceding:

- (a) the day on which the person becomes unemployed; or
- (b) the day on which the person claims a newstart allowance;

the person or their partner was serving a liquid assets test waiting period that started during that 12 months.”.

5. Subsection 676(1):

Omit “If”, substitute “Subject to subsections (2) and (6), if”.

6. Section 676:

Add at the end:

“(6) Subsection (1) does not apply to a person if, at any time during the 12 months preceding:

- (a) the day on which the person becomes incapacitated for work; or
- (b) the day on which the person claims sickness allowance;

the person or their partner was serving a liquid assets test waiting period that started during that 12 months.”.

SCHEDULE 1—continued

PART 2—AMOUNTS NOT TO BE TREATED AS LIQUID ASSETS

7. Section 14A:

Add at the end:

“(4) If:

- (a) a person sells the person’s principal home; and
- (b) the person is likely, within 12 months, to apply the whole or part of the proceeds of the sale in acquiring another residence that is to be the person’s principal home;

so much of the proceeds of the sale as the person is likely to apply in acquiring the other residence is to be disregarded during that period for the purposes of determining the amount of the person’s liquid assets.

“(5) If:

- (a) a person has or had a debt not related to the person’s principal home or to any other residential property in which the person holds or held, solely or jointly, any right or interest; and
- (b) since becoming unemployed or incapacitated for work (as the case requires), the person has, in order to discharge the debt in whole or in part, made a payment that the person was not obliged to make; and
- (c) since becoming unemployed or incapacitated for work (as the case requires), the person had not already made such a payment in order to discharge that debt in part;

the amount of the payment referred to in paragraph (b) is to be disregarded for the purposes of determining the amount of the person’s liquid assets.

“(6) For the purpose of determining whether a liquid assets test waiting period applies in relation to a claim for a social security benefit, subsection (5) can apply to a payment made after the claim if the payment is made before such a liquid assets test waiting period would end under section 519, 598 or 676 (whichever is applicable).

PART 3—START OF LIQUID ASSETS TEST WAITING PERIODS

8. Subsection 519(3):

Omit the subsection, substitute:

“(3) Subject to subsection (4), if the person is not a member of a couple, the liquid assets test waiting period in relation to the claim starts on the day on which the person became unemployed.

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SCHEDULE 1—continued

“(3A) Subject to subsection (4), if the person is a member of a couple, the liquid assets test waiting period in relation to the claim starts on the last occurring of the following days:

- (a) the day on which the person became unemployed;
- (b) if, when the claim is made, the person’s partner is unemployed—the day on which the person’s partner became unemployed;
- (c) if, when the claim is made, the person’s partner is incapacitated for work—the day on which the person’s partner became incapacitated for work.”.

9. Subsection 598(3):

Omit the subsection, substitute:

“(3) Subject to subsection (4), if the person is not a member of a couple, the liquid assets test waiting period in relation to the claim starts on the day on which the person became unemployed.

“(3A) Subject to subsection (4), if the person is a member of a couple, the liquid assets test waiting period in relation to the claim starts on the last occurring of the following days:

- (a) the day on which the person became unemployed;
- (b) if, when the claim is made, the person’s partner is unemployed—the day on which the person’s partner became unemployed;
- (c) if, when the claim is made, the person’s partner is incapacitated for work—the day on which the person’s partner became incapacitated for work.”.

10. Subsection 676(4):

Omit the subsection, substitute:

“(4) Subject to subsection (5), if the person is not a member of a couple, the liquid assets test waiting period in relation to the claim starts on the day on which the person became incapacitated for work.

“(4A) Subject to subsection (5), if the person is a member of a couple, the liquid assets test waiting period in relation to the claim starts on the last occurring of the following days:

- (a) the day on which the person became incapacitated for work;
- (b) if, when the claim is made, the person’s partner is unemployed—the day on which the person’s partner became unemployed;
- (c) if, when the claim is made, the person’s partner is incapacitated for work—the day on which the person’s partner became incapacitated for work.”.

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SCHEDULE 1—continued

11. Schedule 1A:

Add at the end:

Start of liquid assets test waiting periods

“72. In relation to liquid assets test waiting periods that arose due to the operation of subsections 519(1), 598(1) and 676(1) before 20 March 1994:

- (a) subsections 519(3) and (3A), 598(3) and (3A) and 676(4) and (4A) do not apply; and
 - (b) subsections 519(3), 598(3) and 676(4), as in force immediately before the commencement of Schedule 1 to the *Social Security (1994 Budget and White Paper) Amendment Act 1994*, continue to apply.”.
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SCHEDULE 2

Section 4

**AMENDMENTS RELATING TO QUALIFYING AUSTRALIAN
RESIDENCE**

1. Section 3 (Index):

Insert in its appropriate alphabetical position (determined on a letter-by-letter basis):

“qualifying residence exemption 7(6)”.

2. Subsection 7(1):

Insert:

“‘**qualifying residence exemption**’ has the meaning given in subsection (6);”.

3. After subsection 7(5):

Insert:

“(6) A person has a **qualifying residence exemption** for a particular social security payment if and only if the person:

- (a) resides in Australia; and
- (b) holds a visa declared by the Minister under section 25 to be an approved visa for the social security payment.”.

4. After section 24A:

Insert:

Approved visas

“25.(1) The Minister may determine in writing that specified visas are approved visas for specified social security payments.

“(2) When declaring a visa to be an approved visa, the Minister may only identify the visa by reference to a class of visas prescribed by regulations made under the *Migration Act 1958*.

“(3) The declaration is a disallowable instrument.”.

5. Paragraph 43(1)(b):

Add at the end “, or has a qualifying residence exemption for an age pension”.

6. Subsection 43(1) (Note):

Omit the Note, substitute:

“Note: For ‘qualifying Australian residence’ and ‘qualifying residence exemption’ see section 7.”.

7. Subparagraph 94(1)(e)(ii):

After “residence” insert “, or has a qualifying residence exemption for a disability support pension”.

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SCHEDULE 2—continued

8. Subsection 94(1) (Note 1):

Omit the Note, substitute:

“Note 1: For ‘Australian resident’, ‘qualifying Australian residence’ and ‘qualifying residence exemption’ see section 7.”.

9. Section 155:

Repeal the section (except Note 2), substitute:

Residency and related matters

“155. A claim by a woman is not a proper claim unless the woman:

- (a) is an Australian resident, or has a qualifying residence exemption for a wife pension; and
- (b) is in Australia;

on the day on which the claim is lodged.

Note 1: For ‘Australian resident’ and ‘qualifying residence exemption’ see section 7.”.

10. Section 206:

Repeal the section (except Note 2), substitute:

Residency and related matters

“206. A claim by a person is not a proper claim unless the person:

- (a) is an Australian resident, or has a qualifying residence exemption for a carer pension; and
- (b) is in Australia;

on the day on which the claim is lodged.

Note 1: For ‘Australian resident’ and ‘qualifying residence exemption’ see section 7.”.

11. Paragraph 249(1)(c):

Add at the end:

“(vi) the person has a qualifying residence exemption for a sole parent pension.”.

12. Subsection 249(1) (Note):

Omit the Note, substitute:

“Note: For ‘Australian resident’ and ‘qualifying residence exemption’ see section 7.”.

13. After subparagraph 315(1)(d)(iii):

Insert:

“(iiia) the person has a qualifying residence exemption for a widowed person allowance;”.

14. Subsection 315(1) (Note):

Omit the Note, substitute:

“Note: For ‘Australian resident’ and ‘qualifying residence exemption’ see section 7.”.

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SCHEDULE 2—continued

15. After subparagraph 362(1)(e)(ii):

Insert:

“(iia) the woman has a qualifying residence exemption for a widow B pension; or”.

16. Subsection 362(1) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘Australian resident’ and ‘qualifying residence exemption’ see section 7.”.

17. After subparagraph 409(1)(f)(ii):

Insert:

“(iia) has a qualifying residence exemption for disability wage supplement; or”.

18. Subsection 409(1) (Note 1):

Omit the Note, substitute:

“Note 1: For ‘Australian resident’, ‘qualifying Australian residence’ and ‘qualifying residence exemption’ see section 7.”.

19. Subsection 541B(2):

Omit the subsection, substitute:

“(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a job search allowance.

Note: For ‘qualifying residence exemption’ see subsection 7(6).”.

20. Subsection 541B(6):

Omit the subsection.

21. Subsection 623A(2):

Omit the subsection, substitute:

“(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a newstart allowance.

Note: For ‘qualifying residence exemption’ see subsection 7(6).”.

22. Subsection 623A(6):

Omit the subsection.

23. Paragraph 660XBA(1)(e):

After “residence” insert “, or has a qualifying residence exemption for a mature age allowance”.

24. Section 660XBA (Note 5):

Omit the Note, substitute:

“Note 5: For ‘qualifying Australian residence’ and ‘qualifying residence exemption’ see section 7.”.

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SCHEDULE 2—continued

25. Section 660XDD:

Repeal the section, substitute:

Residency and related matters

“660XDD. A claim by a person is not a proper claim unless the person:

- (a) is an Australian resident, or has a qualifying residence exemption for a mature age allowance or a mature age partner allowance; and
- (b) is in Australia;

on the day on which the claim is lodged.

Note: For ‘Australian resident’ and ‘qualifying residence exemption’ see section 7.”.

26. Subsection 696B(2):

Omit the subsection, substitute:

“(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a sickness allowance.

Note: For ‘qualifying residence exemption’ see subsection 7(6).”.

27. Subsection 696B(6):

Omit the subsection.

28. Paragraph 729(2)(f):

Omit the paragraph, substitute:

“(f) the person is an Australian resident, or has a qualifying residence exemption for a special benefit; and”.

29. Subsection 729(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘qualifying residence exemption’ see subsection 7(6).”.

30. Section 1220:

Add at the end:

“(4) For the purposes of the application of this section in relation to a particular social security payment, a person who has a qualifying residence exemption for that payment is taken:

- (a) to be an Australian resident; or
- (b) to reside in an area that is, at the time of residence, an external Territory;

as the context requires.”.

SCHEDULE 3

Section 5

**AMENDMENTS RELATING TO QUALIFICATION FOR
FAMILY PAYMENT AND ADDITIONAL FAMILY PAYMENT**

1. Section 837:

Repeal the section, substitute:

Qualified person outside Australia for more than 13 weeks:

“837.(1) Subject to subsection (2), if:

- (a) a person who is qualified for family payment for a dependent child leaves Australia; and
- (b) the child remains in Australia;

the child continues to be an FP child of the person.

“(2) The child ceases to be an FP child of the person if:

- (a) the person continues to be absent from Australia for more than 13 weeks; and
- (b) another person claims, and is qualified for, family payment for the child.”.

2. Point 1069-D2:

Omit “1069-D6,”.

3. Paragraphs 1069-D2(a) and (b):

Omit the paragraphs, substitute:

- “(a) the person is present in Australia or point 1069-D5 applies to the person; and
- (b) the person is receiving family payment in respect of the child; and
- (ba) the child is present in Australia; and”.

4. Point 1069-D2 (Note 1):

Omit the Note.

5. Point 1069-D2 (Notes 2, 3, 4 and 5):

Renumber as Notes 1, 2, 3 and 4 respectively.

6. Points 1069-D5 and 1069-D6:

Omit the points, substitute:

Absence from Australia

“1069-D5. This point applies to a person if:

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SCHEDULE 3—continued

- (a) the person is temporarily outside Australia; and
- (b) subject to point 1069-D6, the person was in Australia at any time during the preceding 13 weeks.

Example:

Amanda temporarily left Australia 6 months ago and has not returned to Australia during that time.

Point 1069-D5 does not apply to Amanda because paragraph (b) requires her presence in Australia during the last 13 weeks. It does not matter how long she had continuously been in Australia before her departure.

Temporary return to Australia

“1069-D6. A person is not taken for the purposes of paragraph 1069-D5(b) to have been in Australia at a particular time if, within the 13 weeks preceding that time, he or she had on any occasion been outside Australia.

Example:

Stephen temporarily left Australia 10 weeks ago. He had not been outside Australia during the preceding 2 years. 5 weeks ago he returned to Australia for 3 days before leaving Australia again.

Point 1069-D5 applies to Stephen because he was in Australia during the preceding 13 week period (paragraph (b)). His 3 day visit is taken not to count as presence in Australia, because of point 1069-D6. However, this does not stop point 1069-D5 applying to his presence in Australia before his first departure (10 weeks ago), because he was in Australia for the 13 weeks before that departure. If Stephen stays outside Australia, point 1069-D5 will continue to apply to him until the end of 13 weeks after his first departure.”

SCHEDULE 4

Section 6

AMENDMENTS RELATING TO ACTIVITY AGREEMENTS

1. After paragraph 525B(1)(e):

Insert:

- “(ea) subject to section 525D, development of self-employment;
- (eb) subject to section 525E, development of and/or participation in group enterprises or co-operative enterprises;”.

2. Subsection 525B(2):

Omit the subsection.

3. After section 525C:

Insert in Subdivision BA:

Job Search Activity Agreements—self-employment

“525D.(1) A Job Search Activity Agreement must not require a person to undertake as an activity any development of self-employment unless:

- (a) at all times during the 6 months immediately preceding the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a job search allowance;
 - (ii) a newstart allowance;
 - (iii) a youth training allowance; and
- (b) the Employment Secretary is satisfied that the activity:
 - (i) will be commercially viable 12 months after the person begins the activity; and
 - (ii) is likely to provide the person with sustainable full-time employment that will provide the person with a level of income at least equivalent to the person’s maximum basic rate.

“(2) For the purposes of subparagraph (1)(b)(ii), the person’s maximum basic rate is:

- (a) if the person has not turned 18—the person’s maximum basic rate worked out under Module B of Benefit Rate Calculator A; or
- (b) if the person has turned 18—the person’s maximum basic rate worked out under Module B of Benefit Rate Calculator B.

“(3) A Job Search Activity Agreement must not require a person to undertake as an activity any development of self-employment if:

- (a) the person is to undertake the activity for more than 12 months; or

SCHEDULE 4—continued

- (b) subject to subsection (4), the person has previously been subject to a requirement under that or any other Job Search Activity Agreement to undertake the same activity or a similar activity; or
- (c) at any time during the 6 months immediately preceding the time at which the activity is to start, the person has been subject to a requirement under that or any other Job Search Activity Agreement to undertake as an activity other development of self-employment.

“(4) Paragraph (3)(b) does not apply if the Secretary determines in writing that there are special circumstances that justify inclusion of the activity in the Job Search Activity Agreement.

“(5) This section does not apply to an activity to which a paragraph of subsection 525B(1), other than paragraph 525B(1)(ea) or (eb), applies.

Job Search Activity Agreements—group enterprises and co-operative enterprises

“525E.(1) A Job Search Activity Agreement must not require a person to undertake as an activity any development of a group enterprise or co-operative enterprise unless:

- (a) at all times during the 6 months immediately preceding the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a job search allowance;
 - (ii) a newstart allowance;
 - (iii) a youth training allowance; and
- (b) the Employment Secretary is satisfied that the activity:
 - (i) will be viable 12 months after the person begins the activity; and
 - (ii) is likely to provide the person with skills, training or work experience that will help the person to obtain paid employment providing a level of income at least equivalent to the person’s maximum basic rate.

“(2) A Job Search Activity Agreement must not require a person to undertake as an activity any participation in a group enterprise or co-operative enterprise unless:

- (a) at all times during the 6 months immediately preceding the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a job search allowance;

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SCHEDULE 4—continued

- (ii) a newstart allowance;
- (iii) a youth training allowance; and
- (b) the Secretary is satisfied that the activity is likely to provide the person with skills, training or work experience that will help the person to obtain paid employment providing a level of income at least equivalent to the person's maximum basic rate.

“(3) For the purposes of subparagraph (1)(b)(ii) and paragraph (2)(b), the person's maximum basic rate is:

- (a) if the person has not turned 18—the person's maximum basic rate worked out under Module B of Benefit Rate Calculator A; or
- (b) if the person has turned 18—the person's maximum basic rate worked out under Module B of Benefit Rate Calculator B.

“(4) A Job Search Activity Agreement must not require a person to undertake as an activity any development of, or participation in, a group enterprise or co-operative enterprise if:

- (a) the person is to undertake the activity for more than 12 months; or
- (b) the person has previously been subject to a requirement under that or any other Job Search Activity Agreement to undertake the same activity or a similar activity; or
- (c) at any time during the 6 months immediately preceding the time at which the activity is to start, the person has been subject to a requirement under that or any other Job Search Activity Agreement to undertake as an activity other development of, or participation in, a group enterprise or co-operative enterprise.

“(5) This section does not apply to an activity to which a paragraph of subsection 525B(1), other than paragraph 525B(1)(ea) or (eb), applies.”.

4. After paragraph 606(1)(e):

Insert:

- “(ea) subject to section 607A, development of self-employment;
- “(eb) subject to section 607B, development of and/or participation in group enterprises or co-operative enterprises;”.

5. After section 607:

Insert in Subdivision C:

Newstart Activity Agreements—self-employment

“607A.(1) A Newstart Activity Agreement must not require a person to undertake as an activity any development of self-employment unless:

SCHEDULE 4—continued

- (a) at all times during the 6 months immediately preceding the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a job search allowance;
 - (ii) a newstart allowance;
 - (iii) a youth training allowance; and
- (b) the Employment Secretary is satisfied that the activity:
 - (i) will be commercially viable 12 months after the person begins the activity; and
 - (ii) is likely to provide the person with sustainable full-time employment that will provide the person with a level of income at least equivalent to the person's maximum basic rate.

“(2) For the purposes of subparagraph (1)(b)(ii), the person's maximum basic rate is the person's maximum basic rate worked out under Module B of Benefit Rate Calculator B.

“(3) A Newstart Activity Agreement must not require a person to undertake as an activity any development of self-employment if:

- (a) the person is to undertake the activity for more than 12 months; or
- (b) subject to subsection (4), the person has previously been subject to a requirement under that or any other Newstart Activity Agreement to undertake the same activity or a similar activity; or
- (c) at any time during the 6 months immediately preceding the time at which the activity is to start, the person has been subject to a requirement under that or any other Newstart Activity Agreement to undertake as an activity other development of self-employment.

“(4) Paragraph (3)(b) does not apply if the Secretary determines in writing that there are special circumstances that justify inclusion of the activity in the Newstart Activity Agreement.

“(5) This section does not apply to an activity to which a paragraph of subsection 606(1), other than paragraph 606(1)(ea) or (eb), applies.

Newstart Activity Agreements—group enterprises and co-operative enterprises

“607B.(1) A Newstart Activity Agreement must not require a person to undertake as an activity any development of a group enterprise or co-operative enterprise unless:

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SCHEDULE 4—continued

- (a) at all times during the 6 months immediately preceding the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a job search allowance;
 - (ii) a newstart allowance;
 - (iii) a youth training allowance; and
- (b) the Employment Secretary is satisfied that the activity:
 - (i) will be viable 12 months after the person begins the activity; and
 - (ii) is likely to provide the person skills, training or work experience that will help the person to obtain paid employment providing a level of income at least equivalent to the person's maximum basic rate.

“(2) A Newstart Activity Agreement must not require a person to undertake as an activity any participation in a group enterprise or co-operative enterprise unless:

- (a) at all times during the 6 months immediately preceding the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a job search allowance;
 - (ii) a newstart allowance;
 - (iii) a youth training allowance; and
- (b) the Secretary is satisfied that the activity is likely to provide the person with skills, training or work experience that will help the person to obtain paid employment providing a level of income at least equivalent to the person's maximum basic rate.

“(3) For the purposes of subparagraph (1)(b)(ii) and paragraph (2)(b), the person's maximum basic rate is the person's maximum basic rate worked out under Module B of Benefit Rate Calculator B.

“(4) A Newstart Activity Agreement must not require a person to undertake as an activity any development of, or participation in, a group enterprise or co-operative enterprise if:

- (a) the person is to undertake the activity for more than 12 months; or
- (b) the person has previously been subject to a requirement under that or any other Newstart Activity Agreement to undertake the same activity or a similar activity; or

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SCHEDULE 4—continued

- (c) at any time during the 6 months immediately preceding the time at which the activity is to start, the person has been subject to a requirement under that or any other Newstart Activity Agreement to undertake as an activity other development of, or participation in, a group enterprise or co-operative enterprise.

“(5) This section does not apply to an activity to which a paragraph of subsection 606(1), other than paragraph 606(1)(ea) or (eb), applies.”.

SCHEDULE 5

Section 7

**AMENDMENTS RELATING TO ADVANCE PAYMENTS OF
JOB SEARCH ALLOWANCE AND NEWSTART ALLOWANCE**

PART 1—JOB SEARCH ALLOWANCE

1. After Division 5 of Part 2.11:

Insert:

“Division 5A—Advance payment of job search allowance

“Subdivision A—Qualification for and payability of advance payment

Qualification for advance payment

“570A.(1) Subject to subsection (4), a person is qualified for an advance payment of a job search allowance only if:

- (a) a job search allowance is payable to the person; and
- (b) at all times during the qualifying period under subsection (2), the person has been receiving any of the following:
 - (i) a job search allowance;
 - (ii) a newstart allowance;
 - (iii) a youth training allowance; and
- (c) the Secretary is satisfied that the advance payment will be used for the permitted purpose under subsection (3); and
- (d) the Secretary is satisfied that the person will not suffer financial hardship from reductions in payments of job search allowance or newstart allowance as a result of receiving the advance payment.

“(2) For the purposes of paragraph (1)(b), the qualifying period is:

- (a) if the amount of the advance payment sought by the person does not exceed \$500—the 3 months immediately preceding the application; or
- (b) if the amount of the advance payment sought exceeds \$500—the 6 months immediately preceding the application.

“(3) For the purposes of paragraph (1)(c), the permitted purpose is:

- (a) if the amount of the advance payment sought by the person does not exceed \$500—to help the person search for work or participate in activities related to finding paid employment; or
- (b) if the amount of the advance payment sought exceeds \$500—to help the person comply with a Job Search Activity Agreement, or a Case Management Activity Agreement (within the meaning of the *Employment Services Act 1994*), that the person has entered into.

SCHEDULE 5—continued

“(4) A person is not qualified for an advance payment of a job search allowance if:

- (a) the maximum amount of advance payment to which the person would be entitled under Subdivision D is less than \$250; or
- (b) the person is subject to reduction in payments of job search allowance as a result of receiving an advance payment of job search allowance on a previous occasion; or
- (c) the person owes a debt to the Commonwealth under Part 5.2.

“Subdivision B—Applying for advance payment

Need for application

“570B. A person who wants an advance payment of a job search allowance must apply for the advance payment in accordance with this Subdivision.

Form of application

“570C.(1) The application must be made in writing and must be in accordance with a form approved by the Secretary.

- “(2) The application must specify:
- (a) the amount of advance payment sought; and
 - (b) why the person wants the advance payment; and
 - (c) on what the advance payment would be spent.

Lodgment of application

“570D.(1) The application must be lodged:

- (a) at an office of the Department; or
- (b) at a place approved for the purpose by the Secretary; or
- (c) with a person approved for the purpose by the Secretary.

“(2) A place or person approved under subsection (1) must be a place or person in Australia.

Application may be withdrawn

“570E.(1) An applicant for an advance payment or a person acting on behalf of an applicant may withdraw an application that has not been determined.

- “(2) An application that is withdrawn is taken not to have been made.
- “(3) A withdrawal may be made orally or in writing.

SCHEDULE 5—continued

“Subdivision C—Determination of application and payment of advance payment

Secretary to determine application

“570F.(1) The Secretary must determine the application in accordance with this Act.

“(2) The Secretary must determine that the application is to be granted if the Secretary is satisfied that the person is qualified for the advance payment.

Payment of advance payment

“570G.(1) Subject to subsection (3), if the application is granted, the advance payment is to be paid on the next day on which the person is paid an instalment of job search allowance.

“(2) Subject to subsection (3), the advance payment is to be paid as a single lump sum.

“(3) The Secretary may determine that:

- (a) an advance payment is to be paid on the day specified in the determination; or
- (b) an advance payment is to be paid in the instalments specified in the determination on the days specified in the determination.

Use of advance payment

“570H. The advance payment is to be paid on condition that it, or other money of the person, is spent as specified in the application for the advance payment.

“Subdivision D—Amount of advance payment

Amount of advance payment—person receiving allowance for under 6 months

“570J.(1) This section applies if the person to whom the advance payment is payable has not, at all times during the 6 months immediately preceding the application for the advance payment, been receiving any of the following:

- (a) a job search allowance;
- (b) a newstart allowance;
- (c) a youth training allowance.

SCHEDULE 5—continued

“(2) Subject to section 570L, the amount of the advance payment is the smallest of the following amounts:

- (a) the amount of advance payment sought;
- (b) the maximum amount of advance payment payable to the person as worked out under subsection (3);
- (c) \$500.

“(3) For the purposes of paragraph (2)(b), the maximum amount of advance payment payable to the person is the amount worked out using the following formula:

$$14\% \times \text{Fortnightly JSA rate} \times 13$$

where:

‘**Fortnightly JSA rate**’ is the fortnightly rate of benefit payable to the person, on the last payday before the application for the advance payment was made, under:

- (a) Benefit Rate Calculator A, excluding any amount payable by way of remote area allowance under Module K of Benefit Rate Calculator A; or
 - (b) Benefit Rate Calculator B, excluding any amount payable by way of remote area allowance under Module J of Benefit Rate Calculator B;
- whichever is applicable.

“(4) Amounts worked out under subsection (3) must be rounded to the nearest cent (rounding 0.5 cents upwards).

Example 1:

Facts:

Peter has, at all times during the past 4 months, been receiving a job search allowance. His fortnightly JSA rate is \$150. He applies for an advance payment of \$285.

Application:

The maximum amount of advance payment payable to Peter is worked out under subsection (3) as follows:

$$14\% \times \$150 \times 13 = \$273.$$

This is the smallest of the 3 amounts referred to in subsection (2). Peter can therefore be paid an advance payment of \$273.

Example 2:

Facts:

Anne has, at all times during the past 5 months, been receiving a job search allowance. Her fortnightly JSA rate is \$282.70. She applies for an advance payment of \$450.

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SCHEDULE 5—continued

Application:

The maximum amount of advance payment payable to Anne is worked out under subsection (3) as follows:

$$14\% \times \$282.70 \times 13 = \$514.51.$$

The smallest of the 3 amounts referred to in subsection (2) is \$450. Anne can therefore be paid an advance payment of \$450.

Amount of advance payment—person receiving allowance for at least 6 months

“570K.(1) This section applies if the person to whom the advance payment is payable has, at all times during the 6 months immediately preceding the application for the advance payment, been receiving any of the following:

- (a) a job search allowance;
- (b) a newstart allowance;
- (c) a youth training allowance.

“(2) Subject to section 570L, the amount of the advance payment is the smallest of the following amounts:

- (a) the amount of advance payment sought;
- (b) the maximum amount of advance payment payable to the person as worked out under subsection (3);
- (c) \$1,000.

“(3) For the purposes of paragraph (2)(b), the maximum amount of advance payment payable to the person is the amount worked out using the following formula:

$$14\% \times \text{Fortnightly JSA rate} \times 26$$

where:

‘**Fortnightly JSA rate**’ is the fortnightly rate of benefit payable to the person, on the last payday before the application for the advance payment was made, under:

- (a) Benefit Rate Calculator A, excluding any amount payable by way of remote area allowance under Module K of Benefit Rate Calculator A; or
 - (b) Benefit Rate Calculator B, excluding any amount payable by way of remote area allowance under Module J of Benefit Rate Calculator B;
- whichever is applicable.

“(4) Amounts worked out under subsection (3) must be rounded to the nearest cent (rounding 0.5 cents upwards).

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SCHEDULE 5—continued

Example 1:

Facts:

Jane has, at all times during the past 11 months, been receiving a job search allowance. Her fortnightly JSA rate is \$95. She applies for an advance payment of \$310.

Application:

The maximum amount of advance payment payable to Jane is worked out under subsection (3) as follows:

$$14\% \times \$95 \times 26 = \$345.80.$$

The smallest of the 3 amounts referred to in subsection (2) is \$310. Jane can therefore be paid an advance payment of \$310.

Example 2:

Facts:

Alan has, at all times during the past 7 months, been receiving a job search allowance. His fortnightly JSA rate is \$247. He applies for an advance payment of \$950.

Application:

The maximum amount of advance payment payable to Alan is worked out under subsection (3) as follows:

$$14\% \times \$247 \times 26 = \$899.08.$$

This is the smallest of the 3 amounts referred to in subsection (2). Alan can therefore be paid an advance payment of \$899.08.

Minimum amount of advance payment

“570L.(1) The advance payment is not payable if the amount of the advance payment would be less than \$250.

“(2) Subsection (1) does not prevent payment of an advance payment in instalments of less than \$250.

Example:

Facts:

Robert has, at all times during the past 14 weeks, been receiving a job search allowance. His fortnightly JSA rate is \$100. He applies for an advance payment of \$400.

Application:

The maximum amount of advance payment payable to Robert is worked out under subsection 570J(3) as follows:

$$14\% \times \$100 \times 13 = \$182.$$

This is the smallest of the 3 amounts referred to under subsection 570J(2), but, because it is less than \$250, no advance payment is payable.”.

SCHEDULE 5—continued

PART 2—NEWSTART ALLOWANCE

2. After Division 5 of Part 2.12:

Insert:

“Division 5A—Advance payment of newstart allowance

“Subdivision A—Qualification for and payability of advance payment

Qualification for advance payment

“653A.(1) Subject to subsection (4), a person is qualified for an advance payment of a newstart allowance only if:

- (a) a newstart allowance is payable to the person; and
- (b) at all times during the qualifying period under subsection (2), the person has been receiving any of the following:
 - (i) a job search allowance;
 - (ii) a newstart allowance;
 - (iii) a youth training allowance; and
- (c) the Secretary is satisfied that the advance payment will be used for the permitted purpose under subsection (3); and
- (d) the Secretary is satisfied that the person will not suffer financial hardship from reductions in payments of job search allowance or newstart allowance as a result of receiving the advance payment.

“(2) For the purposes of paragraph (1)(b), the qualifying period is:

- (a) if the amount of the advance payment sought by the person does not exceed \$500—the 3 months immediately preceding the application; or
- (b) if the amount of the advance payment sought exceeds \$500—the 6 months immediately preceding the application.

“(3) For the purposes of paragraph (1)(c), the permitted purpose is:

- (a) if the amount of the advance payment sought by the person does not exceed \$500—to help the person search for work or participate in activities related to finding paid employment; or
- (b) if the amount of the advance payment sought exceeds \$500—to help the person comply with a Newstart Activity Agreement, or a Case Management Activity Agreement (within the meaning of the *Employment Services Act 1994*), that the person has entered into.

SCHEDULE 5—continued

“(4) A person is not qualified for an advance payment of a newstart allowance if:

- (a) the maximum amount of advance payment to which the person would be entitled under Subdivision D is less than \$250; or
- (b) the person is subject to reduction in payments of newstart allowance as a result of receiving an advance payment of job search allowance or newstart allowance on a previous occasion; or
- (c) the person owes a debt to the Commonwealth under Part 5.2.

“Subdivision B—Applying for advance payment

Need for application

“653B. A person who wants an advance payment of a newstart allowance must apply for the advance payment in accordance with this Subdivision.

Form of application

“653C.(1) The application must be made in writing and must be in accordance with a form approved by the Secretary.

- “(2) The application must specify:
- (a) the amount of advance payment sought; and
 - (b) why the person wants the advance payment; and
 - (c) on what the advance payment would be spent.

Lodgment of application

“653D.(1) The application must be lodged:

- (a) at an office of the Department; or
- (b) at a place approved for the purpose by the Secretary; or
- (c) with a person approved for the purpose by the Secretary.

“(2) A place or person approved under subsection (1) must be a place or person in Australia.

Application may be withdrawn

“653E.(1) An applicant for an advance payment or a person acting on behalf of an applicant may withdraw an application that has not been determined.

- “(2) An application that is withdrawn is taken not to have been made.
- “(3) A withdrawal may be made orally or in writing.

SCHEDULE 5—continued

“Subdivision C—Determination of application and payment of advance payment

Secretary to determine application

“653F.(1) The Secretary must determine the application in accordance with this Act.

“(2) The Secretary must determine that the application is to be granted if the Secretary is satisfied that the person is qualified for the advance payment.

Payment of advance payment

“653G.(1) Subject to subsection (3), if the application is granted, the advance payment is to be paid on the next day on which the person is paid an instalment of newstart allowance.

“(2) Subject to subsection (3), the advance payment is to be paid as a single lump sum.

“(3) The Secretary may determine that:

- (a) an advance payment is to be paid on the day specified in the determination; or
- (b) an advance payment is to be paid in the instalments specified in the determination on the days specified in the determination.

Use of advance payment

“653H. The advance payment is to be paid on condition that it, or other money of the person, is spent as specified in the application for the advance payment.

“Subdivision D—Amount of advance payment

Amount of advance payment—person receiving allowance for under 6 months

“653J.(1) This section applies if the person to whom the advance payment is payable has not, at all times during the 6 months immediately preceding the application for the advance payment, been receiving any of the following:

- (a) a job search allowance;
- (b) a newstart allowance;
- (c) a youth training allowance.

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SCHEDULE 5—continued

“(2) Subject to section 653L, the amount of the advance payment is the smallest of the following amounts:

- (a) the amount of advance payment sought;
- (b) the maximum amount of advance payment payable to the person as worked out under subsection (3);
- (c) \$500.

“(3) For the purposes of paragraph (2)(b), the maximum amount of advance payment payable to the person is the amount worked out using the following formula:

$$14\% \times \text{Fortnightly NSA rate} \times 13$$

where:

‘**Fortnightly NSA rate**’ is the fortnightly rate of benefit payable to the person, on the last payday before the application for the advance payment was made, under Benefit Rate Calculator B, excluding any amount payable by way of remote area allowance under Module J of Benefit Rate Calculator B.

“(4) Amounts worked out under subsection (3) must be rounded to the nearest cent (rounding 0.5 cents upwards).

Example 1:

Facts:

George has, at all times during the past 5 months, been receiving a newstart allowance. His fortnightly NSA rate is \$140. He applies for an advance payment of \$290.

Application:

The maximum amount of advance payment payable to George is worked out under subsection (3) as follows:

$$14\% \times \$140 \times 13 = \$254.80.$$

This is the smallest of the 3 amounts referred to in subsection (2). George can therefore be paid an advance payment of \$254.

Example 2:

Facts:

Carol has, at all times during the past 4 months, been receiving a newstart allowance. Her fortnightly NSA rate is \$255. She applies for an advance payment of \$430.

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SCHEDULE 5—continued

Application:

The maximum amount of advance payment payable to Carol is worked out under subsection (3) as follows:

$$14\% \times \$255 \times 13 = \$464.10.$$

The smallest of the 3 amounts referred to in subsection (2) is \$430. Carol can therefore be paid an advance payment of \$430.

Amount of advance payment—person receiving allowance for at least 6 months

“653K.(1) This section applies if the person to whom the advance payment is payable has, at all times during the 6 months immediately preceding the application for the advance payment, been receiving any of the following:

- (a) a job search allowance;
- (b) a newstart allowance;
- (c) a youth training allowance.

“(2) Subject to section 653L, the amount of the advance payment is the smallest of the following amounts:

- (a) the amount of advance payment sought;
- (b) the maximum amount of advance payment payable to the person as worked out under subsection (3);
- (c) \$1,000.

“(3) For the purposes of paragraph (2)(b), the maximum amount of advance payment payable to the person is the amount worked out using the following formula:

$$14\% \times \text{Fortnightly NSA rate} \times 26$$

where:

‘Fortnightly NSA rate’ is the fortnightly rate of benefit payable to the person, on the last payday before the application for the advance payment was made, under Benefit Rate Calculator B, excluding any amount payable by way of remote area allowance under Module J of Benefit Rate Calculator B.

“(4) Amounts worked out under subsection (3) must be rounded to the nearest cent (rounding 0.5 cents upwards).

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SCHEDULE 5—continued

Example 1:

Facts:

Angela has, at all times during the past 8 months, been receiving a newstart allowance. Her fortnightly NSA rate is \$88. She applies for an advance payment of \$295.

Application:

The maximum amount of advance payment payable to Angela is worked out under subsection (3) as follows:

$$14\% \times \$88 \times 26 = \$320.22.$$

The smallest of the 3 amounts referred to in subsection (2) is \$295. Angela can therefore be paid an advance payment of \$295.

Example 2:

Facts:

Philip has, at all times during the past 10 months, been receiving either a job search allowance or a newstart allowance. His fortnightly NSA rate is \$239. He applies for an advance payment of \$915.

Application:

The maximum amount of advance payment payable to Philip is worked out under subsection (3) as follows:

$$14\% \times \$239 \times 26 = \$869.96.$$

This is the smallest of the 3 amounts referred to in subsection (2). Philip can therefore be paid an advance payment of \$869.96.

Minimum amount of advance payment

“653L.(1) The advance payment is not payable if the amount of the advance payment would be less than \$250.

“(2) Subsection (1) does not prevent payment of an advance payment in instalments of less than \$250.

Example:

Facts:

Fiona has, at all times during the past 14 weeks, been receiving a newstart allowance. Her fortnightly NSA rate is \$115. She applies for an advance payment of \$300.

Application:

The maximum amount of advance payment payable to Fiona is worked out under subsection 653J(3) as follows:

$$14\% \times \$115 \times 13 = \$209.30.$$

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SCHEDULE 5—continued

This is the smallest of the 3 amounts referred to under subsection 653J(2), but, because it is less than \$250, no advance payment is payable.”.

PART 3—REPAYMENT BY DEDUCTIONS FROM BENEFIT PAYMENTS

3. Section 1067 (point 1067-A1):

Omit Step 10, substitute:

“*Step 10.* Take the income reduction away from:

- (a) if the parental means test does not apply to the person—the maximum payment rate; or
- (b) if the parental means test applies to the person—the parental means test reduced rate.

The result is called the **provisional payment rate**.

Step 11. The rate of benefit is the difference between:

- (a) the provisional payment rate; and
- (b) any advance payment deduction (see MODULE J below);

plus any amount payable by way of remote area allowance (see MODULE K below).”.

4. Section 1067:

After Module H insert:

“MODULE J—ADVANCE PAYMENT DEDUCTION

Advance payment deduction

“1067-J1. Subject to points 1067-J2 and 1067-J5, an amount by way of advance payment deduction is to be deducted from a person’s rate if:

- (a) a job search allowance is payable to the person; and
- (b) the person has received an advance payment of job search allowance under Division 5A of Part 2.11 or an instalment of such an advance payment; and
- (c) the person has not yet repaid, by previous deductions under this Module or by any other means of payment, the whole of the advance payment or instalment.

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SCHEDULE 5—continued

Exemption for the payday on which the advance payment etc. is made

“1067-J2. An amount by way of advance payment deduction is not to be deducted from a person’s rate in respect of:

- (a) the payday on which the advance payment is paid; or
- (b) the payday on which the first instalment of the advance payment is paid;

as the case requires.

Amount of advance payment deduction—the basic calculation

“1067-J3. Subject to points 1067-J4, 1067-J5, 1067-J6, 1067-J7 and 1067-J8, the amount of the advance payment deduction is worked out as follows:

- (a) if the full amount of the advance payment did not exceed, or (in the case of an instalment of an advance payment) will not when fully paid exceed, \$500—by dividing the full amount of the advance payment by 13;
- (b) if the full amount of the advance payment exceeded, or (in the case of an instalment of an advance payment) will when fully paid exceed, \$500—by dividing the full amount of the advance payment by 26.

Example:

Facts:

Peter has been paid an advance payment of \$273 (see Example 1 at the end of section 570J).

Application:

Because the advance payment was less than \$500, Peter’s advance payment deduction is worked out under paragraph (a) of point 1067-J3 as follows:

$$\frac{\$273}{13} = \$21.$$

Person may request larger advance payment deduction

“1067-J4. Subject to points 1067-J5, 1067-J7 and 1067-J8, the amount of the advance payment deduction is taken to be increased to a larger amount if:

- (a) the person makes a written request to the Secretary for the amount of the advance payment deduction to be the larger amount; and

SCHEDULE 5—continued

- (b) the request applies to this advance payment deduction (whether or not it also applies to some or all of the other advance payment deductions to be deducted from the person's rate in relation to the advance payment in question).

However, this point does not apply if the Secretary is satisfied that the person would suffer severe financial hardship if the larger amount were deducted.

Reduction of advance payment deduction in cases of severe financial hardship

“1067-J5. Subject to points 1067-J6, 1067-J7 and 1067-J8, if:

- (a) the person applies in writing to the Secretary for advance payment deductions to be decreased, or to be stopped, because of severe financial hardship; and
- (b) the Secretary is satisfied that the person's circumstances are unforeseen and exceptional and that the person would suffer severe financial hardship if advance payment deductions of the amounts that would otherwise apply were to continue to be deducted from the person's rate;

the Secretary may determine in writing that, for the period specified in the determination:

- (c) the amount of advance payment deductions is to be the lesser amount specified in the determination; or
- (d) no amounts by way of advance payment deduction are to be deducted from the person's rate.

Review of reduction

“1067-J6. At any time while the determination is in force, the Secretary may, in writing:

- (a) vary the determination so as to require to be deducted from the person's rate an amount of advance payment deduction larger than the amount (if any) applying under the determination, but smaller than the amount applying immediately prior to the determination; or
- (b) revoke the determination;

but only if the Secretary is satisfied that the person would not suffer severe financial hardship because of the variation or revocation.

The final advance payment deduction

“1067-J7. Subject to point 1067-J8, if an amount by way of advance payment deduction that would otherwise be deducted from a person's rate exceeds the part of the advance payment that the person has not yet repaid

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(by previous deductions under this Module or otherwise), the amount of that advance payment deduction is taken to be an amount equal to the part that the person has not yet repaid.

Example:

Facts:

Assume that, in the example at the end of point 1067-J3, Peter has requested that the advance payment deduction be the larger amount of \$25 (see point 1067-J4), so that the advance payment of \$273 will be repaid sooner.

Application:

If \$25 is deducted from Peter's fortnightly rate of benefit, \$250 will have been repaid after 10 successive fortnights, leaving \$23 unpaid. Under point 1067-J7, the final advance payment deduction will be \$23.

Provisional payment rate insufficient to cover advance payment deduction

“1067-J8. If the provisional payment rate referred to in Step 11 of the Method statement in point 1067-A1 is less than the amount that would otherwise be the advance payment deduction, the amount of that advance payment deduction is taken to be an amount equal to the provisional payment rate.

Rounding of amounts

“1067-J9. Amounts worked out under this Module must be rounded to the nearest cent (rounding 0.5 cents upwards).”.

5. Section 1068 (point 1068-A1):

Omit Step 8, substitute:

“*Step 8.* Take the income reduction away from the maximum payment rate: the result is called the **provisional payment rate**.

Step 9. The rate of benefit is the difference between:

- (a) the provisional payment rate; and
- (b) any advance payment deduction (see MODULE H below);

plus any amount payable by way of remote area allowance (see MODULE J below).”.

6. Section 1068:

After Module G insert:

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SCHEDULE 5—continued

“MODULE H—ADVANCE PAYMENT DEDUCTION

Advance payment deduction

“1068-H1. Subject to points 1068-H2 and 1068-H5, an amount by way of advance payment deduction is to be deducted from a person’s rate if:

- (a) a job search allowance or a newstart allowance is payable to the person; and
- (b) the person has received an advance payment of job search allowance under Division 5A of Part 2.11, an advance payment of newstart allowance under Division 5A of Part 2.12, or an instalment of such an advance payment; and
- (c) the person has not yet repaid, by previous deductions under Module J of Benefit Rate Calculator A or this Module or by any other means of payment, the whole of the advance payment or instalment.

Exemption for the payday on which the advance payment etc. is made

“1068-H2. An amount by way of advance payment deduction is not to be deducted from a person’s rate in respect of:

- (a) the payday on which the advance payment is paid; or
- (b) the payday on which the first instalment of the advance payment is paid;

as the case requires.

Amount of advance payment deduction—the basic calculation

“1068-H3. Subject to points 1068-H4, 1068-H5, 1068-H6, 1068-H7 and 1068-H8, the amount of the advance payment deduction is worked out as follows:

- (a) if the full amount of the advance payment did not exceed, or (in the case of an instalment of an advance payment) will not when fully paid exceed, \$500—by dividing the full amount of the advance payment by 13;
- (b) if the full amount of the advance payment exceeded, or (in the case of an instalment of an advance payment) will when fully paid exceed, \$500—by dividing the full amount of the advance payment by 26.

Example:

Facts:

Anne had applied for and has been paid an advance payment of \$450. The maximum amount of advance payment payable to her was \$514.51 (see Example 2 at the end of section 570J).

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SCHEDULE 5—continued

Application:

Because the advance payment was less than \$500, Anne's advance payment deduction is worked out under paragraph (a) of point 1068-H3 as follows:

$$\frac{\$450}{13} = \$34.62.$$

The fact that Anne could have been paid up to \$514.51 does not affect the calculation (even though the advance payment deduction for such an amount would have been calculated under paragraph (b) of point 1068-H3).

Person may request larger advance payment deduction

“1068-H4. Subject to points 1068-H5, 1068-H7 and 1068-H8, the amount of the advance payment deduction is taken to be increased to a larger amount if:

- (a) the person makes a written request to the Secretary for the amount of the advance payment deduction to be the larger amount; and
- (b) the request applies to this advance payment deduction (whether or not it also applies to some or all of the other advance payment deductions to be deducted from the person's rate in relation to the advance payment in question).

However, this point does not apply if the Secretary is satisfied that the person would suffer severe financial hardship if the larger amount were deducted.

Reduction of advance payment deduction in cases of severe financial hardship

“1068-H5. Subject to points 1068-H6, 1068-H7 and 1068-H8, if:

- (a) the person applies in writing to the Secretary for advance payment deductions to be decreased, or to be stopped, because of severe financial hardship; and
- (b) the Secretary is satisfied that the person's circumstances are unforeseen and exceptional and that the person would suffer severe financial hardship if advance payment deductions of the amounts that would otherwise apply were to continue to be deducted from the person's rate;

the Secretary may determine in writing that, for the period specified in the determination:

- (c) the amount of advance payment deductions is to be the lesser amount specified in the determination; or
- (d) no amounts by way of advance payment deduction are to be deducted from the person's rate.

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SCHEDULE 5—continued

Review of reduction

“1068-H6. At any time while the determination is in force, the Secretary may, in writing:

- (a) vary the determination so as to require to be deducted from the person’s rate an amount of advance payment deduction larger than the amount (if any) applying under the determination, but smaller than the amount applying immediately prior to the determination; or
- (b) revoke the determination;

but only if the Secretary is satisfied that the person would not suffer severe financial hardship because of the variation or revocation.

The final advance payment deduction

“1068-H7. Subject to point 1068-H8, if an amount by way of advance payment deduction that would otherwise be deducted from a person’s rate exceeds the part of the advance payment that the person has not yet repaid (by previous deductions under this Module or otherwise), the amount of that advance payment deduction is taken to be an amount equal to the part that the person has not yet repaid.

Example:

Facts:

Assume that, in the example at the end of point 1068-H3, Anne has requested that the advance payment deduction be the larger amount of \$55 (see point 1068-H4), so that the advance payment of \$450 will be repaid sooner.

Application:

If \$55 is deducted from Anne’s fortnightly rate of benefit, \$440 will have been repaid after 8 successive fortnights, leaving \$10 unpaid. Under point 1068-H7, the final advance payment deduction will be \$10.

Provisional payment rate insufficient to cover advance payment deduction

“1068-H8. If the provisional payment rate referred to in Step 9 of the Method statement in point 1068-A1 is less than the amount that would otherwise be the advance payment deduction, the amount of that advance payment deduction is taken to be an amount equal to the provisional payment rate.

Rounding of amounts

“1068-H9. Amounts worked out under this Module must be rounded to the nearest cent (rounding 0.5 cents upwards).”.

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SCHEDULE 5—continued

PART 4—RECOVERY OF OVERPAYMENTS

7. Subsection 1222(1) (Note 1):

After:

- “ • section 1224D debts—mobility allowance advance debts;”

insert:

- “ • section 1224E debts—debts arising from advance payments of job search allowance and newstart allowance;”.

8. Subsection 1222(2) (Recovery Methods Table):

After item 5C insert:

“

5D.	1224E (debt arising from advance payments of job search allowance and newstart allowance)	deductions legal proceedings garnishee notice	1231, 1234A 1232 1233
-----	--	--	-----------------------------

”.

9. Section 1222A (Note 1):

After “1224D,” insert “1224E,”.

10. After section 1224D:

Insert:

Debts arising from advance payments of job search allowance and newstart allowance

“1224E.(1) If:

- (a) a person has received an advance payment of job search allowance under Division 5A of Part 2.11, an advance payment of newstart allowance under Division 5A of Part 2.12, or an instalment of such an advance payment; and
- (b) subject to subsection (3), job search allowance ceases to be payable to the person, or newstart allowance ceases to be payable to the person, as the case requires; and
- (c) at the time of job search allowance or newstart allowance ceasing to be payable, the person has not yet repaid, by previous deductions under Module J of Benefit Rate Calculator A or Module H of Benefit Rate Calculator B or by any other means of payment, the whole of the advance payment or instalment;

the amount that has not been repaid is a debt due to the Commonwealth.

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- “(2) The debt is recoverable by the Commonwealth by means of:
- (a) if the person is receiving a social security payment under this Act—deductions from that person’s social security payment; or
 - (b) if section 1234A applies to another person who is receiving a social security payment under this Act—deductions from that other person’s social security payment; or
 - (c) legal proceedings; or
 - (d) garnishee notice.

Note 1: For deductions see sections 1231 and 1234A.

Note 2: For legal proceedings see section 1232.

Note 3: For garnishee notice see section 1233.

Note 4: If the person does not pay the debt or enter into an agreement to pay the debt within a certain time, interest may become payable on the debt (see section 1229). If the person enters into an agreement to pay the debt and breaches the agreement, interest may become payable on the debt (see section 1229A).

“(3) For the purposes of paragraph (1)(b), a job search allowance is taken not to have ceased to become payable if a newstart allowance becomes payable to the person immediately after the job search allowance ceases to be payable to the person.”.

11. Subsection 1233(1):

After “1224D,” insert “1224E,”.

SCHEDULE 6

Section 8

AMENDMENTS RELATING TO ACTIVITY TESTS

1. Paragraph 513(1)(bb):

Add at the end:

“Note: See subsection (2A) on taking reasonable steps.”.

2. Paragraph 513(1A)(cb):

Add at the end:

“Note: See subsection (2A) on taking reasonable steps.”.

3. Paragraph 513(2)(bb):

Add at the end:

“Note: See subsection (2A) on taking reasonable steps.”.

4. After subsection 513(2):

Insert:

“(2A) For the purposes of paragraph (1)(bb), (1A)(cb) or (2)(bb), a person is taking reasonable steps to comply with the terms of a Job Search Activity Agreement unless the person has failed to comply with the terms of the agreement and:

- (a) the main reason for failing to comply involved a matter that was within the person’s control; or
- (b) the circumstances that prevented the person from complying were reasonably foreseeable by the person.”.

5. Subsection 522(1):

(a) Omit “that in the opinion of the Secretary is suitable”, substitute “, other than paid work that is unsuitable”.

(b) Add at the end:

“Note 2: See subsections (2A) and (2B) on what paid work is unsuitable.”.

6. Subsection 522(1B):

Add at the end:

“Note: See subsection (6) on taking reasonable steps.”.

7. Subparagraph 522(2)(a)(i):

(a) Omit “that, in the opinion of the Secretary, is suitable”, substitute “, than paid work that is unsuitable”.

(b) Add at the end:

“Note: See subsections (2A) and (2B) on what paid work is unsuitable.”.

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8. Subsection 522(2):

Add at the end:

“Note 2: See subsection (6) on taking reasonable steps.”.

9. After subsection 522(2):

Insert:

“(2A) For the purposes of subsection (1) and subparagraph (2)(a)(i), particular paid work is unsuitable for a person if and only if, in the Secretary’s opinion:

- (a) the person lacks the particular skills, experience or qualifications that are needed to perform the work; or
- (b) the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed; or
- (c) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety and would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
- (d) the work would involve the person being self-employed; or
- (e) the work would be covered by an industrial award but the employer would only employ the person if the person agreed to become a party to an agreement reducing or abolishing rights that the award confers on employees; or
- (f) the work would not be covered by an industrial award and the remuneration for the work would be lower than the minimum applicable rate of remuneration for comparable work that is covered by an industrial award; or
- (g) commuting between the person’s home and the place of work would be unreasonably difficult; or
- (h) for any other reason, the work is unsuitable for the person.

“(2B) Commuting is not unreasonably difficult for the purposes of paragraph (2A)(g) if:

- (a) the sole or principal reason for the difficulty is that the commuting involves a journey, either from the person’s home to the place of work or from the place of work to the person’s home, that does not normally exceed 90 minutes in duration; or
- (b) in the Secretary’s opinion, a substantial number of people living in the same area as the person regularly commute to their places of work in circumstances similar to those of the person.

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“(2C) Subsection (2B) does not limit the Secretary’s discretion to form the opinion that, for the purposes of paragraph (2A)(g), commuting is not unreasonably difficult.

“(2D) A reference in subsection (2A) to remuneration for work is a reference to any income derived from the work that is income from personal exertion.

Note: For ‘income from personal exertion’ see subsection 8(1).”.

10. Subsection 522(3):

Add at the end:

“Note: See subsection (6) on taking reasonable steps.”.

11. Subsection 522(4):

Add at the end:

“Note: See subsection (6) on taking reasonable steps.”.

12. Section 522:

Add at the end:

“(6) For the purposes of this section, a person takes reasonable steps to comply with a notice under subsection (1A), with a requirement of the Secretary under subsection (2), or with the terms of a Job Search Activity Agreement (as the case requires) unless the person has failed so to comply and:

- (a) the main reason for failing to comply involved a matter that was within the person’s control; or
- (b) the circumstances that prevented the person from complying were reasonably foreseeable by the person.”.

13. Paragraph 593(1)(f):

Add at the end:

“Note: See subsection (2A) on taking reasonable steps.”.

14. Paragraph 593(2)(f):

Add at the end:

“Note: See subsection (2A) on taking reasonable steps.”.

15. After subsection 593(2):

Insert:

“(2A) For the purposes of paragraph (1)(f) or (2)(f), a person is taking reasonable steps to comply with the terms of a Newstart Activity Agreement unless the person has failed to comply with the terms of the agreement and:

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- (a) the main reason for failing to comply involved a matter that was within the person's control; or
- (b) the circumstances that prevented the person from complying were reasonably foreseeable by the person."

16. Subsection 601(1):

- (a) Omit "that in the opinion of the Secretary is suitable", substitute ", other than paid work that is unsuitable".
- (b) Add at the end:
"Note 2: See subsections (2A) and (2B) on what paid work is unsuitable."

17. Subsection 601(1B):

- Add at the end:
"Note: See subsection (6) on taking reasonable steps."

18. Subparagraph 601(2)(a)(i):

- (a) Omit "that, in the opinion of the Secretary, is suitable", substitute ", other than paid work that is unsuitable".
- (b) Add at the end:
"Note: See subsections (2A) and (2B) on what paid work is unsuitable."

19. Subsection 601(2):

- Add at the end:
"Note 2: See subsection (6) on taking reasonable steps."

20. After subsection 601(2):

Insert:

"(2A) For the purposes of subsection (1) and subparagraph (2)(a)(i), particular paid work is unsuitable for a person if and only if, in the Secretary's opinion:

- (a) the person lacks the particular skills, experience or qualifications that are needed to perform the work; or
- (b) the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed;
or
- (c) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety and would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
- (d) the work would involve the person being self-employed; or

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- (e) the work would be covered by an industrial award but the employer would only employ the person if the person agreed to become a party to an agreement reducing or abolishing rights that the award confers on employees; or
- (f) the work would not be covered by an industrial award and the remuneration for the work would be lower than the minimum applicable rate of remuneration for comparable work that is covered by an industrial award; or
- (g) commuting between the person's home and the place of work would be unreasonably difficult; or
- (h) for any other reason, the work is unsuitable for the person.

“(2B) Commuting is not unreasonably difficult for the purposes of paragraph (2A)(g) if:

- (a) the sole or principal reason for the difficulty is that the commuting involves a journey, either from the person's home to the place of work or from the place of work to the person's home, that does not normally exceed 90 minutes in duration; or
- (b) in the Secretary's opinion, a substantial number of people living in the same area as the person regularly commute to their places of work in circumstances similar to those of the person.

“(2C) Subsection (2B) does not limit the Secretary's discretion to form the opinion that, for the purposes of paragraph (2A)(g), commuting is not unreasonably difficult.

“(2D) A reference in subsection (2A) to remuneration for work is a reference to any income derived from the work that is income from personal exertion.

Note: For 'income from personal exertion' see subsection 8(1).”.

21. Subsection 601(3):

Add at the end:

“Note: See subsection (6) on taking reasonable steps.”.

22. Subsection 601(4):

Add at the end:

“Note: See subsection (6) on taking reasonable steps.”.

23. Section 601:

Add at the end:

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“(6) For the purposes of this section, a person takes reasonable steps to comply with a notice under subsection (1A), with a requirement of the Secretary under subsection (2), or with the terms of a Newstart Activity Agreement (as the case requires) unless the person has failed so to comply and:

- (a) the main reason for failing to comply involved a matter that was within the person’s control; or
 - (b) the circumstances that prevented the person from complying were reasonably foreseeable by the person.”.
-

SCHEDULE 7

Section 9

AMENDMENTS RELATING TO ASSESSABLE FRINGE BENEFITS

1. Subsection 1157G(1):

Omit “If”, substitute “Subject to subsection (1A), if”.

2. After subsection 1157G(1):

Insert:

“(1A) The making of the loan does not constitute a loan benefit provided by the provider to the recipient if:

- (a) the provider is the Defence Force, or a body one of the objects or functions of which is making loans to employees of the Defence Force; and
- (b) the recipient is an employee of the Defence Force.”.

3. Section 1157I:

Add at the end:

“(2) The payment of money or other valuable consideration by an employer directly or indirectly to an employee (other than an employee of the Defence Force) to enable or assist the employee to meet costs associated with a loan to which subsection (4) applies constitutes a housing benefit provided by the employer to the employee.

Note: For ‘employee’ and ‘employer’ see section 10A.

“(3) The payment of money or other valuable consideration by an employer directly or indirectly to an employee of the Defence Force to meet costs associated with a loan to which subsection (4) applies does not constitute a housing benefit provided by the employer to the employee.

“(4) This subsection applies to a loan made to, or used by, a person (whether in his or her own right or jointly with his or her partner) wholly:

- (a) to enable the person to acquire a prescribed interest in land on which a dwelling or a building containing a dwelling was subsequently to be constructed; or
- (b) to enable the person to acquire a prescribed interest in land and construct, or complete the construction of, a dwelling or a building containing a dwelling on the land; or
- (c) to enable the person to construct, or complete the construction of, a dwelling or a building containing a dwelling on land in which the person held a prescribed interest; or
- (d) to enable the person to acquire a prescribed interest in land on which there was a dwelling or a building containing a dwelling; or

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- (e) to enable the person to acquire a prescribed interest in a stratum unit in relation to a dwelling; or
- (f) to enable the person to extend a building that:
 - (i) is a dwelling or contains a dwelling; and
 - (ii) is constructed on land in which the person held a prescribed interest;by adding a room or part of a room to the building or part of the building containing the dwelling, as the case may be; or
- (g) if the person held a prescribed interest in a stratum unit in relation to a dwelling—to enable the person to extend the dwelling by adding a room or part of a room to the dwelling; or
- (h) to enable the person to repay a loan that was made to, and used by, the person wholly for a purpose mentioned in paragraph (a) to (g).

Note 1: For ‘dwelling’ see subsection 10A(7).

Note 2: For prescribed interest see subsections 10A(10) to (14).

Note 3: For ‘stratum units’ see subsection 10A(8).

“(5) The payment of money or other valuable consideration by an employer directly or indirectly to an employee to enable or assist the employee to meet costs associated with enjoying a housing right constitutes a housing benefit provided by the employer to the employee.

Note: For ‘employee’, ‘employer’ and ‘housing right’ see section 10A.

“(6) For the avoidance of doubt, subsection (5) does not apply to payments to which subsection (2) or (3) applies.”.

4. Before section 1157S:

Insert:

“Subdivision A—Grants of housing rights”.

5. Section 1157S:

Repeal the section, substitute:

Methods of valuing housing fringe benefits—grants of housing rights

“1157S.(1) Subject to subsection (3), the value of a housing fringe benefit to which subsection 1157I(1) applies that is provided to a person who is not an employee of the Defence Force is to be worked out in accordance with section 1157T.

“(2) Subject to subsection (3), the value of a housing fringe benefit to which subsection 1157I(1) applies that is provided to an employee of the Defence Force is to be worked out in accordance with section 1157TA.

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“(3) If:

- (a) a determination is in force under section 1157U; and
- (b) the determination applies to housing fringe benefits to which subsection 1157I(1) applies;

the value of a housing fringe benefit to which subsection 1157I(1) applies is to be worked out in accordance with the determination.”.

6. Subsection 1157T(1):

After “housing fringe benefit” (first occurring) insert “to which subsection 1157I(1) applies that is provided to a person who is not an employee of the Defence Force”.

7. Subsection 1157T(1) (Step 6):

Omit “housing benefit”, substitute “housing fringe benefit”.

8. Subsection 1157T(2):

After “housing fringe benefit” (first occurring) insert “to which subsection 1157I(1) applies that is provided to a person who is not an employee of the Defence Force”.

9. After section 1157T:

Insert:

Value of grants of housing rights—employees of the Defence Force

“1157TA.(1) This is how to work out the value of a housing fringe benefit to which subsection 1157I(1) applies that is provided to an employee of the Defence Force:

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SCHEDULE 7—continued

Method statement

Step 1. Work out the type of accommodation and go to the appropriate column in the Housing Fringe Benefits Value Table (Defence Force Employees): the number in the appropriate column is the **weekly market rent** of the unit of accommodation.

Note: If the person is a member of a couple, the weekly market rent is to be halved in certain circumstances (see subsection (4)).

Step 2. Work out how many complete weeks in the appropriate tax year the unit of accommodation was or will be available to the person.

Step 3. Multiply the weekly market rent of the unit of accommodation and the number of weeks obtained in Step 2: the result is the **provisional value of the housing fringe benefit**.

Step 4. Work out the allowable rent for the unit of accommodation in the appropriate tax year using subsection (3).

Note: If a person is a member of a couple, the allowable rent is to be halved in certain circumstances (see subsection (4)).

Step 5. Take the allowable rent away from the provisional value of the housing fringe benefit: the result is the **value of the housing fringe benefit**.

Note: For 'employee' see section 10A.

“(2) The following Table is to be used in working out the value of a housing fringe benefit to which subsection 1157I(1) applies that is provided to an employee of the Defence Force:

HOUSING FRINGE BENEFITS VALUE TABLE (DEFENCE FORCE EMPLOYEES)		
Type of accommodation		
House, flat or home unit		Any other unit of accommodation
3 or more bedrooms	1-2 bedrooms	
80	80	25

Note 1: For 'employee' see section 10A.

Note 2: For 'unit of accommodation' see section 10A.

Note 3: A housing fringe benefit that is received outside Australia is to be valued (see section 1157B).

Note 4: For 'Australia' see subsection 23(1).

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SCHEDULE 7—continued

“(3) The allowable rent is the amount of rent that the Secretary is satisfied is payable for the unit of accommodation in the appropriate tax year by:

- (a) if the person is not a member of a couple—the person; or
- (b) if the person is a member of a couple—the person and the person’s partner.

“(4) If:

- (a) the person is a member of a couple; and
- (b) the person’s partner receives a housing fringe benefit in the appropriate tax year; and
- (c) the person’s and the partner’s housing fringe benefits relate to the same unit of accommodation;

the weekly market rent obtained in Step 1 of the Method statement and the allowable rent obtained in Step 4 of the Method statement are both to be halved.”.

10. Before section 1157U:

Insert:

“Subdivision B—Payments associated with loans

Method of valuing housing fringe benefits—payments associated with loans

“1157TB.(1) Subject to subsection (2), the value of a housing fringe benefit to which subsection 1157I(2) applies is to be worked out in accordance with section 1157TC.

“(2) If:

- (a) a determination is in force under section 1157U; and
- (b) the determination applies to housing fringe benefits to which subsection 1157I(2) applies;

the value of a housing fringe benefit to which subsection 1157I(2) applies is to be worked out in accordance with the determination.

Value of payments associated with loans

“1157TC. The value of a housing fringe benefit to which subsection 1157I(2) applies is the amount of the payment that constitutes the housing benefit.

SCHEDULE 7—continued

“Subdivision C—Payments associated with enjoying housing rights

Methods of valuing housing fringe benefits—payments associated with enjoying housing rights

“1157TD.(1) Subject to subsection (3), the value of a housing fringe benefit to which subsection 1157I(4) applies that is provided to a person who is not an employee of the Defence Force is to be worked out in accordance with section 1157TE.

“(2) Subject to subsection (3), the value of a housing fringe benefit to which subsection 1157I(4) applies that is provided to an employee of the Defence Force is to be worked out in accordance with section 1157TF.

“(3) If:

- (a) a determination is in force under section 1157U; and
- (b) the determination applies to housing fringe benefits to which subsection 1157I(4) applies;

the value of a housing fringe benefit to which subsection 1157I(4) applies is to be worked out in accordance with the determination.

Value of payments associated with enjoying housing rights—general

“1157TE.(1) This is how to work out the value of a housing fringe benefit to which subsection 1157I(4) applies that is provided to a person who is not an employee of the Defence Force:

SCHEDULE 7—continued

Method statement

- Step 1.* Work out the location of the unit of accommodation and go to the appropriate row of the Housing Fringe Benefits Value Table.
- Step 2.* Work out the type of accommodation and go to the appropriate column in the Table: the number where the row and column intersect is the **weekly market rent** of the unit of accommodation.
Note: If the person is a member of a couple, the weekly market rent is to be halved in certain circumstances (see subsection (4)).
- Step 3.* Work out how many complete weeks in the appropriate tax year the unit of accommodation was or will be available to the person.
- Step 4.* Multiply the weekly market rent of the unit of accommodation and the number of weeks obtained in Step 3: the result is the **provisional value of the housing fringe benefit**.
- Step 5.* Work out the allowable rent for the unit of accommodation in the appropriate tax year using subsection (3).
Note: If a person is a member of a couple, the allowable rent is to be halved in certain circumstances (see subsection (4)).
- Step 6.* Work out the amount the employer paid or will pay by way of the housing fringe benefits in respect of the unit of accommodation in the appropriate tax year: the result is the **employer subsidy**.
- Step 7.* Work out the amount (if any) by which the allowable rent exceeds the employer subsidy: the result is the **employee contribution**.
Note: If the employer subsidy equals or exceeds the allowable rent, the employee contribution is nil.
- Step 8.* Take the employee contribution away from the provisional value of the housing fringe benefit: the result is the **value of the housing fringe benefit**.

“(2) The following Table is to be used in working out the value of a housing fringe benefit to which subsection 1157I(4) applies that is provided to a person who is not an employee of the Defence Force:

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SCHEDULE 7—continued

HOUSING FRINGE BENEFITS VALUE TABLE			
Location	Type of accommodation		
	House, flat or home unit		Any other unit of accommodation
	3 or more bedrooms	1-2 bedrooms	
Metropolitan	140	120	85
Non-metropolitan	100	90	70
Special housing	80	80	25
Outside Australia	140	120	85

Note 1: For ‘unit of accommodation’, ‘metropolitan location’, ‘non-metropolitan location’ and ‘special housing location’ see section 10A.

Note 2: A housing fringe benefit that is received outside Australia is to be valued (see section 1157B).

Note 3: For ‘Australia’ see subsection 23(1).

“(3) The allowable rent is the amount of rent that the Secretary is satisfied is payable for the unit of accommodation in the appropriate tax year by:

- (a) if the person is not a member of a couple—the person; or
- (b) if the person is a member of a couple—the person and the person’s partner.

“(4) If:

- (a) the person is a member of a couple; and
- (b) the person’s partner receives a housing fringe benefit in the appropriate tax year; and
- (c) the person’s and the partner’s housing fringe benefits relate to the same unit of accommodation;

the weekly market rent obtained in Step 2 of the Method statement and the allowable rent obtained in Step 5 of the Method statement are both to be halved.

Value of payments associated with enjoying housing rights—employees of the Defence Force

“1157TF.(1) This is how to work out the value of a housing fringe benefit to which subsection 1157I(4) applies that is provided to an employee of the Defence Force:

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SCHEDULE 7—continued

Method statement

Step 1. Work out the type of accommodation and go to the appropriate column in the Housing Fringe Benefits Value Table (Defence Force Employees): the number in the appropriate column is the **weekly market rent** of the unit of accommodation.

Note: If the person is a member of a couple, the weekly market rent is to be halved in certain circumstances (see subsection (4)).

Step 2. Work out how many complete weeks in the appropriate tax year the unit of accommodation was or will be available to the person.

Step 3. Multiply the weekly market rent of the unit of accommodation and the number of weeks obtained in Step 2: the result is the **provisional value of the housing fringe benefit**.

Step 4. Work out the allowable rent for the unit of accommodation in the appropriate tax year using subsection (3).

Note: If a person is a member of a couple, the allowable rent is to be halved in certain circumstances (see subsection (4)).

Step 5. Work out the amount the employer paid or will pay by way of the housing fringe benefits in respect of the unit of accommodation in the appropriate tax year: the result is the **employer subsidy**.

Step 6. Work out the amount (if any) by which the allowable rent exceeds the employer subsidy: the result is the **employee contribution**.

Note: If the employer subsidy equals or exceeds the allowable rent, the employee contribution is nil.

Step 7. Take the employee contribution away from the provisional value of the housing fringe benefit: the result is the **value of the housing fringe benefit**.

“(2) The following Table is to be used in working out the value of a housing fringe benefit to which subsection 1157I(4) applies that is provided to an employee of the Defence Force:

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SCHEDULE 7—continued

HOUSING FRINGE BENEFITS VALUE TABLE (DEFENCE FORCE EMPLOYEES)		
Type of accommodation		
House, flat or home unit		Any other unit of accommodation
3 or more bedrooms	1-2 bedrooms	
80	80	25

Note 1: For 'employee' see section 10A.

Note 2: For 'unit of accommodation' see section 10A.

Note 3: A housing fringe benefit that is received outside Australia is to be valued (see section 1157B).

Note 4: For 'Australia' see subsection 23(1).

“(3) The allowable rent is the amount of rent that the Secretary is satisfied is payable for the unit of accommodation in the appropriate tax year by:

- (a) if the person is not a member of a couple—the person; or
- (b) if the person is a member of a couple—the person and the person's partner.

“(4) If:

- (a) the person is a member of a couple; and
- (b) the person's partner receives a housing fringe benefit in the appropriate tax year; and
- (c) the person's and the partner's housing fringe benefits relate to the same unit of accommodation;

the weekly market rent obtained in Step 1 of the Method statement and the allowable rent obtained in Step 4 of the Method statement are both to be halved.

“Subdivision D—Alternative methods of valuing housing fringe benefits”.

11. After subsection 1157U(1):

Insert:

“(1A) A determination under subsection (1) may apply to all housing fringe benefits or only to specified kinds of housing fringe benefits.”.

SCHEDULE 8

Section 10

**AMENDMENTS RELATING TO SUPERANNUATION
INVESTMENT PRODUCTS**

1. Subsection 9(1) (definition of “deductible amount”):

Add at the end:

“Note: See subsection (12).”.

2. Subsection 9(1) (definition of “non-assessable purchase price”):

Add at the end:

“Note: See subsection (12).”.

3. Subsection 9(1) (definition of “roll-over purchase price”):

Add at the end:

“Note: See subsection (12).”.

4. Section 9:

Add at the end:

“(12) References to the Income Tax Assessment Act in the definitions of ‘deductible amount’, ‘non-assessable purchase price’ and ‘roll-over purchase price’ in subsection (1) are taken to be references to the Income Tax Assessment Act as in force immediately before 1 July 1994.”.

NOTE

Social Security Act 1991

1. No. 46, 1991, as amended. For previous amendments, see Nos. 68, 69, 70, 73, 74, 115, 116, 141, 175, 194, and 208, 1991; Nos. 12, 69, 81, 94, 118, 133, 134, 138, 228, 229, 230, 233 and 241, 1992; Nos. 25, 36, 61, 120 and 121, 1993; and Nos. 55 and 109, 1994.

NOTE ABOUT SECTION HEADING

1. Upon the commencement of items 5 to 9 of Schedule 7, the heading to section 1157T of the Principal Act is omitted and the following heading is substituted:
“**Value of grants of housing rights—general**”.

[*Minister’s second reading speech made in—
House of Representatives on 22 September 1994
Senate on 18 October 1994*]