



Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act (No. 2) 1994

No. 164 of 1994

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Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act (No. 2) 1994

No. 164 of 1994

An Act to amend the *Veterans' Entitlements Act 1986*, and for related purposes

The Parliament of Australia enacts:

[Assented to 16 December 1994]

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act (No. 2) 1994*.

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Commencement

2.(1) Part 1, Divisions 1 and 11 of Part 2 and Parts 3 and 4 commence on the day on which this Act receives the Royal Assent.

(2) Division 5 of Part 2 is taken to have commenced on 1 July 1994.

(3) Divisions 3 and 7 of Part 2 commence on 20 March 1995, immediately after the commencement of Divisions 6 and 7 of Part 2 of the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994*.

(4) The remaining provisions commence on 1 January 1995.

**PART 2—AMENDMENTS OF THE VETERANS'
ENTITLEMENTS ACT 1986**

Division 1—Principal Act

Principal Act

3. In this Part, “**Principal Act**” means the *Veterans' Entitlements Act 1986*¹.

Division 2—Compensation recovery

Insertion of section

4. After Section 5NA of the Principal Act the following section is inserted:

Compensation recovery definitions

“5NB.(1) In this Act, unless the contrary intention appears:

‘**average weekly earnings**’, in relation to a lump sum preclusion period, means the amount:

- (a) estimated as the average total weekly earnings, during a particular month, of all employees (all persons) in Australia; and
- (b) last published by the Australian Statistician before the lump sum compensation payment became payable;

Note: For ‘lump sum preclusion period’ see subsections 59Q(3) to (7).

‘**compensation**’ has the meaning given by subsection (2);

Note: See also section 59O.

‘**compensation affected component**’, in relation to an amount of compensation affected pension that has a dependent child component, means that part of the amount of pension that is not the dependent child component;

Note: For ‘dependent child component’ see this subsection.

‘**compensation affected pension**’ means:

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- (a) an invalidity service pension; or
- (b) a partner service pension; or
- (c) a carer service pension;

payable to a person who has not reached pension age;

Note: For 'pension age' see sections 5QA and 5QB.

'compensation part', in relation to a lump sum compensation payment, has the meaning given by subsections (7) and (8);

'compensation payer' means:

- (a) a person who is liable to make a compensation payment; or
- (b) an authority of a State or Territory that has determined that it will make a payment by way of compensation to another person, whether or not the authority is liable to make the payment;

'dependent child component', in relation to an amount of compensation affected pension payable to a person who has a dependent child, means:

- (a) any additional amount for dependent children or any amount for rent assistance that, in working out the rate of the pension, was added to the person's maximum basic rate; or
- (b) if any amount referred to in paragraph (a) was reduced because an income test or asset test was applied in working out the rate of the pension—that amount as so reduced;

Note 1: For the method of working out the pension rate, the maximum basic rate and the amount for dependent children and rent assistance, see Modules A, B, C and D of the Rate Calculators at the end of sections 42 and 43.

Note 2: For the application of income tests and assets tests, see Modules A, E, F and G of the Rate Calculator at the end of section 42.

'event that gives rise to an entitlement to compensation' has the meaning given by subsection (11);

'periodic payments period' means:

- (a) in relation to a series of periodic payments—the period in respect of which the payments are, or are to be, made; and
- (b) in relation to a payment of arrears of a series of periodic payments—the period in respect of which those periodic payments would have been made if they had not been made by way of an arrears payment;

Note: Arrears of periodic compensation payments are normally treated as reducing, on a dollar for dollar basis, a payment under this Act that is covered by Part IIIC because these compensation payments are not lump sum compensation payments: see subsection 5NB(1) and sections 59T and 59W.

'potential compensation payer' means a person who, in the Commission's opinion, may become a compensation payer;

'receives compensation' has the meaning given by subsection (10).

Compensation

“(2) For the purposes of Part IIIC, **'compensation'** means:

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- (a) a payment of damages or compensation; or
- (b) a payment under a scheme of insurance or compensation under a law of the Commonwealth or of a State or Territory, or under a contract entered into under such a scheme; or
- (c) a payment (with or without admission of liability) in settlement of a claim for damages or of a claim under such an insurance scheme; made wholly or partly in respect of lost earnings or lost capacity to earn. The payment may be in the form of a lump sum (or part of a lump sum) or in the form of a series of periodic payments and may be made either within or outside Australia, but it does not include any payment that, under subsection (3), (4), (5) or (6), is excluded from the application of this subsection.

Note: Under section 590, a person may be treated as having received compensation that the person would have received but for the effect of a State or Territory law.

“(3) Subsection (2) does not apply to a periodic payment or a lump sum payment referred to in paragraph 26(1)(b) or (2)(b) or subsection 30(3).

“(4) Subsection (2) does not apply to a compensation payment if:

- (a) the recipient has made contributions (for example, by way of insurance premiums) towards the payment; and
- (b) the agreement under which the contributions are made does not provide that the amounts that would otherwise be payable under the agreement are to be reduced or are not payable because the recipient is eligible for or receives the compensation affected pension under this Act.

“(5) Subsection (2) does not apply to any payment of compensation made to a person that was taken into account under Division 5A of Part II to reduce the amount, or stop the payment, of a pension that, apart from that Division, would have been payable to the person under that Part.

“(6) Subsection (2) does not apply to any payment of compensation made to a person that was taken into account under Division 4 of Part IV to reduce the amount, or stop the payment, of a pension that, apart from that Division, would have been payable to the person under that Part.

Compensation part of a lump sum

“(7) For the purposes of Part IIIC, the **compensation part of a lump sum compensation payment** is:

- (a) 50% of the payment if the following circumstances apply:
 - (i) the payment is made (either with or without admission of liability) in settlement of a claim that is, in whole or in part, related to a disease, injury or condition; and

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- (ii) the claim was settled, either by consent judgment being entered in respect of the settlement or otherwise, on or after 9 February 1988; or
- (b) 50% of the payment if the following circumstances apply:
 - (i) the payment represents that part of a person's entitlement to periodic compensation payments that the person has chosen to receive in the form of a lump sum; and
 - (ii) the entitlement to periodic compensation payments arose from the settlement (either with or without admission of liability) of a claim that is, in whole or in part, related to a disease, injury or condition; and
 - (iii) the claim was settled, either by consent judgment being entered in respect of the settlement or otherwise, on or after 9 February 1988; or
- (c) if paragraphs (a) and (b) do not apply—so much of the payment as is, in the Commission's opinion, in respect of lost earnings or lost capacity to earn.

“(8) If a person:

- (a) has received periodic compensation payments in respect of lost earnings or lost capacity to earn; and
- (b) after receiving those payments, receives a lump sum compensation payment in respect of the lost earnings or lost capacity to earn (the ‘LSP’); and
- (c) because of receiving the LSP, becomes liable to repay an amount (the **Repaid Periodic Compensation Payment—‘RPCP’**) equal to the periodic compensation payments received;

then, for the purposes of subsection (7), the amount of the lump sum compensation payment is:

$$\text{LSP} - \text{RPCP}.$$

“(9) For the purposes of Part IIIC, a payment of arrears of periodic compensation payments is not a lump sum compensation payment.

Note: For the treatment of a payment of arrears of periodic compensation payments where, at the time of the event that gave rise to the compensation payments, the person was receiving a payment under this Act that is covered by Part IIIC, see points 41-D2B and 42-E2B.

Receives compensation

“(10) A person **receives compensation** whether he or she receives it directly or whether another person receives it, on behalf of, or at the direction of the first person.

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Event giving rise to entitlement

“(11) For the purposes of Part IIIC, the **event that gives rise to a person’s entitlement to compensation** for a disease, injury or condition is:

- (a) if the disease, injury or condition was caused by an accident—the accident; or
- (b) in any other case—the disease, injury or condition first becoming apparent;

and is not, for example, the decision or settlement under which the compensation is payable.

Insurer

“(12) A reference in Part IIIC to an **insurer who is, under a contract of insurance, liable to indemnify** a compensation payer or a potential compensation payer against a liability arising from a claim for compensation includes a reference to:

- (a) an authority of a State or Territory that is liable to indemnify a compensation payer against such a liability, whether the authority is so liable under a contract, a law or otherwise; or
- (b) an authority of a State or Territory that determines to make a payment to indemnify a compensation payer against such a liability, whether or not the authority is liable to do so.”

Invalidity service pension may not be payable in some circumstances

5. Section 37A of the Principal Act is amended by adding at the end the following word and paragraph:

“or (f) the person or the person’s partner is entitled to receive compensation (see Division 3 of Part IIIC)”.

Partner service pension may not be payable in some circumstances

6. Section 38A of the Principal Act is amended by adding at the end the following word and paragraph:

“or (f) the person or the person’s partner is entitled to receive compensation (see Division 3 of Part IIIC)”.

Carer service pension may not be payable in some circumstances

7. Section 39A of the Principal Act is amended by adding at the end the following word and paragraph:

“or (g) the person or the person’s partner is entitled to receive compensation (see Division 3 of Part IIIC)”.

Application of income and assets test reductions for income tax purposes

8. Section 40C of the Principal Act is amended:

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

“(1A) If:

- 5 (a) the rate of a service pension applicable to a person who has no dependent children is increased under the rent assistance Module of a Rate Calculator or the pharmaceutical allowance Module of a Rate Calculator; and
- (b) an amount of that pension is to be reduced under section 59T (compensation recovery);

the reduction is to be applied:

- 10 (c) first, to that part of the amount that does not include any increase under the rent assistance Module or the pharmaceutical allowance Module; and
- (d) then, to the amount of any increase under the rent assistance Module; and
- 15 (e) finally, to the amount of any increase under the pharmaceutical allowance Module.

“(1B) If:

- 20 (a) the rate of a service pension applicable to a person who has dependent children is increased under the pharmaceutical allowance Module of a Rate Calculator; and
- (b) an amount of that pension or the compensation affected component of such an amount is to be reduced under section 59T (compensation recovery);

the reduction is to be applied:

- 25 (c) first, to that part of the amount or of the compensation affected component that does not include the increase under the pharmaceutical allowance Module; and
- (d) then, to the amount of the increase under the pharmaceutical allowance Module.”;

30 (b) by omitting from subsection (2) “subsection (1)” and substituting “subsections (1), (1A) and (1B)”.

**Rate of age, invalidity, partner and carer service pension
(no dependent children)**

35 **9.** The Rate Calculator in section 41 of the Principal Act is amended by inserting after point 41-D2A the following point:

Payment of arrears of periodic compensation payments

“41-D2B. If:

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- (a) at the time of an event that gives rise to an entitlement of a person to compensation, the person is receiving a compensation affected pension; and
 - (b) in relation to the entitlement, the person receives a payment (**'arrears payment'**) of arrears of periodic compensation;
- the person is taken to receive on each day in the periodic payments period an amount calculated by dividing the amount of the arrears payment by the number of days in the periodic payments period.

Note: For 'event that gives rise to an entitlement to compensation' and 'periodic payments period' see section 5NB."

Rate of age, invalidity, partner and carer service pension (dependent child or children)

10. The Rate Calculator in section 42 of the Principal Act is amended by inserting after point 42-E2A the following point:

Payment of arrears of periodic compensation payments

"42-E2B. If:

- (a) at the time of an event that gives rise to an entitlement of a person to compensation, the person is receiving a compensation affected pension; and
 - (b) in relation to the entitlement, the person receives a payment (**'arrears payment'**) of arrears of periodic compensation;
- the person is taken to receive on each day in the periodic payments period an amount calculated by dividing the amount of the arrears payment by the number of days in the periodic payments period.

Note: For 'event that gives rise to an entitlement to compensation' and 'periodic payments period' see section 5NB."

Date of effect of adverse determination

11. Section 56H of the Principal Act is amended:

- (a) by omitting from subsection (3) "and (6)" and substituting ", (6), (7) and (8)";
- (b) by adding at the end of section 56H the following subsections:

*Payment of arrears of periodic compensation payments—
suspension or cancellation*

"(7) If:

- (a) an adverse determination is made in relation to a person because of point 41-D2B or 42-E2B (payment of arrears of periodic compensation payments); and

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- (b) a service pension has been paid to the person or to the person's partner when, because of the payment of arrears of periodic compensation, the pension should have been cancelled or suspended;

the day specified under paragraph (2)(b) may be earlier than the day on which the determination is made.

Payment of arrears of compensation payments—rate reduction

“(8) If:

- (a) an adverse determination is made in relation to a person because of point 41-D2B or 42-E2B (payment of arrears of periodic compensation payments); and
- (b) an amount of service pension was paid to the person or to the person's partner that, because of the payment of arrears of periodic compensation, was more than the amount that should have been paid;

the day specified under paragraph (2)(b) may be earlier than the day on which the determination is made.”.

Insertion of Part

12. After Section 59L of the Principal Act the following Part is inserted:

“PART IIIC—COMPENSATION RECOVERY

“Division 1—General

General effect of Part

“59M.(1) If:

- (a) a person is or may be entitled to, or receives, compensation; and
- (b) the person has not reached pension age;

any of the following pensions payable to the person or the person's partner might be affected under this Part:

- (c) invalidity service pension;
- (d) partner service pension;
- (e) carer service pension.

Note 1: For 'pension age' see sections 5QA and 5QB.

Note 2: These pensions are defined in section 5NB as 'compensation affected pensions'.

“(2) If the person is or may be entitled to compensation and does not take reasonable action to claim or obtain the compensation, the pension or (if the pension has a dependent child component) the compensation affected component of the pension may not be payable to the person.

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“(3) If the compensation is in the form of a lump sum, the pension or (if the pension has a dependent child component) the compensation affected component of the pension may cease to be payable for a period (based on the amount of the lump sum) and some or all of that part may be repayable.

Note 1: Under section 59N, certain lump sum payments may be treated as though they were received as periodic payments.

Note 2: Under section 59O, a person may be treated as having received compensation that the person would have received but for the effect of a State or Territory law.

“(4) If the compensation is in the form of a series of periodic payments, the pension or (if the pension has a dependent child component) the compensation affected component of the pension may be reduced for the period for which the payments are received.

Note 1: Under section 59N, certain lump sum payments may be treated as though they were received as periodic payments.

Note 2: Under section 59O, a person may be treated as having received compensation that the person would have received but for the effect of a State or Territory law.

“(5) An invalidity service pension or a partner service pension will only be affected under this Part if:

- (a) the compensation is received on or after 1 January 1995; and
- (b) the claim for the pension was made on or after 1 May 1987.

“(6) A carer service pension will only be affected under this Part if:

- (a) the compensation is received on or after 1 January 1995; and
- (b) the claim for the pension was made on or after 1 January 1993.

“(7) This Part operates in certain specified circumstances to affect a person's compensation affected pension because of compensation received by the person or the person's partner. This Part is not intended to contain any implication that, in addition to those specified circumstances, there needs to be some connection between the circumstances that give rise to the person's eligibility for the pension and the circumstances that give rise to the person's or the partner's compensation.

Certain lump sums to be treated as though they were received as periodic payments

“59N. If:

- (a) a person is entitled to periodic payments under a law of a State or Territory; and
- (b) the person's entitlement to the periodic payments is converted under the law of the State or Territory into an entitlement to a lump sum; and
- (c) the lump sum is calculated by reference to a period; and
- (d) the lump sum is to be paid to the person in 2 or more instalments;

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this Part applies to the person as if:

- (e) the person had not received the instalments; and
- (f) the person had received, in each fortnight during the period, a periodic compensation payment equal to:

$$\frac{\text{**lump sum amount**}}{\text{**number of fortnights in the period**}}$$

where:

'lump sum amount' is the amount of the lump sum referred to in paragraph (b);

'number of fortnights in the period' is the number of whole fortnights in the period referred to in paragraph (c).

Effect of certain State and Territory laws

“59O. If:

- (a) a law of a State or Territory provides for the payment of compensation; and
- (b) that law includes a provision to the effect that a person's compensation under the law is to be or may be reduced or cancelled if the person is eligible for or receives payments under this Act;

this Part applies as if the person had received under that law the compensation that the person would have received if the provision referred to in paragraph (b) had not been enacted.

“Division 2—Enforcement of compensation rights

Commission may require person to take action to obtain compensation

“59P.(1) If:

- (a) a person is receiving a compensation affected pension; and
- (b) the person or the person's partner is entitled or may, in the Commission's opinion, be entitled to compensation; and
- (c) the person or the partner has not taken:
 - (i) any action to claim or obtain the compensation; or
 - (ii) any action that the Commission considers reasonable to claim or obtain the compensation;

the Commission may require the person or the partner to take the action specified by the Commission.

“(2) If:

- (a) a person is eligible for a compensation affected pension; and

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- (b) the person or the person's partner is entitled or may, in the Commission's opinion, be entitled to compensation; and
- (c) the person or the partner has not taken:
 - (i) any action to claim or obtain the compensation; or
 - (ii) any action that the Commission considers reasonable to claim or obtain the compensation;

the Commission may require the person or the partner to take the action specified by the Commission.

“(3) Even though a person has entered into an agreement to give up the person's right to compensation, the Commission may form the opinion that the person may be entitled to compensation if the Commission is satisfied that the agreement is void, ineffective or unenforceable.

“(4) For the purposes of subsection (3), a person enters into an agreement to give up the person's right to compensation if the person:

- (a) enters into an agreement to waive the person's right to compensation; or
- or
- (b) enters into an agreement to withdraw the person's claim for compensation.

“(5) The action specified by the Commission is to be the action that the Commission considers reasonable to enable the person to claim or obtain the compensation.

“(6) If, under subsection (1), the Commission requires a person who has been granted a pension to take action to claim or obtain compensation, the pension or (if the pension has a dependent child component) the compensation affected component of the pension is not payable to the person unless the person complies with the requirement.

Note: For 'dependent child component' and 'compensation affected component' see subsection 5NB(1).

“(7) If, under subsection (1), the Commission requires the partner of a person who has been granted a pension to take action to obtain or claim compensation, the pension or (if the pension has a dependent child component) the compensation affected component of the pension is not payable to the person unless the partner complies with the requirement.

Note: For 'dependent child component' and 'compensation affected component' see subsection 5NB(1).

“Division 3—Receipt of compensation

Pension etc. not payable during lump sum preclusion period

Person not member of a couple

“59Q.(1) If:

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- (a) a person is eligible for a compensation affected pension; and
 - (b) the person is not a member of a couple; and
 - (c) the person receives compensation in the form of a lump sum (whether before or after the person became eligible for the pension);
- the pension or (if the pension has a dependent child component) the compensation affected component of the pension is not payable to the person for the lump sum preclusion period.

Note 1: For 'compensation affected pension', 'dependent child component' and 'compensation affected component' see subsection 5NB(1).

Note 2: For 'lump sum preclusion period' see subsections (3) to (7).

Person member of a couple

“(2) If:

- (a) a person is eligible for a compensation affected pension; and
- (b) the person is a member of a couple; and
- (c) the person, or the person's partner, receives compensation in the form of a lump sum (whether before or after the person became eligible for the pension);

the following provisions have effect:

- (d) the pension or (if the pension has a dependent child component) the compensation affected component of the pension is not payable to the person for the lump sum preclusion period;
- (e) if the person's partner is eligible for a compensation affected pension—that pension or (if that pension has a dependent child component) the compensation affected component of that pension is not payable to the partner for the lump sum preclusion period.

Note 1: For 'compensation affected pension', 'dependent child component' and 'compensation affected component' see subsection 5NB(1).

Note 2: For 'lump sum preclusion period' see subsections (3) to (7).

Lump sum preclusion period

“(3) If a person receives both periodic compensation payments and compensation in the form of a lump sum in respect of lost earnings or lost earning capacity, the **lump sum preclusion period** is the period that:

- (a) begins on the day after the last day of the periodic payments period; and
- (b) ends after the number of weeks specified in subsection (7).

Note: For 'periodic payments period' see subsection 5NB(1).

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

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- (a) begins on the first day on which the person's periodic compensation payment is a reduced payment because of that choice; and
- (b) ends after the number of weeks specified in subsection (7).

“(5) If a person:

- (a) receives compensation in relation to an injury, disease or condition in the form of a lump sum (**‘first lump sum’**); and 5
- (b) the person receives compensation in the form of a further lump sum (**‘second lump sum’**); and
- (c) the second lump sum is compensation in relation to the same injury, disease or condition; 10

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

- (d) begins on the day after the last day of the lump sum preclusion period for the first lump sum; and
- (e) ends after the number of weeks specified in subsection (7).

“(6) If none of subsections (3), (4) and (5) applies, the **lump sum preclusion period** is the period that: 15

- (a) begins on the day on which the loss of earnings or loss of earning capacity began; and
- (b) ends after the number of weeks specified in subsection (7).

“(7) The number of weeks in the lump sum preclusion period is the number worked out under the following formula: 20

$$\frac{\text{compensation part of lump sum}}{\text{average weekly earnings}}$$

Note: For ‘compensation part’ of lump sum and ‘average weekly earnings’ see section 5NB.

“(8) If the number worked out under subsection (7) is not a whole number, the number is to be rounded down to the nearest whole number.

LUMP SUM PRECLUSION PERIOD EXAMPLES 25

Example 1:

Jane is not a member of a couple. She has no dependent children. She is receiving an invalidity service pension at the time when a lump sum compensation award of \$11,000 is made to her. The compensation part of this lump sum is \$5,500 (see subsection 5NB(7)).

Jane's lump sum preclusion period is: 30

$$\frac{\text{compensation part of lump sum } (\$5,500)}{\text{average weekly earnings } (\$530)}$$

$$\text{i.e. } \frac{5,500}{530} = 10.3 \text{ [rounded down]} = 10$$

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5 Her lump sum preclusion period is therefore 10 weeks. Jane commenced to receive the invalidity service pension immediately after her accident and the preclusion period begins on the day of the event that gave rise to her entitlement to compensation. The preclusion period ends 10 weeks after that day. Invalidity service pension is not payable to Jane during that 10 week period.

As Jane has received invalidity service pension payments during that period, they will be recoverable under section 59R.

Example 2:

10 Martha is a member of a couple. She is receiving an invalidity service pension, and her partner Fred is also receiving an invalidity service pension. They do not have any dependent children. Fred receives a lump sum compensation payment of \$11,000 relating to an injury having earlier received periodic compensation payments. The compensation part of the lump sum is \$5,500 (see subsection 5NB(7)).

The lump sum preclusion period for Martha and Fred is:

$$\frac{\text{compensation part of lump sum } (\$5,500)}{\text{average weekly earnings } (\$530)}$$

$$\text{i.e. } \frac{5,500}{530} = 10.3 \text{ [rounded down]} = 10$$

15 The lump sum preclusion period is therefore 10 weeks. The preclusion period begins on the day after Fred's last payment of periodic compensation payments. The preclusion period ends 10 weeks from that day. Invalidity service pension is not payable to Martha during that 10 week period. Invalidity service pension is not payable to Fred in relation to that 10 week period.

20 If Martha has already received pension payments during that period, or if Fred has already received pension payments relating to that period, those payments will be recoverable under section 59R.

Example 3:

25 Richard is a member of a couple. He is receiving invalidity service pension, and his partner, Ellen, is receiving partner service pension. They have one dependent child for whom Richard is receiving dependent child add-on. Richard receives a lump sum compensation payment of \$11,000 relating to an injury having earlier received periodic compensation payments. The compensation part of the lump sum is \$5,500 (see subsection 5NB(7)).

The lump sum preclusion period for Richard and Ellen is:

$$\frac{\text{compensation part of lump sum } (\$5,500)}{\text{average weekly earnings } (\$530)}$$

$$\text{i.e. } \frac{5,500}{530} = 10.3 \text{ [rounded down]} = 10$$

30 The lump sum preclusion period is therefore 10 weeks. The preclusion period begins on the day after Richard's last payment of periodic compensation payments. The preclusion period ends 10 weeks from that day. The amount of pension which represents the compensation affected component (the basic service pension and pharmaceutical allowance) is not payable

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to Richard during that 10 week period. Because Richard receives dependent child add-on as part of his rate (the dependent child component), he will still receive a part rate of pension. Partner service pension is not payable to Ellen in relation to that 10 week period.

If Richard has already received pension payments during that period, or if Ellen has already received pension payments relating to that period, those payments which represent the compensation affected component will be recoverable under section 59R. The dependent child component of the pension which was paid to Richard is not recoverable.

Person may have to repay amount where both lump sum and pension have been received

“59R.(1) If:

- (a) a person receives compensation in the form of a lump sum; and
- (b) the person receives payments of a compensation affected pension for the lump sum preclusion period;

the Commission may, by written notice to the person, determine that the person is liable to pay to the Commonwealth the amount specified in the notice.

Note: For ‘lump sum preclusion period’ see subsections 59Q(3) to (7).

“(2) The amount specified in the notice is the **recoverable amount** and is worked out under subsections (3) and (4).

“(3) If:

- (a) the person is not a member of a couple; or
- (b) the person is a member of a couple and the person’s partner:
 - (i) is not eligible for a compensation affected pension; or
 - (ii) is not qualified for a compensation affected payment under the Social Security Act;

the **recoverable amount** is equal to the smaller of:

- (c) the compensation part of the lump sum; and
- (d) the sum of the pension payments, or (if the person’s pension has a dependent child component) of the compensation affected components of the pension payments, made to the person for the lump sum preclusion period.

“(4) If:

- (a) the person is a member of a couple; and
- (b) the person’s partner:
 - (i) is eligible for a compensation affected pension; or
 - (ii) is qualified for a compensation affected payment under the Social Security Act;

the **recoverable amount** is equal to the smaller of:

- (c) the compensation part of the lump sum; and

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- (d) the amount obtained by adding the pension payments, or (if the person's pension has a dependent child component) the compensation affected component of the pension payments, made to the person for the lump sum preclusion period to:
- (i) the pension payments, or (if the partner's pension has a dependent child component) the compensation affected components of the pension payments, made to the person's partner for the lump sum preclusion period; or
 - (ii) the compensation affected payments made under the Social Security Act to the person's partner for the lump sum preclusion period.

LUMP SUM RECOVERABLE AMOUNT AND PRECLUSION PERIOD
EXAMPLES

Example 1:

Jane is not a member of a couple. She has no dependent children. She is receiving an invalidity service pension. She receives a lump sum compensation payment of \$11,000 relating to an injury. The compensation part of this lump sum is \$5,500 (see subsection 5NB(7)). Jane's lump sum preclusion period is 10 weeks:

$$\frac{5,500}{530 \text{ (average weekly earnings)}} = 10 \text{ [rounded down]}$$

That period began 6 weeks ago (on the day after Jane's periodic compensation payments ceased). During those 6 weeks, Jane received a total of \$688.10 in invalidity service pension payments.

The Commission writes to Jane telling her of the recoverable amount that she is liable to repay to the Commonwealth. Since Jane's situation is covered by subsection (3) the recoverable amount is the smaller of \$5,500 (the compensation part of the lump sum payment) and \$688.10. Jane will be liable to repay to the Commonwealth \$688.10. Because the lump sum compensation preclusion period continues for another four weeks, Jane will receive no further invalidity service pension payments until after the four week period ends.

Example 2:

Martha is a member of a couple. Martha is receiving an invalidity service pension and her partner, Fred, is eligible for partner service pension. They have no dependent children. Martha receives a lump sum compensation payment of \$11,000 relating to an injury. The compensation part of this lump sum is \$5,500 (see subsection 5NB(7)).

The lump sum preclusion period is 10 weeks:

$$\frac{5,500}{530 \text{ (average weekly earnings)}} = 10 \text{ [rounded down]}$$

That period began 6 weeks ago (on the day after Martha's periodic compensation payments ceased). During those 6 weeks, Martha received a total of \$688.10 in invalidity service pension payments and Fred received a total of \$688.10 in partner service pension payments.

The Commission writes to Martha telling her of the recoverable amount she is liable to repay to the Commonwealth. Since Martha and Fred's situation is covered by subsection (4), the recoverable amount is the smaller of \$5,500 (the compensation part of the lump sum

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compensation payment) and \$1,376.20 (the sum of \$688.10 and \$688.10). Martha will be liable to repay to the Commonwealth \$1,376.20. Because her lump sum preclusion period continues for another 4 weeks, neither Martha nor Fred will receive any pension payments until after the 4 week period ends.

Example 3:

Richard is a member of a couple. Richard is receiving invalidity service pension and his partner, Ellen, is also receiving invalidity service pension. They have one dependent child for whom Richard is receiving dependent child add-on. Ellen receives a lump sum compensation payment of \$11,000 relating to an injury. The compensation part of this lump sum is \$5,500 (see subsection 5NB(7)).

The lump sum preclusion period is 10 weeks:

$$\frac{5,500}{530 \text{ (average weekly earnings)}} = 10 \text{ [rounded down]}$$

That period began 6 weeks ago (on the day after Ellen's periodic compensation payments ceased). During those 6 weeks, Richard received a total of \$988.50 in invalidity service pension payments and Ellen received a total of \$795.90 in invalidity service pension payments.

The Commission writes to Richard telling him of the recoverable amount he is liable to repay to the Commonwealth. Since Richard and Ellen's situation is covered by subsection (4), the recoverable amount is the smaller of \$5,500 (the compensation part of the lump sum compensation payment) and \$1,591.80 (the sum of \$795.90 and \$795.90). Only the compensation affected components (the basic service pension and pharmaceutical allowance) are recoverable. The amount the dependent child add-on (the dependent child component) is exempt from recovery. This amounts to \$192.60 (the difference between \$988.50 which Richard received and \$795.90 which Ellen received). Richard will be liable to repay to the Commonwealth \$1,591.80. Because the lump sum preclusion period continues for another 4 weeks, Richard will only be entitled to receive the dependent child add-on payment (\$64.20) of his invalidity service pension until after the 4 week period ends. Ellen will not receive any invalidity service pension payments until after the 4 week period ends.

Lump sum compensation not counted as ordinary income

“59S. If an amount per fortnight of a pension is not payable to a person under section 59Q because of compensation in the form of a lump sum, that lump sum is not to be regarded as ordinary income of either the person or the person's partner for the purposes of this Act.

Reduction of certain pensions where periodic compensation payments received

“59T.(1) If:

- (a) a person, or the person's partner, receives a series of periodic compensation payments; and
- (b) the person is eligible for a compensation affected pension for the periodic payments period; and
- (c) the person was not, at the time of the event that gave rise to the entitlement of the person, or of the person's partner, to the compensation, receiving the compensation affected pension referred to in paragraph (b);

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the person's pension or (if the person's pension has a dependent child component) the compensation affected component of the pension is to be reduced for the periodic payments period as provided under subsections (2), (3) and (4).

Note 1: For 'periodic payments period', 'compensation affected pension', 'dependent child component' and 'compensation affected component' see subsection 5NB(7).

Note 2: If a person, or a person's partner, was, at the time of an event that gave rise to the entitlement of the person, or the person's partner, to compensation, receiving a compensation affected pension, the compensation is treated as ordinary income.

Note 3: Subsection (1) can apply to both members of a couple so as to reduce their pensions. For example, if a partner service pensioner received periodic compensation payments and her partner is receiving an invalidity service pension, subsection (1) applies to the partner service pensioner to reduce her pension and to the partner to reduce his pension.

“(2) If the person is not a member of a couple, the amount per fortnight of the person's pension or of the compensation affected component of the person's pension (as the case may be) is reduced by the amount per fortnight of the periodic compensation payments received by the person.

“(3) If:

- (a) the person is a member of a couple; and
- (b) the person's partner:
 - (i) is not eligible for a compensation affected pension; or
 - (ii) is not qualified for a compensation affected payment under the Social Security Act;

the amount per fortnight of the person's pension or of the compensation affected component of the person's pension (as the case may be) is reduced by the amount per fortnight of the periodic compensation payments received by the person or the person's partner.

“(4) If:

- (a) the person is a member of a couple; and
- (b) the person's partner:
 - (i) is eligible for a compensation affected pension; or
 - (ii) is qualified for a compensation affected payment under the Social Security Act;

the amount per fortnight of the person's pension or of the compensation affected component of the person's pension (as the case may be) is reduced by half the amount per fortnight of the periodic compensation payments received by the person or the person's partner.

Note: If the person's partner is qualified for a compensation affected payment under the Social Security Act, that payment will be reduced under that Act.

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“(5) If the amount per fortnight (**‘first amount’**) of the person’s pension or of the compensation affected component of the person’s pension is to be reduced under subsection (2), (3) or (4) by an amount that is greater than the first amount, the first amount is taken to be reduced to nil.

Note: If a person’s pension or the compensation affected component of a person’s pension is reduced under this section, the order in which the reduction is to be made against the components of the maximum payment rate is laid down by section 40C.

RATE REDUCTION EXAMPLES

Example 1:

Alice is not a member of a couple. She has no dependent children. She has had to stop work because of sickness. She claimed and was granted invalidity service pension of \$282 per fortnight. Her employer has started paying her fortnightly compensation of \$160. Alice was obliged to notify the Department of Veterans’ Affairs (under section 54) as soon as she became aware that she was going to receive the periodic compensation payments. Her rate of invalidity service pension will then be reduced while she is receiving periodic payments from her employer. Since her situation is covered by subsection (2), her reduced invalidity service pension rate will be \$122 per fortnight ($\282 (Alice’s fortnightly pension rate)— $\$160$ (Alice’s fortnightly periodic payment) = $\$122$). This will be her rate of pension as long as she continues to receive the periodic payments of compensation from her employer.

Example 2:

June is a member of a couple. They have no dependent children. She has had to stop work because of sickness. She claimed and was granted partner service pension of \$260 per fortnight. Her partner, William, is receiving invalidity service pension of \$260 per fortnight. June’s employer has started paying her fortnightly compensation of \$160. June was obliged to notify the Department of Veterans’ Affairs (under section 54) as soon as she became aware that she was going to receive the periodic compensation payments. While she is receiving periodic payments of compensation from her employer, both her partner service pension and William’s invalidity service pension will be reduced. Since their situation is covered by subsection (4), June’s rate will be reduced by \$80 ($\$160/2$) and William’s rate will also be reduced by \$80. As long as June continues to receive the periodic compensation payments from her employer, her rate of partner service pension will be \$180 ($\260 (June’s partner service pension rate)— $\$80$ = $\$180$) and William’s rate of invalidity service pension will also be \$180 ($\260 (William’s invalidity service pension rate)— $\$80$ = $\$180$).

Example 3:

Jonathan is not a member of a couple. He has had to stop work because of sickness. He claimed and was granted invalidity service pension. He has 2 dependent children under 13 years and pays full private rent. Jonathan receives \$556.50 per fortnight. His employer has started paying him fortnightly compensation of \$400. Jonathan was obliged to notify the Department of Veterans’ Affairs (under section 54) as soon as he became aware that he was going to receive the periodic compensation payments. His rate of invalidity service pension will then be reduced while he is receiving periodic payments from his employer. Since his situation is covered by subsection (2) his reduced invalidity service pension rate will be \$233.20 per fortnight. Jonathan’s basic rate of invalidity service pension plus pharmaceutical allowance is \$323.30. These are the only components affected. Dependent child add-on, guardian allowance and rent assistance (the dependent child component of his pension) are not affected in this situation. The \$400 per fortnight compensation is more than \$323.30; therefore, there is no basic invalidity service pension or pharmaceutical allowance payable. The amount remaining is the dependent child component, \$233.20 ($\556.50 — $\$323.30$). This will be his rate of pension as long as he continues to receive the periodic payments of compensation from his employer.

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Claim for compensation affected pension granted to person qualified for compensation affected payment under Social Security Act

“59U.(1) If:

- (a) a person's claim for a compensation affected pension is granted; and
- (b) immediately before the claim is granted, a compensation affected payment for which the person was qualified under the Social Security Act was not payable to the person under section 1165 of that Act because of a lump sum compensation payment made to the person or to the person's partner;

the person's pension or (if the person's pension has a dependent child component) the compensation affected component of the person's pension is not payable to the person for the remainder of the period that was the person's lump sum preclusion period for the purposes of the Social Security Act.

“(2) If:

- (a) a person's claim for a compensation affected pension is granted; and
- (b) immediately before the claim is granted, the person was receiving a compensation affected payment under the Social Security Act at a rate that was reduced under section 1168 of that Act because of periodic compensation payments made to the person or to the person's partner;

then, for the remainder of the period that was the person's periodic payments period for the purposes of the Social Security Act, the person's pension or (if the person's pension has a dependent child component) the compensation affected component of the person's pension is to be reduced:

- (c) by the amount (**'reduction amount'**) by which the person's compensation affected payment under the Social Security Act would be reduced under subsection 1168(3) of that Act if the person were still qualified for it; or
- (d) if the reduction amount is greater than the amount of the person's pension or of the compensation affected component of that pension (as the case may be)—to nil.

“(3) If:

- (a) a person's claim for a compensation affected payment is granted; and
- (b) immediately before the claim is granted, a compensation affected payment for which the person was qualified under the Social Security Act was not payable to the person because the rate of the person's pension was reduced to nil under section 1168 of that Act because of periodic compensation payments made to the person or to the person's partner;

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then, for the purposes of subsection (2), the person is taken to have been receiving the compensation affected payment at a reduced rate immediately before the claim was granted.

Rate reduction under both income/assets test and this Part

“59V. If:

(a) the amount per fortnight of a person's pension or of the compensation affected component of a person's pension is to be reduced under this Part; and

(b) the rate of the person's pension is reduced under the ordinary income test Module or the assets test Module of a Rate Calculator;

the reduction under this Part is to apply to the person's pension as reduced under the ordinary income test Module or the assets test Module of the Rate Calculator.

Person may have to repay amount where both periodic compensation payments and pension have been received

“59W.(1) If:

(a) a person receives a series of periodic compensation payments; and

(b) the person receives payments of a compensation affected pension for the periodic payments period; and

(c) the person was not, at the time of the event that gave rise to the entitlement of the person to the compensation, receiving a compensation affected pension; and

(d) the payments referred to in paragraph (b) have not been reduced under section 59T;

the Commission may, by written notice to the person, determine that the person is liable to pay to the Commonwealth the amount specified in the notice.

Note: If a person was, at the time of the event that gave rise to the entitlement of the person to compensation, receiving a compensation affected pension, the compensation is treated as ordinary income. In cases where arrears of periodic compensation payments are treated as ordinary income and a 'compensation debt' is involved, see subsections 56H(7) and (8).

“(2) The amount specified in the notice is the **recoverable amount** and is worked out under subsections (3) and (4).

“(3) If:

(a) the person is not a member of a couple; or

(b) the person is a member of a couple and the person's partner:

(i) is not eligible for a compensation affected pension; or

(ii) is not qualified for a compensation affected payment under the Social Security Act;

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the recoverable amount is equal to the smaller of:

- (c) the sum of the periodic compensation payments; and
- (d) the sum of the pension payments, or if the person's pension has a dependent child component) of the compensation affected components of the pension payments, made to the person for the periodic payments period.

“(4) If:

- (a) the person is a member of a couple; and
- (b) the person's partner:

- (i) is eligible for a compensation affected pension; or
- (ii) is qualified for a compensation affected payment under the Social Security Act;

the **recoverable amount** is equal to the smaller of:

- (c) the sum of the periodic compensation payments; and
- (d) the amount obtained by adding the pension payments, or (if the person's pension has a dependent child component) the compensation affected components of the pension payments, made to the person for the periodic payments period to:
 - (i) the pension payments, or (if the partner's pension has a dependent child component) the compensation affected components of the pension payments, made to the person's partner for the periodic payments period; or
 - (ii) the compensation affected payments made under the Social Security Act to the person's partner for the periodic payments period.

PERIODIC PAYMENTS RECOVERABLE AMOUNT EXAMPLES

Example 1:

Alice is not a member of a couple. She has no dependent children. She is receiving carer service pension at a fortnightly rate of \$312.10. At the same time, she is receiving a series of periodic payments from an insurance company in settlement of her claim for compensation for an injury she received. The amount of the periodic payment is \$400.00 per fortnight. She has been receiving both carer service pension and the periodic payments for 4 weeks. During those 4 weeks, Alice received a total of \$624.20 in carer service pension payments, and she received a total of \$800.00 in periodic payments from the insurance company for that period.

The Commission writes to Alice telling her of the recoverable amount she is liable to repay to the Commonwealth. Since Alice's situation is covered by subsection (3), the recoverable amount is the smaller of \$624.20 and \$800.00. Alice will be liable to repay to the Commonwealth \$624.20.

Example 2:

William is a member of a couple. William is receiving invalidity service pension and his partner June is receiving partner service pension. They have no dependent children. At the same time, William is receiving a series of periodic payments from an insurance company in

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settlement of his claim for compensation for an injury he received. The amount of the periodic payment is \$400.00 per fortnight. He has been receiving both invalidity service pension and the periodic payments for 4 weeks. During those 4 weeks, William received a total of \$624.20 in invalidity service pension payments and June received a total of \$624.20 in partner service pension. William also received \$800.00 in periodic payments from the insurance company for that 4 week period.

The Commission writes to William telling him of the recoverable amount he is liable to repay to the Commonwealth. Since William and June's situation is covered by subsection (4), the recoverable amount is the smaller of \$1,248.40 (\$624.20 plus \$624.20) and \$800.00. William will be liable to repay to the Commonwealth \$800.00.

Example 3:

Richard is a member of a couple. Richard is receiving invalidity service pension and his partner, Ellen, is receiving partner service pension. They have one dependent child for whom Richard is receiving dependent child add-on. At the same time, Richard is receiving a series of periodic payments from an insurance company in settlement of his claim for compensation for an injury he received. The amount of the periodic payment is \$400.00 per fortnight. He has been receiving both invalidity service pension and the periodic payments for 4 weeks. During those 4 weeks Richard received a total of \$659.00 in invalidity service pension payments and Ellen received a total of \$530.60 in partner service pension. Richard also received \$800.00 in periodic payments from the insurance company for that 4 week period.

The Commission writes to Richard telling him of the recoverable amount he is liable to repay to the Commonwealth. Since Richard and Ellen's situation is covered by subsection (4), the recoverable amount is the smaller of \$800.00 and \$1,061.20. As the compensation affected component of Richard's pension is the only part which is recoverable (the dependent child add-on is exempt from recovery), \$1,061.20 represents Ellen's pension (\$530.60) and Richard's compensation affected component of his pension (\$530.60). Richard will be liable to repay to the Commonwealth \$800.00.

Periodic compensation payments not counted as ordinary income

“59X. If the amount per fortnight of a person's pension, or of the compensation affected person's pension, is reduced under section 59T because of a series of periodic compensation payments, those payments are not to be regarded as ordinary income of either the person or the person's partner for the purposes of this Act.

“Division 4—Compensation payers

Commission may send preliminary notice to potential compensation payer

“59Y.(1) If:

- (a) a person seeks compensation in respect of the person's lost earnings or lost capacity to earn; and
- (b) the person receives or claims a compensation affected pension for any period to which the compensation relates;

the Commission may give written notice to the person's potential compensation payer that the Commission may wish to recover an amount from the potential compensation payer.

Note: For 'potential compensation payer' see section 5NB.

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“(2) The notice must contain:

- (a) a statement of the potential compensation payer’s obligation under section 59Z; and
- (b) a statement of the effect of section 59ZD so far as it relates to a preliminary notice.

Potential compensation payer must notify Department of liability

“59Z. If a potential compensation payer:

- (a) is given notice under section 59Y in relation to a person; and
- (b) either before or after receiving the notice, becomes liable to pay compensation to the person;

the potential compensation payer must give written notice of the liability to the Department within 7 days after:

- (c) becoming liable; or
- (d) receiving the notice;

whichever happens later.

Penalty: Imprisonment for 12 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

Commission may send recovery notice to compensation payer

“59ZA.(1) If:

- (a) a compensation payer:
 - (i) is liable to pay compensation to a person for a disease, injury or condition of the person; or
 - (ii) has determined that a payment by way of compensation is to be made to a person in respect of a disease, injury or condition of the person; and
- (b) the person receives or claims a compensation affected pension for the periodic payments period or the lump sum preclusion period;

the Commission may give written notice to the compensation payer that the Commission proposes to recover the amount specified in the notice from the compensation payer.

Note: For ‘compensation payer’ see section 5NB.

“(2) If a compensation payer is given notice under subsection (1), the compensation payer is liable to pay to the Commonwealth the amount specified in the notice.

“(3) The amount specified in the notice is the **recoverable amount** and is worked out under subsections (4) and (5).

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“(4) If:

- (a) the person claiming compensation is not a member of a couple; or
- (b) the person claiming compensation is a member of a couple and the person's partner neither receives nor claims:
 - (i) a compensation affected pension; or
 - (ii) a compensation affected payment (under the Social Security Act);

for the periodic payments period or the lump sum preclusion period;
the **recoverable amount** is equal to the smallest of the following amounts:

- (c) the sum of the pension payments, or (if the person's pension has a dependent child component) of the compensation affected components of the pension payments, made to the person for the periodic payments period or the lump sum preclusion period;
- (d) the compensation part of the lump sum payment or the sum of the amounts of the periodic compensation payments;
- (e) the maximum amount that the compensation payer is liable to pay to the person in relation to the matter at any time after receiving:
 - (i) a preliminary notice under section 59Y in relation to the matter; or
 - (ii) if the compensation payer has not received a preliminary notice—the recovery notice under this section in relation to the matter.

“(5) If:

- (a) the person claiming compensation is a member of a couple; and
- (b) the person's partner receives or claims a compensation affected pension, or a compensation affected payment (under the Social Security Act), for the periodic payments period or the lump sum preclusion period;

the **recoverable amount** is equal to the smallest of the following amounts:

- (c) the amount obtained by adding the pension payments, or (if the person's pension has a dependent child component) the compensation affected components of the pension payments, made to the person for the periodic payments period or the lump sum preclusion period to:
 - (i) the pension payments, or (if the partner's pension has a dependent child component) the compensation affected components of the pension payments, made to the person's partner for the periodic payments period or the lump sum preclusion period; or

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- (ii) the compensation affected payments made under the Social Security Act to the person's partner for the periodic payments period or the lump sum preclusion period;
- (d) the compensation part of the lump sum payment or the sum of the amount of the periodic compensation payments;
- (e) the maximum amount that the compensation payer is liable to pay to the person in relation to the matter at any time after receiving:
 - (i) a preliminary notice under section 59Y in relation to the matter; or
 - (ii) if the compensation payer has not received a preliminary notice—the recovery notice under this section in relation to the matter.

“(6) A notice under this section must contain a statement of the effect of section 59ZD so far as it relates to a recovery notice.

“(7) This section applies to an amount payable by way of compensation in spite of any law of a State or Territory (however expressed) under which the compensation is inalienable.

Preliminary notice or recovery notice suspends liability to pay compensation

“59ZB. If a compensation payer has been given a preliminary notice under section 59Y or a recovery notice under section 59ZA in relation to the compensation payer's liability, or possible liability, to pay compensation, the compensation payer is not liable to pay that compensation while the notice has effect.

Compensation payer's payment to Commonwealth discharges liability to compensation recipient

“59ZC. If the Commonwealth is paid an amount that a compensation payer is liable to pay under section 59ZA in relation to a person, the compensation payer's liability to pay compensation to the person is discharged to the extent of that amount.

Offence to make compensation payment after receiving preliminary notice or recovery payment

“59ZD.(1) If a compensation payer has been given a preliminary notice under section 59Y or a recovery notice under section 59ZA in relation to the payment of compensation to a person, the compensation payer must not make the compensation payment to the person unless:

- (a) in the case of a preliminary notice—the Commission has given the compensation payer written notice that the preliminary notice is revoked; or

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- (b) in the case of a recovery notice—the compensation payer has paid to the Commonwealth the amount specified in the notice; or
- (c) the Commission has given to the compensation payer written permission to pay the compensation.

Penalty: Imprisonment for 12 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

“(2) A compensation payer who contravenes subsection (1) is, in addition to being liable to prosecution for an offence under subsection (1), liable to pay to the Commonwealth:

- (a) if the contravention relates to a preliminary notice—an amount determined by the Commission; and
- (b) if the contravention relates to a recovery notice—the recoverable amount specified in the notice.

“(3) The amount determined by the Commission under paragraph (2)(a) may not be more than the smallest of the amounts worked out under:

- (a) if the person is not a member of a couple—subsection 59ZA(4); or
- (b) if the person is a member of a couple—subsection 59ZA(5).

“(4) This section applies in relation to a payment by way of compensation in spite of any law of a State or Territory (however expressed) under which the compensation is inalienable.

“Division 5—Insurers

Commission may send preliminary notice to insurer

“59ZE.(1) If:

- (a) a person makes a claim against a potential compensation payer for compensation in respect of the person’s lost earnings or lost capacity to earn; and
- (b) the person receives or claims a compensation affected pension for any period to which the compensation relates; and
- (c) the potential compensation payer’s insurer, under a contract of insurance, may be liable to indemnify the potential compensation payer against any liability arising from the claim for compensation;

the Commission may give written notice to the insurer that the Commission may wish to recover an amount from the insurer.

“(2) The notice must contain:

- (a) a statement of the insurer’s obligation under section 59ZF; and

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- (b) a statement of the effect of section 59ZJ so far as it relates to a preliminary notice.

Insurer must notify Department of liability

“59ZF. If an insurer:

- (a) is given notice under section 59ZE in relation to a claim; and
- (b) either before or after receiving the notice, becomes liable to indemnify the compensation payer, either wholly or partly, in relation to the claim;

the insurer must give written notice of the liability to the Department within 7 days after:

- (c) becoming liable; or
- (d) receiving the notice;

whichever happens later.

Penalty: Imprisonment for 12 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

Commission may send recovery notice to insurer

“59ZG.(1) If:

- (a) an insurer is liable, under a contract of insurance, to indemnify a compensation payer against any liability arising from a person's claim for compensation in respect of the person's lost earnings or lost capacity to earn; and
- (b) the person receives or claims a compensation affected pension for the periodic payments period or the lump sum preclusion period;

the Commission may give written notice to the insurer that the Commission proposes to recover the amount specified in the notice from the insurer.

“(2) If an insurer is given notice under subsection (1), the insurer is liable to pay to the Commonwealth the amount specified in the notice.

“(3) The amount specified in the notice is the **recoverable amount** and is worked out under subsections (4) and (5).

“(4) If:

- (a) the person claiming compensation is not a member of a couple; or
- (b) the person claiming compensation is a member of a couple and the person's partner neither receives nor claims:
 - (i) a compensation affected pension; or
 - (ii) a compensation affected payment (under the Social Security Act);

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for the periodic payments period or the lump sum preclusion period;
the **recoverable amount** is equal to the smallest of the following amounts:

- (c) the sum of the pension payments, or (if the person's pension has a dependent child component) of the compensation affected components of the pension payments, made to the person for the periodic payments period or the lump sum preclusion period;
- (d) the compensation part of the lump sum payment or the sum of the amounts of the periodic compensation payments;
- (e) the maximum amount for which the insurer is liable to indemnify the compensation payer in relation to the matter at any time after receiving:
 - (i) a preliminary notice under section 59ZE in relation to the matter; or
 - (ii) if the insurer has not received a preliminary notice—the recovery notice under this section in relation to the matter.

“(5) If:

- (a) the person claiming compensation is a member of a couple; and
- (b) the person's partner receives or claims a compensation affected pension, or a compensation affected payment (under the Social Security Act), for the periodic payments period or the lump sum preclusion period;

the **recoverable amount** is equal to the smallest of the following amounts:

- (c) the amount obtained by adding the pension payments, or (if the person's pension has a dependent child component) the compensation affected components of the pension payments, made to the person for the periodic payments period or the lump sum preclusion period to:
 - (i) the pension payments, or (if the partner's pension has a dependent child component) the compensation affected components of the pension payments, made to the person's partner for the periodic payments period or the lump sum preclusion period; or
 - (ii) the compensation affected payments made under the Social Security Act to the person's partner for the periodic payments period or the lump sum preclusion period;
- (d) the compensation part of the lump sum payment or the sum of the amount of the periodic compensation payments;
- (e) the maximum amount for which the insurer is liable to indemnify the compensation payer in relation to the matter at any time after receiving:

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- (i) a preliminary notice under section 59ZE in relation to the matter; or
- (ii) if the insurer has not received a preliminary notice—the recovery notice under this section in relation to the matter.

“(6) A notice under this section must contain a statement of the effect of section 59ZJ so far as it relates to a recovery notice.

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

“59ZH. If an insurer has been given a preliminary notice under section 59ZE or a recovery notice under section 59ZG in relation to the insurer's liability, or possible liability, to indemnify a compensation payer against a liability arising from a claim for compensation:

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

Insurer's payment to Commonwealth discharges liability

“59ZI. Payment of an amount that an insurer is liable to pay to the Commonwealth under section 59ZG in relation to a person claiming compensation operates, to the extent of the payment, as a discharge of:

- (a) the insurer's liability to the compensation payer; and
- (b) the compensation payer's liability to pay compensation to the person.

Offence to make compensation payment after receiving preliminary notice or recovery notice

“59ZJ.(1) If an insurer has been given a preliminary notice under section 59ZE or a recovery notice under section 59ZG in relation to the insurer's liability to make a payment indemnifying a compensation payer, the insurer must not make the payment to the compensation payer unless:

- (a) in the case of a preliminary notice—the Commission has given the insurer written notice that the preliminary notice is revoked; or
- (b) in the case of a recovery notice—the insurer has paid to the Commonwealth the amount specified in the notice; or
- (c) the Commission has given the insurer written permission to make the payment to the compensation payer.

Penalty: Imprisonment for 12 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

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“(2) An insurer who contravenes subsection (1) is, in addition to being liable to prosecution for an offence under subsection (1), liable to pay to the Commonwealth:

- (a) if the contravention relates to a preliminary notice—an amount determined by the Commission; and
- (b) if the contravention relates to a recovery notice—the recoverable amount specified in the notice.

“(3) The amount determined by the Commission under paragraph (2)(a) may not be more than the smallest of the amounts worked out under:

- (a) if the person claiming compensation is not a member of a couple—subsection 59ZG(4); or
- (b) if the person claiming compensation is a member of a couple—subsection 59ZG(5).

“Division 6—Miscellaneous

Commission may give recovery notice either to compensation payer or to insurer but not to both

“59ZK.(1) The Commission is not to give a recovery notice to an insurer (under section 59ZG) about a matter if there is a recovery notice to a compensation payer (under section 59ZA) in force in relation to the same matter.

“(2) The Commission is not to give a recovery notice to a compensation payer (under section 59ZA) about a matter if there is a recovery notice to an insurer (under section 59ZG) in force in relation to the same matter.

Commission may disregard some payments

“59ZL.(1) For the purposes of this Part, the Commission may treat the whole or part of a compensation payment as:

- (a) not having been made; or
- (b) not liable to be made;

if the Commission thinks it is appropriate to do so in the special circumstances of the case.

“(2) If:

- (a) a person is eligible for a compensation affected pension; and
- (b) the person's partner receives compensation; and
- (c) the set of circumstances giving rise to the compensation are not related to the set of circumstances that give rise to the person's eligibility for the compensation affected pension;

the fact that those 2 sets of circumstances are unrelated does not in itself constitute special circumstances for the purposes of subsection (1).

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Part to bind Crown

“59ZM. This Part binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.”.

Division 3—Income support supplement

Compensation recovery definitions

13. Section 5NB of the Principal Act is amended:

- (a) by omitting from paragraph (a) of the definition of “dependent child component” in subsection (1) “added to the person’s maximum basic rate; or” and substituting the following word and subparagraphs:
 - “added:
 - (i) in the case of a service pension—to the person’s maximum basic rate; or
 - (ii) in the case of income support supplement—to the person’s provisional rate; or”;
- (b) by inserting in Note 1 after the definition of “compensation affected component” in subsection (1) “(in the case of a service pension)” after “see”;
- (c) by adding at the end of Note 1 after the definition of “compensation affected component” in subsection (1) “and (in the case of income support supplement) Modules B, F and G of the Rate Calculator at the end of section 45Y”;
- (d) by adding at the end of Note 2 after the definition of “compensation affected component” in subsection (1) “for service pensions and Modules A and H of the Rate Calculator at the end of section 45Y for income support supplement”;
- (e) by inserting after paragraph (c) of the definition of “compensation affected pension” in subsection (1) the following word and paragraph:
 - “or (d) income support supplement;”.

Restrictions on dual pensions

14. Section 39C of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- “(ab) income support supplement for which the person is eligible under section 45AB; or”.

Insertion of section

15. After section 45A of the Principal Act the following section is inserted:

**Eligibility for income support supplement (caring for
handicapped person)**

“45AB.(1) A person is eligible for income support supplement if the person:

- (a) is a war widow or war widower; and
- (b) is an Australian resident; and
- (c) is in Australia; and
- (d) personally provides constant care for a severely handicapped person;
and
- (e) lives in the same house as the handicapped person or in a house
adjacent to that of the handicapped person.

“(2) If:

- (a) a person is personally providing constant care for a severely
handicapped person; and
- (b) the person temporarily ceases to provide that care; and
- (c) the period, or the aggregate of the periods, for which the person
ceases to provide that care is:
 - (i) not more than 42 days in any calendar year; or
 - (ii) another period that the Commission, for any special reason in
the particular case, approves in writing;

the person does not cease to be eligible for income support supplement
merely because of that cessation.

“(3) If:

- (a) subsection (2) applies to a period during which a person ceases to
provide care for a severely handicapped person so that the person
does not cease to be eligible for income support supplement because
of that cessation; and
- (b) during that period the person is absent from Australia;

the person does not cease to be eligible for income support supplement
because of that absence from Australia.

“(4) If:

- (a) a person is personally providing constant care and attention for a
severely handicapped person; and
- (b) the person ceases to provide that care and attention in order to
undertake training, education or employment; and
- (c) the cessation does not exceed 10 hours per week;

the person does not cease to be eligible for income support supplement
merely because of that cessation.

“(5) In this section:

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'care' includes attention and supervision;

'severely handicapped person' means a person who:

- (a) has a physical, intellectual or psychiatric disability; and
- (b) because of that disability:
 - (i) requires frequent care in connection with his or her bodily functions; or
 - (ii) requires constant supervision to prevent injury to himself or herself or to another person;
permanently or for an extended period.”.

Income support supplement may not be payable in some circumstances

16. Section 45B of the Principal Act is amended by adding at the end the following word and paragraph:

“; or (f) the person or the person’s partner is entitled to receive compensation (see Division 3 of Part IIIC)”.

Restrictions on dual pensions

17. Section 45D of the Principal Act is amended by inserting after paragraph (1)(b) the following paragraph:

“(ba) a carer service pension; or”.

Application of income and assets test reductions for income tax purposes

18. Section 45V of the Principal Act is amended:

- (a) by inserting in paragraph (1)(a) “who is not permanently blind” after “person”;
- (b) by omitting from paragraph (1)(b) “the remote area allowance Module or”;
- (c) by adding at the end of paragraph (1)(c) “or having regard to the person’s ceiling rate”;
- (d) by omitting from paragraph (1)(d) “the remote area allowance Module or”;
- (e) by omitting paragraph (1)(e);
- (f) by omitting from paragraph (1)(f) “finally” and substituting “then”;
- (g) by omitting subsections (2) and (3) and substituting the following subsections:

“(2) If:

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- (a) the rate of income support supplement applicable to a person who is not permanently blind is worked out by using the Income Support Supplement Rate Calculator Where There Are No Dependent Children at the end of section 45X; and
 - (b) the maximum basic rate applicable to the person is increased by an amount worked out under the rent assistance Module of the Rate Calculator; and
 - (c) an amount of that income support supplement is to be reduced under section 59T (compensation recovery);
- the reduction is to be applied:
- (d) first, to that part of the amount that does not include the increase under the rent assistance Module; and
 - (c) then, to the amount of the increase under the rent assistance Module.
- “(3) If:
- (a) the rate of income support supplement applicable to a person who is permanently blind is worked out by using the Income Support Supplement Rate Calculator Where There Are No Dependent Children at the end of section 45X; and
 - (b) the person would be eligible to have rent assistance added to his or her maximum basic rate under point 45X-D2 if the person were not blind (i.e. if the rate of the person’s income support supplement were calculated using the Method statement set out in point 45X-B1 instead of that set out in point 45X-B2);
- the person’s ceiling rate or adjusted ceiling rate (as the case may be) is taken to include an amount for rent assistance worked out under Module D of the Rate Calculator.”.

Rate of income support supplement (no dependent children)

19. The Rate Calculator in section 45X of the Principal Act is amended:

- (a) by omitting the heading to Module A and substituting the following:

“MODULE A—GENERAL PROVISIONS”;

- (b) by omitting point 45X-A1 and substituting the following point:
“45X-A1. This Module contains provisions of general application in the Calculator.”;
- (c) by adding at the end of Module A the following point:
“45X-A7. The **amount of the reduction in the pension** is worked out by using the formula:

$$\text{FPR} - \text{CRR}$$

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where:

FPR (full pension rate) is the amount per annum that would have been the annual rate of the pension if it had not been reduced; and

CRR (compensation reduced rate) is the annual rate of pension payable to the person after the pension has been reduced.”;

- (d) by omitting Modules B and C and substituting the Modules set out in Part 1 of Schedule 1;
- (e) by inserting after point 45X-E3 the following point:

Payment of arrears of periodic compensation payments

“45X-E3A. If:

- (a) at the time of an event that gives rise to an entitlement of a person to compensation, the person is receiving a compensation affected pension; and
- (b) in relation to the entitlement, the person receives a payment (**‘arrears payment’**) of arrears of periodic compensation;

the person is taken to receive on each day in the periodic payments period an amount calculated by dividing the amount of the arrears payment by the number of days in the periodic payments period.

Note: For ‘event that gives rise to an entitlement to compensation’ and periodic payments period’ see section 5NB.”;

- (f) by adding at the end the Module set out in Part 2 of Schedule 1.

Rate of income support supplement (dependent child or children)

20. The Rate Calculator in section 45Y of the Principal Act is amended:

- (a) by omitting the heading to Module A and substituting the following:

“MODULE A—GENERAL PROVISIONS”;

- (b) by omitting point 45Y-A1 and substituting the following point:

“45Y-A1. This Module contains provisions of general application in the Calculator.”;

- (c) by adding at the end of Module A the following point:

“45Y-A7. The **amount of the reduction in the pension** is worked out by using the formula:

$$\mathbf{FPR - CRR}$$

where:

FPR (full pension rate) is the amount per annum that would have been the annual rate of the pension if it had not been reduced; and

CRR (compensation reduced rate) is the annual rate of pension payable to the person after the pension has been reduced.”;

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(d) by omitting Modules B and C and substituting the Modules set out in Part 1 of Schedule 2;

(e) by inserting after point 45Y-D3 the following point:

Payment of arrears of periodic compensation payments

“45Y-D3A. If:

(a) at the time of an event that gives rise to an entitlement of a person to compensation, the person is receiving a compensation affected pension; and

(b) in relation to the entitlement, the person receives a payment (**‘arrears payment’**) of arrears of periodic compensation;

the person is taken to receive on each day in the periodic payments period an amount calculated by dividing the amount of the arrears payment by the number of days in the periodic payments period.

Note: For ‘event that gives rise to an entitlement to compensation’ and ‘periodic payments period’ see section 5NB.”;

(f) by adding at the end the Module set out in Part 2 of Schedule 2.

Method of calculating rate at which income support supplement would have been payable in certain circumstances

21. Section 45ZE of the Principal Act is amended by omitting paragraphs (d) and (e) and substituting the following paragraphs:

“(d) if the Income Support Supplement Rate Calculator Where There Are No Dependent Children at the end of section 45X is to be used—as if Step 12 of the Method statement in point 45X-A1 were omitted and the following Step were substituted:

‘*Step 12.* This Step applies only to a person whose pension under Part II or IV is not compensation reduced. Work out the person’s provisional rate as follows: compare the adjusted income reduced rate and the assets reduced rate; the person’s **provisional rate** is equal to:

(a) whichever is the lower of those rates; or

(b) if the 2 rates are the same—those rates.’; or

(e) if the Income Support Supplement Rate Calculator Where There Are Dependent Children at the end of section 45Y is to be used—as if Step 10 of the Method statement in point 45Y-A1 were omitted and the following Step were substituted:

‘*Step 10.* This Step applies only to a person whose pension under Part II or IV is not compensation reduced. Work out the person’s provisional rate as follows: compare the adjusted income reduced rate and the assets reduced rate; the person’s **provisional rate** is equal to:

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- (a) whichever is the lower of those rates; or
- (b) if the 2 rates are the same—those rates.’.”.

Indexed and adjusted amounts

22. Section 59A of the Principal Act is amended by omitting from column 4 of item 1 in the Table “point 45X-B1—Table B” and “point 45Y-B1—Table B” and substituting “point 45X-C1—Table C” and “point 45Y-C1—Table C” respectively.

Date of effect of adverse determination

23. Section 56H of the Principal Act is amended:

- (a) by inserting in paragraph (7)(b) “or income support supplement” after “pension”;
- (b) by inserting in paragraph (8)(b) “or income support supplement” after “pension”.

General effect of Part

24. Section 59M of the Principal Act is amended:

- (a) by inserting after paragraph (1)(e) the following paragraph:
“; (f) income support supplement”;
- (b) by inserting after subsection (6) the following subsection:

“(6A) Income support supplement will only be affected under this Part if the compensation is received on or after 1 January 1995.”.

Eligibility

25. Section 118AA of the Principal Act is amended by omitting subparagraph (1)(a)(ii) and substituting the following subparagraphs:

- “(ii) a carer service pension; or
- (iii) income support supplement; and”.

Further amendments

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

Consequential amendments of other Acts

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

Division 4—Funeral benefits

Insertion of section

28. After section 98A of the Principal Act the following section is inserted:

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Funeral benefits—automatic grant to estate of certain deceased veterans

“98B.(1) The Commission is to grant a benefit (**‘funeral benefit’**) to the estate of a deceased veteran if, immediately before the veteran died:

- (a) he or she was being paid a pension under Part II at a rate that had been increased under subsection 22(4); or
- (b) he or she was being paid a pension under Part II as a veteran to whom section 24 applied; or
- (c) he or she was being paid a pension under Part II at a rate that had been increased under section 27 because the veteran was incapacitated from a war-caused injury or a war-caused disease of a kind described in any of items 1 to 8 of the Table in subsection 27(1); or
- (d) the Commission was satisfied that the veteran had been made a prisoner of war at a time when the veteran was rendering operational service.

“(2) The amount of the funeral benefit is \$550.”.

Further funeral benefits—veterans

29. Section 99 of the Principal Act is amended:

- (a) by adding at the end of subsection (1) the following Note:

“Note: See sections 111 and 113 for the making of an application for a funeral benefit under this subsection.”;

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

“(2) The Commission may grant a benefit (**‘funeral benefit’**) towards the funeral expenses incurred in respect of the funeral of a veteran if, after the death of the veteran:

- (a) a pension is granted to the veteran that is determined to be payable, from a date before the veteran’s death:
 - (i) at a rate that is increased under subsection 22(4); or
 - (ii) at a rate that is worked out under section 24; or
 - (iii) at a rate that is worked out under section 27 because the veteran was suffering from incapacity from a war-caused injury or a war-caused disease of a kind described in any of items 1 to 8 of the Table in subsection 27(1); or
- (b) the rate of a pension that was payable to the veteran under Part II is increased, as from a date before the veteran’s death because:
 - (i) subsection 22(4) or section 24 applied to the veteran as from that date; or

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- (ii) section 27 applied to the veteran as from that date because of incapacity from a war-caused injury or a war-caused disease of a kind described in any of items 1 to 8 of the Table in subsection 27(1); or
- (c) the Commission receives information from which he or she is satisfied that the veteran was made a prisoner of war at a time when the veteran was rendering operational service.

Note: See sections 111 and 113 for the making of an application for a funeral benefit under this subsection.”;

- (c) by inserting after subsection (3) the following subsection:

“(3A) A funeral benefit is not to be granted under subsection (2) in respect of a veteran if a funeral benefit has been granted to his or her estate under section 98B.”.

Repeal of section 99A

- 30. Section 99A of the Principal Act is repealed.

Time for applying for funeral benefit

- 31. Section 113 of the Principal Act is amended:

- (a) by omitting subparagraphs (2)(b)(i) and (ii) and substituting the following subparagraphs:

- “(i) at a rate that is increased under subsection 22(4); or
- (ii) at a rate that is worked out under section 24; or
- (iii) at a rate that is worked out under section 27 because the veteran was suffering from incapacity from a war-caused injury or a war-caused disease of a kind described in any of items 1 to 8 of the Table in subsection 27(1); or”;

- (b) by omitting subparagraphs (2)(c)(i) and (ii) and substituting the following subparagraphs:

- “(i) to a rate worked out under subsection 22(4) or section 24; or
- (ii) to a rate worked out under section 27 because the veteran was suffering from incapacity from a war-caused injury or a war-caused disease of a kind described in any of items 1 to 8 of the Table in subsection 27(1);”.

Division 5—Payment of expenses incurred by applicants to Veterans' Review Board

Application

- 32. This Division applies to:

- (a) relevant documentary medical evidence that is submitted to the Board after the commencement of this Division; and

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- (b) relevant documentary medical evidence that:
 - (i) was submitted to the Board before the commencement of this Division; and
 - (ii) is relevant to a review pending before the Board on the commencement of this Division.

Interpretation

33. Section 133 of the Principal Act is amended by inserting the following definition:

“**‘relevant documentary medical evidence’**, in relation to an application, means certificates, reports or other documents from:

- (a) a medical practitioner; or
- (b) a hospital, or similar institution, in which the applicant has received medical treatment;

concerning a medical condition of the applicant and reasonably used in support of the application.”.

Insertion of sections

34. After section 170 of the Principal Act the following sections are inserted:

Medical expenses

“170A.(1) The Commonwealth may, subject to this section, pay to an applicant for a review an amount to cover the medical expenses incurred by him or her in respect of relevant documentary medical evidence submitted to the Board for the purposes of the review.

“(2) Subsection (1) does not apply to any relevant documentary medical evidence obtained before the day on which a copy or notice of the decision that is subject to review was served on the applicant under section 135.

“(3) The applicant is not to be paid:

- (a) if the applicant has submitted to the Board for the purposes of the review relevant documentary medical evidence relating to only one medical condition—more than \$425 for medical expenses; or
- (b) if the applicant has submitted to the Board for the purposes of the review relevant documentary medical evidence relating to more than one medical condition—more than \$425 for the medical expenses incurred in respect of the evidence relating to any one of those conditions.

“(4) An amount is not payable in respect of medical expenses unless:

- (a) the person who has incurred the expenses; or
- (b) any person approved by that person or by the Commission;

applies in writing to the Commission for payment under subsection (5).

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- “(5) The application for payment must:
- (a) be in accordance with a form approved by the Commission; and
 - (b) be made:
 - (i) if the relevant documentary medical evidence was submitted to the Board before 1 January 1995—before 1 April 1995; or
 - (ii) in any other case—within 3 months after the relevant documentary medical evidence was submitted to the Board; and
 - (c) be lodged, together with any document that the applicant considers relevant, at an office of the Department in Australia.

Travelling expenses for obtaining medical evidence

“170B.(1) If an applicant has had to travel to obtain any relevant documentary medical evidence submitted to the Board, the applicant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

“(2) If:

- (a) the applicant is accompanied by an attendant when travelling to obtain the evidence; and
- (b) the Commission is of the view that it is reasonable for the applicant to be so accompanied by an attendant;

the attendant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

“(3) Travelling expenses are not payable in respect of travel outside Australia.

“(4) Travelling expenses are not payable unless:

- (a) the person who has incurred the expenses; or
- (b) any person approved by that person or by the Commission;

applies in writing to the Commission for payment under subsection (5).

“(5) The application for payment must:

- (a) be in accordance with a form approved by the Commission; and
- (b) be made:
 - (i) if the travel was done before 1 January 1995—before 1 April 1995; or
 - (ii) in any other case—within 3 months after the end of the travel; and
- (c) be lodged, together with any document that the applicant considers relevant, at an office of the Department in Australia.

“(6) The Commonwealth is to pay the travelling expenses to which a person is entitled under this section.

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Advance of travelling expenses

“170C.(1) If the Commission is satisfied that:

- (a) it is reasonable to expect that a person may become entitled to travelling expenses under section 170B; and
- (b) it is appropriate, in all the circumstances, that the person should be paid an advance on account of those expenses;

the Commission may authorise the payment of that advance to the person.

“(2) If:

- (a) a person has received an advance on account of any travelling expenses that the person is likely to incur; and
- (b) the person:
 - (i) does not incur those travelling expenses; or
 - (ii) incurs travelling expenses that are less than the amount of the advance;

the person is liable to repay to the Commonwealth:

- (c) the amount of the advance; or
- (d) the difference between the amount of the advance and the amount of the travelling expenses;

as the case requires.”.

Division 6—Membership of the Veterans' Review Board

Appointment of members of Board

35. Section 158 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) The Board must have at all times among its members persons selected from lists submitted to the Minister as requested under subsection (3).”.

Division 7—Partner service pension

Heading to Subdivision D of Division 7 of Part III

36. The heading to Subdivision D of Division 7 of Part III is amended by omitting “*Blinded Veterans*” and substituting “*Blind Persons*”.

**Rate of age, invalidity, partner and carer service pension
(no dependent children)**

37. Section 41 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

“(3) Subsection (1) does not apply to:

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- (a) an age or invalidity service pension payable to a veteran who is permanently blind; or
- (b) a partner service pension payable to a person who is permanently blind.

Note: See section 43 for the rate of those pensions when payable to permanently blind persons.”.

Rate of age, invalidity and partner service pension (blind persons)

38. Section 43 of the Principal Act is amended:

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

“and (c) partner service pension payable to a person who is permanently blind;”;

- (b) by omitting from subsection (3) “veteran” and “veteran’s” (wherever occurring) and substituting “person” and “person’s” respectively;
- (c) by omitting from the heading to the Rate Calculator at the end of this section “**BLINDED VETERANS**” and substituting “**BLIND PERSONS**”;
- (d) by omitting from Step 1 of the Method statement in point 43-A1 of the Rate Calculator at the end of the section “veteran’s” and substituting “person’s”;
- (e) by omitting from point 43-B1 of the Rate Calculator at the end of the section “veteran’s” (wherever occurring) and substituting “person’s”;
- (f) by omitting from column 2 of Table C-2 in point 43-C3 of the Rate Calculator at the end of the section “veteran” (wherever occurring) and substituting “person”;
- (g) by omitting from column 2 of Table E in point 43-E2 of the Rate Calculator at the end of the section “veteran’s” and substituting “person’s”.

Division 8—Education entry payment

Insertion of Part

39. After Part VII of the Principal Act the following Part is inserted:

“PART VIIAA—EDUCATION ENTRY PAYMENT

Eligibility

“118AA. A person is eligible for an education entry payment under this section if:

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- (a) the person is receiving:
 - (i) a partner service pension; or
 - (ii) a carer service pension; and
- (b) the person has not reached pension age; and
- (c) the person is qualified, or if he or she were not in receipt of financial supplement under the Student Financial Supplement Scheme would be qualified, to receive pensioner education supplement under the AUSTUDY scheme; and
- (d) either:
 - (i) the Commission is satisfied that the person intends to enrol in a full-time or part-time course of education that is an approved course under the AUSTUDY scheme; or
 - (ii) the person is enrolled in such a course; and
- (e) the person has not received a payment under this Part for which he or she made a claim in the current calendar year.

Need for a claim

“118AAB.(1) A person who wants to be granted an education entry payment must make a claim for the payment:

- (a) in writing; and
- (b) in a form approved by the Commission.

“(2) A claim may be withdrawn (either orally or in writing) at any time before it is determined.

“(3) A claim that is withdrawn is taken not to have been made.

Entitlement to and amount of payment

“118AAC.(1) An education entry payment is payable to the person if, after considering the claim, the Commission determines that the claim is to be granted.

“(2) The amount of an education entry payment is \$200.

Payment to be refunded

“118AAD. If:

- (a) the Commission determined that a claim for education entry payment was to be granted to a person because the Commission was satisfied that the person intended to enrol in a course referred to in subparagraph 118AA(d)(i); and
- (b) an amount of education entry payment was paid to the person; and
- (c) subsequently the person is not enrolled in the course;

the person must repay to the Commonwealth the amount of the payment.”.

Division 9—Refugee's eligibility for service pension

Index of definitions

40. Section 5 of the Principal Act is amended by inserting the following entries in the appropriate alphabetical positions in the Index:

“former refugee	5C
refugee	5C”.

Eligibility related definitions

41. Section 5C of the Principal Act is amended:

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

“ ‘**former refugee**’ means a person who was a refugee but does not include a person who ceased to be a refugee because his or her entry permit or visa (as the case may be) was cancelled;

‘**refugee**’ has the meaning given by subsection (4);”;

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

Refugee

“(4) For the purposes of Part III, a person is a **refugee** if the person:

(a) is taken, under the Migration Reform (Transitional Provisions) Regulations, to be the holder of a transitional (permanent) visa because the person was immediately before 1 September 1994 the holder of:

(i) an entry permit that fell within Division 1.3—Group 1.3 (Permanent resident (refugee and humanitarian) (offshore)) in Part 1 of Schedule 1 to the Migration (1993) Regulations as then in force; or

(ii) an entry permit that fell within Division 1.5—Group 1.5 (Permanent resident (refugee and humanitarian) (on-shore)) in Part 1 of Schedule 1 to the Migration (1993) Regulations as then in force; or

(iii) a Class 827 (Refugee (transitional)) entry permit within the meaning of the Migration (1993) Regulations as then in force; or

(b) was immediately before 1 February 1993 the holder of an entry permit of a class prescribed under the Migration Regulations as then in force that corresponds to an entry permit referred to in subparagraph (a)(i), (ii) and (iii); or

(c) is the holder of:

(i) a permanent protection visa; or

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- (ii) a permanent visa of a class specified in Schedule 2A;
or
- (iii) a permanent visa of a class specified in a declaration of the Minister under subsection (5) that is in force.

“(5) If:

- (a) after the commencement of this subsection, a class of permanent visas (other than a class specified in Schedule 2A) is prescribed by regulations made for the purposes of section 31 of the *Migration Act 1958*; and
- (b) the Minister is of the view that a person holding a visa of that class should be included in the definition of ‘refugee’ for the purposes of Part III;

the Minister may declare in writing that class of visas to be an approved class of visas for the purposes of the definition. The declaration is a disallowable instrument.”.

Eligibility for age service pension

42. Section 36 of the Principal Act is amended:

- (a) by omitting from subsection (2) “A person” and substituting “Subject to subsection (2A), a person”;
- (b) by inserting after subsection (2) the following subsection:
 - “(2A) Subsection (2) does not apply to:
 - (a) a refugee; or
 - (b) a former refugee.”.

Eligibility for invalidity service pension

43. Section 37 of the Principal Act is amended:

- (a) by omitting from subsection (3) “A person” and substituting “Subject to subsection (3A), a person”;
- (b) by inserting after subsection (3) the following subsection:
 - “(3A) Subsection (3) does not apply to:
 - (a) a refugee; or
 - (b) a former refugee.”.

New Schedule

44. After Schedule 2 to the Principal Act the Schedule set out in Schedule 5 to this Act is inserted.

Division 10—Pharmaceutical allowance

**Rate of age, invalidity, partner and carer service pension
(no dependent children)**

45. The Rate Calculator in section 41 of the Principal Act is amended:

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- (a) by inserting in point 41-CA1 "41-CA1A," after "points";
- (b) by inserting after point 41-CA1 the following point:

No pharmaceutical allowance during certain periods of absence

"41-CA1A. If a person:

- (a) has notified the Department that he or she will be absent from Australia for a period of 12 months or more; or
- (b) has been absent from Australia for a period of 12 months or more;

the person is not eligible to receive pharmaceutical allowance in respect of the period:

- (c) beginning on the 1 January that first occurs after the person has left Australia; and
- (d) ending on the day before:
 - (i) the day on which the person returns to Australia; or
 - (ii) the day on which the person notifies the Department of his or her return to Australia;whichever is the later.

This point does not apply to a person who:

- (e) after notifying the Department that he or she will be absent from Australia for a period of 12 months or more, returns to Australia before the 1 January that first occurs after the person has left Australia; and
- (f) has notified the Department of his or her return to Australia before that 1 January."

**Rate of age, invalidity, partner and carer service pension
(dependent child or children)**

46. The Rate Calculator in section 42 of the Principal Act is amended:

- (a) by inserting in point 42-DA1 "42-DA1A," after "points";
- (b) by inserting after point 42-DA1 the following point:

No pharmaceutical allowance during certain periods of absence

"42-DA1A. If a person:

- (a) has notified the Department that he or she will be absent from Australia for a period of 12 months or more; or
- (b) has been absent from Australia for a period of 12 months or more;

the person is not eligible to receive pharmaceutical allowance in respect of the period:

- (c) beginning on the 1 January that first occurs after the person has left Australia; and

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- (d) ending on the day before:
 - (i) the day on which the person returns to Australia; or
 - (ii) the day on which the person notifies the Department of his or her return to Australia;whichever is the later.

This point does not apply to a person who:

- (e) after notifying the Department that he or she will be absent from Australia for a period of 12 months or more, returns to Australia before the 1 January that first occurs after the person has left Australia; and
- (f) has notified the Department of his or her return to Australia before that 1 January.”.

Rate of age and invalidity service pension (blinded veterans)

47. The Rate Calculator in section 43 of the Principal Act is amended:

- (a) by inserting in point 43-DA1 “43-DA1A,” after “points”;
- (b) by inserting after point 43-DA1 the following point:

No pharmaceutical allowance during certain periods of absence

“43-DA1A. If a person:

- (a) has notified the Department that he or she will be absent from Australia for a period of 12 months or more; or
- (b) has been absent from Australia for a period of 12 months or more;

the person is not eligible to receive pharmaceutical allowance in respect of the period:

- (c) beginning on the 1 January that first occurs after the person has left Australia; and
- (d) ending on the day before:
 - (i) the day on which the person returns to Australia; or
 - (ii) the day on which the person notifies the Department of his or her return to Australia;whichever is the later.

This point does not apply to a person who:

- (e) after notifying the Department that he or she will be absent from Australia for a period of 12 months or more, returns to Australia before the 1 January that first occurs after the person has left Australia; and
- (f) has notified the Department of his or her return to Australia before that 1 January.”.

**Rate of partner service pension for widows, widowers
and non-illness separated spouses**

48. The Rate Calculator in section 44 of the Principal Act is amended:

- (a) by inserting in point 44-CA1 “44-CA1A,” after “points”;
- (b) by inserting after point 44-CA1 the following point:

No pharmaceutical allowance during certain periods of absence

“44-CA1A. If a person:

- (a) has notified the Department that he or she will be absent from Australia for a period of 12 months or more; or
- (b) has been absent from Australia for a period of 12 months or more;

the person is not eligible to receive pharmaceutical allowance in respect of the period:

- (c) beginning on the 1 January that first occurs after the person has left Australia; and
- (d) ending on the day before:
 - (i) the day on which the person returns to Australia; or
 - (ii) the day on which the person notifies the Department of his or her return to Australia;whichever is the later.

This point does not apply to a person who:

- (e) after notifying the Department that he or she will be absent from Australia for a period of 12 months or more, returns to Australia before the 1 January that first occurs after the person has left Australia; and
- (f) has notified the Department of his or her return to Australia before that 1 January.”.

**Automatic rate reduction—recipient not complying with section 54
notification obligations**

49. Section 56B of the Principal Act is amended by omitting “the pension” and substituting “then, except where otherwise provided for by this Act, the pension”.

Age, invalidity and partner service pensions generally portable

50. Section 58K of the Principal Act is amended by inserting after paragraph (a) of the Note at the end of subsection (1) the following paragraph:

- “(ab) if the person is absent from Australia, he or she may not be eligible for pharmaceutical allowance during part of the absence (see points 41-CA1A, 42-DA1A, 43-DA1A, 44-CA1A and subsections 118A(2), (3) and (4)).”.

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Eligibility for pharmaceutical allowance

51. Section 118A of the Principal Act is amended:

- (a) by omitting “A person” and substituting “Subject to subsections (2) and (3), a person”;
- (b) by adding at the end the following subsections:

“(2) If the person:

- (a) has notified the Department that he or she will be absent from Australia for a period of 12 months or more; or
- (b) has been absent from Australia for a period of 12 months or more;

the person ceases to be eligible to receive the pharmaceutical allowance on and from the 1 January that first occurs after the person has left Australia.

“(3) The person again becomes eligible to receive the pharmaceutical allowance on:

- (a) the day on which the person returns to Australia; or
- (b) the day on which the person notifies the Department of his or her return to Australia;

whichever is the later.

“(4) Subsections (2) and (3) do not apply to a person who:

- (a) after notifying the Department that he or she will be absent from Australia for a period of 12 months or more, returns to Australia before the 1 January that first occurs after the person has left Australia; and
- (b) has notified the Department of his or her return to Australia before that 1 January.”.

Division 11—Pension not payable because of nil rate

Rate increase determination

52. Section 56C of the Principal Act is amended:

- (a) by omitting the Note at the end of subsection (1);
- (b) by omitting subsection (2) and substituting the following subsections and Note:

“(2) If:

- (a) a pension has not been, or is not being, paid to a person because the rate of the pension was determined to be nil; and
- (b) the Commission is satisfied that the rate of the person's pension as provided for by this Act is no longer nil;

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the Commission may determine that the rate at which the pension is payable to the person is the rate specified in the determination.

“(3) A determination:

- (a) must be in writing; and
- (b) must specify a rate assessed as provided for by this Act.

Note: For the date of effect of a determination under this section, see sections 56G and 56GA.”.

Insertion of section

53. After section 56EA of the Principal Act the following section is inserted:

Cancellation determination where pension not payable

“56EB.(1) If a service pension is not payable to a person because the rate of the pension has been determined to be nil, the Commission may determine that the pension is to be cancelled.

“(2) The determination must be in writing.

Note: For the date of effect of a determination under this section, see section 56H.”.

Insertion of sections

54. After section 196ZM of the Principal Act the following sections are inserted in Part XIB:

Medical expenses

“196ZN.(1) The Commonwealth may, subject to this section, pay to an applicant who asks the Review Council to conduct a review as provided for by this Part an amount to cover the medical expenses incurred by him or her in respect of relevant documentary medical evidence obtained for the purposes of the review and submitted to the Review Council.

“(2) The applicant is not to be paid:

- (a) if the applicant has submitted to the Review Council relevant documentary medical evidence relating to only one medical condition—more than \$425 for medical expenses; or
- (b) if the applicant has submitted to the Review Council relevant documentary medical evidence relating to more than one medical condition—more than \$425 for the medical expenses incurred in respect of the evidence relating to any one of those conditions.

“(3) An amount is not payable in respect of medical expenses unless:

- (a) the person who has incurred the expenses; or
- (b) any person approved by that person or by the Commission;

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applies in writing to the Commission for payment.

“(4) The application for payment must be:

- (a) in accordance with a form approved by the Commission; and
- (b) made within 3 months after the relevant documentary medical evidence was submitted to the Review Council; and
- (c) lodged, together with any document that the applicant considers relevant, at an office of the Department in Australia.

“(5) For the purposes of this section ‘relevant documentary medical evidence’ in relation to an application has the same meaning as is specified in section 133.

Travelling expenses for obtaining medical evidence

“196ZO.(1) If an applicant has had to travel to obtain any relevant documentary medical evidence submitted to the Review Council, the applicant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

“(2) If:

- (a) the applicant is accompanied by an attendant when travelling to obtain the evidence; and
- (b) the Commission is of the view that it is reasonable for the applicant to be so accompanied by an attendant;

the attendant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

“(3) Travelling expenses are not payable in respect of travel outside Australia.

“(4) Travelling expenses are not payable unless:

- (a) the person who has incurred the expenses; or
- (b) any person approved by that person or by the Commission;

applies in writing to the Commission for payment under subsection (5).

“(5) The application for payment must be:

- (a) in accordance with a form approved by the Commission; and
- (b) made within 3 months after the end of the travel; and
- (c) lodged, together with any document that the applicant considers relevant, at an office of the Department in Australia.

“(6) The Commonwealth is to pay the travelling expenses to which a person is entitled under this section.

Advance of travelling expenses

“196ZP.(1) If the Commission is satisfied that:

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- (a) it is reasonable to expect that a person may become entitled to travelling expenses under section 196ZO; and
 - (b) it is appropriate, in all the circumstances, that the person should be paid an advance on account of those expenses;
- the Commission may authorise the payment of that advance to the person.

“(2) If:

- (a) a person has received an advance on account of any travelling expenses that the person is likely to incur; and
- (b) the person:
 - (i) does not incur those travelling expenses; or
 - (ii) incurs travelling expenses that are less than the amount of the advance;

the person is liable to repay to the Commonwealth:

- (c) the amount of the advance; or
- (d) the difference between the amount of the advance and the amount of the travelling expenses;

as the case requires.”.

**PART 3—AMENDMENTS OF THE VETERANS' AFFAIRS
(1994-95 BUDGET MEASURES) LEGISLATION AMENDMENT
ACT 1994**

Principal Act

55. In this Part, “**Principal Act**” means the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994*².

Repeal and substitution of sections

56. Sections 42 and 43 of the Principal Act are repealed and the following sections are substituted:

Rent definitions

“42. Section 5N of the Principal Act is amended by omitting the definition of ‘disability pension’.

General definitions

“43. Section 5Q of the Principal Act is amended by inserting in subsection (1) the following definitions:

“ ‘**disability pension**’, for the purposes of Parts III and IIIA, means:

- (a) a pension under Part II or IV (other than a pension that is payable under section 30 to a dependant of a deceased veteran); or

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- (b) temporary incapacity allowance under Part VI; or
- (c) a pension payable because of subsection 4(6) or (8B) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* (other than a pension payable in respect of a child); or
- (d) a payment (other than a pension referred to in paragraph (a) or (c) of this definition) that is a payment in respect of incapacity or death resulting from employment in connection with a war or war-like operations in which the Crown has been engaged;

‘pension’ includes income support supplement;”.

Creation of new Part

57. Section 45 of the Principal Act is amended by omitting subsection (6) and substituting the following subsection:

“(6) Sections 45A, 45B, 45C and 45D of the Principal Act as in force immediately before this section commenced are renumbered 45ZK, 45ZL, 45ZM and 45ZN respectively.”.

Repeal and substitution of section

58. Section 46 of the Principal Act is repealed and the following section is substituted:

Appropriation

“46. Section 199 of the Principal Act is amended:

- (a) by inserting in paragraph (a) ‘, IIIA’ after ‘III’;
- (b) by inserting in paragraph (b) ‘or IIIA’ after ‘III’.”.

Schedule 3

59. Schedule 3 to the Principal Act is amended:

- (a) by omitting items 2, 3, 4 and 5 and substituting the following items:

“2. **Paragraph 45ZK(2)(b):**

Omit ‘8’, ‘8A’, ‘8B’ and ‘8C’, substitute ‘2’, ‘3’, ‘4’ and ‘5’ respectively.

3. **Subsection 45ZL(2):**

Omit ‘8A’, substitute ‘3’.

4. **Subsection 45ZM(3):**

Omit ‘8B’, substitute ‘4’.

5. **Section 45ZN:**

Omit ‘8’, substitute ‘2’.”;

- (b) by omitting from item 105 “or”.

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PART 4—AMENDMENTS OF OTHER ACTS

Consequential amendments

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

Note: The amendments of those Acts are required consequential upon the repeal of the *Seamen's War Pensions and Allowances Act 1994* by section 47 of the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994*.

SCHEDULE 1

Section 19

**AMENDMENTS OF RATE CALCULATOR IN SECTION 45X OF THE
VETERANS' ENTITLEMENTS ACT 1986**

**PART 1—MODULES TO BE SUBSTITUTED FOR
MODULES B AND C**

“MODULE B—OVERALL RATE CALCULATION PROCESS

Method of calculating rate (persons who are not permanently blind)

“45X-B1. The rate of income support supplement for a person who is not permanently blind is an annual rate worked out as follows (fortnightly amounts are provided for information only):

Method statement

- | | |
|----------------|---|
| <i>Step 1.</i> | Work out the amount of the person's maximum basic rate using MODULE C below. |
| <i>Step 2.</i> | Work out the amount per year (if any) for rent assistance using MODULE D below. |
| <i>Step 3.</i> | Add up the amounts obtained in Steps 1 and 2: the result is called the maximum payment rate . |
| <i>Step 4.</i> | Apply the adjusted income test using MODULE E below to work out the reduction for adjusted income. |
| <i>Step 5.</i> | Take the amount obtained in Step 4 away from the maximum payment rate: the result is called the adjusted income reduced rate . |
| <i>Step 6.</i> | Apply the assets test using MODULE F below to work out the reduction for assets. |
| <i>Step 7.</i> | Take the reduction for assets away from the maximum payment rate: the result is called the assets reduced rate . |
| <i>Step 8.</i> | Work out the person's ceiling rate using points 45X-A3 and 45X-A4. |

SCHEDULE 1—continued

Method statement—continued

- Step 9.* Find out, using points 45X-A5 and 45X-A6, whether the pension payable to the person under Part II or Part IV is compensation reduced.
If the pension is not compensation reduced, go directly to Step 12.
If the pension is compensation reduced, work out the amount of the reduction in the pension using point 45X-A7; then go to Step 10.
- Step 10.* This Step applies only to a person whose pension under Part II or IV is compensation reduced. Add the amount of the reduction in the person's pension (see Step 9) to the person's ceiling rate (see Step 8): the result is called the **adjusted ceiling rate**.
- Step 11.* This Step applies only to a person whose pension under Part II or IV is compensation reduced.
Work out the person's provisional rate as follows: compare the adjusted income reduced rate (see Step 5), the assets reduced rate (see Step 7) and the adjusted ceiling rate (see Step 10); the person's **provisional rate** is equal to:
- (a) whichever is the least of those rates; or
 - (b) if 2 of those rates are the same and the third one is higher—the lower rate; or
 - (c) if the 3 rates are the same—those rates.
- Go now to Step 13.
- Step 12.* This Step applies only to a person whose pension under Part II or IV is not compensation reduced.
Work out the person's provisional rate as follows: compare the adjusted income reduced rate, the assets reduced rate and the ceiling rate; the person's **provisional rate** is equal to:
- (a) whichever is the least of those rates; or
 - (b) if 2 of those rates are the same and the third one is higher—the lower rate; or
 - (c) if the 3 rates are the same—those rates.

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SCHEDULE 1—continued

Method statement—continued

- | |
|--|
| <p><i>Step 13.</i> Work out the amount per year (if any) payable by way of remote area allowance using MODULE G below.</p> <p><i>Step 14.</i> Add the amount obtained in Step 13 to the person's provisional rate (see Step 11 or 12): the result is the rate of income support supplement.</p> |
|--|

Note 1: For 'adjusted income' see section 5H.

Note 2: If a person's assets reduced rate is less than the person's adjusted income reduced rate, the person may be able to take advantage of provisions dealing with:

- financial hardship (sections 52Y and 52Z);
- pension loans scheme (sections 52ZA to 52ZM).

Note 3: If a person's rate is reduced under Step 11 or 12, the order in which the reduction is to be made against the components of the maximum payment rate is laid down by section 45V (maximum basic rate first, then rent assistance).

Note 4: The rate calculation for a member of a couple is affected by the operation of point 45X-A2.

Note 5: The amount of a fortnightly instalment of income support supplement will be rounded off to the nearest multiple of 10 cents (see subsections 58A(2) and (3)).

Note 6: For the minimum amount of a fortnightly instalment of income support supplement see subsection 58A(4).

Method of calculating rate (persons permanently blind)

"45X-B2. The rate of income support supplement for a person who is permanently blind is an annual rate worked out as follows (fortnightly amounts are provided for information only):

Method statement

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|---|
| <p><i>Step 1.</i> Work out the person's ceiling rate using points 45X-A3 and 45X-A4.</p> <p><i>Step 2.</i> Find out using points 45X-A5 and 45X-A6 whether the pension payable to the person under Part II or Part IV is compensation reduced. If the pension is not compensation reduced, go directly to Step 3.
If the pension is compensation reduced, work out the amount of the reduction in the pension using point 45X-A7 and add that amount to the person's ceiling rate: the result is called the adjusted ceiling rate.</p> <p><i>Step 3.</i> Work out the amount per year for rent assistance using MODULE D below.</p> |
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SCHEDULE 1—continued

Method statement—continued

- Step 4.* Work out the amount per year (if any) payable by way of remote area allowance using MODULE G below.
- Step 5.* If the pension payable to the person is not compensation reduced, add the amount obtained in Step 4 to the person's ceiling rate (see Step 1): the result is the **rate of income support supplement**.
- Step 6.* If the pension payable to the person is compensation reduced, add the amounts obtained in Steps 3 and 4 to the person's adjusted ceiling rate (see Step 2): the result is the **rate of income support supplement**.

“MODULE C—MAXIMUM BASIC RATE

Maximum basic rate

“45X-C1. A person's maximum basic rate depends on the person's family situation. Work out which family situation in Table C applies to the person. The maximum basic rate is the corresponding amount in column 3.

TABLE C MAXIMUM BASIC RATES			
column 1 item no.	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of couple	\$8,361.60	\$321.60
2.	Partnered (partner getting neither pension nor benefit)	\$8,361.60	\$321.60
3.	Partnered (partner getting pension or benefit)	\$6,973.20	\$268.20
4.	Member of illness separated or respite care couple	\$8,361.60	\$321.60

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

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

SCHEDULE 1—continued

**PART 2—MODULE TO BE ADDED AT END OF
 CALCULATOR**

“MODULE G—REMOTE AREA ALLOWANCE

Remote area allowance

“45X-G1. An amount by way of remote area allowance is to be added to a person’s provisional rate if:

- (a) the person’s usual place of residence is situated in a remote area; and
- (b) the person is physically present in the remote area.

Note: For ‘remote area’ and ‘physically present in the remote area’ see section 5Q.

“45X-G2. Point 45X-G1 does not apply if the person’s provisional rate is nil.

Rate of remote area allowance

“45X-G3. The rate of remote area allowance payable to a person is worked out by using Table G. Work out which family situation in the Table applies to the person. The rate of remote area allowance is the corresponding amount in column 3.

TABLE G REMOTE AREA ALLOWANCE			
column 1 item no.	column 2 person’s family situation	column 3 allowance per year	column 4 allowance per fortnight
1.	Not member of couple	\$455.00	\$17.50
2.	Partnered (partner receiving remote area allowance)	\$390.00	\$15.00
3.	Partnered (partner not receiving remote area allowance)	\$455.00	\$17.50

Note: For ‘member of a couple’ and ‘partnered’ see section 5E.

Illness separated couples

“45X-G4. For the purposes of Table G in point 45X-G3, a member of an illness separated couple or a respite care couple is to be treated as not being a member of a couple.”.

SCHEDULE 2

Section 20

**AMENDMENTS OF RATE CALCULATOR IN SECTION 45Y OF THE
VETERANS' ENTITLEMENTS ACT 1986**

**PART 1—MODULES TO BE SUBSTITUTED FOR
MODULES B AND C**

“MODULE B—OVERALL RATE CALCULATION PROCESS

Method of calculating rate (persons who are not permanently blind)

“45Y-B1. The rate of income support supplement for a person who is not permanently blind is an annual rate worked out as follows (fortnightly amounts are provided for information only):

<i>Method statement</i>	
<i>Step 1.</i>	Work out the person's maximum basic rate using MODULE C below.
<i>Step 2.</i>	Apply the adjusted income test using MODULE D below to work out the reduction for adjusted income.
<i>Step 3.</i>	Take the amount obtained in Step 2 away from the amount obtained in Step 1: the result is called the adjusted income reduced rate .
<i>Step 4.</i>	Apply the assets test using MODULE E below to work out the reduction for assets.
<i>Step 5.</i>	Take the amount obtained in Step 4 from the amount obtained in Step 1: the result is called the assets reduced rate .
<i>Step 6.</i>	Work out the person's ceiling rate using points 45Y-A3 and 45Y-A4.
<i>Step 7.</i>	Find out, using points 45Y-A5 and 45Y-A6, whether the pension payable to the person under Part II or Part IV is compensation reduced. If the pension is not compensation reduced, go directly to Step 10. If the pension is compensation reduced, work out the amount of the reduction in the pension using point 45Y-A7; then go to Step 8.

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SCHEDULE 2—continued

Method statement—continued

- Step 8.* This Step applies only to a person whose pension under Part II or IV is compensation reduced. Add the amount of the reduction in the person's pension (see Step 7) to the person's ceiling rate (see Step 6): the result is called the **adjusted ceiling rate**.
- Step 9.* This Step applies only to a person whose pension under Part II or IV is compensation reduced. Work out the person's provisional rate as follows: compare the adjusted income reduced rate (see Step 3), the assets reduced rate (see Step 5) and the adjusted ceiling rate (see Step 8); the person's **provisional rate** is equal to:
- (a) whichever is the least of those rates; or
 - (b) if 2 of those rates are the same and the third one is higher—the lower rate; or
 - (c) if the 3 rates are the same—those rates.
- Go now to Step 11.
- Step 10.* This Step applies only to a person whose pension under Part II or IV is not compensation reduced. Work out the person's provisional rate as follows: compare the adjusted income reduced rate (see Step 3), the assets reduced rate (see Step 5) and the ceiling rate (see Step 6); the person's **provisional rate** is equal to:
- (a) whichever is the least of those rates; or
 - (b) if 2 of those rates are the same and the third one is higher—the lower rate; or
 - (c) if the 3 rates are the same—those rates.
- Step 11.* Work out the amount per year (if any) for rent assistance using MODULE F below.
- Step 12.* Work out the amount per year (if any) for dependent children using MODULE G below.
- Step 13.* Add up the amounts obtained in Steps 11 and 12.

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SCHEDULE 2—continued

Method statement—continued

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|--|
| <p><i>Step 14.</i> Apply the maintenance income test to the maintenance income of the person using MODULE H below to work out the reduction for maintenance income.</p> <p><i>Step 15.</i> Take the reduction for maintenance income away from the result obtained in Step 13.</p> <p><i>Step 16.</i> Work out the amount per year (if any) payable by way of remote area allowance using MODULE I below.</p> <p><i>Step 17.</i> Add the amounts obtained in Steps 15 and 16 to the person's provisional rate (see Step 9 or 10): the result is the rate of income support supplement.</p> |
|--|

Note 1: If a person's assets reduced rate is less than the person's adjusted income reduced rate, the person may be able to take advantage of provisions dealing with:

- financial hardship (sections 52Y and 52Z);
- pension loans scheme (section 52ZA).

Note 2: The rate calculation for a member of a couple is affected by the operation of point 45Y-A2.

Note 3: The amount of a fortnightly instalment of income support supplement will be rounded off to the nearest multiple of 10 cents (see subsections 58A(2) and (3)).

Note 4: For the minimum amount of a fortnightly instalment of income support supplement see subsection 58A(4).

Method of calculating rate (persons permanently blind)

“45Y-B2. The rate of income support supplement for a person who is permanently blind is an annual rate worked out as follows (fortnightly amounts are provided for information only):

Method statement

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| <p><i>Step 1.</i> Work out the person's ceiling rate using points 45Y-A3 and 45Y-A4.</p> <p><i>Step 2.</i> Find out using points 45Y-A5 and 45Y-A6 whether the pension payable to the person under Part II or Part IV is compensation reduced.
If the pension is not compensation reduced, go directly to Step 3.
If the pension is compensation reduced, work out the amount of the reduction in the pension using point 45Y-A7 and add that amount to the person's ceiling rate: the result is called the adjusted ceiling rate.</p> |
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SCHEDULE 2—continued

Method statement—continued

- Step 3.* Work out the amount per year (if any) for rent assistance using MODULE F below.
- Step 4.* Work out the amount per year (if any) for dependent children using MODULE G below.
- Step 5.* Add up the amounts obtained in Steps 3 and 4.
- Step 6.* Apply the maintenance income test to the maintenance income of the person using MODULE H below to work out the **reduction for maintenance income**.
- Step 7.* Take the reduction for maintenance income away from the result obtained in Step 5.
- Step 8.* Work out the amount per year (if any) payable by way of remote area allowance using MODULE I below.
- Step 9.* If the pension payable to the person is not compensation reduced, add the amounts obtained in Steps 7 and 8 to the person's ceiling rate (see Step 1): the result is the **rate of income support supplement**.
- Step 10.* If the pension payable to the person is compensation reduced, add the amounts obtained in Steps 7 and 8 to the person's adjusted ceiling rate (see Step 2): the result is the **rate of income support supplement**.

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SCHEDULE 2—continued

“MODULE C—MAXIMUM BASIC RATE

Maximum basic rate

“45Y-C1. A person’s maximum basic rate depends on the person’s family situation. Work out which family situation in Table C applies to the person. The maximum basic rate is the corresponding amount in column 3.

TABLE C MAXIMUM BASIC RATES			
column 1 item no.	column 2 person’s family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of couple	\$8,361.60	\$321.60
2.	Partnered (partner getting neither pension nor benefit)	\$8,361.60	\$321.60
3.	Partnered (partner getting pension or benefit)	\$6,973.20	\$268.20
4.	Member of illness separated or respite care couple	\$8,361.60	\$321.60

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

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

**PART 2—MODULE TO BE ADDED AT END OF
CALCULATOR**

“MODULE I—REMOTE AREA ALLOWANCE

Remote area allowance

“45Y-I1. An amount by way of remote area allowance is to be added to a person’s provisional rate if:

- (a) the person’s usual place of residence is situated in a remote area; and
- (b) the person is physically present in the remote area.

Note: For ‘remote area’ and ‘physically present in the remote area’ see section 5Q.

“45Y-I2. Point 45Y-I1 does not apply if the person’s provisional rate is nil.

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SCHEDULE 2—continued

Rate of remote area allowance

“45Y-I3. The rate of remote area allowance payable to a person is worked out using Table I. Work out which family situation in the Table applies to the person. The rate of remote area allowance is the corresponding amount in column 3 plus an additional corresponding amount in column 5 for each income support supplement add-on child of a person.

TABLE I REMOTE AREA ALLOWANCE					
column 1 item no.	column 2 person's family situation	column 3 basic allowance per year	column 4 basic allowance per fortnight	column 5 additional allowance per year	column 6 additional allowance per fortnight
1.	Not member of couple	\$455.00	\$17.50	\$182.00	\$7.00
2.	Partnered—partner receiving remote area allowance	\$390.00	\$15.00	\$182.00	\$7.00
3.	Partnered—partner not receiving remote area allowance	\$455.00	\$17.50	\$182.00	\$7.00

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

Note 2: For 'income support supplement add-on child' see point 45Y-I5.

Illness separated and respite care couples

“45Y-I4. For the purposes of Table I in point 45Y-I3, a member of an illness separated couple or a respite care couple is to be treated as not being a member of a couple.

Income support supplement add-on child

- “45Y-I5. A person has an income support supplement add-on child if:
- (a) the person is receiving income support supplement; and
 - (b) the person has a child; and
 - (c) the person's income support supplement rate includes a dependent child add-on for the child.

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SCHEDULE 2—continued

Dependent children must be physically present in Australia

“45Y-I6. Additional allowance is not payable for a child unless the child is physically present in Australia.

“45Y-I7. If 2 persons have an income support supplement add-on for the same child, additional allowance is not payable to either person for that child except as directed by the Commission. The Commission may direct that additional allowance is payable either to one of the persons or to both.”.

SCHEDULE 3

Section 25

**FURTHER AMENDMENTS OF THE VETERANS' ENTITLEMENTS
ACT 1986 RELATING TO DIVISION 3 OF PART 2**

1. Section 5 (Index):

(a) Omit the entry relating to 'disability pension', substitute:

"disability pension 5Q(1)".

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

"adjusted income 5H(1)

pension 5Q(1)".

2. Subsections 5G(3) and (4):

(a) After "service pensioner" insert "or income support supplement recipient".

(b) Omit "Part III", substitute "Parts III, IIIA and IIIB".

3. Subsection 5H(1) (paragraph (c) of the definition of "available money"):

Omit "8B" and "III", substitute "4" and "IIIB" respectively.

4. Subsection 5H(1) (Note 2 at the end of the definition of "income"):

Omit "46B to 46D", substitute "46AA to 46AG".

5. Subsection 5H(1) (Note 3 at the end of the definition of "income"):

Omit "46E" and "46B to 46D", substitute "46AG" and "46AA to 46AF" respectively.

6. After subparagraph 5H(8)(w)(i):

Insert "(ia) income support supplement; or".

7. Paragraph 5J(1C)(e):

Omit "8B" and "III", substitute "4" and "IIIB" respectively.

8. Subsection 5L(1) (paragraph (a) of the definition of "dispose"):

Omit "14", substitute "11".

9. Subsection 5L(1) (Note at the end of the definition of "PLS assets"):

Omit "14", substitute "11".

SCHEDULE 3—continued

10. Subsection 5MC(4):

Omit “14”, substitute “11”.

11. Subsection 5NA(1) (definition of “current figure”):

- (a) Omit “21” (wherever occurring), substitute “18”.
- (b) Omit “III”, substitute “IIIB”.

12. Subsection 5Q(1) (definition of “additional amounts for dependent children”):

Omit the definition, substitute:

“ ‘**additional amounts for dependent children**’ means amounts of dependent child add-on or guardian allowance added:

- (a) to a person’s maximum basic rate when working out the rate of the person’s service pension; or
- (b) to a person’s provisional rate or ceiling rate (as the case requires) when working out the rate of the person’s income support supplement;”.

13. Subsection 5Q(1) (definition of “Australia”):

Omit “Part III”, substitute “Parts III and IIIA”.

14. Subsection 5Q(1) (paragraph (b) of the definition of “comparable foreign pension”):

After “service pension” insert “, income support supplement”.

15. Subsection 5Q(1) (definition of “dependent child add-on”):

- (a) After “pension” (first occurring) insert “or income support supplement”.
- (b) Add at the end:
“or (c) point 45Y-G3 of the Income Support Supplement Rate Calculator Where There Are Dependent Children;”.

16. Subsection 5Q(1) (definition of “guardian allowance”):

- (a) After “pension” (first occurring) insert “or income support supplement”.
- (b) Add at the end:
“or (c) point 45Y-G6 of the Income Support Supplement Rate Calculator Where There Are Dependent Children;”.

17. Subsection 5Q(1) (definition of “income support pension”):

Omit the definition.

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SCHEDULE 3—continued

18. Subsection 5Q(1) (definition of “pension age”):

Add at the end:

“Note: The qualifying age for income support supplement is separately provided for (see subsection 45A(2)).”.

19. Subsection 5R(8):

Omit “Part III”, substitute “Parts III and IIIA”.

20. Subsections 5R(11) and (12):

(a) After “pension” (whenever occurring) insert “or income support supplement”.

(b) After “veteran pensioner add-on child” (wherever occurring) insert “or an income support supplement add-on child (as the case may be)”.

21. Subsections 5R(11) and (12) (Note 1):

Add at the end “and for an income support supplement add-on child see point 45Y-I5”.

22. Paragraph 35(1)(c):

Omit “; and”.

23. Paragraph 35(1)(d):

Omit the paragraph.

24. Section 35H (Note):

Omit “19”, substitute “16”.

25. Section 36L (Note):

Omit “19”, substitute “16”.

26. Section 37L (Note):

Omit “19”, substitute “16”.

27. Section 38L (Note):

Omit “19”, substitute “16”.

28. Subsection 41(1) (Note 2):

Omit “12”, substitute “9”.

29. Subsection 42(1) (Note 2):

Omit “12”, substitute “9”.

SCHEDULE 3—continued

30. Section 45X (Income Support Supplement Rate Calculator Where There Are No Dependent Children—point 45X-D3—Table D):

Omit “1,591.20” (twice occurring), “2,652.00”, “61.20” (twice occurring) and “102.00”, substitute “1,606.80”, “2,683.20”, “61.80” and “103.20” respectively.

31. Section 45X (Income Support Supplement Rate Calculator Where There Are No Dependent Children—point 45X-D6 (Note 2)):

Omit “45X-C8 and 45X-C9”, substitute “45X-D9 and 45X-D10”.

32. Section 45X (Income Support Supplement Rate Calculator Where There Are No Dependent Children—point 45X-D7—Table D-1):

Omit “1,591.20” (twice occurring), “2,652.00”, “1,778.40” (twice occurring) and “837.20”, substitute “1,606.80”, “2,683.20”, “1,799.20” and “847.60” respectively.

33. Section 45X (Income Support Supplement Rate Calculator Where There Are No Dependent Children—point 45X-E1 (Note 1)):

Omit “45X-A1 (Steps 5 to 12)”, substitute “45X-B1 (Steps 4 to 12)”.

34. Section 45X (Income Support Supplement Rate Calculator Where There Are No Dependent Children—point 45X-F1 (Note 1)):

Omit “45X-A1 (Steps 7 to 12)”, substitute “45X-B1 (Steps 6 to 12)”.

35. Section 45Y (Income Support Supplement Rate Calculator Where There Are Dependent Children—point 45Y-D1 (Note 1)):

Omit “45Y-A1 (Steps 4 to 9)”, substitute “45Y-B1 (Steps 2 to 10)”.

36. Section 45Y (Income Support Supplement Rate Calculator Where There Are Dependent Children—point 45Y-F3—Table F):

Omit “2,116.40” (twice occurring), “3,182.40”, “81.40” (twice occurring) and “122.40”, substitute “2,137.20”, “3,218.80”, “82.20” and “123.80” respectively.

37. Section 45Y (Income Support Supplement Rate Calculator Where There Are Dependent Children—point 45Y-F7—Table F-1):

Omit “2,116.40” (twice occurring), “3,182.40” (twice occurring), “1,955.20” (twice occurring), “977.60” (twice occurring), “2,230.80” (twice occurring) and “1,115.40” (twice occurring), substitute “2,137.20”, “3,218.80”, “1,976.00”, “988.00”, “2,256.80” and “1,128.40” respectively.

SCHEDULE 3—continued

- 38. Section 45Y (Income Support Supplement Rate Calculator Where There Are Dependent Children—point 45Y-G3—Table G-2):**
Omit “1,669.20”, “2,355.60”, “64.20” and “90.60” substitute “1,747.20”, “2,446.60”, “67.20” and “94.10” respectively.
- 39. Section 45Y (Income Support Supplement Rate Calculator Where There Are Dependent Children—point 45Y-H1 (Note 1)):**
Omit “45Y-A1 (Steps 5 to 7)”, substitute “45Y-B1 (Steps 14 and 15) and point 45Y-B2 (Steps 6 and 7)”.
- 40. Section 45Y (Income Support Supplement Rate Calculator Where There Are Dependent Children—point 45Y-E1 (Note 1)):**
Omit “45Y-A1 (Steps 6 to 10)”, substitute “45Y-B1 (Steps 4 to 10)”.
- 41. Subsection 46AA(3) (Note):**
Omit “8B”, substitute “4”.
- 42. Subsection 46ZB(2):**
Omit “8”, substitute “2”.
- 43. Section 46ZC (Note 1):**
Omit “8A”, substitute “3”.
- 44. Subsection 52N(4):**
Omit “21”, substitute “18”.
- 45. Paragraph 52ZA(2)(a):**
After “service pension” insert “or income support supplement”.
- 46. Subsection 52ZB(3):**
Omit “15”, substitute “12”.
- 47. Subsection 52ZB(3) (Note):**
After “Calculator” insert “or Income Support Supplement Rate Calculator”.
- 48. Section 53A (Notes 1 and 2):**
Omit “8A of Part III”, substitute “3 of Part IIIB”.
- 49. Section 58G (Note):**
Omit “service”.

SCHEDULE 3—continued

50. Subsection 85(5) (Note):

Omit “Division 15 of Part III”, substitute “Division 12 of Part IIIB”.

51. Subsection 115(5):

Omit “Division 19 of Part III” (wherever occurring), substitute “Division 16 of Part IIIB”.

52. Paragraph 119(1)(b):

(a) Omit “Division 19 of Part III”, substitute “Division 16 of Part IIIB”.

(b) Omit “service”.

53. Paragraph 119(1)(e):

Omit “service”.

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

Omit the paragraph, substitute:

“(a) an application to increase the rate of:

(i) a pension granted under Part II or IV; or

(ii) a service pension granted under Part III; or

(iii) income support supplement granted under Part IIIA;”.

55. Subsection 119(2) (definition of “claim”):

Add at the end:

“; or (d) a claim for income support supplement under Part IIIA”.

56. Subsection 126(4):

(a) Omit “or 39D”, substitute “, 39D or 45I”.

(b) Omit “Division 19 of Part III”, substitute “Division 16 of Part IIIB”.

57. Subsection 126A(2):

(a) After “III” insert “or IIIA”.

(b) Omit “or 39F(b)”, substitute “, 39F(b) or 45K(b)”.

58. Subsection 126A(4):

After “III” insert “, IIIA”.

59. Subsection 128A(1) (paragraph (a) of the definition of “income payment”):

After “III” insert “, IIIA”.

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SCHEDULE 3—continued

60. Subsection 132(12):

- (a) Omit “or 39D”, substitute “, 39D or 45I”.
- (b) Omit “Division 19 of Part III”, substitute “Division 16 of Part IIIB”.

61. Subsection 176(8):

Omit “service” (wherever occurring).

62. Subsection 177(2):

After “service pension” (wherever occurring) insert “or income support supplement”.

63. Subsection 177(5):

Omit “service pension” (wherever occurring), substitute “pension”.

64. Subsection 178(3):

After “service pension” insert “or income support supplement”.

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

After “service pension” insert “, income support supplement,”.

SCHEDULE 4

Section 26

**CONSEQUENTIAL AMENDMENTS OF OTHER ACTS RELATING
TO DIVISION 3 OF PART 2**

Disability Services Act 1986

1. Subsection 22(4) (paragraph (d) of the definition of “pensioner or beneficiary”):

After “Part III” insert “or income support supplement under Part IIIA”.

National Health Act 1953

2. Subsection 4(1) (subparagraph (b)(i) of the definition of “pensioner”):

After “Part III” insert “or income support supplement under Part IIIA”.

3. Subsection 84(1) (paragraph (b) of the definition of “concessional beneficiary”):

After “Part III” insert “or income support supplement under Part IIIA”.

4. Subsection 84(1) (subparagraph (ba)(ii) of the definition of “concessional beneficiary”):

Omit “8A of Part III”, substitute “3 of Part IIIB”.

5. Subsection 84(1) (subparagraph (bb)(ii) of the definition of “concessional beneficiary”):

Omit “8A of Part III”, substitute “3 of Part IIIB”.

Veterans' Affairs Legislation Amendment Act 1992

6. Paragraph 83(b):

Omit “8A of Part III”, substitute “3 of Part IIIB”.

7. Paragraph 85(b):

Omit “8A of that Part”, substitute “3 of Part IIIB”.

Veterans' Entitlements (Rewrite) Transition Act 1991

8. Section 17:

(a) Omit “15 of Part III” (wherever occurring), substitute “12 of Part IIIB”.

(b) Omit “8A of Part III” and “8A of that Part”, substitute in each case “3 of that Part”.

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SCHEDULE 5

Section 44

**SCHEDULE TO BE INSERTED IN THE VETERANS'
ENTITLEMENTS ACT 1986**

SCHEDULE 2A

Paragraph 5C(4)(c)

CLASSES OF PERMANENT VISAS

Item No.	Class description	Relevant item in Schedule 1 to Migration Regulations
1.	Burmese in Burma (Special Assistance) (Class AB)	1102
2.	Burmese in Thailand (Special Assistance) (Class AC)	1103
3.	Cambodian (Special Assistance) (Class AE)	1105
4.	Camp Clearance (Migrant) (Class AF)	1106
5.	Citizens of the Former Yugoslavia (Special Assistance) (Class AI)	1109
6.	East Timorese In Portugal (Special Assistance) (Class AM)	1113
7.	Minorities of Former USSR (Special Assistance) (Class AV)	1122
8.	Refugee and Humanitarian (Migrant) (Class BA)	1127
9.	Sudanese (Special Assistance) (Class BD)	1130

SCHEDULE 6

Section 60

**CONSEQUENTIAL AMENDMENTS OF OTHER ACTS RELATING
TO PART 4**

Albury-Wodonga Development Act 1973

1. Subsection 12(3):

Omit “, the *Seamen's War Pensions and Allowances Act 1949*”.

Data-matching Program (Assistance and Tax) Act 1990

2. Section 3 (paragraph (d) of the definition of “personal assistance”):

Omit “or the *Seamen's War Pensions and Allowances Act 1940*”.

Disability Discrimination Act 1992

3. Paragraph 51(1)(c):

Omit the paragraph.

Farm Household Support Act 1992

4. Paragraph 12(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the *Veterans' Entitlements Act 1986* at a rate determined under or by reference to subsection 30(1) of that Act;”.

5. Paragraph 12(3)(c):

Omit “subparagraph (b)(i) or (ii)”, substitute “paragraph (b)”.

Health Insurance Act 1973

6. Subsection 5B(12) (paragraph (d) of the definition of “income”):

Omit the paragraph.

Sex Discrimination Act 1984

7. Paragraph 40(2)(g):

Omit the paragraph.

Social Security Act 1991

8. Subparagraph 8(8)(y)(ix):

Omit “or”.

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SCHEDULE 6—continued

9. Subparagraphs 8(8)(y)(x) and (xi):

Omit the subparagraphs.

10. Paragraph 258(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.”.

11. Paragraph 321(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.”.

12. Paragraph 368(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.”.

13. Paragraph 532(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act;”.

14. Paragraph 532(3)(c):

Omit “subparagraph (b)(i) or (ii)”, substitute “paragraph (b)”.

15. Paragraph 614(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act;”.

16. Paragraph 614(3)(c):

Omit “subparagraph (b)(i) or (ii)”, substitute “paragraph (b)”.

17. Paragraph 660XCF(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act;”.

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18. Paragraph 660XCF(3)(c):

Omit “subparagraph (b)(i) or (ii)”, substitute “paragraph (b)”.

19. Subsection 660XCN(3):

Omit the subsection, substitute:

“(3) A mature age partner allowance is not payable to a person if the person is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.”.

20. Paragraph 686(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act;”.

21. Paragraph 686(3)(c):

Omit “subparagraph (b)(i) or (ii)”, substitute “paragraph (b)”.

22. Paragraph 735(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act;”.

23. Paragraph 735(3)(c):

Omit “subparagraph (b)(i) or (ii)”, substitute “paragraph (b)”.

24. Paragraph 787(3)(b):

Omit the paragraph, substitute:

“(b) the woman is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.”.

25. Paragraph 1061R(b):

Omit “or the *Seamen's War Pensions and Allowances Act 1940*”.

26. Subsection 1061S(1) (Table - column 2):

Omit “or the SWPAA” (wherever occurring).

27. Subsection 1061S(4) (definition of “SWPAA”):

Omit the definition.

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SCHEDULE 6—continued

28. Paragraph 1064(5)(a):

Omit the paragraph, substitute:

“(a) an armed services widow is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act; and”.

29. Paragraph 1065(4)(a):

Omit the paragraph, substitute:

“(a) an armed services widow is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act; and”.

30. Paragraph 1068(3)(a):

Omit the paragraph, substitute:

“(a) an armed services widow is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act; and”.

31. Paragraph 1068(3)(b):

Omit “subparagraph (a)(i) or (a)(ii)”, substitute “paragraph (a)”.

Telecommunications Act 1991

32. Paragraph 183(3)(b):

Omit “or the *Seamen’s War Pensions and Allowances Act 1940*”.

NOTES

1. No. 27, 1986, as amended. For previous amendments, see No. 106, 1986 (as amended by Nos. 78 and 130, 1987); No. 130, 1986; No. 78, 1987 (as amended by No. 164, 1989); No. 88, 1987; No. 130, 1987 (as amended by No. 133, 1988); No. 13, 1988 (as amended by No. 83, 1989; and No. 73, 1991); Nos. 35, 75 and 99, 1988; No. 134, 1988 (as amended by No. 164, 1989); No. 135, 1988 (as amended by Nos. 84 and 164, 1989; and No. 73, 1991); Nos. 59, 83, 84, 93 and 163, 1989; No. 164, 1989 (as amended by No. 56, 1990; and No. 73, 1991); Nos. 56, 84 and 119, 1990; No. 2, 1991 (as amended by No. 73, 1991); No. 72, 1991; No. 73, 1991 (as amended by No. 74, 1991); Nos. 74, 122, 175 and 208, 1991; Nos. 12, 51, 70, 94 and 228, 1992; Nos. 27, 36 and 121, 1993; and Nos. 54, 60, 68, 78, 98 and 109, 1994.
2. No. 98, 1994.

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*[Minister's second reading speech made in—
House of Representatives on 20 October 1994
Senate on 8 November 1994]*