



Social Security Legislation Amendment Act (No. 1) 1995

No. 104 of 1995

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Social Security Legislation Amendment Act (No. 1) 1995

No. 104 of 1995

An Act to amend legislation relating to social security, and for related purposes

[Assented to 29 September 1995]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Social Security Legislation Amendment Act (No. 1) 1995*.

Commencement

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Items 1 to 4 and item 7 of Schedule 3 are taken to have commenced on 1 January 1995, immediately after the commencement of section 4 of, and Schedule 2 to, the *Social Security (1994 Budget and White Paper) Amendment Act 1994*.

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(3) Item 5 of Schedule 3 commences, or is taken to have commenced, on 1 July 1995.

(4) Item 6 of Schedule 3 is taken to have commenced on 9 January 1995.

(5) If this Act does not receive the Royal Assent before 1 July 1995, Parts 1, 2 and 5 of Schedule 16 are taken to have commenced immediately before 1 July 1995.

(6) Part 3 of Schedule 16 commences on 1 July 1995, immediately after the commencement of Schedules 1 and 2 to the *Social Security (Parenting Allowance and Other Measures) Legislation Amendment Act 1994*.

(7) Item 2 of Schedule 17 is taken to have commenced on 1 January 1995.

(8) Part 1 of Schedule 19 is taken to have commenced on 2 November 1992, immediately after the commencement of the *Social Security Amendment Act 1992*.

(9) Part 2 of Schedule 19 is taken to have commenced on 25 March 1993, immediately after the commencement of Divisions 16 and 17 of Part 2 of the *Social Security Legislation Amendment Act (No. 3) 1992*.

(10) Part 3 of Schedule 19 is taken to have commenced on 1 April 1993.

(11) Part 4 of Schedule 19 is taken to have commenced on 19 September 1993.

(12) Part 5 of Schedule 19 is taken to have commenced on 1 January 1994, immediately after the commencement of Schedule 6 to the *Social Security (Budget and Other Measures) Legislation Amendment Act 1993*.

(13) Part 6 of Schedule 19 is taken to have commenced on 1 January 1995, immediately after the commencement of the *Student Assistance (Youth Training Allowance—Transitional Provisions and Consequential Amendments) Act 1994*.

(14) Part 1 of Schedule 20 is taken to have commenced immediately before the commencement of Schedule 3 to the *Social Security (Budget and Other Measures) Legislation Amendment Act 1993*.

(15) If this Act does not receive the Royal Assent before 1 July 1995, Part 2 of Schedule 20 is taken to have commenced immediately before 1 July 1995.

Operation of Schedule 3 of the *Social Security Act 1991*

3.(1) Despite subsection 2(1) of, Part 10 of and Schedule 3 to the *Social Security Legislation Amendment Act 1994* (the **1994 Act**):

(a) Schedule 3 of the *Social Security Act 1991*, as in force immediately before the commencement of Part 10 of the 1994 Act, continues in force; and

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(b) Schedule 3 of the *Social Security Act 1991*, as substituted by the 1994 Act, does not come into force;
until the Agreement on Social Security between Australia and the Republic of Italy, set out in Schedule 3 to the 1994 Act, enters into force in accordance with Article 23 of that Agreement.

(2) If:

(a) before the commencement of this section, a person received from the Commonwealth a payment that purported to be made under the *Social Security Act 1991*; and

(b) the payment was not a valid payment; and

(c) had subsection (1) been in force when the payment was made, it would have been a valid payment under the *Social Security Act 1991*;

any right of the Commonwealth to recover the payment is, by force of this subsection, extinguished.

Schedules

4. The Acts specified in the Schedules to this Act are amended in accordance with the applicable items in the Schedules, and the other items in the Schedules have effect according to their terms.

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SCHEDULE 1

Section 4

**AMENDMENT OF THE SOCIAL SECURITY ACT 1991 RELATING
TO THE DEFINITION OF INCOME**

1. After Paragraph 8(8)(zf):

Insert:

“(zfa) a payment of financial supplement made to the person under the Student Financial Supplement Scheme;”.

2. Application

In relation to a period-based payment, the amendment made by this Schedule applies to income in respect of a fortnight that commences after the commencement of this Schedule.

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SCHEDULE 2

Section 4

**AMENDMENT OF THE SOCIAL SECURITY ACT 1991 RELATING
TO THE DEFINITION OF SOCIAL SECURITY RECIPIENT STATUS**

1. Subsection 23(1) (definition of “social security recipient status”):

Omit the definition, substitute:

“ ‘social security recipient status’, for the purposes of the definition of ‘long-term social security recipient’, means:

- (a) in the case of a person who is receiving a job search allowance or newstart allowance—status as a recipient of a social security pension, a social security benefit, a youth training allowance, an ABSTUDY allowance, an AUSTUDY allowance or a service pension; or
- (b) in any other case—status as a recipient of a social security pension, a social security benefit, a youth training allowance or a service pension;”.

2. Application

The amendment made by this Schedule does not apply to a recipient of a job search allowance or a newstart allowance who notifies the Department of the death of his or her partner before the day on which this Schedule commences.

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SCHEDULE 3

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991 RELATING
TO RESIDENCE REQUIREMENTS FOR CERTAIN REFUGEES AND
TEMPORARY ENTRANTS**

1. Section 3 (Index):

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

“exempt resident	7(6C)
former refugee	7(1)
former exempt resident	7(1)
refugee	7(6B)”.

2. Subsection 7(1):

Insert:

“ ‘**exempt resident**’ has the meaning given by subsection (6C);

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

‘**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 visa or entry permit (as the case may be) was cancelled;”.

3. Subsection 7(1) (definition of “qualifying residence exemption”):

Omit “subsection (6)”, substitute “subsections (6) and (6A)”.

4. Subsection 7(6):

Omit the subsection, substitute:

“(6) A person has a **qualifying residence exemption** for a social security pension, a social security benefit (other than a special benefit) or a youth training allowance if, and only if, the person:

(a) resides in Australia; and

(b) is either:

(i) a refugee; or

(ii) a former refugee.

“(6A) A person has a **qualifying residence exemption** for a special benefit if, and only if, the person:

(a) resides in Australia; and

(b) is either:

(i) an exempt resident; or

(ii) a former exempt resident.

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SCHEDULE 3—continued

- “(6B) A person is a refugee for the purposes of this section 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) a visa or 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) a visa or 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**
 - (b) was, immediately before 1 February 1993, the holder of a visa or entry permit of a class prescribed under the Migration Regulations as then in force that corresponds to a visa or entry permit referred to in subparagraph (a)(i) or (ii); or**
 - (c) is the holder of:**
 - (i) a permanent protection visa; or**
 - (ii) a permanent visa of a class referred to in the Table at the end of this subsection; or**
 - (iii) a permanent visa of a class referred to in a declaration of the Minister under subsection 25(1) that is in force.**

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SCHEDULE 3—continued

TABLE		
CLASSES OF PERMANENT VISAS GIVING REFUGEE STATUS AND QUALIFYING RESIDENCE EXEMPTION FOR SOCIAL SECURITY PENSIONS AND SOCIAL SECURITY BENEFITS OTHER THAN SPECIAL BENEFIT		
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, Macau and Mozambique (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
10.	Territorial Asylum (Residence) (Class BE)	1131

“(6C) A person is an **exempt resident** if the person:

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

- (i) a class 437 visa or entry permit—PRC (temporary); or
- (ii) a class 784 visa or entry permit—Domestic protection (temporary); or
- (iii) a class 820 visa or entry permit—Extended eligibility (spouse);

under the Migration (1993) Regulations as then in force; or

(b) was, immediately before 1 February 1993, the holder of:

- (i) a class 781 visa or entry permit—Refugee (restricted); or

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SCHEDULE 3—continued

- (ii) a class 783 visa or entry permit—PRC (temporary);
under the Migration (1989) Regulations as then in force; or
- (c) is the holder of:
 - (i) a subclass 820 visa—Extended eligibility (spouse); or
 - (ii) a temporary visa of a class referred to in a declaration of the Minister under subsection 25A(1) that is in force.”.

5. Subsection 7(6):

After “(other than a special benefit)” insert “, a non-benefit parenting allowance”.

6. Subsection 7(6B):

Insert after item 8 in the Table:

“8A	Sri Lankan (Special Assistance) (Class BF)	1129A”.
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7. Section 25:

Repeal the section, substitute:

Refugee visas

“25.(1) If:

- (a) after the commencement of this section, a class of permanent visas (other than a class referred to in the Table in subsection 7(6B)) 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 regarded as a refugee for the purposes of section 7;
- the Minister may declare in writing that class of visas to be a class of visas for the purposes of subparagraph 7(6B)(c)(iii).

“(2) The declaration is a disallowable instrument.

Exempt resident visas

“25A.(1) If:

- (a) after the commencement of this section, a class of temporary visas 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 regarded as an exempt resident;
- the Minister may declare in writing that class of visas to be a class of visas for the purposes of subparagraph 7(6C)(c)(ii).

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

SCHEDULE 4

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991 RELATING
TO A PERSON'S QUALIFICATION FOR DISABILITY SUPPORT
PENSION OR DISABILITY WAGE SUPPLEMENT**

1. Paragraph 94(1)(c):

Before "the person" insert "because of the impairment".

2. Paragraph 94(1B)(e):

Before "the person" insert "because of the impairment".

3. Subsections 94(2) and (3):

Omit the subsections, substitute:

"(2) A person has a **continuing inability to work** because of an impairment if the Secretary is satisfied that:

(a) the impairment is of itself sufficient to prevent the person from doing any work within the next 2 years; and

(b) either:

(i) the impairment is of itself sufficient to prevent the person from undertaking educational or vocational training or on-the-job training during the next 2 years; or

(ii) if the impairment does not prevent the person from undertaking educational or vocational training or on-the-job training—such training is unlikely (because of the impairment) to enable the person to do any work within the next 2 years.

Note: For 'work' see subsection (5).

"(3) In deciding whether or not a person has a **continuing inability to work** because of an impairment, the Secretary is not to have regard to:

(a) the availability to the person of educational or vocational training or on-the-job training; or

(b) if subsection (4) does not apply to the person—the availability to the person of work in the person's locally accessible labour market."

4. Subsection 94(4):

Omit "equip", substitute "enable".

5. Subsection 94(5):

Insert:

" 'on-the-job training' does not include a program designed specifically for people with physical, intellectual or psychiatric impairments;"

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SCHEDULE 4—continued

6. Paragraph 409(1)(c):

Before “the person” insert “because of the impairment”.

7. Subsections 409(3) and (4):

Omit the subsections, substitute:

“(3) A person has a **continuing inability to work** because of an impairment if the Secretary is satisfied that:

(a) the impairment is of itself sufficient to prevent the person from doing any work within the next 2 years; and

(b) either:

(i) the impairment is of itself sufficient to prevent the person from undertaking educational or vocational training or on-the-job training during the next 2 years; or

(ii) if the impairment does not prevent the person from undertaking educational or vocational training or on-the-job training—such training is unlikely (because of the impairment) to enable the person to do any work within the next 2 years.

Note: For ‘work’ see subsection (6).

“(4) In deciding whether or not a person has a **continuing inability to work** because of an impairment, the Secretary is not to have regard to:

(a) the availability to the person of educational or vocational training or on-the-job training; or

(b) if subsection (5) does not apply to the person—the availability to the person of work in the person’s locally accessible labour market.”.

8. Subsection 409(5):

Omit “equip”, substitute “enable”.

9. Subsection 409(6):

Insert:

“ ‘**on-the-job training**’ does not include a program designed specifically for people with physical, intellectual or psychiatric impairments;”.

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SCHEDULE 5

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991 RELATING
TO WAITING PERIODS AND DEFERMENT PERIODS**

1. Subsection 518(2):

After “person” insert “at any time during which the person”.

2. Paragraph 518(2)(a):

Omit “who has started”, substitute “is undertaking”.

3. Paragraph 518(2)(b):

Omit “who”.

4. Subsection 518(2) (Notes):

Omit the Notes, substitute:

“Note: For ‘Employment Secretary’ see section 23.”.

5. Subsection 519(8):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to a liquid assets test waiting period under subsection (1) at any time during which the person”.

6. Paragraph 519(8)(a):

Omit “who has started”, substitute “is undertaking”.

7. Paragraph 519(8)(b):

Omit “who”.

8. Subsection 535(4):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to an unused annual leave waiting period under subsection (1) at any time during which the person”.

9. Paragraph 535(4)(a):

Omit “who has started”, substitute “is undertaking”.

10. Paragraph 535(4)(b):

Omit “who”.

11. Section 538:

Omit “A person”, substitute “Subject to subsection (2), a person”.

12. Paragraph 538(e):

Omit the paragraph.

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13. Section 538:

Add at the end (before the Notes):

“(2) A person is not subject to an ordinary waiting period under subsection (1) at any time during which the person:

(a) is undertaking:

(i) formal vocational training in a labour market program approved by the Employment Secretary; or

(ii) a rehabilitation program approved by the Employment Secretary; and

(b) has been exempted from the application of that subsection by the Employment Secretary.”.

14. Subsection 540(1):

Add at the end:

“Note: For ‘provisional commencement day’ see section 533.”.

15. Subsection 540(3):

Add at the end:

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

16. Subsection 540(4):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to an education leavers waiting period under subsection (1) at any time during which the person”.

17. Paragraph 540(4)(a):

Omit “who has started”, substitute “is undertaking”.

18. Paragraph 540(4)(b):

Omit “who”.

19. Subsection 540(4) (Notes):

Omit the Notes, substitute:

“Note: For ‘Employment Secretary’ see section 23.”.

20. Paragraph 541(6)(c):

Omit “4 weeks”, substitute “12 months”.

21. Paragraph 541A(11)(c):

Omit “4 weeks”, substitute “12 months”.

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SCHEDULE 5—continued

22. Subsection 542(2):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to the activity test deferment period under subsection (1) at any time during which the person”.

23. Paragraph 542(2)(a):

Omit “who has started”, substitute “is undertaking”.

24. Paragraph 542(2)(b):

Omit “who”.

25. Subsection 542(2) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 546A for the length of activity test deferment periods and section 546B for the commencement of activity test deferment periods.”.

26. Subsection 542A(1):

Omit “A”, substitute “Subject to subsection (2), a”.

27. Subsection 542A(2):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to the activity test deferment period under subsection (1) at any time during which the person”.

28. Paragraph 542A(2)(a):

Omit “who has started”, substitute “is undertaking”.

29. Paragraph 542A(2)(b):

Omit “who”.

30. Subsection 542A(2) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 546A for the length of activity test deferment periods and section 546B for the commencement of activity test deferment periods.

Note 3: The operation of this section is modified for participants in the case management system by section 45 of the *Employment Services Act 1994*.”.

31. Subsection 542B(1):

Omit “A”, substitute “Subject to subsection (2), a”.

32. Subsection 542B(2):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to the activity test deferment period under subsection (1) at any time during which the person”.

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SCHEDULE 5—continued

33. Paragraph 542B(2)(a):

Omit “who has started”, substitute “is undertaking”.

34. Paragraph 542B(2)(b):

Omit “who”.

35. Subsection 542B(2) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 546A for the length of activity test deferment periods and section 546B for the commencement of activity test deferment periods.

Note 3: The operation of this section is modified for participants in the case management system by section 45 of the *Employment Services Act 1994*.”.

36. Subsection 546C(4):

Omit “If”, substitute “Subject to subsection (4A), if”.

37. Subsection 546C(4A):

Omit “Subsection (4) does not apply to a person”, substitute “A person is not subject to the administrative breach deferment period under subsection (4) at any time during which the person”.

38. Paragraph 546C(4A)(a):

Omit “who has started”, substitute “is undertaking”.

39. Paragraph 546C(4A)(b):

Omit “who”.

40. Subsection 546C(4A) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 547A for the length of administrative breach deferment periods and section 547B for the commencement of administrative breach deferment periods.

Note 3: The operation of this section is modified for participants in the case management system by sections 28, 31 and 46 of the *Employment Services Act 1994*.”.

41. Subsection 547(1):

Omit “If”, substitute “Subject to subsection (2), if”.

42. Subsection 547(2):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to the administrative breach deferment period under subsection (1) at any time during which the person”.

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SCHEDULE 5—continued

43. Paragraph 547(2)(a):

Omit “who has started”, substitute “is undertaking”.

44. Paragraph 547(2)(b):

Omit “who”.

45. Subsection 547(2) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 547A for the length of administrative breach deferment periods and section 547B for the commencement of administrative breach deferment periods.”.

46. Subsection 548(1):

Omit “If”, substitute “Subject to subsection (2), if”.

47. Subsection 548(2):

After “person” insert “at any time during which the person”.

48. Paragraph 548(2)(a):

Omit “who has started”, substitute “is undertaking”.

49. Paragraph 548(2)(b):

Omit “who”.

50. Subsection 548(2) (Notes):

Omit the Notes, substitute:

“Note: For ‘Employment Secretary’ see section 23.”.

51. Subsection 549(2) (Notes):

Omit the Notes, substitute:

“Note: For ‘Employment Secretary’ see section 23.”.

52. Subsection 550(1):

Omit “Where”, substitute “Subject to subsection (2), if”.

53. Subsection 550(2):

After “person” insert “at any time during which the person”.

54. Paragraph 550(2)(a):

Omit “who has started”, substitute “is undertaking”.

55. Paragraph 550(2)(b):

Omit “who”.

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56. Subsection 550(2) (Notes):

Omit the Notes, substitute:

“Note: For ‘Employment Secretary’ see section 23.”.

57. Subsection 597(1):

Omit “A person”, substitute “Subject to subsection (2), a person”.

58. Subsection 597(2):

After “person” insert “at any time during which the person”.

59. Paragraph 597(2)(a):

Omit “who has started”, substitute “is undertaking”.

60. Paragraph 597(2)(b):

Omit “who”.

61. Subsection 597(2) (Notes):

Omit the Notes, substitute:

“Note: For ‘Employment Secretary’ see section 23.”.

62. Subsection 598(8):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to a liquid assets test waiting period under subsection (1) at any time during which the person”.

63. Paragraph 598(8)(a):

Omit “who has started”, substitute “is undertaking”.

64. Paragraph 598(8)(b):

Omit “who”.

65. Subsection 617(4):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to an unused annual leave waiting period under subsection (1) at any time during which the person”.

66. Paragraph 617(4)(a):

Omit “who has started”, substitute “is undertaking”.

67. Paragraph 617(4)(b):

Omit “who”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 5—continued

68. Section 620:

Omit “A person”, substitute “Subject to subsection (2), a person”.

69. Paragraph 620(f):

Omit the paragraph.

70. Section 620:

Add at the end (before the Notes):

“(2) A person is not subject to an ordinary waiting period under subsection (1) at any time during which the person:

(a) is undertaking:

(i) formal vocational training in a labour market program approved by the Employment Secretary; or

(ii) a rehabilitation program approved by the Employment Secretary; and

(b) has been exempted from the application of that subsection by the Employment Secretary.”.

71. Subsection 622(4):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to an education leavers waiting period under subsection (1) at any time during which the person”.

72. Paragraph 622(4)(a):

Omit “who has started”, substitute “is undertaking”.

73. Paragraph 622(4)(b):

Omit “who”.

74. Paragraph 623(6)(c):

Omit “4 weeks”, substitute “12 months”.

75. Subsection 624(1):

Omit “A”, substitute “Subject to subsection (2), a”.

76. Subsection 624(2):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to the activity test deferment period under subsection (1) at any time during which the person”.

77. Paragraph 624(2)(a):

Omit “who has started”, substitute “is undertaking”.

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No. 104, 1995

SCHEDULE 5—continued

78. Paragraph 624(2)(b):

Omit “who”.

79. Subsection 624(2) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 630A for the length of activity test deferment periods and section 630B for the commencement of activity test deferment periods.”.

80. Subsection 625(1):

Omit “A”, substitute “Subject to subsection (2), a”.

81. Subsection 625(2):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to the activity test deferment period under subsection (1) at any time during which the person”.

82. Paragraph 625(2)(a):

Omit “who has started”, substitute “is undertaking”.

83. Paragraph 625(2)(b):

Omit “who”.

84. Subsection 625(2) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 630A for the length of activity test deferment periods and section 630B for the commencement of activity test deferment periods.

Note 3: The operation of this section is modified for participants in the case management system by section 45 of the *Employment Services Act 1994*.”.

85. Subsection 626(1):

Omit “A”, substitute “Subject to subsection (2), a”.

86. Subsection 626(2):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to the activity test deferment period under subsection (1) at any time during which the person”.

87. Paragraph 626(2)(a):

Omit “who has started”, substitute “is undertaking”.

88. Paragraph 626(2)(b):

Omit “who”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 5—continued

89. Subsection 626(2) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 630A for the length of activity test deferment periods and section 630B for the commencement of activity test deferment periods.

Note 3: The operation of this section is modified for participants in the case management system by section 45 of the *Employment Services Act 1994*.”.

90. Subsection 630C(1):

Add at the end:

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

91. Subsection 630C(4):

Omit “If”, substitute “Subject to subsection (4A), if”.

92. Subsection 630C(4A):

Omit “Subsection (4) does not apply to a person”, substitute “A person is not subject to the administrative breach deferment period under subsection (4) at any time during which the person”.

93. Paragraph 630C(4A)(a):

Omit “who has started”, substitute “is undertaking”.

94. Paragraph 630C(4A)(b):

Omit “who”.

95. Subsection 630C(4A) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 631A for the length of administrative breach deferment periods and section 631B for the commencement of administrative breach deferment periods.

Note 3: The operation of this section is modified for participants in the case management system by sections 28, 31 and 46 of the *Employment Services Act 1994*.”.

96. Subsection 631(1):

Omit “If”, substitute “Subject to subsection (2), if”.

97. Subsection 631(2):

Omit “Subsection (1) does not apply to a person”, substitute “A person is not subject to the administrative breach deferment period under subsection (1) at any time during which the person”.

98. Paragraph 631(2)(a):

Omit “who has started”, substitute “is undertaking”.

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SCHEDULE 5—continued

99. Paragraph 631(2)(b):

Omit “who”.

100. Subsection 631(2) (Notes):

Omit the Notes, substitute:

“Note 1: For ‘Employment Secretary’ see section 23.

Note 2: See section 631A for the length of administrative breach deferment periods and section 631B for the commencement of administrative breach deferment periods.”.

101. Subsection 632(1):

Omit “If”, substitute “Subject to subsection (2), if”.

102. Subsection 632(2):

After “person” insert “at any time during which the person”.

103. Paragraph 632(2)(a):

Omit “who has started”, substitute “is undertaking”.

104. Paragraph 632(2)(b):

Omit “who”.

105. Subsection 632(2) (Notes):

Omit the Notes, substitute:

“Note: For ‘Employment Secretary’ see section 23.”.

106. Subsection 633(2) (Notes):

Omit the Notes, substitute:

“Note: For ‘Employment Secretary’ see section 23.”.

107. Subsection 634(1):

Omit “Where”, substitute “Subject to subsection (2), if”.

108. Subsection 634(2):

After “person” insert “at any time during which the person”.

109. Paragraph 634(2)(a):

Omit “who has started”, substitute “is undertaking”.

110. Paragraph 634(2)(b):

Omit “who”.

111. Subsection 634(2) (Notes):

Omit the Notes, substitute:

“Note: For ‘Employment Secretary’ see section 23.”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 5—continued

112. Paragraph 696(6)(c):

Omit “4 weeks”, substitute “12 months”.

113. Paragraph 696A(11)(c):

Omit “4 weeks”, substitute “12 months”.

SCHEDULE 6

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO PAYMENT OF JOB SEARCH ALLOWANCE,
NEWSTART ALLOWANCE AND SPECIAL BENEFIT TO PEOPLE
UNDERTAKING FULL-TIME STUDY**

1. After section 522:

Insert:

Relief from activity test—persons to whom subsection 532(6) applies

“522A. If:

(a) job search allowance is payable to a person because of subsection 532(6); and

(b) the person has commenced the full-time course of education referred to in paragraph 532(6)(a);

the person is taken to satisfy the activity test in respect of the period during which the allowance is payable to the person because of that subsection.”.

2. Paragraph 532(6)(b):

Omit the paragraph.

3. Subsection 532(6):

Omit all the words from and including “until”, substitute “for the period of 3 weeks commencing on the day on which the course starts.”.

4. After section 602:

Insert:

Relief from activity test—persons to whom subsection 614(6) applies

“602A. If:

(a) newstart allowance is payable to a person because of subsection 614(6); and

(b) the person has commenced the full-time course of education referred to in paragraph 614(6)(a);

the person is taken to satisfy the activity test in respect of the period during which the allowance is payable to the person because of that subsection.”.

5. Paragraph 614(6)(b):

Omit the paragraph.

6. Subsection 614(6):

Omit all the words from and including “until”, substitute “for the period of 3 weeks commencing on the day on which the course starts.”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 6—continued

7. Subsection 738(1):

Omit “subsection (2)”, substitute “subsections (2) and (3)”.

8. Subsection 738(2):

Omit “notwithstanding”, substitute “, in spite of”.

9. Section 738:

Add at the end:

“(3) If:

- (a) a person enrolls in a full-time course of education; and
- (b) an application is made for a payment in respect of the person under:
 - (i) the AUSTUDY scheme; or
 - (ii) the ABSTUDY Schooling scheme; or
 - (iii) the ABSTUDY Tertiary scheme; and
- (c) the person was receiving special benefit immediately before the start of the course;

the Secretary may decide that, in spite of subsection (1), special benefit is payable to the person for the period of 3 weeks commencing on the day on which the course starts.”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 7

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO THE DATE OF EFFECT OF CERTAIN
DETERMINATIONS AFFECTING JOB SEARCH ALLOWANCE,
NEUWSTART ALLOWANCE AND PARTNER ALLOWANCE**

1. Subsection 588(5):

Omit “If”, substitute “Subject to subsection (6), if”.

2. After subsection 588(5):

Insert:

Section 575 statements

“(6) If the favourable determination is made following a person having given the Department a statement about a matter in accordance with section 575, the determination takes effect on the day on which the matter arose.”.

3. Subsection 589(2):

Omit “The”, substitute “Subject to subsection (9), the”.

4. Section 589:

Add at the end:

Section 575 statements

“(9) If the adverse determination is made following a person having given the Department a statement about a matter in accordance with section 575, the determination takes effect on the day on which the matter arose.”.

5. Subsection 660K(5):

Omit “If”, substitute “Subject to subsection (6), if”.

6. After subsection 660K(5):

Insert:

Section 658 statements

“(6) If the favourable determination is made following a person having given the Department a statement about a matter in accordance with section 658, the determination takes effect on the day on which the matter arose.”.

7. Subsection 660L(2):

Omit “The”, substitute “Subject to subsection (9), the”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 7—continued

8. Section 660L:

Add at the end:

Section 658 statements

“(9) If the adverse determination is made following a person having given the Department a statement about a matter in accordance with section 658, the determination takes effect on the day on which the matter arose.”.

9. Subsection 771NR(5):

Omit “IF”, substitute “Subject to subsection (5A), if”.

10. After subsection 771NR(5):

Insert:

Section 771MD statements

“(5A) If the favourable determination is made following a person having given the Department a statement about a matter in accordance with section 771MD, the determination takes effect on the day on which the matter arose.”.

11. Subsection 771NS(2):

Omit “The”, substitute “Subject to subsection (9), the”.

12. Section 771NS:

Add at the end:

Section 771MD statements

“(9) If the adverse determination is made following a person having given the Department a statement about a matter in accordance with section 771MD, the determination takes effect on the day on which the matter arose.”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 8

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO DISABILITY WAGE SUPPLEMENT**

1. After subsection 665(2):

Insert:

“(2A) A person is not qualified for an employment entry payment under section 664FA if the claim for payment is made more than 28 days after the start of the employment in the supported wage system in respect of which the claim is made.”.

2. Subparagraph 1061Q(4)(a)(iii):

Omit “and”.

3. After subparagraph 1061Q(4)(a)(iii):

Insert:

“(iv) subsection 477(2) of this Act: and”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 9

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO EDUCATION ENTRY PAYMENTS**

1. Paragraph 665Q(d):

Omit the paragraph, substitute:

“(d) the person:

- (i) ceases to be qualified for job search allowance or youth training allowance because the person commences the course of education; or
- (ii) is not qualified for payments under the AUSTUDY or ABSTUDY scheme because the person takes part in the course to satisfy the activity test under section 522 or to comply with a Job Search Activity Agreement; or
- (iii) is not qualified for payments under the AUSTUDY or ABSTUDY scheme because the person takes part in the course to comply with a Case Management Activity Agreement under the *Employment Services Act 1994*; or
- (iv) is not qualified for payments under the AUSTUDY or ABSTUDY scheme because the person takes part in the course to satisfy the activity test under section 75 of the *Student and Youth Assistance Act 1973* or to comply with a Youth Training Activity Agreement under that Act; and”.

2. Paragraph 665U(c):

Omit the paragraph, substitute:

“(c) the person:

- (i) ceases to be qualified for newstart allowance because the person commences the course of education; or
- (ii) is not qualified for payments under the AUSTUDY or ABSTUDY scheme because the person takes part in the course to satisfy the activity test under section 601 or to comply with a requirement under a Newstart Activity Agreement; or
- (iii) is not qualified for payments under the AUSTUDY or ABSTUDY scheme because the person takes part in the course to comply with a Case Management Activity Agreement under the *Employment Services Act 1994*; and”.

SCHEDULE 10

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO MOBILITY ALLOWANCE**

1. Sub-paragraph 1035(ca)(ii)(C):

Omit "Health, Housing, Local Government and Community Services". substitute "Human Services and Health".

2. Subsection 1058(1):

Omit, substitute:

"(1) If a mobility allowance is payable to a person and the person ceases to be qualified for the allowance because:

(a) he or she ceases, in the Secretary's opinion:

(i) to be engaged in gainful employment: or

(ii) to undertake vocational training or a combination of vocational training and gainful employment: or

(iii) to engage in voluntary work approved by the Secretary for charitable, welfare or community organisations:

for at least 8 hours a week on a continuing basis: or

(b) he or she ceases, in the Secretary's opinion:

(i) to receive job search allowance or newstart allowance for a reason other than the application of section 518, 522, 525A, 586A, 597, 601, 605 or 660IA: or

(ii) to receive youth training allowance for a reason other than the application of section 71, 75, 79 or 163 of the *Student and Youth Assistance Act 1973*: or

(iii) to undertake job search activities as part of an activity plan developed by a Disability Panel established by the Secretary: or

(iv) to undertake job search activities under the Competitive Employment Placement and Training Program administered by the Department of Human Services and Health:

the mobility allowance:

(c) continues to be payable to the person on each of the first 6 allowance paydays after the day on which the person ceases to be qualified for the mobility allowance: and

(d) then ceases to be payable."

3. Paragraph 1058(2)(b):

Omit "paragraph (1)(b)". substitute "paragraphs (1)(a) and (b)".

*Social Security Legislation Amendment (No. 1)
No. 104, 1995*

SCHEDULE 11

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO THE QUALIFYING AGE FOR
SENIORS HEALTH CARD**

1. Paragraph 1061ZA(a):

Omit the paragraph, substitute:

“(a) has reached pension age; and”.

Note: The subheading to section 1061ZA, “*Women who have reached 60 and men who have reached 65*”, is omitted.

2. Section 1061ZA:

Add at the end:

“Note 3: For ‘pension age’ see subsections 23(5A), (5B), (5C) and (5D).”.

SCHEDULE 12

Section 4

**AMENDMENTS RELATING TO INCOME TESTS AND RELATED
MATTERS**

**PART 1—AMENDMENTS OF THE SOCIAL SECURITY
ACT 1991**

- 1. Subsection 1067E(2) (Note):**
Omit “ordinary income test”, substitute “income test”.
- 2. Point 1067E-A1 (Step 9):**
Omit “ordinary” (wherever occurring).
- 3. Paragraph 1067E-D5(b):**
Omit the paragraph, substitute:
“(b) either:
 - (i) is receiving a job search allowance, youth training allowance, newstart allowance or sickness allowance the rate of which is increased to take account of rent; or
 - (ii) would be receiving such an allowance but for the amount of the person’s ordinary income reduction under point 1067E-G17.”.
- 4. Heading to Module G of the Sickness Allowance Rate Calculator:**
Omit “*ORDINARY*”.
- 5. Point 1067E-G1:**
 - (a) After “person’s ordinary income” (first occurring) insert “, and the ordinary income of a partner of the person,”.
 - (b) Omit from Note 1 at the end of Step 1 “, 1067E-G3”.
 - (c) Omit Steps 2, 3, 4, 5 and 6, substitute:
 - “*Step 2.* If the person is a member of a couple, work out the partner income free area using point 1067E-G12.
Note: The partner income free area is the maximum amount of ordinary income the person’s partner can have without affecting the person’s benefit.
 - Step 3.* Use paragraphs 1067E-G13(a), (b) and (c) to work out whether the person has a partner income excess.
 - Step 4.* If the requirements of paragraphs 1067E-G13(a), (b) and (c) are not satisfied, the person’s partner income excess is nil.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 12—continued

- Step 5.* If the requirements of paragraphs 1067E-G13(a), (b) and (c) are satisfied, the person's partner income excess is the partner's ordinary income less the partner income free area.
- Step 6.* Use the person's partner income excess to work out the person's **partner income reduction** using point 1067E-G14.
- Step 7.* Work out whether the person's ordinary income free area exceeds the person's ordinary income free area under point 1067E-G15.
- Note: A person's ordinary income free area is the maximum amount of ordinary income the person can have without affecting the person's benefit rate.
- Step 8.* If the person's ordinary income does not exceed the person's ordinary income free area, the person's ordinary income excess is nil.
- Step 9.* If the person's ordinary income exceeds the person's ordinary income free area, the person's ordinary income excess is the person's ordinary income less the person's ordinary income free area.
- Step 10.* Use the person's ordinary income excess to work out the person's **ordinary income reduction** using points 1067E-G17, 1067E-G18 and 1067E-G19.
- Step 11.* Add the person's partner income reduction and ordinary income reduction: the result is the person's **income reduction** referred to in Step 9 of point 1067E-A1.”.

(d) Omit from Note 2 at the end of point 1067E-G1 “ordinary”.

6. Points 1067E-G2 and 1067E-G3:

Omit the points, substitute:

Ordinary income of members of certain couples

“1067E-G2. Subject to point 1067E-G4, if a person is a member of a couple and the person's partner is receiving a social security pension, a service pension or a rehabilitation allowance, the person's ordinary income is taken to be one half of the sum of:

- (a) the amount that would be the person's ordinary income if he or she were not a member of a couple; and
- (b) the amount that would be the ordinary income of the person's partner if the partner were not a member of a couple.”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 12—continued

7. Points 1067E-G12, 1067E-G13, 1067E-G14, 1067E-G15, 1067E-G16 and 1067E-G17:

Omit the points, substitute:

Partner income free area

“1067E-G12. The partner income free area for a person is:

- (a) if the person is not receiving a social security benefit or a youth training allowance—the amount of income of the person (rounded up to the nearest dollar) beyond which job search allowance would not be payable to the person if the person were qualified for a job search allowance; or
- (b) if the person is receiving a social security benefit or a youth training allowance—the amount of income of the person (rounded up to the nearest dollar) beyond which that benefit or allowance would not be payable to the person.

Partner income excess

“1067E-G13. If:

- (a) a person is a member of a couple; and
- (b) the person’s partner is not receiving a social security pension, service pension or a rehabilitation allowance; and
- (c) the partner’s ordinary income exceeds the partner income free area for the partner;

then:

- (d) the person has a partner income excess; and
- (e) the person’s partner income excess is the amount by which the partner’s ordinary income exceeds the partner income free area.

Partner income reduction

“1067E-G14. If a person has a partner income excess, the person’s partner income reduction is an amount equal to 70% of the part of the partner’s ordinary income that exceeds the partner income free area.

Example:

Facts:

Alice’s partner Martin has an ordinary income of \$612. Assume that the partner income free area under point 1067E-G12 is \$462.

Application:

Martin’s ordinary income exceeds the partner income free area. He therefore has a partner income excess under point 1067E-G13 of $\$612 - \$462 = \$150$.

Alice’s partner income reduction under point 1067E-G14 is therefore 70% of $\$150 = \105 .

Ordinary income free area

“1067E-G15. A person’s ordinary income free area is \$60.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 12—continued

Ordinary income excess

“1067E-G16. If a person’s ordinary income exceeds the person’s ordinary income free area:

- (a) the person has an ordinary income excess; and
- (b) the person’s ordinary income excess is the amount by which the person’s ordinary income exceeds the person’s ordinary income free area.

Ordinary income reduction

“1067E-G17. If a person has an ordinary income excess, the person’s ordinary income reduction is the sum of:

- (a) the person’s lower range reduction (see point 1067E-G18); and
- (b) the person’s upper range reduction (if any) (see point 1067E-G19).

Lower range reduction

“1067E-G18. The person’s lower range reduction is an amount equal to 50% of the part of the person’s ordinary income excess that does not exceed \$80.

Upper range reduction

“1067E-G19. The person’s upper range reduction is an amount equal to 70% of the part (if any) of the person’s ordinary income excess that exceeds \$80.

Example:

Facts:

Further to the example at the end of point 1067E-G14, Alice is receiving sickness allowance. Her ordinary income is \$95.

Application:

Alice’s ordinary income free area under point 1067E-G15 is \$60.

Her ordinary income exceeds her ordinary income free area. She therefore has an ordinary income excess under point 1067E-G16 of $\$95 - \$60 = \$35$.

Because her ordinary income excess does not exceed \$80:

- her lower range reduction under point 1067E-G18 is 50% of $\$35 = \17.50 ; and
- there is no upper range reduction under point 1067E-G19.

Her ordinary income reduction under point 1067E-G17 is therefore \$17.50.

Alice’s income reduction referred to in Step 9 of point 1067E-A1 is $\$105 + \$17.50 = \$122.50$.”

**PART 2—AMENDMENTS OF THE STUDENT AND YOUTH
ASSISTANCE ACT 1973**

8. Subsection 135(2) (Note):

Omit “ordinary income test”, substitute “income test”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 12—continued

9. Subsection 218(1):

After “subsections” insert “(1A), (1B),”.

10. After subsection 218(1):

Insert:

“(1A) Subject to subsection (3), for the purposes of the application of this Act in relation to a person’s rate of youth training allowance, if:

- (a) a person who is a member of a couple has, on or after 14 May 1987, disposed of ordinary income of the person; and
- (b) the amount of the disposition is not greater than the least amount that, if added to the person’s ordinary income (disregarding this section), would cause the person’s rate of youth training allowance to be reduced to nil;

the amount of the disposition is to be included in the person’s ordinary income.

“(1B) Subject to subsection (3), for the purposes of the application of this Act in relation to a person’s rate of youth training allowance, if:

- (a) a person who is a member of a couple has, on or after 14 May 1987, disposed of ordinary income of the person; and
- (b) the amount of the disposition is greater than the least amount that, if added to the person’s ordinary income (disregarding this section), would cause the person’s rate of youth training allowance to be reduced to nil;

then:

- (c) the second of the amounts referred to in paragraph (b) is to be included in the person’s ordinary income; and
- (d) the difference between the 2 amounts referred to in paragraph (b) is to be included in the person’s partner’s ordinary income.”.

11. Subsection 221(1):

Omit “If”, substitute “Subject to subsection (2), if”.

12. Subsection 221(2):

Omit the subsection, substitute:

“(2) Subsection (1) does not apply in relation to the application of an ordinary income test to a person if the fortnightly rate of ordinary income of the person’s partner is such that the rate of youth training allowance payable to the person for the accounting period would be nil even if the person’s fortnightly rate of ordinary income were not taken into account in working out the rate of the allowance.

SCHEDULE 12—continued

“(3) The reference in subsection (1) to the fortnightly rate of ordinary income of the person’s partner is a reference to that rate after taking into account any application of subsection (1) in relation to amounts of money the partner has earned for remunerative work.”.

13. Subsections 222(2) and (3):

Omit the subsections.

14. Point A1 (Step 9) in Module A in Schedule 1:

Omit “ordinary” (wherever occurring).

15. Subparagraph D5(b)(ii) in Module D in Schedule 1:

Omit “point G15”, substitute “point G17”.

16. Heading to Module G in Schedule 1:

Omit “ORDINARY”.

17. Point G1 in Module G in Schedule 1:

(a) After “person’s ordinary income” (first occurring) insert “, and the ordinary income of a partner of the person,”.

(b) Omit from Note 1 at the end of Step 1 “, G3”.

(c) Omit Steps 2, 3, 4, 5 and 6, substitute:

“Step 2. If the person is a member of a couple, work out the partner income free area using point G12.

Note: The partner income free area is the maximum amount of ordinary income the person’s partner can have without affecting the person’s benefit.

Step 3. Use paragraphs G13(a), (b) and (c) to work out whether the person has a partner income excess.

Step 4. If the requirements of paragraphs G13(a), (b) and (c) are not satisfied, the person’s partner income excess is nil.

Step 5. If the requirements of paragraphs G13(a), (b) and (c) are satisfied, the person’s partner income excess is the partner’s ordinary income less the partner income free area.

Step 6. Use the person’s partner income excess to work out the person’s partner income reduction using point G14.

Step 7. Work out whether the person’s ordinary income exceeds the person’s ordinary income free area under point G15.

Note: A person’s ordinary income free area is the maximum amount of ordinary income the person can have without affecting the person’s benefit rate.

Social Security Legislation Amendment (No. 1)
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SCHEDULE 12—continued

- Step 8.* If the person's ordinary income does not exceed the person's ordinary income free area, the person's ordinary income excess is nil.
- Step 9.* If the person's ordinary income exceeds the person's ordinary income free area, the person's ordinary income excess is the person's ordinary income less the person's ordinary income free area.
- Step 10.* Use the person's ordinary income excess to work out the person's **ordinary income reduction** using points G17, G18 and G19.
- Step 11.* Add the person's partner income reduction and ordinary income reduction: the result is the person's **income reduction** referred to in Step 9 of point A1 in **MODULE A.**"

(d) Omit from Note 2 at the end of the point "ordinary".

18. Points G2 and G3 in Module G in Schedule 1:

Omit the points, substitute:

Ordinary income of members of certain couples

"G2. Subject to point G4, if a person is a member of a couple and the person's partner is receiving a social security pension, a service pension or a rehabilitation allowance, the person's ordinary income is taken to be one half of the sum of:

- (a) the amount that would be the person's ordinary income if he or she were not a member of a couple; and
- (b) the amount that would be the ordinary income of the person's partner if the partner were not a member of a couple."

19. Points G12 to G17 (inclusive) in Module G in Schedule 1:

Omit the points, substitute:

Partner income free area

"G12. The partner income free area for a person is:

- (a) if the person is not receiving a social security benefit or a youth training allowance—the amount of income of the person (rounded up to the nearest dollar) beyond which job search allowance would not be payable to the person if the person were qualified for a job search allowance; or

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- (b) if the person is receiving a social security benefit or a youth training allowance—the amount of income of the person (rounded up to the nearest dollar) beyond which that benefit or allowance would not be payable to the person.

Partner income excess

“G13. If:

- (a) a person is a member of a couple; and
- (b) the person’s partner is not receiving a social security pension, service pension or a rehabilitation allowance; and
- (c) the partner’s ordinary income exceeds the partner income free area for the partner;

then:

- (d) the person has a partner income excess; and
- (e) the person’s partner income excess is the amount by which the partner’s ordinary income exceeds the partner income free area.

Partner income reduction

“G14. If a person has a partner income excess, the person’s partner income reduction is an amount equal to 70% of the part of the partner’s ordinary income that exceeds the partner income free area.

Ordinary income free area

“G15. A person’s ordinary income free area is \$60.

Ordinary income excess

“G16. If a person’s ordinary income exceeds the person’s ordinary income free area:

- (a) the person has an ordinary income excess; and
- (b) the person’s ordinary income excess is the amount by which the person’s ordinary income exceeds the person’s ordinary income free area.

Ordinary income reduction

“G17. If a person has an ordinary income excess, the person’s ordinary income reduction is the sum of:

- (a) the person’s lower range reduction (see point G18); and
- (b) the person’s upper range reduction (if any) (see point G19).

Lower range reduction

“G18. The person’s lower range reduction is an amount equal to 50% of the part of the person’s ordinary income excess that does not exceed \$80.

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Upper range reduction

“G19. The person’s upper range reduction is an amount equal to 70% of the part (if any) of the person’s ordinary income excess that exceeds \$80.”.

20. Point A5 in Module A in Schedule 4:

Omit the point.

21. Point C1 in Module C (Note 1) in Schedule 4:

Omit “points A4 and A5”, substitute “point A4”.

22. Points C2 and C3 in Module C in Schedule 4:

Omit the points, substitute:

Amount of earnings credit

“C2. The amount of an earnings credit for an earnings credit accounting period is \$60.

Note: This is the amount of the ordinary income free area. See Point G15 of Part 2 of Schedule 1.”.

23. Point D1 in Module D in Schedule 4:

Omit “subsection 222(1)”, substitute “section 222”.

24. Point D2 in Module D in Schedule 4:

Omit the point.

SCHEDULE 13

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO SUPERANNUATION PENSIONS**

1. Subsection 9(1) (definition of “superannuation fund”):

Omit the definition, substitute:

“ ‘**superannuation fund**’ means:

- (a) a fund or scheme included in the definition of ‘superannuation fund’ in subsection 27A(1) of the Income Tax Assessment Act, other than a fund covered by subparagraph (a)(ia) of that definition; or
- (b) an eligible resident non-complying superannuation fund within the meaning of the Income Tax Assessment Act;”.

2. Section 1099:

(a) After “superannuation pension” (first occurring) insert “payable from a superannuation fund”.

(b) Add at the end:

“Note: Superannuation funds, as defined in subsection 9(1), do not include non-resident superannuation funds. Consequently, income from a pension payable from a non-resident superannuation fund is not reduced by the deductible amount.”.

3. Application

In relation to a period-based payment, the amendments made by this Schedule apply to income in respect of a fortnight that commences after the commencement of this Schedule.

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SCHEDULE 14

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO NATIVE TITLE RIGHTS AND INTERESTS**

1. After paragraph 1118(1)(s):

Insert:

“; (t) the value of any native title rights and interests of the person, or of a community or group of which the person is a member.”.

2. After subsection 1118(1):

Insert:

“(1A) In this section:

‘native title rights and interests’ means:

(a) native title rights and interests within the meaning of section 223 of the *Native Title Act 1993*;

(b) any rights and interests of a similar nature under any law of a State, a Territory or a foreign country (whether or not the rights and interests relate to land or waters outside Australia);

but, to avoid any doubt, does not include any right or interest in a lease or licence, or in a freehold estate.”.

SCHEDULE 15

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO LOAN FRINGE BENEFITS**

1. Subpoint 1067E-K16(2):

Omit the subpoint, substitute:

“(2) The notional rate of interest for the fringe benefits year ending on 31 March 1996 is:

- (a) 6.95% for a housing loan; and
- (b) 11.75% for any other loan.

“(2A) The notional rate of interest for any subsequent fringe benefits year is the market rate of interest for 1 April in that year.

“(2B) For the purposes of subpoint (2A):

‘**market rate of interest**’, for a particular day, means:

- (a) for a housing loan—the lowest variable rate of interest for a housing loan; or
- (b) for any other loan—the lowest variable rate of interest for any other loan;

that is available on that day from a bank which is one of 4 banks specified by the Minister by determination under subsection 1157Q(4A).”.

2. Subsection 1157Q(1) (Method statement—Step 1):

Add at the end:

“Note: For ‘housing loan’ see subsection 10A(9).”.

3. Subsection 1157Q(1) (Method statement—Step 2):

Omit “subsection (2) or (3)”, substitute “subsection (2), (3) or (4)”.

4. Subsection 1157Q(3):

Omit “tax year ending 30 June 1994”, substitute “tax years ending 30 June 1994 and 30 June 1995”.

5. Subsection 1157Q(4):

Omit the subsection, substitute:

“(4) The notional rate of interest for any subsequent tax year is the market rate of interest for 1 April in the preceding tax year.

“(4A) For the purposes of subsection (4):

‘**market rate of interest**’, for a particular day, means:

- (a) for a housing loan—the lowest variable rate of interest for a housing loan; or

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(b) for any other loan—the lowest variable rate of interest for any other loan;

that is available on that day from a bank which is one of 4 banks specified in a written determination made by the Minister.

“(4B) A determination under subsection (4A) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

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SCHEDULE 16

Section 4

**AMENDMENTS RELATING TO COMPENSATION RECOVERY
AND RELATED MATTERS**

**PART 1—AMENDMENTS OF THE SOCIAL SECURITY ACT
1991 COMMENCING ON ROYAL ASSENT**

1. Section 3 (Index):

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

“former payment type	17(1)
invalid wife pension	17(1)
special needs disability support wife pension	17(1)
special needs invalid wife pension	17(1)”.

**2. Subsection 17(1) (paragraph (d) of the definition of
“compensation affected payment”):**

Omit the paragraph.

3. Subsection 17(1) (definition of “compensation affected payment”):

Add at the end:

“or (k) a former payment type;”.

4. Subsection 17(1) (definition of “disability support wife pension”):

Omit “is receiving”, substitute “receives”.

5. Subsection 17(1):

Insert the following definitions:

“ ‘former payment type’ means:

- (a) an invalid pension under the 1947 Act; or
- (b) an invalid pension under this Act as previously in force; or
- (c) a sheltered employment allowance under the 1947 Act; or
- (d) a sheltered employment allowance under this Act as previously in force; or
- (e) an unemployment benefit under the 1947 Act; or
- (f) a sickness benefit under the 1947 Act; or
- (g) a special benefit under the 1947 Act; or
- (h) a sickness benefit under this Act as previously in force; or
- (i) a rehabilitation allowance under the 1947 Act payable in place of:
 - (i) an invalid pension under the 1947 Act; or

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- (ii) a sheltered employment allowance under the 1947 Act; or
- (iii) an unemployment benefit under the 1947 Act; or
- (iv) a sickness benefit under the 1947 Act; or
- (v) a special benefit under the 1947 Act; or
- (j) a rehabilitation allowance under this Act as previously in force payable in place of:
 - (i) a disability support pension; or
 - (ii) an invalid pension under this Act as previously in force; or
 - (iii) a sheltered employment allowance under this Act as previously in force; or
 - (iv) a social security benefit; or
 - (v) a sickness benefit under this Act as previously in force; or
- (k) an invalid wife pension under the 1947 Act; or
- (l) an invalid wife pension under this Act as previously in force; or
- (m) a special needs invalid pension under this Act as previously in force; or
- (n) a special needs invalid wife pension under this Act as previously in force;

‘invalid wife pension’ means:

- (a) in relation to the 1947 Act, a wife’s pension under the 1947 Act for a woman whose husband received an invalid pension under the 1947 Act; or
- (b) in relation to this Act as previously in force, a wife pension for a woman whose partner received an invalid pension under this Act as previously in force;

‘special needs disability support wife pension’ means a special needs wife pension for a woman whose partner receives a special needs disability support pension;

‘special needs invalid wife pension’ means a special needs wife pension for a woman whose partner received a special needs invalid pension under this Act as previously in force;”.

6. Subsection 17(2):

Omit “the whole or part of”.

7. After subsection 17(2A):

Insert:

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“(2B) For the purposes of this Act, if:

- (a) a person receives more than one lump sum payment, whether simultaneously or at different times, in relation to one or more injuries arising from the same event (see subsection (5A)); and
- (b) at least one of the payments is made wholly or partly in respect of lost earnings or lost capacity to earn;

the person is taken to receive one lump sum compensation payment, made wholly or partly in respect of lost earnings or lost capacity to earn, of an amount equal to the sum of those lump sum payments.

“(2C) A reference in paragraph (2B)(a) to an injury includes a reference to a disease or condition.”.

8. Paragraph 17(4)(a):

Omit “in respect of lost earnings or lost capacity to earn”.

9. Paragraph 17(4)(b):

Omit “in respect of the lost earnings or lost capacity to earn”.

10. Subsection 17(5A):

After “the purposes of” insert “subsection (2B) of this section and”.

11. Subsection 1163(1):

Omit the subsection, substitute:

“(1) If a person is or may be entitled to or receives compensation, payments of a compensation affected payment to the person or the person’s partner might be affected under this Part.

Note: For ‘compensation affected payment’ see subsection 17(1).”.

12. Subsection 1163(2):

Omit “pension, benefit or allowance”, substitute “compensation affected payment”.

13. Subsection 1163(3):

Omit the subsection (but not the Notes), substitute:

“(3) If the compensation is a lump sum compensation payment, the compensation affected payment might cease to be payable for a period (based on the amount of the lump sum) and some or all of the payments of the compensation affected payment might be repayable.”.

14. Subsection 1163(4):

Omit “pension, benefit or allowance”, substitute “compensation affected payment”.

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SCHEDULE 16—continued

15. Subsections 1163(5) and (6):

Omit the subsections (including the Notes), substitute:

“(5) Subject to subsection (6), payments of a compensation affected payment will only be affected under this Part if:

(a) the compensation is received on or after 1 May 1987; and

(b) either:

(i) if the compensation affected payment is a rehabilitation allowance under the 1947 Act—the rehabilitation allowance is payable in place of a compensation affected payment that was claimed on or after 1 May 1987; or

(ii) in any other case—the claim for the compensation affected payment was made on or after 1 May 1987.

“(6) Despite subsection (5), payments of a compensation affected payment may be affected under this Part if it is:

(a) a sickness benefit under the 1947 Act; or

(b) a rehabilitation allowance under the 1947 Act payable in place of a sickness benefit under the 1947 Act.

Note 1: Compensation received before 1 May 1987 can affect a person’s sickness benefit under the 1947 Act, or a person’s rehabilitation allowance under the 1947 Act if it was paid instead of a sickness benefit—see clause 25A of Schedule 1A.

Note 2: Subsections (7), (8), (8A) and (10) further limit the effect of this Part on sole parent pension, carer pension, mature age allowance, mature age partner allowance and partner allowance.”.

16. Subsection 1164(1):

Omit the subsection.

17. Paragraph 1164(2)(a):

Omit “is qualified for”, substitute “receives or claims”.

18. Subsections 1164(4) and (4A):

Omit the subsections.

19. Subsections 1164(5), (5A) and (6):

Omit the subsections, substitute:

“(5) If, under subsection (2), the Secretary requires a person who receives or claims a compensation affected payment to take action to claim or obtain compensation, the compensation affected payment is not to be granted and is not payable to the person unless the person complies with the requirement.

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“(6) If, under subsection (2), the Secretary requires the partner of a person who receives or claims a compensation affected payment to take action to claim or obtain compensation, the compensation affected payment is not to be granted and is not payable to the person unless the partner complies with the requirement.”.

20. Paragraph 1165(1)(a):

Omit “is qualified for”, substitute “receives or claims”.

Note: The heading to section 1165 is replaced by the heading “**Compensation affected payment not payable during lump sum preclusion period**”.

21. Paragraph 1165(1)(c):

Omit the paragraph, substitute:

“(c) the person receives a lump sum compensation payment (whether before or after the person receives or claims the compensation affected payment);”.

22. Subsection 1165(1):

Omit “a pension, benefit or allowance”, substitute “a compensation affected payment”.

23. Subsection 1165(1) (Note):

Omit the Note, substitute:

“Note 1: For ‘lump sum preclusion period’ see subsections (3) to (5).

Note 2: A series of lump sum payments can be taken to be one lump sum compensation payment under subsection 17(2B).”.

24. Paragraph 1165(2)(a):

Omit “is qualified for”, substitute “receives or claims”.

25. Paragraph 1165(2)(c):

Omit the paragraph, substitute:

“(c) the person, or the person’s partner, receives a lump sum compensation payment (whether before or after the person receives or claims the compensation affected payment);”.

26. Subsection 1165(2) (Note):

Omit the Note, substitute:

“Note 1: For ‘lump sum preclusion period’ see subsections (3) to (5).

Note 2: A series of lump sum payments can be taken to be one lump sum compensation payment under subsection 17(2B).”.

27. Subsection 1165(3B):

Omit the subsection.

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28. Subsection 1165(3C):

Omit “none of subsections (3), (3A) and (3B)”, substitute “neither subsection (3) nor (3A)”.

29. Paragraph 1166(1)(a):

Omit “compensation in the form of a lump sum”, substitute “a lump sum compensation payment”.

Note: The heading to section 1166 is altered by omitting “pension, benefit or allowance payments” and substituting “payments of compensation affected payment”.

30. Subsection 1166(1) (Note):

Omit the Note, substitute:

“Note 1: For ‘lump sum preclusion period’ see subsections 1165(3) to (5).

Note 2: A series of lump sum payments can be taken to be one lump sum compensation payment under subsection 17(2B).”.

31. Subsections 1166(2), (3) and (4):

Omit the subsections, substitute:

“(2) Subject to subsection (5), the amount specified in the notice is the **recoverable amount** and is worked out under subsections (3), (4) and (4A).

“(3) If the person is not a member of a couple, the **recoverable amount** is equal to the smaller of the following amounts:

- (a) the compensation part of the lump sum compensation payment;
- (b) the sum of the payments of the compensation affected payment 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 does not receive a compensation affected payment or a youth training allowance for the lump sum preclusion period;

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

- (c) the compensation part of the lump sum compensation payment;
- (d) the sum of the payments of the compensation affected payment made to the person for the lump sum preclusion period.

“(4A) If:

- (a) the person is a member of a couple; and
- (b) the person’s partner receives a compensation affected payment or a youth training allowance for the lump sum preclusion period;

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

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- (c) the compensation part of the lump sum compensation payment;
- (d) the sum of:
 - (i) the payments of the compensation affected payment made to the person for the lump sum preclusion period; and
 - (ii) the payments of the compensation affected payment and (if applicable) the payments of youth training allowance made to the person's partner for the lump sum preclusion period.”.

32. Paragraph 1166(5)(a):

Omit “pension, benefit or allowance”, substitute “a compensation affected payment”.

33. Section 1166 (Lump sum recoverable amount and preclusion period examples—Example 1):

Omit “item 1 in the Table”, substitute “subsection 1166(3)”.

34. Section 1166 (Lump sum recoverable amount and preclusion period examples—Example 2):

Omit “item 3 in the Table”, substitute “subsection 1166(4A)”.

35. Section 1167:

Repeal the section, substitute:

Lump sum compensation not counted as ordinary income

“1167. If an amount per fortnight of a compensation affected payment is not payable to a person under section 1165 because of a lump sum compensation payment, that lump sum compensation payment is not to be regarded as ordinary income of either the person or the person's partner for the purposes of this Act (apart from Module D of the Family Payment Rate Calculator and section 710, and section 5B of the *Health Insurance Act 1973*).

Note 1: For ‘ordinary income’ see section 8.

Note 2: Module D of the Family Payment Rate Calculator deals with additional family payment.

Note 3: Section 710 deals with limitations on the amount of sickness allowance payable.

Note 4: Section 5B of the *Health Insurance Act 1973* deals with the Disadvantaged Persons Health Scheme.”.

36. Paragraph 1168(1)(b):

Omit “is qualified for”, substitute “receives or claims”.

Note: The heading to section 1168 is altered by omitting “pensions, benefits and allowances” and substituting “compensation affected payments”.

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SCHEDULE 16—continued

37. Subsection 1168(1):

Omit “pension, benefit or allowance is to be reduced, under subsection (3)”, substitute “compensation affected payment is to be reduced, in accordance with this section”.

38. Subsection 1168(3):

Omit the subsection (but not the Rate Reduction Examples), substitute:

“(2) If the rate of a person’s compensation affected payment is to be reduced under subsection (1), subsections (3), (3A) and (3B) are to be used to work out the person’s reduced rate.

Note 1: If the fortnightly rate of periodic compensation is higher than the fortnightly rate of the compensation affected payment, the compensation affected payment will be reduced to nil for the periodic payments period.

Note 2: If a person’s rate is reduced under subsection (1), the order in which the reduction is to be made against the components of the maximum payment rate is laid down by section 1207 (maximum basic rate first, then rent assistance).

“(3) If the person is not a member of a couple, the person’s fortnightly rate of the compensation affected payment is reduced by the fortnightly rate of periodic compensation.

“(3A) If:

- (a) the person is a member of a couple; and
- (b) the person’s partner does not receive or claim a compensation affected payment or a youth training allowance;

the person’s fortnightly rate of the compensation affected payment is reduced by the fortnightly rate of periodic compensation.

“(3B) If:

- (a) the person is a member of a couple; and
- (b) the person’s partner receives or claims a compensation affected payment or a youth training allowance;

the person’s fortnightly rate of the compensation affected payment is reduced by half the fortnightly rate of the periodic compensation.”.

39. Section 1168 (Rate reduction examples—Example 1):

Omit “item 1 in the Table”, substitute “subsection 1168(3)”.

40. Section 1168 (Rate reduction examples—Example 2):

Omit “item 4 in the Table”, substitute “subsection 1168(3B)”.

41. Paragraph 1169(a):

Omit “pension, benefit or allowance”, substitute “compensation affected payment”.

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SCHEDULE 16—continued

42. Subsection 1170(1) (Note):

Omit “pension, benefit or allowance”, substitute “compensation affected payment”.

Note: The heading to section 1170 is altered by omitting “pension, benefit or allowance payments” and substituting “payments of compensation affected payment”.

43. Subsections 1170(2), (3) and (4):

Omit the subsections, substitute:

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

“(3) If the person is not a member of a couple, the **recoverable amount** is equal to the smaller of the following amounts:

- (a) the sum of the periodic compensation payments;
- (b) the sum of the payments of the compensation affected payment 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 does not receive a compensation affected payment or a youth training allowance for the periodic payments period;

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

- (c) the sum of the periodic compensation payments;
- (d) the sum of the payments of the compensation affected payment made to the person for the periodic payments period.

“(4A) If:

- (a) the person is a member of a couple; and
- (b) the person’s partner receives a compensation affected payment or a youth training allowance for the periodic payments period;

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

- (c) the sum of the periodic compensation payments;
- (d) the sum of:
 - (i) the payments of the compensation affected payment made to the person for the periodic payments period; and
 - (ii) the payments of the compensation affected payment and (if applicable) the payments of youth training allowance made to the person’s partner for the periodic payments period.”

44. Section 1170 (Periodic payments recoverable amount examples—Example 1):

Omit “item 1 in the Table”, substitute “subsection 1170(3)”.

SCHEDULE 16—continued

45. Section 1170 (Periodic payments recoverable amount examples—Example 2):

Omit “item 3 in the Table”, substitute “subsection 1170(4A)”.

46. Section 1171:

Repeal the section, substitute:

Periodic compensation not counted as ordinary income

“1171. If an amount per fortnight of a compensation affected payment payable to a person is reduced under section 1168 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 (apart from Module D of the Family Payment Rate Calculator and section 710, and section 5B of the *Health Insurance Act 1973*).

Note 1: For ‘ordinary income’ see section 8.

Note 2: Module D of the Family Payment Rate Calculator deals with additional family payment.

Note 3: Section 710 deals with limitations on the amount of sickness allowance payable.

Note 4: Section 5B of the *Health Insurance Act 1973* deals with the Disadvantaged Persons Health Scheme.”.

47. Paragraph 1172(1)(a):

Omit “in respect of”, substitute “wholly or partly in respect of”.

48. Paragraph 1174(4)(a):

Omit “pension, benefit or allowance payments”, substitute “payments of the compensation affected payment”.

49. Paragraph 1174(5)(c):

Omit “pension, benefit or allowance payments”, substitute “payments of the compensation affected payment”.

50. Paragraph 1174(6)(c):

Omit the paragraph, substitute:

“(c) the sum of:

- (i) the payments of the compensation affected payment payable to the person; and
- (ii) the payments of the compensation affected payment and (if applicable) amounts of youth training allowance payable to the person’s partner;

for the periodic payments period or the lump sum preclusion period;”.

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SCHEDULE 16—continued

51. Paragraph 1174(6A)(a):

Omit “pension, benefit or allowance”, substitute “the compensation affected payment”.

52. Paragraph 1177(1)(a):

Omit “in respect of”, substitute “wholly or partly in respect of”.

53. Paragraph 1179(1)(a):

Omit “in respect of”, substitute “wholly or partly in respect of”.

54. Paragraph 1179(4)(a):

Omit “pension, benefit or allowance payments”, substitute “payments of the compensation affected payment”.

55. Paragraph 1179(5)(c):

Omit “pension, benefit or allowance payments”, substitute “payments of the compensation affected payment”.

56. Paragraph 1179(6)(c):

Omit the paragraph, substitute:

“(c) the sum of:

- (i) the payments of the compensation affected payment payable to the person; and
- (ii) the payments of the compensation affected payment and (if applicable) amounts of youth training allowance payable to the person’s partner;

for the periodic payments period or the lump sum preclusion period;”.

57. Paragraph 1179(6A)(a):

Omit “pension, benefit or allowance”, substitute “the compensation affected payment”.

58. Paragraph 1184(2)(a):

Omit “is qualified for”, substitute “receives or claims”.

59. Paragraph 1184(2)(c):

Omit “qualification for the set of compensation affected payment”, substitute “receipt of or claim for the compensation affected payment”.

SCHEDULE 16—continued

60. After section 1184:

Insert:

Application to review compensation decision—disability support pension and disability wage supplement

“1184A.(1) This section applies if a person claims a disability support pension or disability wage supplement and:

- (a) the Secretary decides under section 1164 that the disability support pension or disability wage supplement is not to be granted or is not payable; or
- (b) the Secretary decides under section 1165 that the disability support pension or disability wage supplement is not payable; or
- (c) the Secretary decides that, if the person were qualified for the disability support pension or disability wage supplement, the fortnightly rate of the disability support pension or disability wage supplement would be reduced to nil under section 1168.

“(2) If:

- (a) an application is made for a review of that decision to the Social Security Appeals Tribunal under section 1247; and
- (b) at the time of the application the Secretary has not taken the necessary steps to satisfy himself or herself as to whether the person is qualified for the disability support pension or disability wage supplement; and
- (c) the person who claimed the disability support pension or disability wage supplement requests the Secretary, in writing, to take those steps;

the Secretary must take those steps as soon as practicable after the request is made.”.

**PART 2—AMENDMENTS OF THE SOCIAL SECURITY
(PARENTING ALLOWANCE AND OTHER MEASURES)
LEGISLATION AMENDMENT ACT 1994**

61. Item 75 of Schedule 1:

Omit the item.

62. Items 78 and 79 of Schedule 1:

Omit the items, substitute:

“78. Subsection 1164(6):

Omit ‘If’, substitute ‘Subject to subsection (7), if’.

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SCHEDULE 16—continued

79. After subsection 1164(6):

Insert:

‘(7) Subsection (6) does not prevent a parenting allowance being granted to the person unless the person’s maximum basic rate of parenting allowance exceeds the maximum basic component of parenting allowance.

Note: For the maximum basic component of parenting allowance see point 1068A-B6 of the Parenting Allowance Rate Calculator at the end of section 1068A.’”.

63. Items 82 to 99 (inclusive) of Schedule 1:

Omit the items, substitute:

“90. After subsection 1166(4A):

Insert:

‘(4B) If:

- (a) the person is a member of a couple; and
- (b) the person’s partner receives a parenting allowance for some or all of the lump sum preclusion period;

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

- (c) the compensation part of the lump sum compensation payment;
- (d) the sum of:
 - (i) the payments of the compensation affected payment made to the person for the lump sum preclusion period; and
 - (ii) the payments of any compensation affected payment (excluding any payments of parenting allowance) and (if applicable) payments of youth training allowance made to the person’s partner for the lump sum preclusion period; and
 - (iii) any payments of parenting allowance in excess of the maximum basic component of parenting allowance made to the person’s partner during the lump sum preclusion period.

Note 1: For the maximum basic component of parenting allowance see point 1068A-B6 of the Parenting Allowance Rate Calculator at the end of section 1068A.

Note 2: If the partner of a compensation recipient receives or claims parenting allowance, parenting allowance during the lump sum preclusion period may be reduced under subsection 1165(2B).’”.

64. Items 101 to 109 (inclusive) of Schedule 1:

Omit the items, substitute:

“109. After subsection 1170(4A):

Insert:

‘(4B) If:

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

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SCHEDULE 16—continued

- (b) the person's partner receives a parenting allowance for some or all of the periodic payments period;
the **recoverable amount** is equal to the smaller of the following amounts:
- (c) the sum of the periodic compensation payments;
 - (d) the sum of:
 - (i) the payments of the compensation affected payment made to the person for the periodic payments period; and
 - (ii) the payments of any compensation affected payment (excluding any payments of parenting allowance) and (if applicable) payments of youth training allowance made to the person's partner for the periodic payments period; and
 - (iii) any payments of parenting allowance in excess of the maximum basic component of parenting allowance made to the person's partner during the periodic payments period.

Note 1: For the maximum basic component of parenting allowance see point 1068A-B6 of the Parenting Allowance Rate Calculator at the end of section 1068A.

Note 2: If the partner of a compensation recipient receives or claims parenting allowance, parenting allowance during the periodic payments period may be reduced under subsection 1168(6).".

65. Items 27 to 31 (inclusive) of Schedule 2:

Omit the items.

Note: The heading to item 32 of Schedule 2 is replaced by the heading "After subsection 1168(3B):".

66. Item 33 of Schedule 2:

Omit the item.

67. Item 34 of Schedule 2 (proposed Example 2 to section 1168 of the *Social Security Act 1991*):

Omit "covered by the subsection", substitute "covered by subsection (3B)".

**PART 3—AMENDMENTS OF THE SOCIAL SECURITY ACT
1991 COMMENCING IMMEDIATELY AFTER THE
COMMENCEMENT OF SCHEDULES 1 AND 2 TO THE
SOCIAL SECURITY (PARENTING ALLOWANCE AND OTHER
MEASURES) LEGISLATION AMENDMENT ACT 1994**

68. Paragraph 1165(2A)(a):

Omit "is qualified for", substitute "receives or claims".

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 16—continued

69. Paragraph 1165(2A)(b):

Omit the paragraph, substitute:

“(b) the person receives a lump sum compensation payment (whether before or after the person receives or claims the allowance);”.

70. Paragraph 1165(2B)(a):

Omit “is qualified for”, substitute “receives or claims”.

71. Paragraph 1165(2B)(b):

Omit the paragraph, substitute:

“(b) the person’s partner receives a lump sum compensation payment (whether before or after the person receives or claims the allowance);”.

72. Subsection 1166(2):

Omit “and (4A)”, substitute “, (4A) and (4B)”.

73. Paragraph 1166(4A)(b):

After “compensation affected payment” insert “(other than parenting allowance)”.

74. Subparagraph 1166(4A)(d)(ii):

After “compensation affected payment” insert “(excluding any payments of parenting allowance)”.

75. Paragraphs 1168(4)(b) and (c):

Omit “is qualified for”, substitute “receives or claims”.

76. Paragraph 1168(6)(a):

Omit “is qualified for”, substitute “receives or claims”.

77. Paragraph 1168(7)(a):

Omit “is qualified for”, substitute “receives or claims”.

78. Subsection 1170(2):

Omit “and (4A)”, substitute “, (4A) and (4B)”.

79. Paragraph 1170(4A)(b):

After “compensation affected payment” insert “(other than parenting allowance)”.

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No. 104, 1995

SCHEDULE 16—continued

80. Subparagraph 1170(4A)(d)(ii):

After “compensation affected payment” insert “(excluding any payments of parenting allowance)”.

**PART 4—AMENDMENTS OF THE HEALTH INSURANCE
ACT 1973**

**81. Subsection 5B(12) (paragraphs (a), (aa), (ab), (b) and (c) of the
definition of “income”):**

Add at the end “and”.

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

Add at the end:

“and (f) a payment of compensation within the meaning of section 17 of the
Social Security Act 1991;”.

**PART 5—AMENDMENTS OF THE VETERANS’
ENTITLEMENTS ACT 1986**

83. Paragraph 59U(2)(c):

Omit “subsection 1168(3)”, substitute “section 1168”.

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SCHEDULE 17

Section 4

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991
RELATING TO OVERPAYMENTS AND DEBT RECOVERY**

1. Paragraph 1223AA(1B)(b):

Omit the paragraph, substitute:

“(b) the amount of prepayment is more than the amount (if any) (the ‘correct amount’) of social security benefit that was payable under this Act to the person for the period; and”.

2. Section 1224B:

Add at the end (after the Notes):

“(2) Subsection (1) does not apply to a person who is not required to pay the enrolment fees mentioned in paragraph (1)(b).”.

SCHEDULE 18

Section 4

**AMENDMENTS OF THE DATA-MATCHING PROGRAM
(ASSISTANCE AND TAX) ACT 1990**

1. Section 3:

Insert:

“ **‘identification number for the purpose of personal assistance’** has the meaning given by subsection (2);”.

2. Section 3 (definition of “spouse”):

Omit the definition, substitute:

“ **‘spouse’**, in relation to a person, includes anyone who is:

(a) a spouse or a partner of the person for the purposes of any personal assistance; or

(b) a spouse of the person for the purposes of any tax law; and marital status has a corresponding meaning;”.

3. Section 3:

Add at the end:

“(2) In this Act, **‘identification number for the purpose of personal assistance’** means:

(a) for the purposes of the definition of ‘family identity data’ in subsection (1) and any references to family identity data—a number allocated to a person by an assistance agency for the purpose of assistance provided to the person; and

(b) for any other purpose—a number referred to in paragraph (a) as modified by the matching agency.

“(3) The reference in paragraph 5 in Step 2 of the data-matching cycle in section 7 to the matching agency extracting numbers from data includes a reference to the matching agency extracting numbers and modifying them as mentioned in paragraph (2)(b), and numbers so modified are taken to have been extracted from that data.”.

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SCHEDULE 19

Section 4

**MINOR TECHNICAL AMENDMENTS OF THE SOCIAL
SECURITY ACT 1991**

**PART 1—AMENDMENTS TAKEN TO HAVE COMMENCED
ON 2 NOVEMBER 1992, IMMEDIATELY AFTER THE
COMMENCEMENT OF THE SOCIAL SECURITY
AMENDMENT ACT 1992**

- 1. Subsection 541A(6):**
 - (a) Omit “15” (first occurring), substitute “14”.
 - (b) Omit “on that 15 February”, substitute “at the end of that 14 February”.
- 2. Subsection 696A(6):**
 - (a) Omit “15” (first occurring), substitute “14”.
 - (b) Omit “on that 15 February”, substitute “at the end of that 14 February”.

**PART 2—AMENDMENTS TAKEN TO HAVE COMMENCED
ON 25 MARCH 1993, IMMEDIATELY AFTER THE
COMMENCEMENT OF DIVISIONS 16 AND 17 OF PART 2 OF
THE SOCIAL SECURITY LEGISLATION AMENDMENT
ACT (NO. 3) 1992**

- 3. Subsection 1074(2):**

Omit the subsection.
- 4. Subsection 1075(1) (Notes):**

Omit the Notes, substitute:
“Note 1: For ‘realising’ an investment see subsections 9(10) and (11).
Note 2: For ‘assessable period’ see subsection 9(1).”.
- 5. Subsection 1097(1):**

Omit “1097.(1)”, substitute “1097.”.

**PART 3—AMENDMENTS TAKEN TO HAVE COMMENCED
ON 1 APRIL 1993**

- 6. Section 1190 (Indexed and Adjusted Amounts Table—item 23):**

Omit the item.
- 7. Subsection 1191(1) (CPI Indexation Table—item 17):**

Omit the item.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 19—continued

- 8. Subsection 1194(5):**
Omit the subsection.

**PART 4—AMENDMENTS TAKEN TO HAVE COMMENCED
ON 19 SEPTEMBER 1993**

- 9. Point 1069-F1 (subparagraph (c)(iii)):**
Omit “and”, substitute “or”.

- 10. Point 1069-F1 (paragraph (c)):**
Add at the end:
“(iv) if the person is partnered (partner in gaol) within the meaning of paragraph 4(11)(f)—\$80 per fortnight; and”.

- 11. Point 1069-F1 (Note 2):**
Omit “and ‘respite care couple’ ”, substitute “, ‘respite care couple’ and ‘partnered (partner in gaol)’ ”.

- 12. Point 1069-F4 (Table F):**
Add at the end:

“ | 4. | Partnered | $3 \times \frac{(\text{fortnightly rent} - \$80)}{4}$ | \$73.60 | \$84 | ”.

- 13. Point 1069-F4 (Note 3):**
Omit “and ‘respite care couple’ ”, substitute “, ‘respite care couple’ and ‘partnered (partner in gaol)’ ”.

**PART 5—AMENDMENTS TAKEN TO HAVE COMMENCED
ON 1 JANUARY 1994, IMMEDIATELY AFTER THE
COMMENCEMENT OF SCHEDULE 6 TO THE SOCIAL
SECURITY (BUDGET AND OTHER MEASURES)
LEGISLATION AMENDMENT ACT 1993**

- 14. Section 1165 (Lump sum preclusion period examples—
Example 1):**

Omit “subsection 17(3D)”, substitute “subsection 17(3)”.

- 15. Section 1165 (Lump sum preclusion period examples—
Example 2):**

Omit “subsection 17(3D)”, substitute “subsection 17(3)”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 19—continued

**PART 6—AMENDMENTS TAKEN TO HAVE COMMENCED
ON 1 JANUARY 1995, IMMEDIATELY AFTER THE
COMMENCEMENT OF THE STUDENT ASSISTANCE (YOUTH
TRAINING ALLOWANCE—TRANSITIONAL PROVISIONS
AND CONSEQUENTIAL AMENDMENTS) ACT 1994**

16. Subsection 709(3):

Omit “section 1067A”, substitute “section 1067E”.

17. Paragraph 1067E-C1(c):

Omit “sickness”, substitute “sickness”.

PART 7—AMENDMENTS COMMENCING ON ROYAL ASSENT

18. Section 3 (Index of Definitions):

Omit the following entries in the Index:

“bereavement lump sum period	21(e)
bereavement notification day	21(b)
bereavement period	21(a)
bereavement rate continuation period	21(d)
first available bereavement adjustment payday	21(c)”

substitute the following entries:

“bereavement lump sum period	21(2)(e)
bereavement notification day	21(2)(b)
bereavement period	21(2)(a)
bereavement rate continuation period	21(2)(d)
first available bereavement adjustment payday	21(2)(c)”

19. Section 3 (Index of Definitions):

Omit the following entries in the Index:

“eligible 1947 Act pensioner	19A(5)
eligible 1991 Act pensioner	19A(6)
investment	9(6)
investment product	9(1), (2)”

20. Section 3 (Index of Definitions):

Insert the following entry in the appropriate alphabetical position determined on a letter-by-letter basis:

“social security payment	23(1)”
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21. Subsection 4(11) (Note 1):

Omit the Note, substitute:

“Note 1: For ‘social security pension’ see subsection 23(1).”

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 19—continued

22. Paragraph 8(8)(zf):

Omit “an”, substitute “a”.

23. Subsection 9(1) (Note to definition of “assessable period”):

Omit the Note, substitute:

“Note: For ‘social security pension’ see subsection 23(1).”.

24. Subsection 23(1) (paragraph (ba) (second occurring) of the definition of “automatic deferment provision”):

Reletter as paragraph (bb).

25. Subsection 23(1) (paragraph (ga) (second occurring) of the definition of “recipient notification notice”):

Reletter as paragraph (gb).

26. Subsection 23(1) (paragraph (ga) (second occurring) of the definition of “recipient statement notice”):

Reletter as paragraph (gb).

27. Subsection 23(1) (paragraph (m) of the definition of “recipient statement notice”):

Omit “872”, substitute “873”.

28. Subsection 39(1A):

Add at the end:

“; or (g) if the Note immediately follows a clause in a Schedule—the clause in the Schedule; or

(h) if the Note immediately follows a subclause in a Schedule—the subclause in the Schedule.”.

29. Subsection 47(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security pension’ see subsection 23(1).”.

30. Subsection 94(1) (Note 2):

Omit “7A”, substitute “23(1) and Schedule 1B”.

31. Paragraph 116(1)(d):

Omit “94(1)(f)”, substitute “94(1)(e)”.

32. Subsection 151(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security pension’ and ‘social security benefit’ see subsection 23(1).”.

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No. 104, 1995

SCHEDULE 19—continued

33. Subsection 202(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security pension’ and ‘social security benefit’ see subsection 23(1).”

34. Subsection 258(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security pension’ and ‘social security benefit’ see subsection 23(1).”

35. Section 295:

Add at the end:

“Note 3: If a person seeks review of a cancellation decision under this section, a payment of sole parent pension may be continued pending the outcome of the review. If the application for review is made within 14 days of notification of the decision, continued payment will be automatic (see section 1242 (Internal Review) and section 1252 (Review by Social Security Appeals Tribunal)). If the application is made after that time, continued payment is at the Secretary’s discretion (see section 1241 (Internal Review) and section 1251 (Review by Social Security Appeals Tribunal)).”

36. Section 297 (Note):

Omit the Note.

37. Subsection 321(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security pension’ and ‘social security benefit’ see subsection 23(1).”

38. Section 363:

Repeal the section.

39. Subsection 368(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security pension’ and ‘social security benefit’ see subsection 23(1).”

40. Subsection 523(2) (Notes):

Omit the Notes, substitute:

“Note: For ‘activity test’ see section 522.”

41. Subsection 530(1) (Note):

Omit the Note, substitute:

“Note: For ‘social security pension’ see subsection 23(1).”

42. Subsection 532(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security pension’ see subsection 23(1).”

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No. 104, 1995*

SCHEDULE 19—continued

43. Subparagraph 548(1)(b)(i):

Omit “subparagraph 513(c)(iv)”, substitute “subparagraphs 513(1)(c)(iv) and 513(2)(c)(iv)”.

44. Subsection 574(4):

Omit “subsections (4A) and (4B)”, substitute “subsection (4B)”.

45. Subsection 574(4A):

Omit the subsection.

46. Subsection 612(1) (Note):

Omit the Note, substitute:

“Note: For ‘social security pension’ see subsection 23(1).”.

47. Subsection 614(2) (Note 2):

Omit the Note, substitute:

“Note: For ‘social security pension’ and ‘social security benefit’ see subsection 23(1).”.

48. Subparagraph 632(1)(b)(i):

Omit “paragraph 593(g)”, substitute “subparagraphs 593(1)(g)(iv) and 593(2)(g)(iv)”.

49. Subsection 635(3) (Note):

Omit the Note.

50. Subsection 657(4):

Omit “subsections (4A) and (4B)”, substitute “subsection (4B)”.

51. Subsection 657(4A):

Omit the subsection.

52. Subsection 686(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security benefit’ see subsection 23(1).”.

53. Subparagraph 729(2)(c)(i):

Omit “513(c)(iv) or 593(g)(iv)”, substitute “513(1)(c)(iv) or 593(1)(g)(iv)”.

54. Subparagraph 729(2)(d)(i):

Omit “subsection 546C(4) or 630C(4)”, substitute “section 546C or 630C”.

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No. 104, 1995

SCHEDULE 19—continued

55. Subsection 734(1) (Note):

Omit the Note, substitute:

“Note: For ‘social security pension’ see subsection 23(1).”.

56. Subsection 735(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security pension’ and ‘social security benefit’ see subsection 23(1).”.

57. Subsection 787(2) (Note 2):

Omit the Note, substitute:

“Note 2: For ‘social security pension’ and ‘social security benefit’ see subsection 23(1).”.

58. Subsection 1061S(1) (Telephone Allowance Rate Table):

Add at the end:

“ | 9. | Partnered (partner in gaol) | \$56.00 | ”.

59. Point 1064-D5 (Notes):

Omit the Notes, substitute:

“Note 1: For ‘member of couple’, ‘partnered’, ‘illness separated couple’, ‘respite care couple’, ‘temporarily separated couple’ and ‘partnered (partner in gaol)’ see section 4.

Note 2: For ‘dependent child’ see section 5.

Note 3: For ‘partner with a rent increase pension’ see point 1064-D4.

Note 4: The Rate B amounts, and the rent threshold amounts in column 3, are indexed 6 monthly in line with CPI increases (see sections 1191 to 1194).”.

60. Point 1066A-EA2 (paragraph (h)):

Omit the paragraph, substitute:

“(h) either:

(i) neither the person nor the person’s partner is qualified for additional family payment for a dependent child of the person;
or

(ii) the person is a member of an illness separated or respite care couple or a temporarily separated couple and is the partner of a person who is receiving additional family payment.”.

61. Point 1066A-EA2A (Table EAA—item 11—column 2):

Omit “Partner”, substitute “Partnered”.

62. Point 1067-F2 (Note):

Omit the Note, substitute:

“Note: For ‘social security pension’ see subsection 23(1).”.

Social Security Legislation Amendment (No. 1)
No. 104, 1995

SCHEDULE 19—continued

63. Point 1067-F14:

After “allowance” insert “or sickness allowance”.

64. Point 1068-B1 (Table B—item 4—column 2—paragraph (c)):

After “benefit” insert “or social security pension”.

65. Point 1068-F1 (paragraph (f)):

Omit the paragraph, substitute:

“(f) either:

- (i) neither the person nor the person’s partner is qualified for additional family payment for a dependent child of the person;
or
- (ii) the person is a member of an illness separated or respite care couple or a temporarily separated couple and is the partner of a person who is receiving additional family payment.”.

66. Point 1068-F2 (Note):

Omit the Note, substitute:

“Note: For ‘social security pension’ see subsection 23(1).”.

67. Point 1068-F16:

Omit the point, substitute:

Fortnightly rent

“1068-F16. **Fortnightly rent** is the rent paid or payable by the person whose rate of newstart allowance, job search allowance or sickness allowance is being calculated.”.

68. Point 1069-D20 (paragraph (b)):

Omit “6”, substitute “13”.

Note: The heading to Point 1069-D20 is altered by omitting “6” and substituting “13”.

69. Subsection 1119(3):

Omit the subsection, substitute:

Disposable or deferrable annuity

“(3) For the purposes of subsection (2), an annuity is a **disposable or deferrable annuity** if:

- (a) the annuity is able to be disposed of; or
- (b) a substantial part of the income under the annuity is, or may be, deferred.”.

*Social Security Legislation Amendment (No. 1)
No. 104, 1995*

SCHEDULE 19—continued

70. Subsection 1129(1) (Note 1):

Omit the Note, substitute:

“Note 1: For ‘social security pension’ see subsection 23(1).”.

71. Section 1160 (Note):

Omit:

“Note: If someone else is receiving a payment that depends on the person in gaol receiving a social security benefit, that other person’s payment is not payable during the period identified in this section. That other person may, however, become qualified for another social security benefit.”,

substitute:

“Note 1: If someone else is receiving a payment that depends on the person in gaol receiving a social security benefit, that other person’s payment is not payable during the period identified in this section. That other person may, however, become qualified for another social security benefit.”.

72. Section 1211 (Notes):

Renumber each Note from number 1 to number 7.

73. Section 1211 (Note 5):

Omit the Note, substitute:

“Note 5: Subsection 660XBA(3) provides that a person is taken to be in Australia for the purposes of paragraph 660XBA(1)(f) (qualification for mature age allowance) if the person is temporarily absent from Australia for the period of 26 weeks or less. Similar provisions exist for mature age partner allowance (see subsection 660XBI(2) and paragraph 660XBI(1)(c)).”.

74. Clauses 12, 13 and 14 of Schedule 1A:

Omit the clauses.

75. Division 3 of Part 2 of Schedule 1A:

Repeal the Division.

76. After clause 32 of Schedule 1A:

Insert:

**“PART 3—SAVING AND TRANSITIONAL PROVISIONS
APPLICABLE AFTER THE COMMENCEMENT OF THIS
ACT”.**

SCHEDULE 20

Section 4

OTHER MINOR TECHNICAL AMENDMENTS

**PART 1—MINOR TECHNICAL AMENDMENT OF THE
SOCIAL SECURITY (BUDGET AND OTHER MEASURES)
LEGISLATION AMENDMENT ACT 1993**

- 1. Item 35 (heading) of Schedule 3:**
Omit “1250(1)(ca)”, substitute “1250(ca)”.

**PART 2—MINOR TECHNICAL AMENDMENTS OF THE
SOCIAL SECURITY (PARENTING ALLOWANCE AND OTHER
MEASURES) LEGISLATION AMENDMENT ACT 1994**

- 2. Item 1 of Schedule 1 (proposed paragraph 909(1)(e) of the *Social Security Act 1991*):**
Omit “Youth Training Allowance”, substitute “youth training allowance”.

- 3. Item 1 of Schedule 1 (proposed paragraph 909(1)(k) of the *Social Security Act 1991*):**
Omit “or newstart allowance”, substitute “, newstart allowance or a youth training allowance”.

- 4. After proposed subparagraph 911(3)(a)(i) of the *Social Security Act 1991* in item 1 of Schedule 1:**
Insert:
“(ia) a youth training allowance; or”.

- 5. Item 1 of Schedule 1 (proposed section 916 of the *Social Security Act 1991*):**
Omit “Youth Training Allowance” (wherever occurring), substitute “youth training allowance”.

- 6. Item 1 of Schedule 1 (proposed subsection 926(1) of the *Social Security Act 1991*):**
Omit the subsection, substitute:
“ (1) A parenting allowance is not payable if:
(a) a period of non-payment of job search allowance has been applied to the person under paragraph 526(1)(j) of this Act; or
(b) a period of non-payment of newstart allowance has been applied to the person under paragraph 608(1)(j) of this Act; or

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SCHEDULE 20—continued

(c) a period of non-payment of youth training allowance has been applied to the person under paragraph 85(1)(k), (l) or (m) of the *Student and Youth Assistance Act 1973*;

and that period has not ended.”.

Note: The heading to proposed section 926 is replaced by the heading “Non-payment periods for job search allowance, newstart allowance and youth training allowance”.

7. Item 1 of Schedule 1 (proposed section 951B of the *Social Security Act 1991*):

Omit “the benefit”, substitute “the social security benefit or youth training allowance”.

8. Item 1 of Schedule 1 (proposed paragraph 951Z(2)(b) of the *Social Security Act 1991*):

After “social security benefit” insert “, a youth training allowance”.

9. Item 2 of Schedule 1 (proposed point 1068A-B4 of the *Social Security Act 1991*):

Omit “or a social security benefit”, substitute “, a social security benefit or a youth training allowance”.

10. Item 2 of Schedule 1 (proposed point 1068A-B5 of the *Social Security Act 1991*):

Omit “or a social security benefit”, substitute “, a social security benefit or a youth training allowance”.

11. Item 2 of Schedule 1 (proposed paragraphs 1068A-D12(a) and (b) of the *Social Security Act 1991*):

After “a social security benefit” insert “or a youth training allowance”.

12. Item 2 of Schedule 1 (proposed paragraph 1068A-D12(b) of the *Social Security Act 1991*):

After “benefit” (last occurring) insert “or allowance”.

13. Item 2 of Schedule 1 (proposed point 1068A-F2 of the *Social Security Act 1991*—Table F-1—item 3—column 3):

Omit “\$123.60”, substitute “\$61.80”.

14. Item 2 of Schedule 1 (proposed subparagraph 1068A-F5(b)(i) of the *Social Security Act 1991*):

After “a social security benefit” insert “or a youth training allowance”.

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SCHEDULE 20—continued

15. Item 2 of Schedule 1 (proposed subparagraph 1068A-F5(b)(ii) of the *Social Security Act 1991*):

After “Benefit Rate Calculator A,” insert “Module G of the Sickness Allowance Rate Calculator.”

16. After proposed subparagraph 1068A-F5(b)(ii) of the *Social Security Act 1991* in Item 2 of Schedule 1:

Insert:

“; or (iii) would be receiving a youth training allowance but for the application of the income test under Module G of Part 2 of Schedule 1 to the *Student and Youth Assistance Act 1973*.”

17. Item 2 of Schedule 1 (proposed point 1068A-F6 of the *Social Security Act 1991*—Table F-2—item 1—column 3):

Omit “\$61.80”, substitute “\$103.60”.

18. Item 2 of Schedule 1 (proposed point 1068A-F6 of the *Social Security Act 1991*—Table F-2—item 3—column 4):

Omit “\$71.20”, substitute “\$69.20”.

19. Item 2 of Schedule 1 (proposed paragraph 1068A-G7(b) of the *Social Security Act 1991*):

Omit “or benefit”, substitute “, a benefit or a youth training allowance”.

20. Before item 3 of Schedule 1:

Insert in Part 3 of Schedule 1:

“2A. Section 3 (Index of definitions):

Omit:

‘child bereavement payment

21(1)’.”

21. Item 122 of Schedule 1:

Omit the item, substitute:

“122. Section 1190 (Indexed and Adjusted Amounts Table—item 30—column 2):

Before ‘for homeowner’ insert ‘or parenting allowance’.”

22. Item 124 of Schedule 1:

Omit the item, substitute:

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“124. Section 1190 (Indexed and Adjusted Amounts Table—item 31—column 2):

Before ‘for non-homeowner’ insert ‘or parenting allowance’.”.

23. Item 126 of Schedule 1:

Omit the item, substitute:

“126. Section 1190 (Indexed and Adjusted Amounts Table—item 32—column 2):

Before ‘for homeowner’ insert ‘or parenting allowance’.”.

24. Item 128 of Schedule 1:

Omit the item, substitute:

“128. Section 1190 (Indexed and Adjusted Amounts Table—item 33—column 2):

Before ‘for non-homeowner’ insert ‘or parenting allowance’.”.

25. Item 130 of Schedule 1:

Omit the item, substitute:

“130. Section 1190 (Indexed and Adjusted Amounts Table—item 47—column 2):

Omit paragraphs (a), (b) and (c), substitute:

‘(a) who is receiving a social security benefit (other than sickness allowance payable to a person referred to in subsection 709(3)) and who has a partner; or

(b) who is receiving a parenting allowance’.”.

26. Item 132 of Schedule 1:

Omit the item, substitute:

“132. Section 1190 (Indexed and Adjusted Amounts Table—item 49—column 2):

Before ‘and is a member’ insert ‘or a parenting allowance’.”.

27. Item 134 of Schedule 1:

Omit the item, substitute:

“134. Section 1190 (Indexed and Adjusted Amounts Table—item 49B—column 2):

Omit all the words from and including ‘person who’, substitute:

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‘person:

- (a) who is receiving a social security benefit (other than sickness allowance payable to a person referred to in subsection 709(3)) and has a partner who is getting a service pension; or
- (b) who is receiving a parenting allowance and whose partner is getting a service pension’.”.

28. Item 136 of Schedule 1:

Omit the item, substitute:

“136. Section 1190 (Indexed and Adjusted Amounts Table—item 49D—column 2):

Omit paragraphs (a), (b) and (c), substitute:

- ‘(a) who is receiving a social security benefit (other than sickness allowance payable to a person referred to in subsection 709(3)) and has a partner who is in gaol; or
- (b) who is receiving a parenting allowance and whose partner is in gaol’.”.

29. Item 138 of Schedule 1:

- (a) Omit “item 49D”, substitute “item 49J”.
- (b) Omit “49E”, substitute “49K”.

30. Item 140 of Schedule 1:

- (a) Omit “item 33”, substitute “item 33A”.
- (b) Omit “33A”, substitute “33B”.

31. Item 1 of Schedule 2 (proposed paragraph 8(8)(zl) of the *Social Security Act 1991*):

- (a) After “a social security benefit” insert “or a youth training allowance,”.
- (b) Reletter the proposed paragraph as paragraph (zm).

32. Item 8 of Schedule 2 (proposed paragraphs 1067-H9(a) and (b) of the *Social Security Act 1991*):

After “a social security benefit” insert “or a youth training allowance”.

33. Item 8 of Schedule 2 (proposed paragraph 1067-H9(b) of the *Social Security Act 1991*):

After “benefit” (last occurring) insert “or allowance”.

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34. Item 15 of Schedule 2 (proposed paragraphs 1068-G9(a) and (b) of the *Social Security Act 1991*):

After “a social security benefit” insert “or a youth training allowance”.

35. Item 15 of Schedule 2 (proposed paragraph 1068-G9(b) of the *Social Security Act 1991*):

After “benefit” (last occurring) insert “or allowance”.

36. Item 32 of Schedule 2 (proposed paragraphs 1168(4)(c) and (d) of the *Social Security Act 1991*):

Omit “or a parenting allowance”, substitute “, a parenting allowance or a youth training allowance”.

37. Item 32 of Schedule 2 (proposed subsection 1168(5) of the *Social Security Act 1991* (definition of “Partner’s excess compensation rate”)):

After “social security benefit” insert “, parenting allowance or youth training allowance”.

38. Items 2, 3 and 4 of Schedule 3 (proposed subsection 771HA(1)):

Omit the items, substitute:

“2. Subsection 771HA(1):

Omit the subsection, substitute:

‘(1) Subject to subsections (1A) and (3), and section 771HB, a person is qualified for a partner allowance in respect of a period if:

- (a) throughout the period, the person is a member of a couple; and
- (b) throughout the period, the person’s partner is at least 21; and
- (c) throughout the period, the person’s partner is receiving job search allowance, newstart allowance, sickness allowance, special benefit, rehabilitation allowance, age pension, disability support pension, disability wage supplement or mature age allowance; and
- (d) throughout the period, the person:
 - (i) is an Australian resident; and
 - (ii) is in Australia; and
- (e) the person was born on or before 1 July 1955; and
- (f) the person is not qualified for parenting allowance at any time during the period; and
- (g) the person has not received job search allowance, newstart allowance or sickness allowance at any time in the 13 week period immediately before the day on which the person claimed partner allowance; and

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(h) the person does not have recent workforce experience.

Note 1: For “member of a couple” see section 4.

Note 2: For “Australian resident” see section 7.

Note 3: A person may be temporarily absent from Australia for up to 3 months and nevertheless be treated as being in Australia for the purposes of this section (see subsection (4)).’.”.

39. After item 5 of Schedule 3:

Insert:

“5A. Subsection 771HA(2):

Omit the subsection.”.

40. Item 28 of Schedule 3 (proposed subsection 3(1) of the *Health Insurance Act 1973* (definition of “DSS benefit dependant”)):

After “*Social Security Act 1991*” insert “or a youth training allowance under the *Student and Youth Assistance Act 1973*”.

NOTE ABOUT SECTION HEADINGS

1. On the commencement of Part 7 of Schedule 19:

- (a) the heading to section 372B is altered by omitting “or partner”;
- (b) the heading to section 391 is altered by omitting “or partner”;
- (c) the heading to section 661 is replaced by the heading “**Job search allowees over 18 or newstart allowees**”;
- (d) the heading to section 953 is altered by omitting “allowance” and substituting “**payment**”;
- (e) the heading to section 1074 is altered by omitting “**capital**”.

[*Minister’s second reading speech made in—
House of Representatives on 19 June 1995
Senate on 21 June 1995*]