



Veterans' Affairs Legislation Amendment and Repeal Act 1995

No. 118 of 1995

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Veterans' Affairs Legislation Amendment and Repeal Act 1995

No. 118 of 1995

**An Act to amend the law relating to veterans' affairs, and
for related purposes**

[Assented to 17 October 1995]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Veterans' Affairs Legislation Amendment and Repeal Act 1995*.

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Commencement

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

(2) Items 9, 10 and 12 in Part 1, and Part 3, of Schedule 1 are taken to have commenced on 1 January 1994.

(3) Items 153 and 154 in Part 7 of Schedule 1 are taken to have commenced on 1 July 1994, immediately after the commencement of Division 5 of Part 2 of the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act (No. 2) 1994*.

(4) Part 4 of Schedule 1 is taken to have commenced on 20 March 1995, immediately after the commencement of section 44 of the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994*.

(5) Items 39 and 40 in Part 5 of Schedule 1 are taken to have commenced on 1 January 1995, immediately after the commencement of Division 9 of Part 2 of the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act (No. 2) 1994*.

(6) Item 41 in Part 5 of Schedule 1 is taken to have commenced on 9 January 1995.

(7) Part 6 of Schedule 1 is taken to have commenced on 1 July 1994.

(8) Item 91 in Part 7 of Schedule 1 is taken to have commenced on 1 January 1995, immediately after the commencement of section 8 of the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act (No. 2) 1994*.

(9) Items 1 and 2 in Part 1, and item 140 in Part 7, of Schedule 1 are taken to have commenced on 20 March 1995.

(10) Item 136 in Part 7 of Schedule 1 is taken to have commenced on 16 December 1994.

(11) Items 63, 64, 65 and 71 in Part 7 of Schedule 1 are taken to have commenced on 19 December 1994.

(12) Items 111 and 141 in Part 7 of Schedule 1 are taken to have commenced on 1 January 1994.

(13) Items 139 and 145 in Part 7 of Schedule 1 are taken to have commenced on 1 July 1991, immediately after the commencement of Part 2 of Schedule 3 to the *Veterans' Affairs Legislation Amendment Act 1991*.

(14) Item 157 in Part 7 of Schedule 1 is taken to have commenced on 30 November 1994.

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(15) Schedule 2 is taken to have commenced on 22 May 1986, immediately after the commencement of the *Veterans' Entitlements Act 1986*.

(16) Schedule 3 is taken to have commenced on 1 July 1991, immediately after the commencement of section 19 of the *Veterans' Entitlements (Re-write) Transition Act 1991*.

(17) Schedule 4 is taken to have commenced on 1 July 1993, immediately after the commencement of Division 8 of Part 4 of the *Veterans' Affairs Legislation Amendment Act (No. 2) 1992*.

(18) Item 1 in Schedule 5 is taken to have commenced on 20 March 1995, immediately after the commencement of Division 6 of Part 2 of the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994*.

(19) Schedule 6 is taken to have commenced on 7 April 1994, immediately after the commencement of the *Military Compensation Act 1994*.

Amendments

3.(1) The *Veterans' Entitlements Act 1986* is amended as set out in Schedule 1.

(2) The *Veterans' Affairs Legislation Amendment Act 1990* is amended as set out in Schedule 2.

(3) The *Veterans' Entitlements (Re-write) Transition Act 1991* is amended as set out in Schedule 3.

(4) The *Veterans' Affairs Legislation Amendment Act (No. 2) 1992* is amended as set out in Schedule 4.

(5) The *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994* is amended as set out in Schedule 5.

(6) The *Military Compensation Act 1994* is amended as set out in Schedule 6.

Repeals

4. The following Acts are repealed:

War Service Homes Agreement Act 1932

War Service Homes (South Australia) Agreement Act 1934.

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SCHEDULE 1

Subsection 3(1)

AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986

PART 1—RATES OF SERVICE PENSION FOR BLIND PEOPLE

1. Subsection 43(1):

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

2. After subsection 43(3):

Insert:

*Reduced rate if social security pension was payable to the person
in the previous week*

“(4) If:

(a) a service pension becomes payable to a person on a pension payday (*service pension payday*); and

(b) a social security pension was payable to the person on the pension payday (within the meaning of the Social Security Act) immediately before the service pension payday;

the rate at which the service pension is payable to the person on the service pension payday is:

(c) if the person does not have a dependent child or dependent children, to be worked out using the formula:

$$\frac{\text{reduced annual rate}}{2} + \text{PA}; \text{ or}$$

(d) if the person has a dependent child or dependent children, to be worked out using the formula:

$$\frac{\text{reduced annual rate}}{2} + (\text{DCA} + \text{RA} + \text{PA});$$

where:

reduced annual rate means the rate that would be the rate of the person's service pension if:

(a) it were worked out by using the Rate Calculator at the end of this section; and

(b) each of the following amounts were nil:

(i) if the person has a dependent child or dependent children—the amount for dependent children under Step 2 of the Method statement in point 43-A1;

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SCHEDULE 1—continued

- (ii) if the person has a dependent child or dependent children—the amount for rent under Step 3 of that Method statement;
- (iii) the amount for pharmaceutical allowance under Step 3A of that Method statement.

PA means the amount of pharmaceutical allowance added to the person's maximum basic rate under Step 3A of the Method statement in point 43-A1.

DCA means the amount for dependent children added to the person's maximum basic rate under Step 2 of the Method statement in point 43-A1.

RA means the amount for rent added to the person's maximum basic rate under Step 3 of the Method statement in point 43-A1.”.

3. Subsection 43(4) (definition of *reduced annual rate*):

- (a) Omit from subparagraph (b)(i) “the Method statement”, substitute “Method statement A”.
- (b) Omit from subparagraph (b)(iii) “that Method statement”, substitute “Method statement A, or Step 3 of Method statement B, in Point 43-A1”.

4. Subsection 43(4) (definition of *PA*):

Omit “the Method statement”, substitute “Method statement A, or Step 3 of Method statement B, in Point 43-A1”.

5. Subsection 43(4) (definition of *DCA*):

Omit “the Method statement”, substitute “Method statement A”.

6. Subsection 43(4) (definition of *RA*):

Omit “the Method statement”, substitute “Method statement A”.

7. Point 43-A1:

- (a) Omit “*Method statement*”, substitute “*Method statement A (applicable in respect of blind people with dependent children)*”.
- (b) Omit from Step 2 “(if any)”.
- (c) After the Method statement and before the Notes insert:

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SCHEDULE 1—continued

- “ *Method statement B (applicable in respect of blind people without dependent children)*
- Step 1.* Work out what would be the person's rate of pension if the Service Pension Rate Calculator Where There Are No Dependent Children applied to the person: the result is called the *notional income/assets tested rate*.
- Step 2.* Work out the person's *maximum basic rate* using MODULE B below.
- Step 3.* Work out the amount per year (if any) for pharmaceutical allowance using MODULE DA below.
- Step 4.* Add up the amounts obtained in Steps 2 and 3: the result is called the *maximum payment rate*.
- Step 5.* Add to the maximum payment rate any amount per year payable by way of remote area allowance (see MODULE E below): the result is called the *non-income/assets tested rate*.
- Step 6.* Compare the notional income/assets tested rate and the non-income/assets tested rate: whichever is the greater is the person's *rate of pension*.
- ”

8. Point 43-A2:

Omit “The pension”, substitute “Except for the purposes of Step 1 in Method statement B (applicable in respect of blind people without dependent children), the pension”.

9. Point 43-C1:

Omit Steps 1, 2 and 3 of the Method statement, substitute:

- “Step 1.* Work out the amounts applicable to the person under points 43-C2 to 43-C5.
- Step 2.* Add up the amounts worked out: the total is the amount to be added to the person's maximum basic rate under this Module.”

10. Point 43-C3A:

Omit.

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11. Point 43-D3:

Add at the end:

“Note: For *incentive allowance* see subsection 5Q(1); the provisions of the Social Security Act relating to incentive allowance were repealed with effect from 12 November 1991 but the allowance continues to be paid to certain existing recipients under clause 36 of Schedule 1A to that Act.”.

12. Point 43-D4 (Note 3):

Omit, substitute:

“Note 3: The rate applicable under paragraph (b) is not subject to reduction because of any maintenance income test, ordinary income test or assets test in the Service Pension Rate Calculator referred to in that paragraph.”.

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SCHEDULE 1—continued

PART 2—EXCHANGE TRADING SYSTEMS

13. Section 5 (Index):

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

“approved exchange trading system	5H(11)
exchange trading system	5H(10)”.

14. Subsection 5H(1):

Insert:

“*approved exchange trading system* has the meaning given by subsection 5H(11).

exchange trading system has the meaning given by subsection 5H(10).”.

15. Subsection 5H(8):

Add at the end:

“(zl) if a person is a member of an approved exchange trading system—an amount credited to the person’s account for the purposes of the scheme in respect of any goods or services provided by the person to another member.

Note: For *approved exchange trading system* see subsections (10) and (11).”.

16. Section 5H:

Add at the end:

“(10) An *exchange trading system* is an arrangement between a number of people (*members*) under which each member may obtain goods or services from another member that is wholly or partly in kind rather than in cash. Each member has, for the purposes of the arrangement, an account:

(a) to which is credited:

(i) the amount representing the value of any goods or services provided by the member to another member; or

(ii) if the goods or services were partly paid for in cash—the amount referred to in subparagraph (i) less the amount so paid in cash; and

(b) to which is debited:

(i) the amount representing the value of any goods or services supplied to the member by another member; or

(ii) if the goods or services were partly paid for in cash—the amount referred to in subparagraph (i) less the amount so paid in cash.

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SCHEDULE 1—continued

“(11) An exchange trading system is an ***approved exchange trading system*** if the Commission is satisfied that:

- (a) it is a local community-based system; and
- (b) its primary purpose is to help people maintain their labour skills and keep them in touch with the labour market; and
- (c) it is not a system run by a person or organisation for profit.”.

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SCHEDULE 1—continued

PART 3—MAINTENANCE INCOME

17. Section 5 (Index)

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

“disability expenses maintenance 5K(5)”.

18. Subsection 5K(1):

Insert:

“*disability expenses maintenance* has the meaning given by subsection (5).”.

19. Subsection 5K(1) (definition of *maintenance income*):

Add at the end (but not as part of paragraph (c)):

“but does not include disability expenses maintenance.”.

20. Subsection 5K(1) (definition of *special maintenance income*):

(a) Omit from paragraph (b) “partner; or”, substitute “partner”.

(b) Omit paragraph (c).

21. Section 5K:

Add at the end:

“(5) A payment or benefit is *disability expenses maintenance* of a person if:

(a) the payment or benefit is provided for expenses arising directly from:

(i) a physical, intellectual or psychiatric disability; or

(ii) a learning difficulty;

of a dependent child of the person; and

(b) the disability or difficulty is likely to be permanent or to last for an extended period; and

(c) the payment or benefit is received:

(i) by the person for the maintenance of the dependent child; or

(ii) by the dependent child for the child’s own maintenance; and

(d) the payment or benefit is received from:

(i) a parent of the child; or

(ii) the partner or former partner of a parent of the child.”.

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SCHEDULE 1—continued

PART 4—INCOME SUPPORT SUPPLEMENT

22. Paragraph 5H(8)(i) (Note 1):

After “see” insert “subsection (9) and”.

23. Section 5H:

Add at the end:

“(9) For the purposes of the application of subsection (8) in relation to income support supplement, the reference in subparagraph (8)(i)(iv) to *pension age* is taken to be a reference to the qualifying age referred to in subsection 45A(2).”.

24. Subsection 5J(1C) (Note 1):

After “see” insert “subsection (1D) and”.

25. After subsection 5J(1C):

Insert:

“(1D) For the purposes of the application of subsection (1C) in relation to income support supplement, the references in paragraphs (1C)(a), (b) and (c) to *pension age* are taken to be references to the qualifying age referred to in subsection 45A(2).”.

26. Paragraph 45A(1)(a):

Omit, substitute:

“(a) the person is a war widow or war widower; and”.

27. Subsection 45A(1):

Omit the Note at the end.

28. Subsection 45A(4):

Omit, substitute:

“(4) If the Commission has determined under section 45Q that the person’s claim is to be granted, the person is eligible for income support supplement if the person is a war widow or war widower.”.

29. Subsection 45AB(5) (definition of *severely handicapped person*):

Add at the end:

“; and (c) is a service pensioner or is a person who is receiving a social security pension or an income support supplement.”.

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SCHEDULE 1—continued

30. Section 45I:

Repeal, substitute:

Need for a proper claim

“45I. Subject to section 45N, a person is not entitled to be granted income support supplement unless the person has made a proper claim for that supplement.”.

31. Subsection 45M(2):

Omit “a person’s claim if the person”, substitute “a claim if the person making the claim, or on whose behalf the claim is being made”.

32. Section 45O:

Repeal, substitute:

Claim may be withdrawn

“45NA.(1) A claimant for income support supplement or a person on behalf of a claimant may withdraw a claim that has not been determined.

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

“(3) A withdrawal may be made orally or in writing.

Written withdrawal of a claim

“45NB. A written withdrawal of a claim must be lodged at an office of the Department in Australia.

Oral withdrawal of a claim

“45NC. An oral withdrawal of a claim must be made to a person in an office of the Department in Australia.

Acknowledgment of oral withdrawal of a claim

“45ND. As soon as practicable after receiving an oral withdrawal of a claim, the Secretary must give the claimant an acknowledgment notice in writing stating that:

(a) an oral withdrawal of a claim has been made; and

(b) the claimant, or a person on behalf of the claimant, may, within 28 days from the day on which the acknowledgment notice is given, request the Secretary to treat the withdrawal as if it had not been made.

Reactivating the withdrawn claim

“45NE. If, within 28 days from the day on which the Secretary gave the acknowledgment notice, the claimant, or a person on behalf of the claimant, requests the Secretary to treat the oral withdrawal of the claim as if it had not been made, the oral withdrawal is taken not to have been made.

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SCHEDULE 1—continued

Note: A request made under section 45NE has the effect of reactivating the claim. In particular the commencement day of the claim stays the same.

Secretary may require claimant to take action to obtain a comparable foreign pension

“45NF.(1) If:

- (a) a person has claimed income support supplement; and
- (b) the Secretary is satisfied that the claimant may be entitled to a comparable foreign pension if the claimant applied for that pension;

the Secretary may give the claimant a notice that requires the claimant to take reasonable action to obtain the comparable foreign pension.

“(2) The notice:

- (a) must be in writing; and
- (b) must be given personally or by post; and
- (c) must state the period within which reasonable action must be taken.

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

“(4) The Commission may reject a claim if:

- (a) the claimant is given the notice; and
- (b) the Commission is satisfied that the claimant has not taken reasonable action to obtain the comparable foreign pension within the period stated in the notice.

“(5) For the purposes of this section, a person takes reasonable action to obtain a comparable foreign pension only if the person takes reasonable action to obtain the pension at the highest rate applicable to the person.”.

33. Point 45X-F1 (Note 2):

Omit “sections 55Y and 55Z”, substitute “sections 52Y and 52Z”.

34. Section 46S:

Add at the end:

“(2) For the purposes of the application of this section in relation to income support supplement, the reference in paragraph (1)(b) to *pension age* is taken to be a reference to the qualifying age referred to in subsection 45A(2).”.

35. Section 46SA:

Add at the end:

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SCHEDULE 1—continued

“(2) For the purposes of the application of this section in relation to income support supplement, the reference in paragraph (1)(a) to *pension age* is taken to be a reference to the qualifying age referred to in subsection 45A(2).”.

36. After subsection 52(1):

Insert:

“(1A) For the purposes of the application of this section in relation to income support supplement, the reference in subparagraph (1)(f)(iv) to *pension age* is taken to be a reference to the qualifying age referred to in subsection 45A(2).”.

37. Paragraph 54BA(1)(a):

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

Note: The heading to section 54BA is altered by inserting “or income support supplement” after “service pension”.

38. Section 56EB (first occurring):

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

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SCHEDULE 1—continued

PART 5—REFUGEES' ELIGIBILITY FOR SERVICE PENSION

39. Subsections 5C(4) and (5):

Omit, substitute:

Refugee

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

- (a) is taken, under the Migration Reform (Transitional Provisions) Regulations, to be the holder of a transitional (permanent) visa because the person was, immediately before 1 September 1994, the holder of:
 - (i) 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 Schedule 2A; or
 - (iii) a permanent visa of a class referred to in a declaration of the Minister under subsection (5) that is in force.

Declaration of class of visas

“(5) If:

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

the Minister may declare in writing that class of visas to be a class of visas for the purposes of subparagraph (4)(c)(iii). The declaration is a disallowable instrument.”.

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SCHEDULE 1—continued

40. Schedule 2A:

- (a) After “Portugal” in item 6 insert “, Macau and Mozambique”.
- (b) Add at the end:
 - “10. | Territorial Asylum (Residence) (Class BE) | 1131”.

41. Schedule 2A:

Insert after item 3:

- “8A. | Sri Lankan (Special Assistance) (Class BF) | 1129A”.

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SCHEDULE 1—continued

PART 6—SUPERANNUATION INVESTMENT PRODUCTS

42. Subsection 5J(1) (definition of *deductible amount*):

Add at the end:

“Note: See subsection (9).”.

43. Subsection 5J(1) (definition of *non-assessable purchase price*):

Add at the end:

“Note: See subsection (9).”.

44. Subsection 5J(1) (definition of *roll-over purchase price*):

Add at the end:

“Note: See subsection (9).”.

45. Section 5J:

Add at the end:

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

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SCHEDULE 1—continued

PART 7—OTHER AMENDMENTS

46. Section 5 (Index):

- (a) Omit:
“acting Commissioner 5A”,
substitute:
“acting commissioner 5A”.
- (b) Omit:
“capitalised maintenance income 5K
cash maintenance 5K”,
substitute:
“capitalised maintenance income 5K(1)
cash maintenance 5K(1)”.
- (c) Omit:
“child 5F”,
substitute:
“child 5F(1)”.
- (d) Omit:
“child support 5K”,
substitute:
“child support 5K(1)”.
- (e) Omit:
“defence force established by a
Commonwealth country 5C(1), (3)
defence force established by an allied country 5C(1)
defence service 5Q(1A), 68”,
substitute:
“defence force established by a
Commonwealth country 5C(1)
defence force established by an allied country 5C(1), (3)
defence service 5Q(1A), 68(1)”.
- (f) Omit:
“dispose of income 5H(1)”,
substitute:
“disposes of ordinary income 5H(1), 48”.
- (g) Omit:
“education leavers waiting period 5F(5A)”.

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SCHEDULE 1—continued

	substitute:	
	“education leavers waiting period	5Q(1)”.
(h)	Omit:	
	“employed child	5F(3)”.
(i)	Omit:	
	“foreign superannuation fund	5J(1)
	foreign superannuation pension	5J(1)”,
	substitute:	
	“foreign superannuation fund	5L(1)
	foreign superannuation pension	5L(1)”.
(j)	Omit:	
	“illness separated couple	5R(5)”,
	substitute:	
	“illness separated couple	5R(5) and (5A)”.
(k)	Omit:	
	“in-kind housing maintenance	5K”,
	substitute:	
	“in-kind housing maintenance	5K(1)”.
(l)	Omit:	
	“Listed security	5J(1)”,
	substitute:	
	“listed security	5J(1)”.
(m)	Omit:	
	“member of a couple	5E(1), (2), (3), (4)”,
	substitute:	
	“member of a couple	5E(2), (3), (4)”.
(n)	Omit:	
	“member of a unit of the Defence Force	5C(1), (2)
	member of the Defence Force	5C(1)”,
	substitute:	
	“member of a unit of the Defence Force	5C(1)
	member of the Defence Force	5C(1), (2)”.
(o)	Omit:	
	“operational area	5B(2)”,
	substitute:	
	“operational area	5B(1)”.

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SCHEDULE 1—continued

- | | |
|--------------------------------------|--------------------|
| (p) Omit: | |
| “partner | 5E(5)”, |
| substitute: | |
| “partner | 5E(1)”. |
| (q) Omit: | |
| “physically present in remote area | 5Q(2), (3)”, |
| substitute: | |
| “physically present in a remote area | 5Q(2), (3)”. |
| (r) Omit: | |
| “retirement village | 5M”, |
| substitute: | |
| “retirement village | 5M(3), (4)”. |
| (s) Omit: | |
| “statutory rate of return | 5J(1)”. |
| (t) Omit: | |
| “value | 5L(2), (3)”, |
| substitute: | |
| “value | 5L(2), (3), (3A)”. |

47. Section 5 (Index):

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

- | | |
|--|--------------------|
| “child in receipt of income | 5F(3) |
| current figure | 5NA(1) |
| holder of a seniors health card | 5PB(1) |
| index number | 5NA(1) |
| investment | 5J(6) |
| managed investment | 5J(1A), (1B), (1C) |
| member of an ordinary couple with different
principal homes | 5M(2) |
| operational service | 6 |
| presently payable | 5J(3) |
| realise | 5J(7), (8)”. |

48. Subsection 5B(1):

Insert:

“*allotted for duty* in an operational area has the meaning given by subsection (2).”.

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SCHEDULE 1—continued

49. Subsection 5C(1) (definition of *Australian mariner*):

Omit from paragraph (e) “cabled”, substitute “cable”.

50. Subsection 5D(1):

Insert:

“*blinded in an eye* has the meaning given by subsection (3).

incapacity from a war-caused injury or *incapacity from a war-caused disease* has the meaning given by subsection (2).

incapacity from a defence-caused injury or *incapacity from a defence-caused disease* has the meaning given by subsection (2).”.

51. Subsection 5E(5) (Note):

Omit “sheltered employment or”.

52. Subsection 5F(2):

Omit, substitute:

Dependent child

“(2) Subject to subsections (3) and (4), a child is a *dependent child* of another person if the child:

(a) is a child of the person within the meaning of section 10; and

(b) is wholly or substantially dependent on the person.”.

53. Paragraph 5F(3)(b):

Omit “from employment”.

Note: The heading to subsection 5F(3) is replaced by “*Child in receipt of income*”.

54. Paragraph 5F(6)(b):

Omit, substitute:

“(b) the person’s partner’s service pension rate or income support supplement rate includes a dependent child add-on for the child; or

(c) the person’s partner receives a social security pension and also receives additional family payment in respect of the child;”.

55. Subsection 5G(1):

Omit, substitute:

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

Australian resident has the meaning given by subsection (1AA).

holder, in relation to a visa, has the same meaning as in the *Migration Act 1958*.

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permanent visa, special category visa and special purpose visa have the same meanings as in the *Migration Act 1958*.

“(1AA) An *Australian resident* is a person who:

(a) resides in Australia; and

(b) is one of the following:

(i) an Australian citizen;

(ii) the holder of a permanent visa;

(iii) the holder of a special category visa who is likely to remain permanently in Australia;

(iv) the holder of a special purpose visa who is likely to remain permanently in Australia.

Note 1: For *holder, permanent visa and special purpose visa* see subsection (1).

Note 2: *Australian citizen* is defined in the *Australian Citizenship Act 1948*.”.

56. After paragraph 5G(1A)(c):

Insert:

“(ca) the nature and extent of the person’s assets located in Australia;
and

(cb) the frequency and duration of the person’s travel outside
Australia; and”.

57. Subsection 5H(1):

Omit:

“*dispose of income* has the meaning given by section 48.”,

substitute:

“*disposes of ordinary income* has the meaning given by section 48.”.

58. Paragraph 5H(8)(a):

Omit “this Part”, substitute “Part III or Part IIIA”.

59. Subparagraph 5H(8)(w)(vii):

Omit.

60. Subsection 5H(8):

Omit the Note at the end of the subsection.

61. Subsection 5J(1):

Insert:

“*presently payable* has the meaning given by subsection (3).”.

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62. Subsection 5J(1) (definition of *statutory rate of return*):

Omit.

63. Subsection 5J(1) (definitions of *foreign superannuation fund* and *foreign superannuation pension*):

Omit.

64. Subsection 5J(1) (definition of *superannuation fund*):

Omit, 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.

Note: For *foreign superannuation fund* see subsection 5L(1).”

65. Subsection 5J(1) (definition of *superannuation pension*):

(a) After “pension” insert “presently”.

(b) Add at the end:

“Note 1: For *foreign superannuation pension* see subsection 5L(1).

Note 2: For *presently payable* see subsection (3).”

66. Subsection 5J(1C):

Omit “managed investments”, substitute “*managed investments*”.

67. Subsection 5K(1) (definition of *capitalised maintenance income*):

Add at the end:

“Note 3: For *periodic amount* see subsection (1A).”

68. Subsection 5K(1) (definition of *cash maintenance*):

(a) Omit “Note:”, substitute “Note 1:”.

(b) Add at the end:

“Note 2: For *periodic amount* see subsection (1A).”

69. Subsection 5K(1) (definition of *in-kind housing maintenance*):

Omit from the Note “(4) and (5)”, substitute “(3) and (4)”.

70. Subsection 5K(1) (definition of *maintenance income*):

Omit the Note, substitute:

“Note: See also subsection (2) and section 51 (apportionment of capitalised maintenance income).”

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SCHEDULE 1—continued

71. Subsection 5L(1):

Insert:

“foreign superannuation fund” means a non-resident superannuation fund as defined in subsection 6E(2) of the Income Tax Assessment Act.

foreign superannuation pension means a pension presently payable from a foreign superannuation fund.

Note: For *presently payable* see subsection 5J(3).”.

72. Subsection 5L(1) (definition of *value*):

Omit “(2) and (3)”, substitute (2), (3) and (3A)”.

73. Subsection 5L(3A):

Omit “value of a”, substitute “*value of a*”.

74. Subsection 5M(1):

Insert:

“member of an ordinary couple with different principal homes has the meaning given by subsection (2).”.

75. Subsections 5MB(2) and (3):

Omit “sale leaseback agreement”, substitute “*sale leaseback agreement*”.

76. Subsection 5MB(4):

Omit “initial payment amount”, substitute “*initial payment amount*”.

77. Subsection 5MB(6):

Omit “deferred payment amount”, substitute “*deferred payment amount*”.

78. Subsection 5MB(9):

Omit “sale leaseback home”, substitute “*sale leaseback home*”.

79. Subsection 5MB(10):

Omit “sale leaseback resident”, substitute “*sale leaseback resident*”.

80. Subsection 5MB(11):

Omit “sale leaseback resident” (first occurring), substitute “*sale leaseback resident*”.

81. Subsection 5MC(2):

Omit “special residence”, substitute “*special residence*”.

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82. Subsection 5MC(3):

Omit “special resident”, substitute “*special resident*”.

83. Subsection 5MC(4):

Omit “actual value”, substitute “*actual value*”.

84. Subsection 5N(1) (definition of *Government rent*):

Insert after the definition:

“Note: Subsection (5) deals with the situation when the name of an authority is altered.”.

85. Subsection 5Q(1) (definition of *incentive allowance*):

Omit, substitute:

“*incentive allowance* has the meaning that was given to that expression by the *Social Security Act 1991* as in force immediately before 12 November 1991.”.

86. Subsection 5Q(1) (definition of *remote area*):

- (a) Omit from paragraph (a) “paragraphs 1 and 2 of”.
- (b) Omit paragraphs (b) and (c).

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

Omit “veteran” (wherever occurring).

88. Subsection 19(9) (definition of *relevant documentary medical evidence*):

Omit “claimant or applicant”, substitute “veteran or deceased veteran in respect of whom the claim is made”.

89. Paragraph 35(2)(d):

After “when” insert “a person or”.

90. Subsection 37N(1):

Omit “40C”, substitute “41”.

91. Subparagraph 38(1)(a)(ii):

Omit the subparagraph, substitute:

- “(ii) whose partner is a veteran who is receiving an age service pension or invalidity service pension, or who would be receiving such a pension if not for the operation of the compensation recovery provisions in Part IIC; or”.

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92. Section 39N (Note):

Omit “section”, substitute “sections”.

93. Point 41-C3 (Note):

Add at the end:

“; the provisions of the Social Security Act relating to incentive allowance were repealed with effect from 12 November 1991 but the allowance continues to be paid to certain existing recipients under clause 36 of Schedule 1A to that Act.”.

94. Point 41-C5:

Omit paragraph (c), substitute:

“(c) either of the following applies:

- (i) the partner is receiving a service pension the rate of which is increased to take account of rent paid or payable by the partner;
- (ii) the partner is receiving a social security pension and is also receiving an additional family payment under the Social Security Act that includes an amount to take account of rent paid or payable by the partner.”.

95. Point 41-C6 (Note 4):

Insert after “column 3” “(that is, the amounts referred to in that column that correspond to the amounts in column 3 in Table C in Point 41-C2A)”.

96. Point 41-C10:

- (a) Omit from Step 1 of the Method statement “the amount of the person’s disability pension on a yearly basis”, substitute “the annual rate of the person’s disability pension”.
- (b) Omit from Step 4 of the Method statement “rent assistance free area exceeds the person’s disability pension income”, substitute “disability pension income does not exceed the person’s rent assistance free area”.
- (c) Omit from Step 5 of the Method statement “rent assistance free area does not exceed the person’s disability pension income”, substitute “disability pension income exceeds the person’s rent assistance free area”.

97. Point 41-D1:

Omit from Step 1 of the Method statement “the amount of the person’s ordinary income on a yearly basis”, substitute “the annual rate of the person’s ordinary income”.

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98. Point 41-D2:

Omit “the couple’s ordinary incomes (on a yearly basis)”, substitute “the annual rates of the couple’s ordinary incomes”.

99. Point 42-A2:

Omit “42-DAA2,”.

100. Point 42-A3:

(a) Omit “42-DAA11 to 42-DAA13”, substitute “42-DAA9 to 42-DAA11”.

(b) Omit “42-DAA2,”.

101. Point 42-D3:

Add at the end:

“Note: For *incentive allowance* see subsection 5Q(1); the provisions of the Social Security Act relating to incentive allowance were repealed with effect from 12 November 1991 but the allowance continues to be paid to certain existing recipients under clause 36 of Schedule 1A to that Act.”.

102. Point 42-D5:

Omit paragraph (c), substitute:

“(c) either of the following applies:

(i) the partner is receiving a service pension the rate of which is increased to take account of rent paid or payable by the partner;

(ii) the partner is receiving a social security pension and is also receiving an additional family payment under the Social Security Act that includes an amount to take account of rent paid or payable by the partner.”.

103. Point 42-D6:

Insert after “column 3” in Note 4 “(that is, the amounts referred to in that column that correspond to the amounts in column 3 in Table D in Point 42-D2A)”.

104. Point 42-D10:

(a) Omit from Step 1 of the Method statement “the amount of the person’s disability pension on a yearly basis”, substitute “the annual rate of the person’s disability pension”.

(b) Omit from Step 4 of the Method statement “rent assistance free area exceeds the person’s disability pension income”, substitute “disability pension income does not exceed the person’s rent assistance free area”.

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- (c) Omit from Step 5 of the Method statement “rent assistance free area does not exceed the person’s disability pension income”, substitute “disability pension income exceeds the person’s rent assistance free area”.

105. Section 42—Module 42DAA:

Omit, substitute:

“MODULE DAA—MAINTENANCE INCOME TEST

Effect of maintenance income on maximum payment rate

“42-DAA1. This is how to work out the effect of a person’s maintenance income on the person’s maximum payment rate:

<i>Method statement</i>	
<i>Step 1.</i>	Work out the annual rate of the person’s <i>maintenance income</i> . Note 1: For the treatment of the maintenance income of members of a couple see point 42-DAA3. Note 2: <i>Special maintenance income</i> (see subsection 5K(1)) can in some circumstances be disregarded under points 42-DAA4 to 42-DAA7.
<i>Step 2.</i>	Work out the person’s <i>maintenance income free area</i> (see point 42-DAA8 below). Note: A person’s maintenance income free area is the maximum amount of maintenance income the person can have without affecting the person’s pension rate.
<i>Step 3.</i>	Work out whether the person’s maintenance income exceeds the person’s maintenance income free area.
<i>Step 4.</i>	If the person’s maintenance income does not exceed the person’s maintenance income free area, the person’s <i>maintenance income excess</i> is nil.
<i>Step 5.</i>	If the person’s maintenance income exceeds the person’s maintenance income free area, the person’s <i>maintenance income excess</i> is the person’s maintenance income less the person’s maintenance income free area.
<i>Step 6.</i>	Use the person’s maintenance income excess to work out the person’s <i>reduction for maintenance income</i> under point 42-DAA9 below but taking into account the <i>ceiling for reduction</i> applicable under point 42-DAA10.

Note 1: See point 42-A1 (Steps 5 to 11) for the significance of the person’s reduction for maintenance income.

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SCHEDULE 1—continued

Note 2: The application of the maintenance income test is affected by provisions concerning:

- apportionment of capitalised maintenance income (section 51);
- in-kind housing maintenance—value of substitute for family home (section 51A).

Only maintenance income for dependent child to be taken into account

“42-DAA2. In working out a person’s maintenance income for the purposes of this Module, disregard any maintenance income for a child who is not a dependent child of the person.

Maintenance incomes of members of couples

“42-DAA3. If the person is a member of a couple, add the annual rates of the couple’s maintenance incomes to work out the amount of the person’s maintenance income for the purposes of this Module.

Special maintenance income

“42-DAA4. Subject to points 42-DAA6 and 42-DAA7, if a person has special maintenance income in excess of the ceiling application to the person, the excess is disregarded for the purposes of this Module.

Note: See subsection 5K(1) for *special maintenance income*.

Amount of ceiling

“42-DAA5. The ceiling applicable to a person is worked out using the formula:

$$\text{MIFA} + \frac{\text{table amount} + \text{DC add-ons}}{2}$$

where:

MIFA is the person’s maintenance income free area.

table amount is whichever of the amounts in the following Table is applicable to the person:

Not member of couple	Partnered
\$8,478.60	2 × \$7,072.00

Note: The amounts specified in the Table are indexed in line with CPI increases (see sections 59A to 59E).

DC add-ons is the sum of the amounts of dependent child add-on, guardian allowance and rent assistance that would be payable to the person before the application of the maintenance income test.

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Special maintenance income not disregarded where child support available

“42-DAA6. No amount is to be disregarded under point 42-DAA4 if:

- (a) child support is not payable under the *Child Support (Assessment) Act 1989* to the person for a child; and
- (b) the person is entitled to make an application for assessment of child support under Part V of that Act for the child payable by another person; and
- (c) the person has:
 - (i) neither:
 - (A) properly made such an application; nor
 - (B) properly made an application under Part VI of that Act for acceptance of an agreement in relation to the child; or
 - (ii) the person has properly made an application of either kind, but:
 - (A) the person has subsequently withdrawn the application; or
 - (B) after child support has become payable by the other person under that Act for the child, the person has ended the entitlement to child support.

“42-DAA7. No amount is to be disregarded under point 42-DAA4 if:

- (a) child support is payable under the *Child Support (Assessment) Act 1989* to the person for a child; and
- (b) the person is entitled to make an application under section 128 of that Act; and
- (c) an application by the person under that section is not in force.

How to calculate a person's maintenance income free area

“42-DAA8. A person's maintenance income free area is worked out using Table DAA-2. Work out which family situation in Table DAA-2 applies to the person. The maintenance income free area is the corresponding amount in column 3 plus an additional corresponding amount in column 5 for each maintained child after the first.

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TABLE DAA-2 MAINTENANCE INCOME FREE AREA					
column 1 item no.	column 2 person's family situation	column 3 basic free area per year	column 4 basic free area per fortnight	column 5 additional free area per year	column 6 additional free area per fortnight
1.	Not member of couple	\$865.80	\$33.30	\$288.60	\$11.10
2.	Partnered (both the person and the partner have maintenance income)	\$1,731.60	\$66.60	\$288.60	\$11.10
3.	Partnered (only one member of couple has maintenance income)	\$865.80	\$33.30	\$288.60	\$11.10

Income free area

42-DAA9. Subject to point 42-DAA12, a person's reduction for maintenance income is worked out using Table DAA-3. Work out which family situation applies to the person. The reduction for maintenance income is the amount per year worked out using the corresponding calculation in column 3.

TABLE DAA-3 REDUCTION FOR MAINTENANCE INCOME		
column 1 item no.	column 2 person's family situation	column 3 reduction
1.	Not member of couple	<u>maintenance income excess</u> 2
2.	Partnered (partner getting neither pension nor benefit)	<u>maintenance income excess</u> 2
3.	Partnered (partner getting benefit)	<u>maintenance income excess</u> 2
4.	Partnered (partner getting pension) <i>person</i> has additional amounts for dependent children	DC excess – <u>remaining excess</u> 2
5.	Partnered (partner getting pension)— <i>partner</i> has additional amounts for dependent children	<u>remaining excess</u> 2

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Note 1: For *member of couple, partnered (partner getting neither pension nor benefit), partnered (partner getting benefit)* and *partnered (partner getting pension)* see section 5E.

Note 2: For *additional amounts for dependent children* see subsection 5Q(1).

Note 3: For *maintenance income excess* see point 42-DAA10 below.

Note 4: For *DC excess* and *remaining excess* see point 42-DAA11 below.

Note 5: For background information on the special treatment given to people covered by items 4 and 5 of Table DAA-3 see points 42-A3 and 42-A4 above.

Maintenance income excess

42-DAA10. A person's *maintenance income excess* is the person's maintenance income less the person's maintenance income free area.

Working out DC excess and remaining excess

42-DAA11. For the purposes of Table DAA-3, if a member of a couple (the *DC partner*) has additional amounts for dependent children:

- (a) the additional amounts for dependent children total (the *DC total*) is the sum of the amounts the DC partner has by way of additional amounts for dependent children; and
- (b) if the DC partner's maintenance income excess (see point 42-DAA10 above) is less than or equal to the DC total:
 - (i) The *DC excess* is the DC partner's maintenance income excess; and
 - (ii) the *remaining excess* is nil; and
- (c) if the DC partner's maintenance income excess (see point 42-DAA10 above) is greater than the DC total:
 - (i) the *DC excess* is the DC total; and
 - (ii) the *remaining excess* is the DC partner's maintenance income excess less the DC total.

Ceiling for reduction on child add-on and rent assistance

"42-DAA12. A person's maximum reduction for maintenance income is not to exceed the person's additional amounts for dependent children plus the person's rent assistance.

Note: For additional amounts for dependent children see Module C. For rent assistance see Module D."

106. Point 42-E1:

Omit from Step 1 of the Method statement "the amount of the person's ordinary income on a yearly basis", substitute "the annual rate of the person's ordinary income".

107. Point 42-E2:

Omit "the couple's ordinary income's (on a yearly basis)", substitute "the annual rates of the couple's ordinary incomes".

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SCHEDULE 1—continued

108. Point 42-E10:

Omit from example 1 “point 42-E8”, substitute “point 42-E9”.

109. Point 42-E13:

Omit “42-DAA12” (wherever occurring), substitute “42-DAA10”.

110. Paragraph 45(1)(a):

Omit “if”.

111. Point 45-A1:

After paragraph (c) in Step 1 insert:

“; and (d) if the widow or widower has a dependent child or children—points 42-D10 and 42-D11 were omitted.”.

112. Point 45X-E1:

Omit from Step 1 of the Method statement “the amount of the person’s adjusted income on a yearly basis”, substitute “the annual rate of the person’s adjusted income”.

113. Point 45X-E2:

Omit “the couple’s adjusted incomes (on a yearly basis)”, substitute “the annual rates of the couple’s adjusted incomes”.

114. Point 45Y-D1:

Omit from Step 1 of the Method statement “the amount of the person’s adjusted income on a yearly basis”, substitute “the annual rate of the person’s adjusted income”.

115. Point 45Y-D2:

Omit “the couple’s adjusted incomes (on a yearly basis)”, substitute “the annual rates of the couple’s adjusted incomes”.

116. Point 45Y-H1:

Omit from Step 1 of the Method statement “the amount of the person’s maintenance income on a yearly basis”, substitute “the annual rate of the person’s maintenance income”.

117. Point 45Y-H3:

Omit “the couple’s maintenance incomes (on a yearly basis)”, substitute “the annual rates of the couple’s maintenance incomes”.

118. Section 46ZG:

Omit “1099L(2)”, substitute “1099M(2)”.

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119. Section 48B:

Omit “1984”, substitute “1984”.

120. Paragraphs 52(1)(a), (b) and (c):

Omit, substitute:

- “(a) if the person is not a member of a couple—the value of any right or interest of the person in the person’s principal home that is a right or interest that gives the person reasonable security of tenure in the home;
- (b) if the person is a member of a couple—the value of any right or interest of the person in one residence that is the principal home of the person, of the person’s partner or of both of them that is a right or interest that gives the person or the person’s partner reasonable security of tenure in the home;
- (c) the value of any life interest of the person other than:
 - (i) a life interest in the principal home of the person, of the person’s partner or of both of them; or
 - (ii) a life interest created by the person, by the person’s partner or by both of them; or
 - (iii) a life interest created on the death of the person’s partner;”.

121. After paragraph 52(1)(c):

Insert:

“Note: The exclusion from paragraph (1)(c) of the value of a person’s life interest mentioned in subparagraph (i), (ii) or (iii) does not result in the value of the interest being included in the person’s assets if the interest falls within paragraph (1)(a) or (b).”.

122. After paragraph 52(1)(n):

Insert:

“Note: For *principal home* and other assets test definitions, see section 5L.”.

123. Paragraph 52(1)(o):

Omit the Notes, substitute:

“Note: The payments in paragraph (o) are not income for the purposes of this Act (see paragraph 5H(8)(q)).”.

124. Paragraph 52H(1)(b):

After “exceeds” insert “the”.

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

After “exceeds” insert “the”.

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SCHEDULE 1—continued

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

After “exceeds” insert “the”.

127. Paragraphs 52S(2)(d) and (e):

Omit “for the purposes of this Act”.

128. Paragraph 52S(5)(e):

Omit, substitute:

“(e) both the person, and the person’s partner, are taken not to have a right or interest in relation to the partner’s principal home;

(ea) the assets of the person’s partner are taken to include an asset whose value is equal to the amount of the partner’s entry contribution;

(eb) subsection 52(1) and section 52H do not apply to the asset that the person’s partner is, because of paragraph (ea), taken to have;”.

129. Paragraph 52S(5)(f):

Omit “for the purposes of this Act”.

130. Paragraph 52T(3)(c):

Omit, substitute:

“(c) both the person, and the person’s partner, are taken not to have a right or interest in relation to the person’s principal home;

(ca) the person’s assets are taken to include an asset whose value is equal to the amount of the person’s entry contribution;

(cb) subsection 52(1) and section 52H do not apply to the asset that the person is, because of paragraph (ca), taken to have;”.

131. Paragraph 52T(3)(d):

Omit “for the purposes of this Act”.

132. Paragraph 52U(2)(c):

Omit “for the purposes of this Act,”.

133. Paragraph 52U(2)(d):

Omit “for the purposes of this Act”.

134. Paragraph 52V(2)(f):

Omit “in this subsection called the **more valuable principal home**”, substitute “(the *more valuable principal home*)”.

135. Paragraph 52W(2)(c):

Omit “in this subsection called”.

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SCHEDULE 1—continued

136. Section 56EB (second occurring):

Re-number the section as 56EC.

137. Subsections 58K(2) and (2A):

Omit.

Note: The heading to section 58K is altered by inserting “and income support supplement” after “pensions”.

138. After section 58K:

Insert:

Carer service pension generally not portable

“58KA.(1) Subject to this section, a carer service pension is not payable to a person who is outside Australia.

“(2) If:

- (a) a person ceases to provide constant care and attention for a severely handicapped veteran; and
- (b) subsection 39(2) applies to a period so that the person does not cease to be eligible for a carer service pension merely because of the cessation;

subsection (1) does not apply to any absence of the person from Australia during that period.

“(3) If a person provides constant care and attention for a severely handicapped veteran during a period in which the veteran is temporarily absent from Australia:

- (a) if the period is not more than 3 months—subsection (1) does not apply to the period; or
- (b) if the period is more than 3 months—subsection (1) does not apply to the first 3 months of the period.”.

139. Section 59A (Table—item 7A—column 3):

After “maintenance” insert “income”.

140. Section 59A (Table—item 7A—column 4):

Omit:

“*Service Pension Rate Calculator Where There Are No Dependent Children—point 41-E6—Table E-1—column 3—all amounts”.

141. Section 59A (Table—item 7A—column 4):

Omit:

“*Service Pension Rate Calculator Where There Are Dependent Children—point 42-F9—Table F-1—columns 3 and 5—all amounts”.

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SCHEDULE 1—continued

substitute:

“*Service Pension Rate Calculator Where There Are Dependent Children—point 42-DAA8—Table DAA-2—columns 3 and 5—all amounts”.

142. Section 59A (Table):

After item 7A insert:

“7B.	Maintenance income ceiling (calculation amount)	MIC (CA)	<p>* Service Pension Rate Calculator Where There are Dependent Children—point 42-DAA5—Table DAA-1— columns 1 and 2—all amounts</p> <p>* Income Support Supplement Rate Calculator Where There are Dependent Children—point 45Y-H5—Table—columns 1 and 2—all amounts”.</p>
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143. Section 59A (Table—item 8A—column 4):

Omit “[Section 49B—point 49B-A2]”, substitute **“*Section 49B—point 49B-A2”.**

144. Section 59A (Table—item 19—column 4):

Omit “section 118C”, substitute **“*section 118C”.**

145. Section 59B (Table—item 4A—column 2):

After “maintenance” insert **“income”.**

146. Section 59B (Table):

After item 4A insert:

“4B.	MIC (CA)	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$2.60 ”.
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147. Section 59J:

Add at the end:

“where:

***pension ‘partnered’ property owner AVL* is the current figure, as at that 1 July, for the pension ‘partnered’ property owner AVL.**

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SCHEDULE 1—continued

pension 'partnered' non-property owner AVL is the current figure, as at that 1 July, for the pension 'partnered' non-property owner AVL.”.

148. Paragraph 85(4)(c):

Omit “5(6)”, substitute “5C(1)”.

149. Subsection 86(1):

Omit “*Social Security Act 1947*”, substitute “*Social Security Act*”.

150. Subsection 100(1):

Add at the end:

“Note: See sections 111 and 133 for the making of an application for a funeral benefit under this subsection.”.

151. Subsection 115(6):

Omit “(a), (b), (c) or (d)”, substitute “(a) or (b)”.

152. Subsection 128A(5):

Omit, substitute:

“(5) The Secretary may waive the requirement for a statement of the tax file number of the person’s partner or non-illness separated spouse if satisfied that the person:

- (a) does not know that number; and
- (b) can obtain none of the following from the partner or non-illness separated spouse:
 - (i) that number;
 - (ii) a statement of that number;
 - (iii) a declaration by the partner or non-illness separated spouse under paragraph (4)(a).”.

153. Section 133 (definition of *relevant documentary medical evidence*):

Omit, substitute:

“*relevant documentary medical evidence*, in relation to an application made in respect of a veteran or a deceased veteran, means certificates, reports or other documents from:

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

about a medical condition of the veteran or deceased veteran and reasonably used in support of the application.”.

*Veterans' Affairs Legislation Amendment and
Repeal No. 118, 1995*

SCHEDULE 1—continued

154. Subsection 170A(2):

Omit, substitute:

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

155. Subsection 198(10):

Omit “relevant period or”, substitute “relevant period”.

156. Subsection 198E(1) (definition of *relevant rate*):

Omit “subsection 118C(2)”, substitute “section 118C”.

157. Schedule 2:

Insert after “20 October 1992” in column 2 of item 14 “to and including 30 November 1994”.

*Veterans' Affairs Legislation Amendment and
Repeal No. 118, 1995*

SCHEDULE 2

Subsection 3(2)

**AMENDMENT OF THE VETERANS' AFFAIRS LEGISLATION
AMENDMENT ACT 1990**

1. Section 62:

Add at the end "(first occurring)".

*Veterans' Affairs Legislation Amendment and
Repeal No. 118, 1995*

SCHEDULE 3

Subsection 3(3)

**AMENDMENT OF THE VETERANS' ENTITLEMENTS (RE-WRITE)
TRANSITION ACT 1991**

1. Schedule 2 (amendment of paragraph 46K(2)(b)):

After " 'made' " insert "(wherever occurring)".

*Veterans' Affairs Legislation Amendment and
Repeal No. 118, 1995*

SCHEDULE 4

Subsection 3(4)

**AMENDMENT OF THE VETERANS' AFFAIRS LEGISLATION
AMENDMENT ACT (NO. 2) 1992**

- 1. Paragraph 78(d):**
Omit "service".

*Veterans' Affairs Legislation Amendment and
Repeal No. 118, 1995*

SCHEDULE 5

Subsection 3(5)

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

1. Schedule 2:

Omit item 2, substitute:

“1A. Section 59A (Table—item 6—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-C6—Table C1—column 4—all amounts’.”.

2. Section 59A (Table—item 6A—column 4):

Omit:

“ “*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-C2A—Table C—column 3—all amounts

***Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-C6—Table C1—column 3—rent threshold amounts’.”.**

*Veterans' Affairs Legislation Amendment and
Repeal No. 118, 1995*

SCHEDULE 6

Subsection 3(6)

AMENDMENT OF THE MILITARY COMPENSATION ACT 1994

1. Subsection 11(2):

Omit, substitute:

“(2) The references in paragraphs 115(1A)(b) and (2)(d) of the Principal Act as amended by this Act to Division 5A of Part II of the *Veterans' Entitlements Act 1986* are taken, until 21 June 1994, to be references to section 17 of this Act.”.

2. Subsection 17(1):

Omit, substitute:

“(1) This section ceases to apply on 21 June 1994.”.

[*Minister's second reading speech made in—
House of Representatives on 23 August 1995
Senate on 31 August 1995*]