



Veterans' Affairs Legislation Amendment (1995-96 Budget Measures) Act (No. 2) 1995

No. 146 of 1995

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**Veterans' Affairs Legislation
Amendment (1995-96 Budget Measures)
Act (No. 2) 1995**

No. 146 of 1995

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

[Assented to 12 December 1995]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Veterans' Affairs Legislation Amendment (1995-96 Budget Measures) Act (No. 2) 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) Part 1 of Schedule 10 is taken to have commenced on 12 June 1989.

(3) Part 2 of Schedule 10 is taken to have commenced on 1 July 1991.

(4) Part 1 of Schedule 11 is taken to have commenced on 20 March 1993.

(5) Part 3 of Schedule 10, and Part 2 of Schedule 11, are taken to have commenced on 20 March 1995.

(6) Schedule 8 and Part 2 of Schedule 12 commence, or are taken to have commenced, on 1 January 1996.

(7) The following provisions commence, or are taken to have commenced, on 19 March 1996:

(a) Schedule 2;

(b) item 11 in Schedule 10;

(c) item 5 in Schedule 11;

(d) Schedule 14.

(8) Items 1 and 9 in Schedule 1 and Schedules 3, 4, 5 and 6 commence, or are taken to have commenced, on 20 March 1996.

(9) Items 6 and 7 in Schedule 9 commence, or are taken to have commenced, on 1 May 1996.

(10) Items 1, 3 and 4 in Schedule 9 commence, or are taken to have commenced, on 1 July 1996.

(11) Schedule 7 commences, or is taken to have commenced, on 4 July 1996.

(12) Items 2 and 5 in Schedule 9 commence, or are taken to have commenced, on 19 September 1996.

(13) Schedule 1 (other than items 1 and 9) and Part 1 of Schedule 12 commence on 1 January 1997.

Amendments

3.(1) The *Veterans' Entitlements Act 1986* is amended in accordance with the applicable items in Schedules 1, 2, 3, 4, 5, 6, 7, 8 and 9 and the other items in those Schedules have effect according to their terms.

(2) The *Social Security and Veterans' Affairs Legislation Amendment Act 1988* is amended in accordance with Schedule 10.

(3) The *Veterans' Affairs Legislation Amendment Act (No. 2) 1992* is amended in accordance with Schedule 11.

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(4) The *Income Tax Assessment Act 1936* is amended in accordance with the applicable items in Schedule 12, and item 13 in that Schedule has effect according to its terms.

(5) The *Fringe Benefits Tax (Application to the Commonwealth) Act 1986* is amended in accordance with the applicable items in Schedule 13 and item 3 in that Schedule has effect according to its terms.

(6) The *Social Security Act 1991* is amended in accordance with Schedule 14.

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SCHEDULE 1

Subsection 3(1)

**AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986 IN
RELATION TO RESIDENTIAL CARE ALLOWANCE AND RENT
ASSISTANCE**

1. Section 5 (Index):

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

“excluded property owner	5NAA(1)
in residential care	5NAA(2)
residential care charge	5NAA(3)”.

2. Paragraph 5H(8)(e) (Note):

(a) After “rent assistance” insert “or residential care allowance”.

(b) After “Rent Assistance Module” insert “or Residential Care Allowance Module”.

3. Subsection 5L(7) (Note):

Omit, substitute:

“Note 1: For *residing in a nursing home* see subsection 5N(8).

Note 2: For *in residential care* see subsection 5NAA(2).”.

4. Subsection 5N(1) (definition of *ineligible property owner*):

Omit paragraph (b).

5. Subsection 5N(1) (definition of *ineligible property owner*—Note to paragraph (e)):

Omit “and for *approved respite care* see subsection 5R(8)”.

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

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

7. Subsection 5N(4):

Omit.

8. Subsection 5N(8):

Omit, substitute:

“(8) Unless the contrary intention appears, a reference in this Act to a person *residing in a nursing home* is a reference to a person who is:

- (a) residing in premises at which accommodation is provided exclusively or principally for people who have a mental disability;
or

SCHEDULE 1—continued

- (b) a nursing-home type patient, within the meaning of the *Health Insurance Act 1973*, of a hospital.”.

9. After section 5N:

Insert:

Residential care allowance definitions

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

excluded property owner means a property owner other than a person who:

- (a) is in residential care; and
- (b) is not residing in a retirement village.

in residential care has the meaning given by subsection (2).

residential care charge has the meaning given by subsection (3).

Note: For *retirement village* see subsections 5M(3) and (4) and for *property owner* see subsection 5L(4).

When a person is in residential care

“(2) For the purposes of this Act, a person is *in residential care* if the person:

- (a) is residing in premises that are:
 - (i) an approved nursing home for the purposes of the *National Health Act 1953* or the *Nursing Homes Assistance Act 1974*; or
 - (ii) an approved home for the purposes of the *Aged or Disabled Persons Care Act 1954*; or
 - (iii) an approved hostel for the purposes of the *Aged or Disabled Persons Hostels Act 1972*; or
 - (iv) made available for the accommodation of the person by an approved organisation providing hostel care services or personal care services to the person for the purposes of Part III of the *Aged or Disabled Persons Care Act 1954*; and
- (b) has resided, or is in the Commission’s opinion likely to reside, in the premises for at least 14 consecutive days.

Residential care charge

“(3) Amounts payable for accommodation of a person in residential care are a *residential care charge* if:

- (a) the amounts are payable every 3 months or more frequently; or
- (b) the amounts are payable at regular intervals (greater than 3 months) and the Commission is satisfied that the amounts should be treated as a residential care charge for the purposes of this Act.

SCHEDULE 1—continued

Proportion of total care charge that is residential care charge

“(4) If:

(a) a person who is in residential care pays, or is liable to pay, amounts for accommodation and other services; and

(b) it is not possible to work out the part of each of those amounts that is paid or payable for accommodation;

the amount of residential care charge paid or liable to be paid by the person is taken, for the purposes of this Act, to be two-thirds of each of the amounts mentioned in paragraph (a).”.

10. Subsection 5NB(1) (definition of *dependent child component*):

After “rent assistance” in paragraph (a) insert “or residential care allowance”.

11. Subsection 5NB(1) (Note 1 to definition of *dependent child component*):

After “rent assistance” in paragraph (a) insert “or residential care allowance”.

12. Section 36V (Note 3):

After “additional rent assistance” insert “or residential care allowance”.

13. Section 37V (Note 3):

After “additional rent assistance” insert “or residential care allowance”.

14. Section 38U (Note 4):

After “additional rent assistance” insert “or residential care allowance”.

15. Section 39X (Note 3):

After “additional rent assistance” insert “or residential care allowance”.

16. Subsection 40(1) (Note 1):

After “rent assistance” insert “, residential care allowance”.

17. Paragraph 40C(1)(a):

After “rent assistance Module of a Rate Calculator” insert “, the residential care allowance Module of a Rate Calculator”.

18. Paragraph 40C(1)(c):

After “rent assistance Module” insert “, the residential care allowance Module”.

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19. Paragraph 40C(1)(d):

After “Module” insert “or the residential care allowance Module”.

20. Paragraph 40C(1A)(a):

After “rent assistance Module of a Rate Calculator” insert “, the residential care allowance Module of a Rate Calculator”.

21. Paragraph 40C(1A)(c):

After “rent assistance Module” insert “, the residential care allowance Module”.

22. Paragraph 40C(1A)(d):

After “Module” insert “or the residential care allowance Module”.

23. Subsection 40C(2) (Relevant Modules Table):

After column 3 insert:

“

column 3A residential care allowance Module
Module CAA Module DAAA

”.

24. Point 41-A1 (Method statement—Step 2):

Add at the end “or the amount per year (if any) for residential care allowance using MODULE CAA below”.

25. Point 41-A1 (Note 2):

Omit, substitute:

“Note 2: If a person’s rate is reduced under Step 8, the order in which the reduction is to be made against the components of the maximum payment rate is laid down by section 40C (maximum basic rate first, then rent assistance or residential care allowance).”.

26. Point 41-C2:

(a) Before paragraph (a) insert:

“(aa) the person’s rate of pension does not include an amount of residential care allowance; and”.

(b) Before Note 1 insert:

“Note 1A: For *residential care allowance* see Module CAA.”.

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27. Point 41-C2A (Table C) (excluding the Notes):

Omit, substitute:

“

TABLE C			
RENT THRESHOLD RATES			
column 1 item	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of a couple	\$1,674.40	\$64.40
2.	Partnered—partner does not have rent increased pension	\$1,674.40	\$64.40
3.	Partnered—partner has rent increased pension	\$1,401.40	\$53.90
4.	Member of illness separated couple or respite care couple	\$1,674.40	\$64.40

”

28. Point 41-C2A:

After Note 2 insert:

“Note 2A: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).”.

29. After point 41-C2A:

Insert:

Increase in rent threshold rate

“41-C2B. Each rent threshold rate set out in Table C in point 41-C2A, or, if a higher rate is taken by section 59C to be substituted for that rate on 20 March 1996 as a result of indexation, the higher rate, is increased by \$130 from and including that date.”.

30. Point 41-C6 (Table C-1) (excluding the Notes):

Omit, substitute:

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“

TABLE C-1			
RATE OF RENT ASSISTANCE			
column 1 item	column 2 family situation	column 3 Rate A	column 4 Rate B
1.	Not member of a couple	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$1,882.40
2.	Partnered—partner does not have rent increased pension	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$1,882.40
3.	Partnered—partner has rent increased pension	$3 \times \frac{\text{Annual rent} - (2 \times \text{rent threshold rate})}{8}$	\$886.60
4.	Member of illness separated couple or respite care couple	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$1,882.40

”

31. Point 41-C6:

(a) After Note 2 insert:

“Note 2A: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).”.

(b) Omit Note 4, substitute:

“Note 4: The rent threshold rates referred to in column 3 are contained in Table C in point 41-C2A and are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”.

32. Point 41-C6A:

Omit.

33. Point 41-C12 (Table C-2—item 1):

Omit “\$2,080” and “\$80”, substitute “\$2,444” and “\$94”, respectively.

34. Point 41-C12 (Table C-2—item 2):

Omit “\$1,820” and “\$70”, substitute “\$2,132” and “\$82”, respectively.

SCHEDULE 1—continued

35. After Module C of the Service Pension Rate Calculator at the end of section 41:

Insert:

“MODULE CAA—RESIDENTIAL CARE ALLOWANCE

Residential care allowance

“41-CAA1. Residential care allowance is an amount that may be added to the maximum basic rate to help cover the cost of accommodation of a person in residential care. A person who is eligible for residential care allowance under point 41-CAA2 can have added to his or her maximum basic rate the amount applying to that person under point 41-CAA5. This is the provisional amount of residential care allowance the person is entitled to. However, if the person or the person’s partner receives disability pension, the provisional amount of residential care allowance may be reduced under point 41-CAA6.

Note: For *disability pension* see section 5N and for *in residential care* see subsection 5NAA(2).

Eligibility for residential care allowance

“41-CAA2. Residential care allowance is to be added to a person’s maximum basic rate if:

- (a) the person is in residential care; and
- (b) the person is not an excluded property owner; and
- (c) the person’s rate of pension does not include an amount of rent assistance; and
- (d) the person pays, or is liable to pay, a residential care charge for the person’s residential care; and
- (e) the charge is payable at a rate that is higher than the residential care charge threshold rate; and
- (f) the person is in Australia.

Note 1: For *in residential care*, *excluded property owner* and *residential care charge* see section 5NAA.

Note 2: For *residential care charge threshold rate* see point 41-CAA3.

Residential care charge threshold rate

“41-CAA3. A person’s residential care charge threshold rate is \$1,674.40 per year (equivalent to \$64.40 per fortnight).

Note: The amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

Factors affecting rate of residential care allowance

“41-CAA4. The rate of residential care allowance depends on:

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- (a) the annual residential care charge paid or payable by the person; and
- (b) whether or not the person or the person's partner is receiving a disability pension.

Note: For *residential care charge* and *disability pension* see sections 5NAA and 5N, respectively.

Rate of residential care allowance

“41-CAA5. The rate of residential care allowance is whichever is the lesser of the following rates:

- (a) the rate per year worked out using the formula:

$$\frac{3 \times (\text{annual charge} - \text{residential care charge threshold rate})}{4};$$

- (b) \$1,882.40 per year;

where:

annual charge means the annual residential care charge paid or payable by the person whose pension rate is being calculated.

Note 1: For *residential care charge threshold rate* see point 41-CAA3.

Note 2: For *residential care charge* see section 5NAA.

Note 3: The residential care charge threshold rate is in point 41-CAA3. This rate and the amount in paragraph (b) are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

Effect of disability pension on rate of residential care allowance

“41-CAA6. This is how to work out the effect of a person's disability pension on the person's rate of residential care allowance:

SCHEDULE 1—continued

<i>Method statement</i>	
<i>Step 1.</i>	Work out the annual rate of the person's disability pension: the result is the person's <i>disability pension income</i> . Note 1: For <i>disability pension</i> see section 5N. Note 2: For the treatment of the amount of disability pension of members of a couple see point 41-CAA7.
<i>Step 2.</i>	Work out the person's residential care allowance free area (see point 41-CAA8 below).
<i>Step 3.</i>	Work out whether the person's disability pension income exceeds the person's residential care allowance free area.
<i>Step 4.</i>	If the person's disability pension income does not exceed the person's residential care allowance free area, the person's rate of residential care allowance worked out under point 41-CAA5 is not affected.
<i>Step 5.</i>	If the person's disability pension income exceeds the person's residential care allowance free area, take the person's residential care allowance free area away from the person's disability pension income: the result is the person's <i>disability pension income excess</i> .
<i>Step 6.</i>	Halve the person's disability pension income excess: the result is the <i>residential care allowance reduction amount</i> .
<i>Step 7.</i>	Take the person's residential care allowance reduction amount away from the rate of residential care allowance worked out under point 41-CAA5: the result is the person's <i>rate of residential care allowance</i> .

Members of couples

"41-CAA7.(1) If a person is a member of a couple and the person's partner also receives disability pension, add the couple's disability pensions (on a yearly basis) and divide by 2 to work out the amount of the disability pension income of each of them for the purposes of this Module.

Note: For *disability pension* see section 5N. For *member of a couple* see subsection 5E(1).

"(2) If a person is a member of an illness separated couple or a respite care couple, any amount that the person's partner pays or is liable to pay in respect of the accommodation of the person is to be treated as paid or payable by the person.

Note: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).

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SCHEDULE 1—continued

How to calculate a person's residential care allowance free area

“41-CAA8. A person's residential care allowance free area is worked out using Table CAA. Work out which family situation in Table CAA applies to the person. The residential care allowance free area is the corresponding amount in column 3.

TABLE CAA			
RESIDENTIAL CARE ALLOWANCE FREE AREA			
column 1	column 2	column 3	column 4
item	category of person	basic free area per year	basic free area per fortnight
1.	Not member of a couple	\$2,444	\$94
2.	Partnered	\$2,132	\$82

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

Note 2: Item 2 of Table CAA applies to members of illness separated couples and respite care couples.

Note 3: The free area is adjusted annually in line with CPI increases (see section 59GAA).

Increase in residential care charge threshold rate

“41-CAA9. On and after 1 January 1997, point 41-CAA3 has effect as if, immediately after indexation on 20 March 1996, the residential care charge threshold rate set out in that point had been increased by \$130.”.

36. Point 42-A1 (Method statement—Step 3):

Add at the end “or the amount per year (if any) for residential care allowance using MODULE DAAA below”.

37. Point 42-A1 (Note 2):

After “rent assistance” insert “, or residential care allowance,”.

38. Point 42-D2:

(a) Before paragraph (a) insert:

“(aa) the person's rate of pension does not include an amount of residential care allowance; and”.

(b) Before Note 1 insert:

“Note 1A: For *residential care allowance* see Module DAAA.”.

39. Point 42-D2A (Table D) (excluding the Notes):

Omit, substitute:

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“

TABLE D			
RENT THRESHOLD RATES			
column 1	column 2	column 3	column 4
item	person's family situation	rate per year	rate per fortnight
1.	Not member of a couple	\$2,236.00	\$86.00
2.	Partnered—partner does not have rent increased pension	\$2,236.00	\$86.00
3.	Partnered—partner has rent increased pension	\$1,682.20	\$64.70
4.	Member of illness separated or respite care couple	\$2,236.00	\$86.00

”

40. Point 42-D2A:

After Note 2 insert:

“Note 2A: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).”

41. After point 42-D2A:

Insert:

Increase in rent threshold rate

“42-D2B. Each rent threshold rate set out in Table D in point 42-DA, or, if a higher rate is taken by section 59C to be substituted for that rate on 20 March 1996 as a result of indexation, the higher rate, is increased by \$130 from and including that date.”

42. Point 42-D6 (Table D-1) (excluding the Notes):

Omit, substitute:

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SCHEDULE 1—continued

“

TABLE D-1 RATE OF RENT ASSISTANCE				
column 1 item	column 2 family situation	column 3 Rate A	column 4 Rate B	
			column 4A 1 or 2 pension increase children	column 4B 3 or more pension increase children
1.	Not member of a couple	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$2,064.40	\$2,355.60
2.	Partnered—partner does not have rent increased pension	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$2,064.40	\$2,355.60
3.	Partnered—partner has rent increased pension	$3 \times \frac{\text{Annual rent} - (2 \times \text{rent threshold rate})}{8}$	\$1,032.20	\$1,177.80
4.	Member of illness separated or respite care couple	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$2,064.40	\$2,355.60

”

43. Point 42-D6:

(a) After Note 2 insert:

“Note 2A: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).”

(b) Omit Note 4, substitute:

“Note 4: The rent threshold rates referred to in column 3 are contained in Table D in point 42-D2A and are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”

44. After point 42-D6:

Insert:

Rate B increase

“42-D6A.(1) Each rate set out in items 1, 2 and 4 in column 4 of Table D-1 in point 42-D6, or, if a higher rate is taken by section 59C to be substituted for that rate on 20 March 1996 as a result of indexation, the higher rate, is increased by \$130 from and including that date.

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“(2) The rate set out in item 3 in column 4 of Table D-1 in point 42-D6, or, if a higher rate is taken by section 59C to be substituted for that rate on 20 March 1996 as a result of indexation, the higher rate, is increased by \$65 from and including that date.”.

45. Point 42-D12 (Table D-2) (excluding the Notes):

Omit, substitute:

“

TABLE D-2					
RENT ASSISTANCE FREE AREA					
column 1	column 2	column 3	column 4	column 5	column 6
item	category of person	basic free area per year	basic free area per fortnight	additional free area per year	additional free area per fortnight
1.	Not member of a couple	\$2,444	\$94	\$624	\$24
2.	Partnered	\$2,132	\$82	\$312	\$12

”.

46. Point 42-D12 (Note 2):

Omit, substitute:

“Note 2: Item 2 applies to members of illness separated couples and respite care couples.”.

47. Point 42-D14:

(a) Omit “, 2 or 3”.

(b) Omit “or the person’s partner”.

48. Point 42-D15:

Omit “item 3”, substitute “item 2”.

49. Point 42-D16:

Insert after “Part III” in paragraph (a) “or Part IIIA”.

50. After Module D of the Service Pension Rate Calculator at the end of section 42:

Insert:

“MODULE DAAA—RESIDENTIAL CARE ALLOWANCE

Residential care allowance

“42-DAAA1. Residential care allowance is an amount that may be added to the maximum basic rate to help cover the cost of accommodation of a person in residential care. A person who is eligible for residential care

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allowance under point 42-DAAA2 can have added to his or her maximum basic rate the amount applying to that person under point 42-DAAA5. This is the provisional amount of residential care allowance the person is entitled to. However, if the person or the person's partner receives disability pension, the provisional amount of residential care allowance may be reduced under point 42-DAAA6.

Note: For *disability pension* see section 5N and for *in residential care* see subsection 5NAA(2).

Eligibility for residential care allowance

“42-DAAA2. Residential care allowance is to be added to a person's maximum basic rate if:

- (a) the person is in residential care; and
- (b) the person is not an excluded property owner; and
- (c) the person's rate of pension does not include an amount of rent assistance; and
- (d) the person pays, or is liable to pay, a residential care charge for the person's residential care; and
- (e) the charge is payable at a rate that is higher than the residential care charge threshold rate; and
- (f) the person is in Australia.

Note 1: For *in residential care*, *excluded property owner* and *residential care charge* see section 5NAA.

Note 2: For *residential care charge threshold rate* see point 42-DAAA3.

Residential care charge threshold rate

“42-DAAA3. A person's residential care charge threshold rate is \$2,236 per year (equivalent to \$86 per fortnight).

Note: The amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

Factors affecting rate of residential care allowance

“42-DAAA4. The rate of residential care allowance depends on:

- (a) the annual residential care charge paid or payable by the person; and
- (b) whether or not the person or the person's partner is receiving a disability pension; and
- (c) the number of pension increase children (if any) that the person has.

Note 1: For *residential care charge* and *disability pension* see sections 5NAA and 5N respectively.

Note 2: For *pension increase child* see subsection 5F(6).

Rate of residential care allowance

“42-DAAA5.(1) The rate of residential care allowance in respect of a person is the rate per year that is the lesser of Rate A and Rate B applicable to the person in accordance with Table DAAA-1.

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SCHEDULE 1—continued

TABLE DAAA-1 RATE OF RESIDENTIAL CARE ALLOWANCE		
column 1 Rate A	column 2 Rate B	
	column 2A 1 or 2 pension increase children	column 2B 3 or more pension increase children
$3 \times (\text{annual charge} - \text{residential care charge threshold rate})$	\$2,064.40	\$2,355.60
4		

“(2) In the Table in subpoint (1):

annual charge means the annual residential care charge paid or payable by the person whose pension rate is being calculated.

Note 1: For ***residential care charge threshold rate*** see point 42-DAAA3.

Note 2: For ***residential care charge*** see section 5NAA.

Note 3: The residential care charge threshold rate is in point 42-DAAA3. This rate and the amounts in column 2 of Table DAAA-1 are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

Effect of disability pension on rate of residential care allowance

“42-DAAA6. This is how to work out the effect of a person’s disability pension on the person’s rate of residential care allowance:

SCHEDULE 1—continued

Method statement

- Step 1.** Work out the annual rate of the person's disability pension: the result is the person's ***disability pension income***.
- Note 1: For *disability pension* see section 5N.
Note 2: For the treatment of the amount of disability pension of members of a couple see point 42-DAAA7.
- Step 2.** Work out the person's residential care allowance free area (see point 42-DAAA8 below).
- Step 3.** Work out whether the person's disability pension income exceeds the person's residential care allowance free area.
- Step 4.** If the person's disability pension income does not exceed the person's residential care allowance free area, the person's rate of residential care allowance worked out under point 42-DAAA5 is not affected.
- Step 5.** If the person's disability pension income exceeds the person's residential care allowance free area, take the person's residential care allowance free area away from the person's disability pension income: the result is the person's ***disability pension income excess***.
- Step 6.** Halve the person's disability pension income excess: the result is the ***residential care allowance reduction amount***.
- Step 7.** Take the person's residential care allowance reduction amount away from the rate of residential care allowance worked out under point 42-DAAA5: the result is the person's ***rate of residential care allowance***.

Members of couples

"42-DAAA7.(1) If a person is a member of a couple and the person's partner also receives disability pension, add the couple's disability pensions (on a yearly basis) and divide by 2 to work out the amount of the disability pension income of each of them for the purposes of this Module.

Note: For *disability pension* see section 5N. For *member of a couple* see subsection 5E(1).

"(2) If a person is a member of an illness separated couple or a respite care couple, any amount that the person's partner pays or is liable to pay in respect of the accommodation of the person is to be treated as paid or payable by the person.

Note: For member of an *illness separated couple* and member of a *respite care couple* see subsections 5R(5) and (6).

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SCHEDULE 1—continued

Person's residential care allowance free area

“42-DAAA8. A person's residential care allowance free area is worked out using Table DAAA-2. Work out which family situation in Table DAAA-2 applies to the person. The residential care allowance free area is the corresponding amount in column 3 plus an additional corresponding amount in column 5 for each dependent child of the person.

TABLE DAAA-2					
RESIDENTIAL CARE ALLOWANCE FREE AREA					
column 1	column 2	column 3	column 4	column 5	column 6
item	category of person	basic free area per year	basic free area per fortnight	additional free area per year	additional free area per fortnight
1.	Not member of a couple	\$2,444	\$94	\$624	\$24
2.	Partnered	\$2,132	\$82	\$312	\$12

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

Note 2: For *dependent child* see section 5F.

Note 3: Item 2 of Table DAAA-2 applies to members of illness separated couples and respite care couples.

Note 4: The basic free area is adjusted annually (see section 59GAA).

No additional free area for certain prescribed student children

“42-DAAA9. No additional free area is to be added for a dependent child who:

- (a) has reached the age of 18 years; and
- (b) is a prescribed student child;

unless the person whose rate is being calculated, or the person's partner, receives child disability allowance under the Social Security Act for the child.

Reduction of additional free area for dependent children

“42-DAAA10.(1) The additional free area for a dependent child of a person to whom item 1 in Table DAAA-2 applies is reduced by the annual amount of any payment received by the person for or in respect of that particular child.

“(2) The additional free area for a dependent child of a person to whom item 2 in Table DAAA-2 applies is reduced by one-half of the annual amount of any payment received by the person or the person's partner for or in respect of that particular child.

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“(3) The payments referred to in point 42-DAAA11 do not result in a reduction.

“42-DAAA11. No reduction is to be made under point 42-DAAA10 for a payment:

- (a) under Part III or Part IIIA of this Act; or
- (b) under the Social Security Act; or
- (c) that is similar in nature to family payment under the Social Security Act.

Increase in residential care charge threshold rate

“42-DAAA12. On and after 1 January 1997, point 42-DAAA3 has effect as if, immediately after indexation on 20 March 1996, the annual residential care charge threshold rate set out in that point had been increased by \$130.

Increase in rate of residential care allowance

“42-DAAA13. On and after 1 January 1997, subpoint 42-DAAA5(1) has effect as if, immediately after indexation on 20 March 1996, each rate of residential care allowance set out in column 2 of Table DAAA-1 in that subpoint had been increased by \$130.”.

51. Point 42-DAA12:

Add at the end “or residential care allowance”.

52. Point 42-DAA12 (Note):

Add at the end “For *residential care allowance* see Module DAAA.”.

53. Paragraph 43(4)(d) (formula):

Omit “RA”, substitute “RA/RCA”.

54. Subsection 43(4) (definition of RA):

Omit, substitute:

“*RA/RCA* means the amount for rent or residential care added to the person’s maximum basic rate under Step 3 of Method statement A in point 43-A1.”.

55. Point 43-A1 (Method statement A—Step 3):

Add at the end “or the amount per year (if any) for residential care allowance using MODULE 43DAA below”.

56. Point 43-C1 (Note to Step 2 of Method statement):

Omit “rent”, substitute “rent assistance or residential care allowance”.

SCHEDULE 1—continued

57. Point 43-D2:

(a) Before paragraph (a) insert:

“(aa) the person’s rate of pension does not include an amount of residential care allowance; and”.

(b) Before Note 1 insert:

“Note 1A: For *residential care allowance* see Module DAA.”.

58. After Module D of the Service Pension Rate Calculator at the end of section 43:

Insert:

“MODULE DAA—RESIDENTIAL CARE ALLOWANCE

Residential care allowance

“43-DAA1. Residential care allowance is an amount that may be added to the maximum basic rate to help cover the cost of accommodation in residential care of a person who is eligible for residential care allowance under point 43-DAA2.

Note: For *in residential care* see subsection 5NAA(2).

Eligibility for residential care allowance

“43-DAA2. Residential care allowance is to be added to the person’s maximum basic rate if:

- (a) the person is in residential care; and
- (b) the person is not an excluded property owner; and
- (c) the person’s rate of pension does not include an amount of rent assistance; and
- (d) the person pays, or is liable to pay, a residential care charge for the person’s residential care; and
- (e) the residential care charge is payable at a rate that is more than:
 - (i) if the Service Pension Rate Calculator Where There Are No Dependent Children applied to the person—the rate in paragraph 41-CAA(2)(e); or
 - (ii) if the Service Pension Rate Calculator Where There Are Dependent Children applied to the person—the rate in paragraph 42-DAAA(2)(e); and
- (f) the person is in Australia; and
- (g) the person would be entitled to an additional amount by way of residential care allowance:

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- (i) if the Service Pension Rate Calculator Where There Are No Dependent Children would have applied to the person if the person were not permanently blind—under Module CAA of that Rate Calculator; or
- (ii) if the Service Pension Rate Calculator Where There Are Dependent Children would have applied to the person if the person were not permanently blind—under Module DAAA of that Rate Calculator.

Note 1: For *in residential care, excluded property owner* and *residential care charge* see section 5NAA.

Note 2: Service Pension Rate Calculator Where There Are No Dependent Children is found in section 41.

Note 3: Service Pension Rate Calculator Where There Are Dependent Children is found in section 42.

Rate of residential care allowance

“43-DAA3. The rate of residential care allowance is:

- (a) if the Service Pension Rate Calculator Where There Are No Dependent Children would have applied to the person if the person were not permanently blind—the rate at which residential care allowance would be payable to the person under Module CAA of that Rate Calculator; or
- (b) if the Service Pension Rate Calculator Where There Are Dependent Children would have applied to the person if the person were not permanently blind—the rate at which residential care allowance would be payable to the person under Module DAAA of that Rate Calculator.

Note 1: If the Service Pension Rate Calculator Where There Are No Dependent Children (see section 41) applied to the person, the person would be subject to an ordinary income test (Module D) and an assets test (Module F).

Note 2: If the Service Pension Rate Calculator Where There Are No Dependent Children applied to the person and there was to be a reduction in pension rate because of the application of the ordinary income test or the assets test, section 40C would govern the order in which the reduction would be made against the components of the maximum payment rate (first against maximum basic rate, then against the residential care allowance).

Note 3: If the Service Pension Rate Calculator Where There Are Dependent Children (see section 42) applied to the person, the person would be subject to a maintenance income test (Module DAA), an ordinary income test (Module E) and an assets test (Module G).

Note 4: If the Service Pension Rate Calculator Where There Are Dependent Children applied to a person and there was to be a reduction in pension rate because of the application of the ordinary income test, the maintenance income test or the assets test, section 40C would govern the order in which the reduction would be made against the components of the maximum payment rate (first against the maximum basic rate, then against the residential care allowance, then against the dependent child amount).”

SCHEDULE 1—continued

59. Point 45-B4 (Note):

Add at the end “Modules DAAA and DAA are the Modules used to calculate residential care allowance in the Rate Calculators in sections 42 and 43, respectively.”.

60. Paragraphs 45V(1)(b), (d) and (f) and (2)(b), (d) and (e):

After “Module” insert “or the residential care allowance Module”.

61. Paragraph 45V(3)(b):

Omit, substitute:

“(b) the person would be eligible:

- (i) to have rent assistance added to his or her maximum basic rate under point 45X-D2 if the person were not blind (i.e. if the rate of the person’s income support supplement were calculated using the Method statement set out in point 45X-B1 instead of that set out in point 45X-B2); or
- (ii) to have residential care allowance added to his or her maximum basic rate under point 45X-DA2 if the person were not blind (i.e. if the rate of the person’s income support supplement were calculated using the Method statement set out in point 45X-B1 instead of that set out in point 45X-B2);”.

62. Subsection 45V(3):

Add at the end “or an amount for residential care allowance worked out under Module DA of the Rate Calculator, as the case may be”.

63. Point 45X-B1 (Method statement—Step 2):

Add at the end “or the amount per year (if any) for residential care allowance using MODULE DA below”.

64. Point 45X-B1 (Note 3):

After “rent assistance” insert “or residential care allowance”.

65. Point 45X-B2 (Method statement—Step 3):

Add at the end “or the amount per year (if any) for residential care allowance using MODULE DA below”.

66. Point 45X-D2:

(a) Before paragraph (a) insert:

“(aa) the person’s rate of pension does not include an amount of residential care allowance; and”.

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(b) Before Note 1 insert:

“Note 1A: For *residential care allowance* see Module DA.”.

67. Point 45X-D3 (Table D) (excluding the Notes):

Omit, substitute:

“

TABLE D			
RENT THRESHOLD RATES			
column 1 item	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of a couple	\$1,674.40	\$64.40
2.	Partnered—partner does not have rent increased pension	\$1,674.40	\$64.40
3.	Partnered—partner has rent increased pension	\$1,401.40	\$53.90
4.	Member of illness separated couple or respite care couple	\$1,674.40	\$64.40

”

68. Point 45X-D3:

After Note 2 insert:

“Note 2A: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).”.

69. After point 45X-D3:

Insert:

Increase in rent threshold rate

“45X-D3A. On and after 1 January 1997, point 45X-D3 has effect as if, immediately after indexation on 20 March 1996, each annual rent threshold rate set out in column 3 of Table D in that point had been increased by \$130.”.

70. Point 45X-D7 (Table D-1) (excluding the Notes):

Omit, substitute:

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SCHEDULE 1—continued

TABLE D-1
RATE OF RENT ASSISTANCE

column 1 item	column 2 family situation	column 3 Rate A	column 4 Rate B
1.	Not member of a couple	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$1,882.40
2.	Partnered—partner does not have rent increased pension	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$1,882.40
3.	Partnered—partner has rent increased pension	$3 \times \frac{\text{Annual rent} - (2 \times \text{rent threshold rate})}{8}$	\$886.60
4.	Member of illness separated couple or respite care couple	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$1,882.40

71. Point 45X-D7:

(a) After Note 2 insert:

“Note 2A: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).”

(b) Omit Note 4, substitute:

“Note 4: The rent threshold rates referred to in column 3 are contained in Table D in point 45X-D3 and are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”

72. After Module D of the Income Support Supplement Rate Calculator at the end of section 45X:

Insert:

“MODULE DA—RESIDENTIAL CARE ALLOWANCE

Residential care allowance

“45X-DA1. Residential care allowance is an amount that may be added to the maximum basic rate to help cover the cost of accommodation of a person in residential care. A person who is eligible for residential care allowance under point 45X-DA2 can have added to his or her maximum basic rate the amount applying to that person under point 45X-DA5.

Note: For *in residential care* see subsection 5NAA(2).

Eligibility for residential care allowance

“45X-DA2. Residential care allowance is to be added to a person’s maximum basic rate if:

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- (a) the person is in residential care; and
- (b) the person is not an excluded property owner; and
- (c) the person's rate of income support supplement does not include an amount of rent assistance; and
- (d) the person pays, or is liable to pay, a residential care charge for the person's residential care; and
- (e) the charge is payable at a rate that is higher than the residential care charge threshold rate; and
- (f) the person is in Australia.

Note 1: For *in residential care, excluded property owner and residential care charge* see section 5NAA.

Note 2: For *residential care charge threshold rate* see point 45X-DA3.

Residential care charge threshold rate

“45X-DA3. A person's residential care charge threshold rate is \$1,674.40 per year (equivalent to \$64.40 per fortnight).

Note: The amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

Factors affecting rate of residential care allowance

“45X-DA4. The rate of residential care allowance depends on the annual residential care charge paid or payable by the person.

Note: For *residential care charge* see section 5NAA.

Rate of residential care allowance

“45X-DA5. The rate of residential care allowance is whichever is the lesser of the following rates:

- (a) the rate per year worked out using the formula:

$$\frac{3 \times (\text{annual charge} - \text{residential care charge threshold rate})}{4};$$

- (b) \$1,882.40 per year;

where:

annual charge means the annual residential care charge paid or payable by the person whose supplement rate is being calculated.

Note 1: For *residential care charge threshold rate* see point 45X-DA3.

Note 2: For *residential care charge* see section 5NAA.

Note 3: The residential care charge threshold rate is in point 45X-DA3. This rate and the amount in paragraph (b) are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

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Cost of accommodation paid by member of an illness separated or respite care couple

“45X-DA6. If a person is a member of an illness separated couple or a respite care couple, any amount that the person’s partner pays or is liable to pay in respect of the accommodation of the person is to be treated as paid or payable by the person.

Note: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).

Increase in residential care charge threshold rate

“45X-DA7. On and after 1 January 1997, point 45X-DA3 has effect as if, immediately after indexation on 20 March 1996, the residential care charge threshold rate set out in that point had been increased by \$130.”.

73. Point 45Y-B1 (Method statement—Step 11):

Add at the end “or the amount per year (if any) for residential care allowance using MODULE FA below”.

74. Point 45Y-B2 (Method statement—Step 3):

Add at the end “or the amount per year (if any) for residential care allowance using MODULE FA below”.

75. Point 45Y-F2:

(a) Before paragraph (a) insert:

“(aa) the person’s rate of income support supplement does not include an amount of residential care allowance; and”.

(b) Before Note 1 insert:

“Note 1A: For *residential care allowance* see Module FA.”.

76. Point 45Y-F3 (Table F) (excluding the Notes):

Omit, substitute:

“

TABLE F			
RENT THRESHOLD RATES			
column 1	column 2	column 3	column 4
item	person's family situation	rate per year	rate per fortnight
1.	Not member of a couple	\$2,236.00	\$86.00
2.	Partnered—partner does not have rent increased pension	\$2,236.00	\$86.00
3.	Partnered—partner has rent increased pension	\$1,682.20	\$64.70
4.	Member of illness separated couple or respite care couple	\$2,236.00	\$86.00

”

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SCHEDULE 1—continued

77. Point 45Y-F3:

After Note 2 insert:

“Note 2A: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).”

78. After point 45Y-F3:

Insert:

Increase in rent threshold rate

“45Y-F3A. Each annual rent threshold rate set out in column 3 of Table F in point 45Y-F3, or, if a higher rate is taken by section 59C to be substituted for that rate on 20 March 1996 as a result of indexation, the higher rate, is increased by \$130 from and including that date.”

79. Point 45Y-F7 (Table F-1) (excluding the Notes):

Omit, substitute:

“

TABLE F-1 RATE OF RENT ASSISTANCE				
column 1 item	column 2 family situation	column 3 Rate A	column 4 Rate B	
			column 4A 1 or 2 pension increase children	column 4B 3 or more pension increase children
1.	Not member of a couple	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$2,064.40	\$2,355.60
2.	Partnered—partner does not have rent increased pension	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$2,064.40	\$2,355.60
3.	Partnered—partner has rent increased pension	$3 \times \frac{\text{Annual rent} - (2 \times \text{rent threshold rate})}{8}$	\$1,032.20	\$1,177.80
4.	Member of illness separated or respite care couple	$3 \times \frac{\text{Annual rent} - \text{rent threshold rate}}{4}$	\$2,064.40	\$2,355.60

”

80. Point 45Y-F7:

(a) After Note 2 insert:

“Note 2A: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).”

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(b) Omit, substitute:

“Note 4: The rent threshold rates referred to in column 3 are contained in Table F in point 45Y-F3 and are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”.

81. After point 45Y-F7:

Insert:

Rate B increase

“45Y-F7A.(1) Each rate set out in items 1, 2 and 4 in column 4 of Table F-1 in point 45Y-F7, or, if a higher rate is taken by section 59C to be substituted for that rate on 20 March 1996 as a result of indexation, the higher rate, is increased by \$130 with effect from and including that date.

“(2) The rate set out in item 3 in column 4 of Table F-1 in point 45Y-F7, or, if a higher rate is taken by section 59C to be substituted for that rate on 20 March 1996 as a result of indexation, the higher rate, is increased by \$65 with effect from and including that date.”.

82. After Module F of the Income Support Supplement Rate Calculator at the end of section 45Y:

Insert:

“MODULE FA—RESIDENTIAL CARE ALLOWANCE

Residential care allowance

“45Y-FA1. Residential care allowance is an amount that may be taken into account to help cover the cost of accommodation of a person in residential care when working out the rate of the person’s income support supplement. If the person is eligible for residential care allowance under point 45Y-FA2, the amount to be so taken into account is the amount applying to that person under point 45Y-FA5.

Note: For *in residential care* see subsection 5NAA(2).

Eligibility for residential care allowance

“45Y-FA2. A person is eligible for residential care allowance if:

- (a) the person is in residential care; and
- (b) the person is not an excluded property owner; and
- (c) the person’s rate of income support supplement does not include an amount of rent assistance; and
- (d) the person pays, or is liable to pay, a residential care charge for the person’s residential care; and

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- (e) the charge is payable at a rate that is higher than the residential care charge threshold rate; and
- (f) the person is in Australia.

Note 1: For *in residential care, excluded property owner* and *residential care charge* see section 5NAA.

Note 2: For *residential care charge threshold rate* see point 45Y-FA3.

Residential care charge threshold rate

“45Y-FA3. A person’s residential care charge threshold rate is \$2,236 per year (equivalent to \$86 per fortnight).

Note: The amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

Factors affecting rate of residential care allowance

“45Y-FA4. The rate of residential care allowance depends on:

- (a) the annual residential care charge paid or payable by the person; and
- (b) the number of pension increase children (if any) that the person has.

Note: For *pension increase child* see subsection 5F(6).

Rate of residential care allowance

“45Y-FA5.(1) The rate of residential care allowance in respect of a person is the rate per year that is the lesser of Rate A and Rate B applicable to the person in accordance with Table FA-1.

TABLE FA-1		
RATE OF RESIDENTIAL CARE ALLOWANCE		
column 1 Rate A	column 2 Rate B	
	column 2A 1 or 2 pension increase children	column 2B 3 or more pension increase children
$3 \times (\text{annual charge} - \text{residential care charge threshold rate})$	\$2,064.40	\$2,355.60
4		

“(2) In the Table in subpoint (1):

annual charge means the annual residential care charge paid or payable by the person whose income support supplement is being calculated.

Note 1: For *residential care charge threshold rate* see point 45Y-FA3.

Note 2: For *residential care charge* see section 5NAA.

Note 3: The residential care charge threshold rate is in point 45Y-FA3. This rate and the amount in paragraph (b) are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

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Cost of accommodation paid by member of an illness separated or respite care couple

“45Y-FA6. If a person is a member of an illness separated couple or a respite care couple, any amount that the person’s partner pays or is liable to pay in respect of the accommodation of the person is to be treated as paid or payable by the person.

Note: For *illness separated couple* and *respite care couple* see subsections 5R(5) and (6).

Increase in residential care charge threshold rate

“45Y-FA7. On and after 1 January 1997, point 45Y-FA3 has effect as if, immediately after indexation on 20 March 1996, the annual residential care charge threshold rate set out in that point had been increased by \$130.

Increase in rate of residential care allowance

“45Y-FA8. On and after 1 January 1997, subpoint 45Y-FA5(1) has effect as if, immediately after indexation on 20 March 1996, each rate of residential care allowance set out in column 2 of Table FA-1 in that subpoint had been increased by \$130.”.

83. Point 45Y-H5 (definition of *DC add-ons*):

After “rent assistance” insert “or residential care allowance”.

84. Section 45ZG (Note 3):

After “additional rent assistance” insert “or residential care allowance”.

85. Subsection 52M(2):

After “rent” insert “or a residential care charge”.

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SCHEDULE 1—continued

86. Section 59A (Indexed and Adjusted Amounts Table):

After item 6A insert:

“

6B.	Residential care allowance Maximum residential care allowance for service pension or income support supplement	pension MRCA	<p>*Service Pension Rate Calculator Where There Are No Dependent Children—point 41-CAA5—paragraph (b).</p> <p>*Service Pension Rate Calculator Where There Are Dependent Children—point 42-DAAA5—paragraph (b).</p> <p>*Income Support Supplement Rate Calculator Where There Are No Dependent Children—point 45X-DA5—paragraph (b).</p> <p>*Income Support Rate Calculator Where There Are Dependent Children—point 45Y-FA5—paragraph (b).</p>
6C.	residential care charge threshold rate for service pension or income support supplement	pension residential care charge threshold	<p>*Service Pension Rate Calculator Where There Are No Dependent Children—point 41-CAA3—rate per year.</p> <p>*Service Pension Rate Calculator Where There Are Dependent Children—point 42-DAAA3—rate per year.</p> <p>*Income Support Supplement Rate Calculator Where There Are No Dependent Children—point 45X-DA3—rate per year.</p> <p>*Income Support Supplement Rate Calculator Where There Are Dependent Children—point 45Y-FA3—rate per year.</p>

”

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SCHEDULE 1—continued

87. Section 59A (Indexed and Adjusted Amounts Table):

After item 7AA insert:

“

7AAAA.	residential care allowance free area	residential care free area	*Service Pension Rate Calculator Where There Are No Dependent Children—point 41-CAA8—rate per year. *Service Pension Rate Calculator Where There Are Dependent Children—point 42-DAAA8—Table DAAA-2—columns 3 and 5—all amounts
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”

88. Section 59B (CPI Indexation Table):

After item 3A insert:

“

3B.	Residential care allowance pension MRCA	(a) 20 March	(a) December	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$5.20
		(b) 20 September	(b) June		
3C.	pension residential care charge threshold	(a) 20 March	(a) December	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$5.20
		(b) 20 September	(b) June		

”

89. After section 59GA:

Insert:

Adjustment of residential care allowance free area

“59GAA.(1) This Act has effect as if, on 1 July each year, the residential care allowance free area applicable to a person who is not a member of a couple were replaced with an amount that is, on that day, the pension free area applicable to a person who is not a member of a couple.

“(2) This Act has effect as if, on 1 July each year, the residential care allowance free area applicable to a person who is partnered were replaced with an amount that is, on that day, the pension free area applicable to a person who is partnered.”

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SCHEDULE 1—continued

90. Subsection 198(1) (definition of *relevant period*):

Omit, substitute:

“*relevant period* means:

- (a) the period that started on 15 November 1989 and ended on 17 April 1990; and
 - (b) the period that started on 18 April 1990 and ended on 19 September 1990; and
 - (c) the period of 6 months that started on 20 September 1990; and
 - (d) each later period of 6 months (other than the period of 6 months that started on 20 September 1992).”
-

SCHEDULE 2

Subsection 3(1)

**AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986
TO REPLACE CERTAIN 1989 AND 1993 SAVING AND
TRANSITIONAL PROVISIONS**

1. Schedule 5:

Add at the end:

**Rent assistance—boarders and lodgers (changes introduced on
12 June 1989)**

“2.(1) If:

(a) immediately before 12 June 1989:

(i) a person was receiving a service pension under or because of this Act as in force at that time; and

(ii) the person's service pension rate included an amount by way of rent assistance in respect of payments made for board and lodging; and

(b) at all times since 12 June 1989, the person:

(i) has been receiving a pension under this Act or a social security payment under the Social Security Act; and

(ii) has been a boarder; and

(c) immediately before the commencement of this clause, subsection 30(1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988* applied to the person;

the amount by way of rent assistance included in the person's pension rate is not to fall below the floor amount.

“(2) If:

(a) a decision was made under this Act on or after 12 June 1989 that a person was entitled to rent assistance under this Act in respect of a period; and

(b) the period started before 12 June 1989; and

(c) the period continued until at least 11 June 1989;

the person is taken, for the purposes of this clause, to have been receiving rent assistance under this Act immediately before 12 June 1989.

“(3) If:

(a) immediately before 12 June 1989, a person was receiving rent assistance under or because of the *Social Security Act 1947* in respect of payments for board and lodging; and

(b) on or after 12 June 1989, the person became or becomes entitled to be paid a pension under this Act; and

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SCHEDULE 2—continued

- (c) subsection 18(1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988* had not ceased to apply to the person until the person became entitled to the pension; and
- (d) at all times since the person became entitled to the pension the person:
 - (i) has been receiving a pension; and
 - (ii) has been a boarder; and
- (e) either of the following subparagraphs applies to the person:
 - (i) if the person became entitled to the pension before the commencement of this clause, subsection 30(3) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988* applied to the person immediately before that commencement;
 - (ii) if the person becomes entitled to the pension after that commencement—that subsection would have applied to the person immediately before he or she became so entitled if it had not been repealed;

the amount of rent assistance included in the person's pension rate is not to fall below the person's floor amount.

“(4) Despite subclause (1) or (3), the rate of rent assistance payable to a person to whom that subclause applies is reduced by the sum of any indexation or adjustment increases occurring after the commencement of this clause to the person's pension rate.

“(5) Subclause (1) or (3) ceases to apply to a person if the person's pension rate that is applicable because of that subclause is equal to or less than the rate that would be the person's pension rate if that subclause had not applied to the person.

“(6) If subclause (1) or (3) ceases to apply to a person, it does not again apply to the person.

“(7) In this clause:

boarder means a person who ordinarily lives on premises where the person is provided with board and lodging.

floor amount, in relation to a person, means the amount by way of rent assistance that would be included in the person's pension rate if:

- (a) that amount were worked out, subject to paragraph (b), under this Act as in force immediately before 12 June 1989; and
- (b) this Act as in force at that time were modified as follows:
 - (i) the following paragraph applied instead of paragraph 55(1)(a):

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SCHEDULE 2—continued

- '(a) the person pays, or is liable to pay, rent, other than government rent, at a rate exceeding \$1,040 per year;';
- (ii) 'the amount set out in paragraph (1)(a)' were substituted for '\$780' in subparagraph 55(3)(a)(i); and
- (c) any increase in the amounts being paid by the person from time to time for board and lodging above the level being paid immediately before 11 June 1989 were disregarded.

indexation or adjustment increase means an increase resulting from the operation of Division 18 of Part IIIB.

payments for board and lodging includes payments for accommodation and other services that are provided to a person who is residing in a nursing home.

Rent assistance—retirement village residents (changes introduced on 12 June 1989)

“3.(1) If:

(a) immediately before 3 November 1988:

- (i) a person was receiving a service pension; and
- (ii) the person's pension rate included an amount by way of rent assistance under or because of this Act as in force at that time; and

(b) at all times since 3 November 1988:

- (i) the person has been entitled to a pension under this Act or a social security payment under the Social Security Act; and
- (ii) the person's principal home has been in a retirement village; and

(c) immediately before the commencement of this clause, subsection 31(1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988* applied to the person;

the person is taken not to be an ineligible property owner or an excluded property owner for the purposes of this Act.

“(2) If:

(a) immediately after 12 June 1989:

- (i) a person was receiving a social security payment under the Social Security Act; and
- (ii) the person's pension, benefit or allowance rate included an amount by way of rent assistance because of the operation of subsection 19(1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988*; and

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SCHEDULE 2—continued

- (b) after 12 June 1989, the person began or begins to receive a pension; and
- (c) subsection 19(1) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988* applied to the person at all times between 12 June 1989 and the person's beginning to receive the pension; and
- (d) at all times since the person began to receive the pension:
 - (i) the person has continued to receive a pension; and
 - (ii) the person's principal home has continued to be in the retirement village; and
- (e) either of the following subparagraphs applies to the person:
 - (i) if the person began to receive the pension before the commencement of this clause, subsection 31(2) of the *Social Security and Veterans' Affairs Legislation Amendment Act 1988* applied to the person immediately before that commencement;
 - (ii) if the person begins to receive the pension after that commencement—that subsection would have applied to the person immediately before he or she began to receive the pension if it had not been repealed;

the person is taken not to be an ineligible property owner or an excluded property owner for the purposes of this Act.

“(3) Despite subclause (1) or (2), the rate of rent assistance or residential care allowance payable to a person to whom that subclause applies (whether that rate is required to be worked out under this Act (other than this Schedule) or is required to be worked out under subclause (4) of clause 4) is reduced by the sum of any indexation or adjustment increases occurring after the commencement of this clause to the person's pension rate.

“(4) If, because of subclause (3), the rate of rent assistance or residential care allowance payable to a person to whom subclause (1) or (2) applies is reduced to nil, subclause (1) or (2), as the case may be, ceases to apply to the person.

“(5) If subclause (1) or (2) ceases to apply to a person, that subclause does not apply to the person again.

“(6) In this clause:

indexation or adjustment increase means an increase resulting from the operation of Division 18 of Part IIIB.

SCHEDULE 2—continued

Rent assistance (changes introduced on 20 March 1993)

“4.(1) This clause applies to a person if:

- (a) immediately before 20 March 1993:
 - (i) the person was receiving a service pension; and
 - (ii) the person's pension included an amount by way of rent assistance; and
- (b) immediately before the commencement of this clause, section 111 of the *Veterans' Affairs Legislation Amendment Act (No. 2) 1992* applied to the person; and
- (c) this subclause continues to apply to the person.

“(2) If:

- (a) a decision was made on or after 20 March 1993 under this Act that a person was entitled to rent assistance in respect of a period; and
- (b) the period started before 20 March 1993; and
- (c) the period continued until at least 19 March 1993;

the person is taken, for the purposes of this clause, to have been receiving rent assistance under this Act immediately before 20 March 1993.

“(3) This clause applies to a person if:

- (a) immediately before 20 March 1993, the person was receiving rent assistance under the Social Security Act; and
- (b) on or after that date, the person became or becomes entitled to be paid a pension; and
- (c) either of the following subparagraphs applies to the person:
 - (i) if the person became entitled to be paid the pension before the commencement of this clause—section 111 of the *Veterans' Affairs Legislation Amendment Act (No. 2) 1992* applied to the person immediately before that commencement;
 - (ii) if the person becomes entitled to be paid the pension after that commencement—that section would have applied to the person immediately before he or she became so entitled if it had not been repealed; and
- (d) this subclause continues to apply to the person.

“(4) Subject to subclauses (7), (8), (9), (10) and (11), if subclause (1) or (3) applies to a person, the amount by way of rent assistance to be used to calculate the person's pension rate is the amount (the *floor amount*) by way of rent assistance that would be included in the person's pension rate if:

- (a) the person's pension rate were neither income reduced nor assets reduced; and

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SCHEDULE 2—continued

(b) the amount of rent assistance were calculated under this Act as in force immediately before 20 March 1993.

“(5) Subclause (1) or (3) ceases to apply to a person if:

- (a) the person no longer receives a service pension, an income support supplement, or a social security pension under the Social Security Act; or
- (b) the person ceases to be eligible for rent assistance; or
- (c) the pension rate that is applicable to the person because of that subclause is equal to or less than the rate that would be the person’s pension rate if that subclause did not apply to the person; or
- (d) the Commission considers that there is a significant change in the person’s circumstances that would affect the amount of rent assistance that is payable to the person apart from this clause.

“(6) If:

- (a) subclause (1) or (3) ceases to apply to a person because of subclause (5); and
- (b) within 42 days, or any longer period that the Commission determines, after the day on which that subclause ceases to apply to the person, there is a change in the person’s circumstances; and
- (c) the Commission considers that the change in the person’s circumstances is so significant that subclause (1) or (3) should apply to the person;

the Commission may determine in writing that subclause (1) or (3) is to apply to the person from a stated date.

“(7) Subject to subclauses (11) and (13), if:

- (a) subclause (1) or (3) applies to a person; and
- (b) the person has become or becomes a member of a couple; and
- (c) the person’s partner is receiving a pension, or a social security payment under the Social Security Act, but:
 - (i) is not a person to whom subclause (1) or (3) applies; and
 - (ii) is not a person to whom clause 63 of Schedule 1A to the Social Security Act applies;

the amount by way of rent assistance to be used to calculate the person’s pension rate or the person’s partner’s pension rate is not to fall below one-half of the person’s floor amount.

“(8) Subject to subclause (11), if:

- (a) subclause (1) or (3) applies to a person; and

SCHEDULE 2—continued

(b) the person has become or becomes a member of a couple; and

(c) the person's partner is a person to whom subclause (1) or (3) applies; the amount by way of rent assistance to be used to calculate the person's pension rate or the person's partner's pension rate is not to fall below one-half of the person's floor amount or one-half of the person's partner's floor amount, whichever is the greater.

“(9) Subject to subclause (11), if:

(a) subclause (1) or (3) applies to a person; and

(b) the person has become or becomes a member of a couple; and

(c) the person's partner is a person to whom clause 63 of Schedule 1A to the Social Security Act applies;

the amount by way of rent assistance to be used to calculate the person's pension rate is not to fall below one-half of the person's floor amount or one-half of the amount that would be the person's partner's floor amount if subsection (1) or (3) applied to the partner, whichever is the greater.

“(10) Subject to subclause (11), if:

(a) a person is receiving a pension; and

(b) neither subclause (1) nor (3) applies to the person; and

(c) the person has become or becomes a member of a couple; and

(d) the person's partner is receiving a social security payment under the Social Security Act and is a person to whom clause 63 of Schedule 1A to the Social Security Act applies;

the amount by way of rent assistance to be used to calculate the person's pension rate is not to fall below one-half of the amount that would be the person's partner's floor amount if subclause (1) or (3) applied to the partner.

“(11) Despite anything in the preceding provisions of this clause, the rate of rent assistance payable to a person to whom this clause applies is reduced by the sum of any indexation or adjustment increases occurring after the commencement of this clause to the person's pension rate.

“(12) Subject to subclause (6), if subclause (1) or (3) ceases to apply to a person because of subclause (5), it does not again apply to the person.

“(13) Subclause (7) ceases to apply to the partner of a person to whom subclause (1) or (3) applies if the pension rate that is applicable to the partner because of subclause (7) is equal to or less than the rate that would be the partner's pension rate if subclause (7) did not apply to the partner.

“(14) If subclause (7) ceases to apply to the partner of a person to whom subclause (1) or (3) applies, subclause (7) does not again apply to the partner.

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SCHEDULE 2—continued

“(15) Nothing in this clause affects the application of clause 3 to a person to whom subclause (1) or (3) of this clause ceases to apply.

“(16) In this clause:

floor amount has the meaning given by subsection (4).

indexation or adjustment increase means an increase resulting from the operation of Division 18 of Part IIIB.”.

SCHEDULE 3

Subsection 3(1)

**AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986
TO CONTINUE CARER SERVICE PENSION OR INCOME
SUPPORT SUPPLEMENT DURING TRANSITION PERIOD**

1. Section 39:

Add at the end:

"Note: For the impact on payment of carer service pension when the person being cared for begins to reside in a nursing home or to be in residential care see section 53X."

2. Section 45AB:

Add at the end:

"Note: For the impact on payment of income support supplement when the person being cared for begins to reside in a nursing home or to be in residential care see section 53X."

3. After Division 12A of Part IIIB:

Insert:

"Division 12B—Continuation of carer service pension or income support supplement during transition period

Effect on pension or supplement if person being cared for begins to reside permanently in a nursing home or to be permanently in residential care

"53X.(1) This section applies if:

- (a) a carer service pension or an income support supplement is payable to a person (the *carer*) who has ordinarily been providing constant care for a severely handicapped person; and
- (b) the carer would, apart from this section, cease to be eligible for the pension or supplement because the severely handicapped person has begun to reside in a nursing home, or to be in residential care, on a permanent basis.

"(2) The carer service pension or income support supplement continues to be payable to the carer on each of the first 7 paydays after the carer ceases to be eligible, and is then cancelled by this subsection.

"(3) Subject to subsection (4), if a person is receiving a carer service pension or an income support supplement solely because of subsections (1) and (2), the rate at which the pension or supplement is payable is to be determined having regard to the person's actual circumstances.

"(4) If the person and the person's partner were a respite care couple immediately before the partner began to reside in a nursing home or to be in residential care on a permanent basis, the rate at which the person's pension is payable will be calculated as if they were not a respite care couple.

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SCHEDULE 3—continued

“(5) If the carer dies while receiving payments under this section, the severely handicapped person is not entitled to a payment under Subdivision B of Division 12A of Part IIIB because of the carer’s death.

Note: If the carer dies while receiving a carer service pension or income support supplement, section 53Q applies.

“(6) If the severely handicapped person dies after beginning to reside in the nursing home or in residential care, the carer is not entitled to a payment under Division 12A of Part IIIB because of the person’s death.

“(7) A person’s entitlements under this Division are instead of, and not in addition to, any entitlements the person would, apart from this section, have to a service pension, an income support supplement, a social security pension or a social security benefit.”.

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SCHEDULE 4

Subsection 3(1)

**AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986
TO EXTEND DISREGARD OF HOMES OF PEOPLE WHO ARE
RECEIVING OR PROVIDING COMMUNITY-BASED CARE**

1. Paragraph 5L(7)(b):

Omit, substitute:

“(b) if the person is in a relevant care situation—the period of 2 years beginning when the person started to be in a relevant care situation; and”.

2. Subparagraph 5L(7)(c)(i):

Omit “residing in a nursing home”, substitute “in a relevant care situation”.

3. Paragraph 5L(7)(d):

Omit, substitute:

“(d) if:

- (i) the person is in a relevant care situation; and
 - (ii) while paragraph (c) applies, the person's partner or non-illness separated spouse dies while in a relevant care situation; and
 - (\iii) the person's partner or non-illness separated spouse had been in a relevant care situation for less than 2 years;
- the period of 2 years beginning at the time when the person's partner or non-illness separated spouse started to be in a relevant care situation; and”.

4. Subparagraph 5L(7)(e)(i):

Omit “residing in a nursing home”, substitute “in a relevant care situation”.

5. Subparagraph 5L(7)(e)(ii):

Omit “a resident of a nursing home”, substitute “in a relevant care situation”.

6. After subsection 5L(7):

Insert:

“(7A) In subsection (7):
in a relevant care situation means in a care situation or in residential care.”.

SCHEDULE 4—continued

7. Application of amendments made by preceding items in this Schedule

Section 5L of the *Veterans' Entitlements Act 1986* (as amended by the preceding items in this Schedule) extends to periods beginning before the commencement of this Schedule. However, the amendments made by those items do not affect a person's entitlement (or lack of entitlement) to an amount by way of rent assistance in relation to a time before the commencement of this item.

8. Subsection 5L(7):

Add at the end:

“; and (f) any period of up to 2 years while the person is absent from the residence and is personally providing community-based care for another person.”.

9. Application of amendment made by item 8

Paragraph 5L(7)(f) of the *Veterans' Entitlements Act 1986* extends to periods that began when a person started personally to provide community-based care before the commencement of this Schedule. However, the amendment made by the last preceding item does not affect a person's entitlement (or lack of entitlement) to an amount by way of rent assistance in relation to a time before the commencement of this Schedule.

10. Subsection 5L(7) (Note):

Omit, substitute:

“Note: For *in a care situation* see subsection 5N(9); for *in residential care* see subsection 5NAA(2).”.

SCHEDULE 5

Subsection 3(1)

**AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986
TO PROVIDE FOR IMMEDIATE RENT ASSISTANCE FOR
PEOPLE LEAVING HOME TO RECEIVE OR GIVE
COMMUNITY-BASED CARE**

1. Section 5 (Index):

Insert in their appropriate alphabetical position determined on a letter-by-letter basis:

“in a care situation	5N(9)
personally providing community-based care	5N(9)
receiving community-based care	5N(9)”.

2. Subsection 5N(1) (paragraph (c) of definition of *ineligible property owner*):

Omit, substitute:

“(c) a person who:

- (i) is absent from the person's principal home, in relation to which the person is a property owner; and
- (ii) is in a care situation but is not residing in a retirement village;
or

(ca) a person who:

- (i) is absent from the person's principal home, in relation to which the person is a property owner; and
- (ii) is personally providing community-based care for another person; or”.

3. Subsection 5N(1) (Note after definition of *ineligible property owner*):

After “and (7)”, insert “and for *personally providing community-based care and in a care situation* see subsection 5N(9),”.

4. After subparagraph 5N(2)(a)(i):

Insert:

“(ia) as a condition of occupancy of premises, or of a part of premises, occupied by the person to allow him or her personally to provide community-based care for another person; or”.

5. Subparagraph 5N(2)(a)(iii):

Omit, substitute:

SCHEDULE 5—continued

“(iii) if the person is in a care situation and the place where the person receives the care is the person’s principal home or would be the person’s principal home apart from subsection 5L(7)—for accommodation in the place where the person receives care; or”.

6. After subsection 5N(3):

Insert:

“(3A) If a person is in a care situation and the person’s principal home is not the place where the person receives the care, the person’s rent may be an amount described in any of the subparagraphs of paragraph (2)(a) that applies to the person but cannot include amounts described in different subparagraphs of paragraph (2)(a).

Note: Under subsection 5L(7), the principal home of a person in a care situation may be a place other than the place where the person receives care.

“(3B) If an amount described in subparagraph (2)(a)(ia) and an amount described in another subparagraph of paragraph (2)(a) are payable by a person, the person’s rent may be an amount described in either of those subparagraphs but cannot include amounts described in different subparagraphs of paragraph (2)(a).

Note: Under subsection 5L(7), premises occupied by a person as described in subparagraph (2)(a)(ia) may not be the person’s principal home.”.

7. Paragraph 5N(7)(a):

Omit, substitute:

“(a) a person in a care situation pays, or is liable to pay, amounts for accommodation and other services in the care situation; and”.

8. After subsection 5N(8):

Add:

“(9) For the purposes of this Act, unless the contrary intention appears:

(a) a person is *receiving community-based care* if, in the Commission’s opinion, the person needs, and has been receiving or is likely to receive, a substantial level of care in a private residence for at least 14 consecutive days; and

(b) a person is *personally providing community-based care* for another person if, in the Commission’s opinion, the first-mentioned person is personally providing for the other person in a private residence a substantial level of care needed by the other person and has personally provided, or is likely personally to provide, that level of care for at least 14 consecutive days; and

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SCHEDULE 5—continued

- (c) a person is *in a care situation* if:
- (i) the person is residing in a nursing home; or
 - (ii) the person is receiving community-based care.”.
-

SCHEDULE 6

Subsection 3(1)

**AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986
TO EXTEND CARER SERVICE PENSION AND INCOME
SUPPORT SUPPLEMENT TO PEOPLE CARING FOR OTHERS
WHO DO NOT RECEIVE A PENSION OR BENEFIT**

1. Section 5 (Index):

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

“care receiver 5Q(1).”.

2. Subsection 5Q(1):

Insert:

“*care receiver* means a person referred to in:

(a) subparagraph (c)(ii) of the definition of *severely handicapped veteran* in subsection 39(3); or

(b) subparagraph (c)(ii) of the definition of *severely handicapped person* in subsection 45AB(5).”.

3. Subsection 39(3) (definition of *severely handicapped veteran*):

Omit paragraph (c), substitute:

“(c) either:

(i) is receiving an age service pension or an invalidity service pension; or

(ii) is not receiving such a service pension but passes the income test under section 53AA and either passes the assets test under section 53AD or is the subject of a decision in force under section 53AN that the assets test does not apply to the veteran.”.

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

Omit paragraph (c), substitute:

“(c) either:

(i) is a service pensioner or is receiving either a social security pension or an income support supplement; or

(ii) is not such a pensioner and is not receiving such a pension or supplement but passes the income test under section 53AA and either passes the assets test under section 53AD or is the subject of a decision in force under section 53AN that the assets test does not apply to the person.”.

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SCHEDULE 6—continued

5. Subsection 52(1):

Omit “and 52H”, substitute “, 52H, 53AJ and 53AL”.

6. Subsection 52A(1):

Omit “and 52H”, substitute “, 52H, 53AJ and 53AL”.

7. After section 52J:

Insert in Subdivision B of Division 11 of Part IIIB:

Subdivision does not apply for purposes of care receiver assets test

“52K. This Subdivision does not apply for the purposes of the assets test set out in Division 11A.”.

8. Paragraph 52Q(3)(e):

Omit “section 52G”, substitute “sections 52G and 53AJ”.

9. Paragraph 52R(3)(e):

Omit “section 52H”, substitute “sections 52H and 53AL”.

10. Paragraph 52S(3)(e):

Omit “section 52H”, substitute “sections 52H and 53AL”.

11. Subparagraph 52S(5)(e)(iii):

Omit “and section 52H”, substitute “sections 52H and 53AL”.

12. Subparagraph 52T(3)(c)(iii):

Omit “and section 52H”, substitute “sections 52H and 53AL”.

13. Paragraph 52U(4)(e):

Omit “and 52H”, substitute “, 52H and 53AL”.

14. After section 52Z:

Insert in Subdivision D of Division 11 of Part IIIB:

Subdivision does not apply for purposes of care receiver assets test

“52ZAA. This Subdivision does not apply for the purposes of the assets test set out in Division 11A (care receiver assets test).”.

15. After section 52ZM:

Insert in Subdivision E of Division 11 of Part IIIB:

Subdivision does not apply for the purposes of care receiver assets test

“52ZN. This Subdivision does not apply for the purposes of the assets test set out in Division 11A (care receiver assets test).”.

SCHEDULE 6—continued

16. After Division 11 of Part IIB:

Insert:

“Division 11A—Special provisions relating to carer service pension and income support supplement with respect to people caring for others who do not receive a pension or benefit

Income test

Passing the income test

“53AA.(1) A care receiver passes the income test if his or her taxable income worked out under section 53AB for the appropriate tax year determined under section 53AC is not more than \$61,020 (the ***income ceiling***).

Note 1: The income ceiling is indexed (see section 59GC).

Note 2: For ***care receiver*** see subsection 5Q(1).

Some grounds for failing income test

“(2) A care receiver does not pass the income test if:

- (a) the care receiver does not have an assessed taxable income or an accepted estimated taxable income for the appropriate tax year; or
- (b) any partner of the care receiver does not have an assessed taxable income or an accepted estimated taxable income for the appropriate tax year.

Note: For ***assessed taxable income*** and ***accepted estimated taxable income*** see section 53AB and for ***appropriate tax year*** see section 53AC.

Increases in income ceiling

“(3) If there is in force under subsection 198A(3) of the Social Security Act a determination increasing the income ceiling referred to in that subsection, the income ceiling in subsection (1) of this section is increased to the same extent, and the increased amount has effect from the commencement of this section.

Taxable income

Taxable income of care receiver and partner

“53AB.(1) For the purposes of this Subdivision:

- (a) if a care receiver is a member of a couple, the ***care receiver’s taxable income*** includes the taxable income of the care receiver’s partner; and
- (b) a person’s ***taxable income*** for a tax year is:
 - (i) the person’s assessed taxable income for the tax year; or

SCHEDULE 6—continued

- (ii) if the Commissioner of Taxation has not made an assessment of the person's taxable income for the tax year—the person's accepted estimated taxable income for the tax year.

Assessed taxable income

“(2) At a particular time, a person's *assessed taxable income* for a tax year is the taxable income according to whichever of the following was made most recently:

- (a) an assessment of the person's taxable income for the tax year made by the Commissioner of Taxation;
- (b) an amended assessment of the person's taxable income for the tax year made by the Commissioner of Taxation;
- (c) an amendment made by a tribunal of an assessment or amended assessment of the person's taxable income for the tax year made by the Commissioner of Taxation;
- (d) an amendment made by a court of:
 - (i) an assessment or amended assessment of the person's taxable income for the tax year made by the Commissioner of Taxation; or
 - (ii) an amended assessment of the person's taxable income for the tax year made by a tribunal.

Accepted estimated taxable income

“(3) A person's *accepted estimated taxable income* for a tax year is the taxable income according to the estimate that was most recently given to the Secretary by the person under subsection (4) and accepted by the Commission.

Estimating taxable income

“(4) A person may give the Secretary a written estimate of the person's taxable income for a tax year and the Secretary must cause an estimate so given to be submitted to the Commission for consideration.

Accepting estimate of taxable income

“(5) The Commission may accept the estimate only if:

- (a) the person does not have an assessed taxable income for the tax year; and
- (b) one of the following applies:
 - (i) the tax year has not ended;
 - (ii) the Commission is satisfied that the person is not required to lodge a return of income for the tax year under the Income Tax Assessment Act;

SCCHEDULE 6—continued

- (iii) the Commission is satisfied that the person has lodged, or proposes to lodge, a return of income for the tax year under the Income Tax Assessment Act; and
- (c) the Commission is satisfied that the estimate is reasonable.

Nil amounts of taxable income

“(6) For the purposes of this Division, a person’s assessed taxable income or accepted estimate of taxable income may be a nil amount.

Appropriate tax year

Appropriate tax year in ordinary cases

“53AC.(1) Subject to this section, the appropriate tax year for a carer service pension payday or an income support supplement payday is the base tax year for that payday.

Note: For *base tax year* see subsection (6).

Change of appropriate tax year on request

“(2) If:

- (a) a carer service pension or an income support supplement would not be payable to a person (the *carer*) because a care receiver would not pass the income test under subsection 53AA(1) apart from this subsection; and
- (b) the carer or the care receiver gives the Secretary a written request for the Commission to treat the care receiver as if the tax year in which the request is given is the appropriate tax year; and
- (c) the care receiver’s taxable income for the tax year in which the request is made is likely to be less than the income ceiling;

the Commission is to determine that the appropriate tax year, for the purposes of applying subsection 53AA(1) to the care receiver for a payday on or after the day on which the request is given, is the tax year in which the request is made.

Note 1: For *taxable income* see subsection 53AB(1).

Note 2: For *income ceiling* see subsection 53AA(1).

Current tax year to be retained for consecutive calendar years in certain circumstances

“(3) If:

- (a) a carer service pension or an income support supplement is payable to a person:
 - (i) on the last carer service pension payday or the last income support supplement payday, as the case may be, in one calendar year; and

SCHEDULE 6—continued

- (ii) on the first carer service pension payday or the first income support supplement payday, as the case may be, in the next calendar year;

because the person cares for a care receiver; and

- (b) the carer service pension or the income support supplement is payable on the last carer service pension payday or the last income support supplement payday, as the case may be, in the earlier of the 2 calendar years because, as a result of a request under paragraph (2)(b), the care receiver's appropriate tax year is the tax year in which that payday occurs (the *current tax year*); and

- (c) the care receiver's taxable income for the current tax year is less than the care receiver's taxable income for the base tax year;

the care receiver's appropriate tax year, as from the beginning of the later calendar year, is the current tax year and not the base tax year unless the care receiver's taxable income for the base tax year is less than the income ceiling.

Note 1: For *base tax year* see subsection (6).

Note 2: For *income ceiling* see subsection 53AA(1).

Change to appropriate tax year because of notifiable event

“(4) For the purposes of section 53AA, if:

- (a) a notifiable event occurs in relation to a care receiver; and
- (b) the care receiver's taxable income for the tax year in which the notifiable event occurs exceeds the income ceiling;

the appropriate tax year is the tax year in which the notifiable event occurs.

Note 1: For *notifiable event* see subsection (6).

Note 2: For *taxable income* see subsection 53AB(1).

Note 3: For *income ceiling* see subsection 53AA(1).

Note 4: The effect of subsection (4) is that the person caring for the person mentioned in the subsection will cease to be eligible for carer service pension or income support supplement because the person mentioned in the subsection will not pass the income test under subsection 53AA(1).

Change to appropriate tax year because of effect of notifiable event on taxable income for later tax year

“(5) For the purposes of section 53AA, if:

- (a) a notifiable event occurs in relation to a care receiver; and
- (b) the care receiver's taxable income for the tax year in which the notifiable event occurs (the *event tax year*) does not exceed the income ceiling; and
- (c) the care receiver's taxable income for the tax year that follows the event tax year is likely to exceed the income ceiling;

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the appropriate tax year is the year that follows the event tax year.

Note 1: For *notifiable event* see subsection (6).

Note 2: For *taxable income* see subsection 53AB(1).

Note 3: For *income ceiling* see subsection 53AA(1).

Definitions

“(6) In this section:

base tax year, in relation to a carer service pension payday or an income support supplement payday, means the tax year that ended on 30 June in the calendar year immediately before the calendar year in which the payday falls.

notifiable event means an event or change of circumstances that:

- (a) is stated in a notice under section 54D; and
- (b) is described by the notice as a notifiable event.

Example: Suppose 4 April 1996 is a carer service pension payday or an income support supplement payday. It falls in the calendar year 1 January to 31 December 1996, so the base tax year for that payday is the tax year that ended on 30 June 1995 (i.e. the year of income beginning on 1 July 1994).

Assets test

Passing the assets test

“53AD.(1) A care receiver passes the assets test if the total value of the following assets is less than \$376,750:

- (a) the care receiver’s assets;
- (b) if the care receiver has a partner—the partner’s assets;
- (c) if the care receiver or the care receiver’s partner has one or more FP children (within the meaning of the Social Security Act)—any assets of the FP children.

Note: The amount stated in subsection (1) is indexed on each 1 January: see section 59GD.

Increase in assets value limit

“(2) If there is in force under subsection 198D(2) of the Social Security Act a determination increasing an amount referred to in that subsection, the corresponding amount in subsection (1) of this section is increased to the same extent, and the increased amount has effect from the commencement of this section.

Working out the value of assets

“53AE. For the purposes of subsection 53AD(1), the value of assets is to be worked out in accordance with:

- (a) Division 11 except Subdivisions B, D and E of that Division; and

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(b) sections 53AF to 53AM.

Note: Sections 53AF to 53AM make special provision for the assets test for care receivers in relation to subjects covered more generally by Division 11.

Disposal of assets—care receiver assets test

“53AF.(1) For the purposes of this Division, a person *disposes of assets* of the person if:

- (a) the person engages in a course of conduct that directly or indirectly:
 - (i) destroys all or some of the person’s assets; or
 - (ii) disposes of all or some of the person’s assets; or
 - (iii) diminishes the value of all or some of the person’s assets; and
- (b) one of the following subparagraphs is satisfied:
 - (i) the person receives no consideration in money or money’s worth for the destruction, disposal or diminution;
 - (ii) the person receives inadequate consideration in money or money’s worth for the destruction, disposal or diminution;
 - (iii) the Commission is satisfied that the person’s purpose, or dominant purpose, in engaging in that course of conduct was to enable another person who provides care for the person to obtain a carer service pension or an income support supplement.

“(2) If, under subsection 52M(1A), the value of the person’s granny flat interest is less than the amount paid, or agreed to be paid, for the interest, then, for the purposes of this section, so much of the amount paid, or agreed to be paid, as exceeds the value of the interest is not consideration for the interest.

Note: For *granny flat interest* see section 5MA.

Amount of disposition—care receiver assets test

“53AG. If a person disposes of assets, the *amount of the disposition* is:

- (a) if the person receives no consideration for the destruction, disposal or diminution—an amount equal to:
 - (i) the value of the assets that are destroyed; or
 - (ii) the value of the assets that are disposed of; or
 - (iii) the amount of the diminution in the value of the assets whose value is diminished; or
- (b) if the person receives consideration for the destruction, disposal or diminution—an amount equal to:
 - (i) the value of the assets that are destroyed; or

SCHEDULE 6—continued

- (ii) the value of the assets that are disposed of; or
- (iii) the amount of the diminution in the value of the assets whose value is diminished;

less the amount of the consideration received by the person in respect of the destruction, disposal or diminution.

Disposal of assets in pre-pension years—individual care receivers

“53AH.(1) This section applies in determining whether a person (the *carer*) is eligible for a carer service pension or an income support supplement when claiming it for caring for a care receiver who is not a member of a couple when the claim is made.

“(2) If:

- (a) the care receiver has disposed of an asset of the care receiver during a pre-pension year of the carer; and
- (b) the amount of the disposition, or the sum of that amount and of the amounts (if any) of the dispositions of assets previously made by the care receiver during the pre-pension year, exceeds \$10,000;

the lesser of the following amounts is to be included in the value of the care receiver's assets for the period of 5 years that starts on the day on which the disposition took place:

- (c) the amount of the first-mentioned disposition;
- (d) the amount by which the sum of the amount of the first-mentioned disposition of assets and of the amounts (if any) of other dispositions of assets previously made by the care receiver during the pre-pension year exceeds \$10,000.

Note 1: For *disposes of assets* see section 53AF.

Note 2: For *amount of disposition* see section 53AG.

“(3) In this section:

pre-pension year, in relation to a carer, means:

- (a) the 12 months ending on the carer's provisional commencement day for carer service pension or income support supplement; or
- (b) any preceding period of 12 months.

Disposal of assets—individual care receivers

“53AJ.(1) This section applies in determining whether a person (the *carer*) who has been receiving a carer service pension or an income support supplement for caring for a care receiver who is not a member of a couple continues to be eligible for the pension.

SCHEDULE 6—continued

“(2) If:

- (a) the care receiver has disposed of an asset of the care receiver during a pension year of the carer; and
- (b) the amount of the disposition, or the sum of that amount and of the amounts (if any) of other dispositions of assets previously made by the care receiver during the pension year, exceeds \$10,000;

the lesser of the following amounts is to be included in the value of the care receiver's assets for the period of 5 years that starts on the day on which the disposition takes place:

- (c) the amount of the first-mentioned disposition;
- (d) the amount by which the sum of the amount of the first-mentioned disposition of assets, and of the amounts (if any) of other dispositions of assets previously made by the person during the pension year, exceeds \$10,000.

Note 1: For *disposes of assets* see section 53AF.

Note 2: For *amount of disposition* see section 53AG.

“(3) In this section:

pension year, in relation to a carer, means:

- (a) the 12 months starting on the day on which the carer service pension or income support supplement first became payable to the carer; or
- (b) any preceding or following period of 12 months.

Disposal of assets in pre-pension years—members of couples including care receivers

Application

“53AK.(1) This section applies in determining whether a person (the *carer*) is eligible for a carer service pension or an income support supplement when claiming it for caring for a care receiver who is a member of a couple when the claim is made.

Increase in value of assets of care receiver and of care receiver's partner

“(2) Subject to subsections (3) and (4), if:

- (a) the care receiver or the care receiver's partner has disposed of an asset during a pre-pension year of the carer; and
- (b) the amount of the disposition, or the sum of that amount and the amounts (if any) of other dispositions of assets previously made by the care receiver or the partner during the pre-pension year, exceeds \$10,000;

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the lesser of the following amounts is to be included in the value of both the assets of the care receiver, and the assets of the partner, for the period of 5 years that starts on the day on which the disposition took place:

- (c) 50% of the amount of the first-mentioned disposition;
- (d) 50% of the amount by which the sum of the amount of the first-mentioned disposition and of the amounts (if any) of other dispositions of assets previously made by the care receiver or the care receiver's partner during the pre-pension year exceeds \$10,000.

Note 1: For *disposes of assets* see section 53AF.

Note 2: For *amount of disposition* see section 53AG.

Effect of separation of couple after disposal of care receiver's asset

“(3) If:

- (a) an amount is included under subsection (2) in the value of both the assets of the care receiver and the assets of the care receiver's partner because of a disposition of an asset by the care receiver; and
- (b) the care receiver and the partner cease to be members of the same couple (either because the partner dies or for another reason);

the amount that was included in the value of the partner's assets because of the disposition is to be included in the assets of the care receiver.

Effect of separation of couple after disposal of partner's asset

“(4) If:

- (a) an amount is included under subsection (2) in the value of both the assets of the care receiver and the assets of the care receiver's partner because of a disposition of an asset by the partner; and
- (b) the care receiver and the partner cease to be members of the same couple (whether because the partner dies or for another reason);

the amount that was included in the value of the care receiver's assets because of the disposition is no longer to be included in the assets of the care receiver.

Pre-pension year

“(5) In this section:

pre-pension year, in relation to a carer, means:

- (a) the 12 months ending on the carer's provisional commencement day for the carer service pension or income support supplement; or
- (b) any preceding period of 12 months.

SCHEDULE 6—continued

Disposal of assets—members of couples including care receivers

Application

“53AL.(1) This section applies in determining whether a person (the *carer*) who has been receiving a carer service pension or an income support supplement for caring for a care receiver who is a member of a couple continues to be eligible for the pension or supplement.

Increase in value of assets of care receiver and of care receiver's partner

“(2) Subject to subsections (3) and (4), if:

- (a) the care receiver or the care receiver's partner disposed of an asset during a pension year of the carer; and
- (b) the amount of the disposition, or the sum of that amount and the amounts (if any) of other dispositions of assets previously made by the care receiver or the care receiver's partner during the pension year, exceeds \$10,000;

the lesser of the following amounts is to be included in the value of both the assets of the care receiver, and the assets of the partner, for the period of 5 years that starts on the day on which the disposition took place:

- (c) 50% of the amount of the first-mentioned disposition;
- (d) 50% of the amount by which the sum of the amount of the first-mentioned disposition and of the amounts (if any) of other dispositions of assets previously made by the care receiver or the care receiver's partner during the pre-pension year exceeds \$10,000.

Note 1: For *disposes of assets* see section 53AF.

Note 2: For *amount of disposition* see section 53AG.

Effect of separation of couple after disposal of care receiver's asset

“(3) If:

- (a) an amount is included under subsection (2) in the value of both the assets of the care receiver and the assets of the care receiver's partner because of a disposition of an asset by the care receiver; and
- (b) the care receiver and the partner cease to be members of the same couple (whether because the partner dies or for another reason);

the amount that was included in the value of the partner's assets because of the disposition is to be included in the assets of the care receiver.

Effect of separation of couple after disposal of partner's asset

“(4) If:

- (a) an amount is included under subsection (2) in the value of both the assets of the care receiver and the assets of the care receiver's partner because of a disposition of an asset by the partner; and

SCHEDULE 6—continued

(b) the care receiver and the partner cease to be members of the same couple (whether because the partner dies or for another reason); the amount that was included in the value of the care receiver's assets because of the disposition is no longer to be included in the assets of the care receiver.

Pension year

“(5) In this section:

pension year, in relation to a carer, means:

- (a) the 12 months starting on the day the carer service pension or income support supplement first became payable to the carer; or
- (b) any preceding or following period of 12 months.

Certain dispositions to be disregarded for care receiver assets test

“53AM. This Division does not apply to a disposition of an asset by a person (the *disposer*):

- (a) more than 5 years before the time when another person (the *carer*) became eligible for a carer service pension or income support supplement:
 - (i) because the carer was providing care for the disposer and the disposer was a care receiver; or
 - (ii) because the carer was providing care for the person who was the disposer's partner at the time of the disposition and that person was a care receiver; or
- (b) less than 5 years before the time referred to in paragraph (a) but before the time when the disposer could, in the Commission's opinion, reasonably have expected that the carer would become eligible for carer service pension or income support supplement for a reason described in paragraph (a); or
- (c) before 9 May 1995.

Exemption from care receiver assets test

Application

“53AN.(1) If:

- (a) the application of the assets test would render ineligible for carer service pension or income support supplement a person caring for a care receiver; and
- (b) the care receiver lodges at an office of the Department in Australia, in accordance with a form approved by the Commission, a request that the assets test not apply to the care receiver; and

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- (c) the request includes a statement signed by the care receiver estimating the care receiver's taxable income for the current financial year; and
 - (d) the Commission is satisfied that the estimate is reasonable;
- the Commission is to decide whether the assets test is to apply to the care receiver.

Failing assets test but passing special income test

“(2) The Commission may decide under subsection (1) that the assets test does not apply to the care receiver if:

- (a) the value of the care receiver's assets is more than \$376,750 and not more than \$559,250; and
- (b) the value of the care receiver's liquid assets is less than the liquid assets limit; and
- (c) the amount of the care receiver's estimated taxable income for the current financial year is less than the threshold amount worked out under subsection (7).

Note 1: The asset values specified in paragraph (2)(a) are indexed each year on 1 January (see section 59GE).

Note 2: For calculating the value of assets and liquid assets see paragraph (6)(a).

Note 3: For *liquid assets* see subsection (5).

Note 4: For *liquid assets limit* see paragraph (6)(b).

Failing assets and special income tests

“(3) The Commission may decide under subsection (1) that the assets test does not apply to the care receiver if the value of the care receiver's assets is more than \$376,750 and not more than \$559,250 and:

- (a) the value of the care receiver's liquid assets is equal to or greater than the liquid assets limit; or
- (b) the amount of the care receiver's estimated taxable income for the current financial year is equal to or more than the threshold amount worked out under subsection (7).

Note 1: The asset values stated in subsection (3) are indexed each year on 1 January (see section 59GE).

Note 2: For calculating the value of assets and liquid assets see paragraph (6)(a).

Note 3: For *liquid assets* see subsection (5).

Note 4: For *liquid assets limit* see paragraph (6)(b).

Failing assets test by large margin but passing special income test

“(4) The Commission may decide under subsection (1) that the assets test does not apply to the care receiver if:

- (a) the value of the care receiver's assets is more than \$559,250; and

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- (b) the value of the care receiver's liquid assets is less than the liquid assets limit; and
- (c) the amount of the care receiver's estimated taxable income for the current financial year is less than the threshold amount worked out under subsection (7).

Note 1: The asset values stated in paragraph (2)(a) are indexed each year on 1 January (see section 59GE).

Note 2: For calculating the value of assets and liquid assets see paragraph (6)(a).

Note 3: For *liquid assets* see subsection (5).

Note 4: For *liquid assets limit* see paragraph (6)(b).

Liquid assets

“(5) In this section:

liquid assets, in relation to a person, means:

- (a) the person's cash; and
- (b) the person's shares in the capital of, and debentures of, a public company within the meaning of the Corporations Law; and
- (c) any amount deposited with, or lent to, a bank, building society, credit union or other financial institution by the person (whether or not the amount can be withdrawn or repaid immediately); and
- (d) any amount due, and able to be paid, to the person by, or on behalf of, a former employer of the person; and
- (e) any other readily realisable assets of the person;

but does not include an amount that is a qualifying eligible termination payment for the purposes of Subdivision AA of Division 2 of Part III of the Income Tax Assessment Act.

Note: The Corporations Law is set out in section 82 of the *Corporations Act 1989*.

Definitions—assets and income

“(6) For the purposes of this section:

- (a) the value of the care receiver's assets or liquid assets is the sum of the values of the assets or liquid assets (as the case requires) of the following people:
 - (i) the care receiver;
 - (ii) if the care receiver has a partner—the partner;
 - (iii) if the care receiver or the care receiver's partner has one or more FP children (within the meaning of the Social Security Act)—those FP children; and
- (b) the *liquid assets limit* for a care receiver is:
 - (i) if the care receiver is a member of a couple—\$10,000; or

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- (ii) if the care receiver is not a member of a couple—\$6,000; and
- (c) the care receiver's *taxable income* for a particular financial year is the care receiver's taxable income for that year as worked out under section 53AB.

Note: For *liquid assets* see subsection (5).

Threshold amount

“(7) For the purposes of paragraphs (2)(c), (3)(b) and (4)(c), the threshold amount is the amount worked out using the formula:

(maximum basic service pension × 2) + (624 × number of FP children)

where:

maximum basic service pension is the maximum basic rate of service pension payable, as at the last 1 January, under this Act to a person who has a partner.

number of FP children means the number of FP children (within the meaning of the Social Security Act) of the care receiver or the care receiver's partner (if the care receiver has a partner).

Note: For the maximum basic rate of service pension see point 42-B1 of the Service Pension Rate Calculator Where There Are Dependent Children in section 42.

Increase in assets value hardship limits

“(8) If there is in force under subsection 198N(7) of the Social Security Act a determination increasing an amount referred to in that subsection, the corresponding amount in subsection (2), (3) or (4) of this section is increased to the same extent, and the increased amount has effect from the commencement of this section.”

17. After Division 13 of Part IIIB:

Insert:

“Division 13A—Obligations of care receiver

Secretary may require notification of an event or change of circumstances relevant to the payment of carer service pension or income support supplement

“54D.(1) If a person is being paid a carer service pension or an income support supplement because he or she is providing constant care for a care receiver, the Secretary may give the care receiver a notice that requires the care receiver to tell the Department, or an officer referred to in the notice, if:

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

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“(2) An event or change of circumstances is not to be stated in a notice under subsection (1) unless the occurrence of the event or change in circumstances might affect the payment of the carer service pension or income support supplement.

“(3) A notice under subsection (1):

- (a) must be in writing; and
- (b) may describe the event or change of circumstances stated in the notice as a notifiable event for the purposes of section 53AC; and
- (c) may be given personally or by post; and
- (d) must state the period within which, and the manner in which, the care receiver is to give the information to the Department or officer.

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

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

“(5) A person must not refuse or fail to comply with a notice under subsection (1) to the extent to which the person is capable of complying with the notice.

Penalty: Imprisonment for 6 months.

“(6) A person who, in purporting to comply with a notice under subsection (1), knowingly gives information that is false or misleading in a material particular is guilty of an offence punishable, on conviction, by imprisonment for not more than 12 months.

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

Secretary may require a care receiver to give particular information relevant to the payment of carer service pension or income support supplement

“54E.(1) If a person is being paid a carer service pension or an income support supplement because he or she is providing constant care for a care receiver, the Secretary may give the care receiver a notice that requires the care receiver to give the Department, or an officer referred to in the notice, a statement about a matter that might affect the payment of the carer service pension or income support supplement.

“(2) A notice under subsection (1):

- (a) must be in writing; and

SCHEDULE 6—continued

- (b) may be given personally or by post; and
- (c) must state the period within which, and the manner in which, the care receiver is to give the information to the Department or officer.

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

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

“(5) A person must not refuse or fail to comply with a notice under subsection (1) to the extent to which the person is capable of complying with the notice.

Penalty: Imprisonment for 6 months.

“(6) A person who, in purporting to comply with a notice under subsection (1), knowingly gives information that is false or misleading in a material particular is guilty of an offence punishable, on conviction, by imprisonment for not more than 12 months.

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

Secretary may require care receiver to give information, produce documents or appear before an officer

“54F.(1) If a person is being paid a carer service pension or an income support supplement because he or she is providing constant care for a care receiver, the Secretary may give the care receiver a notice that requires the care receiver:

- (a) to provide the Department, or an officer referred to in the notice, with information; or
- (b) to produce to the Department, or an officer referred to in the notice, documents in the custody or under the control of the care receiver; or
- (c) to appear before an officer referred to in the notice to answer questions;

relating to a matter that may affect the payment of the pension or income support supplement.

“(2) If a person has a claim or application for a service pension or income support supplement under consideration by the Commission or the Administrative Appeals Tribunal because the person is providing constant care for a care receiver, the Secretary may give the care receiver a notice requiring the care receiver:

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SCHEDULE 6—continued

- (a) to provide the Department, or an officer referred to in the notice, with information; or
 - (b) to produce to the Department, or an officer referred to in the notice, documents in the custody or under the control of the care receiver; or
 - (c) to appear before an officer referred to in the notice to answer questions;
- relating to the claim or application.

“(3) Subject to subsection (4), the notice:

- (a) must be in writing; and
- (b) may be given personally or by post; and
- (c) must state:
 - (i) when and how the care receiver is to provide the information or produce the documents; or
 - (ii) when and where the care receiver is to appear before the officer.

“(4) The care receiver must not be required to provide the information, produce the documents or appear to answer questions within a period of less than 14 days after the notice is given.

“(5) The Secretary may require the care receiver to give or verify the information or answers:

- (a) on oath or affirmation; and
- (b) either orally or in writing.

The Secretary or officer may administer an oath or affirmation to the care receiver.

“(6) The care receiver must not refuse or fail to comply with the notice to the extent to which the care receiver is capable of complying with it.

Penalty: Imprisonment for 6 months.

“(7) If the care receiver, in purporting to comply with the notice, knowingly gives information that is false or misleading in a material particular, the care receiver is guilty of an offence punishable, on conviction, by imprisonment for not more than 12 months.

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

Document served with a section 54D notice

“54G.(1) A notice under subsection 54D(1) is taken to state an event or change of circumstances if:

SCHEDULE 6—continued

- (a) the notice refers to a document that sets out the event or change of circumstances; and
- (b) a copy of the document is given to the care receiver with the notice.

“(2) If a notice states an event or change of circumstances by reference to a document under subsection (1), the notice may state the period within which the care receiver is to give the information to the Department or officer by reference to the period set out in the document for notification of the event or change of circumstances.

Interpretation

“54H. In this Division:

officer means a person performing duties, or exercising powers or functions, under or in relation to this Act.

person includes an unincorporated body.”

18. After section 56BA:

Insert:

Automatic termination where care receiver meets notification obligations

“56BB. If:

- (a) a care receiver being cared for by a person who is receiving a carer service pension or an income support supplement is given a notice under subsection 54D(1); and
- (b) the notice requires the care receiver to tell the Department or an officer of the occurrence of an event or change in circumstances within a stated period (the *notification period*); and
- (c) the event or change in circumstances occurs; and
- (d) the care receiver tells the Department or officer of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change in circumstances the carer service pension or income support supplement would, apart from this section, cease to be payable; and
- (f) the carer service pension or income support supplement is not cancelled before the end of the notification period;

the carer service pension or income support supplement continues to be payable until the end of the notification period and is then cancelled.

Note: If the person receiving the pension or supplement tells the Department or an officer, within the notification period, of an event or change in circumstances that reduces the rate of the person's pension or supplement, there is no automatic rate reduction and a determination under section 56D must be made in order to bring the rate reduction into effect.

SCHEDULE 6—continued

Automatic termination where care receiver does not meet notification obligations

“56BC. If:

- (a) a care receiver being cared for by a person who is receiving a carer service pension or an income support supplement is given a notice under subsection 54D(1); and
- (b) the notice requires the care receiver to tell the Department or an officer of the occurrence of an event or change in circumstances within a stated period (the *notification period*); and
- (c) the event or change in circumstances occurs; and
- (d) the care receiver does not tell the Department or officer of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change in circumstances the carer service pension or income support supplement ceases to be payable;

the carer service pension or income support supplement is cancelled immediately after the day on which the event or change in circumstances occurs.”.

19. After section 56G:

Insert:

Date of effect of favourable decision under section 53AN

“56GAA. If the Commission decides, under subsection 53AN(1), that the assets test does not apply to a care receiver, then, subject to section 57CA, the decision takes effect on:

- (a) the day on which the decision was made; or
- (b) any later or earlier day that is stated in the decision.”.

20. Subsection 56H(3):

Omit “and (8)”, substitute “, (8), (9), (10) and (11)”.

21. Section 56H:

Add at the end:

Cancellation or suspension—amendment of assessed taxable income

“(9) If:

- (a) the Commission makes a determination (the *earlier determination*) that a person (the *carer*) is entitled to carer service pension or income support supplement because the carer is providing care for a care receiver; and

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- (b) the determination is based on an assessment of the care receiver's taxable income for a tax year; and
- (c) the assessment is afterwards amended by the Commissioner of Taxation, a tribunal or a court; and
- (d) the taxable income for that year according to the assessment as amended is more than the income ceiling (under section 53AA); and
- (e) the Commission makes a determination under section 56E cancelling or suspending the carer service pension or income support supplement;

the day stated under paragraph (2)(b) must be the day on which the earlier determination took effect.

Note: This subsection results in overpayments for the period between the earlier determination and the later determination. These overpayments might be recoverable under section 205 or 205A.

Cancellation or suspension—underestimate of taxable income

“(10) If:

- (a) the Commission makes a determination (the *earlier determination*) that a person (the *carer*) is entitled to carer service pension or income support supplement because the carer is providing care for a care receiver; and
- (b) in making the determination, the Commission had regard to the care receiver's taxable income for a tax year; and
- (c) that taxable income is or includes an amount estimated by the care receiver or care receiver's partner; and
- (d) the Commissioner of Taxation afterwards makes an assessment of that taxable income; and
- (e) the amount assessed by the Commissioner of Taxation is more than the income ceiling (under section 53AA); and
- (f) the Commission makes a determination under section 56E cancelling or suspending the carer service pension or income support supplement;

the day stated under paragraph (2)(b) must be the day on which the earlier determination took effect.

Note: This subsection results in overpayments for the period between the earlier determination and the later determination. These overpayments might be recoverable under section 205 or 205A.

SCHEDULE 6—continued

Cancellation or suspension—care receiver's taxable income exceeding income ceiling

“(11) If:

- (a) on the basis of a care receiver's taxable income for a tax year, the Commission makes a determination that a person (the *carer*) is entitled to carer service pension or income support supplement because the carer is providing care for the care receiver; and
- (b) the care receiver's taxable income for a later tax year exceeds the income ceiling (under section 53AA); and
- (c) the Commission makes a determination under section 56E cancelling or suspending the carer's carer service pension or income support supplement;

the day stated under paragraph (2)(b) must be:

- (d) if the Commission made the determination under section 56E after the carer or care receiver told the Department or an officer that the care receiver's taxable income exceeded the income ceiling—the day on which the carer or care receiver told the Department or officer; or
- (e) if the Department or an officer had not been told by the carer or the care receiver that the care receiver's taxable income exceeded the income ceiling when the Commission made the determination under section 56E—the day on which the care receiver's income exceeded the income ceiling.

Note: If the event of the care receiver's taxable income exceeding the income ceiling was stated as a notifiable event in the notice given to the carer under section 54 or the care receiver under section 54D, this subsection will not apply because the Commission will not need to make a determination under section 56E as the pension will be cancelled automatically by section 56, 56A, 56BB or 56BC.”.

22. After section 56H:

Insert:

Date of effect of adverse decision under section 53AN

“56HA. If the Commission decides, under subsection 53AN(1), that the assets test applies to a care receiver, the decision takes effect on the day on which the care receiver's request under that subsection was lodged at an office of the Department in Australia.”.

23. After section 57:

Insert:

SCHEDULE 6—continued

Care receiver may seek review of certain decisions

“57AA. A care receiver who is dissatisfied with a decision of the Commission under subsection 53AN(1) may request the Commission to review the decision.”.

24. After subsection 57A(1):

Insert:

“(1A) A request for review of a decision under section 57AA must:

(a) be made within 3 months after:

- (i) if the person seeking review is the person who was notified of the decision—the person was so notified; or
 - (ii) if a person other than the person who was notified of the decision is seeking review—the other person was so notified;
- and

(b) set out the grounds on which the request is made; and

(c) be in writing.”.

25. Subsection 57A(2):

After “(1)” insert “or (1A)”.

26. After section 57C:

Insert:

Date of effect of certain review decisions about application of assets test to care receiver

Decision notified

“57CA.(1) If:

- (a) a decision (the *previous decision*) is made under subsection 53AN(1) that an assets test does not apply to a care receiver; and
- (b) notice of the making of the previous decision is given to the care receiver or the person caring for the care receiver; and
- (c) a person requests the Commission under section 57AA to review the previous decision; and
- (d) a favourable decision is made as a result of the request;

the favourable decision takes effect on:

- (e) if the request is made within 3 months after the notice is given—the day on which the previous decision took effect; or
- (f) if the request is made more than 3 months after the notice is given—the day on which the person requested the review.

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Decision not notified

“(2) If:

- (a) a decision (the *previous decision*) is made under subsection 53AN(1) that an assets test does not apply to a care receiver; and
- (b) notice of the making of the previous decision is not given to either the care receiver or the person caring for the care receiver; and
- (c) a person requests the Commission under section 57AA to review the previous decision; and
- (d) a favourable decision is made as a result of the request;

the favourable decision takes effect on the day on which the previous decision took effect.

Limitation on retrospective commencement of decision

“(3) This section has effect subject to sections 39B and 45C.”.

27. After section 59GB:

Insert:

Adjustment of income ceiling for care receiver

“59GC. This Act has effect as if, on 1 January each year, the income ceiling for a care receiver were replaced with the amount that is the income ceiling for a care receiver for the purposes of Part 3.16 (Indexation) of the Social Security Act after indexation on that day.

Adjustment of assets value limit for care receiver

“59GD. This Act has effect as if, on 1 January each year, the amount set out in subsection 53AD(1) were replaced with the corresponding amount applicable under subsection 198D(1) of the Social Security Act after indexation on that day.

Adjustment of assets value hardship limits for care receiver

“59GE. This Act has effect as if, on 1 January each year, the amounts set out in subsections 53AN(2), (3) and (4) were replaced with the corresponding amounts applicable under subsections 198N(2), (3) and (4) of the Social Security Act after indexation on that day.”.

28. Subsection 205(1):

Omit “This section”, substitute “Subject to subsection (1AA), this section”.

SCHEDULE 6—continued

29. After subsection 205(1):

Insert:

Some carer service pension or income support supplement overpayments are debts only if carer knew of error or failure to tell Commission

“(1AA) If:

- (a) an amount has been paid to a person (the *carer*) by way of carer service pension or income support supplement because the carer was providing care for a care receiver; and**
- (b) the amount was paid on the basis that the carer was eligible for carer service pension or income support supplement when in fact the carer was not eligible:**
 - (i) because an estimate of the care receiver’s income was an underestimate; or**
 - (ii) because an assessment of the care receiver’s income had been amended; or**
 - (iii) because of the occurrence, or the likelihood of the occurrence, of a notifiable event of whose occurrence or likely occurrence the care receiver had not told the Department or an officer;**

the amount is not a recoverable amount unless it was reasonable for the carer to know that the estimate was incorrect, that the assessment of the care receiver’s income had been amended or that the care receiver should have told the Department or an officer of the occurrence, or the likelihood of the occurrence, of the notifiable event (as the case requires).”.

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SCHEDULE 7

Subsection 3(1)

**AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986
IN RELATION TO ADVANCE PAYMENTS OF PENSIONS**

1. Subsection 5H(8):

Add at the end:

“(zl) an advance payment of pension under Part IIID.”.

2. Subsection 36A(2):

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

3. Section 36A:

Add at the end:

“(4) Subsection (2) does not apply to a veteran if the veteran’s rate is nil merely because of the operation of Part IIID.”.

4. Subsection 37A(2):

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

5. Section 37A:

Add at the end:

“(4) Subsection (2) does not apply to a veteran if the veteran’s rate is nil merely because of the operation of Part IIID.”.

6. Subsection 38A(2):

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

7. Section 38A:

Add at the end:

“(4) Subsection (2) does not apply to a person if the person’s rate is nil merely because of the operation of Part IIID.”.

8. Subsection 39A(2):

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

9. Section 39A:

Add at the end:

“(4) Subsection (2) does not apply to a person if the person’s rate is nil merely because of the operation of Part IID.”.

10. After paragraph 40(1)(c):

Insert:

“(ca) take away any advance payment deductions;”.

SCHEDULE 7—continued

11. Point 41-A1 (Step 8 of Method statement):

Omit, substitute:

Step 8. Compare the income reduced rate and the assets reduced rate: the lower of the 2 rates, or the income reduced rate if the rates are equal, is the *conditional payment rate*.

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

- (a) the conditional payment rate; and
- (b) any advance payment deduction (see Division 6 of Part IIID);

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

12. Point 41-G1:

- (a) Omit “either” from paragraph (aa), substitute “one of the following subparagraphs applies”.
- (b) Omit “and” from sub-subparagraph (B) of subparagraph (ii) of paragraph (aa), substitute “or”.
- (c) After subparagraph (ii) of paragraph (aa) insert:
“(iii) the person’s rate of pension apart from this point is nil merely because of the operation of Part IIID; and”.

13. Point 42-A1 (Step 11 of Method statement):

Omit, substitute:

Step 11. Compare the income reduced rate and the assets reduced rate: the lower of the 2 rates, or the income reduced rate if the rates are equal, is the *conditional payment rate*.

Step 12. The rate of pension is the difference between:

- (a) the conditional payment rate; and
- (b) any advance payment deduction (see Division 6 of Part IIID);

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

14. Point 42-H1:

- (a) Omit “either” from paragraph (aa), substitute “one of the following subparagraphs applies”.
- (b) Omit “and” from sub-subparagraph (B) of subparagraph (ii) of paragraph (aa), substitute “or”.

SCHEDULE 7—continued

(c) After subparagraph (ii) of paragraph (aa) insert:

“(iii) the person’s rate of pension apart from this point is nil merely because of the operation of Part IIID; and”.

15. Point 43-A1 (Step 5 of Method statement A):

Omit, substitute:

“*Step 5.* The rate of pension is the difference between:

- (a) the maximum payment rate; and
- (b) any advance payment deduction (see Division 6 of Part IIID);

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

16. Point 43-A1 (Step 5 of Method statement B):

Omit, substitute:

“*Step 5.* Deduct any advance payment deduction (see Division 6 of Part IIID) from the maximum payment rate; then add 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.*”.

17. Point 45-A1 (Step 3 of Method statement):

Omit, substitute:

“*Step 3.* Take away any advance payment deduction (see Division 6 of Part IIID) from the ceiling rate; the result is called the *reduced ceiling rate.*

Step 4. Compare the widow’s or widower’s provisional rate and the reduced ceiling rate: the rate of pension for the widow or widower is:

- (a) the provisional rate if it is lower than the reduced ceiling rate; or
- (b) the reduced ceiling rate if it is lower than or equal to the provisional rate.”.

18. Point 45X-B1 (Steps 11 and 12 of Method statement):

Omit, substitute:

SCHEDULE 7—continued

“Step 11. This Step applies only to a person whose pension under Part II or IV is compensation reduced.

Compare the adjusted income reduced rate (see Step 5), the assets reduced rate (see Step 7) and the adjusted ceiling rate (see Step 10); the person's *conditional payment rate* is equal to:

- (a) whichever is the least of those rates; or
- (b) if 2 of those rates are the same and the third one is higher—the lower rate; or
- (c) if the 3 rates are the same—those rates.

Take away from the conditional payment rate any advance payment deduction (see Division 6 of Part IIID); the result is the person's *provisional rate*.

Go now to Step 13.

Step 12. This Step applies only to a person whose pension under Part II or IV is not compensation reduced.

Compare the adjusted income reduced rate (see Step 5), the assets reduced rate (see Step 7) and the ceiling rate (see Step 8); the person's *conditional payment rate* is equal to:

- (a) whichever is the least of those rates; or
- (b) if 2 of those rates are the same and the third one is higher—the lower rate; or
- (c) if the 3 rates are the same—those rates.

Take away from the conditional payment rate any advance payment deduction (see Division 6 of Part IIID); the result is the person's *provisional rate*.”.

19. Point 45X-B2 (Steps 5 and 6 of Method statement):

Omit, substitute:

“Step 5. If the pension payable to the person is not compensation reduced:

- (a) take away from the person's ceiling rate (see Step 1) any advance payment deduction (see Division 6 of Part IIID); and
- (b) add to the amount remaining the amount obtained in Step 4: the result is the *rate of income support supplement*.

SCHEDULE 7—continued

Step 6. If the pension payable to the person is compensation reduced:

- (a) take away from the person's adjusted ceiling rate (see Step 2) any advance payment deduction (see Division 6 of Part IIID); and
- (b) add to the amount remaining the amounts obtained in Steps 3 and 4; the result is the *rate of income support supplement*."

20. Point 45X-G2:

Add at the end "for a reason other than the operation of Part IIID".

21. Point 45Y-B1 (Steps 16 and 17 of Method statement):

Omit, substitute:

"Step 16. Add the amount obtained in Step 15 to the person's provisional rate. The result is called the person's *conditional payment rate*.

Step 17. Take away from the conditional payment rate any advance payment deduction (see Division 6 of Part IIID).

Step 18. Add to the amount obtained in Step 17 any amount per year payable by way of remote area allowance (see MODULE I below); the result is the *rate of income support supplement*."

22. Point 45Y-B2 (Steps 9 and 10 of Method statement):

Omit, substitute:

"Step 9. If the pension payable to the person is not compensation reduced, deduct from the person's ceiling rate (see Step 1) any advance payment deduction (see Division 6 of Part IIID) and then add the amounts obtained in Steps 7 and 8; the result is the *rate of income support supplement*.

Step 10. If the pension payable to the person is compensation reduced, deduct from the person's adjusted ceiling rate (see Step 2) any advance payment deduction (see Division 6 of Part IIID) and then add the amounts obtained in Steps 7 and 8; the result is the *rate of income support supplement*."

23. Point 45Y-I2:

Add at the end "for a reason other than the operation of Part IIID".

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SCHEDULE 7—continued

24. Subsection 53H(1):

Add at the end:

“Note: Payments under this Division are not affected by unrepaid advance payments of pension.”.

25. After paragraph 57(2)(e):

Insert:

“; or (f) in relation to an advance payment of service pension or income support supplement;”.

26. After Part IIIC:

Insert:

**“PART IIID—ADVANCE PAYMENTS OF SERVICE PENSION
AND INCOME SUPPORT SUPPLEMENT**

“Division 1—Interpretation

Definition

“60. In this Part:

pension means a service pension or an income support supplement.

“Division 2—Eligibility for advance payment

Eligibility for advance payment

“61.(1) Subject to subsection (2), a person is eligible for an advance payment of an amount of pension only if:

- (a) the pension is payable to the person; and
- (b) throughout the 3 months immediately before the person's application for the advance payment, the person was receiving a service pension, an income support supplement, a social security pension or a social security benefit; and
- (c) the Commission is satisfied that the advance payment will be used to help meet the person's living expenses; and
- (d) the Commission is satisfied that the person will not suffer financial hardship from reductions in instalments of the pension as a result of recovering the advance payment from future instalments of pension.

“(2) A person is not eligible for an advance payment if:

- (a) the person has received an advance payment of a pension and has not fully repaid the advance payment; or
- (b) the person owes a debt to the Commonwealth under section 205 or 205A.

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SCHEDULE 7—continued

“Division 3—Applying for advance payment

Application

“62. A person who wants an advance payment of an amount of pension under this Part must make a proper application for the advance payment.

Who can apply

“63.(1) Subject to subsection (2), the application must be made by:

- (a) a person who wants to receive the advance payment; or
- (b) with the approval of the person—another person on the first-mentioned person’s behalf.

“(2) If the person is unable, because of physical or mental incapacity, to approve another person to make the application on his or her behalf, the Commission may approve another person to make the application.

Form of application

“64. To be a proper application, the application must:

- (a) be made in writing; and
- (b) be in accordance with a form approved by the Commission.

Lodgment of application

“65.(1) To be a proper application, the application must be lodged:

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

“(2) An application is taken to have been lodged on the day on which it is received:

- (a) at an office of the Department in Australia; or
- (b) at a place approved under subsection (1); or
- (c) by a person approved under subsection (1);

as the case may be.

Applicant must be Australian resident and in Australia

“66. An application is not a proper application unless the person making the application, or on whose behalf the application is being made, is:

- (a) an Australian resident; and
- (b) in Australia;

on the day on which the application is lodged.

Note: For *Australian resident* see section 5G.

SCHEDULE 7—continued

Application may be withdrawn

“67.(1) An applicant or a person on behalf of an applicant may withdraw an application that has not been determined.

“(2) An application that is withdrawn is taken to have not been made.

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

“Division 4—Determination of application and payment of advance payment

Commission to determine application

“67A.(1) The Commission must determine the application in accordance with this Act.

“(2) The Commission must grant the application if it is satisfied that the person is eligible for the advance payment.

Payment of advance payment

“67B.(1) Subject to subsection (3), if the application is granted, the advance payment of the pension is to be paid on the next day on which:

- (a) the person is paid an instalment of the pension; and
- (b) it is practicable to pay the advance payment.

“(2) The advance payment is to be paid as a lump sum.

“(3) The Commission may determine that an advance payment is to be paid on a day stated in the determination.

“(4) An advance payment of a pension is not payable if the pension is cancelled or reduced to nil before the day on which the advance payment would be paid apart from this subsection.

“Division 5—Amount of advance payment

Amount of advance payment

Application

“67C.(1) The maximum amount of an advance payment of a pension is calculated under this section.

Amount of advance

“(2) The amount of the advance payment is the smallest of the following amounts:

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

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SCHEDULE 7—continued

Formula for maximum amount of advance under paragraph (2)(a)

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

$$6\% \times \text{annual payment rate}$$

where:

annual payment rate is the rate of pension payable under the relevant Pension Rate Calculator to the person on the last pension payday before the application for the advance payment was determined, excluding any amount payable by way of remote area allowance.

Rounding

“(4) Amounts worked out under subsection (3) must be rounded to the nearest 10 cents (rounding 5 cents upwards).

“Division 6—Advance payment deductions

Advance payment deduction

“67D.(1) Subject to subsection (2) and section 67G, an advance payment deduction is to be made from the rate of a pension that is payable to a person if:

- (a) the person has received an advance payment of that pension or of another pension that was previously payable to the person; and
- (b) the person has not yet repaid the whole of the advance payment; and
- (c) the amount of the advance payment that has not been repaid is not a debt under subsection 205(1AB).

“(2) An advance payment deduction is not to be made from a person’s rate of pension on the payday on which the advance payment is paid.

Amount of advance payment deduction—basic calculation

“67E. Subject to sections 67F, 67G, 67H and 67J, the advance payment deduction for an advance payment of a pension is the amount of the advance payment divided by 13.

Person may request larger advance payment deduction

“67F.(1) Subject to subsection (2) and sections 67G, 67H and 67J, a person’s advance payment deduction may be increased to a larger amount if the person asks the Commission in writing for the advance payment deduction to be the larger amount.

SCHEDULE 7—continued

“(2) Subsection (1) does not apply if the Commission is satisfied that the person would suffer severe financial hardship if the advance payment deduction were the larger amount.

Reduction of advance payment deduction in cases of severe financial hardship

Reduction

“67G.(1) Subject to subsection (2) and sections 67H and 67J, if:

- (a) the person applies in writing to the Commission for an advance payment deduction to be decreased, or to be stopped, because of severe financial hardship; and
- (b) the Commission is satisfied that:
 - (i) the person’s circumstances are exceptional and could not reasonably have been foreseen at the time of the person’s application for the advance payment; and
 - (ii) the person would suffer severe financial hardship if the advance payment deduction that would otherwise apply were to continue;

the Commission may determine in writing that, for the period stated in the determination, the advance payment deduction is to be the lesser amount (which may be a nil amount) stated in the determination.

Review of reduction

“(2) At any time while the determination is in force, the Commission may:

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

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

Variation or revocation in writing

“(3) A variation or revocation of a determination must be in writing.

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SCHEDULE 7—continued

The final advance payment deduction

“67H.(1) If an advance payment deduction that would otherwise be deducted from a person’s rate of pension exceeds the part of the advance payment that the person has not yet repaid (by previous deductions under this Division or otherwise), the amount of that advance payment deduction equals the part that the person has not yet repaid.

Example:

Facts:

Anne has been paid an advance of \$450.00. Anne’s payment deduction is worked out under section 67E as follows: $450 \div 13 = 34.62$. This amount is rounded under section 67K to \$34.60.

Anne has requested that the advance payment deduction be the larger amount of \$55.00 (see section 67F), so that the advance will be repaid sooner.

Application:

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

“(2) This section has effect subject to section 67J.

Conditional payment rate insufficient to cover advance payment deduction

“67J.(1) If the conditional payment rate (if any) referred to in the relevant Rate Calculator is less than the amount that would be the advance payment deduction apart from this subsection, the advance payment deduction is taken to be equal to the conditional payment rate.

“(2) Subsection (1) applies to the Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers as if references in that subsection to the *conditional payment rate* were references to the amount that would be the provisional rate if that rate did not include an amount by way of remote area allowance.

Note: The expression *conditional payment rate* does not appear in the Method statements in points 43-A1, 45X-B2 and 45Y-B2. This is because those Method statements apply only to blind people and the relevant payment rate for a blind person will never be less than the advance payment deduction.

Rounding of amounts

“67K. Amounts worked out under this Division must be rounded to the nearest 10 cents (rounding 5 cents upwards).

SCHEDULE 7—continued

Unrepaid advance payments to deceased partner to be disregarded

“67L.(1) In calculating, for the purposes of this Act, an amount of pension that would have been paid to a deceased person if the person had not died, any advance payment of pension that has been made to the person and has not been repaid is to be disregarded.

“(2) Subsection (1) does not affect the liability of the estate of the deceased person to repay to the Commonwealth so much of the advance payment as has not been repaid.”.

27. Subsection 205(1):

Add at the end:

“; or (g) a person has received an advance payment of service pension or of income support supplement.”.

28. Before subsection 205(1A):

Insert:

“(1AB) If:

- (a) a person has received an advance payment of a service pension or of an income support supplement; and
- (b) the service pension or income support supplement ceases to be payable to the person; and
- (c) at the time when the service pension or income support supplement ceases to be payable the person has not repaid the whole of the advance payment;

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

29. Paragraph 205(2)(b):

After “or (f)” insert “or subsection (1AB)”.

30. Subsection 205(8) (definition of *excluded amount*):

Insert after “or (f)” in paragraph (c) “or subsection (1AB)”.

31. Subsection 205(8) (definition of *recoverable amount*):

Insert after “or (f)” in paragraph (d) “or subsection (1AB)”.

*Veterans' Affairs Legislation Amendment
(1995-96 Budget Measures) (No. 2) No. 146, 1995*

SCHEDULE 8

Subsection 3(1)

**AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986
IN RELATION TO PAYMENTS IN RESPECT OF DEATH**

1. Section 5 (Index of definitions):

(a) Omit:

“bereavement period 5P”,

substitute:

“bereavement period 53H”.

(b) Omit the provisions relating to “bereavement notification day”, “first available bereavement adjustment payday”, “bereavement rate continuation period” and “bereavement lump sum period”.

2. Section 5P:

Repeal.

3. Subsection 5Q(1) (definition of *pension*):

Omit, substitute:

“*pension*, in Parts IIIA, IIIB and IIIC includes income support supplement.

4. Division 3 of Part III (Subdivisions F, G and H):

Repeal.

5. Division 4 of Part III (Subdivisions F, G and H):

Repeal.

6. Division 5 of Part III (Subdivisions F, G and H):

Repeal.

7. Division 6 of Part III (Subdivisions F, G, H and J):

Repeal.

8. Division 6 of Part IIIA:

Repeal.

9. After Division 12 of Part IIIB:

Insert:

“Division 12A—Payments after bereavement

“Subdivision A—Bereavement period

Definition

“53H. In this Division:

SCHEDULE 8—continued

bereavement period, in relation to a person's death, means the period of 14 weeks starting on the day after the day on which the person died.

“Subdivision B—Death of pensioner's partner

Application

“53J. This Subdivision applies if:

- (a) a person (the ***pensioner***) is receiving a pension; and
- (b) the pensioner is a member of a couple; and
- (c) the other member of the couple (the ***partner***) dies; and
- (d) immediately before the partner died, the partner was receiving a pension or a social security pension.

Note 1: Payments under this Subdivision are not affected by unrepaid advance payments of pension to a deceased person (section 67L).

Note 2: This Subdivision does not apply to a carer service pension or income support supplement if that pension or supplement is being received under section 53X.

What happens if pensioner's reassessed rate is equal to or greater than combined pensioner couple rate

“53K.(1) This section applies if the fortnightly amount of pension applicable in respect of the pensioner as a result of the partner's death ***is equal to or greater than*** the sum of the amounts of pension or social security pension that were payable to the pensioner and the partner for the last pension payday that occurred on or before the day of the partner's death.

“(2) The rate of pension that becomes applicable in respect of the pensioner as a result of the partner's death applies with effect from the day after the day of the partner's death.

“(3) Part of each amount of pension that is paid to the pensioner for a pension payday that occurs during the bereavement period is taken to be a bereavement payment. The part concerned is so much of the amount as is equal to the amount of pension or social security pension that was payable to the partner for the last pension payday that occurred on or before the day of the partner's death.

“(4) This section has effect subject to section 53M.

What happens if pensioner's reassessed rate is less than combined pensioner couple rate

“53L.(1) This section applies if the fortnightly amount of pension applicable in respect of the pensioner as a result of the partner's death ***is less than*** the sum of the amounts of pension or social security pension that were payable to the pensioner and the partner for the last pension payday that occurred on or before the day of the partner's death.

SCHEDULE 8—continued

“(2) Pension continues to be payable to the pensioner during the bereavement period at the rate at which it was payable immediately before the partner’s death.

“(3) The rate of pension that, apart from subsection (2), would be applicable in respect of the pensioner as a result of the partner’s death applies with effect from the day after the end of the bereavement period.

“(4) There is payable to the pensioner, for each pension payday in the bereavement period, a bereavement payment equal to the amount of the pension or social security pension that was payable to the partner for the last pension payday that occurred on or before the day of the partner’s death.

“(5) All or any of the bereavement payments payable to the pensioner under subsection (4) may be paid in advance in a lump sum.

“(6) This section has effect despite subsection 38C(2) but is subject to section 53M.

Determination of amount of pension and social security pension

“53M.(1) This section applies in determining for the purposes of section 53K or 53L the amounts of pension or social security pension that were payable to the pensioner and the partner for the last pension payday that occurred on or before the day of the partner’s death.

“(2) If the pensioner and partner were an illness separated couple or a respite care couple on the last pension payday, the amounts of pension or social security pension referred to in subsection (1) are to be worked out as if the pensioner and partner were not members of an illness separated couple or respite care couple but remained members of a couple.

“(3) If the partner was a war widow or war widower who was receiving a service pension, the amount of that pension that was payable to the partner for the last pension payday is taken to be the amount that would have been payable if section 41, 42 or 43 (whichever is appropriate) had applied in working out the rate of the pension and section 45 had not applied.

“(4) If the partner was a war widow or war widower who was receiving an income support supplement, the amount of that supplement that was payable to the partner for the last pension payday is taken to be:

- (a) in respect of a partner who was not permanently blind—the amount that would have been payable if the ceiling rate, or adjusted ceiling rate, as the case may be, were greater than the adjusted income reduced rate and the assets reduced rate; or
- (b) in respect of a partner who was permanently blind:

SCHEDULE 8—continued

- (i) if an adjusted ceiling rate applied as a result of a lump sum payment—the higher of the maximum basic rate and the adjusted ceiling rate; or
- (ii) otherwise—the maximum basic rate.

“(5) In determining under subsection (4) the amount of the income support supplement that was payable to the partner for the last pension payday, it is to be assumed that the adjusted income of the partner did not include the income referred to in paragraph (c) of the definition of *adjusted income* in subsection 5H(1).

“(6) If the partner was a war widow or war widower who was receiving a social security pension, the amount of that pension that was payable to the partner for the last pension payday is taken to be the amount that would have been payable if:

- (a) subsections 1064(5) and (6) and 1065(4) and (5) of the Social Security Act had not been enacted; and
- (b) the ordinary income of the partner did not include any instalment of pension that was payable to the partner under subsection 30(1).

Transfer to another pension

“53N.(1) This section applies if, on a day during the bereavement period, the pensioner:

- (a) ceases to receive the pension; and
- (b) begins to receive another pension or to receive a social security pension.

“(2) If the pensioner receives, for a pension payday occurring during the remainder of the bereavement period, a payment of the other pension or of the social security pension, part of the payment is taken to be a bereavement payment. The part concerned is so much of the payment as is equal to the amount of the pension or social security pension that was payable to the partner for the last pension payday that occurred on or before the day of the partner's death.

“Subdivision C—Death of pensioner

Application

“53P. This Subdivision applies if:

- (a) a person (the *pensioner*) is receiving a pension; and
- (b) either:
 - (i) the pensioner is not a member of a couple; or

SCHEDULE 8—continued

- (ii) the pensioner is a member of a couple and the pensioner's partner is not receiving a service pension or income support supplement, is not receiving a social security pension and is not receiving a social security benefit; and
- (c) the pensioner dies.

Payment of one instalment

“53Q.(1) Sections 123 to 123E do not apply as a result of the pensioner's death but there is payable to any person whom the Commission thinks appropriate an amount equal to the amount of pension that would have been payable to the pensioner (including, to remove any doubt, any amount of pension that would have been payable under this Division) for the first pension payday after the day of the pensioner's death if the pensioner had not died.

“(2) If the amount is paid under subsection (1) in respect of the pensioner, the Commonwealth is not liable to any action, claim or demand for further payment under that subsection in respect of the pension.

“(3) If a lump sum bereavement payment that included an amount for a pension payday that occurred after the day of the pensioner's death had been made to the pensioner under this Division before the pensioner's death, the amount is not recoverable from the pensioner's estate.

“Subdivision D—Death of dependent child

Application

“53R. This Subdivision applies if:

- (a) a person (the *pensioner*) is receiving a pension; and
- (b) a child dies; and
- (c) immediately before the child died, the pensioner's pension rate included:
 - (i) a dependent child add-on in respect of the child; or
 - (ii) guardian allowance in respect of the child.

When reassessed pension rate in respect of pensioner comes into effect

“53S.(1) Pension continues to be payable to the pensioner for pension paydays during the bereavement period as if the child had not died.

“(2) The rate of pension that becomes applicable to the pensioner as a result of the child's death applies with effect from the day after the end of the bereavement period.

SCHEDULE 8—continued

Bereavement payment

“53T.(1) Part of each instalment of pension that is paid to the pensioner for a pension payday that occurs during the bereavement period is taken to be a bereavement payment. The part concerned is so much of the instalment as related to the child.

“(2) All or any of the bereavement payments payable to the pensioner under subsection (1) may be paid in advance in a lump sum.

*“Subdivision E—Death of non-partner who is being cared for by
person in receipt of pension*

Definition

“53U. In this Subdivision:

pension means a carer service pension or an income support supplement payable under section 45AB.

Continuation of pension for bereavement period

“53V.(1) If:

- (a) a person (the *pensioner*) is receiving a pension; and
- (b) the pensioner is caring for a person who is not the pensioner's partner; and
- (c) the person being cared for dies;

the pensioner remains eligible for the pension during the bereavement period as if the person being cared for had not died.

“(2) Any amounts paid to the pensioner under subsection (1) are bereavement payments.

“(3) All or any of the bereavement payments payable to the pensioner under subsection (1) may be paid in advance in a lump sum.

“(4) If the pensioner is eligible for a pension solely because of this section, the rate at which the pension is payable is to be determined having regard to the pensioner's actual circumstances.

“(5) A person's entitlements under this Subdivision are instead of, and not in addition to, any entitlements that the person would have to a pension, a social security pension or a social security benefit if this section had not been enacted.

“(6) If a person to whom subsection (1) applies receives, for a pension payday occurring during the bereavement period, a payment of a pension otherwise than under this section, a payment of a social security pension or

SCHEDULE 8—continued

a payment of a social security benefit, part of the payment is taken to be a bereavement payment. The part concerned is so much of the payment as is equal to the amount of the pension under this section that would, apart from subsection (5), have been payable to the person for that payday.

Note: This Subdivision does not apply if the pension is being received under section 53X.

Lump sum payable in some circumstances

“53W.(1) A lump sum is payable to a person under this section if:

- (a) the person is receiving a pension; and
- (b) the person is caring for another person who is not the person's partner; and
- (c) the person being cared for dies; and
- (d) immediately before the death of the person being cared for, either:
 - (i) the person being cared for was not a member of a couple; or
 - (ii) the person being cared for was a member of a couple and the partner of the person being cared for was not receiving a pension, was not receiving a social security pension and was not receiving a social security benefit.

Note: If the partner of the person being cared for was receiving a pension, a social security pension or a social security benefit, the partner would be eligible to receive bereavement payments in respect of the death of the person being cared for.

“(2) The amount of the lump sum under this section is the lesser of:

- (a) the amount worked out using the formula:

$$\text{partnered MBR} \times 7; \text{ or}$$

- (b) the amount worked out using the formula:

$$\text{carer's current instalment} \times 7;$$

where:

partnered MBR means the maximum basic rate applicable, on the day on which the person being cared for dies, to a person covered by item 3 of Table B in point 41-B1 of the Rate Calculator in section 41.

carer's current instalment means the amount of the last instalment of pension paid to the carer before the person cared for died.

“(3) An amount paid under this section is a bereavement payment.”.

10. Sections 123, 123A, 123B, 123C, 123D and 123E:

Add at the end of each section:

“Note: Sections 123 to 123E do not apply if Subdivision C of Division 12A of Part IIIB applies.”.

SCHEDULE 9

Subsection 3(1)

**OTHER AMENDMENTS OF THE VETERANS' ENTITLEMENTS
ACT 1986**

1. Subsection 39(1):

Omit, substitute:

“(1) A person is eligible for a carer service pension if the person personally provides constant care for a severely handicapped veteran.”.

2. After point 42-C7:

Insert in Module C:

Increase in rate of guardian allowance

“42-C8. The rate of guardian allowance is taken to be increased by \$104 on 19 September 1996.”.

3. Paragraph 45AB(1)(d):

Omit “person; and”, substitute “person.”.

4. Paragraph 45AB(1)(e):

Omit.

5. After point 45Y-G9:

Insert in Module G:

Increase in rate of guardian allowance

“45Y-G10. The rate of guardian allowance is taken to be increased by \$104 on 19 September 1996.”.

6. Subsection 58G(1):

Omit “and 58J”, substitute “, 58J and 58JA”.

7. After section 58J

Insert in Subdivision A of Division 17 of Part IIIB:

Payments at pensioner's request

“58JA.(1) The recipient of a pension may, by writing, request the Commission to make deductions from instalments of the pension for the purpose of making payments included in a class of payments approved by the Minister.

“(2) If such a request is made, the Commission may make the deductions and, if it does so, is to pay the amounts deducted in accordance with the request.

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SCHEDULE 9—continued

“(3) The Minister may, by writing, approve classes of payments for the purposes of this section.

“(4) An approval is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

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SCHEDULE 10

Subsection 3(2)

**AMENDMENT OF THE SOCIAL SECURITY AND VETERANS'
AFFAIRS LEGISLATION AMENDMENT ACT 1988**

PART 1—AMENDMENTS RETROSPECTIVE TO 12 JUNE 1989

1. Paragraph 30(3)(a):

Omit, substitute:

“(a) when the person is no longer entitled to be paid a pension under Part III of the *Veterans' Entitlements Act 1986* or a social security payment under the *Social Security Act 1947*; or”.

2. Paragraph 31(3)(a):

Omit, substitute:

“(a) when the person is no longer entitled to be paid a pension under Part III of the *Veterans' Entitlements Act 1986* or a social security payment under the *Social Security Act 1947*; or”.

*Veterans' Affairs Legislation Amendment
(1995-96 Budget Measures) (No. 2) No. 146, 1995*

SCHEDULE 10—continued

PART 2—AMENDMENTS RETROSPECTIVE TO 1 JULY 1991

3. Subparagraph 30(1)(b)(i):

After “pension” insert “or a social security payment under the *Social Security Act 1947* or the *Social Security Act 1991*”.

4. Subparagraph 31(1)(b)(i):

After “pension” insert “or a social security payment under the *Social Security Act 1947* or the *Social Security Act 1991*”.

*Veterans' Affairs Legislation Amendment
(1995-96 Budget Measures) (No. 2) No. 146, 1995*

SCHEDULE 10—continued

**PART 3—AMENDMENTS RETROSPECTIVE TO 20 MARCH
1995**

5. Subparagraph 30(1)(b)(i):

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

6. Subsection 30(1):

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

7. Paragraphs 30(3)(b), (c) and (d):

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

8. Subsections 30(3), (4) and (5):

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

9. Subparagraph 31(1)(b)(i):

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

10. Paragraphs 31(2)(b), (c) and (d):

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

*Veterans' Affairs Legislation Amendment
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SCHEDULE 10—continued

PART 4—REPEAL OF TRANSITIONAL PROVISIONS

11. Sections 30 and 31:

Repeal.

*Veterans' Affairs Legislation Amendment
(1995-96 Budget Measures) (No. 2) No. 146, 1995*

SCHEDULE 11

Subsection 3(3)

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

**PART 1—AMENDMENTS RETROSPECTIVE TO 20 MARCH
1993**

1. After paragraph 111(1)(a):

Insert:

“(aa) at all times on or after that date the person was entitled to be paid a service pension under the *Veterans' Entitlements Act 1986* or a social security payment under the *Social Security Act 1991*; and”.

2. Paragraph 111(5)(a):

Omit, substitute:

“(a) the person no longer receives a service pension under the *Veterans' Entitlements Act 1986* or a social security payment under the *Social Security Act 1991*; or”.

*Veterans' Affairs Legislation Amendment
(1995-96 Budget Measures) (No. 2) No. 146, 1995*

SCHEDULE 11—continued

**PART 2—AMENDMENTS RETROSPECTIVE TO 20 MARCH
1995**

3. Paragraph 111(3)(b):

Omit, substitute:

“(b) after that date, the person becomes entitled to be paid a service pension or an income support supplement; and”.

4. Paragraph 111(5)(a):

Omit, substitute:

“(a) the person no longer receives a service pension or an income support supplement under the *Veterans' Entitlements Act 1986*, or a social security payment under the *Social Security Act 1991*; or”.

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SCHEDULE 11—continued

PART 3—REPEAL OF TRANSITIONAL PROVISIONS

**5. Section 111:
Repeal.**

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(1995-96 Budget Measures) (No. 2) No. 146, 1995*

SCHEDULE 12

Subsection 3(4)

AMENDMENT OF THE INCOME TAX ASSESSMENT ACT 1936

**PART 1—AMENDMENT RELATING TO RESIDENTIAL CARE
CHARGE**

1. After paragraph 24ACA(1)(a):

Insert:

“(aa) so much of the payment as was included in the payment because the taxpayer paid, or is liable to pay, a residential care charge; and”.

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SCHEDULE 12—continued

**PART 2—AMENDMENTS RELATING TO TAXATION OF
PAYMENTS UNDER THE VETERANS' ENTITLEMENTS ACT
1986**

2. Section 24AC (Index of payments):

(a) After:

"Decoration allowance | 24ACO"

insert:

"Income support supplement | 24ACHA".

(b) Omit "Pharmaceutical supplement", substitute "Pharmaceutical allowance".

3. Paragraph 24ACA(1)(b):

Omit "pension", substitute "payment".

4. Subsection 24ACA(2):

Omit.

5. Section 24ACC:

Repeal, substitute:

Interpretation—meaning of pension age

"24ACC. In this Subdivision:

pension age has the same meaning as in the *Social Security Act 1991*."

6. Sections 24ACE, 24ACF, 24ACG and 24ACH:

Repeal, substitute:

Age service pension

"24ACE. The treatment of payments of age service pension under Division 3 of Part III of the *Veterans' Entitlements Act 1986* is as follows:

(a) the supplementary amount is exempt;

(b) a bereavement payment is exempt;

(c) the balance is not exempt.

Invalidity service pension

"24ACF.(1) The treatment of payments of invalidity service pension under Division 3 of Part III of the *Veterans' Entitlements Act 1986* is as set out in this section:

"(2) The supplementary amount is exempt.

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SCHEDULE 12—continued

“(3) A bereavement payment is exempt.

“(4) The balance is treated in accordance with the following Table:

Item	Category	Balance of payment
1	Taxpayer not under pension age	Not exempt
2	Taxpayer under pension age	Exempt

Partner service pension

“24ACG.(1) The treatment of payments of partner service pension under Division 5 of Part III of the *Veterans' Entitlements Act 1986* is as set out in this section.

“(2) The supplementary amount is exempt.

“(3) A bereavement payment is exempt.

“(4) The balance is treated in accordance with the following Table:

Item	Category	Balance of payment
1	(a) Both taxpayer and veteran under pension age; and (b) Veteran receiving invalidity service pension	Exempt
2	(a) Taxpayer under pension age; and (b) Veteran deceased; and (c) Veteran was receiving an invalidity service pension immediately before death	Exempt
3	Neither of the categories in items 1 and 2 applies	Not exempt

Carer service pension

“24ACH.(1) The treatment of payments of carer service pension under Division 6 of Part III of the *Veterans' Entitlements Act 1986* is as set out in this section.

“(2) The supplementary amount is exempt.

“(3) A bereavement payment is exempt.

“(4) The balance is treated in accordance with the following Table:

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SCHEDULE 12—continued

Item	Category	Balance of payment
1	(a) Both taxpayer and veteran under pension age; and (b) Veteran receiving invalidity service pension	Exempt
2	(a) Taxpayer under pension age; and (b) Veteran deceased; and (c) Veteran was receiving an invalidity service pension immediately before death	Exempt
3	Neither of the categories in items 1 and 2 applies	Not exempt

Income support supplement

“24ACHA.(1) The treatment of payments of income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986* is as set out in this section.

“(2) The supplementary amount is exempt.

“(3) A bereavement payment is exempt.

“(4) The balance is treated in accordance with the following Table:

Item	Category	Balance of payment
1	Taxpayer is: (a) permanently incapacitated for work; and (b) under pension age	Exempt
2	(a) Taxpayer personally provides constant care for a severely handicapped person; and (b) Both taxpayer and severely handicapped person are under pension age	Exempt
3	(a) Either of the following subparagraphs applies: (i) taxpayer's partner is an invalidity service pensioner or a disability support pensioner; (ii) taxpayer's partner is receiving income support supplement and is permanently incapacitated for work; and (b) Both taxpayer and taxpayer's partner are under pension age	Exempt
4	None of the categories in items 1, 2 and 3 applies	Not exempt

”

**7. Section 24ACX:
Repeal.**

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SCHEDULE 12—continued

8. Subdivision D of Division 1AA of Part III:

Repeal.

9. Paragraph 251U(1)(b):

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

10. Subparagraph 251U(1)(cb)(ii):

Omit “invalid”, substitute “invalidity”.

11. After subparagraph 251U(1)(cb)(ii):

Insert:

“ or (iii) a partner service pension under Division 5 of Part III of the *Veterans' Entitlements Act 1986*;”.

12. After paragraph 251U(1)(cb):

Insert:

“(cc) during the whole of that period:

- (i) the person was receiving income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*; and
- (ii) the rate of the person's income support supplement was worked out under point 45X-B2 in Module B of the Income Support Supplement Rate Calculator at the end of section 45X, or under point 45Y-B2 in Module B of the Income Support Supplement Rate Calculator at the end of section 45Y, of the *Veterans' Entitlements Act 1986*;”.

13. Application

The amendments made by this Schedule apply to assessments in respect of income of the 1995-96 year of income and of all later years of income.

Note: The heading to section 24ACW is altered by omitting “supplement” and substituting “allowance”.

SCHEDULE 13

Subsection 3(5)

**AMENDMENT OF THE FRINGE BENEFITS TAX (APPLICATION
TO THE COMMONWEALTH) ACT 1986**

1. Subsection 3(1):

Insert:

“Entitlements Act means the Veterans' Entitlements Act 1986.”.

2. After section 6:

Insert:

Exemption of benefits provided to certain people

“6AA. For the purposes of the application of the Assessment Act in accordance with this Act, if a benefit (other than a benefit referred to in section 6) is provided, in respect of the employment of a Commonwealth employee, because of the employee being:

- (a) a veteran as defined by subsection 5C(1) of the Entitlements Act to whom, or in respect of whom, a pension is payable under Part II of that Act; or
- (b) a veteran as defined by subsection 5C(1) of the Entitlements Act who is eligible to receive a service pension, or in respect of whom a service pension is payable, under Part III of that Act; or
- (c) a member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68(1) of the Entitlements Act to whom, or in respect of whom, pension is payable under Part IV of that Act;

the benefit is an exempt benefit.

Exemption of benefits provided to Commonwealth employees under the Entitlements Act

“6AB. For the purposes of the application of the Assessment Act in accordance with this Act, if a benefit is provided under the Entitlements Act in respect of the employment of a Commonwealth employee, the benefit is an exempt benefit.

Exemption of health care benefits provided to certain members of the Defence Force

“6AC.(1) For the purposes of the application of the Assessment Act in accordance with this Act, if a benefit that consists of the provision of health care and is not otherwise an exempt benefit is provided, in respect of the employment of a Commonwealth employee, because of the employee being a member of the Defence Force, the first-mentioned benefit is an exempt benefit.

*Veterans' Affairs Legislation Amendment
(1995-96 Budget Measures) (No. 2) No. 146, 1995*

SCHEDULE 13—continued

“(2) In this section, a reference to an employee being a member of the Defence Force is a reference to an employee who is, was formerly, or will become, a member of the Defence Force.”.

3. Application

The amendments made by this Schedule apply to assessments in respect of the fringe benefits taxable amount of the year of tax that began on 1 April 1995 and of all later years of tax.

*Veterans' Affairs Legislation Amendment
(1995-96 Budget Measures) (No. 2) No. 146, 1995*

SCHEDULE 14

Subsection 3(6)

AMENDMENT OF THE SOCIAL SECURITY ACT 1991

1. Schedule 1A:

After subclause 63(9) insert:

“(10) If:

- (a) a person is receiving a social security pension or a social security benefit; and
- (b) neither subclause (1) nor (3) applies to the person; and
- (c) the person has become or becomes a member of a couple; and
- (d) the person's partner is receiving a pension under the *Veterans' Entitlements Act 1986* and is a person to whom clause 4 of Schedule 5 to that Act applies;

the amount by way of rent assistance to be used to calculate the rate of the person's social security pension or social security benefit is not to fall below one-half of the amount that would be the person's partner's floor amount if subclause (1) or (3) applied to the partner.”.

*[Minister's second reading speech made in—
House of Representatives on 21 November 1995
Senate on 22 November 1995]*