



# **Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008**

No. 63, 2008

**An Act to amend the law relating to social security,  
veterans' affairs, family assistance, child support  
and taxation, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# **Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008**

**No. 63, 2008**

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**An Act to amend the law relating to social security,  
veterans' affairs, family assistance, child support  
and taxation, and for related purposes**

*[Assented to 30 June 2008]*

The Parliament of Australia enacts:

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*Families, Housing, Community Services and Indigenous Affairs and Other Legislation  
Amendment (2008 Budget and Other Measures) Act 2008 No. 63, 2008 1*

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## 1 Short title

This Act may be cited as the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information  |   |                  |
|---|---|------------------|
| Column 1  | Column 2  | Column 3         |
| Provision(s)  | Commencement  | Date/Details     |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent.  | 30 June 2008     |
| 2. Schedule 1   | 1 July 2008.  | 1 July 2008      |
| 3. Schedule 2, Parts 1 and 2  | 1 January 2009.   | 1 January 2009   |
| 4. Schedule 2, Part 3   | 1 July 2008.  | 1 July 2008      |
| 5. Schedule 2, Part 4   | 1 January 2009.   | 1 January 2009   |
| 6. Schedule 3   | 1 September 2008.   | 1 September 2008 |
| 7. Schedule 4, Part 1   | 1 July 2008.  | 1 July 2008      |
| 8. Schedule 4, Part 2   | The day on which this Act receives the Royal Assent.  | 30 June 2008     |
| 9. Schedule 5   | 1 July 2008.  | 1 July 2008      |
| 10. Schedule 6, items 1 and 2   | Immediately after the commencement of item 8 of Schedule 8 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> . | 1 July 2008      |

2 *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008* No. 63, 2008

| <b>Commencement information</b>      |  |                     |
|--------------------------------------|--|---------------------|
| <b>Column 1</b>                      | <b>Column 2</b>  | <b>Column 3</b>     |
| <b>Provision(s)</b>                  | <b>Commencement</b>  | <b>Date/Details</b> |
| 11. Schedule 6, items 3 and 4        | Immediately after the commencement of item 55 of Schedule 8 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .       | 1 July 2008         |
| 12. Schedule 6, item 5               | Immediately after the commencement of item 155 of Schedule 8 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .      | 1 July 2008         |
| 13. Schedule 6, item 6               | The day on which this Act receives the Royal Assent.   | 30 June 2008        |
| 14. Schedule 6, items 7 and 8        | Immediately after the commencement of item 63 of Schedule 5 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .       | 1 July 2008         |
| 15. Schedule 6, item 9               | Immediately after the commencement of item 155 of Schedule 8 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .      | 1 July 2008         |
| 15A. Schedule 6, items 9A, 9B and 9C | Immediately after the commencement of items 1 and 2 of Schedule 2 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> . | 1 July 2008         |
| 16. Schedule 6, items 10 and 11      | The day on which this Act receives the Royal Assent.   | 30 June 2008        |
| 18. Schedule 6, item 13              | The day on which this Act receives the Royal Assent.   | 30 June 2008        |
| 20. Schedule 6, item 15              | The day on which this Act receives the Royal Assent.   | 30 June 2008        |

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**Commencement information**

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| <b>Column 1</b>                 | <b>Column 2</b>  | <b>Column 3</b>     |
|---------------------------------|--|---------------------|
| <b>Provision(s)</b>             | <b>Commencement</b>  | <b>Date/Details</b> |
| 21. Schedule 6, items 16 and 17 | Immediately after the commencement of items 73 and 74 of Schedule 5 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> . | 6 December 2006     |
| 22. Schedule 6, items 18 to 20  | Immediately after the commencement of item 8 of Schedule 7 to the <i>Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006</i> .          | 1 July 2008         |
| 23. Schedule 6, items 21 to 23  | The day on which this Act receives the Royal Assent.   | 30 June 2008        |

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

### 4 Review of operation of amendments

- (1) The Minister must cause an independent review of the operation of the amendments made by this Act to be undertaken and completed by 30 June 2010.
- (2) The persons who undertake the review under subsection (1) must give the Minister a written report of the review.
- (3) The Minister must cause a copy of the report of the review under subsection (1) to be tabled in each House of the Parliament within



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15 sitting days of the day on which the report is given to the Minister.

- (4) The review must be conducted by a panel of not less than 5 persons, of which at least:
- (a) 3 persons must be nominated by relevant key stakeholder organisations; and
  - (b) 2 persons must be nominated by the Minister.

## Schedule 1—Income limit for family tax benefit Part B

### Part 1—Main amendments

#### *A New Tax System (Family Assistance) Act 1999*

##### **1 Paragraph 1(1)(b) of Schedule 1**

Omit “29”, substitute “28B”.

##### **2 Before Subdivision A of Division 1 of Part 4 of Schedule 1**

Insert:

##### **Subdivision AA—When Part B rate is nil**

##### **28B When Part B rate is nil**

- (1) Despite Subdivisions A and B, an individual’s Part B rate is nil if the individual’s adjusted taxable income is more than \$150,000.

Note: If the individual is a member of a couple, the individual’s adjusted taxable income is the higher of the individual’s adjusted taxable income and the adjusted taxable income of the individual’s partner: see clause 3 of Schedule 3.

- (2) However, subclause (1) does not apply while the individual, or the individual’s partner, is receiving a social security pension, a social security benefit, a service pension or income support supplement.

##### **3 Subclause 3(2) of Schedule 3**

Repeal the subclause, substitute:

- (2) For the purposes of Part 4 of Schedule 1, if an individual is a member of a couple, the individual’s adjusted taxable income for an income year is:
- (a) for the purposes of Subdivision AA of Division 1 of Part 4 of Schedule 1:
- (i) the individual’s adjusted taxable income for that year; or

- (ii) the adjusted taxable income for that year of the individual's partner if it is more than the individual's adjusted taxable income for that year; and
- (b) for the purposes of the other provisions of Part 4 of Schedule 1:
  - (i) the individual's adjusted taxable income for that year; or
  - (ii) the adjusted taxable income for that year of the individual's partner if it is less than the individual's adjusted taxable income for that year.

#### **4 Schedule 4 (heading) (note)**

Omit "75", substitute "85".

#### **5 Clause 2 of Schedule 4 (after table item 17)**

Insert:

|      |  |                      |                                   |
|------|--|----------------------|-----------------------------------|
| 17AA | Income limit for family tax benefit (Part B) | FTB income limit (B) | [Schedule 1—<br>subclause 28B(1)] |
|------|--|----------------------|-----------------------------------|

#### **6 Subclause 3(1) of Schedule 4 (after table item 17)**

Insert:

|      |                            |        |          |  |        |
|------|----------------------------|--------|----------|--|--------|
| 17AA | FTB<br>income<br>limit (B) | 1 July | December | highest<br>December<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than<br>December<br>quarter<br>2007) | \$1.00 |
|------|----------------------------|--------|----------|--|--------|

#### **7 Application**

- (1) The amendments made by items 1 to 3 apply in relation to the 2008-09 income year and later income years.
- (2) The amendment made by item 6 applies in relation to the indexation day that is 1 July 2009 and all later indexation days.

## Part 2—Other amendments

### *Income Tax Assessment Act 1936*

#### **8 After subsection 159J(1AA)**

Insert:

- (1AB) A taxpayer is not entitled, in his or her assessment in respect of a year of income, to a rebate under this section in respect of a dependant included in class 1, 2, 5 or 6 in the table in subsection (2) if the taxpayer's taxable income for the year is more than \$150,000.

#### **9 After subsection 159L(3A)**

Insert:

- (3B) A taxpayer is not entitled, in his or her assessment in respect of a year of income, to a rebate under this section if the taxpayer's taxable income for the year is more than \$150,000.

#### **10 Subsection 159P(4) (at the end of paragraphs (a) and (b) of the definition of *dependant*)**

Add "or".

#### **11 Subsection 159P(4) (after paragraph (c) of the definition of *dependant*)**

Insert:

- (ca) a person included in class 1, class 2, class 5 or class 6 in the table in subsection 159J(2) in respect of whom the taxpayer would be entitled to a rebate under section 159J but for subsection 159J(1AB); or

### *Medicare Levy Act 1986*

#### **12 Paragraph 8(1)(b)**

After "subsection 159J(1AA)", insert "or (1AB)".

#### **13 Paragraph 8(1)(d)**

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After “subsection 159L(3A)”, insert “or (3B)”.

**14 Paragraph 8(2)(b)**

After “subsection 159J(1AA)”, insert “or (1AB)”.

**15 Paragraph 8(2)(d)**

After “subsection 159L(3A)”, insert “or (3B)”.

**16 Application**

The amendments made by this Part apply in relation to the 2008-09 income year and later income years.

## Schedule 2—Baby bonus

### Part 1—Income limit for baby bonus

#### *A New Tax System (Family Assistance) Act 1999*

**1 Subparagraph 36(2)(b)(i)**

Omit “13”, substitute “26”.

**2 Subparagraph 36(2)(c)(iii)**

Omit “26”, substitute “52”.

**3 At the end of subsection 36(2)**

Add:

; and (d) the claim for payment of baby bonus contains an estimate of the sum of:

(i) the individual’s adjusted taxable income; and

(ii) if the individual is a member of a couple on the day the claim is made—the adjusted taxable income of the individual’s partner;

for the period of 6 months beginning on the day of the child’s birth; and

(e) that estimate is less than or equal to \$75,000 and the Secretary considers that estimate to be reasonable.

**4 Subsection 36(2A)**

Omit “26”, substitute “52”.

**5 Subsection 36(3)**

Omit “13” (wherever occurring), substitute “26”.

**6 At the end of subsection 36(3)**

Add:

; and (e) the claim for payment of baby bonus contains an estimate of the sum of:

(i) the individual’s adjusted taxable income; and

- (ii) if the individual is a member of a couple on the day the claim is made—the adjusted taxable income of the individual’s partner;  
for the period of 6 months beginning on the day the child is entrusted to care as mentioned in paragraph (b); and
- (f) that estimate is less than or equal to \$75,000 and the Secretary considers that estimate to be reasonable.

**7 Subparagraph 36(4)(b)(i)**

Omit “13”, substitute “26”.

**8 At the end of subsection 36(4)**

Add:

- ; and (c) the claim for payment of baby bonus contains an estimate of the sum of:
  - (i) the individual’s adjusted taxable income; and
  - (ii) if the individual is a member of a couple on the day the claim is made—the adjusted taxable income of the individual’s partner;  
for the period of 6 months beginning on the day of the child’s delivery; and
- (d) that estimate is less than or equal to \$75,000 and the Secretary considers that estimate to be reasonable.

**9 Subparagraph 36(5)(c)(i)**

Omit “13”, substitute “26”.

**10 At the end of subsection 36(5)**

Add:

- ; and (d) the claim for payment of baby bonus contains an estimate of the sum of:
  - (i) the individual’s adjusted taxable income; and
  - (ii) if the individual is a member of a couple on the day the claim is made—the adjusted taxable income of the individual’s partner;  
for the period of 6 months beginning on the day the child is entrusted to the care of the individual; and
- (e) that estimate is less than or equal to \$75,000 and the Secretary considers that estimate to be reasonable.

## 11 At the end of section 36

Add:

### *Estimate of adjusted taxable income*

- (6) For the purposes of paragraph (2)(d), (3)(e), (4)(c) or (5)(d):
- (a) a reference in Schedule 3 to an income year is taken to be a reference to the 6 month period mentioned in that paragraph; and
  - (b) disregard subclause 2(2) and clauses 3 and 3A of that Schedule.

## 12 Subparagraph 38(e)(i)

Omit “26”, substitute “52”.

## 13 Subsection 39(3)

Repeal the subsection, substitute:

### *Stillborn child*

- (3) Second, an individual is eligible for maternity immunisation allowance in respect of a child if:
- (a) the child is a stillborn child; and
  - (b) if the child had been born alive, the child would have been an FTB child of the individual at birth; and
  - (c) either:
    - (i) the individual would have been eligible for family tax benefit in respect of the FTB child, at any time within the period of 13 weeks starting on the day of the child’s delivery, assuming the child had not been a stillborn child; or
    - (ii) the individual would have been so eligible on the assumption described in subparagraph (i) except that the individual’s rate of family tax benefit, worked out under Division 1 of Part 4, is nil.

## 14 Clause 2 of Schedule 4 (after table item 17A)

Insert:

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17AAA Income limit for baby baby bonus income [paragraphs 36(2)(e),  
bonus limit (3)(f), (4)(d) and (5)(e)]

**15 Subclause 3(1) of Schedule 4 (after table item 17A)**

Insert:

|       |                                  |        |          |  |        |
|-------|----------------------------------|--------|----------|--|--------|
| 17AAA | baby<br>bonus<br>income<br>limit | 1 July | December | highest<br>December<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than<br>December<br>quarter<br>2007) | \$1.00 |
|-------|----------------------------------|--------|----------|--|--------|

***A New Tax System (Family Assistance) (Administration) Act  
1999***

**16 After paragraph 38(2)(a)**

Insert:

- (aa) in the case of a claim for baby bonus—the claim contains an estimate of the sum of:
- (i) the individual's adjusted taxable income; and
  - (ii) if the individual is a member of a couple on the day the claim is made—the adjusted taxable income of the individual's partner;
- for the 6 month period mentioned in paragraph 36(2)(d), (3)(e), (4)(c) or (5)(d) of the Family Assistance Act; and

**17 At the end of section 38**

Add:

*Estimate of adjusted taxable income*

- (3) For the purposes of paragraph (2)(aa):

## Schedule 2 Baby bonus

### Part 1 Income limit for baby bonus

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- (a) a reference in Schedule 3 to the Family Assistance Act to an income year is taken to be a reference to the 6 month period referred to in that paragraph; and
- (b) disregard subclause 2(2) and clauses 3 and 3A of that Schedule.

#### 18 Subsection 39(2)

Omit “26”, substitute “52”.

#### 19 Subsection 39(3)

Omit “26”, substitute “52”.

Note: The heading to subsection 39(3) is altered by omitting “26” and substituting “52”.

#### 20 Paragraphs 41(3)(d) and (e)

Omit “13”, substitute “26”.

#### 21 Paragraphs 41(4)(a) and (b)

Omit “13”, substitute “26”.

#### 22 Application

- (1) The amendments made by items 1 to 11 and 16 to 21 apply in relation to:
    - (a) so far as those amendments relate to subsection 36(2) of the *A New Tax System (Family Assistance) Act 1999*—children born on or after 1 January 2009; and
    - (b) so far as those amendments relate to subsection 36(3) of that Act—children entrusted to care on or after 1 January 2009; and
    - (c) so far as those amendments relate to subsection 36(4) of that Act—children delivered on or after 1 January 2009; and
    - (d) so far as those amendments relate to subsection 36(5) of that Act—children entrusted to care on or after 1 January 2009.
  - (2) The amendment made by item 12 applies in relation to an individual if the individual mentioned in paragraph 38(a) of the *A New Tax System (Family Assistance) Act 1999* is eligible for baby bonus under section 36 of that Act (as amended by this Part).
  - (3) The amendment made by item 13 applies in relation to children delivered on or after 1 January 2009.
-

- (4) The amendment made by item 15 applies in relation to the indexation day that is 1 July 2009 and all later indexation days.

## Part 2—Payment of baby bonus by instalments

### *A New Tax System (Family Assistance) Act 1999*

#### **23 Subparagraph 38(c)(ii)**

Omit “47(1A), (2) or (3)”, substitute “47(1AA)”.

### *A New Tax System (Family Assistance) (Administration) Act 1999*

#### **24 Before subsection 47(1)**

Insert:

*Payment of baby bonus*

(1AA) If the claimant is entitled to be paid baby bonus, the Secretary must, after each of the first 13 instalment periods that end after the determination granting the claim is made, pay to the claimant <sup>1/13</sup> of the amount of baby bonus that the claimant is entitled to be paid. The Secretary must pay it at such time as the Secretary considers appropriate and to the credit of a bank account nominated and maintained by the claimant.

(1AB) However, the Secretary may direct that the whole or a part of an amount which is to be paid for the purposes of subsection (1AA) is to be paid in a manner other than by payment to the credit of a bank account nominated and maintained by the claimant. If the Secretary gives the direction, the amount is to be paid in accordance with the direction (despite that subsection).

#### **25 Subsection 47(1)**

Omit “baby bonus or”.

Note: The following heading to subsection 47(1) is inserted “*Payment of maternity immunisation allowance*”.

#### **26 Subsections 47(1A) to (3A)**

Repeal the subsections.

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**27 Subsection 47(4)**

Omit “(1A), (2) or (3)”, substitute “(1AA)”.

**28 After subsection 47(4)**

Insert:

*Alternative payment arrangements—baby bonus*

(4A) If:

- (a) the claimant is entitled to be paid baby bonus because of eligibility under subsection 36(2), (3) or (5) of the Family Assistance Act and the child dies before the claimant is paid all of the amounts for the purposes of subsection (1AA) of this section; or
- (b) the claimant is entitled to be paid baby bonus because of eligibility under subsection 36(4) of the Family Assistance Act; or
- (c) the Secretary makes a determination under paragraph 37(3)(b) of the Family Assistance Act;

the Secretary may direct that the whole or a part of an amount which is to be paid for the purposes of subsection (1AA) of this section is to be paid in a different way from that provided for by that subsection. If the Secretary gives the direction, the amount is to be paid in accordance with the direction (despite that subsection).

**29 Subsection 47(5)**

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

Note: The heading to subsection 47(5) is altered by adding at the end “—*maternity immunisation allowance*”.

**30 Subsection 47(5)**

Omit “subsection (1) or (2)”, substitute “that subsection”.

**31 Subsection 47(5)**

Omit “those subsections”, substitute “that subsection”.

**32 Subsection 47(6)**

Omit “(1A), (2) or (3)”, substitute “(1AA)”.

### 33 Paragraph 66(2)(a)

Omit “47(2),”.

### 34 Application and transitional

- (1) The amendments made by items 24 to 33 apply in relation to:
  - (a) for claimants entitled to be paid baby bonus because of eligibility under subsection 36(2) of the *A New Tax System (Family Assistance) Act 1999* or section 38 of that Act (so far as it relates to that subsection)—children born on or after 1 January 2009; and
  - (b) for claimants entitled to be paid baby bonus because of eligibility under subsection 36(3) of that Act or section 38 of that Act (so far as it relates to that subsection)—children born on or after 1 January 2009; and
  - (c) for claimants entitled to be paid baby bonus because of eligibility under subsection 36(4) of that Act or section 38 of that Act (so far as it relates to that subsection)—children delivered on or after 1 January 2009; and
  - (d) for claimants entitled to be paid baby bonus because of eligibility under subsection 36(5) of that Act or section 38 of that Act (so far as it relates to that subsection)—children entrusted to care on or after 1 January 2009.
- (2) Subparagraph 38(c)(ii) of the *A New Tax System (Family Assistance) Act 1999* applies on and after 1 January 2009 as if a reference in that subparagraph to subsection 47(1AA) of the *A New Tax System (Family Assistance) (Administration) Act 1999* included a reference to subsection 47(1A), (2) or (3) of the *A New Tax System (Family Assistance) (Administration) Act 1999* (as in force immediately before 1 January 2009).

## **Part 3—Baby bonus indexation**

### *A New Tax System (Family Assistance) Act 1999*

#### **35 Subclause 3(1) of Schedule 4 (table item 17A)**

Repeal the item, substitute:

|     |            |        |          |  |        |
|-----|------------|--------|----------|--|--------|
| 17A | baby bonus | 1 July | December | highest<br>December<br>quarter<br>before<br>reference<br>quarter (but<br>not earlier<br>than<br>December<br>quarter<br>2007) | \$1.00 |
|-----|------------|--------|----------|--|--------|

#### **36 Application**

The amendment made by item 35 applies in relation to the indexation day that is 1 July 2009 and all later indexation days.

## **Part 4—Eligibility for baby bonus for adopted children**

### ***A New Tax System (Family Assistance) Act 1999***

#### **37 Paragraph 36(5)(b)**

Omit “2”, substitute “16”.

#### **38 Paragraph 36(5)(ba)**

Repeal the paragraph.

#### **39 Subsections 37(1) and (2)**

After “bonus”, insert “under subsection 36(2), (3) or (4)”.

#### **40 Subsection 37(3)**

After “for baby bonus”, insert “under subsection 36(2), (3) or (4)”.

#### **41 Subsection 37(4)**

After “couple is eligible for baby bonus”, insert “under subsection 36(2), (3), (4) or (5)”.

#### **42 Subsection 66(1)**

After “bonus”, insert “for an individual”.

### ***A New Tax System (Family Assistance) (Administration) Act 1999***

#### **43 Paragraphs 39(2)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) if the circumstances covered by the claim involve eligibility under subsection 36(5) of the Family Assistance Act—the time the child is entrusted to the care of the claimant.

#### **44 Application**

The amendments made by items 37, 38 and 43 apply in relation to children entrusted to care on or after 1 January 2009.

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## **Schedule 3—Seniors health card**

### ***Data-matching Program (Assistance and Tax) Act 1990***

#### **1 Subsection 3(1) (after paragraph (c) of the definition of *personal assistance*)**

Insert:

(caa) a seniors health card referred to in subsection 1061ZG(1) of the *Social Security Act 1991*; or

#### **2 Application**

The amendment made by item 1 applies in relation to seniors health cards granted before, on or after the commencement of that item.

### ***Social Security Act 1991***

#### **3 At the end of subsection 1061ZG(2)**

Add:

Note: If a person is qualified for a seniors health card, the Secretary must not make a determination granting a claim for the card in certain circumstances if the Secretary makes a request under subsection 75(2) or (3) of the Administration Act of the person (about providing tax file numbers): see subsections 76(1A) and 77(1A) of that Act.

### ***Social Security (Administration) Act 1999***

#### **4 At the end of subsection 37(8)**

Add:

Note: The Secretary must not make a determination granting a claim for a seniors health card in certain circumstances if the Secretary makes a request under subsection 75(2) or (3) of the claimant (about providing tax file numbers): see subsections 76(1A) and 77(1A).

#### **5 At the end of subsection 75(1)**

Add:

; or (c) has made a claim for a seniors health card; or  
(d) is the holder of a seniors health card.

## **6 After subsection 76(1)**

Insert:

- (1A) If the Secretary makes a request under subsection 75(2) of a person who has made a claim for a seniors health card, the Secretary must not make a determination granting the claim unless, within 28 days after the request is made:
- (a) the person satisfies the request; or
  - (b) the person satisfies subsection (2) or (3) of this section; or
  - (c) the Secretary exempts the person from the need to satisfy the request.
- (1B) If the Secretary makes a request under subsection 75(2) of a person who is the holder of a seniors health card, the Secretary is to determine that the card is to be cancelled unless, within 28 days after the request is made:
- (a) the person satisfies the request; or
  - (b) the person satisfies subsection (2) or (3) of this section; or
  - (c) the Secretary exempts the person from the need to satisfy the request.

## **7 After subsection 77(1)**

Insert:

- (1A) If the Secretary makes a request under subsection 75(3) of a person who has made a claim for a seniors health card, the Secretary must not make a determination granting the claim unless, within 28 days after the request is made:
- (a) the person satisfies the request; or
  - (b) the person satisfies subsection (3) or (4) of this section; or
  - (c) the Secretary exempts the person from the need to satisfy the request.
- (1B) If the Secretary makes a request under subsection 75(3) of a person who is the holder of a seniors health card, the Secretary is to determine that the card is to be cancelled unless, within 28 days after the request is made:
- (a) the person satisfies the request; or
  - (b) the person satisfies subsection (3) or (4) of this section; or

(c) the Secretary exempts the person from the need to satisfy the request.

**8 At the end of subsection 86(1)**

Add:

Note: The Secretary must cancel a seniors health card in certain circumstances if the Secretary makes a request under subsection 75(2) or (3) of the holder (about providing tax file numbers): see subsections 76(1B) and 77(1B).

**9 Section 121 (definition of *adverse determination*)**

After “under”, insert “subsection 76(1B) or 77(1B) or”.

**10 Paragraph 123(2)(a)**

After “under”, insert “subsection 76(1B) or 77(1B) or”.

**11 Application**

- (1) Paragraph 75(1)(c) of the *Social Security (Administration) Act 1999* (as inserted by this Act) applies in relation to claims for seniors health cards made on or after the commencement of this item.
- (2) Paragraph 75(1)(d) of the *Social Security (Administration) Act 1999* (as inserted by this Act) applies in relation to seniors health cards granted before, on or after the commencement of this item.

***Veterans’ Entitlements Act 1986***

**12 Subsection 118V(1A) (note 2)**

Omit “118ZAA”, substitute “118ZZA”.

**13 At the end of subsection 118V(4)**

Add:

Note: If a person is eligible for a seniors health card, the Commission must not determine that the person is entitled to the card if the person fails to comply with a request in subsection 128A(3) or (3A) (about provision of tax file numbers).

**14 Section 118ZG**

After “section 118X”, insert “and subsection 128A(2A)”.

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**15 Paragraph 118ZK(b)**

After “118ZO”, insert “or subsection 128A(2B)”.

**16 Subsection 118ZR(1)**

After “118ZO”, insert “or subsection 128A(2B)”.

**17 After subsection 128A(2)**

Insert:

- (2A) If a person (the *eligible person*) is eligible for a seniors health card under section 118V, the Commission must not determine that the person is entitled to the card if the person fails to comply with a request in subsection (3) or (3A) (whichever applies).
- (2B) If a person (the *eligible person*) is the holder of a seniors health card, the Commission is to determine that the person ceases to be entitled to the card if the person fails to comply with a request in subsection (3) or (3A) (whichever applies).

Note 1: For *holder of a seniors health card* see section 5PB.

Note 2: For the date of effect of a determination under this subsection see section 118ZR.

**18 Application**

- (1) Subsection 128A(2A) of the *Veterans’ Entitlements Act 1986* (as inserted by this Act) applies in relation to claims for seniors health cards made on or after the commencement of this item.
- (2) Subsection 128A(2B) of the *Veterans’ Entitlements Act 1986* (as inserted by this Act) applies in relation to seniors health cards granted before, on or after the commencement of this item.

## **Schedule 4—Income management regime**

### **Part 1—Voluntary income management agreements**

#### *Social Security (Administration) Act 1999*

#### **1 Section 123TA (at the end of the dot-point beginning with “A person may become subject to the income management regime”)**

Add:

; or (f) the person voluntarily agrees to be subject to the income management regime.

#### **2 Section 123TC**

Insert:

*declared voluntary income management area* has the meaning given by section 123TGA.

#### **3 Section 123TC (definition of *subject to the income management regime*)**

Omit “or 123UF”, substitute “, 123UF or 123UFA”.

#### **4 Section 123TC**

Insert:

*voluntary income management agreement* means an agreement under section 123UM.

#### **5 After section 123TG**

Insert:

#### **123TGA Declared voluntary income management area**

The Minister may, by legislative instrument, determine that:

- (a) a specified State; or
- (b) a specified Territory; or
- (c) a specified area;

is a *declared voluntary income management area* for the purposes of this Part.

**6 At the end of Subdivision A of Division 2 of Part 3B**

Add:

**123UFA Persons subject to the income management regime—  
voluntary income management agreement**

For the purposes of this Part, a person is *subject to the income management regime* at a particular time if, at that time, a voluntary income management agreement is in force in relation to the person.

**7 At the end of Division 2 of Part 3B**

Add:

**Subdivision D—Voluntary income management agreements**

**123UM Voluntary income management agreement**

- (1) A person may enter into a written agreement with the Secretary under which the person agrees voluntarily to be subject to the income management regime throughout the period when the agreement is in force.
- (2) An agreement under subsection (1) is to be known as a *voluntary income management agreement*.
- (3) The Secretary must not enter into a voluntary income management agreement with a person (the *first person*) unless:
  - (a) the first person is an eligible recipient of a category H welfare payment; and
  - (b) the first person's usual place of residence is within a declared voluntary income management area; and
  - (c) if the first person has a payment nominee—the payment nominee is not an excluded payment nominee; and
  - (d) if the first person is a payment nominee in relation to another person—a consent given by the other person is in force under section 123UP in relation to the first person.

- (4) In deciding whether to enter into a voluntary income management agreement with a person, the Secretary must have regard to:
  - (a) the extent to which it would be feasible for the Secretary to take action under Division 6 in relation to the person if the person were subject to the income management regime; and
  - (b) such other matters (if any) as the Secretary considers relevant.
- (5) The Secretary must not enter into a voluntary income management agreement with a person if:
  - (a) the person is subject to the income management regime under section 123UB, 123UC, 123UD, 123UE or 123UF; or
  - (b) during the 12-month period ending when the voluntary income management agreement is to come into force, there were 2 or more occasions on which previous voluntary income management agreements relating to the person were terminated under subsection 123UO(2).

### **123UN Duration of voluntary income management agreement**

- (1) A voluntary income management agreement in relation to a person (the *first person*):
  - (a) comes into force at the time specified in the agreement, so long as:
    - (i) at that time, the first person is an eligible recipient of a category H welfare payment; and
    - (ii) at that time, the first person's usual place of residence is within a declared voluntary income management area; and
    - (iii) if, at that time, the first person has a payment nominee—the payment nominee is not an excluded payment nominee; and
    - (iv) if, at that time, the first person is a payment nominee in relation to another person—a consent given by the other person is in force under section 123UP in relation to the first person; and
    - (v) at that time, the first person is not subject to the income management regime under section 123UB, 123UC, 123UD, 123UE or 123UF; and
  - (b) remains in force for 12 months.

- (2) Subsection (1) has effect subject to section 123UO.
- (3) If a voluntary income management agreement (the *original agreement*) in relation to a person is in force, subsection (1) does not prevent the Secretary from entering into a new voluntary income management agreement with the person, so long as the new agreement is expressed to come into force immediately after the original agreement ceases to be in force.
- (4) If a voluntary income management agreement in relation to a person has ceased to be in force, subsection (1) does not prevent the Secretary from entering into a new voluntary income management agreement with the person.

### **123UO Termination of voluntary income management agreement**

#### *Termination by request*

- (1) If a voluntary income management agreement relates to a person, the person may, by written notice given to the Secretary, request the Secretary to terminate the agreement.
- (2) The Secretary must comply with a request under subsection (1) as soon as practicable after receiving the request.

#### *Grounds of termination*

- (3) If:
  - (a) a voluntary income management agreement in relation to a person (the *first person*) is in force; and
  - (b) any of the following events occurs:
    - (i) the first person ceases to be an eligible recipient of a category H welfare payment;
    - (ii) the first person's usual place of residence ceases to be within a declared voluntary income management area;
    - (iii) in a case where the first person has a payment nominee—the payment nominee becomes an excluded payment nominee;
    - (iv) in a case where the first person is a payment nominee in relation to another person—a consent given by the other person under section 123UP in relation to the first person ceases to be in force;



- (v) the first person becomes subject to the income management regime under section 123UB, 123UC, 123UD, 123UE or 123UF;
- (vi) the Secretary becomes satisfied that it is not feasible for the Secretary to take action under Division 6 in relation to the first person;

the Secretary must terminate the voluntary income management agreement as soon as practicable after the occurrence of the event.

*Limit on new voluntary income management agreements*

- (4) If a voluntary income management agreement in relation to a person is terminated under this section, the Secretary must not enter into another voluntary income management agreement with the person within 60 days after the termination.

**123UP Consent for payment nominee to enter voluntary income management agreement**

- (1) If a person has a payment nominee, the person may give the Secretary a written consent to the existence of a voluntary income management agreement that relates to the payment nominee.
- (2) A consent given by a person under subsection (1) remains in force until the person, by written notice given to the Secretary, withdraws the consent.

**8 Paragraph 123WJ(1)(c)**

Repeal the paragraph, substitute:

- (c) if, immediately before the first person ceased to be subject to the income management regime, the first person was subject to the income management regime under section 123UB, 123UC, 123UD, 123UE or 123UF—the Secretary is satisfied that the first person is not likely to become subject to the income management regime within 60 days after the cessation; and
- (d) if, immediately before the first person ceased to be subject to the income management regime, the first person was subject to the income management regime under section 123UFA—the Secretary is satisfied that the first person is not likely to become subject to the income management regime under

section 123UB, 123UC, 123UD, 123UE or 123UF within 60 days after the cessation.

**9 At the end of subsection 123WJ(9)**

Add:

- ; or (c) immediately before the first person ceased to be subject to the income management regime, the first person was subject to the income management regime under section 123UFA.

**10 After Subdivision D of Division 5 of Part 3B**

Insert:

**Subdivision DA—Voluntary income management agreements**

**123XPA Deductions from category I welfare payments—instalments**

*Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime under section 123UFA; and
  - (b) an instalment of a category I welfare payment is payable to the person.

*Deductions from category I welfare payments—instalments*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category I welfare payment is:
- (a) 70%; or

- (b) if another percentage (not exceeding 100%) is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the other percentage;  
of the net amount of the instalment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

### **123XPB Deductions from category I welfare payments—lump sums**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UFA; and
  - (b) a category I welfare payment is payable to the person otherwise than by instalments.

#### *Deductions from category I welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

#### *Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a category I welfare payment is:
    - (a) 100%; or
    - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;  
of the net amount of the payment (rounded down to the nearest cent).
  - (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.
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## Part 2—Other amendments

### *Social Security (Administration) Act 1999*

#### 11 Subsection 123WL(3)

Repeal the subsection, substitute:

*Lump sum payment*

- (3) The residual amount is to be paid to:
- (a) the legal personal representative of the person; or
  - (b) if:
    - (i) the residual amount is \$500 or less; and
    - (ii) the Secretary has not been notified of the existence of a legal personal representative of the person; and
    - (iii) the Secretary is satisfied that another person is carrying out, or will carry out, an appropriate activity in relation to the estate or affairs of the person;
- that other person;  
as a single lump sum on a day determined by the Secretary.

#### 12 Subsections 123WM(1), (2), (3) and (4)

Omit “the legal personal representative of”.

#### 13 Application of amendments

The amendments made by this Part apply in relation to a person who died before, or dies at or after, the commencement of this Part.

## **Schedule 5—Eligibility for partner service pension**

### ***Veterans' Entitlements Act 1986***

#### **1 Paragraph 38(1B)(a)**

Omit “the age of 50 years”, substitute “qualifying age”.

#### **2 At the end of subsection 38(1B)**

Add:

Note: For *qualifying age* see section 5Q.

#### **3 Application**

The amendment made by item 1 applies in relation to claims for partner service pension made on or after 1 July 2008.

## Schedule 6—Other amendments

### *A New Tax System (Family Assistance) Act 1999*

#### **1 Subsection 3(1) (at the end of the definition of *regular care child*)**

Add:

Note: See also section 25A.

#### **2 After section 25**

Insert:

#### **25A Regular care child for each day in period of care**

If, under subsection 22(6A), the Secretary determines that a child was, or will be, in the care of an individual for at least 14% and less than 35% of a period, the child is taken to be a regular care child of that individual for the purposes of this Act on each day in that period, whether or not the child was in that individual's care on that day.

#### **3 Subsection 59(1)**

Repeal the subsection, substitute:

- (1) An individual has a shared care percentage under this section for an FTB child of the individual if:
  - (a) the Secretary has determined, under subsection 22(6A), a percentage of the period mentioned in that subsection during which the child was, or will be, in the care of the individual; and
  - (b) that percentage is at least 35% and not more than 65%.

Note: The Secretary is taken to have made a determination under subsection 22(6A) in a blended family case (see paragraph 27(2)(b)).

#### **4 Subsection 59(2) (table item 4)**

Repeal the item.

#### **5 Paragraphs 1(1)(a) and (2)(a) of Schedule 1**

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Omit “24”, substitute “24S”.

## **6 Subparagraphs 1(2)(a)(ii) and (b)(ii) of Schedule 1**

Omit “or a service pension”, substitute “, a service pension or income support supplement”.

## **7 At the end of subclause 20B(2) of Schedule 1**

Add “, disregarding so much of that rate as is attributable to the individual receiving disability expenses maintenance”.

## **8 At the end of clause 20C of Schedule 1**

Add:

- (3) Subclause (2) does not apply in relation to the individual and the child for a period if subclause 20B(2), (3) or (4) has applied in relation to the individual and the child for that period.

## **9 Subclause 24K(2) of Schedule 1 (formula)**

After “from the maintenance payer”, insert “, disregarding any child for whom maintenance income is disregarded under paragraph (a) of step 1 of the method statement in clause 20”.

## **9A Paragraph 2(1)(b) of Schedule 3**

Omit “reportable fringe benefits total”, substitute “adjusted fringe benefits total”.

## **9B Clause 4 of Schedule 3**

Repeal the clause, substitute:

## **4 Adjusted fringe benefits total**

An individual’s *adjusted fringe benefits total* for an income year is the amount worked out using the formula:

$$\text{Reportable fringe benefits total} \times \left(1 - \text{FBT rate}\right)$$

where:

**FBT rate** is the rate of tax set by the *Fringe Benefits Tax Act 1986* for the FBT year (as defined in the *Fringe Benefits Tax Assessment*

*Act 1986*) beginning on the 1 April just before the start of the income year.

**reportable fringe benefits total** is the amount that the Secretary is satisfied is the individual's reportable fringe benefits total (as defined in the *Fringe Benefits Tax Assessment Act 1986*) for the income year.

### **9C Application**

The amendments made by items 9A and 9B apply in relation to the 2008-09 income year and later income years.

## ***A New Tax System (Family Assistance) (Administration) Act 1999***

### **10 Paragraph 10(4)(a)**

Omit "the income year", substitute "either of the 2 income years".

### **11 Paragraphs 10(4)(b) and (d)**

Omit "or service pension", substitute ", service pension or income support supplement".

### **13 Paragraph 21(3)(b)**

Omit "or service pension", substitute ", service pension or income support supplement".

### **15 Application**

The amendments made by items 10 and 11 apply in relation to claims made on or after the commencement of those items.

## ***Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006***

### **16 Item 73 of Schedule 5**

Repeal the item, substitute:

### **73 Application of amendments in relation to child support agreements**

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- (1) The amendments made by this Schedule (other than item 58) apply (subject to subitems (2) and (3)) in respect of a child support agreement if:
- (a) the application for acceptance of the agreement is made after Division 3 of Part 1 of this Schedule commences; and
  - (b) the agreement period for the agreement ends on or after 1 July 2008.

Note: For the definition of *agreement period*, see subitem (6).

*Child support agreements that span 1 July 2008*

- (2) If the agreement period for a child support agreement covered by subitem (1) begins before 1 July 2008, then:
- (a) the agreement is taken to be 2 separate agreements; and
  - (b) the first agreement is taken to have effect for the period that:
    - (i) begins at the beginning of the agreement period; and
    - (ii) ends on 30 June 2008 (including that day); and
  - (c) the second agreement is taken to have effect for the period that:
    - (i) begins on 1 July 2008 (including that day); and
    - (ii) ends at the end of the agreement period.
- (3) If a child support agreement is taken to be 2 separate agreements under subitem (2), then the Assessment Act, the Registration and Collection Act, the *A New Tax System (Family Assistance) (Administration) Act 1999* and the *Social Security Act 1991*, as in force immediately before 1 July 2008, continue to apply, after that time, in respect of the first agreement mentioned in paragraph (2)(b).

Note: Those Acts as in force on and after 1 July 2008 apply, under subitem (1), in respect of the second agreement mentioned in paragraph (2)(c).

- (4) The Registrar or a court may make different decisions, or take different actions, in relation to the 2 separate agreements mentioned in subitem (2).

Example: The Registrar might refuse to accept the first agreement, while accepting the second agreement.

*Effect of old law continues in certain cases*

- (5) To avoid doubt, if:
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- (a) an application is made for acceptance of a child support agreement before Division 3 of Part 1 of this Schedule commences; and
- (b) immediately before that Division commences, the agreement has been neither accepted nor refused by the Registrar;

then the Assessment Act, the Registration and Collection Act, the *A New Tax System (Family Assistance) (Administration) Act 1999* and the *Social Security Act 1991*, as in force immediately before 1 July 2008, continue to apply, after that time, in respect of the child support agreement.

***Definition of agreement period***

- (6) In this item:  
***agreement period***, for a child support agreement covered by subitem (1), means the period for which the child support agreement has effect.

**73A Application of amendments in relation to court orders**

- (1) The amendments made by this Schedule (other than item 58) apply (subject to subitem (2)) in respect of an application made to a court for an order if:
  - (a) the application is made after Division 3 of Part 1 of this Schedule commences; and
  - (b) the application relates to a period that ends on or after 1 July 2008.

***Applications that span 1 July 2008***

- (2) If the application relates to a period that begins on a day (the ***first day***) before 1 July 2008, then:
  - (a) the Assessment Act and the Registration and Collection Act, as in force immediately before 1 July 2008, apply in relation to the period mentioned in paragraph (b), in relation to the following:
    - (i) making an order in response to the application;
    - (ii) any appeal to another court in relation to an order made in response to the application;
    - (iii) any decision or action taken by the Registrar in relation to an order made in response to the application; and

- (b) for the purposes of paragraph (a), the period is the period that:
  - (i) begins on the first day (including that day); and
  - (ii) ends on 30 June 2008 (including that day).

Note: Those Acts as in force on and after 1 July 2008 apply, under subitem (1), in respect of the period that begins on 1 July 2008.

- (3) A court may, in response to an application, make different orders for:
  - (a) the period that ends on 30 June 2008; and
  - (b) the period that begins on 1 July 2008.
- (4) The Registrar may make different decisions, and take different actions, in relation to different orders made in response to an application.

*Effect of old law continues in certain cases*

- (5) To avoid doubt, if:
  - (a) an application is made to a court before Division 3 of Part 1 of this Schedule commences; and
  - (b) immediately before that Division commences, the application has not been finally dealt with by the court;

then the Assessment Act and the Registration and Collection Act, as in force immediately before 1 July 2008, continue to apply after that time in relation to the following:

- (c) making an order in response to the application;
- (d) any appeal to another court in relation to an order made in response to the application;
- (e) any decision or action taken by the Registrar in relation to an order made in response to the application.

**17 Subitem 74(2) of Schedule 5**

Omit “73(2)”, substitute “73(5)”.

***Child Support (Registration and Collection) Act 1988***

**18 Paragraph 72AA(2)(d)**

Repeal the paragraph, substitute:

- (d) instructing the Secretary to:

- (i) make the prescribed periodic deduction from the person's social security pension or social security benefit from a specified day until the debt is paid; or
- (ii) if the Registrar is satisfied the person is in financial hardship—make the specified lesser periodic deduction from the person's social security pension or social security benefit from a specified day until the debt is paid.

### **19 Paragraph 72AC(2)(d)**

Repeal the paragraph, substitute:

- (d) if subparagraph (1)(a)(ii) applies—instruct the Repatriation Commission to:
  - (i) make periodic deductions prescribed in the regulations from the person's pension or allowance from a specified day until the debt is paid; or
  - (ii) if the Registrar is satisfied the person is in financial hardship—make specified lesser periodic deductions from the person's pension or allowance from a specified day until the debt is paid.

### **20 Transitional**

- (1) The amendment made by item 18 does not affect the validity of a notice given under subsection 72AA(2) of the *Child Support (Registration and Collection) Act 1988* before the commencement of this item.
- (2) Regulations made before the commencement of this item for the purposes of paragraph 72AA(2)(d) of the *Child Support (Registration and Collection) Act 1988* and expressed to commence on 1 July 2008 have effect, after the commencement of this item, as if they had been made for the purposes of subparagraph 72AA(2)(d)(i) of that Act.
- (3) Regulations made before the commencement of this item for the purposes of paragraph 72AC(2)(d) of the *Child Support (Registration and Collection) Act 1988* and expressed to commence on 1 July 2008 have effect, after the commencement of this item, as if they had been made for the purposes of subparagraph 72AC(2)(d)(i) of that Act.

### ***Social Security Act 1991***

### **21 Subsection 93K(1) (note)**

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Omit “Part 2.3”, substitute “Part 3.2 (including because of the operation of Pension Rate Calculator B in Part 3.3)”.

**22 Subsection 1192(1)**

Omit “have effect”, substitute “has effect”.

**23 Section 1198B**

Omit “have effect”, substitute “has effect”.

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*[Minister’s second reading speech made in—  
House of Representatives on 29 May 2008  
Senate on 16 June 2008]*

(104/08)

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*Families, Housing, Community Services and Indigenous Affairs and Other Legislation  
Amendment (2008 Budget and Other Measures) Act 2008 No. 63, 2008 41*