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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Families, Community Services and
Indigenous Affairs Legislation
Amendment (Further 2007 Budget
Measures) Bill 2007**

No. , 2007

(Families, Community Services and Indigenous Affairs)

**A Bill for an Act to amend the law in relation to
social security, veterans' affairs and family
assistance, and for related purposes**

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1 **A Bill for an Act to amend the law in relation to**
2 **social security, veterans' affairs and family**
3 **assistance, and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Families, Community Services and*
7 *Indigenous Affairs Legislation Amendment (Further 2007 Budget*
8 *Measures) Act 2007.*

9 **2 Commencement**

10 This Act commences on 1 January 2008.

1

3 Schedule(s)

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Each Act that is specified in a Schedule to this Act is amended or

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repealed as set out in the applicable items in the Schedule

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concerned, and any other item in a Schedule to this Act has effect

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according to its terms.

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Schedule 1—Pension bonus scheme

Income Tax Assessment Act 1997

1 Section 11-15 (table item headed “social security or like payments”)

After:

Commonwealth education or training payment Subdivision 52-F

insert:

DFISA bonus and DFISA bonus bereavement payment 52-65

2 Section 11-15 (table item headed “social security or like payments”)

Omit:

pension bonus 52-10 and 52-65

substitute:

pension bonus and pension bonus bereavement payment... 52-10 and 52-65

3 Paragraph 52-10(1)(a)

After “bonus”, insert “and pension bonus bereavement payment”.

4 Subsection 52-10(1A)

After “bonus”, insert “and pension bonus bereavement payment”.

5 Paragraph 52-65(1)(a)

Omit “or DFISA bonus”, substitute “, pension bonus bereavement payment, DFISA bonus or DFISA bonus bereavement payment”.

6 Subsection 52-65(1A)

Repeal the subsection, substitute:

(1A) The following payments under the *Veterans’ Entitlements Act 1986* are exempt from income tax:

(a) pension bonus and pension bonus bereavement payment under Part IIIAB;

(b) DFISA bonus and DFISA bonus bereavement payment under Part VIIAB.

1 ***Social Security Act 1991***

2 **7 Subsection 11(3C)**

3 After “pension bonus”, insert “or pension bonus bereavement payment”.

4 **8 Subsection 23(1)**

5 Insert:

6 ***PBBP employment income*** (short for pension bonus bereavement
7 payment employment income) has the meaning given by
8 section 93WC.

9 **9 Subsection 23(1) (definition of *pension bonus*)**

10 Repeal the definition, substitute:

11 ***pension bonus*** means pension bonus under Part 2.2A (and does not
12 include a pension bonus bereavement payment under Division 12
13 of that Part).

14 **10 Subsection 23(1)**

15 Insert:

16 ***pension bonus bereavement payment*** means a pension bonus
17 bereavement payment under Division 12 of Part 2.2A.

18 **11 Subsection 92Q(1)**

19 Omit “by written notice published in the *Gazette*”, substitute “by
20 legislative instrument”.

21 **12 Subsection 92Q(1)**

22 Omit “The period must not begin before the publication of the notice.”

23 **13 After subsection 92Q(1)**

24 Insert:

25 (1A) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a
26 period ascertained in accordance with a declaration made under
27 subsection (1) may begin before the date on which the declaration
28 is registered under that Act.

29 **14 Subsection 92Q(3)**

1 Repeal the subsection.

2 **15 Paragraphs 93H(a) and (b)**

3 Omit “date of grant of”, substitute “start day for”.

4 **16 Paragraph 93J(3)(a)**

5 Omit “date of grant of”, substitute “start day for”.

6 **17 Paragraph 93J(3)(a)**

7 Omit “that date”, substitute “that day”.

8 **18 Paragraph 93J(3)(b)**

9 Omit “date of grant of”, substitute “start day for”.

10 **19 Paragraph 93J(3)(b)**

11 Omit “that date”, substitute “that day”.

12 **20 Paragraph 93J(4)(a)**

13 Omit “date of grant of”, substitute “start day for”.

14 **21 Paragraph 93J(4)(a)**

15 Omit “that date”, substitute “that day”.

16 **22 Paragraph 93J(4)(b)**

17 Omit “date of grant of”, substitute “start day for”.

18 **23 Paragraph 93J(4)(b)**

19 Omit “that date”, substitute “that day”.

20 **24 At the end of Division 6 of Part 2.2A**

21 Add:

22 **93K Top up of pension bonus for increased rate of age pension**

23 (1) The Secretary may determine (a *top up determination*) that a
24 person’s pension bonus is to be increased if:

25 (a) the Secretary makes a determination (a *rate determination*)
26 increasing the person’s rate of age pension; and

- 1 (b) the rate determination takes effect on a day that is not more
2 than 13 weeks after the start day for the person's pension
3 bonus; and
4 (c) the rate determination is made because of a reduction since
5 the start day in either or both of the following:
6 (i) the value of the person's assets;
7 (ii) the person's ordinary income.

8 Note: Any reduction in the value of a person's assets or the person's income
9 will be determined by applying the assets test and the ordinary income
10 test in Pension Rate Calculator A in Part 2.3.

- 11 (2) The person's pension bonus is increased by the difference between:
12 (a) the person's amount of pension bonus on the start day; and
13 (b) the amount that would have been the person's amount of
14 pension bonus on the start day if the person's rate of age
15 pension on that day had been the highest rate at which age
16 pension was payable to the person during the 13 weeks after
17 the start day.
- 18 (3) A top up determination takes effect on the day on which the
19 determination is made or on any earlier or later day specified in the
20 determination.
- 21 (4) A top up determination is not a legislative instrument.

22 **93L Top up of pension bonus in specified circumstances**

- 23 (1) The Secretary may determine (a *top up determination*) that a
24 person's pension bonus is to be increased if:
25 (a) the Secretary makes a determination (a *rate determination*)
26 increasing the person's rate of age pension; and
27 (b) the rate of age pension is increased in circumstances
28 specified in an instrument made under subsection (6).
- 29 (2) The person's pension bonus is increased by the amount specified
30 by the Secretary in the top up determination.
- 31 (3) The Secretary must not specify an increase that would be greater
32 than the difference between:
33 (a) the person's amount of pension bonus on the start day for the
34 bonus; and

- 1 (b) the amount that would have been the person's amount of
 2 pension bonus on the start day if the person's rate of age
 3 pension on that day had been the rate specified in the rate
 4 determination.
- 5 (4) A top up determination takes effect on the day on which the
 6 determination is made or on any earlier or later day specified in the
 7 determination.
- 8 (5) A top up determination is not a legislative instrument.
- 9 (6) The Secretary may, by legislative instrument, specify
 10 circumstances (other than circumstances specified in subsection
 11 93K(1)) for the purposes of paragraph (1)(b).

12 **25 Application of sections 93K and 93L of the *Social Security***
 13 ***Act 1991***

14 Sections 93K and 93L of the *Social Security Act 1991*, as inserted by
 15 this Schedule, apply in relation to a pension bonus the start day for
 16 which is on or after 1 January 2008.

17 **26 At the end of Part 2.2A**

18 Add:

19 **Division 12—Pension bonus bereavement payment**

20 **93WA Qualification for pension bonus bereavement payment**

21 A person is qualified for a pension bonus bereavement payment if:

- 22 (a) the person stopped being a member of a couple because the
 23 person's partner died; and
 24 (b) immediately before the partner died, the partner was a
 25 registered member of the pension bonus scheme; and
 26 (c) the partner had not made a claim for age pension or pension
 27 bonus before the partner died.

28 **93WB Amount of pension bonus bereavement payment**

- 29 (1) The amount of a person's pension bonus bereavement payment is
 30 worked out:

- 1 (a) by working out the amount of pension bonus that would have
2 been payable to the legal personal representative of the
3 partner had the partner made claims for age pension and
4 pension bonus just before the partner died (see subsections
5 59(3) and (4) of the Administration Act); and
6 (b) by disregarding, in working out the amount referred to in
7 paragraph (a):
8 (i) any PBBP employment income of the person (see
9 section 93WC); and
10 (ii) any income of a kind specified in an instrument made
11 under subsection (2).
- 12 (2) The Secretary may, by legislative instrument, specify kinds of
13 income for the purposes of subparagraph (1)(b)(ii).

14 **93WC Definition of *PBBP employment income***

- 15 (1) ***PBBP employment income***, of a person:
16 (a) means ordinary income that is, or is taken to be, earned,
17 derived or received by the person or the person's partner
18 from gainful work; and
19 (b) includes (without limitation) any of the following that is, or is
20 taken to be, earned, derived or received by the person or the
21 person's partner:
22 (i) salary, wages, commissions and employment-related
23 fringe benefits;
24 (ii) leave payments;
25 (iii) payments to the person or the person's partner by a
26 former employer of the person or partner in relation to
27 the termination of the person's or partner's employment.
- 28 (2) For the purposes of subparagraph (1)(b)(ii), a ***leave payment***:
29 (a) includes a payment in respect of sick leave, personal leave,
30 carer's leave, annual leave, maternity leave, long service
31 leave or special leave; and
32 (b) may be made as a lump sum payment, a series of regular
33 payments or otherwise; and
34 (c) is taken to be made to a person if it is made to another
35 person:
36 (i) at the direction of the person or of a court; or

- 1 (ii) on behalf of the person; or
2 (iii) for the benefit of the person; or
3 (iv) if the person waives or assigns his or her right to the
4 payment.

5 **27 Application of Division 12 of Part 2.2A of the *Social***
6 ***Security Act 1991***

7 Division 12 of Part 2.2A of the *Social Security Act 1991*, as inserted by
8 this Schedule, applies in relation to a person whose partner dies on or
9 after 1 January 2008.

10 **28 Subsection 1224AA(1)**

11 Omit “(1)”.

12 **29 Paragraph 1224AA(1)(a)**

13 Repeal the paragraph, substitute:

- 14 (a) an amount of a social security payment or an amount of fares
15 allowance is paid by cheque; and

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

17 **30 Subsection 17(1)**

18 Omit “either”.

19 **31 At the end of subsection 17(1)**

20 Add:

- 21 ; or (c) the subject of a determination under subsection (5).

22 **32 At the end of section 17**

23 Add:

24 (5) If:

- 25 (a) a person who is a registered member of the pension bonus
26 scheme lodges a claim for age pension; and
27 (b) a claim for pension bonus for the person is lodged after the
28 claim for age pension; and
29 (c) the Secretary is satisfied that, having regard to guidelines (if
30 any) made under subsection (6), special circumstances apply
31 in relation to the lodgment of the claim for pension bonus;
-

1 the Secretary may determine that the claim for the pension bonus is
2 taken to have been made at the time the person claimed age
3 pension.

4 (6) The Secretary may, by legislative instrument, make guidelines for
5 the purposes of subsection (5).

6 **33 Application of amendments of section 17 of the *Social***
7 ***Security (Administration) Act 1999***

8 The amendments of section 17 of the *Social Security (Administration)*
9 *Act 1999* made by this Schedule apply in relation to a claim for pension
10 bonus lodged on or after 1 January 2008.

11 **34 Section 21**

12 Before “A claim”, insert “(1)”.

13 **35 At the end of section 21**

14 Add:

15 (2) However, the Secretary may in special circumstances allow a
16 person a longer period to make a claim than the period fixed by
17 this Subdivision. If the Secretary does so, the lodgment period for
18 the person’s claim is the period allowed by the Secretary.

19 (3) Subsection (2) does not apply in relation to a claim for which the
20 lodgment period is fixed by subsection 23(1).

21 **36 Application of amendments of section 21 of the *Social***
22 ***Security (Administration) Act 1999***

23 The amendments of section 21 of the *Social Security (Administration)*
24 *Act 1999* made by this Schedule apply in relation to a claim for pension
25 bonus lodged on or after 1 January 2008.

26 **37 After Subdivision E of Division 1 of Part 3**

27 Insert:

1 **Subdivision EA—Time limits for claims for pension bonus**
2 **bereavement payment**

3 **26A General rule**

4 A person’s claim for pension bonus bereavement payment must be
5 made within the period of 26 weeks beginning on the day of death
6 of the partner in respect of whom the person is qualified for
7 pension bonus bereavement payment.

8 **26B Extension**

9 The Secretary may in special circumstances allow a person a
10 longer period to make a claim than the period under section 26A. If
11 the Secretary does so, the person’s claim must be made before the
12 end of the period allowed by the Secretary.

13 **38 Subsection 47(1) (after paragraph (i) of the definition of**
14 **lump sum benefit)**

15 Insert:

16 (ia) pension bonus bereavement payment; or

17 **39 Paragraph 58(1)(a)**

18 After “pension bonus”, insert “or pension bonus bereavement payment”.

19 Note: The heading to section 58 is altered by inserting “**and pension bonus bereavement**
20 **payment**” after “**pension bonus**”.

21 **40 Subsection 59(1)**

22 After “bonus”, insert “or a pension bonus bereavement payment”.

23 Note: The heading to section 59 is altered by inserting “**or pension bonus bereavement**
24 **payment**” after “**bonus**”.

25 **41 After subsection 59(1)**

26 Insert:

27 (1A) If:

28 (a) a person claims a pension bonus; and

29 (b) the person dies; and

30 (c) at the time of the person’s death, the person had received the
31 bonus; and

1 (d) after the person's death, the Secretary determines that the
2 person's bonus is to be increased under section 93K or 93L;
3 the increase is payable to the legal personal representative of the
4 person.

5 **42 Paragraph 59(2)(a)**

6 After "bonus", insert "or a pension bonus bereavement payment".

7 **43 Paragraph 59(2)(c)**

8 After "bonus", insert "or payment".

9 **44 Subsection 59(2)**

10 Omit "the bonus is payable", substitute "the bonus or payment is
11 payable".

12 **45 Paragraph 59(3)(a)**

13 After "bonus", insert "or a pension bonus bereavement payment".

14 **46 Paragraph 59(3)(e)**

15 After "bonus", insert "or payment".

16 **47 After subsection 59(4)**

17 Insert:

18 (4A) If a pension bonus is payable to the legal personal representative of
19 a person under subsection (2) or (3), any increase in that bonus
20 determined by the Secretary under section 93K or 93L is also
21 payable to that legal personal representative.

22 **48 Subsection 59(5)**

23 After "pension bonus", insert "or pension bonus bereavement payment".

24 **49 At the end of subsection 59(5)**

25 Add "or payment".

26 **50 Subsection 149(2)**

27 After "pension bonus", insert "or pension bonus bereavement payment".

28 **51 Subsection 149(3)**

1 After “entitled to a pension bonus”, insert “or pension bonus
2 bereavement payment”.

3 **52 Paragraphs 149(3)(a) and (b)**

4 After “the pension bonus”, insert “or pension bonus bereavement
5 payment”.

6 ***Veterans’ Entitlements Act 1986***

7 **53 Subsection 5L(3C)**

8 After “pension bonus”, insert “, pension bonus bereavement payment,
9 DFISA bonus or DFISA bonus bereavement payment”.

10 **54 Subsection 5Q(1) (definition of *DFISA bonus*)**

11 Repeal the definition, substitute:

12 *DFISA bonus* means DFISA bonus under Part VIIAB (and does
13 not include DFISA bonus bereavement payment under Subdivision
14 C of Division 3 of that Part).

15 **55 Subsection 5Q(1)**

16 Insert:

17 *DFISA bonus bereavement payment* means a DFISA bonus
18 bereavement payment under Subdivision C of Division 3 of
19 Part VIIAB.

20 **56 Subsection 5Q(1) (definition of *pension bonus*)**

21 Repeal the definition, substitute:

22 *pension bonus* means pension bonus under Part IIIAB (and does
23 not include pension bonus bereavement payment under
24 Division 11A of that Part).

25 **57 Subsection 5Q(1)**

26 Insert:

27 *pension bonus bereavement payment* means a pension bonus
28 bereavement payment under Division 11A of Part IIIAB.

29 **58 Section 45TA**

1 Insert:

2 ***PBBP employment income*** (short for pension bonus bereavement
3 payment employment income) has the meaning given by
4 section 45UUC.

5 **59 Subparagraphs 45TC(1)(f)(ii), (2)(f)(ii) and (3)(f)(ii)**

6 Omit “bonus under Part 2.2A of”, substitute “pension bonus within the
7 meaning of”.

8 **60 Subsection 45TO(1)**

9 Omit “by written notice published in the Gazette”, substitute “by
10 legislative instrument”.

11 **61 Subsection 45TO(1)**

12 Omit “The period must not begin before the publication of the notice.”

13 **62 After subsection 45TO(1)**

14 Insert:

15 (1A) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a
16 period ascertained in accordance with a declaration made under
17 subsection (1) may begin before the date on which the declaration
18 is registered under that Act.

19 **63 Subsection 45TO(3)**

20 Repeal the subsection.

21 **64 At the end of Division 6 of Part IIIAB**

22 Add:

23 **45UIB Top up of pension bonus for increased rate of designated**
24 **pension**

25 (1) The Commission may determine (a *top up determination*) that a
26 person’s pension bonus is to be increased if:
27 (a) the Commission makes a determination (a *rate*
28 *determination*) increasing the rate of the person’s designated
29 pension; and

- 1 (b) the rate determination takes effect on a day that is not more
 2 than 13 weeks after the date (the *effective date*) on which the
 3 determination granting the pension bonus takes effect; and
 4 (c) the rate determination is made because of a reduction since
 5 the effective date in either or both of the following:
 6 (i) the value of the person's assets;
 7 (ii) the person's ordinary income.

8 Note: Any reduction in the value of a person's assets or the person's income
 9 will be determined by applying the assets test and the
 10 ordinary/adjusted income test in the Rate Calculator in Schedule 6.

- 11 (2) The person's pension bonus is increased by the difference between:
 12 (a) the person's amount of pension bonus on the effective date;
 13 and
 14 (b) the amount that would have been the person's amount of
 15 pension bonus on the effective date if the rate of the person's
 16 designated pension on that date had been the highest rate at
 17 which the designated pension was payable to the person
 18 during the 13 weeks after the effective date.
- 19 (3) A top up determination takes effect on the day on which the
 20 determination is made or on any earlier or later day specified in the
 21 determination.
- 22 (4) A top up determination is not a legislative instrument.

23 **45UIC Top up of pension bonus in specified circumstances**

- 24 (1) The Commission may determine (a *top up determination*) that a
 25 person's pension bonus is to be increased if:
 26 (a) the Commission makes a determination (a *rate*
 27 *determination*) increasing the rate of the person's designated
 28 pension; and
 29 (b) the rate of the designated pension is increased in
 30 circumstances specified in an instrument made under
 31 subsection (6).
- 32 (2) The person's pension bonus is increased by the amount specified
 33 by the Commission in the top up determination.
- 34 (3) The Commission must not specify an increase that would be
 35 greater than the difference between:

- 1 (a) the person's amount of pension bonus on the day on which
2 the determination granting the bonus takes effect; and
3 (b) the amount that would have been the person's amount of
4 pension bonus on that day if the rate of the person's
5 designated pension on that day had been the rate specified in
6 the rate determination.
- 7 (4) A top up determination takes effect on the day on which the
8 determination is made or on any earlier or later day specified in the
9 determination.
- 10 (5) A top up determination is not a legislative instrument.
- 11 (6) The Commission may, by legislative instrument, specify
12 circumstances (other than circumstances specified in subsection
13 45UIB(1)) for the purposes of paragraph (1)(b).

14 **65 Application of sections 45UIB and 45UIC of the *Veterans'***
15 ***Entitlements Act 1986***

16 Sections 45UIB and 45UIC of the *Veterans' Entitlements Act 1986*, as
17 inserted by this Schedule, apply in relation to a pension bonus granted
18 on or after 1 January 2008.

19 **66 Paragraph 45UK(1)(c)**

20 Omit "either", substitute "one of the following".

21 **67 Subparagraph 45UK(1)(c)(i)**

22 Omit "pension; or", substitute "pension;".

23 **68 Subparagraph 45UK(1)(c)(ii)**

24 Omit "(3); and", substitute "(3);".

25 **69 At the end of paragraph 45UK(1)(c)**

26 Add:

- 27 (iii) the subject of a determination under subsection (5); and

28 **70 At the end of section 45UK**

29 Add:

- 30 (5) If:
-

- 1 (a) a person who is a registered member of the pension bonus
2 scheme lodges a claim for a designated pension; and
3 (b) a claim for pension bonus for the person is lodged after the
4 claim for the designated pension; and
5 (c) the Commission is satisfied that, having regard to guidelines
6 (if any) made under subsection (6), special circumstances
7 apply in relation to the lodgment of the claim for pension
8 bonus;
9 the Commission may determine that this Part (other than this
10 section) has effect as if the claim for the pension bonus had been
11 made at the time the person claimed the designated pension.
- 12 (6) The Commission may, by legislative instrument, make guidelines
13 for the purposes of subsection (5).

14 **71 Application of amendments of section 45UK of the**
15 ***Veterans' Entitlements Act 1986***

16 The amendments of section 45UK of the *Veterans' Entitlements Act*
17 *1986* made by this Schedule apply in relation to a claim for pension
18 bonus lodged on or after 1 January 2008.

19 **72 After subsection 45UL(1)**

20 Insert:

- 21 (1A) However, the Commission may in special circumstances allow a
22 person a longer period to make a claim than the period determined
23 under this section. If the Commission does so, the ***lodgment period***
24 for the person's claim is the period allowed by the Commission.
- 25 (1AB) Subsection (1A) does not apply in relation to a claim for which the
26 lodgment period is determined under subsection (3).

27 **73 Application of amendment of section 45UL of the**
28 ***Veterans' Entitlements Act 1986***

29 The amendment of section 45UL of the *Veterans' Entitlements Act 1986*
30 made by this Schedule applies in relation to a claim for pension bonus
31 lodged on or after 1 January 2008.

32 **74 At the end of subsection 45UR(1)**

33 Add:

1 Note: A person's surviving partner may be qualified for a pension bonus
2 bereavement payment under Division 11A of this Part.

3 **75 After subsection 45UR(1)**

4 Insert:

5 *Later top up of pension bonus received before death*

6 (1A) If:

- 7 (a) a person claims a pension bonus; and
8 (b) the person dies; and
9 (c) at the time of the person's death, the person had received the
10 bonus; and
11 (d) after the person's death, the Commission determines that the
12 person's bonus is to be increased under section 45UIB or
13 45UIC;
14 the increase is payable to the legal personal representative of the
15 person.

16 **76 After subsection 45UR(4)**

17 Insert:

18 *Top up of pension bonus also payable*

- 19 (4A) If a pension bonus is payable to the legal personal representative of
20 a person under subsection (2) or (3), any increase in that bonus
21 determined by the Commission under section 45UIB or 45UIC is
22 also payable to that legal personal representative.

23 **77 After Division 11 of Part IIIAB**

24 Insert:

25 **Division 11A—Pension bonus bereavement payment**

26 **45UUA Qualification for pension bonus bereavement payment**

27 A person is qualified for a pension bonus bereavement payment if:

- 28 (a) the person stopped being a member of a couple because the
29 person's partner died; and
30 (b) immediately before the partner died, the partner was a
31 registered member of the pension bonus scheme; and
-

- 1 (c) the partner had not made a claim for a designated pension or
 2 pension bonus before the partner died.

3 **45UUB Amount of pension bonus bereavement payment**

- 4 (1) The amount of a person’s pension bonus bereavement payment is
 5 worked out:
 6 (a) by working out the amount of pension bonus that would have
 7 been payable to the legal personal representative of the
 8 partner had the partner made claims for a designated pension
 9 and pension bonus just before the partner died (see
 10 subsections 49UR(3) and (4)); and
 11 (b) by disregarding, in working out the amount referred to in
 12 paragraph (a):
 13 (i) any PBBP employment income of the person (see
 14 section 45UUC); and
 15 (ii) any income of a kind specified in an instrument made
 16 under subsection (2).
 17 (2) The Commission may, by legislative instrument, specify kinds of
 18 income for the purposes of subparagraph (1)(b)(ii).

19 **45UUC Definition of *PBBP employment income***

- 20 (1) ***PBBP employment income***, of a person:
 21 (a) means ordinary income that is, or is taken to be, earned,
 22 derived or received by the person or the person’s partner
 23 from gainful work; and
 24 (b) includes (without limitation) any of the following that is, or is
 25 taken to be, earned, derived or received by the person or the
 26 person’s partner:
 27 (i) salary, wages, commissions and employment-related
 28 fringe benefits;
 29 (ii) leave payments;
 30 (iii) payments to the person or the person’s partner by a
 31 former employer of the person or person’s partner in
 32 relation to the termination of the person’s or partner’s
 33 employment.
 34 (2) For the purposes of subparagraph (1)(b)(ii), a ***leave payment***:

- 1 (a) includes a payment in respect of sick leave, personal leave,
2 carer's leave, annual leave, maternity leave, long service
3 leave or special leave; and
4 (b) may be made as a lump sum payment, a series of regular
5 payments or otherwise; and
6 (c) is taken to be made to a person if it is made to another
7 person:
8 (i) at the direction of the person or of a court; or
9 (ii) on behalf of the person; or
10 (iii) for the benefit of the person; or
11 (iv) if the person waives or assigns his or her right to the
12 payment.

13 **45UUD Need for a claim for pension bonus bereavement payment**

14 A person who wants to be granted a pension bonus bereavement
15 payment must make a proper claim for the payment.

16 **45UUE Proper claim**

- 17 (1) To be a proper claim, a claim for pension bonus bereavement
18 payment must be:
19 (a) in writing; and
20 (b) in accordance with a form approved by the Commission; and
21 (c) lodged at an office of the Department in Australia in
22 accordance with section 5T within the applicable lodgment
23 period (see section 45UUF).
24 (2) A claim for pension bonus bereavement payment lodged in
25 accordance with section 5T is taken to have been made on a day
26 determined under that section.

27 **45UUF Lodgment period for claim**

- 28 (1) The *lodgment period* for a person's claim for pension bonus
29 bereavement payment is the period of 26 weeks beginning on the
30 day of death of the partner in respect of whom the person is
31 qualified for pension bonus bereavement payment.
32 (2) However, the Commissioner may in special circumstances allow a
33 person a longer period to make a claim than the period under

1 subsection (1). If the Commissioner does so, the *lodgment period*
2 for the person's claim is the period allowed by the Commissioner.

3 **45UUG Withdrawal of claim**

- 4 (1) A claimant for a pension bonus bereavement payment may
5 withdraw a claim that has not been determined.
- 6 (2) A claim that is withdrawn is taken not to have been made.
- 7 (3) A withdrawal may be made orally or by document lodged at an
8 office of the Department in Australia in accordance with
9 section 5T.
- 10 (4) A withdrawal made by lodging a document in accordance with
11 section 5T is taken to have been made on a day determined in
12 accordance with that section.

13 **45UUH Secretary to investigate claim and submit it to Commission**

- 14 (1) If a person makes a proper claim for a pension bonus bereavement
15 payment, the Secretary must cause an investigation to be made into
16 the matters to which the claim relates.
- 17 (2) When the investigation is completed, the Secretary must cause the
18 claim to be submitted to the Commission for consideration and
19 determination.
- 20 (3) When the claim is submitted to the Commission, it must be
21 accompanied by:
- 22 (a) any evidence supplied by the claimant in support of the
23 claim; and
- 24 (b) any documents or other evidence obtained by the Department
25 in the course of the investigation that are relevant to the
26 claim; and
- 27 (c) any other documents or other evidence under the control of
28 the Department that are relevant to the claim.

29 **45UUI Commission to determine claim**

30 The Commission must, in accordance with this Act, determine a
31 claim for pension bonus bereavement payment.

1 **45UUJ Grant of claim**

2 The Commission must determine that a claim for pension bonus
3 bereavement payment is to be granted if the Commission is
4 satisfied that the person is qualified for the payment.

5 **45UUK Payment of pension bonus bereavement payment**

6 If a claim for pension bonus bereavement payment is granted, the
7 payment is payable to the person concerned on:

- 8 (a) the first pension payday after the grant; or
9 (b) if the Commission considers that it is not practicable to pay
10 the payment on that payday—the next practicable day.

11 **45UUL Payment of pension bonus bereavement payment after death**

12 (1) This section sets out the only circumstances in which pension
13 bonus bereavement payment will be payable after the death of the
14 person concerned.

15 (2) If:

- 16 (a) a person claims a pension bonus bereavement payment; and
17 (b) the person dies; and
18 (c) at the time of the person's death, the claim had been granted,
19 but the person had not received the payment;

20 the payment is payable to the legal personal representative of the
21 person.

22 (3) If:

- 23 (a) a person claims a pension bonus bereavement payment; and
24 (b) the person dies; and
25 (c) at the time of the person's death, the claim had not been
26 determined;

27 then:

- 28 (d) the Commission must determine the claim after the person's
29 death as if the person had not died; and
30 (e) if the claim is granted—the payment is payable to the legal
31 personal representative of the person.

1 (4) If a pension bonus bereavement payment is paid under
2 subsection (2) or (3), the Commonwealth has no further liability to
3 any person in respect of that bonus.

4 **78 Application of Division 11A of Part IIIAB of the Veterans’**
5 **Entitlements Act 1986**

6 Division 11A of the *Veterans’ Entitlements Act 1986*, as inserted by this
7 Schedule, applies in relation to a person whose partner dies on or after
8 1 January 2008.

9 **79 Subsection 57(3)**

10 After “bonus”, insert “and pension bonus bereavement payment”.

11 **80 Section 58**

12 Repeal the section, substitute:

13 **58 Application of Subdivision**

14 This Subdivision applies to:

- 15 (a) pensions payable under Part III (Service Pensions) or
16 Part IIIA (Income Support Supplement); and
17 (b) pension bonus and pension bonus bereavement payment
18 payable under Part IIIAB.

19 **81 Subsection 58J(2)**

20 After “pension bonus”, insert “or pension bonus bereavement payment”.

21 **82 Paragraph 58J(2)(a)**

22 After “bonus”, insert “or payment”.

23 **83 Section 118N (after paragraph (b))**

24 Insert:

25

(ba) DFISA bonus bereavement payment; and

26 **84 Section 118N**

27 After:

1

Payment of DFISA bonus is also automatic.

2

Insert:

3

4

5

6

7

If DFISA bonus would have been payable to a person who dies before claiming the person's social security pension bonus, a DFISA bonus bereavement payment may be payable to the person's partner (see Subdivision C of Division 3). Payment of DFISA bonus bereavement payment is also automatic.

8

85 Section 118NA

9

Insert:

10

11

12

social security pension bonus bereavement payment means pension bonus bereavement payment under Division 12 of Part 2.2A of the Social Security Act.

13

86 At the end of subsection 118NH(1)

14

Add:

15

16

Note: A person's surviving partner may be qualified for a DFISA bonus bereavement payment under Subdivision C of this Division.

17

87 After subsection 118NH(1)

18

Insert:

19

Later top up of DFISA bonus received before death

20

(1A) If:

21

(a) a person dies; and

22

(b) at the time of the person's death, the person had received a DFISA bonus; and

23

24

(c) after the person's death, the person's DFISA bonus is increased under section 118NIA;

25

26

the increase is payable to the legal personal representative of the person.

27

28

88 After subsection 118NH(2)

29

Insert:

1 *Top up of DFISA bonus also payable*

- 2 (2A) If a DFISA bonus is payable to the legal personal representative of
3 a person under subsection (2), any increase in that bonus under
4 section 118NIA is also payable to that legal personal
5 representative.

6 **89 Subsection 118NI(1)**

7 Omit “(1)”.

8 **90 At the end of Subdivision B of Division 3 of Part VIIAB**

9 Add:

10 **118NIA Top up of DFISA bonus for social security top up**

- 11 (1) The amount of a person’s DFISA bonus is to be increased if a
12 determination (a *top up determination*) under section 93K or 93L
13 of the Social Security Act is made in relation to the person’s social
14 security pension bonus.
- 15 (2) The amount of the increase is the excess (if any) of the amount in
16 paragraph (a) over the amount in paragraph (b):
- 17 (a) the person’s amount of DFISA bonus worked out under
18 section 118NI having regard to the top up determination; and
- 19 (b) the person’s amount of DFISA bonus worked out under
20 section 118NI without regard to the top up determination.

21 **91 At the end of Division 3 of Part VIIAB**

22 Add:

23 **Subdivision C—DFISA bonus bereavement payment**

24 **118NIB Qualification for DFISA bonus bereavement payment**

- 25 (1) A person is qualified for a DFISA bonus bereavement payment if:
- 26 (a) the person is qualified for social security pension bonus
27 bereavement payment; and
- 28 (b) in working out what would have been the person’s partner’s
29 amount of pension bonus under Division 6 of Part 2.2A of
30 the Social Security Act for the purposes of paragraph
31 93WB(a) of that Act, the amount is reduced by adjusted

1 disability pension that is payable to the person or the person's
2 partner.

3 (2) A person is qualified for a DFISA bonus bereavement payment if:

4 (a) the person would have been qualified for social security
5 pension bonus bereavement payment except that the amount
6 of pension bonus that would have been payable to the legal
7 personal representative of the person's partner for the
8 purposes of paragraph 93WA(1)(d) of the Social Security Act
9 would be nil; and

10 (b) the amount would be nil because it was reduced by adjusted
11 disability pension that was payable to the person or the
12 person's partner.

13 **118NIC Amount of DFISA bonus bereavement payment**

14 The amount of a person's DFISA bonus bereavement payment is
15 the amount that would have been the person's partner's amount of
16 DFISA bonus under Subdivision B of this Division if the partner
17 had made claims for social security age pension and social security
18 pension bonus just before the partner died.

19 **118NID Payment of DFISA bonus bereavement payment**

20 DFISA bonus bereavement payment that a person is qualified for is
21 payable to the person on:

22 (a) if the person received a social security pension bonus
23 bereavement payment:

24 (i) the first pension payday after that payment was granted;
25 or

26 (ii) if the Commission considers that it is not practicable to
27 pay the DFISA bonus bereavement payment on that
28 day—the next practicable day; and

29 (b) otherwise—the next practicable day after the person's claim
30 for social security pension bonus bereavement payment is
31 determined.

118NIE Payment of DFISA bonus bereavement payment after death

(1) This section sets out the only circumstances in which DFISA bonus bereavement payment will be payable after the death of the person concerned.

(2) If:

(a) DFISA bonus bereavement payment is payable to a person;
and

(b) the person dies; and

(c) at the time of the person's death, the person had not received the DFISA bonus bereavement payment;

the payment is payable to the legal personal representative of the person.

(3) If DFISA bonus bereavement payment is paid under subsection (2), the Commonwealth has no further liability to any person in respect of that payment.

92 Paragraph 119(1)(ba)

After "bonus", insert "and pension bonus bereavement payment".

93 Subsection 119(2) (paragraph (e) of the definition of *claim*)

After "bonus", insert "or pension bonus bereavement payment".

94 Subsection 122D(2)

After "DFISA bonus", insert "or DFISA bonus bereavement payment".

Note 1: The heading to section 122D is altered by omitting "and DFISA bonus" and substituting "DFISA bonus and DFISA bonus bereavement payment".

Note 2: The heading to subsection 122D(2) is altered by inserting "or DFISA bonus bereavement payment" after "bonus".

95 Paragraph 122D(2)(a)

After "bonus", insert "or payment".

96 Subsection 122D(4)

After "bonus", insert "or DFISA bonus bereavement payment".

Note: The heading to subsection 122D(4) is altered by inserting "or DFISA bonus bereavement payment" after "bonus".

1
2
3
Schedule 2—Assurances of support

4
Social Security Act 1991

5
1 At the end of subsection 729(2)

6 Add:

7 ; and (h) an assurance of support does not apply to the person at any
8 time during the period (see subsection (2C)).

9
2 After subsection 729(2B)

10 Insert:

11 (2C) For the purposes of paragraph (2)(h), an assurance of support
12 applies to a person at a particular time if:

- 13 (a) an assurance of support is in force in respect of the person
14 (the *assuree*) at that time; and
15 (b) the person who gave the assurance was willing and able to
16 provide an adequate level of support to the assuree; and
17 (c) it was reasonable for the assuree to accept that support.

18 Note: For *assurance of support* see subsection 23(1).

19
3 Application provision

20 The amendments of section 729 of the *Social Security Act 1991* made
21 by this Schedule apply in relation to special benefit the start day for
22 which is on or after 1 January 2008.

23
4 Subsection 1061ZZGE(3)

24 Repeal the subsection (including the note), substitute:

- 25 (3) If the assurance of support ceases to be in force in respect of the
26 other person at a time determined by the Secretary under
27 subparagraph 1061ZZGF(1)(b)(ii) or (iii), the Secretary must give
28 the assurer written notice of that fact.

29
5 Before section 1061ZZGF

30 Insert:

1061ZZGEA Assurance cannot be withdrawn once visa issued

A person who has given an assurance of support that has been accepted under this Chapter cannot withdraw that assurance once the person in respect of whom the assurance was given becomes the holder under the *Migration Act 1958* of a visa granted in connection with the assurance.

6 Application provision

Section 1061ZZGEA of the *Social Security Act 1991* applies in relation to an assurance of support that is given on or after 1 January 2008.

7 Paragraph 1061ZZGF(1)(b)

Omit “the earlier”, substitute “the earliest”.

8 At the end of paragraph 1061ZZGF(1)(b)

Add:

; (iii) if a circumstance specified for the purposes of this subparagraph in a determination under section 1061ZZGH applies in relation to the assurance—the time determined by the Secretary in relation to that circumstance.

9 Subsection 1061ZZGF(4)

Repeal the subsection, substitute:

(4) Except as provided by paragraph (1)(b), an assurance of support that has come into force in respect of a person remains in force in respect of that person in spite of any change in circumstances whatsoever (including any purported withdrawal, however described, of the assurance).

10 Subsection 1061ZZGH(1) (at the end of the table)

Add:

6	Subparagraph 1061ZZGF(1)(b)(iii)	Circumstances in which assurances of support accepted under this Chapter cease to be in force
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1
2 **Schedule 3—Crisis payments for humanitarian**
3 **entrants to Australia**
4

5 *Social Security Act 1991*

6 **1 Subsection 19D(1)**

7 Omit “and 1061JHA”, substitute “, 1061JHA and 1061JI”.

8 **2 After section 1061JHA**

9 Insert:

10 **1061JI Qualification—humanitarian entrant to Australia**

11 (1) A person is qualified for a crisis payment if:

- 12 (a) the person arrives in Australia; and
13 (b) that arrival is the first time the person has arrived in Australia
14 as the holder of a qualifying humanitarian visa (see
15 subsection (2)); and
16 (c) the person makes a claim for a crisis payment within 7 days
17 of that arrival; and
18 (d) on the day on which the claim is made:
19 (i) the person is in severe financial hardship (see
20 section 19D); and
21 (ii) the person has made a claim (whether on the same day
22 or on an earlier day) for a social security pension or
23 benefit and the person is qualified for the pension or
24 benefit.

25 (2) The Minister may, by legislative instrument, specify visas that are
26 qualifying humanitarian visas for the purposes of paragraph (1)(b).

27 **3 Application of amendments**

28 The amendments made by this Schedule apply in relation to a person
29 who arrives in Australia as the holder of a qualifying humanitarian visa
30 on or after 1 January 2008.

1 **Schedule 4—Funeral investments**

2

3

4 ***Social Security Act 1991***

5 **1 Paragraph 8(8)(ma) (note)**

6 Omit “subsection 23(1)”, substitute “section 19E”.

7 **2 After section 19D**

8 Insert:

9 **19E Exempt funeral investments**

- 10 (1) Work out whether a funeral investment that relates to a particular
- 11 funeral is an ***exempt funeral investment*** by applying these rules:
- 12 (a) the expenses for the funeral must not be prepaid; and
- 13 (b) in relation to that funeral:
- 14 (i) only one investment of not more than \$10,000 can be an
- 15 exempt funeral investment; or
- 16 (ii) only two investments that combined are not more than
- 17 \$10,000 can be exempt funeral investments.

18 Note: The amounts in paragraph (1)(b) are indexed each year on 1 July (see

19 Division 2 of Part 3.16).

- 20 (2) Disregard any return on an investment in determining the amount
- 21 of an investment for the purposes of this section.
- 22 (3) For the purposes of subsection (1), a ***funeral investment*** means an
- 23 investment, being an investment that cannot be realised before
- 24 maturity and the return on which is not payable before maturity,
- 25 that:
- 26 (a) matures on the death of whichever member of a couple dies
- 27 first or dies last and is to be applied on maturity to the
- 28 expenses of the funeral of that member of the couple; or
- 29 (b) matures on the death of:
- 30 (i) the investor; or
- 31 (ii) if the investor is a member of a couple at the time the
- 32 investment is made, the investor’s partner at that time;
- 33 and is to be applied on maturity to the expenses of the funeral
- 34 of the person on whose death it matures.
-

1 **3 Subsection 23(1) (definition of *exempt funeral investment*)**

2 Repeal the definition, substitute:

3 *exempt funeral investment* has the meaning given by section 19E.

4 **4 Subsection 23(1) (definition of *type A funeral investment*)**

5 Repeal the definition.

6 **5 Subsection 23(1) (definition of *type B funeral investment*)**

7 Repeal the definition.

8 **6 Subsection 1118(1) (note 4)**

9 Omit “subsection 23(1)”, substitute “section 19E”.

10 **7 Section 1190 (after table item 35)**

11 Insert:

36.	exempt funeral investment threshold	exempt funeral investment threshold	[paragraph 19E(1)(b)]
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12 **8 Subsection 1191(1) (after table item 25)**

13 Insert:

26.	exempt funeral investment threshold	1 July	December	most recent December quarter before reference quarter	\$250.00
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14 ***Veterans’ Entitlements Act 1986***

15 **9 After paragraph 5H(8)(zj)**

16 Insert:

17 Note: For *exempt funeral investment* see section 5PC.

18 **10 After section 5PB**

19 Insert:

1 **5PC Exempt funeral investments**

- 2 (1) Work out whether a funeral investment that relates to a particular
 3 funeral is an *exempt funeral investment* by applying these rules:
 4 (a) the expenses for the funeral must not be prepaid; and
 5 (b) in relation to that funeral:
 6 (i) only one investment of not more than \$10,000 can be an
 7 exempt funeral investment; or
 8 (ii) only two investments that combined are not more than
 9 \$10,000 can be exempt funeral investments.

10 Note: The amounts in paragraph (1)(b) are indexed each year on 1 July (see
 11 Division 18 of Part IIIB).

- 12 (2) Disregard any return on an investment in determining the amount
 13 of an investment for the purposes of this section.
- 14 (3) For the purposes of subsection (1), a *funeral investment* means an
 15 investment, being an investment that cannot be realised before
 16 maturity and the return on which is not payable before maturity,
 17 that:
 18 (a) matures on the death of whichever member of a couple dies
 19 first or dies last and is to be applied on maturity to the
 20 expenses of the funeral of that member of the couple; or
 21 (b) matures on the death of:
 22 (i) the investor; or
 23 (ii) if the investor is a member of a couple at the time the
 24 investment is made, the investor's partner at that time;
 25 and is to be applied on maturity to the expenses of the funeral
 26 of the person on whose death it matures.

27 **11 Subsection 5Q(1) (definition of *exempt funeral investment*)**

28 Repeal the definition, substitute:

29 *exempt funeral investment* has the meaning given by section 5PC.

30 **12 Subsection 5Q(1) (definition of *type A funeral investment*)**

31 Repeal the definition.

32 **13 Subsection 5Q(1) (definition of *type B funeral investment*)**

33 Repeal the definition.

1 **14 After paragraph 52(1)(ja)**

2 Insert:

3 Note: For *exempt funeral investment* see section 5PC.

4 **15 Section 59A (after table item 13A)**

5 Insert:

13B.	Exempt funeral investment threshold	exempt funeral investment threshold	paragraph 5PC(1)(b)
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6 **16 Subsection 59B(1) (after table item 8A)**

7 Insert:

8B.	Exempt funeral investment threshold	1 July	December	most recent December quarter before reference quarter	\$250.00
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8 **17 Application provision**

9 The amendments made by this Schedule apply on and after 1 January
10 2008 in relation to investments whether made before or after that day.

1
2 **Schedule 5—Extension of multiple birth**
3 **allowance**
4

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

6 **1 Clause 36 of Schedule 1**

7 Before “An amount”, insert “(1)”.

8 **2 Paragraph 36(b) of Schedule 1**

9 Repeal the paragraph, substitute:

- 10 (b) at least 3 of those children were born during the same
11 multiple birth and satisfy the requirements of subclause (2).

12 **3 At the end of clause 36 of Schedule 1**

13 Add:

- 14 (2) For the purposes of paragraph (1)(b), the requirements of this
15 subclause are satisfied by a child if:
16 (a) the child is under the age of 16 years; or
17 (b) both:
18 (i) the child has turned 16 and is undertaking full-time
19 study; and
20 (ii) the calendar year has not ended in which the first born
21 of the children in the multiple birth who are undertaking
22 full-time study turns 18.

23 **4 Paragraphs 37(a) and (b) of Schedule 1**

24 After “multiple birth”, insert “who satisfy the requirements of subclause
25 36(2)”.

26 **5 Application**

27 The amendments made by this Schedule apply to multiple birth
28 allowance included in an individual’s Part A rate, on or after 1 January
29 2008, for the 2007-2008 income year or a later income year.