# Social Security and Veterans' Affairs Legislation Amendment (Pension Bonus Scheme) Act 1998

**Act No. 67 of 1998 as amended**

This compilation was prepared on 5 August 2002

**[This Act was amended by Act No. 57 of 2002]**

**Amendment from Act No. 57 of 2002**
[Schedule 12 (item 73) repealed Item 1 of Schedule 3
Schedule 12 (item 73) commenced on 3 July 2002]

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# An Act to amend the *Social Security Act 1991* and the *Veterans' Entitlements Act 1986*, and for other purposes

[*Assented to 30 June 1998*]

The Parliament of Australia enacts:

## 1 Short title

This Act may be cited as the *Social Security and Veterans' Affairs Legislation Amendment (Pension Bonus Scheme) Act 1998*.

## 2 Commencement

This Act commences on the day on which it receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

# Schedule 1—Amendment of the Social Security Act 1991

## 1 Section 3

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

| | |
|---|---|
| pension bonus | 23(1) |

## 2 After subsection 11(3B)

Insert:

(3C) To avoid doubt, a person's entitlement to be paid a pension bonus is taken not to be an asset of the person for the purposes of this Act.

(3D) Subsection (3C) is to be disregarded in determining whether any other entitlement is an asset for the purposes of this Act.

## 3 Subsection 23(1)

Insert:

***pension bonus*** means pension bonus under Part 2.2A.

## 4 Subsection 40(1)

Omit "dealing with", substitute "(other than Part 2.2A) that deals with".

## 5 At the end of section 49

Add:

(2) The approved form may require the claimant to disclose whether the claimant is registered as a member of:

(a) the pension bonus scheme (see Part 2.2A); or

(b) the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act.

## 6 After Part 2.2

Insert:

# Part 2.2A—Pension bonus

## Division 1—Introduction

### 92A Simplified outline

The following is a simplified outline of this Part:

- A person who qualifies for an age pension but defers claiming that pension may be able to get a single lump-sum ***pension bonus***.
- A person who wants to get a pension bonus must ***register*** as a ***member of the pension bonus scheme***.
- To get a pension bonus, a person must accrue between 1 and 5 ***bonus periods*** while deferring age pension.
- Generally, a bonus period runs for 1 year.
- To accrue a bonus period, the person must ***pass the work test*** for that period.
- To pass the work test for a year, either the person, or the person's partner, must ***gainfully work*** for at least 960 hours during that year.
- The amount of a person's pension bonus depends on the number of accrued bonus periods and the person's annual rate of age pension. A person may get a bigger bonus by accruing more bonus periods.

### 92B Definitions

In this Part:

***accruing member of the pension bonus scheme*** has the meaning given by section 92N.

***bonus period*** has the meaning given by section 92T.

***carer preclusion period*** has the meaning given by section 93W.

***compensation preclusion period*** has the meaning given by section 93V.

***disposal preclusion period*** has the meaning given by section 93U.

***full-year period*** means a continuous period of 365 days.

***gainful work*** has the meaning given by sections 92X to 93A (inclusive).

***non-accruing member of the pension bonus scheme*** has the meaning given by sections 92P and 92Q.

***part-year period*** means a continuous period of less than 365 days.

***passing the work test*** has the meaning given by sections 92U and 92V.

***post-75 member of the pension bonus scheme*** has the meaning given by section 92S.

***registration as a member of the pension bonus scheme*** means registration under section 92J.

## Division 2—Qualification for pension bonus

### 92C Qualification for pension bonus

A person is qualified for a pension bonus if:

(a) both:

(i) the person starts to receive an age pension at or after the time when the person makes a claim for the pension bonus; and

(ii) that age pension is received otherwise than because of a scheduled international social security agreement (within the meaning of section 1208); and

(b) the person has not received an age pension at any time before making a claim for the pension bonus; and

(c) the person is registered as a member of the pension bonus scheme; and

(d) the person has accrued at least one full-year bonus period while registered as a member of the pension bonus scheme; and

(e) the person has not received:

(i) a social security pension (other than an age pension or a carer payment); or

(ii) a social security benefit; or

(iii) a service pension (other than a carer service pension); or

(iv) an income support supplement (other than an income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5 to the Veterans' Entitlements Act);

at any time after the person qualified for an age pension; and

(f) the person has not already received:

(i) another pension bonus; or

(ii) a bonus under Part IIIAB of the Veterans' Entitlements Act.

Note: Subclause 8(3) of Schedule 5 to the Veterans' Entitlements Act deals with income support supplement for carers.

## Division 3—Registration as a member of the pension bonus scheme

### Subdivision A—Membership of the pension bonus scheme

#### 92D Application for registration

A person may apply for registration as a member of the pension bonus scheme.

#### 92E Form of application

An application must be in writing and must be in accordance with a form approved by the Secretary.

## 92F Relevant information

(1) An approved form may require the applicant to provide relevant information (see subsection (4)).

(2) The Secretary may, by written notice given to the applicant, require the applicant to give the Secretary, within a specified period, further relevant information. The Secretary may refuse to register the applicant until the applicant gives the Secretary the information.

(3) A period specified for the purposes of subsection (2) must run for at least 14 days after the notice was given.

(4) For the purposes of this section, ***relevant information*** includes (but is not limited to):

(a) information that would be likely to assist the Secretary in advising the applicant about the operation of this Part; and

(b) information that is relevant to determining whether a disposal preclusion period, compensation preclusion period or carer preclusion period has arisen, or is likely to arise, in relation to the applicant; and

(c) a statement of the applicant's present expectations in relation to any or all of the following matters:

(i) the number of bonus periods that the person is likely to accrue while registered as a member of the pension bonus scheme;

(ii) the likely nature and extent of the person's participation in the workforce during those periods;

(iii) if the person has a partner—the likely nature and extent of the partner's participation in the workforce during those periods.

## 92G Lodgment of application

(1) An application must be lodged:

(a) at an office of the Department; or

(b) at a place approved by the Secretary; or

(c) with a person approved by the Secretary.

(2) A place or person approved under subsection (1) may be a place or person within or outside Australia.

## 92H Timing of application and registration

*Age pension qualification date on or after 1 July 1998*

(1) If a person's date of qualification for the age pension occurs on or after 1 July 1998:

(a) the person must lodge an application during the period that begins 13 weeks before the person's date of qualification for the age pension and ends 13 weeks after that date; and

(b) if registration occurs as a result of an application lodged within that period—the registration takes effect on the person's date of qualification for the age pension.

Note: The Secretary may extend the period: see subsection (3).

*Age pension qualification date before 1 July 1998*

(2) If a person's date of qualification for the age pension occurs before 1 July 1998:

(a) the person must lodge an application during the period that begins on the commencement of this section and ends 13 weeks after 1 July 1998; and

(b) if registration occurs as a result of an application lodged within that period—the registration takes effect on 1 July 1998.

Note: The Secretary may extend the period: see subsection (3).

*Late applications*

(3) The Secretary may extend the period within which a person must lodge an application. If registration occurs as a result of an application lodged during an extended period, the registration takes effect:

(a) on the date on which the application is lodged; or

(b) if the Secretary decides that it should take effect on another date—on that other date.

(4) The Secretary must not make a decision to extend the period within which a person must lodge an application unless, if it were assumed that the person had been a member of the pension bonus scheme throughout the pre-application period:

(a) the person would have been a non-accruing member for all of the pre-application period; or

(b) both:

(i) the person would have been an accruing member for some or all of the pre-application period; and

(ii) the person would have passed the work test for each test period that is applicable to the person.

Note 1: ***Pre-application period*** is defined by subsection (5).

Note 2: ***Test period*** is defined by subsection (6).

(5) For the purposes of this section, the ***pre-application period*** is the period beginning on:

(a) in the case of a person whose date of qualification for the age pension occurs on or after 1 July 1998—the person's date of qualification for the age pension; or

(b) in the case of a person whose date of qualification for the age pension occurs before 1 July 1998—1 July 1998;

and ending on the date on which the person lodged the application.

(6) For the purposes of this section, to work out what is a ***test period***:

(a) identify the ***overall accruing period***, which is that part of the pre-application period for which, if it were assumed that the person had been a member of the pension bonus scheme throughout the pre-application period, the person would have been an accruing member of the scheme;

(b) if the overall accruing period is 365 days or less—the overall accruing period is the only test period;

(c) if the overall accruing period is longer than 365 days—each of the following periods is a test period:

(i) the full-year period beginning at the start of the overall accruing period;

(ii) if 2 or more succeeding full-year periods are included in the overall accruing period—each of those full-year periods;

(iii) the remainder (if any) of the overall accruing period.

(7) For the purposes of subsection (4), the Secretary is taken to have waived compliance with the applicable record-keeping requirements in relation to each test period.

*Date of qualification for the age pension*

(8) For the purposes of this section, a person's ***date of qualification for the age pension*** is to be worked out on the assumption that being an Australian resident were an additional qualification for an age pension.

(9) For the purposes of this section, if a person would otherwise have 2 or more dates of qualification for the age pension, only the first date is to be counted.

## 92J Registration

(1) If an application is made in accordance with this Subdivision, the Secretary must register the applicant as a member of the pension bonus scheme.

(2) This section has effect subject to subsection 92F(2).

## 92K Duration of membership

A person's membership of the pension bonus scheme begins on the date on which the registration of that membership takes effect and continues until the membership is cancelled under this Act.

## 92L Cancellation of membership

A person's membership of the pension bonus scheme is cancelled if:

(a) the person's claim for pension bonus is determined; or

(b) the person starts to receive:

(i) a social security pension (other than an age pension or a carer payment); or

(ii) a social security benefit; or

(iii) a service pension (other than a carer service pension); or

(iv) an income support supplement (other than an income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5 to the Veterans' Entitlements Act);

at any time after the person qualified for an age pension; or

(c) the person does not make a proper claim for a pension bonus when the person claims age pension; or

(d) the person requests the Secretary, in writing, to cancel the person's membership.

Note: Subclause 8(3) of Schedule 5 to the Veterans' Entitlements Act deals with income support supplement for carers.

### 92M Application for registration is not to be treated as a claim

To avoid doubt, an application for registration as a member of the pension bonus scheme is not to be treated as a claim for the purposes of any law of the Commonwealth.

## Subdivision B—Classification of membership of the pension bonus scheme

### 92N Accruing membership

For the purposes of this Part, a person's membership of the pension bonus scheme at a particular time is ***accruing*** unless the person's membership is non-accruing or post-75 at that time.

### 92P Non-accruing membership—preclusion periods

*Disposal preclusion period*

(1) For the purposes of this Part, if a person is subject to a disposal preclusion period at a particular time when the person is a member of the pension bonus scheme, the person's membership of the scheme is ***non-accruing*** at that time.

Note: ***Disposal preclusion period*** is defined by section 93U.

*Compensation preclusion period*

(2) For the purposes of this Part, if a person is subject to a compensation preclusion period at a particular time when the person is a member of the pension bonus scheme, the person's membership of the scheme is ***non-accruing*** at that time.

Note: ***Compensation preclusion period*** is defined by section 93V.

*Carer preclusion period*

(3) For the purposes of this Part, if a person is subject to a carer preclusion period at a particular time when the person is a member of the pension bonus scheme, the person's membership of the scheme is ***non-accruing*** at that time.

Note: ***Carer preclusion period*** is defined by section 93W.

## 92Q Non-accruing membership—Secretary's discretion

(1) The Secretary may, by written notice published in the *Gazette*, declare that, for the purposes of this Part, a specified kind of member of the pension bonus scheme is a ***non-accruing*** member throughout a period ascertained in accordance with the declaration. The period must not begin before the publication of the notice.

(2) The kinds of members that may be specified under subsection (1) include (but are not limited to):

(a) a member who is a participant in the Community Development Employment Program; and

(b) a member who is in gaol (see subsection 23(5)); and

(c) a member who is undergoing psychiatric confinement (see subsections 23(8) and (9)) because the member has been charged with committing an offence; and

(d) a member who is not a participant in the workforce, but whose partner:

(i) is a participant in the workforce; and

(ii) is not a registered member of the pension bonus scheme or of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act; and

(iii) intends to become a registered member of the pension bonus scheme or of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act; and

(e) a member who is on sick leave for a continuous period of at least 4 weeks and not more than 26 weeks.

(3) A declaration under this section has effect accordingly.

### 92R Continuity of accruing membership is not broken by a period of non-accruing membership

If:

(a) a person has been an accruing member of the pension bonus scheme for a continuous period (the ***first accruing membership period***) (including a period that is applicable because of one or more applications of this section); and

(b) the first accruing membership period is followed by a continuous period of non-accruing membership of the scheme; and

(c) the period of non-accruing membership is followed by a further continuous period of accruing membership of the scheme (the ***second accruing membership period***);

the first accruing membership period and the second accruing membership period are together taken to constitute a continuous period of accruing membership of the scheme.

### 92S Post-75 membership

A person's membership of the pension bonus scheme is ***post-75*** at all times after the person reaches age 75.

## Division 4—Accrual of bonus periods

### 92T Accrual of bonus periods

*Full-year bonus period*

(1) The first ***bonus period*** that accrues to a person is the full-year period of the person's accruing membership of the pension bonus scheme:

(a) that began on whichever of the following dates is applicable:

(i) if the person was an accruing member of the pension bonus scheme on the date the person's registration as a member took effect—the date the registration took effect;

(ii) in any other case—the date on which the person first became an accruing member of the pension bonus scheme; and

(b) for which the person passes the work test.

Note: ***Accruing membership*** is defined by section 92N.

(2) Each succeeding full-year period of the person's accruing membership of the pension bonus scheme:

(a) that is specified in the person's claim for pension bonus; and

(b) for which the person passes the work test;

is a ***bonus period*** that accrues to the person.

*Part-year bonus period*

(3) A part-year period of the person's accruing membership of the pension bonus scheme is a ***bonus period*** that accrues to the person if:

(a) the person passes the work test for that period; and

(b) the person specifies the period in the person's claim for pension bonus; and

(c) the period begins immediately after the end of a full-year bonus period that accrues to the person; and

(d) the period is the last bonus period that accrues to the person.

Note: ***Accruing membership*** is defined by section 92N.

*Bonus periods must be consecutive*

(4) A person cannot accrue more than one bonus period unless:
  (a) the bonus periods are consecutive; or
  (b) the bonus periods are separated only by a period of non-accruing membership.

## Division 5—Passing the work test

### Subdivision A—The work test

#### 92U Work test—full-year period

For the purposes of this Part, a person ***passes the work test*** for a full-year period of the person's accruing membership of the pension bonus scheme if:

(a) in any case—the person satisfies the Secretary that the total number of hours gainfully worked by the person during that period was at least 960 and that at least 640 of that total number of hours were worked in Australia; or

(b) if the person had only one partner during that period—the person satisfies the Secretary that the total number of hours gainfully worked by the person's partner during that period while the partner was a partner of the person and was:
  (i) an accruing member, or a post-75 member, of the pension bonus scheme; or
  (ii) an accruing member, or a post-70/75 member, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act;

was at least 960 and that at least 640 of that total number of hours were worked in Australia; or

(c) if the person had 2 or more partners during that period—the person satisfies the Secretary that the total number of hours gainfully worked by those partners during that period while they were partners of the person and were:
  (i) accruing members, or post-75 members, of the pension bonus scheme; or

(ii) accruing members, or post-70/75 members, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act;

was at least 960 and that at least 640 of that total number of hours were worked in Australia;

and either:

(d) the person satisfies the Secretary that the applicable record-keeping requirements (see section 93C) have been complied with in relation to that period; or

(e) the Secretary decides to waive compliance with the applicable record-keeping requirements in relation to that period.

## 92V Work test—part-year period

(1) For the purposes of this Part, a person ***passes the work test*** for a part-year period of the person's accruing membership of the pension bonus scheme if:

(a) in any case—the person satisfies the Secretary that the total number of hours gainfully worked by the person during that period was at least the pro-rated number of hours (see subsection (2)) and that at least two-thirds of that total number of hours were worked in Australia; or

(b) if the person had only one partner during that period—the person satisfies the Secretary that the total number of hours gainfully worked by the person's partner during that period while the partner was a partner of the person and was:

(i) an accruing member, or a post-75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-70/75 member, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act;

was at least the pro-rated number of hours (see subsection (2)) and that at least two-thirds of that total number of hours were worked in Australia; or

(c) if the person had 2 or more partners during that period—the person satisfies the Secretary that the total number of hours

gainfully worked by those partners during that period while they were partners of the person and were:

(i) accruing members, or post-75 members, of the pension bonus scheme; or

(ii) accruing members, or post-70/75 members, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act;

was at least the pro-rated number of hours (see subsection (2)) and that at least two-thirds of that total number of hours were worked in Australia;

and either:

(d) the person satisfies the Secretary that the applicable record-keeping requirements (see section 93C) have been complied with in relation to that period; or

(e) the Secretary decides to waive compliance with the applicable record-keeping requirements in relation to that period.

(2) For the purposes of this section, the ***pro-rated number of hours*** applicable to a period is worked out using the formula:

$$960 \times \frac{\text{Number of days in the period}}{365}$$

## 92W Secretary's discretion to treat gainful work outside Australia as gainful work in Australia

(1) If a person satisfies the Secretary that:

(a) the person, or the person's partner, has carried on gainful work outside Australia; and

(b) because of special circumstances, the gainful work should be treated as gainful work carried on in Australia;

the Secretary may determine that this Part has effect as if the gainful work were carried on in Australia.

(2) The determination has effect accordingly.

## Subdivision B—Gainful work

### 92X Gainful work—basic rule

(1) For the purposes of this Part, ***gainful work*** is work for financial gain or reward, whether as an employee, a self-employed person or otherwise, where:

(a) the work involves a substantial degree of personal exertion on the part of the person concerned; and

(b) the work is carried on within or outside Australia.

(2) Subsection (1) is to be ignored in determining the meaning of an expression used in a provision of this Act other than this Part.

### 92Y Secretary's discretion to treat activity as gainful work

(1) If a person satisfies the Secretary that:

(a) the person, or the person's partner, has engaged in a particular activity; and

(b) the activity involves a substantial degree of personal exertion on the part of the person or the person's partner, as the case may be; and

(c) the activity does not consist of voluntary work for a charitable, welfare or community organisation; and

(d) because of special circumstances, the activity should be treated as gainful work;

the Secretary may determine that this Part has effect as if the activity were ***gainful work***.

(2) The determination has effect accordingly.

### 92Z Irregular, infrequent and minor absences from a workplace count as gainful work

For the purposes of this Part, if a person is engaged in gainful work, the total hours gainfully worked by the person during a period are to be determined as if the person had been engaged in ***gainful work*** during any absences from the workplace that are irregular, infrequent and minor.

## 93 Management of family financial investments does not count as gainful work

(1) Unless the Secretary otherwise determines, work undertaken by a person is taken not to be ***gainful work*** for the purposes of this Part to the extent to which the work consists of the management or administration of one or more financial investments in which any of the following has a legal or equitable interest:

(a) a member of the person's family group (see subsection (2));

(b) a company that is a family company in relation to the person (see subsection (2));

(c) the trustee or trustees of a trust that is a family trust in relation to the person (see subsection (2)).

Note: ***Financial investment*** is defined by section 9.

(2) In this section:

***family company***, in relation to a person, means a company where:

(a) the company is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of any or all of the members of the person's family group; or

(b) any or all of the members of the person's family group are in a position to cast, or control the casting of, more than 50% of the maximum number of votes that may be cast at a general meeting of the company; or

(c) both:

(i) the company has one or more shareholders; and

(ii) each shareholder is a member of the person's family group.

***family group***, in relation to a person, means the group consisting of the person and the family members of the person. If the person has no family members, the person is taken to be a family group in his or her own right.

Note: ***Family member*** is defined by subsection 23(1).

***family trust***, in relation to a person, means a trust where a member of the person's family group benefits, or is capable (whether by the

exercise of a power of appointment or otherwise) of benefiting, under the trust.

## 93A Domestic duties in relation to a person's place of residence do not count as gainful work

(1) Unless the Secretary otherwise determines, work undertaken by a person is taken not to be ***gainful work*** for the purposes of this Part if the work consists of carrying out:

(a) domestic tasks; or

(b) household maintenance tasks; or

(c) gardening tasks; or

(d) similar tasks;

in relation to:

(e) the person's place of residence; or

(f) if the person has 2 or more places of residence—any of those places of residence.

(2) For the purposes of this section, a ***place of residence*** includes:

(a) if the place is a dwelling-house—any land or building that is adjacent to the dwelling-house and that is used primarily for private or domestic purposes in association with that dwelling-house; or

(b) if the place is a flat or home unit—a garage or storeroom that is used for private or domestic purposes in association with the flat or home unit.

## 93B Evidentiary certificate

*Hours worked during full-year period*

(1) The Secretary may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating that:

(a) the member was an accruing member of the scheme throughout a specified full-year period; and

(b) the total number of hours gainfully worked by the member during that period was at least a specified number of hours; and

(c) the total number of hours gainfully worked in Australia by the member during that period was at least a specified number of hours.

(2) The Secretary may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating that:

(a) the member was an accruing member of the scheme throughout a specified full-year period; and

(b) the total number of hours gainfully worked by a specified person during that period while the person was the partner of the member and was:

(i) an accruing member, or a post-75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-70/75 member, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act;

was at least a specified number of hours; and

(c) the total number of hours gainfully worked in Australia by a specified person during that period while the person was the partner of the member and was:

(i) an accruing member, or a post-75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-70/75 member, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act;

was at least a specified number of hours.

*Hours worked during part-year period*

(3) The Secretary may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating:

(a) that the member was an accruing member of the scheme throughout a specified part-year period; and

(b) the total number of hours gainfully worked by the member during that period; and

(c) the total number of hours gainfully worked in Australia by the member during that period.

(4) The Secretary may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating:

(a) that the member was an accruing member of the scheme throughout a specified part-year period; and

(b) the total number of hours gainfully worked by a specified person during that period while the person was the partner of the member and was:

(i) an accruing member, or a post-75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-70/75 member, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act; and

(c) the total number of hours gainfully worked in Australia by a specified person during that period while the person was the partner of the member and was:

(i) an accruing member, or a post-75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-70/75 member, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act.

*Record-keeping requirements*

(5) If:

(a) a person makes a request for a certificate under subsection (1), (2), (3) or (4) relating to a particular period; and

(b) the applicable record-keeping requirements have not been complied with in relation to that period (see section 93C);

the Secretary may refuse to issue the certificate.

*Non-accruing membership*

(6) The Secretary may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating that the member was a non-accruing member of the scheme throughout a specified period.

*Evidence*

(7) In any proceedings relating to this Part, a certificate under this section is prima facie evidence of the matters in the certificate.

## Subdivision C—Record-keeping requirements

### 93C Record-keeping requirements

*Record-keeping requirements for person*

(1) For the purposes of the application of paragraph 92U(a) or 92V(1)(a) or subsection 93B(1) or (3) to a person, the applicable record-keeping requirements have been complied with in relation to a period of the person's accruing membership of the pension bonus scheme if:

(a) in a case where the person has:

(i) been given a group certificate in respect of any gainful work carried on by the person during that period; or

(ii) lodged an income tax return that relates to any gainful work carried on by the person during that period;

the person would be in a position to produce a copy of the certificate or of the return, as the case may be, to the Secretary if the Secretary were to require the person to produce that copy; and

(b) both:

(i) the person has kept a recognised work record (see subsection (3)) in relation to gainful work carried on by the person during that period; and

(ii) the person would be in a position to produce that record to the Secretary if the Secretary were to require the person to produce that record.

*Record-keeping requirements for partner of person*

(2) For the purposes of the application of paragraph 92U(b) or (c) or 92V(1)(b) or (c) or subsection 93B(2) or (4) to a partner of a person, the applicable record-keeping requirements have been

complied with in relation to a period of the person's accruing membership of the pension bonus scheme if:

(a) in a case where the partner has been given a group certificate in respect of any gainful work carried on by the partner during that period while the partner was a partner of the person and was:

(i) an accruing member, or a post-75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-70/75 member, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act;

the person would be in a position to produce a copy of the certificate to the Secretary if the Secretary were to require the person to produce that copy; and

(b) in a case where the partner has lodged an income tax return that relates to any gainful work carried on by the partner during that period while the partner was a partner of the person and was:

(i) an accruing member, or a post-75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-70/75 member, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act;

the person would be in a position to produce a copy of the return to the Secretary if the Secretary were to require the person to produce that copy; and

(c) in any case—the partner has kept a recognised work record (see subsection (3)) in relation to any gainful work carried on by the partner during that period while the partner was a partner of the person and was:

(i) an accruing member, or a post-75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-70/75 member, of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act;

and the person would be in a position to produce that record to the Secretary if the Secretary were to require the person to produce that record.

*Recognised work record*

(3) For the purposes of this section, a ***recognised work record***, in relation to a person, is a written statement signed by the person that sets out, in relation to gainful work carried on by the person during a particular period:

(a) the nature of the gainful work; and

(b) the dates on which the gainful work was carried on; and

(c) the total number of hours gainfully worked; and

(d) the total number of hours gainfully worked in Australia; and

(e) in a case where any of the gainful work was carried on in the capacity of employee—the name or names of the employer or employers concerned; and

(f) such other particulars as the Secretary requires.

## Division 6—Amount of pension bonus

### 93D How to calculate the amount of pension bonus

(1) To calculate the amount of a person's pension bonus:

(a) work out which of the person's bonus periods count as qualifying bonus periods (see section 93E);

(b) work out the person's overall qualifying period (see section 93F);

(c) work out the person's pension multiple (see section 93G);

(d) work out the person's annual pension rate (see section 93H);

(e) apply the appropriate formula in section 93J.

Note: ***Bonus period*** is defined by section 92T.

(2) For the purposes of this Division, a number of years is to be calculated to 3 decimal places. However, if a number worked out in accordance with this subsection would, if it were calculated to 4 decimal places, end in a digit that is greater than 4, the number is to be increased by 0.001.

## 93E Qualifying bonus periods

(1) For the purposes of this Division, if a person has accrued only one bonus period, that bonus period is the person's ***qualifying bonus period***.

(2) For the purposes of this Division, if a person has accrued only 2 bonus periods, each of those bonus periods is a ***qualifying bonus period***.

(3) For the purposes of this Division, if a person has accrued only 3 bonus periods, each of those bonus periods is a ***qualifying bonus period***.

(4) For the purposes of this Division, if a person has accrued only 4 bonus periods, each of those bonus periods is a ***qualifying bonus period***.

(5) For the purposes of this Division, if a person has accrued only 5 bonus periods, each of those bonus periods is a ***qualifying bonus period***.

(6) For the purposes of this Division, if:

(a) a person has accrued more than 5 bonus periods; and

(b) the last bonus period is a full-year period;

each of the 5 most recent bonus periods are ***qualifying bonus periods***.

(7) For the purposes of this Division, if:

(a) a person has accrued more than 5 bonus periods; and

(b) the last bonus period is a part-year period;

each of the 5 most recent full-year bonus periods are ***qualifying bonus periods***.

## 93F Overall qualifying period

(1) For the purposes of this Division, if a person has only one qualifying bonus period, that period is the person's ***overall qualifying period***.

(2) For the purposes of this Division, if a person has 2 or more qualifying bonus periods, the person's ***overall qualifying period*** is the period:

(a) beginning at the start of the first qualifying bonus period; and

(b) ending at the end of the last qualifying bonus period.

However, any period of non-accruing membership of the pension bonus scheme is taken not to form part of the person's overall qualifying period.

### 93G Pension multiple

For the purposes of this Division, a person's ***pension multiple*** is worked out using the formula:

$$0.094 \times \text{No. of years in the person's overall qualifying period}$$

### 93H Annual pension rate

For the purposes of this Division, a person's ***annual pension rate*** is:

(a) if the person is not permanently blind—the rate that would be the person's provisional payment rate under the 1064-A1 Method statement, ascertained as at the date of grant of the age pension, if it were assumed that Steps 2 and 3 were omitted from that Method statement; or

(b) if the person is permanently blind—the person's maximum basic rate under the 1065-B1 Table, ascertained as at the date of grant of the age pension.

### 93J Amount of pension bonus

*No change in marital status during overall qualifying period*

(1) If:

(a) a person was a member of a couple throughout the person's overall qualifying period; or

(b) a person was not a member of a couple at any time during the person's overall qualifying period;

the amount of the person's pension bonus is worked out using the following formula (for rounding up, see subsection (7)):

$$\text{Annual pension rate} \times \text{Pension multiple} \times \text{No. of years in the person's overall qualifying period}$$

*Change in marital status during overall qualifying period*

(2) If subsection (1) does not apply to a person, the amount of the person's pension bonus is worked out using the following formula (for rounding up, see subsection (7)):

$$\left[\text{Annual notional single pension rate} \times \text{Pension multiple} \times \text{No. of single years during overall qualifying period}\right] + \left[\text{Annual notional partnered pension rate} \times \text{Pension multiple} \times \text{No. of partnered years during overall qualifying period}\right]$$

(3) For the purposes of this section, a person's ***annual notional single pension rate*** is equal to:

(a) if the person is not permanently blind—the adjusted percentage of the person's maximum basic rate under the 1064-B1 Table, ascertained as at the date of grant of the age pension, if it were assumed that the person were not a member of a couple as at that date; or

(b) if the person is permanently blind—the person's maximum basic rate under the 1065-B1 Table, ascertained as at the date of grant of the age pension, if it were assumed that the person were not a member of a couple as at that date.

(4) For the purposes of this section, a person's ***annual notional partnered pension rate*** is equal to:

(a) if the person is not permanently blind—the adjusted percentage of the person's maximum basic rate under the 1064-B1 Table, ascertained as at the date of grant of the age pension, if it were assumed that the person were a member of a couple as at that date; or

(b) if the person is permanently blind—the person's maximum basic rate under the 1065-B1 Table, ascertained as at the date of grant of the age pension, if it were assumed that the person were a member of a couple as at that date.

(5) For the purposes of this section, a person's ***adjusted percentage*** is the percentage worked out using the following formula (for rounding up, see subsection (8)):

$$\frac{\text{Annual pension rate}}{\text{Maximum basic rate}} \times 100$$

where:

***maximum basic rate*** is the person's maximum basic rate under the 1064-B1 Table, ascertained as at the date of grant of the age pension.

(6) For the purposes of this section:

(a) the number of ***single years*** during the overall qualifying period is the number of years during the overall qualifying period when the person was not a member of a couple; and

(b) the number of ***partnered years*** during the overall qualifying period is the number of years during the overall qualifying period when the person was a member of a couple.

*Rounding up*

(7) An amount calculated under subsection (1) or (2) is to be rounded to the nearest 10 cents (with 5 cents being rounded up).

(8) A percentage worked out under subsection (5) is to be calculated to 3 decimal places. However, if a percentage worked out under subsection (5) would, if it were calculated to 4 decimal places, end in a digit that is greater than 4, the percentage is to be increased by 0.001.

## Division 7—Claim for pension bonus

### 93K Need for a claim

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

### 93L Proper claim

(1) To be a proper claim, a claim for pension bonus must be:
  (a) in writing; and
  (b) in accordance with a form approved by the Secretary; and
  (c) either:
    (i) attached to a proper claim made by the person for age pension and lodged together with that claim for age pension; or
    (ii) made in accordance with an invitation under subsection (3); and
  (d) made within the applicable lodgment period (see section 93M).

(2) A claim for pension bonus is a proper claim even though it is not certain whether the person will start to receive an age pension at or after the time when the person makes the claim. The claim has effect as a claim that is contingent on the person receiving an age pension.

(3) If:
  (a) a person makes a proper claim for an age pension; and
  (b) the claim is in accordance with a form that does not require the claimant to disclose whether the claimant is registered as a member of:
    (i) the pension bonus scheme; or
    (ii) the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act; and
  (c) the person is, to the knowledge of the Secretary, registered as a member of the pension bonus scheme; and

(d) a claim by the person for pension bonus is not attached to the claim for age pension;

the Secretary must give the claimant a written notice inviting the claimant to lodge a claim for a pension bonus:

(e) within such period after the lodgment of the claim for age pension as is specified in the invitation; and

(f) at such place as in specified in the invitation.

(4) If a claim for pension bonus is made in accordance with an invitation under subsection (3), this Part (other than this section) has effect as if the person had claimed the pension bonus at the same time as the person claimed age pension.

## 93M Lodgment period for claim

(1) This section sets out rules for determining the period (the ***lodgment period***) within which a claim for pension bonus must be made.

*Lodgment period where last bonus period is a full-year period*

(2) If a person's last bonus period is a full-year period, the ***lodgment period*** applicable to the person's claim for pension bonus is the period of 13 weeks beginning at the end of that bonus period. However, this rule does not apply if:

(a) the person is an exempt partnered person (see subsection (8)) as at the end of the person's last bonus period; or

(b) the person's membership of the pension bonus scheme becomes non-accruing immediately after the end of the person's last bonus period; or

(c) the person is a post-75 member of the pension bonus scheme and has a post-75 work period (see subsection (9)).

Note: For the rule in these cases, see subsections (5), (6) and (7).

*Lodgment period where last bonus period is a part-year period*

(3) If a person's last bonus period is a part-year period, the ***lodgment period*** applicable to the person's claim for pension bonus is:

(a) the period of 13 weeks beginning at the end of that bonus period; or

(b) if the Secretary allows a longer period—that longer period.

However, this rule does not apply if:

(c) the person is an exempt partnered person (see subsection (8)) as at the end of the person's last bonus period; or

(d) the person's membership of the pension bonus scheme becomes non-accruing immediately after the end of the person's last bonus period; or

(e) the person is a post-75 member of the pension bonus scheme and has a post-75 work period (see subsection (9)).

Note: For the rule in these cases, see subsections (5), (6) and (7).

(4) If:

(a) subsection (3) applies to a person's claim for pension bonus; and

(b) the claim is lodged within a period allowed under paragraph (3)(b);

Division 6 has effect, in relation to the calculation of the amount of that pension bonus, as if the person had not accrued the part-year bonus period.

*Lodgment period for exempt partnered person*

(5) If a person is an exempt partnered person as at the end of the person's last bonus period because the person is a member of a couple, the ***lodgment period*** applicable to the person's claim for pension bonus is the period:

(a) beginning at the end of that bonus period; and

(b) ending at:

(i) the time of the last occasion on which the person's partner could have lodged a claim for a pension bonus; or

(ii) the end of the period of 13 weeks after the person ceases to be a member of the same couple (whether because of the death of the person's partner or for any other reason);

whichever comes first.

*Lodgment period for non-accruing member*

(6) If a person's membership of the pension bonus scheme becomes non-accruing immediately after the end of the person's last bonus period, the ***lodgment period*** applicable to the person's claim for pension bonus is the period:

(a) beginning at the end of the person's last bonus period; and

(b) ending 13 weeks after the time when the person's membership of the scheme ceases to be non-accruing.

*Lodgment period for post-75 member who has a post-75 work period*

(7) If a post-75 member of the pension bonus scheme has a post-75 work period, the ***lodgment period*** applicable to the person's claim for pension bonus is the period of 13 weeks beginning at the end of the period nominated in the claim as the person's post-75 work period.

*Exempt partnered person*

(8) For the purposes of this section, a person is an ***exempt partnered person*** at a particular time if, at that time, the person is a member of a couple, and:

(a) the person's partner is an accruing or non-accruing member of the pension bonus scheme; or

(b) the person's partner is an accruing or non-accruing member of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act.

*Post-75 member with a post-75 work period*

(9) For the purposes of this section, a post-75 member of the pension bonus scheme has a ***post-75 work period*** if:

(a) the person's claim for pension bonus nominates a particular period as the person's post-75 work period; and

(b) the nominated period begins immediately after the end of the person's last bonus period; and

(c) if it were assumed that the person had been an accruing member of the pension bonus scheme throughout each test period that is applicable to the person, the person would have passed the work test for each test period.

Note: ***Test period*** is defined by subsection (10).

(10) For the purposes of subsection (9), to work out what is a ***test period***:

(a) identify the ***extended period***, which is that part of the nominated period when the person was neither:

(i) subject to a compensation preclusion period or a carer preclusion period; nor

(ii) covered by a declaration under section 92Q;

(b) if the extended period is 365 days or less—the extended period is the only test period;

(c) if the extended period is longer than 365 days—each of the following periods is a test period:

(i) the full-year period beginning at the start of the extended period;

(ii) if 2 or more succeeding full-year periods are included in the extended period—each of those full-year periods;

(iii) the remainder (if any) of the extended period.

(11) In addition to its effect apart from this subsection, section 93B (evidentiary certificates) also has the effect it would have if each reference in paragraph 93B(1)(a), (2)(a), (3)(a) or (4)(a) to an accruing member of the pension bonus scheme were a reference to a post-75 member of the scheme.

*Last bonus period*

(12) For the purposes of this section, if a person has accrued only one full year bonus period, that period is the person's ***last bonus period***.

## 93N Withdrawal of claim

(1) A claimant for a pension bonus may withdraw a claim that has not been determined.

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

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

(4) If:

(a) a person claims both a pension bonus and an age pension; and

(b) the claim for age pension is withdrawn;

the claim for pension bonus is taken to have been withdrawn.

(5) If:

(a) a person claims both a pension bonus and an age pension; and

(b) the claim for age pension is rejected as a direct or indirect result of the operation of:

(i) Division 2 of Part 3.12 (disposals of assets); or

(ii) Part 3.14 (compensation);

the claim for pension bonus is taken to have been withdrawn.

## Division 8—Determination of claim

### 93P Secretary to determine claim

(1) The Secretary must, in accordance with this Act, determine a claim for pension bonus.

(2) If a person claims both a pension bonus and an age pension, the Secretary must not determine the claim for pension bonus until the claim for age pension has been granted.

### 93Q Grant of claim

The Secretary must determine that a claim for pension bonus is to be granted if the Secretary is satisfied that the person is qualified for the pension bonus.

## Division 9—Payment of pension bonus

### 93R Payment of pension bonus

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

(a) the first pension payday after the grant; or

(b) if the Secretary considers that it is not practicable to pay the bonus on that payday—the next practicable day.

## 93S Payment of bonus after death

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

*Claim granted before death*

(2) If:

(a) a person claims a pension bonus; and

(b) the person dies; and

(c) at the time of the person's death, the claim had been granted, but the person had not received the bonus;

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

*Claim not granted before death*

(3) If:

(a) a person claims a pension bonus; and

(b) the person dies; and

(c) at the time of the person's death, the claim had not been determined;

then:

(d) the Secretary must determine the claim after the person's death as if the person had not died; and

(e) if the claim is granted—the bonus is payable to the legal personal representative of the person.

(4) If:

(a) under paragraph (3)(d), the Secretary is required to determine a claim for pension bonus after a person's death; and

(b) at the time of the person's death, the person's claim for age pension had not been determined;

then, in determining the claim for pension bonus, this Part is modified as set out in the following table:

| **Modifications** | | |
|---|---|---|
| **Item** | **This provision:** | **is modified in this way:** |
| 1 | Paragraph 92C(a) | The conditions in this paragraph are taken to be satisfied if:<br>(a) the person would have started to receive an age pension if the person had not died; and<br>(b) that age pension would have been received otherwise than because of a scheduled international social security agreement (see section 1208). |
| 2 | Division 6 | A reference in the Division to a particular rate is taken to be a reference to the rate that would have been applicable to the person if the person had not died. |
| 3 | Division 6 | A reference in the Division to the date of grant of the age pension is taken to be a reference to the date that the age pension would have been granted if the person had not died. |
| 4 | Subsection 93L(2) | The subsection is to be disregarded. |
| 5 | Subsection 93P(2) | The subsection is to be disregarded. |

*Liability of Commonwealth*

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

## Division 10—Protection of pension bonus

### 93T Pension bonus to be absolutely inalienable

(1) A pension bonus is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise. This subsection has effect subject to subsections (2) and (3) and section 1359.

*Deduction from bonus to pay tax debts that are unrelated to the bonus*

(2) The Secretary may make a deduction from a pension bonus payable to a person if the person asks the Secretary:

(a) to make the deduction; and

(b) to pay the amount to be deducted to the Commissioner of Taxation.

Note 1: The Secretary must make deductions from a person's social security payment if requested by the Commissioner of Taxation—see section 1359.

Note 2: Under the *Income Tax Assessment Act 1997*, pension bonus is exempt from income tax.

*Deduction from bonus at recipient's request*

(3) The Secretary may make a deduction from a pension bonus payable to a person if the person consents under section 1234A to the Secretary making the deduction.

Note: Section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a social security payment.

## Division 11—Preclusion periods

### 93U Disposal preclusion period

(1) For the purposes of this Part, if:

(a) either:

(i) a person has, during a designated year of the person, disposed of an asset of the person; or

(ii) the partner of a person has, during a designated year of the person, disposed of an asset of the partner; and

(b) the amount of that disposition, or the sum of that amount and of the amounts (if any) of other dispositions of assets previously made by the person and/or the person's partner during that designated year, exceeds $10,000;

the person is subject to a ***disposal preclusion period*** throughout the period of 5 years that starts on the day on which the disposition referred to in paragraph (a) took place.

Note: ***Designated year*** is defined by subsection (3).

(2) For the purposes of this Part, if:

(a) a person ceases to be a member of a couple (whether because of the death of the person's partner or for any other reason); and

(b) immediately before the cessation, the person was subject to a particular disposal preclusion period that arose wholly because the person's partner disposed of a particular asset; and

(c) if that disposition had been disregarded, the person would not have been subject to that disposal preclusion period;

then, despite subsection (1), that disposal preclusion period ends at the cessation.

(3) For the purposes of this section, a ***designated year*** of a person is:

(a) the 12-month period ending on the day the person qualified for age pension; and

(b) each preceding 12-month period; and

(c) each succeeding 12-month period.

(4) This section applies to a disposal even if the disposal took place before the commencement of this section.

## 93V Compensation preclusion period

(1) For the purposes of this Part, if a person receives a lump sum compensation payment, the person is subject to a ***compensation preclusion period*** throughout the lump sum preclusion period.

(2) For the purposes of this Part, if a person receives a series of periodic compensation payments, the person is subject to a ***compensation preclusion period*** throughout the periodic payments period.

(3) This section applies to a payment even if it was received before the commencement of this section.

## 93W Carer preclusion period

(1) For the purposes of this Part, if a person receives:

(a) a carer payment; or

(b) a carer service pension; or

(c) an income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5 to the Veterans' Entitlements Act;

during a particular period, the person is subject to a ***carer preclusion period*** throughout that period.

Note: Subclause 8(3) of Schedule 5 to the Veterans' Entitlements Act deals with income support supplement for carers.

(2) This section applies to a carer payment, a carer service pension or an income support supplement even if it was received before the commencement of this section.

## 7 Paragraph 1224AA(1)(a)

Repeal the paragraph, substitute:

(a) either:

(i) an instalment of a social security payment is paid by cheque; or

(ii) a pension bonus is paid by cheque; and

## 8 Subsection 1231(1)

Omit all the words after "following way:", substitute:

(e) if the social security payment is not pension bonus—each payment of the person's social security payment is to be reduced by the amount decided under subsection (1A), until the sum of:

(i) those amounts; and

(ii) any amount deducted under paragraph (f) in respect of the debt or overpayment;

is equal to the debt or overpayment; or

(f) if the social security payment is pension bonus—the payment of the bonus is to be reduced by so much of the debt or overpayment as does not exceed the bonus, even if this results in reducing the bonus to nil.

## 9 Subsection 1231(1A)

Omit "The Secretary", substitute "If the social security payment is not pension bonus, the Secretary".

## 10 Paragraph 1234A(1)(b)

After "is receiving", insert ", or is about to receive,".

## 11 Subsection 1240(1)

After "(1AA)", insert ", (1B)".

## 12 After subsection 1240(1A)

Insert:

(1B) If:

(a) an officer makes a decision under Part 2.2A (which deals with pension bonus); and

(b) notice of the decision is given to the person concerned;

the person is not entitled to make an application under subsection (1) for review of the decision more than 13 weeks after the giving of the notice.

## 13 Subsection 1253(2)

After "social security payment" (first occurring), insert "(other than pension bonus)".

## 14 After subsection 1253(2)

Insert:

(2A) If the Social Security Appeals Tribunal sets a decision aside and substitutes for it a decision that a person is entitled to a pension bonus, the SSAT must:

(a) assess the amount of the pension bonus that is to be paid to the person; or

(b) ask the Secretary to assess the amount of the pension bonus that is to be paid to the person.

## 15 Paragraph 1304(1)(a)

After "payment" (first occurring), insert "(other than pension bonus)".

## 16 After paragraph 1304(1)(a)

Insert:

(aa) whether a person who has made a claim for a pension bonus under this Act is or was qualified for the pension bonus (for the purposes of this question, it is to be assumed that the person started to receive an age pension after making that claim); or

## 17 At the end of section 1361

Add:

(3) If a written statement signed by a person referred to in subsection (1) is to the effect that, on a specified day, a specified person received a specified amount by way of pension bonus under this Act, the statement is prima facie evidence of the matters in the statement.

# Schedule 2—Amendment of the Veterans' Entitlements Act 1986

## 1 Section 5

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

| | |
|---|---|
| pension bonus | 5Q(1) |

## 2 After subsection 5L(3B)

Insert:

(3C) To avoid doubt, a person's entitlement to be paid a pension bonus is taken not to be an asset of the person for the purposes of this Act.

(3D) Subsection (3C) is to be disregarded in determining whether any other entitlement is an asset for the purposes of this Act.

## 3 Subsection 5Q(1)

Insert:

***pension bonus*** means pension bonus under Part IIIAB.

## 4 At the end of section 36F

Add:

(2) The approved form may require the claimant to disclose whether the claimant is registered as a member of:

(a) the pension bonus scheme (see Part IIIAB); or

(b) the corresponding scheme under Part 2.2A of the Social Security Act.

## 5 At the end of subsection 38(1)

Add:

; or (f) is a person:

(i) who is a member of a couple; and

(ii) whose partner is a veteran who is registered as a member of the pension bonus scheme (see Part IIIAB); or

(g) is a person:

(i) who is the non-illness separated spouse of a veteran; and

(ii) whose non-illness separated spouse is registered as a member of the pension bonus scheme (see Part IIIAB); or

(h) is a person:

(i) who is the widow or widower of a veteran; and

(ii) whose partner or non-illness separated spouse, immediately before his or her death, was registered as a member of the pension bonus scheme (see Part IIIAB), was receiving an age service pension or an invalidity service pension, or would have been receiving such a pension if not for the operation of one or more disqualifying provisions; and

(iii) who, immediately before the veteran's death, was registered as a member of the pension bonus scheme (see Part IIIAB) or of the corresponding scheme under Part 2.2A of the Social Security Act or was receiving a partner service pension or a social security pension; or

(i) is a person:

(i) who is the widow or widower of a veteran; and

(ii) who had, before the veteran's death, made a claim for a partner service pension which had not been determined at the date of the death; and

(iii) whose partner or spouse was, immediately before his or her death, registered as a member of the pension bonus scheme (see Part IIIAB).

## 6 Subsection 38(2A)

After "(1)(b)", insert "or (g)".

## 7 Subsection 38(2A) (note 2)

After "(1)(a)", insert "or (f)".

### 8 Subsection 38(2B)

Omit "or (d)", substitute ", (d), (h) or (i)".

### 9 Subsection 38(3)

Omit "or (e)" (wherever occurring), substitute ", (e), (h) or (i)".

### 10 Subsection 38(3A)

Omit "or (e)", substitute ", (e), (h) or (i)".

### 11 At the end of section 38F

Add:

(2) The approved form may require the claimant to disclose whether the claimant is registered as a member of:

(a) the pension bonus scheme (see Part IIIAB); or

(b) the corresponding scheme under Part 2.2A of the Social Security Act.

### 12 At the end of section 45K

Add:

(2) The approved form may require the claimant to disclose whether the claimant is registered as a member of:

(a) the pension bonus scheme (see Part IIIAB); or

(b) the corresponding scheme under Part 2.2A of the Social Security Act.

### 13 After Part IIIA

Insert:

# Part IIIAB—Pension bonus

## Division 1—Introduction

### 45T Simplified outline

The following is a simplified outline of this Part:

- A person may be able to get a single lump-sum ***pension bonus*** if:

    (a) the person becomes eligible for an age service pension, but defers claiming it; or

    (b) the person is eligible for a partner service pension after reaching pension age, but defers claiming it; or

    (c) the person is eligible for income support supplement after reaching qualifying age, but defers claiming it.

- A person who wants to get a pension bonus must ***register*** as a ***member of the pension bonus scheme***.

- To get a pension bonus, a person must accrue between 1 and 5 ***bonus periods*** while deferring age service pension, partner service pension or income support supplement.

- Generally, a bonus period runs for 1 year.

- To accrue a bonus period, the person must ***pass the work test*** for that period.

- To pass the work test for a year, either the person, or the person's partner, must ***gainfully work*** for at least 960 hours during that year.

- The amount of a person's pension bonus depends on the number of accrued bonus periods and the person's annual rate of age service pension, partner service pension or income support supplement. A person may get a bigger bonus by accruing more bonus periods.

## 45TA Definitions

In this Part:

***accruing member of the pension bonus scheme*** has the meaning given by section 45TM.

***bonus period*** has the meaning given by section 45TR.

***carer payment*** means carer payment under the Social Security Act.

***carer preclusion period*** has the meaning given by section 45UU.

***designated pension*** means:

(a) age service pension; or

(b) partner service pension; or

(c) income support supplement.

***disposal preclusion period*** has the meaning given by section 45UT.

***full-year period*** means a continuous period of 365 days.

***gainful work*** has the meaning given by sections 45TV to 45TZ (inclusive).

***non-accruing member of the pension bonus scheme*** has the meaning given by sections 45TN and 45TO.

***part-year period*** means a continuous period of less than 365 days.

***passing the work test*** has the meaning given by sections 45TS and 45TT.

***post-70/75 member of the pension bonus scheme*** has the meaning given by section 45TQ.

***qualifying age*** has the meaning given by subsection 45A(2).

***registration as a member of the pension bonus scheme*** means registration under section 45TI.

***special date of eligibility***, in relation to a designated pension, has the meaning given by section 45TB.

## 45TB Special date of eligibility for a designated pension

*Age service pension*

(1) For the purposes of this Part, a person's ***special date of eligibility*** for an age service pension is the first day on which the person becomes eligible for an age service pension.

*Partner service pension*

(2) For the purposes of this Part, a person's ***special date of eligibility*** for a partner service pension is worked out as follows:

(a) identify the day (the ***pension age day***) on which the person reached pension age;

(b) the special date of eligibility is the first day occurring on or after the pension age day on which the person is eligible for a partner service pension.

*Income support supplement*

(3) For the purposes of this Part, a person's ***special date of eligibility*** for income support supplement is worked out as follows:

(a) identify the ***threshold day*** as whichever of the following days is applicable:

(i) the day the person reached qualifying age;

(ii) if the person was granted a pension under Part II or IV after the person reached qualifying age because the person is a war widow or war widower—the day the pension commenced;

(b) the special date of eligibility is the first day occurring on or after the threshold day on which the person is eligible for income support supplement (other than income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5).

*Residency assumption*

(4) For the purposes of this Part, a person's ***special date of eligibility*** for a designated pension is to be worked out on the assumption that:

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

were additional requirements for the designated pension.

## Division 2—Qualification for pension bonus

### 45TC Qualification for pension bonus

*Deferral of age service pension*

(1) A person is qualified for a pension bonus if:
(a) the person starts to receive an age service pension at or after the time when the person makes a claim for the pension bonus; and
(b) the person has not received an age service pension at any time before making a claim for the pension bonus; and
(c) the person is registered as a member of the pension bonus scheme; and
(d) the person has accrued at least one full-year bonus period while registered as a member of the pension bonus scheme; and
(e) the person has not received:
(i) a social security pension (other than a carer payment); or
(ii) a social security benefit; or
(iii) a service pension (other than an age service pension or a carer service pension); or
(iv) income support supplement (other than income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5);

at any time after the person's special date of eligibility for an age service pension; and
(f) the person has not already received:
(i) another pension bonus; or
(ii) a bonus under Part 2.2A of the Social Security Act.

*Deferral of partner service pension*

(2) A person is qualified for a pension bonus if:

(a) the person starts to receive a partner service pension at or after the time when the person makes a claim for the pension bonus; and

(b) the person has not received a partner service pension at any time during the period:

(i) beginning on the person's special date of eligibility for a partner service pension; and

(ii) ending immediately before the time when the person makes a claim for the pension bonus; and

(c) the person is registered as a member of the pension bonus scheme; and

(d) the person has accrued at least one full-year bonus period while registered as a member of the pension bonus scheme; and

(e) the person has not received:

(i) a social security pension (other than a carer payment); or

(ii) a social security benefit; or

(iii) a service pension (other than a partner service pension or a carer service pension);

at any time after the person's special date of eligibility for a partner service pension; and

(f) the person has not already received:

(i) another pension bonus; or

(ii) a bonus under Part 2.2A of the Social Security Act.

*Deferral of income support supplement*

(3) A person is qualified for a pension bonus if:

(a) the person starts to receive income support supplement (other than income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5) at or after the time when the person makes a claim for the pension bonus; and

(b) the person has not received income support supplement (other than income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5) at any time during the period:

(i) beginning on the person's special date of eligibility for income support supplement; and

(ii) ending immediately before the time when the person makes a claim for the pension bonus; and

(c) the person is registered as a member of the pension bonus scheme; and

(d) the person has accrued at least one full-year bonus period while registered as a member of the pension bonus scheme; and

(e) the person has not received:

(i) a social security pension (other than a carer payment); or

(ii) a social security benefit; or

(iii) a service pension (other than a carer service pension);

at any time after the person's special date of eligibility for income support supplement; and

(f) the person has not already received:

(i) another pension bonus; or

(ii) a bonus under Part 2.2A of the Social Security Act.

## Division 3—Registration as a member of the pension bonus scheme

### Subdivision A—Membership of the pension bonus scheme

#### 45TD Application for registration

A person may apply for registration as a member of the pension bonus scheme.

#### 45TE Form of application

An application must be in writing and must be in accordance with a form approved by the Commission.

## 45TF Relevant information

(1) An approved form may require the applicant to provide relevant information (see subsection (4)).

(2) The Secretary may, by written notice given to the applicant, require the applicant to give the Secretary, within a specified period, further relevant information. The Commission may refuse to register the applicant until the applicant gives the Secretary the information.

(3) A period specified for the purposes of subsection (2) must run for at least 14 days after the notice was given.

(4) For the purposes of this section, ***relevant information*** includes (but is not limited to):

(a) information that would be likely to assist the Secretary in advising the applicant about the operation of this Part; and

(b) information that is relevant to determining whether a disposal preclusion period or carer preclusion period has arisen, or is likely to arise, in relation to the applicant; and

(c) a statement of the applicant's present expectations in relation to any or all of the following matters:

(i) the number of bonus periods that the person is likely to accrue while registered as a member of the pension bonus scheme;

(ii) the likely nature and extent of the person's participation in the workforce during those periods;

(iii) if the person has a partner—the likely nature and extent of the partner's participation in the workforce during those periods.

## 45TG Lodgment of application

(1) An application must be lodged:

(a) at an office of the Department in Australia; or

(b) at a place approved by the Commission; or

(c) with a person approved by the Commission.

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

(a) at an office of the Department in Australia; or

(b) at a place approved under subsection (1); or

(c) by a person approved under subsection (1);

as the case may be.

## 45TH Timing of application and registration

*Special date of eligibility for designated pension on or after 1 July 1998*

(1) If a person's special date of eligibility for a designated pension occurs on or after 1 July 1998:

(a) the person must lodge an application during the period that begins 13 weeks before the person's special date of eligibility for the designated pension and ends 13 weeks after that date; and

(b) if registration occurs as a result of an application lodged within that period—the registration takes effect on the person's special date of eligibility for the designated pension.

Note: The Commission may extend the period: see subsection (3).

*Special date of eligibility for designated pension before 1 July 1998*

(2) If a person's special date of eligibility for a designated pension occurs before 1 July 1998:

(a) the person must lodge an application during the period that begins on the commencement of this section and ends 13 weeks after 1 July 1998; and

(b) if registration occurs as a result of an application lodged within that period—the registration takes effect on 1 July 1998.

Note: The Commission may extend the period: see subsection (3).

*Late applications*

(3) The Commission may extend the period within which a person must lodge an application. If registration occurs as a result of an application lodged during an extended period, the registration takes effect:

(a) on the date on which the application is lodged; or

(b) if the Commission decides that it should take effect on another date—on that other date.

(4) The Commission must not make a decision to extend the period within which a person must lodge an application unless, if it were assumed that the person had been a member of the pension bonus scheme throughout the pre-application period:

(a) the person would have been a non-accruing member for all of the pre-application period; or

(b) both:

(i) the person would have been an accruing member for some or all of the pre-application period; and

(ii) the person would have passed the work test for each test period that is applicable to the person.

Note 1: ***Pre-application period*** is defined by subsection (5).

Note 2: ***Test period*** is defined by subsection (6).

(5) For the purposes of this section, the ***pre-application period*** is the period beginning on:

(a) in the case of a person whose special date of eligibility for a designated pension occurs on or after 1 July 1998—the person's special date of eligibility for the designated pension; or

(b) in the case of a person whose special date of eligibility for a designated pension occurs before 1 July 1998—1 July 1998;

and ending on the date on which the person lodged the application.

(6) For the purposes of this section, to work out what is a ***test period***:

(a) identify the ***overall accruing period***, which is that part of the pre-application period for which, if it were assumed that the person had been a member of the pension bonus scheme

throughout the pre-application period, the person would have been an accruing member of the scheme;

(b) if the overall accruing period is 365 days or less—the overall accruing period is the only test period;

(c) if the overall accruing period is longer than 365 days—each of the following periods is a test period:

(i) the full-year period beginning at the start of the overall accruing period;

(ii) if 2 or more succeeding full-year periods are included in the overall accruing period—each of those full-year periods;

(iii) the remainder (if any) of the overall accruing period.

(7) For the purposes of subsection (4), the Commission is taken to have waived compliance with the applicable record-keeping requirements in relation to each test period.

*2 or more special dates of eligibility*

(8) For the purposes of this section, if a person would otherwise have 2 or more special dates of eligibility for a designated pension, only the first date is to be counted.

## 45TI Registration

(1) If an application is made in accordance with this Subdivision, the Commission must register the applicant as a member of the pension bonus scheme.

(2) This section has effect subject to subsection 45TF(2).

## 45TJ Duration of membership

A person's membership of the pension bonus scheme begins on the date on which the registration of that membership takes effect and continues until the membership is cancelled under this Act.

### 45TK Cancellation of membership

A person's membership of the pension bonus scheme is cancelled if:

(a) the person's claim for pension bonus is determined; or

(b) in a case where the person is eligible for an age service pension—the person starts to receive:

(i) a social security pension (other than a carer payment); or

(ii) a social security benefit; or

(iii) a service pension (other than an age service pension or a carer service pension); or

(iv) income support supplement (other than income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5);

at any time after the person's special date of eligibility for an age service pension; or

(c) in a case where the person is eligible for a partner service pension—the person starts to receive:

(i) a social security pension (other than a carer payment); or

(ii) a social security benefit; or

(iii) a service pension (other than a partner service pension or a carer service pension);

at any time after the person's special date of eligibility for a partner service pension; or

(d) in a case where the person is eligible for income support supplement (other than income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5)—the person starts to receive:

(i) a social security pension (other than a carer payment); or

(ii) a social security benefit; or

(iii) a service pension (other than a carer service pension);

at any time after the person's special date of eligibility for income support supplement; or

(e) the person does not make a proper claim for a pension bonus when the person claims a designated pension; or

(f) the person requests the Commission, in writing, to cancel the person's membership.

### 45TL Application for registration is not to be treated as a claim

To avoid doubt, an application for registration as a member of the pension bonus scheme is not to be treated as a claim for the purposes of any law of the Commonwealth.

## Subdivision B—Classification of membership of the pension bonus scheme

### 45TM Accruing membership

For the purposes of this Part, a person's membership of the pension bonus scheme at a particular time is ***accruing*** unless the person's membership is non-accruing or post-70/75 at that time.

### 45TN Non-accruing membership—preclusion periods

*Disposal preclusion period*

(1) For the purposes of this Part, if a person is subject to a disposal preclusion period at a particular time when the person is a member of the pension bonus scheme, the person's membership of the scheme is ***non-accruing*** at that time.

Note: ***Disposal preclusion period*** is defined by section 45UT.

*Carer preclusion period*

(2) For the purposes of this Part, if a person is subject to a carer preclusion period at a particular time when the person is a member of the pension bonus scheme, the person's membership of the scheme is ***non-accruing*** at that time.

Note: ***Carer preclusion period*** is defined by section 45UU.

### 45TO Non-accruing membership—Commission's discretion

(1) The Commission may, by written notice published in the *Gazette*, declare that, for the purposes of this Part, a specified kind of member of the pension bonus scheme is a ***non-accruing*** member throughout a period ascertained in accordance with the declaration. The period must not begin before the publication of the notice.

(2) The kinds of members that may be specified under subsection (1) include (but are not limited to):

(a) a member who is a participant in the Community Development Employment Program; and

(b) a member who is in gaol; and

(c) a member who is not a participant in the workforce, but whose partner:

(i) is a participant in the workforce; and

(ii) is not a registered member of the pension bonus scheme or of the corresponding scheme under Part 2.2A of the Social Security Act; and

(iii) intends to become a registered member of the pension bonus scheme or of the corresponding scheme under Part 2.2A of the Social Security Act; and

(d) a member who is on sick leave for a continuous period of at least 4 weeks and not more than 26 weeks.

(3) A declaration under this section has effect accordingly.

### 45TP Continuity of accruing membership is not broken by a period of non-accruing membership

If:

(a) a person has been an accruing member of the pension bonus scheme for a continuous period (the ***first accruing membership period***) (including a period that is applicable because of one or more applications of this section); and

(b) the first accruing membership period is followed by a continuous period of non-accruing membership of the scheme; and

(c) the period of non-accruing membership is followed by a further continuous period of accruing membership of the scheme (the ***second accruing membership period***);

the first accruing membership period and the second accruing membership period are together taken to constitute a continuous period of accruing membership of the scheme.

### 45TQ Post-70/75 membership

A person's membership of the pension bonus scheme is ***post-70/75*** at all times on or after:

(a) if the person is eligible for an age service pension or income support supplement (other than income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5) on the day the person reaches age 70—that day; or

(b) in any other case—the day the person reaches age 75.

## Division 4—Accrual of bonus periods

### 45TR Accrual of bonus periods

*Full-year bonus period*

(1) The first ***bonus period*** that accrues to a person is the full-year period of the person's accruing membership of the pension bonus scheme:

(a) that began on whichever of the following dates is applicable:

(i) if the person was an accruing member of the pension bonus scheme on the date the person's registration as a member took effect—the date the registration took effect;

(ii) in any other case—the date on which the person first became an accruing member of the pension bonus scheme; and

(b) for which the person passes the work test.

Note: ***Accruing membership*** is defined by section 45TM.

(2) Each succeeding full-year period of the person's accruing membership of the pension bonus scheme:

(a) that is specified in the person's claim for pension bonus; and

(b) for which the person passes the work test;

is a ***bonus period*** that accrues to the person.

*Part-year bonus period*

(3) A part-year period of the person's accruing membership of the pension bonus scheme is a ***bonus period*** that accrues to the person if:

(a) the person passes the work test for that period; and

(b) the person specifies the period in the person's claim for pension bonus; and

(c) the period begins immediately after the end of a full-year bonus period that accrues to the person; and

(d) the period is the last bonus period that accrues to the person.

Note: ***Accruing membership*** is defined by section 45TM.

*Bonus periods must be consecutive*

(4) A person cannot accrue more than one bonus period unless:

(a) the bonus periods are consecutive; or

(b) the bonus periods are separated only by a period of non-accruing membership.

## Division 5—Passing the work test

### Subdivision A—The work test

#### 45TS Work test—full-year period

For the purposes of this Part, a person ***passes the work test*** for a full-year period of the person's accruing membership of the pension bonus scheme if:

(a) in any case—the person satisfies the Commission that the total number of hours gainfully worked by the person during

that period was at least 960 and that at least 640 of that total number of hours were worked in Australia; or

(b) if the person had only one partner during that period—the person satisfies the Commission that the total number of hours gainfully worked by the person's partner during that period while the partner was a partner of the person and was:

(i) an accruing member, or a post-70/75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-75 member, of the corresponding scheme under Part 2.2A of the Social Security Act;

was at least 960 and that at least 640 of that total number of hours were worked in Australia; or

(c) if the person had 2 or more partners during that period—the person satisfies the Commission that the total number of hours gainfully worked by those partners during that period while they were partners of the person and were:

(i) accruing members, or post-70/75 members, of the pension bonus scheme; or

(ii) accruing members, or post-75 members, of the corresponding scheme under Part 2.2A of the Social Security Act;

was at least 960 and that at least 640 of that total number of hours were worked in Australia;

and either:

(d) the person satisfies the Commission that the applicable record-keeping requirements (see section 45UA) have been complied with in relation to that period; or

(e) the Commission decides to waive compliance with the applicable record-keeping requirements in relation to that period.

## 45TT Work test—part-year period

(1) For the purposes of this Part, a person ***passes the work test*** for a part-year period of the person's accruing membership of the pension bonus scheme if:

(a) in any case—the person satisfies the Commission that the total number of hours gainfully worked by the person during that period was at least the pro-rated number of hours (see subsection (2)) and that at least two-thirds of that total number of hours were worked in Australia; or

(b) if the person had only one partner during that period—the person satisfies the Commission that the total number of hours gainfully worked by the person's partner during that period while the partner was a partner of the person and was:

(i) an accruing member, or a post-70/75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-75 member, of the corresponding scheme under Part 2.2A of the Social Security Act;

was at least the pro-rated number of hours (see subsection (2)) and that at least two-thirds of that total number of hours were worked in Australia; or

(c) if the person had 2 or more partners during that period—the person satisfies the Commission that the total number of hours gainfully worked by those partners during that period while they were partners of the person and were:

(i) accruing members, or post-70/75 members, of the pension bonus scheme; or

(ii) accruing members, or post-75 members, of the corresponding scheme under Part 2.2A of the Social Security Act;

was at least the pro-rated number of hours (see subsection (2)) and that at least two-thirds of that total number of hours were worked in Australia;

and either:

(d) the person satisfies the Commission that the applicable record-keeping requirements (see section 45UA) have been complied with in relation to that period; or

(e) the Commission decides to waive compliance with the applicable record-keeping requirements in relation to that period.

(2) For the purposes of this section, the ***pro-rated number of hours*** applicable to a period is worked out using the formula:

$$960 \times \frac{\text{Number of days in the period}}{365}$$

### 45TU Commission's discretion to treat gainful work outside Australia as gainful work in Australia

(1) If a person satisfies the Commission that:

(a) the person, or the person's partner, has carried on gainful work outside Australia; and

(b) because of special circumstances, the gainful work should be treated as gainful work carried on in Australia;

the Commission may determine that this Part has effect as if the gainful work were carried on in Australia.

(2) The determination has effect accordingly.

## Subdivision B—Gainful work

### 45TV Gainful work—basic rule

(1) For the purposes of this Part, ***gainful work*** is work for financial gain or reward, whether as an employee, a self-employed person or otherwise, where:

(a) the work involves a substantial degree of personal exertion on the part of the person concerned; and

(b) the work is carried on within or outside Australia.

(2) Subsection (1) is to be ignored in determining the meaning of an expression used in a provision of this Act other than this Part.

### 45TW Commission's discretion to treat activity as gainful work

(1) If a person satisfies the Commission that:

(a) the person, or the person's partner, has engaged in a particular activity; and

(b) the activity involves a substantial degree of personal exertion on the part of the person or the person's partner, as the case may be; and

(c) the activity does not consist of voluntary work for a charitable, welfare or community organisation; and

(d) because of special circumstances, the activity should be treated as gainful work;

the Commission may determine that this Part has effect as if the activity were ***gainful work***.

(2) The determination has effect accordingly.

### 45TX Irregular, infrequent and minor absences from a workplace count as gainful work

For the purposes of this Part, if a person is engaged in gainful work, the total hours gainfully worked by the person during a period are to be determined as if the person had been engaged in ***gainful work*** during any absences from the workplace that are irregular, infrequent and minor.

### 45TY Management of family financial investments does not count as gainful work

(1) Unless the Commission otherwise determines, work undertaken by a person is taken not to be ***gainful work*** for the purposes of this Part to the extent to which the work consists of the management or administration of one or more financial investments in which any of the following has a legal or equitable interest:

(a) a member of the person's family group (see subsection (2));

(b) a company that is a family company in relation to the person (see subsection (2));

(c) the trustee or trustees of a trust that is a family trust in relation to the person (see subsection (2)).

Note: ***Financial investment*** is defined by subsection 5J(1).

(2) In this section:

***family company***, in relation to a person, means a company where:

(a) the company is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of any or all of the members of the person's family group; or

(b) any or all of the members of the person's family group are in a position to cast, or control the casting of, more than 50% of the maximum number of votes that may be cast at a general meeting of the company; or

(c) both:

(i) the company has one or more shareholders; and

(ii) each shareholder is a member of the person's family group.

***family group***, in relation to a person, means the group consisting of the person and the family members of the person. If the person has no family members, the person is taken to be a family group in his or her own right.

Note: ***Family member*** is defined by subsection 5L(1).

***family trust***, in relation to a person, means a trust where a member of the person's family group benefits, or is capable (whether by the exercise of a power of appointment or otherwise) of benefiting, under the trust.

### 45TZ Domestic duties in relation to a person's place of residence do not count as gainful work

(1) Unless the Commission otherwise determines, work undertaken by a person is taken not to be ***gainful work*** for the purposes of this Part if the work consists of carrying out:

(a) domestic tasks; or

(b) household maintenance tasks; or

(c) gardening tasks; or

(d) similar tasks;

in relation to:

(e) the person's place of residence; or

(f) if the person has 2 or more places of residence—any of those places of residence.

(2) For the purposes of this section, a ***place of residence*** includes:

(a) if the place is a dwelling-house—any land or building that is adjacent to the dwelling-house and that is used primarily for private or domestic purposes in association with that dwelling-house; or

(b) if the place is a flat or home unit—a garage or storeroom that is used for private or domestic purposes in association with the flat or home unit.

## 45U Evidentiary certificate

*Hours worked during full-year period*

(1) The Commission may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating that:

(a) the member was an accruing member of the scheme throughout a specified full-year period; and

(b) the total number of hours gainfully worked by the member during that period was at least a specified number of hours; and

(c) the total number of hours gainfully worked in Australia by the member during that period was at least a specified number of hours.

(2) The Commission may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating that:

(a) the member was an accruing member of the scheme throughout a specified full-year period; and

(b) the total number of hours gainfully worked by a specified person during that period while the person was the partner of the member and was:

(i) an accruing member, or a post-70/75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-75 member, of the corresponding scheme under Part 2.2A of the Social Security Act;

was at least a specified number of hours; and

(c) the total number of hours gainfully worked in Australia by a specified person during that period while the person was the partner of the member and was:

(i) an accruing member, or a post-70/75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-75 member, of the corresponding scheme under Part 2.2A of the Social Security Act;

was at least a specified number of hours.

*Hours worked during part-year period*

(3) The Commission may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating:

(a) that the member was an accruing member of the scheme throughout a specified part-year period; and

(b) the total number of hours gainfully worked by the member during that period; and

(c) the total number of hours gainfully worked in Australia by the member during that period.

(4) The Commission may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating:

(a) that the member was an accruing member of the scheme throughout a specified part-year period; and

(b) the total number of hours gainfully worked by a specified person during that period while the person was the partner of the member and was:

(i) an accruing member, or a post-70/75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-75 member, of the corresponding scheme under Part 2.2A of the Social Security Act; and

(c) the total number of hours gainfully worked in Australia by a specified person during that period while the person was the partner of the member and was:

(i) an accruing member, or a post-70/75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-75 member, of the corresponding scheme under Part 2.2A of the Social Security Act.

*Record-keeping requirements*

(5) If:

(a) a person makes a request for a certificate under subsection (1), (2), (3) or (4) relating to a particular period; and

(b) the applicable record-keeping requirements have not been complied with in relation to that period (see section 45UA);

the Commission may refuse to issue the certificate.

*Non-accruing membership*

(6) The Commission may, if requested to do so by a member of the pension bonus scheme, issue a written certificate stating that the member was a non-accruing member of the scheme throughout a specified period.

*Evidence*

(7) In any proceedings relating to this Part, a certificate under this section is prima facie evidence of the matters in the certificate.

## Subdivision C—Record-keeping requirements

### 45UA Record-keeping requirements

*Record-keeping requirements for person*

(1) For the purposes of the application of paragraph 45TS(a) or 45TT(1)(a) or subsection 45U(1) or (3) to a person, the applicable record-keeping requirements have been complied with in relation to a period of the person's accruing membership of the pension bonus scheme if:

(a) in a case where the person has:

(i) been given a group certificate in respect of any gainful work carried on by the person during that period; or

(ii) lodged an income tax return that relates to any gainful work carried on by the person during that period;

the person would be in a position to produce a copy of the certificate or of the return, as the case may be, to the Secretary if the Secretary were to require the person to produce that copy; and

(b) both:

(i) the person has kept a recognised work record (see subsection (3)) in relation to gainful work carried on by the person during that period; and

(ii) the person would be in a position to produce that record to the Secretary if the Secretary were to require the person to produce that record.

*Record-keeping requirements for partner of person*

(2) For the purposes of the application of paragraph 45TS(b) or (c) or 45TT(1)(b) or (c) or subsection 45U(2) or (4) to a partner of a person, the applicable record-keeping requirements have been complied with in relation to a period of the person's accruing membership of the pension bonus scheme if:

(a) in a case where the partner has been given a group certificate in respect of any gainful work carried on by the partner during that period while the partner was a partner of the person and was:

(i) an accruing member, or a post-70/75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-75 member, of the corresponding scheme under Part 2.2A of the Social Security Act;

the person would be in a position to produce a copy of the certificate to the Secretary if the Secretary were to require the person to produce that copy; and

(b) in a case where the partner has lodged an income tax return that relates to any gainful work carried on by the partner during that period while the partner was a partner of the person and was:

(i) an accruing member, or a post-70/75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-75 member, of the corresponding scheme under Part 2.2A of the Social Security Act;

the person would be in a position to produce a copy of the return to the Secretary if the Secretary were to require the person to produce that copy; and

(c) in any case—the partner has kept a recognised work record (see subsection (3)) in relation to any gainful work carried on by the partner during that period while the partner was a partner of the person and was:

(i) an accruing member, or a post-70/75 member, of the pension bonus scheme; or

(ii) an accruing member, or a post-75 member, of the corresponding scheme under Part 2.2A of the Social Security Act;

and the person would be in a position to produce that record to the Secretary if the Secretary were to require the person to produce that record.

*Recognised work record*

(3) For the purposes of this section, a ***recognised work record***, in relation to a person, is a written statement signed by the person that sets out, in relation to gainful work carried on by the person during a particular period:

(a) the nature of the gainful work; and

(b) the dates on which the gainful work was carried on; and

(c) the total number of hours gainfully worked; and

(d) the total number of hours gainfully worked in Australia; and

(e) in a case where any of the gainful work was carried on in the capacity of employee—the name or names of the employer or employers concerned; and

(f) such other particulars as the Secretary requires.

## Division 6—Amount of pension bonus

### 45UB How to calculate the amount of pension bonus

(1) To calculate the amount of a person's pension bonus:

(a) work out which of the person's bonus periods count as qualifying bonus periods (see section 45UC);

(b) work out the person's overall qualifying period (see section 45UD);

(c) work out the person's pension multiple (see section 45UE);

(d) work out the person's annual pension rate (see section 45UF);

(e) apply the appropriate formula in section 45UG.

Note: ***Bonus period*** is defined by section 45TR.

(2) For the purposes of this Division, a number of years is to be calculated to 3 decimal places. However, if a number worked out in accordance with this subsection would, if it were calculated to 4 decimal places, end in a digit that is greater than 4, the number is to be increased by 0.001.

### 45UC Qualifying bonus periods

(1) For the purposes of this Division, if a person has accrued only one bonus period, that bonus period is the person's ***qualifying bonus period***.

(2) For the purposes of this Division, if a person has accrued only 2 bonus periods, each of those bonus periods is a ***qualifying bonus period***.

(3) For the purposes of this Division, if a person has accrued only 3 bonus periods, each of those bonus periods is a ***qualifying bonus period***.

(4) For the purposes of this Division, if a person has accrued only 4 bonus periods, each of those bonus periods is a ***qualifying bonus period***.

(5) For the purposes of this Division, if a person has accrued only 5 bonus periods, each of those bonus periods is a ***qualifying bonus period***.

(6) For the purposes of this Division, if:

(a) a person has accrued more than 5 bonus periods; and

(b) the last bonus period is a full-year period;

each of the 5 most recent bonus periods are ***qualifying bonus periods***.

(7) For the purposes of this Division, if:

(a) a person has accrued more than 5 bonus periods; and

(b) the last bonus period is a part-year period;

each of the 5 most recent full-year bonus periods are ***qualifying bonus periods***.

## 45UD Overall qualifying period

(1) For the purposes of this Division, if a person has only one qualifying bonus period, that period is the person's ***overall qualifying period***.

(2) For the purposes of this Division, if a person has 2 or more qualifying bonus periods, the person's ***overall qualifying period*** is the period:

(a) beginning at the start of the first qualifying bonus period; and

(b) ending at the end of the last qualifying bonus period.

However, any period of non-accruing membership of the pension bonus scheme is taken not to form part of the person's overall qualifying period.

## 45UE Pension multiple

For the purposes of this Division, a person's ***pension multiple*** is worked out using the formula:

$$0.094 \times \text{No. of years in the person's overall qualifying period}$$

## 45UF Annual pension rate

For the purposes of this Division, a person's ***annual pension rate*** is set out in the following table:

**Annual pension rate**

| Item | In this case: | the person's annual pension rate is: |
|---|---|---|
| 1 | The person:<br>(a) is granted an age service pension or a partner service pension; and<br>(b) is not permanently blind; and<br>(c) is not a war widow/war widower—pensioner | the rate that would be the person's provisional payment rate under Method statement 1 in subpoint SCH6-A1(2), ascertained as at the date of the grant, if it were assumed that Steps 2 and 3 were omitted from the Method statement |
| 2 | The person:<br>(a) is granted an age service pension or a partner service pension; and<br>(b) is permanently blind; and<br>(c) is not a war widow/war widower—pensioner | the person's maximum basic rate under the point SCH6-B1 table, ascertained as at the date of the grant |
| 3 | The person:<br>(a) is granted an age service pension; and<br>(b) is not permanently blind; and<br>(c) is a war widow/war widower—pensioner | the lesser of the following rates (or, if the rates are the same, the first rate):<br>(a) the person's ceiling rate under point SCH6-A4, ascertained as at the date of the grant;<br>(b) the rate that would be the person's provisional payment rate under Method statement 1 in subpoint SCH6-A1(2), ascertained as at the date of the grant, if it were assumed that the Method statement applied and Steps 2 and 3 were omitted from the Method statement |

| **Annual pension rate** | | |
|---|---|---|
| **Item** | **In this case:** | **the person's annual pension rate is:** |
| 4 | The person:<br>(a) is granted an age service pension; and<br>(b) is permanently blind; and<br>(c) is a war widow/war widower—pensioner | the person's ceiling rate under point SCH6-A4, ascertained as at the date of the grant |
| 5 | The person:<br>(a) is granted income support supplement; and<br>(b) is not permanently blind | the rate that would be the person's provisional payment rate under Method statement 5 in subpoint SCH6-A1(6), ascertained as at the date of the grant, if it were assumed that:<br>(a) Steps 2 and 3 were omitted from the Method statement; and<br>(b) Step 9 of the Method statement did not add any amount per year of pharmaceutical allowance |
| 6 | The person:<br>(a) is granted income support supplement; and<br>(b) is permanently blind | the person's ceiling rate under point SCH6-A4, ascertained as at the date of the grant |

## 45UG Amount of pension bonus

*No change in marital status during overall qualifying period*

(1) If:

(a) a person was a member of a couple throughout the person's overall qualifying period; or

(b) a person was not a member of a couple at any time during the person's overall qualifying period;

the amount of the person's pension bonus is worked out using the following formula (for rounding up, see subsection (4)):

$$\text{Annual pension rate} \times \text{Pension multiple} \times \text{No. of years in the person's overall qualifying period}$$

*Change in marital status during overall qualifying period*

(2) If subsection (1) does not apply to a person, the amount of the person's pension bonus is worked out using the following formula (for rounding up, see subsection (4)):

$$\left[\text{Annual notional single pension rate} \times \text{Pension multiple} \times \text{No. of single years during overall qualifying period}\right] + \left[\text{Annual notional partnered pension rate} \times \text{Pension multiple} \times \text{No. of partnered years during overall qualifying period}\right]$$

where:

***annual notional single pension rate*** has the meaning given by section 45UH.

***annual notional partnered pension rate*** has the meaning given by section 45UI.

(3) For the purposes of this section:

(a) the number of ***single years*** during the overall qualifying period is the number of years during the overall qualifying period when the person was not a member of a couple; and

(b) the number of ***partnered years*** during the overall qualifying period is the number of years during the overall qualifying period when the person was a member of a couple.

*Rounding up*

(4) An amount calculated under subsection (1) or (2) is to be rounded to the nearest 10 cents (with 5 cents being rounded up).

## 45UH Annual notional single pension rate

(1) For the purposes of this Division, a person's ***annual notional single pension rate*** is set out in the following table:

| **Annual notional single pension rate** | | |
|---|---|---|
| **Item** | **In this case:** | **the person's annual notional single pension rate is:** |
| 1 | The person:<br>(a) is not permanently blind; and<br>(b) is not a war widow/war widower—pensioner | the adjusted percentage of the person's maximum basic rate under the point SCH6-B1 Table, ascertained as at the date of grant of the designated pension, if it were assumed that the person were not a member of a couple as at that date |
| 2 | The person:<br>(a) is permanently blind; and<br>(b) is not a war widow/war widower—pensioner | the person's maximum basic rate under the point SCH6-B1 Table, ascertained as at the date of grant of the designated pension, if it were assumed that the person were not a member of a couple as at that date |
| 3 | The person:<br>(a) is a war widow/war widower—pensioner; and<br>(b) was a war widow/war widower—pensioner throughout so much of the overall qualifying period as occurred when the person was not a member of a couple | the person's annual pension rate, ascertained as at the date of grant of the designated pension, if it were assumed that the person were not a member of a couple as at that date |
| 4 | The person:<br>(a) is a war widow/war widower—pensioner; but<br>(b) was not a war widow/war widower—pensioner throughout so much of the overall qualifying period as occurred when the person was not a member of a couple | the apportioned single amount worked out under subsection (2) |

(2) For the purposes of this section, the ***apportioned single amount*** is:

$$\left[\frac{\text{Period not a war widow or war widower}}{\text{Single part of overall qualifying period}} \times \text{Provisional payment rate}\right] + \left[\frac{\text{Period a war widow or war widower}}{\text{Single part of overall qualifying period}} \times \text{Annual pension rate}\right]$$

where:

***period not a war widow or war widower*** is the number of days in so much of the single part of overall qualifying period as occurred when the person was not a war widow/war widower—pensioner.

***single part of overall qualifying period*** is the number of days in so much of the overall qualifying period as occurred when the person was not a member of a couple.

***provisional payment rate*** is:

(a) in a case where the person is granted an age service pension or a partner service pension—the person's provisional payment rate under Method statement 1 in subpoint SCH6-A1(2), ascertained as at the date of the grant, if it were assumed that Steps 2 and 3 were omitted from the Method statement; or

(b) in a case where the person is granted income support supplement—the person's provisional payment rate under Method statement 5 in subpoint SCH6-A1(6), ascertained as at the date of the grant, if it were assumed that Steps 2, 3 and 9 were omitted from the Method statement.

***period a war widow or war widower*** is the number of days in so much of the single part of overall qualifying period as occurred when the person was a war widow/war widower—pensioner.

***annual pension rate*** is the person's annual pension rate, ascertained as at the date of grant of the designated pension, if it were assumed that the person were not a member of a couple as at that date.

(3) For the purposes of this section, a person's ***adjusted percentage*** is the percentage worked out using the following formula (for rounding up, see subsection (4)):

$$\frac{\text{Annual pension rate}}{\text{Maximum basic rate}} \times 100$$

where:

***maximum basic rate*** is the person's maximum basic rate under the point SCH6-B1 Table, ascertained as at the date of grant of the designated pension.

(4) A percentage worked out under subsection (3) is to be calculated to 3 decimal places. However, if a percentage worked out under subsection (3) would, if it were calculated to 4 decimal places, end in a digit that is greater than 4, the percentage is to be increased by 0.001.

## 45UI Annual notional partnered pension rate

(1) For the purposes of this Division, a person's ***annual notional partnered pension rate*** is set out in the following table:

**Annual notional partnered pension rate**

| Item | In this case: | the person's annual notional partnered pension rate is: |
|---|---|---|
| 1 | The person:<br>(a) is not permanently blind; and<br>(b) is not a war widow/war widower—pensioner | the adjusted percentage of the person's maximum basic rate under the point SCH6-B1 Table, ascertained as at the date of grant of the designated pension, if it were assumed that the person were a member of a couple as at that date |
| 2 | The person:<br>(a) is permanently blind; and<br>(b) is not a war widow/war widower—pensioner | the person's maximum basic rate under the point SCH6-B1 Table, ascertained as at the date of grant of the designated pension, if it were assumed that the person were a member of a couple as at that date |
| 3 | The person:<br>(a) is a war widow/war widower—pensioner; and<br>(b) was a war widow/war widower—pensioner throughout so much of the overall qualifying period as occurred when the person was a member of a couple | the person's annual pension rate, ascertained as at the date of grant of the designated pension, if it were assumed that the person were a member of a couple as at that date |

| **Annual notional partnered pension rate** | | |
|---|---|---|
| **Item** | **In this case:** | **the person's annual notional partnered pension rate is:** |
| 4 | The person:<br>(a) is a war widow/war widower—pensioner; but<br>(b) was not a war widow/war widower—pensioner throughout so much of the overall qualifying period as occurred when the person was a member of a couple | the apportioned partnered amount worked out under subsection (2) |

(2) For the purposes of this section, the ***apportioned partnered amount*** is:

$$\left[\frac{\text{Period not a war widow or war widower}}{\text{Partner part of overall qualifying period}} \times \text{Provisional payment rate}\right] + \left[\frac{\text{Period a war widow or war widower}}{\text{Partner part of overall qualifying period}} \times \text{Annual payment rate}\right]$$

where:

***period not a war widow or war widower*** is the number of days in so much of the partner part of overall qualifying period as occurred when the person was not a war widow/war widower—pensioner.

***partner part of overall qualifying period*** is the number of days in so much of the overall qualifying period as occurred when the person was a member of a couple.

***provisional payment rate*** is:

(a) in a case where the person is granted an age service pension or a partner service pension—the person's provisional payment rate under Method statement 1 in subpoint SCH6-A1(2), ascertained as at the date of the grant, if it were assumed that Steps 2 and 3 were omitted from the Method statement; or

(b) in a case where the person is granted income support supplement—the person's provisional payment rate under Method statement 5 in subpoint SCH6-A1(6), ascertained as

at the date of the grant, if it were assumed that Steps 2, 3 and 9 were omitted from the Method statement.

***period a war widow or war widower*** is the number of days in so much of the partner part of overall qualifying period as occurred when the person was a war widow/war widower—pensioner.

***annual pension rate*** is the person's annual pension rate, ascertained as at the date of grant of the designated pension, if it were assumed that the person were a member of a couple as at that date.

(3) For the purposes of this section, a person's ***adjusted percentage*** is the percentage worked out using the following formula (for rounding up, see subsection (4)):

$$\frac{\text{Annual pension rate}}{\text{Maximum basic rate}} \times 100$$

where:

***maximum basic rate*** is the person's maximum basic rate under the point SCH6-B1 Table, ascertained as at the date of grant of the designated pension.

(4) A percentage worked out under subsection (3) is to be calculated to 3 decimal places. However, if a percentage worked out under subsection (3) would, if it were calculated to 4 decimal places, end in a digit that is greater than 4, the percentage is to be increased by 0.001.

## Division 7—Claim for pension bonus

### 45UJ Need for a claim

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

### 45UK Proper claim

(1) To be a proper claim, a claim for pension bonus must be:

(a) in writing; and

(b) in accordance with a form approved by the Commission; and

(c) either:

(i) attached to a proper claim made by the person for a designated pension and lodged together with that claim; or

(ii) made in accordance with an invitation under subsection (3); and

(d) made within the applicable lodgment period (see section 45UL).

(2) A claim for pension bonus is a proper claim even though it is not certain whether the person will start to receive a designated pension at or after the time when the person makes the claim. The claim has effect as a claim that is contingent on the person receiving a designated pension.

(3) If:

(a) a person makes a proper claim for a designated pension; and

(b) the claim is in accordance with a form that does not require the claimant to disclose whether the claimant is a registered member of:

(i) the pension bonus scheme; or

(ii) the corresponding scheme under Part 2.2A of the Social Security Act; and

(c) the person is, to the knowledge of the Secretary, registered as a member of the pension bonus scheme; and

(d) a claim by the person for pension bonus is not attached to the claim for the designated pension;

the Secretary must give the claimant a written notice inviting the claimant to lodge a claim for a pension bonus:

(e) within such period after the lodgment of the claim for the designated pension as is specified in the invitation; and

(f) at such place as in specified in the invitation.

(4) If a claim for pension bonus is made in accordance with an invitation under subsection (3), this Part (other than this section) has effect as if the person had claimed the pension bonus at the same time as the person claimed the designated pension.

## 45UL Lodgment period for claim

(1) This section sets out rules for determining the period (the ***lodgment period***) within which a claim for pension bonus must be made.

*Lodgment period where last bonus period is a full-year period*

(2) If a person's last bonus period is a full-year period, the ***lodgment period*** applicable to the person's claim for pension bonus is the period of 13 weeks beginning at the end of that bonus period. However, this rule does not apply if:

(a) the person is an exempt partnered person (see subsection (8)) as at the end of the person's last bonus period; or

(b) the person's membership of the pension bonus scheme becomes non-accruing immediately after the end of the person's last bonus period; or

(c) the person is a post-70/75 member of the pension bonus scheme and has a post-70/75 work period (see subsection (9)).

Note: For the rule in these cases, see subsections (5), (6) and (7).

*Lodgment period where last bonus period is a part-year period*

(3) If a person's last bonus period is a part-year period, the ***lodgment period*** applicable to the person's claim for pension bonus is:

(a) the period of 13 weeks beginning at the end of that bonus period; or

(b) if the Commission allows a longer period—that longer period.

However, this rule does not apply if:

(c) the person is an exempt partnered person (see subsection (8)) as at the end of the person's last bonus period; or

(d) the person's membership of the pension bonus scheme becomes non-accruing immediately after the end of the person's last bonus period; or

(e) the person is a post-70/75 member of the pension bonus scheme and has a post-70/75 work period (see subsection (9)).

Note: For the rule in these cases, see subsections (5), (6) and (7).

(4) If:

(a) subsection (3) applies to a person's claim for pension bonus; and

(b) the claim is lodged within a period allowed under paragraph (3)(b);

Division 6 has effect, in relation to the calculation of the amount of that pension bonus, as if the person had not accrued the part-year bonus period.

*Lodgment period for exempt partnered person*

(5) If a person is an exempt partnered person as at the end of the person's last bonus period because the person is a member of a couple, the ***lodgment period*** applicable to the person's claim for pension bonus is the period:

(a) beginning at the end of that bonus period; and

(b) ending at:

(i) the time of the last occasion on which the person's partner could have lodged a claim for a pension bonus; or

(ii) the end of the period of 13 weeks after the person ceases to be a member of the same couple (whether because of the death of the person's partner or for any other reason);

whichever comes first.

*Lodgment period for non-accruing member*

(6) If a person's membership of the pension bonus scheme becomes non-accruing immediately after the end of the person's last bonus period, the ***lodgment period*** applicable to the person's claim for pension bonus is the period:

(a) beginning at the end of the person's last bonus period; and

(b) ending 13 weeks after the time when the person's membership of the scheme ceases to be non-accruing.

*Lodgment period for post-70/75 member who has a post-70/75 work period*

(7) If a post-70/75 member of the pension bonus scheme has a post-70/75 work period, the ***lodgment period*** applicable to the person's claim for pension bonus is the period of 13 weeks beginning at the end of the period nominated in the claim as the person's post-70/75 work period.

*Exempt partnered person*

(8) For the purposes of this section, a person is an ***exempt partnered person*** at a particular time if, at that time, the person is a member of a couple, and:

(a) the person's partner is an accruing or non-accruing member of the pension bonus scheme; or

(b) the person's partner is an accruing or non-accruing member of the corresponding scheme under Part 2.2A of the Social Security Act.

*Post-70/75 member with a post-70/75 work period*

(9) For the purposes of this section, a post-70/75 member of the pension bonus scheme has a ***post-70/75 work period*** if:

(a) the person's claim for pension bonus nominates a particular period as the person's post-70/75 work period; and

(b) the nominated period begins immediately after the end of the person's last bonus period; and

(c) if it were assumed that the person had been an accruing member of the pension bonus scheme throughout each test period that is applicable to the person, the person would have passed the work test for each test period.

Note: ***Test period*** is defined by subsection (10).

(10) For the purposes of subsection (9), to work out what is a ***test period***:

(a) identify the ***extended period***, which is that part of the nominated period when the person was neither:

(i) subject to a carer preclusion period; nor

(ii) covered by a declaration under section 45TO;

(b) if the extended period is 365 days or less—the extended period is the only test period;

(c) if the extended period is longer than 365 days—each of the following periods is a test period:

(i) the full-year period beginning at the start of the extended period;

(ii) if 2 or more succeeding full-year periods are included in the extended period—each of those full-year periods;

(iii) the remainder (if any) of the extended period.

(11) In addition to its effect apart from this subsection, section 45U (evidentiary certificates) also has the effect it would have if each reference in paragraph 45U(1)(a), (2)(a), (3)(a) or (4)(a) to an accruing member of the pension bonus scheme were a reference to a post-70/75 member of the scheme.

*Last bonus period*

(12) For the purposes of this section, if a person has accrued only one full year bonus period, that period is the person's ***last bonus period***.

## 45UM Withdrawal of claim

(1) A claimant for a pension bonus may withdraw a claim that has not been determined.

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

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

(4) If:

(a) a person claims both a pension bonus and a designated pension; and

(b) the claim for the designated pension is withdrawn;

the claim for pension bonus is taken to have been withdrawn.

(5) If:

(a) a person claims both a pension bonus and a designated pension; and

(b) the claim for the designated pension is rejected as a direct or indirect result of the operation of Subdivision B of Division 11 of Part IIIB (disposals of assets);

the claim for pension bonus is taken to have been withdrawn.

## Division 8—Determination of claim

### 45UN Secretary to investigate claim and submit it to Commission

(1) If a person makes a proper claim for a pension bonus, the Secretary must cause an investigation to be made into the matters to which the claim relates.

(2) When the investigation is completed, the Secretary must cause the claim to be submitted to the Commission for consideration and determination.

(3) When the claim is submitted to the Commission, it must be accompanied by:

(a) any evidence supplied by the claimant in support of the claim; and

(b) any documents or other evidence obtained by the Department in the course of the investigation that are relevant to the claim; and

(c) any other documents or other evidence under the control of the Department that are relevant to the claim.

### 45UO Commission to determine claim

(1) The Commission must, in accordance with this Act, determine a claim for pension bonus.

(2) If a person claims both a pension bonus and a designated pension, the Commission must not determine the claim for pension bonus until the claim for the designated pension has been granted.

### 45UP Grant of claim

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

## Division 9—Payment of pension bonus

### 45UQ Payment of pension bonus

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

(a) the first pension payday after the grant; or

(b) if the Commission considers that it is not practicable to pay the bonus on that payday—the next practicable day.

### 45UR Payment of bonus after death

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

*Claim granted before death*

(2) If:

(a) a person claims a pension bonus; and

(b) the person dies; and

(c) at the time of the person's death, the claim had been granted, but the person had not received the bonus;

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

*Claim not granted before death*

(3) If:

(a) a person claims a pension bonus; and

(b) the person dies; and

(c) at the time of the person's death, the claim had not been determined;

then:

(d) the Commission must determine the claim after the person's death as if the person had not died; and

(e) if the claim is granted—the bonus is payable to the legal personal representative of the person.

(4) If:

(a) under paragraph (3)(d), the Commission is required to determine a claim for pension bonus after a person's death; and

(b) at the time of the person's death, the person's claim for a designated pension had not been determined;

then, in determining the claim for pension bonus, this Part is modified as set out in the following table:

**Modifications**

| Item | This provision: | is modified in this way: |
|---|---|---|
| 1 | Paragraph 45TC(1)(a) | The condition in this paragraph is taken to be satisfied if the person would have started to receive an age service pension if the person had not died. |
| 2 | Paragraph 45TC(2)(a) | The condition in this paragraph is taken to be satisfied if the person would have started to receive a partner service pension if the person had not died. |
| 3 | Paragraph 45TC(3)(a) | The condition in this paragraph is taken to be satisfied if the person would have started to receive income support supplement (other than income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5) if the person had not died. |
| 4 | Division 6 | A reference in the Division to a particular rate is taken to be a reference to the rate that would have been applicable to the person if the person had not died. |

| **Modifications** | | |
|---|---|---|
| **Item** | **This provision:** | **is modified in this way:** |
| 5 | Division 6 | A reference in the Division to the date of grant of the designated pension is taken to be a reference to the date that the designated pension would have been granted if the person had not died. |
| 6 | Subsection 45UK(2) | The subsection is to be disregarded. |
| 7 | Subsection 45UO(2) | The subsection is to be disregarded. |

*Liability of Commonwealth*

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

## Division 10—Protection of pension bonus

### 45US Pension bonus to be absolutely inalienable

(1) A pension bonus is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise. This subsection has effect subject to subsections (2) and (3) and section 58J.

*Deduction from bonus to pay tax debts that are unrelated to the bonus*

(2) The Commission may make a deduction from a pension bonus payable to a person if the person asks the Commission:

(a) to make the deduction; and

(b) to pay the amount to be deducted to the Commissioner of Taxation.

Note 1: The Commission must make deductions from a person's pension or pension bonus if requested by the Commissioner of Taxation—see section 58J.

Note 2: Under the *Income Tax Assessment Act 1997*, pension bonus is exempt from income tax.

*Deduction from bonus at recipient's request*

(3) The Commission may make a deduction from a pension bonus payable to a person if the person consents under paragraph 205(2)(e) to the Commission making the deduction.

Note: Paragraph 205(2)(e) enables the Commission to recover a debt from a person other than the debtor if the person is receiving a benefit under this Act.

## Division 11—Preclusion periods

### 45UT Disposal preclusion period

(1) For the purposes of this Part, if:

(a) either:

(i) a person has, during a designated year of the person, disposed of an asset of the person; or

(ii) the partner of a person has, during a designated year of the person, disposed of an asset of the partner; and

(b) the amount of that disposition, or the sum of that amount and of the amounts (if any) of other dispositions of assets previously made by the person and/or the person's partner during that designated year, exceeds $10,000;

the person is subject to a ***disposal preclusion period*** throughout the period of 5 years that starts on the day on which the disposition referred to in paragraph (a) took place.

Note: ***Designated year*** is defined by subsection (3).

(2) For the purposes of this Part, if:

(a) a person ceases to be a member of a couple (whether because of the death of the person's partner or for any other reason); and

(b) immediately before the cessation, the person was subject to a particular disposal preclusion period that arose wholly because the person's partner disposed of a particular asset; and

(c) if that disposition had been disregarded, the person would not have been subject to that disposal preclusion period;

then, despite subsection (1), that disposal preclusion period ends at the cessation.

(3) For the purposes of this section, a ***designated year*** of a person is:
  (a) the 12-month period ending on the person's special date of eligibility for a designated pension; and
  (b) each preceding 12-month period; and
  (c) each succeeding 12-month period.

(4) This section applies to a disposal even if the disposal took place before the commencement of this section.

### 45UU Carer preclusion period

(1) For the purposes of this Part, if a person receives:
  (a) a carer payment; or
  (b) a carer service pension; or
  (c) income support supplement that is payable as a result of the operation of subclause 8(3) of Schedule 5;

during a particular period, the person is subject to a ***carer preclusion period*** throughout that period.

(2) This section applies to a carer payment, a carer service pension or income support supplement even if it was received before the commencement of this section.

## 14 At the end of section 57

Add:

(3) A person who is dissatisfied with a decision of the Commission under Part IIIAB (pension bonus) may request the Commission to review the decision. However, this rule does not apply to a decision of the Commission under:
  (a) section 45TE (approval of form); or
  (b) section 45TG (approval of places and persons); or
  (c) section 45TO (declaration of non-accruing membership); or
  (d) paragraph 45UK(1)(b) (approval of form).

## 15 At the end of section 58J

Add:

(2) The Commission must, in accordance with section 218 of the Income Tax Assessment Act, for the purposes of enabling the collection of tax that is, or may become, payable by a recipient of a pension bonus:

(a) make a deduction from the bonus payable to the recipient; and

(b) pay the amount deducted to the Commissioner of Taxation.

## 16 After paragraph 119(1)(b)

Insert:

(ba) a review, under Division 16 of Part IIIB, of a decision of the Commission under Part IIIAB (pension bonus); or

## 17 Subsection 119(2) (at the end of paragraphs (a) and (b) of the definition of *application*)

Add "or".

## 18 Subsection 119(2) (at the end of the definition of *application*)

Add:

; or (e) an application under Part IIIAB for registration as a member of the pension bonus scheme.

## 19 Subsection 119(2) (at the end of the definition of *claim*)

Add:

; or (e) a claim for a pension bonus under Part IIIAB.

## 20 At the end of section 210A

Add:

(3) If a written statement signed by a person referred to in subsection (1) is to the effect that, on a specified day, a specified person received a specified amount by way of pension bonus under this Act, the statement is prima facie evidence of the matters in the statement.

# Schedule 3—Amendment of the Income Tax Assessment Act 1997

## 2 Subsection 52-10(1)

After "payments", insert "(other than payments of pension bonus)".

## 3 After subsection 52-10(1)

Insert:

(1A) Payments of pension bonus under Part 2.2A of the *Social Security Act 1991* are exempt from income tax.

## 4 Subsection 52-65(1)

After "payments", insert "(other than payments of pension bonus)".

## 5 After subsection 52-65(1)

Insert:

(1A) Payments of pension bonus under Part IIIAB of the *Veterans' Entitlements Act 1986* are exempt from income tax.