



Social Security and Veterans' Affairs (Miscellaneous Amendments) Act 1986

No. 106, 1986

**An Act relating to social security, veterans'
entitlements and other matters**

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**An Act relating to social security, veterans'
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[Assented to 27 October 1986]

BE IT ENACTED by the Queen, and the Senate and
the House of Representatives of the Commonwealth of
Australia, as follows:

No. 106, 1986 Social Security and Veterans' Affairs (Miscellaneous Amendments) Act 1
1986

Part I—Preliminary

1 Short title

This Act may be cited as the *Social Security and Veterans' Affairs (Miscellaneous Amendments) Act 1986*.

2 Commencement

- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (2) Sections 70, 81, 82, 85, 99, 100, 116 and 117, sub-sections 80 (1), 91 (1) and 107 (1) and Part IX shall be deemed to have come into operation on 22 May 1986.
- (3) Sub-section 96 (2) shall be deemed to have come into operation immediately before the commencement of the *Veterans' Entitlements Act 1986*.
- (4) Sub-sections 5 (1) and 73 (1) shall be deemed to have come into operation on 24 June 1986.
- (5) Sections 40 and 41 shall be deemed to have come into operation on 30 June 1986.
- (6) Section 39 and sub-sections 20 (1), 23 (1), 33 (1), 36 (1) and 38 (1) shall be deemed to have come into operation on 1 July 1986.
- (7) Sections 13 and 103, sub-sections 37 (1) and 95 (1) and Part III shall come into operation, or shall be deemed to have come into operation, as the case requires, on 31 October 1986.
- (8) Sections 16, 28, 31, 34, 35, 43, 44, 46, 47, 56, 86, 88, 94 and 105 and sub-sections 12 (2) and 36 (3) shall come into operation or shall be deemed to have come into operation, as the case requires, on 1 November 1986.
- (9) Sub-section 72 (2) shall come into operation, or shall be deemed to have come into operation, as the case requires, on 6 November 1986.

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- (10) Section 51 shall come into operation on 1 December 1986.
 - (11) Sections 15 and 18 and sub-section 38 (2) shall come into operation on 13 December 1986.
 - (12) Sections 78, 79, 89, 90 and 104 and sub-sections 67 (2), 68 (2), 93 (2), 102 (2) and 107 (2) shall come into operation on 18 December 1986.
 - (13) Sections 21, 22, 45, 54 and 83 and sub-sections 4 (3), 19 (2), 20 (2), 24 (1), 36 (4), 63 (2) and 69 (3) shall come into operation on 1 January 1987.
 - (14) Section 10 and sub-section 95 (2) shall come into operation on 30 April 1987.
 - (15) Sections 11, 42, 48 and 55 and sub-sections 33 (2) and 50 (2) shall come into operation on 1 May 1987.
 - (16) Sections 9 and 77 and sub-sections 19 (3) and 84 (2) shall come into operation immediately before 12 June 1987.
 - (17) Sections 14 and 17 and sub-section 38 (3) shall come into operation immediately after the commencement of the *Social Security (Poverty Traps Reduction) Act 1985*.
 - (18) Sub-sections 12 (3), 24 (2), 36 (5), 37 (2) and 72 (3) shall come into operation on 1 January 1988.
 - (19) Parts VII and VIII shall come into operation on a day to be fixed by Proclamation.

Part II—Amendments of the Social Security Act 1947

Principal Act

3. The *Social Security Act 1947*¹ is in this Part referred to as the Principal Act.

Interpretation

4. (1) Section 6 of the Principal Act is amended—

(a) by inserting after the definition of “dependent child” in sub-section (1) the following definition:

“ ‘domestic payment’ means a payment received by a person on the disposition of any property of the person, being property that, for a period of 12 months or such lesser period as the Secretary considers appropriate before that disposition, was used by the person or by the person’s spouse wholly or substantially for private or domestic purposes;”;

(b) by inserting “, whether of a capital nature or not,” after “valuable consideration or profits” in the definition of “income” in sub-section (1);

(c) by omitting “or” from the end of paragraph (v) of the definition of “income” in sub-section (1);

(d) by adding at the end of the definition of “income” in sub-section (1) the following word and paragraph:

“or (x) a domestic payment;”;

(e) by omitting “mentally ill persons” from the definition of “mental hospital” in sub-section (1) and substituting “persons who have a mental disability”; and

(f) by omitting sub-section (9) and substituting the following sub-section:

“(9) Where the Secretary is satisfied that payments—

(a) under the Tertiary Education Assistance Scheme or the Secondary Allowance Scheme;

(b) under—

(i) the Veterans’ Children Education Scheme;

- (ii) the AUSTUDY scheme; or
- (iii) the Assistance for Isolated Children Scheme; or
- (c) under the Aboriginal Secondary Assistance Scheme or the Aboriginal Study Assistance Scheme,
are being or will be made to or in respect of a student child, other than a child by reference to whom the rate of those payments is increased, the Secretary shall, by determination in writing, declare that child to be a prescribed student child for the purposes of this Act as from a day specified in the determination, which may be a day before the day on which the determination is made but shall not be a day before—
 - (d) in a case to which paragraph (a) applies—1 January 1986;
 - (e) in a case to which paragraph (b) applies—1 January 1987; or
 - (f) in a case to which paragraph (c) applies—1 January 1988.”.
- (2) A determination in force under sub-section 6 (9) of the Principal Act immediately before the commencement of this sub-section shall, after that commencement, continue to have effect as if it had been made under sub-section 6 (9) of the Principal Act as amended by this Act.
- (3) Section 6 of the Principal Act is amended—
 - (a) by omitting “or” from the end of paragraph (w) of the definition of “income” in sub-section (1); and
 - (b) by adding at the end of that definition the following word and paragraph:

“or (y) a payment of an education supplement to a person who is receiving a prescribed pension where the person would, if the person were not receiving that prescribed pension, be eligible to receive payments under the AUSTUDY scheme;”.

Calculation of value of property

- 5. (1) Section 6AA of the Principal Act is amended—
 - (a) by omitting sub-section (4); and
 - (b) by omitting from sub-section (5) “or (4)”.
- (2) Section 6AA of the Principal Act is amended—
 - (a) by inserting in sub-section (1) “(other than section 6AC)” after “this Act”;

(b) by omitting sub-paragraph (1) (a) (iii) and substituting the following sub-paragraphs:

- “(iii) the value of any life interest of the person (not being a life interest in relation to the principal home of the person, of the person’s spouse or of both of them or a life interest created by the person, by the person’s spouse or by both of them);
- (iiia) the value of any annuity (including a superannuation pension) of the person, except where—
 - (A) the annuity is able to be disposed of, or a substantial part of the income under the annuity is or may be deferred; and
 - (B) the Secretary determines in writing that the annuity should not be disregarded under this sub-paragraph;”;

(c) by omitting sub-paragraph (1) (a) (v) and substituting the following sub-paragraph:

- “(v) the value of any contingent, remainder or reversionary interest of the person (not being an interest created by the person, by the person’s spouse or by both of them);”;

(d) by inserting in sub-paragraph (1) (a) (vi) “, remainder” after “contingent”;

(e) by omitting sub-paragraph (1) (a) (viii) and substituting the following sub-paragraph:

- “(viii) the value of—
 - (A) any cemetery plot acquired by the person for the burial of the person or the person’s spouse; and
 - (B) any funeral expenses paid in advance by the person in respect of the funeral of the person or the person’s spouse;”;

(f) by omitting from paragraph (1) (b) “not being a charge or encumbrance that is a collateral security” and substituting “not being an excluded security”;

(g) by inserting after sub-section (1) the following sub-section:

- “(1A) Where a person sells the principal home of the person and the person is likely, within 12 months, to apply the whole or part of the

proceeds of that sale in the acquisition of another residence that is to be the principal home of the person, then, in calculating the value of the property of the person for the purposes of this Act other than section 6AC, there shall be disregarded during that period so much of the proceeds of that sale as the person is likely to apply in the acquisition of the other residence, and the person shall, during that period, be regarded as a person to whom sub-paragraph (1) (a) (i) or (ii) applies.”;

(h) by inserting in sub-section (2) “(not being a charge arising by virtue of sub-section 6AB (5))” after “charge or encumbrance” (first occurring);

(j) by omitting from sub-paragraph (8) (b) (i) “mentally ill persons” and substituting “persons who have a mental disability”;

(k) by omitting sub-paragraph (8) (b) (ii) and substituting the following sub-paragraph:

“(ii) residing in premises that are—

- (A) an approved nursing home for the purposes of the *National Health Act 1953* or the *Nursing Homes Assistance Act 1974*;
- (B) an approved home for the purposes of the *Aged or Disabled Persons Homes Act 1954*; or
- (C) an approved hostel for the purposes of the *Aged or Disabled Persons Hostels Act 1972*;”;

(m) by adding at the end of paragraph (8) (b) the following word and sub-paragraph:

“; or (iv) residing in premises made available for the accommodation of the person by an approved organisation providing hostel care services or personal care services to the person for the purposes of Part III of the *Aged or Disabled Persons Homes Act 1954*.”; and

(n) by adding at the end the following sub-sections:

“(9) Sub-section (8), as in force on 21 March 1985, continues to apply in relation to a person to whom paragraph (8) (b) applied on that day as if the reference in that paragraph to 2 years were a reference to 3 years.

“(10) For the purpose of paragraph (1) (b), a charge or encumbrance is an excluded security to the extent that—

- (a) the charge or encumbrance is a collateral security; or
- (b) the charge or encumbrance was given for the benefit of a person who is not a party, or the spouse of a party, to the charge or encumbrance.

“(11) Where a person lends an amount after the commencement of this sub-section, the value of the property of the person for the purposes of this Act shall include so much of that amount as remains unpaid but shall not include any amount payable by way of interest under the loan.”.

Pension loans scheme

6. Section 6AB of the Principal Act is amended—

(a) by omitting from sub-section (2) “Where” and substituting “Subject to sub-section (2A), where”;

(b) by inserting after sub-section (2) the following sub-section:

“(2A) Where the value of the property (including exempt property) of a person or, if the person is a married person, of the person and the person’s spouse, is less than \$100,000, the person is not entitled to make a request under sub-section (2) unless the person includes with the request an election in writing that sub-section (6) not apply to the person.”;

(c) by inserting in sub-section (5) “or has applied” after “sub-section (4) applies”;

(d) by omitting from paragraph (5) (a) “sub-section (4) did not apply” and substituting “sub-section (4) had not applied”;

(e) by inserting after sub-section (5) the following sub-section:

“(5A) Where—

- (a) sub-section (4) applies to a person;
- (b) the person has not made an election that sub-section (6) not apply to the person; and
- (c) the value of the property (including exempt property) of the person or, if the person is a married person, of the person and the person’s spouse, ceases to exceed \$100,000,

sub-section (4) ceases to apply in relation to the person on and after the first pension pay-day after the occurrence of the event referred

- to in paragraph (c) unless the person lodges with the Department within 10 weeks after the occurrence of that event an election in writing that sub-section (6) not apply to the person.”;
- (f) by inserting in sub-section (6) “(not being a person who has made an election that this sub-section not apply to the person)” after “person” (first occurring);
- (g) by omitting sub-section (8) and substituting the following sub-section:
- “(8) Where, under sub-section (5), there is a charge on the property of a person or of the person and the person’s spouse, the person shall, if required by the Secretary to do so, execute an instrument relating to the registration of the charge.”;
- (h) by inserting in sub-section (9) “(being a charge under sub-section (5))” after “spouse”;
- (j) by omitting from sub-section (10) “until after the death of the person” and substituting—
- “until after—
- (a) the death of the person; or
- (b) if the person dies and is survived by a spouse to whom a special temporary allowance is payable under section 135U—the end of the period during which the special temporary allowance is payable.”;
- (k) by omitting from paragraph (13) (b) “exempt property” and substituting “exempt property,”;
- (m) by inserting in paragraph (13) (b) “, or the person, being a married person, ceases to be a married person” after “person” (last occurring); and
- (n) by omitting from sub-section (13) “continue” and substituting “did not cease, and continue”.

Disposal of income or property

7. Section 6AC of the Principal Act is amended—
- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:

“(1) Subject to sub-sections (3), (6) and (7), where, on or after 1 June 1984—

- (a) a married person has disposed of property of the person—
 - (i) during a pension year of the person; or
 - (ii) if the person is not in receipt of a pension, benefit or allowance of a kind referred to in sub-section (13) but the person’s spouse is in receipt of such a pension, benefit or allowance—during a pension year of the person’s spouse; and
- (b) the amount of that disposition of property, or the sum of that amount and the amounts (if any) of other dispositions of property previously made by the person or the person’s spouse during that pension year, exceeds \$4,000,

then, for the purposes of this Act, there shall be included in the value of the property of the person and in the value of the property of the person’s spouse—

- (c) 50% of the amount by which the sum of the amount of that first-mentioned disposition of property and of the amounts (if any) of other dispositions of property previously made by the person or the person’s spouse during that pension year exceeds \$4,000; or
- (d) 50% of the amount of that first-mentioned disposition of property,

whichever is the lesser amount.

“(2) Subject to sub-section (3), where, on or after 1 June 1984—

- (a) an unmarried person has, during a pension year of the person, disposed of property of the person; and
- (b) the amount of that disposition of property, or the sum of that amount and of the amounts (if any) of other dispositions of property previously made by the person during that pension year, exceeds \$2,000,

then, for the purposes of this Act, there shall be included in the value of the property of the person—

- (c) the amount by which the sum of the amount of that first-mentioned disposition of property and of the amounts (if any)

- of other dispositions of property previously made by the person during that pension year exceeds \$2,000; or
- (d) the amount of that first-mentioned disposition of property, whichever is the lesser amount.”;
- (b) by omitting from sub-section (3) “that took place during a pension year of the person”;
- (c) by omitting from sub-section (3) “in subsequent pension years of the person”;
- (d) by omitting from sub-paragraphs (10) (b) (iii) and (11) (b) (iii) “become a person other than” and substituting “not be”;
- (e) by omitting from paragraph (13) (b) “later” and substituting “earlier”;
- (f) by omitting from paragraph (13) (c) “that” and substituting “such a”;
- and
- (g) by adding at the end the following sub-section:
- “(14) The lending of money after the commencement of this sub-section is not a disposition of property for the purposes of this section.”.

Financial hardship

8. Section 6AD of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “, 34 (2) (b)”;
- (b) by omitting from sub-section (2) “, 34” (first occurring);
- (c) by omitting from paragraph (2) (b) “, 34 (2)”;
- and
- (d) by inserting after sub-section (3) the following sub-section:

“(3A) Where—

- (a) a person has disposed of property and section 6AC applies to the disposition; and
- (b) the Secretary has made a determination under paragraph (1) (b) in relation to the disposition,

sub-sections (2) and (3) apply to the person as if the person had not disposed of the property.”.

Pension reduction amounts

9. Section 6AE of the Principal Act is amended—

- (a) by omitting from paragraph (a) “\$70,000” and substituting “\$75,750”;
- (b) by omitting from paragraph (b) “\$120,000” and substituting “the amount referred to in paragraph (a) increased by twice the difference between the amount referred to in paragraph (d) and the amount referred to in paragraph (c)”;
- (c) by omitting from paragraph (c) “\$50,000” and substituting “\$54,000”; and
- (d) by omitting from paragraph (d) “\$75,000” and substituting “\$81,250”.

Indexation

10. Section 6AF of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “relevant amount” and substituting the following definition:

“ ‘relevant amount’ means the amount specified in paragraph 6AE (a), (c) or (d) or 83CA (4) (a), (c) or (d);”;

- (b) by omitting “1 May 1986” from the definition of “relevant year” in sub-section (1) and substituting “12 June 1987”.

Conditions of grant of invalid pension

11. Section 25 of the Principal Act is amended by omitting paragraphs (1) (c) and (d) and substituting the following word and paragraph:

“or (c) if the person’s permanent incapacity was brought about with a view to obtaining an invalid pension.”.

Rate of age or invalid pension

12. (1) Section 28 of the Principal Act is amended—

- (a) by omitting from paragraph (1A) (a) “\$4,778.80” and substituting “\$5,309.20”;
- (b) by omitting from paragraph (1A) (b) “\$3,985.80” and substituting “\$4,427.80”;
- (c) by omitting from paragraph (1EB) (a) “sub-sections 32 (2) and 34 (2)” and substituting “sub-section 32 (2)”;

- (d) by omitting from paragraph (1EB) (b) “or 34 (2) (b)”;
- (e) by omitting from paragraph (1EC) (a) “sub-sections 32 (2) and 34 (2)” and substituting “sub-section 32 (2)”;
- (f) by omitting from paragraph (1EC) (b) “or 34 (2) (a)”.
- (2)** Section 28 of the Principal Act is amended—
 - (a) by omitting from paragraph (1B) (a) “\$832” and substituting “\$884”;
 - (b) by omitting from sub-section (1F) “\$832” (wherever occurring) and substituting “\$884”; and
 - (c) by omitting from sub-section (1FA) “\$832” and substituting “\$884”.
- (3)** Section 28 of the Principal Act is amended—
 - (a) by omitting sub-section (1B) and substituting the following sub-section:

“(1B) The maximum rate of pension applicable to a person under sub-section (1B) shall, subject to sub-sections (1C) and (1D), be increased or, if sub-section (1AA) applies to the person, be further increased by \$884 per annum in respect of each dependent child of the person who is not a prescribed student child.”;
 - (b) by omitting from sub-section (1F) “Subject to sub-section (1FA), in” and substituting “In”; and
 - (c) by omitting sub-section (1FA).

Indexation of certain rates

- 13.** Section 28A of the Principal Act is amended—
 - (a) by omitting “1 May 1985” from the definition of “relevant period” in sub-section (1) and substituting “13 December 1986”;
 - (b) by omitting from sub-paragraph (5) (a) (i) “1 May” and substituting “13 June”; and
 - (c) by omitting from sub-paragraph (5) (a) (ii) “1 November” and substituting “13 December”.

Rent assistance

- 14.** Section 30 of the Principal Act is amended by omitting from paragraphs (1) (a) and (3) (a) “\$520” and substituting “\$780”.

Rent assistance

15. Section 30A of the Principal Act is amended by omitting from paragraphs (1) (b) and (3A) (a) “\$520” and substituting “\$780”.

16. Before section 50 of the Principal Act the following section is inserted in Division 10 of Part III:

Dual entitlement

“49. (1) In this section—

‘member of the Forces’ and ‘Peacekeeping Force’ have the same respective meanings as in Part IV of the *Veterans’ Entitlements Act 1986*;

‘widow’ means a woman who was, immediately before the death of a veteran, of a member of the Forces or of a member of a Peacekeeping Force, the spouse of the veteran or member.

“(2) Where, immediately before 1 November 1986, a widow was receiving—

(a) a pension under Part II or IV of the *Veterans’ Entitlements Act 1986* or a pension under the *Seamen’s War Pensions and Allowances Act 1940*; and

(b) a pension under this Part,

the rate of the pension referred to in paragraph (b) shall not, on or after 1 November 1986 and while the widow continues to receive the pension referred to in paragraph (a)—

(c) in a case where the widow was receiving a pension under this Part immediately before 1 November 1986 at a rate less than \$3,122.60 per annum—be increased under, or by virtue of the operation of, this Act to a rate greater than \$3,122.60 per annum; or

(d) in any other case—be increased under, or by virtue of the operation of, this Act to a rate greater than the rate at which it was payable immediately before 1 November 1986.

“(3) Where, on or after 1 November 1986—

(a) a widow who is receiving a pension under Part II or IV of the *Veterans’ Entitlements Act 1986* or a pension under the *Seamen’s War Pensions and Allowances Act 1940*

commences to receive payments of a pension under this Part;
or

- (b) a widow who is receiving a pension under this Part commences to receive payments of a pension under Part II or IV of the *Veterans' Entitlements Act 1986* or a pension under the *Seamen's War Pensions and Allowances Act 1940*,

the rate of pension payable to the widow under this Part shall not, while the widow continues to receive the other pension, exceed \$3,122.60 per annum.

“(4) Where—

- (a) on or after 1 November 1986, a pension payable to a widow under this Part ceases to be payable (otherwise than through the suspension of the pension); and
- (b) immediately before the cessation, the widow was receiving a pension under Part II or IV of the *Veterans' Entitlements Act 1986* or a pension under the *Seamen's War Pensions and Allowances Act 1940*,

a pension under this Part is not, while the widow continues to be eligible to receive the pension referred to in paragraph (b), payable to the widow.

“(5) A reference in this section to a widow receiving a pension under Part II or IV of the *Veterans' Entitlements Act 1986* is a reference to a widow receiving a pension under that Part at a rate determined under or by reference to sub-section 30 (1) of that Act.

“(6) A reference in this section to a widow receiving a pension under the *Seamen's War Pensions and Allowances Act 1940* is a reference to a widow receiving a pension under that Act at a rate determined under sub-section 18 (2) of that Act.”.

Rent assistance

17. Section 65 of the Principal Act is amended by omitting from paragraphs (1) (a) and (2) (a) “\$520” and substituting “\$780”.

Rent assistance

18. Section 65A of the Principal Act is amended by omitting from paragraphs (1) (b) and (2A) (a) “\$520” and substituting “\$780”.

Prescribed persons

19. (1) Section 83CA of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “is equal to or”;
- (b) by omitting from paragraph (1) (b) “, 34 (2) (b)”;
- (c) by omitting from paragraph (2) (c) “\$3,120” and substituting “\$3,536”; and
- (d) by omitting from paragraph (2) (d) “\$2,548” and substituting “\$2,912”;

(2) Section 83CA of the Principal Act is amended—

- (a) by inserting in paragraph (1) (b) “of this Act, not being a person to whom section 6AD of this Act or section 53 of the *Veterans’ Entitlements Act 1986* applies” after “63 (2) (b)”;
- (b) by inserting “, and includes, in the case of a person to whom section 6AD of this Act applies, any amount per annum that is taken into account under sub-section (3) of that section in relation to the person” after “Act” in paragraph (a) of the definition of “income” in sub-section (6); and
- (c) by inserting “, and includes, in the case of a person to whom section 53 of that Act applies, any amount per annum that is taken into account under sub-section (3) of that section in relation to the person” after “1986” in paragraph (b) of that definition.

(3) Section 83CA of the Principal Act is amended—

- (a) by omitting from paragraph (4) (a) “\$80,000” and substituting “\$86,500”;
- (b) by omitting from paragraph (4) (b) “\$130,000” and substituting “the amount referred to in paragraph (a) increased by twice the difference between the amount referred to in paragraph (d) and the amount referred to in paragraph (c)”;
- (c) by omitting from paragraph (4) (c) “\$57,500” and substituting “\$62,250”; and
- (d) by omitting from paragraph (4) (d) “\$82,500” and substituting “\$89,250”.

Interpretation

20. (1) Section 84 of the Principal Act is amended by omitting from sub-section (1) the definitions of “married person”, “spouse” and “unmarried person”.

(2) Section 84 of the Principal Act is amended by inserting “student” before “child to whom” in the definition of “eligible child” in sub-section (1).

Interpretation

21. Section 94 of the Principal Act is amended by omitting from sub-section (1) the definition of “prescribed educational scheme” and substituting the following definition:

“‘prescribed educational scheme’ means—

- (a) the AUSTUDY scheme;
- (b) the Assistance for Isolated Children Scheme;
- (c) the Aboriginal Secondary Assistance Scheme;
- (d) the Aboriginal Study Assistance Scheme;
- (e) the Veterans’ Children Education Scheme; or
- (f) the Post-Graduate Awards Scheme;”.

22. (1) Section 95A of the Principal Act is repealed and the following section is substituted:

Payments under certain education schemes

“95A. Where the Secretary is satisfied that payments under a prescribed educational scheme are being or will be made to or in respect of a student child, other than a child by reference to whom the rate of those payments is increased, the Secretary shall determine in writing that family allowance in respect of that child ceases to be payable as from the first day of a family allowance period specified in the determination (whether before or after the making of the determination), not being a day before—

- (a) in the case of the Veterans’ Children Education Scheme, the AUSTUDY scheme, the Assistance for Isolated Children Scheme, the Aboriginal Study Assistance Scheme or the Post-Graduate Awards Scheme—1 January 1987; or
- (b) in any other case—1 January 1988,

and, where such a determination is made, family allowance ceases to be payable in respect of that child as from that day.”.

(2) A family allowance under the *Social Security Act 1947* shall not, before 1 January 1988, be granted or paid in respect of a child who is under the age of 16 years in respect of whom payments under the Aboriginal Study Assistance Scheme are being made.

(3) Where, immediately before 1 January 1988, a family allowance under the *Social Security Act 1947* was payable in respect of a student child to whom or in respect of whom payments under the Aboriginal Secondary Assistance Scheme were being made, the child shall, for the purposes of Part V of that Act, while payments under that scheme continue to be made to or in respect of the child, be deemed to be an eligible child and a child in respect of whom a family allowance is payable from that day until 31 December 1988.

Qualification for family allowance

23. (1) Section 96 of the Principal Act is amended by inserting after sub-section (3) the following sub-section:

“(4) For the purposes of sub-section (1), where a person to whom this section applies has a dependent child who—

- (a) resides in Australia and is absent from Australia; or
- (b) is an absent resident,

the dependent child shall, subject to sub-section (6), be deemed to be a person to whom this section applies.”.

(2) Section 96 of the Principal Act is amended—

(a) by omitting sub-section (1) and substituting the following sub-section:

“(1) A family allowance shall not be granted or paid to a person in respect of a child or to an institution in respect of a child unless—

- (a) in the case of a grant or payment to a person in respect of a child—both the person and the child are persons to whom this section applies; or
- (b) in the case of a grant or payment to an institution in respect of a child—the child is a person to whom this section applies.”;

(b) by omitting paragraph (3) (a) and substituting the following paragraph:

“(a) who is—

- (i) an absent resident; or
- (ii) a resident of Australia who is absent from Australia, was, immediately before leaving Australia, a person referred to in sub-section (2); or”; and

(c) by omitting from sub-section (6) all the words before “the dependent child” (second occurring) and substituting “Where a person has a dependent child who is outside Australia,”.

Family allowance not payable in respect of certain student children over the age of 18 years

24. (1) Section 98 of the Principal Act is amended—

- (a) by adding “or” at the end of paragraph (2) (b); and
- (b) by omitting paragraphs (2) (d) and (e).

(2) Section 98 of the Principal Act is amended—

- (a) by adding “or” at the end of paragraph (2) (aa);
- (b) by omitting “or” from the end of paragraph (2) (b); and
- (c) by omitting paragraph (2) (c).

25. After section 98 of the Principal Act the following section is inserted:

Family allowance not payable in respect of certain children over the age of 16 years

“99. (1) In this section, ‘taxable income’ and ‘year of income’ have the same respective meanings as in the *Income Tax Assessment Act 1936*.

“(2) Subject to sub-sections (3) and (4), a family allowance shall not, on or after 15 December 1986, be paid in respect of a child who is over the age of 16 years if—

- (a) the person who would, but for this sub-section, be receiving family allowance in respect of the child had a taxable income exceeding \$39,000 for the last year of income of the person; or

- (b) if that person is a married person—the sum of that person’s taxable income for the last year of income of the person and the taxable income of that person’s spouse for the last year of income of the spouse exceeds \$39,000.
- “(3) Subject to section 95A, sub-section (2) does not apply in respect of a child if the circumstances referred to in a paragraph of sub-section 98 (2) are applicable in relation to the child.
- “(4) Sub-section (2) does not apply in respect of a child if the taxable income of the person who would, but for sub-section (2), be receiving family allowance in respect of the child for the year of income of the person succeeding the last year of income of the person or, if the person is a married person, the sum of that taxable income and the taxable income of the person’s spouse for the year of income of the spouse succeeding the last year of income of the spouse was, or, in the opinion of the Secretary, will be—
 - (a) not more than \$39,000; and
 - (b) at least 25% less than—
 - (i) the taxable income of the person for the last year of income of the person; or
 - (ii) in the case of a married person—the sum of the taxable income of the person for the last year of income of the person and the taxable income of the person’s spouse for the last year of income of the person’s spouse.
- “(5) Nothing in sub-section (2) affects the grant, or the payment, on or after 15 December 1986, of a family allowance in respect of any family allowance period ending before that day.
- “(6) A reference in this section to the last year of income of a person, in relation to a particular time, is a reference to the year of income of the person that ended on 30 June in the preceding calendar year.”.

Family allowance to cease in certain circumstances

26. Section 103 of the Principal Act is amended by adding at the end the following sub-section:

- “(6) Where a family allowance ceases to be payable to a person under section 98 or 99 in respect of a child, the family allowance ceases

to be payable from the end of the family allowance period during which that section became applicable in respect of the child.”.

Qualification for double orphan’s pension

27. Section 105B of the Principal Act is amended by omitting from paragraph (1) (a) “or 95B”.

Rate of double orphan’s pension

28. Section 105C of the Principal Act is amended by omitting “\$55.70” and substituting “\$60”.

Application of Part VI

29. Section 105D of the Principal Act is amended by omitting from sub-section (1) “sections 95A and 95B” and substituting “section 95A”.

Handicapped child’s allowance not payable in certain circumstances

30. Section 105K of the Principal Act is amended by omitting “or 95B”.

Rate of handicapped child’s allowance

31. Section 105L of the Principal Act is amended by omitting from paragraph (a) “\$85” and substituting “\$92”.

Cessation of handicapped child’s allowance granted under section 105J

32. Section 105Q of the Principal Act is amended by omitting from sub-section (1A) “, and section 96, apply” and substituting “applies”.

Interpretation

33. (1) Section 106 of the Principal Act is amended by omitting from sub-section (1) the definitions of “married person”, “spouse” and “unmarried person”.

(2) Section 106 of the Principal Act is amended by omitting paragraph (1AA) (a).

Unemployment benefits

34. Section 107 of the Principal Act is amended—

- (a) by omitting “and” from the end of paragraph (1) (b);
- (b) by adding at the end of sub-section (1) the following word and paragraph:
“; and (d) the person was, throughout the relevant period, registered as being unemployed by the Commonwealth Employment Service.”;
- (c) by inserting after sub-section (1) the following sub-section:

“(1A) Where—

- (a) a person is not qualified to receive an unemployment benefit in respect of a period by reason only that the person was not, throughout that period, registered as being unemployed by the Commonwealth Employment Service; and
- (b) the Secretary is satisfied that, having regard to circumstances beyond the person’s control relating to the person’s failure to be so registered, that failure should be disregarded in respect of that period or a part of that period,

the Secretary may determine in writing that paragraph (1) (d) does not apply to the person in respect of that period or that part of that period and, where such a determination is made, the person is qualified to receive an unemployment benefit in respect of that period or that part of that period.”; and

- (d) by omitting sub-section (6) and substituting the following sub-section:

“(6) Subject to this Part, where, on or after 1 November 1986, the Secretary is satisfied that a person who is included in a class of persons specified by the Minister by notice in writing published in the *Gazette* may reasonably be expected to fulfil, or has fulfilled, the requirements of the preceding provisions of this section in respect of a period, the person is qualified to receive an unemployment benefit in respect of that period.”.

Sickness benefits

35. Section 108 of the Principal Act is amended by omitting sub-section (1C) and substituting the following sub-section:

“(1C) Where, on or after 1 November 1986, the Secretary is satisfied that a person who is included in a class of persons specified by the

Minister by notice in writing published in the *Gazette* may reasonably be expected to fulfil, or has fulfilled, the requirements of the preceding provisions of this section in respect of a period, the person is qualified to receive a sickness benefit in respect of that period.”.

Rate of unemployment or sickness benefit

36. (1) Section 112 of the Principal Act is amended by omitting from sub-section (4B) “, or a married person who is living permanently apart from the spouse of the person,”.

(2) Section 112 of the Principal Act is amended—

(a) by omitting from paragraph (1) (b) “\$91.45” and substituting “\$95.40”;

(b) by omitting from paragraph (1) (c) “\$97.90” and substituting “\$102.10”;

(c) by omitting from paragraph (1) (d) “\$81.65” and substituting “\$85.15”; and

(d) by inserting in sub-section (4E) “to” after “referred”.

(3) Section 112 of the Principal Act is amended—

(a) by omitting from paragraphs (5) (c) and (6) (c) “\$16” and substituting “\$17”; and

(b) by omitting paragraph (6A) (b) and substituting the following paragraph:

“(b) sub-section 107 (4) or section 120 applies to the person’s spouse in respect of that period,”.

(4) Section 112 of the Principal Act is amended by omitting from paragraph (1) (aa) “\$88.20” and substituting “\$91.20”.

(5) Section 112 of the Principal Act is amended—

(a) by omitting from paragraph (1) (aa) “\$91.20” and substituting “\$95”;

(b) by omitting from sub-section (5) all the words after “subject to sub-section (6),” and substituting “be increased by \$17 per week in respect of each such child who is not a prescribed student child of the person.”; and

(c) by omitting from paragraph (6) (c) “or, if the child is a prescribed student child of the person, \$14 per week”.

Indexation of unemployment and sickness benefits

37. (1) Section 112AA of the Principal Act is amended—

- (a) by omitting “1 May 1985” from the definition of “relevant period” in sub-section (1) and substituting “13 December 1986”;
- (b) by omitting from sub-paragraph (5) (a) (i) “1 May” and substituting “13 June”; and
- (c) by omitting from sub-paragraph (5) (a) (ii) “1 November” and substituting “13 December”.

(2) Section 112AA of the Principal Act is amended—

- (a) by inserting after the definition of “index number” in sub-section (1) the following definition:

“‘junior or intermediate rate’ means—

- (a) in relation to the year commencing on 1 January 1988—the rate referred to in paragraph 112 (1) (a); or
- (b) in relation to any subsequent year—the rate referred to in paragraph 112 (1) (a) or (aa);”;

- (b) by adding at the end of sub-section (1) the following definition:

“‘year to which this section applies’ means the year commencing on 1 January 1988, and each subsequent year.”;

- (c) by omitting sub-section (5) and substituting the following sub-sections:

“(4A) Where the factor ascertained under sub-section (5) in relation to a year to which this section applies is greater than one, this Act has effect as if for each junior or intermediate rate there were substituted, on the first day of that year—

- (a) subject to paragraph (b), the rate calculated by multiplying by that factor—
 - (i) in a case to which sub-paragraph (ii) does not apply—the junior or intermediate rate; or
 - (ii) if, by virtue of another application or other applications of this section, this Act has effect as if another rate or other rates were substituted for the junior or intermediate rate—the substituted rate or the last substituted rate, as the case may be; or

- (b) in a case where the rate so calculated is not a multiple of 5 cents per week—a rate equal to—
 - (i) if the rate so calculated exceeds the next lower rate that is such a multiple by 2.5 cents per week or more—the next highest rate that is such a multiple; or
 - (ii) if the rate so calculated exceeds the next lower rate that is such a multiple by less than 2.5 cents per week—that next lower rate.
- “(5) The factor to be ascertained for the purposes of sub-sections (4) and (4A) is—
- (a) in the case of the ascertainment of a factor for the purposes of sub-section (4) in relation to a relevant period—the number, calculated to 3 decimal places, ascertained by dividing—
 - (i) if the relevant period commences on 13 June—the index number for the last preceding December quarter; or
 - (ii) if the relevant period commences on 13 December—the index number for the last preceding June quarter,
 by the highest index number in respect of a December or June quarter that preceded that quarter, not being a December or June quarter that occurred before the June quarter in the year 1979;
 - (b) in the case of the ascertainment of a factor for the purposes of sub-section (4A) in relation to a year to which this section applies—the number, calculated to 3 decimal places, ascertained by dividing the index number for the last preceding June quarter by the highest index number in respect of a June quarter that preceded that quarter, not being a June quarter before the year 1986; or
 - (c) if the number ascertained under paragraph (a) or (b) would, if it were calculated to 4 decimal places, end in a number greater than 4—the number so ascertained increased by 0.0001.”; and
 - (d) by omitting from sub-section (6) “relevant period” and substituting “period”.

Rent assistance

38. (1) Section 112A of the Principal Act is amended by omitting from sub-section (1) the definition of “married person”.

(2) Section 112A of the Principal Act is amended—

- (a) by omitting “\$10” (wherever occurring) from the definition of “prescribed period” in sub-section (1) and substituting “\$15”; and
- (b) by omitting from paragraph (3A) (a) “\$10” and substituting “\$15”.

(3) Section 112A of the Principal Act is amended—

- (a) by omitting “\$10” from paragraph (b) of the definition of “prescribed period” in sub-section (1) and substituting “\$15”;
- (b) by omitting from sub-paragraph (4) (a) (i) “\$10” and substituting “\$15”; and
- (c) by omitting from sub-paragraph (4) (b) (i) “\$10” and substituting “\$15”.

Income test

39. Section 114 of the Principal Act is amended by omitting from sub-section (3) all the words after “person’s spouse”.

Refusal of claim, &c.

40. Section 115B of the Principal Act is amended—

- (a) by inserting in sub-section (2B) “or, in a case where periodical payments by way of compensation were made in respect of the incapacity, the day after the day on which the last of those payments was made” after “incapacity commenced”;
- (b) by omitting from sub-section (3) “received, on or before 30 June 1986, by a person” and substituting “that a person became entitled to receive on or before 30 June 1986, being a person”;
- (c) by omitting from sub-section (3A) “received after 30 June 1986, by a person” and substituting “that a person became entitled to receive after 30 June 1986, being a person”; and
- (d) by inserting in sub-section (3A) “or, if a notice under sub-section 115C (2) or 115D (2) has been served on a person in relation to that incapacity, prior to service of that notice” after “prior to receiving the payment”.

Recovery in court of competent jurisdiction

41. Section 115F of the Principal Act is amended by inserting in paragraph (a) “or (3A)” after “sub-section 115B (3)”.

Repeal of Division 3A of Part VII

42. (1) Division 3A of Part VII of the Principal Act is repealed.

(2) Notwithstanding the repeal of Division 3A of Part VII of the Principal Act, that Division continues to apply in relation to a sickness benefit within the meaning of that Division that commenced to be paid before 1 May 1987.

43. (1) Section 120 of the Principal Act is repealed and the following section is substituted:

Unemployment benefit not payable in certain cases

“120. (1) Subject to sub-section (2), where—

- (a) a person’s unemployment is due, either directly or indirectly, to a voluntary act of the person which was without sufficient reason;
- (b) a person’s unemployment is due to the person’s misconduct as a worker;
- (c) a person has refused or failed, without sufficient reason, to accept a suitable offer of employment;
- (d) a person is not taking reasonable steps to obtain employment;
- (e) an unemployed person (not being a person to whom a determination under sub-section 107 (1A) applies) ceases to be registered as being unemployed by the Commonwealth Employment Service; or
- (f) the income of a seasonal or an intermittent worker is sufficient for the maintenance of the worker and the persons who are ordinarily maintained by the worker, notwithstanding that the worker is temporarily unemployed,

an employment benefit is not payable to the person in respect of such period as is determined by the Secretary in writing (which may be a period commencing before the day on which the determination is made).

“(2) In a case to which paragraph (1) (a), (b), (c) or (d) applies, the period in respect of which an unemployment benefit is not payable shall be not less than 2 weeks and not more than 12 weeks.”.

(2) Section 120 of the Principal Act as amended by this Act applies only in respect of acts or omissions occurring after the commencement of this section.

(3) Notwithstanding the repeal effected by sub-section (1), section 120 of the Principal Act continues to apply in respect of acts or omissions that occurred before the commencement of this section.

Special benefit

44. Section 124 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “of this Act”; and
- (b) by omitting sub-section (2) and substituting the following sub-section:

“(2) A special benefit is not payable to a person in respect of a period if—

- (a) the person is not qualified to receive an unemployment benefit in respect of that period by reason of paragraph 107 (1) (d) or sub-section 107 (4); or
- (b) an unemployment benefit is not payable to the person in respect of that period by reason of section 120.”.

Benefit not payable to full-time students

45. Section 133 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-sections:

“(1) A benefit is not payable to a person (not being a person who is under the age of 16 years and to whom sub-section 112 (4E) would, if the person were a beneficiary, apply) in respect of any period during which—

- (a) a payment in respect of the person has been or may be made under a prescribed educational scheme; or
- (b) the person is engaged in a course of education on a full-time basis.

“(1A) For the purposes of paragraph (1) (b), a person who is enrolled in a course of education shall be taken to be engaged in that course from the day on which the person commences that course until the

person completes or abandons that course, including during periods of vacation but not including during periods of deferment.”; and
 (b) by omitting paragraphs (2) (a), (b), (c), (d) and (e) and substituting the following paragraphs:

- “(a) the AUSTUDY scheme;
- (b) the Aboriginal Study Assistance Scheme to the extent that that scheme applies to full-time students;
- (c) the Aboriginal Secondary Assistance Scheme;
- (d) the Post-Graduate Awards Scheme;
- (e) the Veterans’ Children Education Scheme;
- (f) the Assistance for Isolated Children Scheme;
- (g) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance;
- (h) the scheme to provide an allowance known as the Maintenance Allowance for Refugees.”.

46. After section 133 of the Principal Act the following section is inserted:

Benefit not payable to certain war widows

“133A. (1) In this section, ‘widow’ has the same meaning as in section 49.

“(2) Where, immediately before 1 November 1986, a widow was receiving—

- (a) a pension under Part II or IV of the *Veterans’ Entitlements Act 1986* at a rate determined under or by reference to sub-section 30 (2) of that Act or a pension under the *Seamen’s War Pensions and Allowances Act 1940* at a rate determined under sub-section 18 (2) of that Act; and
- (b) a benefit under this Part,

the rate of the benefit under this Part shall not, on or after 1 November 1986 and while the widow continues to receive the pension referred to in paragraph (a)—

- (c) in a case where the widow was receiving a benefit under this Part immediately before 1 November 1986 at a rate less than \$60.05 per week—be increased under, or by virtue of the operation of, this Act to a rate greater than \$60.05 per week; or

(d) in any other case—be increased under, or by virtue of the operation of, this Act to a rate greater than the rate at which it was payable immediately before 1 November 1986.

“(3) A widow (other than a widow to whom sub-section (2) applies) who is, on or after 1 November 1986, receiving a pension of the kind referred to in paragraph (2) (a) is not, after that day, qualified to receive a benefit under this Part.

“(4) Where a widow who, on or after 1 November 1986, is receiving a benefit under this Part commences to receive a pension of the kind referred to in paragraph (2) (a), the widow ceases to be qualified to receive that benefit.”.

Rate of mobility allowance

47. Section 133RC of the Principal Act is amended by omitting “\$10” and substituting “\$11”.

48. After Part VIII of the Principal Act the following Part is inserted:

“Part VIIIAA—Payments By Way of Compensation

Interpretation

“135SA. (1) In this Part—

‘pension’ means an invalid pension (including any allowance under section 26 or 30A), a benefit under Part VII, a sheltered employment allowance under Part VIIA (including any allowance under section 133JA) or a rehabilitation allowance under Part VIII, being a pension or allowance that commenced to be paid on or after 1 May 1987;

‘spouse’s pension’ means—

- (a) a pension; or
- (b) a wife’s pension or a carer’s pension that commenced to be paid on or after 1 May 1987.

“(2) In this Part—

- (a) a reference to a payment by way of compensation is a reference to—
 - (i) a payment by way of damages;
 - (ii) a payment under a scheme of insurance or compensation provided for by a law of the Commonwealth or of a State or Territory, including a payment under a contract entered into pursuant to such a scheme;
 - (iii) a payment, whether with or without admission of liability, in settlement of a claim under such a scheme or of a claim for damages; or
 - (iv) any other payment in the nature of compensation or damages, other than a payment for which the recipient has made contributions,
 whether made within or outside Australia, being a payment that is, in whole or in part, in respect of an incapacity for work;
- (b) a reference to the receipt by a person of a payment includes a reference to the receipt of the payment by another person on behalf of or at the direction of the first-mentioned person;
- (c) a reference to the compensation part of a lump sum payment by way of compensation is a reference to so much of the lump sum payment as is, in the opinion of the Secretary, in respect of an incapacity for work;
- (d) a reference to the periodic payments period, in relation to a series of periodical payments by way of compensation, is a reference to—
 - (i) in a case where those payments have ceased—the period in respect of which those payments were made; or
 - (ii) in any other case—the period in respect of which those payments will, in the opinion of the Secretary, be made; and
- (e) a reference to the lump sum payment period, in relation to a lump sum payment by way of compensation, is a reference to the number of weeks, beginning on the first day of the period in respect of which the payment was or is to be made, ascertained by dividing the compensation part of the lump sum payment by the estimate last published by the Australian Statistician before the lump sum became payable of the

average total weekly earnings of all male employees in Australia for a particular month.

- “(3) The reference in paragraph (2) (e) to the first day of the period in respect of which a lump sum payment was or is to be made is a reference to—
- (a) in a case to which paragraph (b) does not apply—the day on which the relevant incapacity for work commenced; or
 - (b) in a case where periodical payments by way of compensation were made in respect of the incapacity—the day after the day on which the last of those payments was made.

Receipt by person of compensation

- “135SB. (1) Where a person who is or has been in receipt of a pension during a period receives or becomes entitled to receive a payment by way of compensation in respect of any part of that period, the person shall, within 7 days after receiving or becoming entitled to receive that payment, notify the Department in writing accordingly.

Penalty: \$500.

- “(2) Where—
- (a) a person has notified the Department under sub-section (1) that the person has received or become entitled to receive a payment by way of compensation; or
 - (b) the Secretary has otherwise become aware that a person has received or become entitled to receive such a payment,

the Secretary may, by notice in writing given to the person, require the person to give to the Department in writing such further information with respect to the payment as is specified in the notice.

- “(3) The Secretary shall specify in a notice under sub-section (2) the period within which the requirement in the notice is to be complied with (not being a period of less than 14 days).

Reduction in rate of pension

- “135SC. (1) Where a person who is receiving a pension receives—
-

- (a) a payment forming part of a series of periodical payments by way of compensation; or
- (b) a lump sum payment by way of compensation,

then—

- (c) in a case to which paragraph (a) applies—
 - (i) if the person is an unmarried person or a married person whose spouse is not receiving a spouse's pension—the amount per week of the pension payable to the person shall, during the period during which the periodical payments are made, be reduced by the amount per week of the periodical payments; or
 - (ii) in any other case—the amount per week of the pension payable to the person and the amount per week of the spouse's pension payable to the person's spouse shall, during that period be reduced by one-half of the amount per week of the periodical payments; or
- (d) in a case to which paragraph (b) applies—a pension is not payable to the person and, if the person is a married person, a spouse's pension is not payable to the person's spouse at any time during the lump sum payment period.

“(2) Where—

- (a) a person has received a lump sum payment by way of compensation;
- (b) the person received payments of pension during the lump sum payment period; and
- (c) sub-section (1) did not apply to the lump sum payment,

the Secretary may, by notice in writing given to the person, determine that the person is liable to pay to the Commonwealth an amount specified in the notice, being an amount equal to the amount of pension paid to the person during the lump sum payment period or, if the person is a married person, the sum of that amount and the amount (if any) of spouse's pension paid to the person's spouse during the lump sum payment period, or the compensation part of the lump sum payment, whichever is the lesser.

“(3) Where—

- (a) a person has received a series of periodical payments by way of compensation;
- (b) the person received payments of pension during the period during which payments in the series of periodical payments were made; and
- (c) sub-section (1) did not apply to the payments referred to in paragraph (a),

the Secretary may, by notice in writing given to the person, determine that the person is liable to pay to the Commonwealth an amount specified in the notice, being an amount equal to—

- (d) if the person is an unmarried person or a married person whose spouse did not receive a spouse's pension during that period—the amount of pension paid to the person during that period or the sum of the amounts of the periodical payments, whichever is the lesser; or
- (e) in any other case—the sum of the amount of pension paid to the person during that period and the amount of spouse's pension paid to the person's spouse during that period, or the sum of the amounts of the periodical payments, whichever is the lesser.

“(4) Where the weekly rate of a pension or a spouse's pension payable to a person is reduced under sub-section (1) having regard to a payment by way of compensation, that payment shall not, for the purposes of this Act (other than section 83CA, Part V or section 113), be regarded as income or property of the person.

Recovery of amounts from person liable to make compensation payments

“135SD. (1) Where a person (in this sub-section referred to as the ‘employer’) is, or may become, liable to make a lump sum payment or a series of periodical payments by way of compensation to another person who was in receipt of pension at any time during the lump sum payment period or the periodic payments period, the Secretary may, by notice in writing given to the employer—

- (a) in any case—inform the employer that the Secretary may wish to recover from the employer an amount; or

(b) in a case where the employer is liable to make a payment by way of compensation to the other person—inform the employer that the Secretary proposes to recover from the employer an amount specified in the notice, being an amount not exceeding—

- (i) the amount of pension paid to the other person during that period or, if the other person is a married person, the sum of that amount and the amount (if any) of spouse's pension paid to the person's spouse during that period; or
 - (ii) so much of the sum of the periodical payments, or so much of the compensation part of the lump sum payment, as is payable by the employer after the receipt by the employer of a notice under this section in relation to the payments or payment,
- whichever is the lesser.

“(2) The Secretary shall not give a notice to a person under paragraph (1) (b) if the Secretary has given a notice to an insurer under paragraph 135SE (1) (b) in relation to the same matter.

“(3) Where a person who is given a notice under paragraph (1) (a) becomes liable to make a payment by way of compensation to which the notice relates, the person shall, within 7 days after becoming so liable or receiving the notice, whichever was the later, notify the Department in writing accordingly.

Penalty: \$2,000 in the case of a natural person or \$10,000 in the case of a body corporate.

“(4) Subject to sub-section (7), a person who is given a notice under sub-section (1) shall not, after receiving the notice, make a payment by way of compensation to which the notice relates.

Penalty: \$2,000 in the case of a natural person or \$10,000 in the case of a body corporate.

“(5) Where the Secretary gives to a person a notice under paragraph (1) (b) specifying an amount, the person is liable to pay that amount to the Commonwealth.

- “(6) Payment to the Commonwealth of an amount that a person is liable to pay under sub-section (5) shall, to the extent of the payment, operate as a discharge of the liability of the person to pay compensation to the person whose incapacity is concerned.
- “(7) Where sub-section (4) applies to a person in relation to a matter, that sub-section ceases to apply to the person in relation to that matter if—
- (a) in a case where the person is liable to pay an amount to the Commonwealth under sub-section (5) in relation to that matter—the person pays that amount to the Commonwealth; or
 - (b) in any other case—the Secretary informs the person in writing that the Secretary is satisfied that sub-section (4) should no longer apply to the person in relation to that matter.

Notice to insurers

- “135SE. (1) Where an insurer, under a contract of insurance, is, or may become, liable to indemnify a person (in this section referred to as the ‘client’) in whole or in part against the liability of the client to make a lump sum payment or a series of periodical payments by way of compensation to another person, being another person who was in receipt of pension at any time during the lump sum payment period or the periodic payments period, the Secretary may, by notice in writing given to the insurer—
- (a) in any case—inform the insurer that the Secretary may wish to recover from the insurer an amount; or
 - (b) in a case where the insurer is liable to indemnify the client in whole or in part against that liability—inform the insurer that the Secretary proposes to recover from the insurer an amount specified in the notice, being an amount not exceeding—
 - (i) the amount of pension paid to the other person during that period or, if the other person is a married person, the sum of that amount and the amount (if any) of spouse’s pension paid to the person’s spouse during that period;
 - (ii) the compensation part of the lump sum payment or the sum of the amounts of the periodical payments; or

- (iii) the amount that the insurer is, after the receipt by the insurer of the notice, liable to pay to the client in relation to that matter,
whichever is the least.

“(2) The Secretary shall not give a notice to an insurer under paragraph (1) (b) if the Secretary has given a notice to a person under sub-section paragraph 135SD (1) (b) in relation to the same matter.

“(3) Where an insurer who is given a notice under paragraph (1) (a) becomes liable to indemnify a client in whole or in part in respect of the liability of the client to make a payment or payments by way of compensation to which the notice relates, the insurer shall, within 7 days after becoming so liable or receiving the notice, whichever was the later, notify the Department in writing accordingly.

Penalty: \$2,000 in the case of a natural person or \$10,000 in the case of a body corporate.

“(4) Subject to sub-section (7), an insurer who is given a notice under sub-section (1) shall not, after receiving the notice, make any payment under a contract of insurance with a client indemnifying the client in whole or in part against the liability of the client to make a payment or payments by way of compensation to which the notice relates.

Penalty: \$2,000 in the case of a natural person or \$10,000 in the case of a body corporate.

“(5) Where the Secretary gives to an insurer a notice under paragraph (1) (b) specifying an amount, the insurer is liable to pay that amount to the Commonwealth.

“(6) Payment of an amount that an insurer is liable to pay under sub-section (5) shall, to the extent of the payment—

- (a) operate as a discharge to the insurer as against the client concerned; and
- (b) operate as a discharge to the client of the client’s liability to pay compensation to the person whose incapacity is concerned.

- “(7) Where sub-section (4) applies to an insurer in relation to a matter, that sub-section ceases to apply to the insurer in relation to that matter if—
- (a) in a case where the insurer is liable to pay an amount to the Commonwealth under sub-section (5) in relation to that matter—the insurer pays that amount to the Commonwealth; or
 - (b) in any other case—the Secretary informs the insurer that the Secretary is satisfied that sub-section (4) should no longer apply to the insurer in relation to that matter.
- “(8) Where an insurer has been served with a notice under sub-section (1) in relation to the liability or possible liability of the insurer to indemnify a client, in whole or in part, against the liability or possible liability of the client to make a payment or payments by way of compensation in respect of an incapacity for work, the client is not, while that notice has effect, liable to make that payment or those payments.

Secretary may disregard certain payments

- “135SF. The Secretary may, for the purposes of this Part, treat the whole or a part of a payment by way of compensation that has been, or that will be, made as not having been made or as not likely to become liable to be made if the Secretary considers it appropriate to do so in the special circumstances of the case.

Part to bind Crown

- “135SG. This Part binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island.”.

Notification and review

- 49.** Section 135TE of the Principal Act is amended by inserting in sub-sections (1) and (2) “and in the manner” after “within the period”.

Power to obtain information, &c.

- 50. (1)** Section 135TF of the Principal Act is amended by inserting in sub-section (1) “or (3A)” after “sub-section 115B (3)”.

(2) Section 135TF of the Principal Act is amended by inserting in sub-section (1) “or under Part VIIIAA” after “115D (6)”.

Payment of pension, &c., during imprisonment, &c.

51. Section 135THA of the Principal Act is amended—

(a) by omitting from sub-section (7) “disorders” and substituting “disabilities”; and

(b) by adding at the end of the following sub-sections:

“(8) A reference in this section to a person who is imprisoned in connection with his or her conviction for an offence includes a reference to a person who is being held in custody pending trial or sentencing for an offence.

“(9) This section does not apply, and shall be deemed never to have applied, to a person who is confined in a psychiatric institution during any period during which the person is or was undertaking a course of rehabilitation.”.

Pension, &c., to cease to be payable in certain cases

52. Section 135TJA of the Principal Act is amended by adding at the end the following sub-sections:

“(3) Subject to sub-section (4), where—

(a) a person who is in receipt of an unemployment benefit under Part VII is required to furnish a statement in accordance with a notice under sub-section 135TE (2), being a notice that relates to payment of that benefit in respect of a period specified in the notice; and

(b) the person does not comply with that notice,

that benefit ceases to be payable to the person as from the first day of that period.

“(4) The Secretary may, if he or she is satisfied that, in the special circumstances of the case, it is appropriate to do so, determine in writing that sub-section (3) does not apply to a person from such day, whether before or after the making of the determination, as is specified in the determination.”.

53. After section 139C of the Principal Act the following section is inserted:

Rates of certain pensions affected where certain education payments being received

“139D. Where, immediately before 1 January 1987, a person was receiving—

- (a) a prescribed pension (other than a benefit under Part VII or a pension under the *Veterans’ Entitlements Act 1986*); and
- (b) payments under—
 - (i) the Tertiary Education Assistance Scheme;
 - (ii) the Adult Secondary Education Assistance Scheme; or
 - (iii) the Secondary Allowance Scheme,

and, on or after 1 January 1987, commences to receive payments under the AUSTUDY scheme, the rate of that pension, on or after that commencement and while the person continues to receive payments under the AUSTUDY scheme, shall be the rate at which it was payable immediately before 1 January 1987.”.

Recovery of overpayments

54. Section 140 of the Principal Act is amended—

- (a) by omitting “or” from the end of paragraph (2) (a);
- (b) by inserting after paragraph (2) (b) the following word and paragraph:

“; or (c) an amount has been paid to a person under a prescribed educational scheme that should not have been paid, being an amount paid during a period during which the person was in receipt of a prescribed pension (other than a pension under the *Veterans’ Entitlements Act 1986*),”; and
- (c) by adding at the end the following sub-section:

“(5) In sub-section (2), ‘prescribed educational scheme’ has the same meaning as in section 133.”.

Extra-territorial operation of certain provisions

55. Section 141 of the Principal Act is amended by inserting in sub-section (1) “135SB,” after “115A,”.

Effect of certain notices

56. Where, on or after 1 November 1986, the Secretary gives to a person a document headed “First Income Statement Unemployment Benefit” or “Application for Continuation of Unemployment Benefit”, the document shall be deemed to be a notice given to the person under sub-section 135TE (2) of the *Social Security Act 1947* requiring the person to lodge with the Department, on the day specified in the document and in person, a statement in the form required by the document setting out the information required by the document to be set out.

Application of amendments

57. (1) The amendments made by sections 28 and 31 apply to payments of double orphan’s pension and handicapped child’s allowance in respect of each family allowance period commencing on or after 15 October 1986.

(2) The amendments made by sections 16, 34, 35 and 47 and sub-sections 12 (2) and 36 (3) apply to each instalment or payment of pension, benefit or allowance that falls due on or after 1 November 1986.

(3) The amendments made by sections 15 and 18 and sub-section 38 (2) apply to each instalment or payment of pension, benefit or allowance that falls due on or after 13 December 1986.

(4) The amendments made by sections 45 and 54 and sub-sections 4 (3) and 36 (4) apply to each instalment or payment of pension, benefit or allowance that falls due on or after 1 January 1987.

(5) The amendments made by sub-sections 12 (3) and 36 (5) apply to each instalment of benefit that falls due on or after 1 January 1988.

Part III—Amendments of the Social Security (Poverty Traps Reduction) Act 1985

Principal Act

58. The *Social Security (Poverty Traps Reduction) Act 1985*² is in this Part referred to as the Principal Act.

Commencement

59. Section 2 of the Principal Act is amended by omitting “1 November 1986” and substituting “1 July 1987”.

Application of amendments

60. Section 29 of the Principal Act is amended by omitting “1 November 1986” and substituting “1 July 1987”.

Part IV—Amendments of the Veterans' Entitlements Act 1986

Principal Act

61. The *Veterans' Entitlements Act 1986*³ is in this Part referred to as the Principal Act.

Interpretation

62. Section 5 of the Principal Act is amended by adding at the end the following sub-sections:

- “(13) The Minister may, by notice in writing published in the *Gazette*, make, in respect of a person, or of persons included in a class of persons, specified in the notice, all or any of the following determinations:
- (a) a determination that this Act, or specified provisions of this Act, shall apply to and in relation to the person, or a person included in that class of persons, as if he or she was, while he or she was rendering service of a kind specified in the notice (in this sub-section referred to as ‘relevant service’), a member of the Defence Force who was rendering continuous full-time service;
 - (b) a determination that this Act, or specified provisions of this Act, shall apply to and in relation to the person (being a member of the Defence Force), or a person included in that class of persons (being members of the Defence Force), as if he or she was, while he or she was rendering relevant service, rendering continuous full-time service;
 - (c) a determination that this Act, or specified provisions of this Act, shall apply to and in relation to the person, or a person included in that class of persons, as if he or she was, while he or she was rendering relevant service, a member of a specified unit of the Defence Force,

and, if the Minister does so, this Act applies, or the specified provisions of this Act apply, as the case may be, accordingly.

- “(14) Sub-section (13) does not apply to service rendered by a person after 11 January 1973.”.

Eligibility for pension

63. (1) Section 13 of the Principal Act is amended—

(a) by omitting paragraph (8) (a) and substituting the following paragraph:

- “(a) the Commonwealth is not liable to pay a pension to the dependant under this section unless the decision by the Commission, the Board or the Administrative Appeals Tribunal, as the case may be, to grant the pension—
- (i) was made before the commencement of this Act; or
 - (ii) was or is made after the commencement of this Act upon consideration or re-consideration of a claim for that pension that was duly made (whether before or after the commencement of this Act) before the remarriage or marriage occurred; and”;
- (b) by adding at the end of paragraph (b) “unless the decision was made upon consideration or re-consideration of a claim for that pension made as described in sub-paragraph (a) (ii)”.

(2) Section 13 of the Principal Act is amended by omitting paragraphs (7) (d), (e) and (f) and substituting the following paragraphs:

- “(d) under the scheme known as the AUSTUDY scheme;
- (e) under the scheme known as the Assistance for Isolated Children Scheme;
- (f) under the scheme known as the Aboriginal Secondary Assistance Scheme or the scheme known as the Aboriginal Study Assistance Scheme;”.

General rate of pension

64. Section 22 of the Principal Act is amended by omitting from subsection (7) “\$137.60” and substituting “\$143.50”.

Intermediate rate of pension

65. Section 23 of the Principal Act is amended by omitting from subsection (4) “\$251.20” and substituting “\$262.00”.

Special rate of pension

66. Section 24 of the Principal Act is amended by omitting from subsection (4) “\$364.90” and substituting “\$380.60”.

Increased rates of pension in certain cases

67. (1) Section 27 of the Principal Act is amended by omitting from column 2 of the table in sub-section (1) “227.30” (wherever occurring) and substituting “237.10”.

(2) Section 27 of the Principal Act is amended—

(a) by omitting from column 2 of the table in sub-section (1) “76.60” and substituting “83.00”;

(b) by omitting from column 2 of the table in sub-section (1) “51.70” and substituting “56.00”;

(c) by omitting from column 2 of the table in sub-section (1) “44.50” (wherever occurring) and substituting “48.20”;

(d) by omitting from column 2 of the table in sub-section (1) “22.10” (wherever occurring) and substituting “24.00”;

(e) by omitting from column 2 of the table in sub-section (1) “11.70” (wherever occurring) and substituting “12.70”; and

(f) by omitting from column 2 of the table in sub-section (1) “17.20” and substituting “18.60”.

Rates at which pensions payable to dependants

68. (1) Section 30 of the Principal Act is amended by omitting from paragraph (1) (a) “\$195.80” and substituting “\$204.20”.

(2) Section 30 of the Principal Act is amended—

(a) by omitting from sub-section (2) “\$82.00” (wherever occurring) and substituting “\$88.80”; and

(b) by omitting from sub-section (2) “\$41.00” and substituting “\$44.40”.

Interpretation

69. (1) Section 35 of the Principal Act is amended—

(a) by inserting after the definition of “Commonwealth veteran” in sub-section (1) the following definition:

“‘domestic payment’ means a payment received by a person on the disposition of any property of the person, being property that, for a period of 12 months or such lesser period as the Commission considers appropriate before that disposition, was used by the

person or by the person's spouse wholly or substantially for private or domestic purposes;";

(b) by inserting " , whether of a capital nature or not," after "valuable consideration or profits" in the definition of "income" in sub-section (1);

(c) by omitting "or" from the end of paragraph (t) of the definition of "income" in sub-section (1);

(d) by adding at the end of the definition of "income" in sub-section (1) the following word and paragraph:

"or (v) a domestic payment;"; and

(e) by omitting sub-section (15) and substituting the following sub-section:

"(15) Where the Commission is satisfied that payments—

(a) under the Tertiary Education Assistance Scheme or the Secondary Allowance Scheme;

(b) under—

(i) the Veterans' Children Education Scheme;

(ii) the AUSTUDY scheme; or

(iii) the Assistance for Isolated Children Scheme; or

(c) under the Aboriginal Secondary Assistance Scheme or the Aboriginal Study Assistance Scheme,

are being or will be made to or in respect of a child who has attained the age of 16 years, other than a child by reference to whom the rate of those payments is increased, the Commission shall, by determination in writing, declare that child to be a prescribed student child for the purposes of this Act as from a day specified in the determination, which may be a day before the day on which the determination is made but shall not be a day before—

(d) in a case to which paragraph (a) applies—1 January 1986;

(e) in a case to which paragraph (b) applies—1 January 1987; or

(f) in a case to which paragraph (c) applies—1 January 1988."

(2) A determination in force under sub-section 35 (15) of the Principal Act immediately before the commencement of this sub-section shall, after that commencement, continue to have effect as if it had been made under sub-section 35 (15) of the Principal Act as amended by this Act.

(3) Section 35 of the Principal Act is amended—

(a) by omitting “or” from the end of paragraph (u) of the definition of “income” in sub-section (1); and

(b) by adding at the end of that definition the following word and paragraph:

“or (w) a payment of an education supplement to a person who is receiving a service pension granted under section 39 where the person would, if the person were not receiving that pension, be eligible to receive payments under the AUSTUDY scheme;”.

Meaning of qualifying service

70. Section 36 of the Principal Act is amended—

(a) by omitting from sub-paragraph (a) (ii) “Army General Service Medal (Army and Royal Air Force) with the Minesweeping 1945-51 Clasp, the Bomb-Mine Clearance 1945-53 Clasp or the Bomb and Mine Clearance 1945-49 Clasp” and substituting “General Service Medal (Army and Royal Air Force) with the Minesweeping 1945-51 Clasp, the Bomb-Mine Clearance 1945-53 Clasp, the Bomb and Mine Clearance 1945-49 Clasp or the Bomb and Mine Clearance 1945-56 Clasp”;

(b) by inserting in paragraph (b) “(not being war or war-like operations so engaged in as part of, or in association with, the British Commonwealth Far East Strategic Reserve)” after “engaged”; and

(c) by omitting from sub-paragraph (g) (iii) “veteran” and substituting “person”.

Eligibility for carer's service pension

71. Section 41 of the Principal Act is amended—

(a) by omitting from paragraph (2) (a) “4 weeks in any period of 12 months” and substituting “28 days in any calendar year”; and

(b) by omitting paragraph (d) of the definition of “relative” in sub-section (3) and substituting the following paragraph:

“(d) a person who, by virtue of paragraph (a) or (b), has, at any time, been taken into account as a relative of the veteran for the purpose of becoming qualified to receive a carer's service pension under this Part in relation to the veteran;”.

Rate of veterans' service pension

72. (1) Section 47 of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “\$5,090.80” and substituting “\$5,309.20”; and

(b) by omitting from paragraph (1) (b) “\$4,245.80” and substituting “\$4,427.80”.

(2) Section 47 of the Principal Act is amended by omitting from sub-sections (3), (7) and (8) “\$832” (wherever occurring) and substituting “\$884”.

(3) Section 47 of the Principal Act is amended—

(a) by omitting paragraph (3) (a) and substituting the following paragraph:

“(a) in the case of an unmarried veteran or a married veteran in relation to whom a direction under sub-section (2) is in force—by \$624 per year, and by a further \$884 per year in respect of each child who is a dependant of the veteran and is not a prescribed student child of the veteran; or”;

(b) by omitting from paragraph (3) (b) all the words after “in any other case” and substituting “—by \$884 per year in respect of each child who is a dependant of the veteran and is not a prescribed student child of the veteran.”;

(c) by omitting from sub-section (7) “Subject to sub-section (8), where” and substituting “Where”;

(d) by inserting in sub-section (7) “(not being a prescribed student child)” after “child”; and

(e) by omitting sub-sections (8) and (13).

Calculation of value of property

73. (1) Section 50 of the Principal Act is amended—

(a) by omitting sub-section (4); and

(b) by omitting from sub-section (5) “or (4)”.

(2) Section 50 of the Principal Act is amended—

(a) by inserting in sub-section (1) “(other than section 52)” after “Part”;

(b) by omitting sub-paragraph (1) (a) (iii) and substituting the following sub-paragraphs:

- “(iii) the value of any life interest of the person (not being a life interest in relation to the principal home of the person, of the person’s spouse or of both of them or a life interest created by the person, by the person’s spouse or by both of them);
- (iiia) the value of any annuity (including a superannuation pension) of the person, except where—
 - (A) the annuity is able to be disposed of, or a substantial part of the income under the annuity is or may be deferred; and
 - (B) the Commission determines in writing that the annuity should not be disregarded under this sub-paragraph;”;
- (c) by omitting sub-paragraph (1) (a) (v) and substituting the following sub-paragraph:
 - “(v) the value of any contingent, remainder or reversionary interest of the person (not being an interest created by the person, by the person’s spouse or by both of them);”;
- (d) by inserting in sub-paragraph (1) (a) (vi) “, remainder” after “contingent”;
- (e) by omitting sub-paragraph (1) (a) (viii) and substituting the following sub-paragraph:
 - “(viii) the value of—
 - (A) any cemetery plot acquired by the person for the burial of the person or the person’s spouse; and
 - (B) any funeral expenses paid in advance by the person in respect of the funeral of the person or the person’s spouse;”;
- (f) by omitting from paragraph (1) (b) “not being a charge or encumbrance that is a collateral security” and substituting “not being an excluded security”;
- (g) by inserting after sub-section (1) the following sub-section:
 - “(1A) Where a person sells the principal home of the person and the person is likely, within 12 months, to apply the whole or part of the proceeds of that sale in the acquisition of another residence that is

to be the principal home of the person, then, in calculating the value of the property of the person for the purposes of this Part (other than section 52), there shall be disregarded during that period so much of the proceeds of that sale as the person is likely to apply in the acquisition of the other residence, and the person shall, during that period, be regarded as a person to whom sub-paragraph (1) (a) (i) or (ii) applies.”;

(h) by inserting in sub-section (2) “(not being a charge arising by virtue of sub-section 51 (5))” after “charge or encumbrance” (first occurring);

(j) by omitting from sub-paragraph (8) (b) (i) “mentally ill persons” and substituting “persons who have a mental disability”;

(k) by omitting sub-paragraph (8) (b) (ii) and substituting the following sub-paragraph:

“(ii) residing in premises that are—

(A) an approved nursing home for the purposes of the *National Health Act 1953* or the *Nursing Homes Assistance Act 1974*;

(B) an approved home for the purposes of the *Aged or Disabled Persons Homes Act 1954*; or

(C) an approved hostel for the purposes of the *Aged or Disabled Persons Hostels Act 1972*;”;

(m) by adding at the end of paragraph (8) (b) the following word and sub-paragraph:

“; or (iv) residing in premises made available for the accommodation of the person by an approved organisation providing hostel care services or personal care services to the person for the purposes of Part III of the *Aged or Disabled Persons Homes Act 1954*.”; and

(n) by adding at the end the following sub-sections:

“(9) Where paragraph 6AA (8) (b) of the *Social Security Act 1947*, as it applied to the *Repatriation Act 1920* under section 83 of that last-mentioned Act, applied to a person on 14 March 1985, sub-section 6AA (8) of the *Social Security Act 1947* as in force on that day continues to apply to the person after that day as if the reference in that paragraph to 2 years were a reference to 3 years.

“(10) For the purpose of paragraph (1) (b), a charge or encumbrance is an excluded security if—

- (a) the charge or encumbrance is a collateral security; or
- (b) the charge or encumbrance was given wholly or substantially for the benefit of a person who is not a party, or the spouse of a party, to the charge or encumbrance.

“(11) Where a person lends an amount after the commencement of this sub-section, the value of the property of the person for the purposes of this Act shall include so much of that amount as remains unpaid but shall not include any amount payable by way of interest under the loan.”.

Pension loans scheme

74. Section 51 of the Principal Act is amended—

(a) by omitting from sub-section (2) “Where” and substituting “Subject to sub-section (2A), where”;

(b) by inserting after sub-section (2) the following sub-section:

“(2A) Where the value of the property (including exempt property) of a person or, if the person is a married person, of the person and the person’s spouse, is less than \$100,000, the person is not entitled to make a request under sub-section (2) unless the person includes with the request an election in writing that sub-section (6) not apply to the person.”;

(c) by inserting in sub-section (5) “or has applied” after “sub-section (4) applies”;

(d) by omitting from paragraph (5) (a) “sub-section (4) did not apply” and substituting “sub-section (4) had not applied”;

(e) by inserting after sub-section (5) the following sub-section:

“(5A) Where—

- (a) sub-section (4) applies to a person;
- (b) the person has not made an election that sub-section (6) not apply to the person; and
- (c) the value of the property (including exempt property) of the person or, if the person is a married person, of the person and the person’s spouse, ceases to exceed \$100,000,

sub-section (4) ceases to apply in relation to the person on and after the day after the occurrence of the event referred to in paragraph

- (c) unless the person lodges at any office of the Department in Australia within 10 weeks after the occurrence of that event an election in writing that sub-section (6) not apply to the person.”;
- (f) by inserting in sub-section (6) “(not being a person who has made an election that this sub-section not apply to the person)” after “person” (first occurring);
- (g) by omitting sub-section (8) and substituting the following sub-section:
“(8) Where, under sub-section (5), there is a charge on the property of a person or of the person and the person’s spouse, the person shall, if required by the Secretary to do so, execute an instrument relating to the registration of the charge.”;
- (h) by inserting in sub-section (9) “(being a charge under sub-section (5))” after “spouse”;
- (j) by omitting from sub-section (10) “until after the death of the person” and substituting—
“until after—
 - (a) the death of the person; or
 - (b) if the person dies and is survived by a spouse to whom a special temporary allowance is payable under section 65—the end of the period during which the special temporary allowance is payable.”;
- (k) by omitting from paragraph (13) (b) “exempt property” and substituting “exempt property,”;
- (m) by inserting in paragraph (13) (b) “, or the person, being a married person, ceases to be a married person” after “person” (last occurring); and
- (n) by omitting from sub-section (13) “continue” and substituting “did not cease, and continue”.

Disposal of income or property

75. Section 52 or the Principal Act is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:

“(1) Subject to sub-sections (3), (6) and (7), where, on or after 1 June 1984—

- (a) a married person has disposed of property of the person—
 - (i) during a pension year of the person; or
 - (ii) if the person is not in receipt of a pension, benefit or allowance of a kind referred to in sub-section (13) but the person's spouse is in receipt of such a pension, benefit or allowance—during a pension year of the person's spouse; and
- (b) the amount of that disposition of property, or the sum of that amount and the amounts (if any) of other dispositions of property previously made by the person or the person's spouse during that pension year exceeds \$4,000,

then, for the purposes of this Part, there shall be included in the value of the property of the person and in the value of the property of the person's spouse—

- (c) 50% of the amount by which the sum of the amount of that first-mentioned disposition of property and of the amounts (if any) of other dispositions of property previously made by the person or the person's spouse during that pension year exceeds \$4,000; or
- (d) 50% of the amount of that first-mentioned disposition of property,

whichever is the lesser amount.

“(2) Subject to sub-section (3), where, on or after 1 June 1984—

- (a) an unmarried person has, during a pension year of the person, disposed of property of the person; and
- (b) the amount of that disposition of property, or the sum of that amount and of the amounts (if any) of other dispositions of property previously made by the person during that pension year, exceeds \$2,000,

then, for the purposes of this Part, there shall be included in the value of the property of the person—

- (c) the amount by which the sum of the amount of that first-mentioned disposition of property and of the amounts (if any)

- of other dispositions of property previously made by the person during that pension year exceeds \$2,000; or
- (d) the amount of that first-mentioned disposition of property, whichever is the lesser amount.”;
- (b) by omitting from sub-section (3) “that took place during a pension year of the person”;
- (c) by omitting from sub-section (3) “in subsequent pension years of the person”;
- (d) by omitting from sub-paragraphs (10) (b) (iii) and (11) (b) (iii) “become a person other than” and substituting “not be”;
- (e) by omitting from paragraph (13) (b) “later” and substituting “earlier”;
- (f) by omitting from paragraph (13) (c) “that” and substituting “such a”;
- and
- (g) by adding at the end the following sub-section:
“(14) The lending of money after the commencement of this sub-section is not a disposition of property for the purposes of this section.”.

Financial hardship

76. Section 53 of the Principal Act is amended by inserting after sub-section (3) the following sub-section:

- “(3A) Where—
- (a) a person has disposed of property and section 52 applies to the disposition; and
 - (b) the Commission has made a determination under paragraph (1) (b) in relation to the disposition,
- sub-sections (2) and (3) apply to the person as if the person had not disposed of the property.”.

Pension reduction amounts

77. Section 54 of the Principal Act is amended—

- (a) by omitting from paragraph (a) “\$70,000” and substituting “\$75,750”;

(b) by omitting from paragraph (b) “\$120,000” and substituting “the amount referred to in paragraph (a) increased by twice the difference between the amount referred to in paragraph (d) and the amount referred to in paragraph (c)”;

(c) by omitting from paragraph (c) “\$50,000” and substituting “\$54,000”; and

(d) by omitting from paragraph (d) “\$75,000” and substituting “\$81,250”.

Rent assistance

78. Section 55 of the Principal Act is amended by omitting from sub-section (1) “\$520” and substituting “\$780”.

Rate of rent assistance

79. Section 56 of the Principal Act is amended by omitting from paragraph (1) (a) “\$520” and substituting “\$780”.

Eligibility for pension under this Part

80. (1) Section 70 of the Principal Act is amended by omitting from sub-paragraph (2) (c) (ii) “or 23” and substituting “, 23 or 25”.

(2) Section 70 of the Principal Act is amended—

(a) by omitting paragraph (11) (a) and substituting the following paragraph:

- “(a) the Commonwealth is not liable to pay a pension to the dependant under this section unless the decision by the Commission, the Board or the Administrative Appeals Tribunal, as the case may be, to grant the pension—
- (i) was made before the commencement of this Act; or
 - (ii) was or is made after the commencement of this Act upon consideration or re-consideration of a claim for that pension that was duly made (whether before or after the commencement of this Act) before the remarriage or marriage occurred; and”;

(b) by adding at the end of paragraph (11) (b) “unless the decision was made upon consideration or re-consideration of a claim for that pension made as described in sub-paragraph (a) (ii)”.

Interpretation

81. Section 80 of the Principal Act is amended by omitting paragraphs (2) (c) and (d) and substituting the following word and paragraph:
- “; and (c) a reference to a veteran shall be read as a reference to a person who is a veteran as defined by sub-section 5 (1) other than a person who—
- (i) is a veteran as so defined by reason only that the person has rendered service as a member of the naval, military or air forces of a Commonwealth country or an allied country of a kind described in paragraph 6 (1) (f) or (g); and
 - (ii) has not satisfied the Commission, whether before or after the commencement of this paragraph, that the person was domiciled in Australia or an external Territory immediately before the person's appointment or enlistment in those forces.”.

Application of Part V

82. Section 81 of the Principal Act is amended by inserting in paragraph (2) (b) “or to a pension under Part II” after “carer's service pension,”.

Prescribed persons

83. Section 82 of the Principal Act is amended—
- (a) by omitting from sub-section (1) “section 37, is equal to, or exceeds,” and substituting “section 37 of this Act (including, in the case of a person to whom section 53 of this Act or section 6AD of the *Social Security Act 1947* applies, any amount per annum that is taken into account under sub-section (3) of that section in relation to the person), exceeds”;
 - (b) by omitting from sub-section (2) “or a person who is permanently blinded in both eyes” and substituting “,a person who is permanently blinded in both eyes or a person to whom section 53 of this Act or section 6AD of the *Social Security Act 1947* applies”; and
 - (c) by omitting from sub-section (2) “is equal to, or”.

Prescribed rate of income and property value

84. (1) Section 83 of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “\$3,380” (wherever occurring) and substituting “\$3,536”; and

(b) by omitting from paragraph (1) (b) “\$2,756” (wherever occurring) and substituting “\$2,912”.

(2) Section 83 of the Principal Act is amended—

(a) by omitting from sub-paragraph (2) (a) (i) “\$80,000” and substituting “\$86,500”;

(b) by omitting from sub-paragraph (2) (a) (ii) “\$130,000” and substituting “the amount referred to in sub-paragraph (i) increased by twice the difference between the amount referred to in sub-paragraph (b) (ii) and the amount referred to in sub-paragraph (b) (i)”;

(c) by omitting from sub-paragraph (2) (b) (i) “\$57,500” and substituting “\$62,250”; and

(d) by omitting from sub-paragraph (2) (b) (ii) “\$82,500” and substituting “\$89,250”.

Dependants eligible to be provided with treatment

85. Section 86 of the Principal Act is amended—

(a) by adding at the end of sub-section (1) “, from and including the date as from which a pension under Part II became payable to the dependant or would have become payable to the dependant but for the operation of sub-section 13 (7) or 30 (3) of this Act or the dependant being in receipt of a pension under the *Social Security Act 1947*”;

(b) by omitting sub-section (2) and substituting the following sub-section:

“(2) Where—

(a) a deceased veteran was, immediately before the veteran’s death, in receipt of a pension under Part II at the rate specified in sub-section 24 (4) or at a rate that had been increased under section 27 by reason that the veteran’s pension was in respect of incapacity of a kind described in item 1, 2, 3, 4, 5, 6, 7 or 8 in the table in sub-section 27 (1); or

(b) a pension has been granted under Part II, after the death of a veteran, in respect of the veteran at the rate specified in sub-section 24 (4) or at a rate that had been increased under section 27 by reason that the veteran’s pension was in respect

of incapacity of a kind described in item 1, 2, 3, 4, 5, 6, 7 or 8 of the table in sub-section 27 (1),

a dependant of the deceased veteran is eligible to be provided with treatment under this Part for any injury suffered, or disease contracted, by the dependant, whether before or after the commencement of this sub-section, from and including the day immediately following the day on which the veteran died.”; and

(c) by omitting from sub-section (3) “sub-section 13 (2) or (4)” and substituting “sub-section 13 (4)”.

Pharmaceutical benefits

86. Section 91 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

“(1A) Without limiting the generality of sub-section (1), an instrument under that sub-section may specify classes of persons eligible to be provided with treatment under this Part for whom pharmaceutical benefits, or pharmaceutical benefits of a kind specified in the instrument or included in a class of pharmaceutical benefits so specified, will not be so provided or will not be so provided in circumstances specified or described in the instrument.”.

87. (1) Section 93 of the Principal Act is repealed and the following section is substituted:

Recovery of cost of treatment

“93. (1) In this section, ‘compensation’, in relation to a person who is being, or has been, provided with treatment by the Commission under this Part, means an amount that is by way of compensation or damages, or is, in the opinion of the Commission, in the nature of compensation or damages, in respect of the disease, disability or condition by reason of which that treatment is being, or has been, provided.

“(2) Where a person (in this section referred to as the ‘patient’) who is being, or has been, provided with treatment under this Part—
(a) has made a claim against another person for compensation, or may be, or may become, entitled to be paid compensation by another person, in relation to the disease, disability or

condition by reason of which that treatment is being so provided, or has been so provided;

- (b) is entitled, whether by virtue of an order of a court, a settlement of a claim for compensation or otherwise, to be so paid compensation by another person; or
- (c) has been so paid compensation by another person, whether by virtue of an order of a court, a settlement of a claim for compensation or otherwise,

the Commission may cause to be served on the patient a notice in writing requiring the patient to pay for the treatment that has been provided for the patient under this Part before the date of service of the notice, and for any treatment that is provided for the patient under this Part at any time on or after that date, for or in relation to that disease, disability or condition and, upon service of the notice, the patient becomes, by force of this section, liable to pay to the Commonwealth an amount equal to the cost, or amounts aggregating the sum of the costs, as determined by the Commission, of and incidental to—

- (d) the treatment that has been so provided for the patient before the date of service of the notice; and
- (e) any treatment that is so provided for the patient on or after that date.

“(3) Where the patient is, in pursuance of sub-section (2), liable to make payment to the Commonwealth for treatment provided by the Commission, the Commission may, by notice in writing served on a person (in this section referred to as the ‘relevant person’) who—

- (a) may be, or may become, liable; or
- (b) is liable,

to pay compensation to, or for the benefit of, the patient in respect of the disease, disability or condition by reason of which that treatment is being, or has been, provided, inform the relevant person that the patient is liable to make payment to the Commonwealth for treatment provided under this Part, whether before or after the service of the notice, for or in relation to that disease, disability or condition.

“(4) Where the relevant person on whom a notice has been served under sub-section (3)—

- (a) is, when the notice is served on him or her, liable to pay compensation to or for the benefit of the patient to whom the notice relates in respect of the disease, disability or condition to which the notice relates; or
- (b) becomes, after service of the notice, so liable to pay compensation,

the relevant person becomes liable, by virtue of this sub-section, to pay to the Commonwealth—

- (c) an amount equal to the cost of the treatment provided for the patient in respect of that disease, disability or condition under this Part that the patient is liable, or may become liable, under sub-section (2) of this section to pay; or
- (d) an amount equal to the amount of the compensation that the relevant person is liable, or becomes liable, so to pay,

whichever is the less.

- “(5) Where, before a notice is served on the relevant person under sub-section (3), the relevant person has paid to, or for the benefit of, the patient the whole of the compensation that the relevant person is liable to pay in respect of the disease, disability or condition to which the notice relates, the notice has no force or effect.
- “(6) Where the relevant person is liable, or becomes liable, to pay an amount to the Commonwealth under sub-section (4), the person shall not, without the permission of the Commission, pay the compensation, or any part of the compensation, to, or for the benefit of, the patient.
- “(7) Payment to the Commonwealth of an amount that the relevant person is liable to pay to the Commonwealth under sub-section (4) operates, to the extent of the payment, as a discharge to the relevant person of his or her liability to pay compensation to the person entitled to receive the compensation and as a discharge to that last-mentioned person of his or her liability under sub-section (2).
- “(8) The Commonwealth may recover in a court of competent jurisdiction an amount that a person is liable to pay to the Commonwealth under sub-section (2) or (4).

- “(9) Where the Commission determines, in writing, the amount of the cost of, and incidental to, treatment provided under this Part for the patient during a specified period in respect of a disease, disability or condition in relation to which a notice has been served on the patient under sub-section (2), the Commission may serve a notice on the patient containing a copy of that determination, or notices on the patient and the relevant person containing copies of that determination, and, if it does so, a copy so served is, for all purposes, *prima facie* evidence—
- (a) that the copy of that determination set out in the notice is a true copy of the determination of which it purports to be a copy;
 - (b) that that determination was duly made by the Commission; and
 - (c) that the amount specified in the determination is the amount that the patient is liable, by force of sub-section (2), to pay to the Commonwealth as the cost of and incidental to the treatment provided for the patient under this Part during the period so specified for and in relation to that disease, disability or condition.
- “(10) Service of a notice, or notices, under sub-section (9) on a patient, or on a patient and the relevant person, in relation to the cost of treatment provided by the Commission under this Part does not prevent the making of a further determination, and the service by the Commission of a further notice, or of further notices, under that sub-section on the patient, or on the patient and the relevant person, in relation to the cost of other treatment provided by the Commission for the patient under this Part.
- “(11) The reference in sub-section (2) to another person shall be read as including a reference to the Commonwealth, a State, a Territory or an authority of the Commonwealth, a State or a Territory.
- “(12) The reference in sub-section (3) to a person (not being the patient) shall be read as including a reference to an insurer who, under a contract of insurance, is liable to indemnify the person liable to pay compensation to, or for the benefit of, the patient against that liability.”.

(2) Subject to sub-section (3), section 93 of the Principal Act continues to apply, notwithstanding its repeal by sub-section (1) of this section, to and in relation to compensation recovered or received before the commencement of this section.

(3) Nothing in sub-section (2) prevents the service of a notice under sub-section 93 (2) of the Principal Act as amended by this Act in relation to compensation recovered or received before the commencement of this section, but, if such a notice is served—

(a) section 93 of the Principal Act ceases, upon service of the notice, to apply to or in relation to the compensation; and

(b) any payment made to the Commonwealth in respect of a liability under section 93 of the Principal Act shall be deemed to have been made in respect of liability under section 93 of the Principal Act as amended by this Act.

88. Before section 94 of the Principal Act the following section is inserted in Part V:

Charges payable to Commonwealth

“93A. (1) In this section—

‘contributor’ has the same meaning as it has in the *National Health Act 1953*;

‘registered organisation’ has the same meaning as it has in the *National Health Act 1953*.

“(2) Where—

- (a) a person is provided with treatment under section 85 or 86;
- (b) the person is a contributor to a fund conducted by a registered organisation; and
- (c) the person will, in the opinion of the Commission, if the person pays or becomes liable to pay to the Commonwealth an amount in respect of the treatment, be entitled to receive an amount by way of benefit as such a contributor in respect of that treatment,

the Commission may, by notice in writing given to the person, request the person to pay to the Commonwealth in respect of the treatment an amount specified in the notice, being an amount

ascertained in accordance with a scale of charges determined by the Commission by instrument in writing, and where the Commission gives such a notice to the person, the person is liable to pay to the Commonwealth the amount specified in the notice.

“(3) Where—

- (a) a person is liable to pay an amount to the Commonwealth under sub-section (2) in respect of treatment; and
- (b) a registered organisation becomes liable to pay an amount by way of benefit to that person as a contributor in respect of that treatment,

the registered organisation is liable to pay the amount referred to in paragraph (b) to the Commonwealth, and payment of that amount to the Commonwealth operates as a discharge of that person's liability under sub-section (2) in respect of the treatment and as a discharge of the liability of the registered organisation to pay that amount to that person.

“(4) The Commonwealth may recover in a court of competent jurisdiction an amount that a registered organisation is liable to pay to the Commonwealth under sub-section (3).”.

Clothing allowance

89. Section 97 of the Principal Act is amended—

- (a) by omitting from column 2 of the table in sub-section (1) “4.90” and substituting “5.30”;
- (b) by omitting from column 2 of the table in sub-section (1) “2.30” (wherever occurring) and substituting “2.50”;
- (c) by omitting from column 2 of the table in sub-section (1) “3.20” (wherever occurring) and substituting “3.50”;
- (d) by omitting from sub-section (2) “\$4.90” and substituting “\$5.30”; and
- (e) by omitting from sub-section (3) “\$2.30” and substituting “\$2.50”.

Attendant allowance

90. Section 98 of the Principal Act is amended—

- (a) by omitting from column 2 of the table in sub-section (1) “57.40” (wherever occurring) and substituting “62.20”;

- (b) by omitting from column 2 of the table in sub-section (1) "114.80" (wherever occurring) and substituting "124.40"; and
- (c) by omitting from sub-section (2) "\$57.40" and substituting "\$62.20".

Funeral benefits—veterans

91. (1) Section 99 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:

"(3) A funeral benefit shall not be granted under sub-section (1) in respect of a veteran by reason that the veteran died in circumstances set out in paragraph (1) (e)—

(a) unless—

- (i) if the veteran died in an institution—the Commission has approved the admission of the veteran to the institution for treatment to be provided under Part V;
- (ii) if the veteran died while travelling to or from an institution—the Commission has approved the provision of treatment for the veteran at the institution under Part V; or
- (iii) if the veteran has been discharged from an institution in which the veteran was provided with treatment under Part V for a terminal illness—the Commission has approved his or her discharge from the institution, and the veteran was eligible to be provided with that treatment otherwise than by virtue of sub-section 85 (9) or section 87; or

(b) unless, if the veteran died while being provided with treatment under Part V for a terminal illness at the veteran's home, the Commission has approved his or her being so treated."

(2) Section 99 of the Principal Act is amended by omitting from paragraph (4) (a) "less" and substituting "lesser amount, less the amount of any funeral benefit granted under section 101 of this Act, and the amount of any funeral benefit granted under the *Social Security Act 1947*, in respect of the funeral of the deceased veteran".

Funeral benefits—dependants of deceased veterans

92. Section 100 of the Principal Act is amended by omitting from sub-section (2) “less” and substituting “lesser amount, less the amount of any funeral benefit granted under section 101 of this Act, and the amount of any funeral benefit granted under the *Social Security Act 1947*, in respect of the funeral of the deceased dependant”.

Recreation transport allowance

93. (1) Section 104 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-sections:

- “(4) Recreation transport allowance is not payable to a veteran under sub-section (1)—
- (a) in respect of any period during which the veteran is being cared for, at public expense, in a hospital or other institution; or
 - (b) if the veteran has participated, or is participating, in the Vehicle Assistance Scheme—
 - (i) during the period of 2 years commencing on, and including, the date on which the veteran was first provided with a vehicle under that Scheme;
 - (ii) during the period of 2 years commencing on, and including, the date on which a replacement motor vehicle grant was or is made under that Scheme in respect of the veteran;
 - (iii) during any period during which there is, under that Scheme, due and payable by the veteran to the Commission the whole or part of an amount equal to the cost to the Commission of providing the veteran with a motor vehicle under that Scheme; or
 - (iv) during any other period during which the veteran is, under that Scheme, eligible to be paid an allowance as a contributor towards the running and maintenance of a vehicle provided for the veteran under that Scheme.
- “(5) For the purpose of the application of sub-section (4), a vehicle provided for a veteran before 22 May 1986 under the scheme known as the ‘Gift Car Scheme’ shall, after the commencement of

this sub-section, be deemed to have been provided under the Vehicle Assistance Scheme.”.

(2) Section 104 of the Principal Act is amended—

(a) by omitting from column 2 of the table in sub-section (1) “30.40” (wherever occurring) and substituting “33.00”; and

(b) by omitting from column 2 of the table in sub-section (1) “15.20” (wherever occurring) and substituting “16.50”.

94. After section 197 of the Principal Act the following section is inserted:

Dual entitlement

“197A. (1) Where, immediately before 1 November 1986, a widow was receiving—

- (a) a pension under Part II or IV of this Act or a pension under the *Seamen's War Pensions and Allowances Act 1940*; and
- (b) a pension under Part III of this Act,

the rate of the pension referred to in paragraph (b) shall not, on or after 1 November 1986 and while the widow continues to receive the pension referred to in paragraph (a)—

- (c) in a case where the widow was receiving a pension under Part III of this Act immediately before 1 November 1986 at a rate less than \$3,122.60 per annum—be increased under, or by the virtue of the operation of, this Act to a rate greater than \$3,122.60 per annum; or
- (d) in any other case—be increased under, or by virtue of the operation of, this Act to a rate greater than the rate at which it was payable immediately before 1 November 1986.

“(2) Where, on or after 1 November 1986—

- (a) a widow who is receiving a pension under Part II or IV of this Act or under the *Seamen's War Pensions and Allowances Act 1940* commences to receive payments of a pension under Part III of this Act; or
- (b) a widow who is receiving a pension under Part III of this Act commences to receive payments of pension under Part II or IV of this Act or under the *Seamen's War Pensions and Allowances Act 1940*,

the rate of pension payable to the widow under Part III of this Act shall not, while the widow continues to receive the other pension, exceed—

- (c) except in a case to which paragraph (d) applies—\$3,122.60 per annum; or
- (d) in a case where the widow was receiving a pension under Part III of this Act immediately before 1 November 1986 at a rate greater than \$3,122.60 per annum—the rate at which that pension was payable at that time.

“(3) Where—

- (a) on or after 1 November 1986, a pension payable under Part III of this Act to a widow ceases to be payable (otherwise than through the suspension of the pension); and
- (b) immediately before the cessation, the widow was receiving a pension under Part II or IV of this Act or a pension under the *Seamen's War Pensions and Allowances Act 1940*,

a pension under Part III of this Act is not, after that cessation and while the widow continues to be eligible to receive the pension referred to in paragraph (b), payable to the widow.

“(4) For the purposes of this section—

- (a) a widow who would, but for the operation of sub-section 30 (3), be receiving a pension under Part II or IV shall be deemed to be receiving such a pension; and
- (b) a widow who would, but for the operation of section 53A of the *Seamen's War Pensions and Allowances Act 1940*, be receiving a pension under that Act shall be deemed to be receiving such a pension.

“(5) For the purposes of this section, a widow shall be taken to be receiving payments of a pension from the earliest day on which the widow became entitled to receive the pension, notwithstanding that the first instalment of the pension is not paid until a later day.

“(6) A reference in this section to a widow receiving a pension under Part II or IV of this Act is a reference to a widow receiving a pension under that Part at a rate determined under or by reference to sub-section 30 (1) of this Act.

“(7) A reference in this section to a widow receiving a pension under the *Seamen's War Pensions and Allowances Act 1940* is a reference to a widow receiving a pension under that Act at a rate determined under sub-section 18 (2) of that Act.

“(8) In this section, ‘widow’ has the same meaning as it has in Part III of this Act.”.

Indexation of rates of certain pensions

95. (1) Section 198 of the Principal Act is amended—

(a) by omitting “1 May 1986” from the definition of “relevant period” in sub-section (1) and substituting “13 December 1986”;

(b) by omitting from sub-paragraph (5) (a) (i) “1 May” and substituting “13 June”; and

(c) by omitting from sub-paragraph (5) (a) (ii) “1 November” and substituting “13 December”.

(2) Section 198 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “relevant amount” and substituting the following definition:

“‘relevant amount’ means the amount specified in paragraph 54 (a), (c) or (d) or in sub-paragraph 83 (2) (a) (i) or 83 (2) (b) (i) or (ii);”;

(b) by omitting “1 May 1986” from the definition of “relevant year” in sub-section (1) and substituting “12 June 1987”.

Schedule 1

96. (1) Schedule 1 to the Principal Act is amended by omitting from Part VI “Repeal the Schedule” (in column 3) opposite to “*Repatriation Acts Amendment Act 1978*” (in column 1) and substituting “Repeal the Schedules”.

(2) Schedule 1 to the Principal Act is amended by omitting from Part VI “V” (in column 2) opposite to “*Repatriation Acts Amendment Act 1981*” (in column 1) and substituting “IV”.

(3) Schedule 1 to the Principal Act is amended by omitting from Part VI “Repeal the Schedule” (in column 3) opposite to “*Repatriation Acts Amendment Act 1981*” (in column 1) and substituting “Repeal the Schedules”.

Application of amendments

97. (1) The amendments made by sub-section 72 (2) apply to each instalment of pension that falls due on or after 6 November 1986.

(2) The amendments made by sections 78, 79, 89 and 90 apply to each instalment of pension that falls due on or after 18 December 1986.

(3) The amendments made by sub-section 69 (3) apply to each instalment of pension that falls due on or after 1 January 1987.

(4) The amendments made by sub-section 72 (3) apply to each instalment of pension that falls due on or after 1 January 1988.

Part V—Amendments of the Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986

Principal Act

98. The *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*⁴ is in this Part referred to as the Principal Act.

Assessment of rate of pension

99. Section 7 of the Principal Act is amended by omitting from subsection (1) “the relevant provisions of the repealed Acts as in force at that time” and substituting “the rate or maximum rate in the repealed Acts as in force at that time that corresponds with the appropriate rate in the Veterans' Entitlement Act.”.

100. After section 46 of the Principal Act the following section is inserted:

Payment of pension, &c., on death of person

“46A. Where—

- (a) before the commencement date, an amount of pension, allowance or other benefit under a repealed Act, or under the regulations in force under a repealed Act—
 - (i) had accrued and was unpaid on the death of the person to whom that pension, allowance or other benefit was payable; or
 - (ii) would have been payable to a deceased claimant in respect of a period before his or her death if the claimant had not died; and
- (b) the Commission had not paid that amount to the legal personal representative of the deceased person or to any other person before the commencing date,

section 123 of the Veterans' Entitlements Act extends to and in relation to that amount as if it were an amount of pension,

allowance or other pecuniary benefit payable under the Veterans'
Entitlements Act.”.

Part VI—Amendments of the Seamen's War Pensions and Allowances Act 1940

Principal Act

101. The *Seamen's War Pensions and Allowances Act 1940*⁵ is in this Part referred to as the Principal Act.

Rates of pension on death or total incapacity

102. (1) Section 18 of the Principal Act is amended by omitting from sub-section (4A) "\$242.00" and substituting "\$262.00".

(2) Section 18 of the Principal Act is amended—

(a) by omitting from sub-section (7) "\$41.00" and substituting "\$44.40"; and

(b) by omitting from sub-section (8) "\$82.00" and substituting "\$88.80".

Indexation of rate of pension

103. Section 18AA of the Principal Act is amended—

(a) by omitting "1 May 1985" from the definition of "relevant period" in sub-section (1) and substituting "13 December 1986";

(b) by omitting from sub-paragraph (5) (a) (i) "1 May" and substituting "13 June"; and

(c) by omitting from sub-paragraph (5) (a) (ii) "1 November" and substituting "13 December".

Allowance for attendant

104. Section 21 of the Principal Act is amended by omitting from sub-section (2) "\$57.40" and substituting "\$62.20".

105. After section 58A of the Principal Act the following section is inserted:

Charges payable to Commonwealth

"58B. (1) In this section—

‘contributor’ has the same meaning as it has in the *National Health Act 1953*;

‘medical treatment’ has the same meaning as it has in section 59;

‘registered organisation’ has the same meaning as it has in the *National Health Act 1953*.

“(2) Where—

- (a) a person is provided with medical treatment under the regulations;
- (b) the person is a contributor to a fund conducted by a registered organisation; and
- (c) the person will, in the opinion of the Commission, if the person pays or becomes liable to pay to the Commonwealth an amount in respect of the medical treatment, be entitled to receive an amount by way of benefit as such a contributor in respect of the medical treatment,

the Commission may, by notice in writing given to the person, request the person to pay to the Commonwealth in respect of the medical treatment an amount specified in the notice, being an amount ascertained in accordance with a scale of charges determined by the Commission by instrument in writing, and where the Commission gives such a notice to the person, the person is liable to pay to the Commonwealth the amount specified in the notice.

“(3) Where—

- (a) a person is liable to pay an amount to the Commonwealth under sub-section (2) in respect of medical treatment; and
- (b) a registered organisation becomes liable to pay an amount by way of benefit to that person as a contributor in respect of that treatment,

the registered organisation is liable to pay the amount referred to in paragraph (b) to the Commonwealth, and payment of that amount to the Commonwealth operates as a discharge of that person's liability under sub-section (2) in respect of the treatment and as a discharge of the liability of the registered organisation to pay that amount to that person.

- “(4) The Commonwealth may recover in a court of competent jurisdiction an amount that a registered organisation is liable to pay to the Commonwealth under sub-section (3).”.

Schedule 1

106. Schedule 1 to the Principal Act is amended—

- (a) by omitting from column 1 “183.80”; and substituting “204.20”; and
- (b) by omitting from column 3 “129.20” and substituting “143.50”.

Schedule 2

107. (1) Schedule 2 to the Principal Act is amended—

- (a) by omitting from column 2 “53.80” (wherever occurring) and substituting “57.40”; and
- (b) by omitting from column 2 “107.60” (wherever occurring) and substituting “114.80”.

(2) Schedule 2 to the Principal Act is amended—

- (a) by omitting from column 2 “57.40” and substituting “62.20”; and
- (b) by omitting from column 2 “114.80” and substituting “124.40”.

Application of amendments

108. The amendments made by section 104 and sub-sections 102 (2) and 107 (2) apply to each instalment of pension that falls due on or after 18 December 1986.

Part VII—Amendments of the Compensation (Commonwealth Government Employees) Act 1971

Principal Act

109. The *Compensation (Commonwealth Government Employees) Act 1971*⁶ is in this Part referred to as the Principal Act.

Interpretation

110. Section 5 of the Principal Act is amended by inserting “(other than the Northern Territory)” after “Territory” in paragraph (b) of the definition of “prescribed authority of the Commonwealth” in sub-section (1).

Persons in relation to whom Act applies

111. Section 7 of the Principal Act is amended—

- (a) by omitting from paragraph (2) (a) “or of the Police Force of the Northern Territory”;
- (b) by inserting in sub-paragraph (2) (c) (ii) “(other than the Northern Territory)” after “Territory”; and
- (c) by omitting from sub-section (2) “, member of the Police Force of the Northern Territory”.

Repeal of sections 7A and 7B

112. (1) Sections 7A and 7B of the Principal Act are repealed.

(2) Notwithstanding the repeal of sections 7A and 7B of the Principal Act, those sections continue to apply according to their terms to—

- (a) an injury sustained or a disease contracted on or after 1 July 1978 and before the commencement of this section;
- (b) an aggravation, acceleration or recurrence of a disease suffered on or after 1 July 1978 and before that commencement; and
- (c) loss or damage of a kind referred to in section 28 of the Principal Act suffered on or after 1 July 1978 and before that commencement.

Application of amendments

113. The amendments made by this Part apply in relation to an injury, disease, aggravation, acceleration or recurrence of a disease or loss or damage, occurring after the commencement of this Part.

Part VIII—Amendments of the Seamen's Compensation Act 1911

Principal Act

114. The *Seamen's Compensation Act 1911*⁷ is in this Part referred to as the Principal Act.

Application of Act

115. Section 4 of the Principal Act is amended by inserting in subparagraph (1) (a) (ii) “(other than the Northern Territory)” after “Territory”.

Part IX—Repeals and Savings

Repeals

116. (1) Part VII of the *Repatriation Legislation Amendment Act 1984* is repealed.

(2) Part VII of the *Repatriation Legislation Amendment Act 1985* is repealed.

(3) Part IV of the *Social Security and Repatriation (Budget Measures) Amendment Act 1985* is repealed.

(4) The *Repatriation Legislation Amendment (Extension of Operation) Act 1985* is repealed.

Savings

117. (1) Notwithstanding—

(a) the repeal of Part XV of the *Social Security and Repatriation Legislation Amendment Act 1985* by the *Veterans' Entitlements Act 1986*; or

(b) the repeal by this Act of—

(i) Part VII of the *Repatriation Legislation Amendment Act 1984*; or

(ii) Part VII of the *Repatriation Legislation Amendment Act 1985*,

those Parts continue to apply on and after their repeal to and in relation to pensions and other matters under the *Seamen's War Pensions and Allowances Act 1940*.

(2) Notwithstanding—

(a) the repeal of Part VII of the *Repatriation Legislation Amendment Act 1984* by this Act; and

(b) the repeal of Part XV of the *Social Security and Repatriation Legislation Amendment Act 1985* by the *Veterans' Entitlements Act 1986*,

a person who would, on or after 22 May 1986, have had a right, under Part VII of the *Repatriation Legislation Amendment Act 1984* as amended by the *Social Security and Repatriation Legislation Amendment Act 1985*, to make an application to the Administrative Appeals Tribunal to review a decision if the repeals referred to in paragraphs (a) and (b) of this sub-section had not occurred may, subject to section 29 of the *Administrative Appeals Tribunal Act 1975*, make application to the Administrative Appeals Tribunal for a review of that decision.

(3) An application under sub-section (2) for a review of a decision may be made on a day not later than—

(a) the day that occurs 3 months after the day on which a copy of that decision was served on the applicant; or

(b) the day that occurs 3 months after the day on which this Act receives the Royal Assent,

whichever is the later date, but not otherwise.

(4) Sub-section (2) does not apply to a decision if application had been made to the Administrative Appeals Tribunal to review that decision before the day on which this Act received the Royal Assent.

(5) An application under sub-section (2) shall be heard and determined by the Administrative Appeals Tribunal as if it had been made under section 175 of the *Veterans' Entitlements Act 1986* and sub-sections 19 (3) and (4) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* extend to and in relation to the application in like manner as they apply to an application under sub-section 19 (1) or (2) of the last-mentioned Act.

(6) In this section, “decision” means a decision of a kind that the Administrative Appeals Tribunal had power to review upon application made to it under sub-section 52 (6) or (7), 55 (8) or (9) or 57 (3) or (4) of the *Repatriation Legislation Amendment Act 1984* as amended by the *Social Security and Repatriation Legislation Amendment Act 1985*.

Notes

1. No. 26, 1947, as amended. For previous amendments, see Nos. 38 and 69, 1948; No. 16, 1949; Nos. 6 and 26, 1950; No. 22, 1951; Nos. 41 and 107, 1952; No. 51, 1953; No. 30, 1954; Nos. 15 and 38, 1955; Nos. 67 and 98, 1956; No. 46, 1957; No. 44, 1958; No. 57, 1959; No. 45, 1961; Nos. 1 and 95, 1962; No. 46, 1963; Nos. 3 and 63, 1964; Nos. 57 and 152, 1965; No. 41, 1966; Nos. 10 and 61, 1967; No. 65, 1968; No. 94, 1969; Nos. 2 and 59, 1970; Nos. 16 and 67, 1971; Nos. 1, 14, 53 and 79, 1972; Nos. 1, 26, 48, 103 and 216, 1973; Nos. 2, 23 and 91, 1974; Nos. 34, 56, 101 and 110, 1975; Nos. 26, 62 and 111, 1976; No. 159, 1977; No. 128, 1978; No. 121, 1979 (as amended by Nos. 37 and 98, 1982); No. 130, 1980; Nos. 61 and 170, 1981; No. 159, 1981 (as amended by No. 98, 1982); Nos. 37, 38 and 148, 1982; Nos. 4 and 36, 1983; No. 69, 1983 (as amended by No. 78, 1984); Nos. 46, 78, 93, 120, 134 and 165, 1984; Nos. 24, 52, 95, 127 and 169, 1985; and Nos. 5, 28 and 33, 1986.
2. No. 169, 1985.
3. No. 27, 1986.
4. No. 28, 1986, as amended. For previous amendments, see No. 29, 1986.
5. No. 60, 1940, as amended. For previous amendments, see No. 77, 1946; No. 80, 1950; Nos. 17 and 75, 1952; No. 70, 1953; No. 32, 1954; No. 40, 1955; No. 45, 1957; No. 48, 1958; No. 59, 1959; No. 46, 1960; No. 47, 1961; Nos. 64 and 113, 1964; No. 65, 1965; No. 43, 1966; No. 102, 1967; No. 67, 1968; No. 96, 1969; No. 61, 1970; Nos. 18 and 69, 1971; Nos. 16 and 83, 1972; Nos. 6 and 106, 1973; Nos. 4, 25 and 90, 1974; Nos. 35 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; No. 129, 1978; Nos. 18 and 124, 1979; No. 129, 1980; No. 160, 1981; Nos. 80 and 100, 1982; No. 70, 1983; No. 97, 1984; Nos. 95 and 127, 1985; and Nos. 28 and 29, 1986.
6. No. 48, 1971, as amended. For previous amendments, see No. 136, 1971; No. 122, 1972; Nos. 105 and 216, 1973; No. 92, 1974; Nos. 157 and 166, 1976; No. 68, 1978; Nos. 111 and 155, 1979; No. 74, 1981; No. 98, 1982; No. 78, 1984; No. 95, 1985; and Nos. 28 and 33, 1986.
7. No. 13, 1911, as amended. For previous amendments, see No. 56, 1938; No. 18, 1947; No. 7, 1949; No. 10, 1953; No. 16, 1954; No. 99, 1959; No. 67, 1960; No. 102, 1964; No. 97, 1967; No. 124, 1968; No. 49, 1970; No. 52, 1971; No. 124, 1972; No. 216, 1973; No. 93, 1974; Nos. 91 and 168, 1976; Nos. 19, 102 and 112, 1979; No. 80, 1982; and No. 78, 1984.

*[Minister's second reading speech made in—
House of Representatives on 10 October 1986
Senate on 17 October 1986]*

*No. 106, 1986 Social Security and Veterans' Affairs (Miscellaneous Amendments) Act 81
1986*