



Social Security (Rewrite) Amendment Act 1991

No. 116 of 1991

**An Act to amend the *Social Security Act 1991*, and for
related purposes**

[Assented to 27 June 1991]

The Parliament of Australia enacts:

Short title etc.

1. (1) This Act may be cited as the *Social Security (Rewrite) Amendment Act 1991*.

(2) In this Act, “**Principal Act**” means the *Social Security Act 1991*¹.

Commencement

2. This Act commences immediately after the *Social Security (Rewrite) Transition Act 1991* and the *Social Security (Job Search and Newstart) Amendment Act 1991* commence.

Incorporation of amendments made in the Budget Sitings 1990

3. The Principal Act is amended as set out in Schedule 1 to this Act.

Schedule of minor amendments of the Principal Act

4. The Principal Act is amended as set out in Schedule 2.

Replacement of International Agreement with the United Kingdom

5. Schedule 2 to the Principal Act is repealed and the Schedule set out in Schedule 3 to this Act is substituted.

Replacement of International Agreement with New Zealand

6. Schedule 4 to the Principal Act is repealed and the Schedule set out in Schedule 4 to this Act is substituted.

New International Agreement with Malta

7. The Principal Act is amended by adding at the end the Schedule set out in Schedule 5 to this Act.

Consequential amendments

8. The Acts referred to in Schedule 6 are amended as set out in that Schedule.

SCHEDULE 1

Section 3

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991 TO
INCORPORATE AMENDMENTS MADE IN THE BUDGET
SITTINGS 1990**

Section 3:

(a) Omit from the Index “resident of a retirement village”, substitute “retirement village resident”.

(b) Insert in the Index the following entries:

“Aboriginal study assistance scheme	23 (1)
account	23 (1)
advance pensioner A	19A (2)
advance pensioner B	19A (4)
available money	8 (1)
continuing advance pensioner A	19A (3)
eligible 1947 Act pensioner	19A (5)
eligible 1991 Act pensioner	19A (6)
deposit money	8 (1)
financial institution	23 (1)
income money	1099B (1)
inhabitant of Australia	23 (1)
liquid assets	19A (1)
multiple entitlement exclusion date of effect	1223A (3)
provision	
pharmaceutical benefit	19A (1)
partner automatic rate adjustment provision	1223B (2)”.

Subsection 8 (1):

Insert the following definitions:

“ ‘**available money**’, in relation to a person, means money that:

- (a) is held by or on behalf of the person; and
- (b) is not deposit money of the person; and
- (c) is not money to which Division 1B of Part 3.10 (income from loans) applies;

‘**deposit money**’, in relation to a person, means the person’s money that is deposited in an account with a financial institution;”.

After paragraph 8 (8) (h):

Insert:

“(ha) a payment made by a State or Territory for the purpose of assisting the person to purchase or build his or her own home;”.

After paragraph 8 (8) (k):

Insert:

“(ka) where:

SCHEDULE 1—continued

- (i) the person owes money under a mortgage or other arrangement; and
- (ii) the person has insurance which requires the insurer to make payments to the creditor when the person is unemployed or ill or in other specified circumstances; and
- (iii) payments are made to the creditor under the insurance; a payment so made;”.

Paragraph 8 (8) (s):

Omit the paragraph, substitute:

- “(s) a payment received by a trainee in part-time training under a program included in programs known as the Labour Force Programs, if the trainee is also receiving a social security or service pension;”.

Subsection 8 (8):

Add at the end:

- “(zg) a payment received by the person for serving, or being summoned to serve, on a jury;
- (zh) a payment received by the person for expenses as a witness, other than an expert witness, before a court, tribunal or commission;
- (zi) a payment towards the cost of personal care support services for the person, being a payment made under a scheme approved under section 35A.”.

Subparagraph 11 (4) (a) (ii):

Omit the subparagraph, substitute:

- “(ii) either:
 - (A) the person’s right or interest in the home gives the person reasonable security of tenure in the home; or
 - (B) the person has a granny flat interest in the home and is a person to whom subsection 1150 (2) applies; and”.

Subparagraph 11 (4) (b) (ii):

Omit the subparagraph, substitute:

- “(ii) either:
 - (A) the person’s right or interest, or the partner’s right or interest, in the home gives the person, or the person’s partner, reasonable security of tenure in the home; or
 - (B) the person has a granny flat interest in the home and is a person to whom subsection 1151 (2), 1152 (2), 1152 (5), 1153 (2), 1154 (2), 1155 (2), 1156 (2) or 1157 (2) applies; and”.

SCHEDULE 1—continued

Paragraph 11 (7) (b):

Omit the paragraph, substitute:

“(b) where the person is residing in a nursing home, the period of 2 years from the beginning of that residence;

(c) any period during which:

(i) the person is residing in a nursing home; and

(ii) the residence is, or because of paragraph (a) or (b) continues to be, the principal home of the person’s partner; and

(d) where:

(i) the person is residing in a nursing home; and

(ii) the person’s partner dies while residing in a nursing home; and

(iii) the person’s partner had resided in the nursing home for less than 2 years;

the period of 2 years from the beginning of that residence; and

(e) where:

(i) the person is residing in a nursing home; and

(ii) the person’s partner dies while not residing in a nursing home;

the period of 2 years from the partner’s death.

Note: for ‘residing in a nursing home’, see subsection 13 (8).”.

After paragraph 14 (1) (a):

Insert:

“(aa) those parts of Australia referred to in Part II of Schedule 2 to the Income Tax Assessment Act that are more than 250 kilometres by the shortest practicable surface route from the centre point of the nearest urban centre with a census population (within the meaning of that Act) of 2,500 or more; and

(ab) those places in Australia that, for the purposes of the Income Tax Assessment Act, are treated by the Commissioner for Taxation as being in a part of Australia referred to in paragraph (aa).”.

After section 19:

Insert:

Pharmaceutical allowance and advance pharmaceutical supplement definitions

“19A. (1) In Parts 2.22 and 2.23 of this Act, unless the contrary intention appears:

‘**liquid assets**’, in relation to a person, means:

SCHEDULE 1—continued

- (a) any cash held by, or on behalf of, the person; or
- (b) any amount deposited with or lent to a bank, building society, credit union or other financial institution (whether or not the amount can be withdrawn by, or paid to, the person immediately);

‘pharmaceutical benefit’ means a drug or medicinal preparation in relation to which Part VII of the *National Health Act 1953* applies because of section 85 of that Act.

“(2) A person is an **advance pensioner A** if:

- (a) the person was an eligible 1947 Act pensioner on 8 November 1990; and
- (b) the person is an eligible 1991 Act pensioner.

Note 1: for ‘eligible 1947 Act pensioner’ see subsection (5) below.

Note 2: for ‘eligible 1991 Act pensioner’ see subsection (6) below.

“(3) A person is a **continuing advance pensioner A** if:

- (a) the person was an eligible 1947 Act pensioner on 8 November 1990; and
- (b) the person is an eligible 1991 Act pensioner; and
- (c) in the Secretary’s opinion:
 - (i) the person does not have liquid assets of more than \$1,000; and
 - (ii) the person’s ordinary income is not more than \$10 per week if the following are disregarded:
 - (A) payments under this Act;
 - (B) payments under the Veterans’ Entitlements Act;
 - (C) payments of any benefit that the person is entitled to receive under the law of a foreign country if the amount of those payments reduces the person’s social security pension rate by an equivalent amount;
 - (D) periodic payments by way of compensation if Part 3.14 applies to those payments.

Note 1: for ‘eligible 1947 Act pensioner’ see subsection (5) below.

Note 2: for ‘eligible 1991 Act pensioner’ see subsection (6) below.

Note 3: for ‘liquid assets’ see subsection (1) above.

“(4) A person is an **advance pensioner B** if:

- (a) the person either:
 - (i) became an eligible 1947 Act pensioner after 8 November 1990 and before 1 July 1991; or
 - (ii) becomes an eligible 1991 Act pensioner after 30 June 1991 and before 1 January 1992; and
- (b) the person is an eligible 1991 Act pensioner; and
- (c) in the Secretary’s opinion:

SCHEDULE 1—continued

- (i) the person does not have liquid assets of more than \$1,000; and
- (ii) the person's ordinary income is not more than \$10 per week if the following are disregarded:
 - (A) payments under this Act;
 - (B) payments under the Veterans' Entitlements Act;
 - (C) payments of any benefit that the person is entitled to receive under the law of a foreign country if the amount of those payments reduces the person's social security pension rate by an equivalent amount;
 - (D) periodic payments by way of compensation if Part 3.14 applies to those payments.

Note 1: for 'eligible 1947 Act pensioner' see subsection (5) below.

Note 2: for 'eligible 1991 Act pensioner' see subsection (6) below.

Note 3: for 'liquid assets' see subsection (1) above.

“(5) A person is an eligible 1947 Act pensioner if:

(a) the person is receiving:

- (i) an age, invalid, wife's, carer's, sole parent's or class B widow's pension under the 1947 Act; or
- (ii) a widowed person's, sheltered employment or rehabilitation allowance under the 1947 Act; and

(b) the person's pension or allowance rate:

- (i) is not reduced under the 1947 Act on the basis of the person's income, maintenance income or property; or
- (ii) is reduced under the 1947 Act but only:
 - (A) under Part XVII of the 1947 Act because of the receipt of periodic payments by way of compensation; or
 - (B) by an amount equivalent to the amount of benefit to which the person is entitled under the law of a foreign country.

“(6) A person is an eligible 1991 Act pensioner if:

(a) the person is receiving a social security pension; and

(b) the person's social security pension rate:

- (i) is not reduced under this Act on the basis of the person's ordinary income, maintenance income or assets; or
- (ii) is reduced under this Act but only:
 - (A) under Part 3.14 because of the receipt of periodic payments by way of compensation; or
 - (B) by an amount equivalent to the amount of benefit to which the person is entitled under the law of a foreign country.

SCHEDULE 1—continued

“(7) For the purposes of this Act, a person has a **pharmaceutical benefit purchase for a member of the person’s family** if the person or the person’s partner buys a pharmaceutical benefit for:

- (a) the person; or
- (b) the partner; or
- (c) a dependant of the person; or
- (d) a dependant of the partner.”.

Subsection 23 (1):

(a) Omit the definition of “assurance of support debt”, substitute:
“**‘assurance of support debt’** means a debt due and payable by a person to the Commonwealth because of the operation of subregulation 165 (1) of the Migration Regulations in respect of the payment to another person of:

- (a) job search allowance under Part 2.11 of this Act; or
- (b) newstart allowance under Part 2.12 of this Act; or
- (c) special benefit under Part 2.15 of this Act; or
- (d) unemployment benefit under section 116 of the 1947 Act; or
- (e) job search allowance under section 117A of the 1947 Act; or
- (f) special benefit under section 129 of the 1947 Act;”.

(b) Omit the definition of “major disaster”, substitute:

“**‘major disaster’** means a disaster in respect of which a declaration is in force under section 36;”.

(c) Insert the following definitions:

“**‘account’**, in relation to a financial institution, means an account maintained by a person with the institution to which is accredited money received on deposit by the institution from that person;

‘Aboriginal study assistance scheme’ means:

- (a) the ABSTUDY Scheme; or
- (b) the Aboriginal Overseas Study Assistance Scheme; or
- (c) a scheme prescribed for the purposes of this definition;

‘financial institution’ means a bank, building society, credit union or other institution that receives money on deposit;

‘inhabitant of Australia’ means:

- (a) an Australian resident; or
- (b) the holder of a refugee (temporary) entry permit under regulations made under the *Migration Act 1958*; or
- (c) the holder of a PRC (temporary) entry permit under those regulations;”.

SCHEDULE 1—continued

Subsection 23 (10A):

Omit “disqualification” (wherever occurring), substitute “waiting”.

Subsection 23 (10B):

Omit “and 598”, substitute “, 598 and 668A”.

After section 35:

Insert:

“35A. The Minister may, in writing, determine that a scheme for the provision of personal care support is an approved scheme for the purposes of this Act.”.

Paragraph 36 (1) (a):

Omit “or”, substitute “and”.

Paragraph 36 (1) (b):

Omit “significant”, substitute “severe and widespread”.

Subsection 36 (2):

Omit “one that is caused by humans”, substitute “otherwise”.

Section 36:

Add at the end:

“(4) The Minister may, in writing, delegate to the Secretary the Minister’s powers under subsection (1).”.

After paragraph 44 (1) (a):

Insert:

“(aa) the person has not provided a tax file number for the person (see section 46A) or the person’s partner (see section 46B); or”.

After section 46:

Insert:

Provision of person’s tax file number

“46A. (1) An age pension is not payable to a person if:

- (a) the person is required under section 51A or 67A to give the Secretary a written statement of the person’s tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person’s tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form

SCHEDULE 1—continued

approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the person’s declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the person of the person’s tax file number; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the person’s declaration states that an application by the person for a tax file number is pending; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

Provision of partner’s tax file number

“46B. (1) Subject to subsection (4), an age pension is not payable to a person if:

- (a) the person is a member of a couple; and
- (b) the person is required under section 51B or 67B to give the Secretary a written statement of the tax file number of the person’s partner; and
- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner’s tax file number; nor

SCHEDULE 1—continued

- (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner’s declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner’s tax file number; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the partner’s declaration states that an application by the partner for a tax file number is pending; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

“(4) The Secretary may waive the requirement for a statement of the partner’s tax file number if the Secretary is satisfied that:

- (a) the person does not know the partner’s tax file number; and
- (b) the person can obtain none of the following from the partner:
 - (i) the partner’s tax file number;
 - (ii) a statement of the partner’s tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Section 47:

Repeal the section, substitute:

SCHEDULE 1—continued

Multiple entitlement exclusion

“47. (1) An age pension is not payable to a person if the person is already receiving a service pension.

“(2) If:

- (a) a person is receiving an age pension; and
- (b) another social security pension or a service pension becomes payable to the person;

the age pension is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: ‘social security pension’ includes sheltered employment and rehabilitation allowances.

Note 3: for the day on which the age pension ceases to be payable see section 71A.”.

After section 51:

Insert in Division 2:

Secretary may require claimant to give statement of claimant’s tax file number

“51A. If a claimant for an age pension is in Australia, the Secretary may require the claimant to give the Secretary a written statement of the claimant’s tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 46A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant’s tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant’s tax file number: see subsections 46A (2) and (3).

Secretary may require claimant to give statement of partner’s tax file number

“51B. If:

- (a) a claimant for an age pension is a member of a couple; and
- (b) the claimant’s partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant’s partner.

Note 1: for the consequences of a failure to comply with the requirement see section 46B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner’s tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner’s tax file number: see subsections 46B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 46B (4).”.

Section 61:

Repeal the section, substitute:

Payment to person

“61. A person’s age pension is, subject to section 62, to be paid to that person.”.

SCHEDULE 1—continued

Section 63:

Repeal the section, substitute:

Payment into bank account etc.

“63. (1) Subject to subsection (6), age pension payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the age pension is payable.

“(3) The account may be an account that is maintained by a person to whom the age pension is payable either alone or jointly or in common with another person.

“(4) Where a person to whom age pension is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that pension is not to be paid.

“(5) Where:

- (a) a person is not being paid age pension because of subsection (4); and
- (b) the person nominates an account for the purposes of subsection (1);

the pension (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of age pension that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the age pension is to be payable in accordance with the direction.”.

Before section 68:

Insert in Division 7:

Secretary may require recipient to give statement of recipient's tax file number

“67A. If a recipient of an age pension is in Australia, the Secretary may require the recipient to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 46A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 46A (2) and (3).

SCHEDULE 1—continued

Secretary may require recipient to give statement of partner's tax file number

“67B. If:

- (a) an age pension recipient is a member of a couple; and
- (b) the recipient's partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 46B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 46B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 46B (4).”.

Paragraph 71 (1) (c):

Insert “71A,” before “72”.

Paragraph 71 (2) (a):

Insert “73A,” before “74”.

Before section 72:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“71A. If:

- (a) a person is receiving an age pension; and
- (b) another social security pension or a social security benefit or a service pension becomes payable to the person;

the age pension ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.”.

Before section 74:

Insert in Subdivision C:

Automatic rate reduction—partner starting to receive pension or benefit

“73A. If:

- (a) a person is receiving an age pension; and
- (b) the person's partner starts to receive:
 - (i) a social security pension or benefit; or
 - (ii) a service pension; and
- (c) the person's age pension rate is reduced because of the partner's receipt of that pension or benefit;

the age pension becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.”.

SCHEDULE 1—continued

Section 91:

Add at the end:

“(3) If:

- (a) a person is receiving an age pension; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision B in relation to the death of a dependent child; or
- (ii) would have been so qualified if the person had not died; and

(e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child; there is payable to the partner an amount equal to the sum of the following amounts:

(f) the difference between:

- (i) the amount of age pension that would have been payable to the person under section 89 if the person had not died; and
- (ii) the amount of age pension that would have been payable to the person apart from Subdivision B for the same period if the person had not died;

(g) any lump sum that would have been payable to the person under section 90 if the person had not died.

“(4) If:

- (a) a person is receiving an age pension; and
- (b) the person is not a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision B in relation to the death of a dependent child; or
- (ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

(e) the difference between:

- (i) the amount of age pension that would have been payable to the person under section 89 if the person had not died; and
- (ii) the amount of age pension that would have been payable to the person apart from Subdivision B for the same period if the person had not died;

SCHEDULE 1—continued

- (f) any lump sum that would have been payable to the person under section 90 if the person had not died.”.

Section 92:

Add at the end:

“Note: if a person qualifies for fringe benefits in accordance with this Division, the person will also qualify for pharmaceutical allowance under Part 2.22.”.

After paragraph 95 (1) (c):

Insert:

“(ca) the person has not provided a tax file number for the person (see section 97A) or the person’s partner (see section 97B); or”.

Section 97:

Add at the end:

Claim resulting from a major disaster

“(4) If a person:

- (a) claims a disaster relief payment; and
- (b) is qualified for the payment; and
- (c) as a result of the major disaster to which the payment relates, claims an invalid pension within 14 days of claiming the disaster relief payment;

the person’s provisional commencement day is the day on which he or she was affected by the disaster.”.

After section 97:

Insert:

Provision of person’s tax file number

“97A. (1) An invalid pension is not payable to a person if:

- (a) the person is required under section 103A or 120A to give the Secretary a written statement of the person’s tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person’s tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the person’s declaration states that the person:
 - (i) has a tax file number but does not know what it is; and

SCHEDULE 1—continued

- (ii) has asked the Commissioner of Taxation to inform the person of the person's tax file number; and
 - (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and
 - (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.
- “(3) The person satisfies this subsection if:
- (a) the person's declaration states that an application by the person for a tax file number is pending; and
 - (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.

Provision of partner's tax file number

“97B. (1) Subject to subsection (4), an invalid pension is not payable to a person if:

- (a) the person is a member of a couple; and
- (b) the person is required under section 103B or 120B to give the Secretary a written statement of the tax file number of the person's partner; and
- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner's tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner's declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and

SCHEDULE 1—continued

- (ii) has asked the Commissioner of Taxation to inform the partner of the partner's tax file number; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the partner's declaration states that an application by the partner for a tax file number is pending; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

“(4) The Secretary may waive the requirement for a statement of the partner's tax file number if the Secretary is satisfied that:

- (a) the person does not know the partner's tax file number; and
- (b) the person can obtain none of the following from the partner:
 - (i) the partner's tax file number;
 - (ii) a statement of the partner's tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Section 98:

Repeal the section, substitute:

Multiple entitlement exclusion

“98. (1) An invalid pension is not payable to a person if the person is already receiving a service pension.

“(2) If:

- (a) a person is receiving an invalid pension; and

SCHEDULE 1—continued

(b) another social security pension or a social security benefit or service pension becomes payable to the person;
the invalid pension is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: 'social security pension' includes sheltered employment and rehabilitation allowances and 'social security benefit' includes job search and newstart allowances.

Note 3: for the day on which the invalid pension ceases to be payable see section 124A.”.

After section 103:

Insert in Division 2:

Secretary may require claimant to give statement of claimant's tax file number

“103A. If a claimant for an invalid pension is in Australia, the Secretary may require the claimant to give the Secretary a written statement of the claimant's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 97A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant's tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant's tax file number: see subsections 97A (2) and (3).

Secretary may require claimant to give statement of partner's tax file number

“103B. If:

- (a) a claimant for an invalid pension is a member of a couple; and
- (b) the claimant's partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 97B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 97B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 97B (4).”.

Section 114:

Repeal the section, substitute:

Payment to person

“114. A person's invalid pension is, subject to section 115, to be paid to that person.”.

Section 116:

Repeal the section, substitute:

SCHEDULE 1—continued

Payment into bank account etc.

“116. (1) Subject to subsection (6), invalid pension payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the invalid pension is payable.

“(3) The account may be an account that is maintained by a person to whom the invalid pension is payable either alone or jointly or in common with another person.

“(4) Where a person to whom invalid pension is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that pension is not to be paid.

“(5) Where:

- (a) a person is not being paid invalid pension because of subsection (4); and
- (b) the person nominates an account for the purposes of subsection (1);

the pension (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of invalid pension that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the invalid pension is to be payable in accordance with the direction.”.

Before section 121:

Insert in Division 8:

Secretary may require recipient to give statement of recipient's tax file number

“120A. If a recipient of an invalid pension is in Australia, the Secretary may require the recipient to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 97A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 97A (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“120B. If:

- (a) an invalid pension recipient is a member of a couple; and

SCHEDULE 1—continued

(b) the recipient's partner is in Australia;
the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 97B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 97B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 97B (4).”.

Paragraph 124 (1) (c):

Insert “124A,” before “125”.

Paragraph 124 (2) (a):

Insert “126A,” before “127”.

Before section 125:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“124A. If:

- (a) a person is receiving an invalid pension; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the person;

the invalid pension ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.”.

Before section 127:

Insert in Subdivision C:

Automatic rate reduction—partner starting to receive pension or benefit

“126A. If:

- (a) a person is receiving an invalid pension; and
- (b) the person's partner starts to receive:
 - (i) a social security pension or benefit; or
 - (ii) a service pension; and
- (c) the person's invalid pension rate is reduced because of the partner's receipt of that pension or benefit;

the invalid pension becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.”.

SCHEDULE 1—continued

Section 144:

Add at the end:

“(3) If:

- (a) a person is receiving an invalid pension; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision B in relation to the death of a dependent child; or
- (ii) would have been so qualified if the person had not died; and

- (e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;

there is payable to the partner an amount equal to the sum of the following amounts:

- (f) the difference between:

- (i) the amount of invalid pension that would have been payable to the person under section 142 if the person had not died; and
- (ii) the amount of invalid pension that would have been payable to the person apart from Subdivision B for the same period if the person had not died;

- (g) any lump sum that would have been payable to the person under section 143 if the person had not died.

“(4) If:

- (a) a person is receiving an invalid pension; and
- (b) the person is not a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision B in relation to the death of a dependent child; or
- (ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

- (e) the difference between:

- (i) the amount of invalid pension that would have been payable to the person under section 142 if the person had not died; and
- (ii) the amount of invalid pension that would have been

SCHEDULE 1—continued

payable to the person apart from Subdivision B for the same period if the person had not died;

- (f) any lump sum that would have been payable to the person under section 143 if the person had not died.”.

Section 145:

Add at the end:

“Note: if a person qualifies for fringe benefits in accordance with this Division, the person will also qualify for pharmaceutical allowance under Part 2.22.”.

After paragraph 148 (1) (b):

Insert:

“(ba) the person has not provided a tax file number for the person (see section 150A) or the person’s partner (see section 150B); or”.

Section 150:

Add at the end:

Claim resulting from a major disaster

“(4) If a person:

- (a) claims a disaster relief payment; and
- (b) is qualified for the payment; and
- (c) as a result of the major disaster to which the payment relates, claims a wife pension within 14 days of claiming the disaster relief payment;

the person’s provisional commencement day is the day on which he or she was affected by the disaster.”.

After section 150:

Insert:

Provision of person’s tax file number

“150A. (1) A wife pension is not payable to a person if:

- (a) the person is required under section 155A or 171A to give the Secretary a written statement of the person’s tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person’s tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

SCHEDULE 1—continued

- (a) the person's declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the person of the person's tax file number; and
 - (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and
 - (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.
- “(3) The person satisfies this subsection if:
- (a) the person's declaration states that an application by the person for a tax file number is pending; and
 - (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.

Provision of partner's tax file number

“150B. (1) Subject to subsection (4), a wife pension is not payable to a person if:

- (a) the person is required under section 155B or 171B to give the Secretary a written statement of the tax file number of the person's partner; and
- (b) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner's tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner's declaration states that the partner:

SCHEDULE 1—continued

- (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner's tax file number; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the partner's declaration states that an application by the partner for a tax file number is pending; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

“(4) The Secretary may waive the requirement for a statement of the partner's tax file number if the Secretary is satisfied that:

- (a) the person does not know the partner's tax file number; and
- (b) the person can obtain none of the following from the partner:
 - (i) the partner's tax file number;
 - (ii) a statement of the partner's tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (b) (ii).”.

Section 151:

Repeal the section, substitute:

Multiple entitlement exclusion

“151. (1) A wife pension is not payable to a person if the person is already receiving a service pension.

“(2) If:

SCHEDULE 1—continued

- (a) a person is receiving a wife pension; and
 - (b) another social security pension or a social security benefit or service pension becomes payable to the person;
- the wife pension is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: 'social security pension' includes sheltered employment and rehabilitation allowances and 'social security benefit' includes job search and newstart allowances.

Note 3: for the day on which the wife pension ceases to be payable see section 175A.”.

After section 155:

Insert in Division 2:

Secretary may require claimant to give statement of claimant's tax file number

“155A. If a claimant for a wife pension is in Australia, the Secretary may require the claimant to give the Secretary a written statement of the claimant's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 150A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant's tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant's tax file number: see subsections 150A (2) and (3).

Secretary may require claimant to give statement of partner's tax file number

“155B. If the partner of a claimant for a wife pension is in Australia, the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 150B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 150B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 150B (4).”.

Section 165:

Repeal the section, substitute:

Payment to person

“165. A person's wife pension is, subject to section 166, to be paid to that person.”.

Section 167:

Repeal the section, substitute:

SCHEDULE 1—continued

Payment into bank account etc.

“167. (1) Subject to subsection (6), wife pension payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the wife pension is payable.

“(3) The account may be an account that is maintained by a person to whom the wife pension is payable either alone or jointly or in common with another person.

“(4) Where a person to whom wife pension is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that pension is not to be paid.

“(5) Where:

- (a) a person is not being paid wife pension because of subsection (4); and
- (b) the person nominates an account for the purposes of subsection (1);

the pension (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of wife pension that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the wife pension is to be payable in accordance with the direction.”.

Before section 172:

Insert in Division 7:

Secretary may require recipient to give statement of recipient's tax file number

“171A. If a recipient of a wife pension is in Australia, the Secretary may require the recipient to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 150A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 150A (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“171B. If the partner of a wife pension recipient is in Australia, the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

SCHEDULE 1—continued

Note 1: for the consequences of a failure to comply with the requirement see section 150B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 150B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 150B (4)."

Paragraph 175 (1) (c):

Insert "175A, 175B," before "176".

Before section 176:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

"175A. If:

- (a) a person is receiving a wife pension; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the person;

the wife pension ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.

Automatic termination—transfer of partner to new payment type

"175B. If:

- (a) a person is receiving a wife pension; and
- (b) a social security pension, a social security benefit or a service pension becomes payable to the person's partner; and
- (c) because the pension or benefit referred to in paragraph (b) becomes payable to the partner, an age pension, invalid pension or rehabilitation allowance ceases to be payable to the partner;

the wife pension ceases to be payable to the person immediately before the day on which the pension or benefit referred to in paragraph (b) becomes payable to the partner."

After section 195:

Insert:

"Subdivision D—Death of recipient

Death of recipient

"195A. If:

- (a) a person is receiving a wife pension; and
- (b) the person dies; and
- (c) the person:

- (i) was qualified at the time of the person's death for payments under Subdivision C in relation to the death of a dependent child; or

SCHEDULE 1—continued

- (ii) would have been so qualified if the person had not died;
and
- (d) the person's partner claims the payments referred to in paragraph (c) within 3 months after the death of the child;
there is payable to the partner an amount equal to the sum of the following amounts:
 - (e) the difference between:
 - (i) the amount of wife pension that would have been payable to the person under section 194 if the person had not died; and
 - (ii) the amount of wife pension that would have been payable to the person apart from Subdivision C for the same period if the person had not died;
 - (f) any lump sum that would have been payable to the person under section 195 if the person had not died.”.

Section 196:

Add at the end:

“Note: if a person qualifies for fringe benefits in accordance with this Division, the person will also qualify for pharmaceutical allowance under Part 2.22.”.

Paragraphs 198 (1) (a) and (2) (a) and subsection 198 (3):

Omit “pensioner”, substitute “person” (wherever occurring).

Paragraph 198 (1) (b):

Omit the paragraph, substitute:

“(b) lives in a home that is either:

- (i) the home of both the person and the severely handicapped person; or
- (ii) adjacent to the home of the severely handicapped person;
and”.

Subsection 198 (3) (paragraph (c) of definition of “severely handicapped person”):

Omit the paragraph, substitute:

“(c) is receiving a social security pension or benefit or a service pension.”.

After paragraph 199 (1) (b):

Insert:

“(ba) the person has not provided a tax file number for the person (see section 201A) or the person's partner (see section 201B);
or”.

Section 201:

Add at the end:

SCHEDULE 1—continued

Claim resulting from a major disaster

“(4) If a person:

- (a) claims a disaster relief payment; and
- (b) is qualified for the payment; and
- (c) as a result of the major disaster to which the payment relates, claims a carer pension within 14 days of claiming the disaster relief payment;

the person’s provisional commencement day is the day on which he or she was affected by the disaster.”.

After section 201:

Insert:

Provision of person’s tax file number

“201A. (1) A carer pension is not payable to a person if:

- (a) the person is required under section 206A or 221A to give the Secretary a written statement of the person’s tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person’s tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the person’s declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the person of the person’s tax file number; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the person’s declaration states that an application by the person for a tax file number is pending; and
- (b) the person has given the Secretary a document by the person

SCHEDULE 1—continued

that authorises the Commissioner of Taxation to tell the Secretary:

- (i) if a tax file number is issued to the person—the tax file number; or
- (ii) if the application is refused—that the application has been refused; or
- (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

Provision of partner's tax file number

“201B. (1) Subject to subsection (4), a carer pension is not payable to a person if:

- (a) the person is a member of a couple; and
- (b) the person is required under section 206B or 221B to give the Secretary a written statement of the tax file number of the person's partner; and
- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner's tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner's declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner's tax file number; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the partner's declaration states that an application by the partner for a tax file number is pending; and

SCHEDULE 1—continued

- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.
- “(4) The Secretary may waive the requirement for a statement of the partner’s tax file number if the Secretary is satisfied that:
- (a) the person does not know the partner’s tax file number; and
 - (b) the person can obtain none of the following from the partner:
 - (i) the partner’s tax file number;
 - (ii) a statement of the partner’s tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Section 202:

Repeal the section, substitute:

Multiple entitlement exclusion

“202. (1) A carer pension is not payable to a person if the person is already receiving a service pension.

“(2) If:

- (a) a person is receiving a carer pension; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the person;

the carer pension is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: ‘social security pension’ includes sheltered employment and rehabilitation allowances and ‘social security benefit’ includes job search and newstart allowances.

Note 3: for the day on which the carer pension ceases to be payable see section 225A.”.

After section 206:

Insert in Division 2:

SCHEDULE 1—continued

Secretary may require claimant to give statement of claimant's tax file number

“206A. The Secretary may require a claimant for a carer pension to give the Secretary a written statement of the claimant's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 201A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant's tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant's tax file number: see subsections 201A (2) and (3).

Secretary may require claimant to give statement of partner's tax file number

“206B. If:

- (a) a claimant for a carer pension is a member of a couple; and
- (b) the claimant's partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 201B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 201B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 201B (4).”.

Section 215:

Repeal the section, substitute:

Payment to person

“215. A person's carer pension is, subject to section 216, to be paid to that person.”.

Section 217:

Repeal the section, substitute:

Payment into bank account etc.

“217. (1) Subject to subsection (6), carer pension payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the carer pension is payable.

“(3) The account may be an account that is maintained by a person to whom the carer pension is payable either alone or jointly or in common with another person.

SCHEDULE 1—continued

“(4) Where a person to whom carer pension is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that pension is not to be paid.

“(5) Where:

(a) a person is not being paid carer pension because of subsection (4); and

(b) the person nominates an account for the purposes of subsection (1);

the pension (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of carer pension that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the carer pension is to be payable in accordance with the direction.”.

Before section 222:

Insert in Division 7:

Secretary may require recipient to give statement of recipient's tax file number

“221A. The Secretary may require a recipient of a carer pension to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 201A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 201A (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“221B. If:

(a) a carer pension recipient is a member of a couple; and

(b) the recipient's partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 201B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 201B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 201B (4).”.

Paragraph 225 (1) (c):

Insert “225A, 225B,” before “226”.

SCHEDULE 1—continued

Paragraph 225 (2) (a):

Insert “227A or” before “228”.

Before section 226:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“225A. If:

- (a) a person is receiving a carer pension; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the person;

the carer pension ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.

Automatic termination—transfer of partner to new payment type

“225B. If:

- (a) a person is receiving a carer pension; and
- (b) the person being cared for is the carer’s partner; and
- (c) a social security pension, a social security benefit or a service pension becomes payable to the partner; and
- (d) because the pension or benefit referred to in paragraph (c) becomes payable to the partner, an age pension, invalid pension or rehabilitation allowance ceases to be payable to the partner;

the carer pension ceases to be payable to the person immediately before the day on which the pension referred to in paragraph (c) becomes payable to the partner.”.

Before section 228:

Insert in Subdivision C:

Automatic rate reduction—partner starting to receive pension or benefit

“227A. If:

- (a) a person is receiving a carer pension; and
- (b) the person’s partner starts to receive:
 - (i) a social security pension or benefit; or
 - (ii) a service pension; and
- (c) the person’s carer pension rate is reduced because of the partner’s receipt of that pension or benefit;

the carer pension becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.”.

SCHEDULE 1—continued

Section 246:

Add at the end:

“(3) If:

- (a) a person is receiving a carer pension; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision C in relation to the death of a dependent child; or

- (ii) would have been so qualified if the person had not died; and

- (e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;

there is payable to the partner an amount equal to the sum of the following amounts:

- (f) the difference between:

- (i) the amount of carer pension that would have been payable to the person under section 244 if the person had not died; and

- (ii) the amount of carer pension that would have been payable to the person apart from Subdivision C for the same period if the person had not died;

- (g) any lump sum that would have been payable to the person under section 245 if the person had not died.

“(4) If:

- (a) a person is receiving a carer pension; and
- (b) the person is not a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision C in relation to the death of a dependent child; or

- (ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

- (e) the difference between:

- (i) the amount of carer pension that would have been payable to the person under section 244 if the person had not died; and

- (ii) the amount of carer pension that would have been payable to the person apart from Subdivision C for the same period if the person had not died;

SCHEDULE 1—continued

- (f) any lump sum that would have been payable to the person under section 245 if the person had not died.”.

Section 247:

Add at the end:

“Note: if a person qualified for fringe benefits in accordance with this Division, the person will also qualify for pharmaceutical allowance under Part 2.22.”.

After paragraph 253 (1) (a):

Insert:

“(aa) the person has not provided a tax file number for the person (see section 257A) or the person’s partner (see section 257B); or”.

Section 255:

Add at the end:

Claim resulting from a major disaster

“(4) If a person:

- (a) claims a disaster relief payment; and
- (b) is qualified for the payment; and
- (c) as a result of the major disaster to which the payment relates, claims a sole parent pension within 14 days of claiming the disaster relief payment;

the person’s provisional commencement day is the day on which he or she was affected by the disaster.”.

After section 257:

Insert:

Provision of person’s tax file number

“257A. (1) A sole parent pension is not payable to a person if:

- (a) the person is required under section 265A or 283A to give the Secretary a written statement of the person’s tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person’s tax file number; nor
 - (ii) given the Secretary an employment declaration and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the person’s employment declaration states that the person:
 - (i) has a tax file number but does not know what it is; and

SCHEDULE 1—continued

- (ii) has asked the Commissioner of Taxation to inform the person of the person's tax file number; and
 - (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and
 - (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.
- “(3) The person satisfies this subsection if:
- (a) the person's employment declaration states that an application by the person for a tax file number is pending; and
 - (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.

Provision of partner's tax file number

“257B. (1) Subject to subsection (4), a sole parent pension is not payable to a person if:

- (a) the person is a member of a couple; and
- (b) the person is required under section 265B or 283A to give the Secretary a written statement of the tax file number of the person's partner; and
- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner's tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner's declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and

SCHEDULE 1—continued

- (ii) has asked the Commissioner of Taxation to inform the partner of the partner's tax file number; and
 - (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
 - (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.
- “(3) The person satisfies this subsection if:
- (a) the partner's declaration states that an application by the partner for a tax file number is pending; and
 - (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.
- “(4) The Secretary may waive the requirement for a statement of the partner's tax file number if the Secretary is satisfied that:
- (a) the person does not know the partner's tax file number; and
 - (b) the person can obtain none of the following from the partner:
 - (i) the partner's tax file number;
 - (ii) a statement of the partner's tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Section 258:

Repeal the section, substitute:

Multiple entitlement exclusion

“258. (1) A sole parent pension is not payable to a person if the person is already receiving a service pension.

“(2) If:

- (a) a person is receiving a sole parent pension; and

SCHEDULE 1—continued

(b) another social security pension or a social security benefit or service pension becomes payable to the person;
the sole parent pension is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: 'social security pension' includes sheltered employment and rehabilitation allowances and 'social security benefit' includes job search and newstart allowances.

Note 3: for the day on which the sole parent pension ceases to be payable see section 287A.

“(3) A sole parent pension is not payable to a woman if:

(a) the woman is an armed services widow; and

(b) the woman is receiving:

(i) a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act; or

(ii) a pension under the *Seamen's War Pensions and Allowances Act 1940* at a rate determined under subsection 18 (2) of that Act.

Note: for 'armed services widow' see subsection 4 (1).”.

After section 265:

Insert in Division 2:

Secretary may require claimant to give statement of claimant's tax file number

“265A. If a claimant for a sole parent pension is in Australia, the Secretary may require the claimant to give the Secretary a written statement of the claimant's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 257A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary an employment declaration by the claimant about the claimant's tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant's tax file number: see subsections 257A (2) and (3).

Secretary may require claimant to give statement of partner's tax file number

“265B. If:

(a) a claimant for a sole parent pension is a member of a couple; and

(b) the claimant's partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 257B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 257B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 257B (4).”.

SCHEDULE 1—continued

Section 275:

Repeal the section, substitute:

Payment to person

“275. A person’s sole parent pension is, subject to section 276, to be paid to that person.”.

Section 277:

Repeal the section, substitute:

Payment into bank account etc.

“277. (1) Subject to subsection (6), sole parent pension payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the sole parent pension is payable.

“(3) The account may be an account that is maintained by a person to whom the sole parent pension is payable either alone or jointly or in common with another person.

“(4) Where a person to whom sole parent pension is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that pension is not to be paid.

“(5) Where:

(a) a person is not being paid sole parent pension because of subsection (4); and

(b) the person nominates an account for the purposes of subsection (1);

the pension (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of sole parent pension that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the sole parent pension is to be payable in accordance with the direction.”.

After section 283:

Insert:

Secretary may require recipient to give statement of recipient’s tax file number

“283A. If a sole parent pension recipient is in Australia, the Secretary may require the recipient to give the Secretary a written statement of the recipient’s tax file number.

SCHEDULE 1—continued

Note 1: for the consequences of a failure to comply with the requirement see section 257A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary an employment declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 257A (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“283B. If:

- (a) a sole parent pension recipient is a member of a couple; and
- (b) the recipient's partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 257B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 257B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 257B (4).”.

Paragraph 287 (1) (c):

Insert “287A,” before “288”.

Paragraph 287 (2) (a):

Insert “290A,” before “291”.

Before section 288:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“287A. If:

- (a) a person is receiving a sole parent pension; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the person;

the sole parent pension ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.”.

Before section 291:

Insert in Subdivision C:

Automatic rate reduction—partner starting to receive pension or benefit

“290A. If:

- (a) a person is receiving a sole parent pension; and
- (b) the person's partner starts to receive:
 - (i) a social security pension or benefit; or
 - (ii) a service pension; and

SCHEDULE 1—continued

(c) the person's sole parent pension rate is reduced because of the partner's receipt of that pension or benefit;
the sole parent pension becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.

Note: this provision may apply if the partner starts to receive the pension or benefit and this affects the application of the ordinary income test, the maintenance income test or the assets test to the person.

Section 312:

Add at the end:

“(3) If:

- (a) a person is receiving a sole parent pension; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person's death for payments under Subdivision C in relation to the death of a dependent child; or
- (ii) would have been so qualified if the person had not died; and

(e) the person's partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;
there is payable to the partner an amount equal to the sum of the following amounts:

(f) the difference between:

- (i) the amount of sole parent pension that would have been payable to the person under section 310 if the person had not died; and
- (ii) the amount of sole parent pension that would have been payable to the person apart from Subdivision C for the same period if the person had not died;

(g) any lump sum that would have been payable to the person under section 311 if the person had not died.

“(4) If:

- (a) a person is receiving a sole parent pension; and
- (b) the person is not a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person's death for payments under Subdivision C in relation to the death of a dependent child; or
- (ii) would have been so qualified if the person had not died;

SCHEDULE 1—continued

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

(e) the difference between:

(i) the amount of sole parent pension that would have been payable to the person under section 310 if the person had not died; and

(ii) the amount of sole parent pension that would have been payable to the person apart from Subdivision C for the same period if the person had not died;

(f) any lump sum that would have been payable to the person under section 311 if the person had not died.”.

Section 313:

Add at the end:

“Note: if a person qualifies for fringe benefits in accordance with this Division, the person will also qualify for pharmaceutical allowance under Part 2.22.”.

After paragraph 316 (1) (a):

Insert:

“(aa) the person has not provided a tax file number for the person (see section 320A); or”.

Section 318:

Add at the end:

Claim resulting from a major disaster

“(4) If a person:

(a) claims a disaster relief payment; and

(b) is qualified for the payment; and

(c) as a result of the major disaster to which the payment relates, claims a widowed person allowance within 14 days of claiming the disaster relief payment;

the person’s provisional commencement day is the day on which he or she was affected by the disaster.”.

After section 320:

Insert:

Provision of person’s tax file number

“320A. (1) A widowed person allowance is not payable to a person if:

(a) the person is required under section 325A or 340A to give the Secretary a written statement of the person’s tax file number; and

(b) at the end of the period of 28 days after the requirement is made, the person has neither:

SCHEDULE 1—continued

- (i) given the Secretary a written statement of the person's tax file number; nor
- (ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the person's declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the person of the person's tax file number; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the person's declaration states that an application by the person for a tax file number is pending; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the person's tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.”.

Section 321:

Repeal the section, substitute:

Multiple entitlement exclusion

“321. (1) A widowed person allowance is not payable to a person if the person is already receiving a service pension.

“(2) If:

- (a) a person is receiving a widowed person allowance; and

SCHEDULE 1—continued

(b) another social security pension or a social security benefit or service pension becomes payable to the person;
the widowed person allowance is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: 'social security pension' includes sheltered employment and rehabilitation allowances and 'social security benefit' includes job search and newstart allowances.

Note 3: for the day on which the widowed person allowance ceases to be payable see section 344A.

“(3) A widowed person allowance is not payable to a woman if:

(a) the woman is an armed services widow; and

(b) the woman is receiving:

(i) a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act; or

(ii) a pension under the *Seamen's War Pensions and Allowances Act 1940* at a rate determined under subsection 18 (2) of that Act.

Note: for 'armed services widow' see subsection 4 (1).”.

After section 325:

Insert in Division 2:

Secretary may require claimant to give statement of claimant's tax file number

“325A. If a claimant for a widowed person allowance is in Australia, the Secretary may require the claimant to give the Secretary a written statement of the claimant's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 320A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant's tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant's tax file number: see subsections 320A (2) and (3).”.

Section 334:

Repeal the section, substitute:

Payment to person

“334. A person's widowed person allowance is, subject to section 335, to be paid to that person.”.

Section 336:

Repeal the section, substitute:

SCHEDULE 1—continued

Payment into bank account etc.

“336. (1) Subject to subsection (6), widowed person allowance payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the widowed person allowance is payable.

“(3) The account may be an account that is maintained by a person to whom the widowed person allowance is payable either alone or jointly or in common with another person.

“(4) Where a person to whom widowed person allowance is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that allowance is not to be paid.

“(5) Where:

- (a) a person is not being paid widowed person allowance because of subsection (4); and
- (b) the person nominates an account for the purposes of subsection (1);

the allowance (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of widowed person allowance that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the widowed person allowance is to be payable in accordance with the direction.”.

Before section 341:

Insert in Division 7:

Secretary may require recipient to give statement of recipient's tax file number

“340A. If a recipient of a widowed person allowance is in Australia, the Secretary may require the recipient to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 320A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 320A (2) and (3).”.

Subparagraph 344 (1) (d) (i):

Insert “344A,” before “345”.

SCHEDULE 1—continued

Before section 345:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“344A. If:

- (a) a person is receiving a widowed person allowance; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the person;

the widowed person allowance ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.”.

Section 359:

Add at the end:

“(3) If:

- (a) a person is receiving a widowed person allowance; and
- (b) the person dies; and
- (c) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a dependent child; or

- (ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

(d) the difference between:

- (i) the amount of widowed person allowance that would have been payable to the person under section 357 if the person had not died; and

- (ii) the amount of widowed person allowance that would have been payable to the person apart from Subdivision A for the same period if the person had not died;

- (e) any lump sum that would have been payable to the person under section 358 if the person had not died.”.

Section 360:

Add at the end:

“Note: if a person qualifies for fringe benefits in accordance with this Division, the person will also qualify for pharmaceutical allowance under Part 2.22.”.

After paragraph 364 (1) (a):

Insert:

“(aa) the woman has not provided a tax file number for the woman (see section 367A); or”.

SCHEDULE 1—continued

Section 366:

Add at the end:

Claim resulting from a major disaster

“(4) If a woman:

- (a) claims a disaster relief payment; and
- (b) is qualified for the payment; and
- (c) as a result of the major disaster to which the payment relates, claims a widow B pension within 14 days of claiming the disaster relief payment;

the woman’s provisional commencement day is the day on which she was affected by the disaster.”.

After section 367:

Insert:

Provision of tax file number

“367A. (1) A widow B pension is not payable to a woman if:

- (a) the woman is required under section 372A or 388A to give the Secretary a written statement of the woman’s tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the woman has neither:
 - (i) given the Secretary a written statement of the woman’s tax file number; nor
 - (ii) given the Secretary a declaration by the woman in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The woman satisfies this subsection if:

- (a) the woman’s declaration states that the woman:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the woman of her tax file number; and
- (b) the woman has given the Secretary a document by the woman that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the woman has a tax file number; and
 - (ii) if the woman has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the woman has no tax file number.

“(3) The woman satisfies this subsection if:

- (a) the woman’s declaration states that an application by the woman for a tax file number is pending; and

SCHEDULE 1—continued

- (b) the woman has given the Secretary a document by the woman that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the woman—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the woman for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.”.

Section 368:

Repeal the section, substitute:

Multiple entitlement exclusion

“368. (1) A widow B pension is not payable to a woman if the woman is already receiving a service pension.

“(2) If:

- (a) a woman is receiving a widow B pension; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the woman;

the widow B pension is not payable to the woman.

Note 1: another payment type will generally not become payable to the woman until the woman claims it.

Note 2: ‘social security pension’ includes sheltered employment and rehabilitation allowances and ‘social security benefit’ includes job search and newstart allowances.

Note 3: for the day on which the widow B pension ceases to be payable see section 392A.

“(3) A widow B pension is not payable to a woman if:

- (a) the woman is an armed services widow; and
- (b) the woman is receiving:
 - (i) a pension under Part II or IV of the Veterans Entitlements Act at a rate determined under or b reference to subsection 30 (1) of that Act; or
 - (ii) a pension under the *Seamen’s War Pensions ar Allowances Act 1940* at a rate determined und subsection 18 (2) of that Act.

Note: for ‘armed services widow’ see subsection 4 (1).”.

After section 372:

Insert in Division 2:

SCHEDULE 1—continued

Secretary may require claimant to give statement of claimant's tax file number

“372A. If a claimant for a widow B pension is in Australia, the Secretary may require the claimant to give the Secretary a written statement of the claimant's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 367A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant's tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant's tax file number: see subsections 367A (2) and (3).”

Section 382:

Repeal the section, substitute:

Payment to person

“382. A woman's widow B pension is, subject to section 383, to be paid to that woman.”.

Section 384:

Repeal the section, substitute:

Payment into bank account etc.

“384. (1) Subject to subsection (6), widow B pension payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the widow B pension is payable.

“(3) The account may be an account that is maintained by the person to whom the widow B pension is payable either alone or jointly or in common with another person.

“(4) Where a person to whom widow B pension is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that pension is not to be paid.

“(5) Where:

- (a) a person is not being paid widow B pension because of subsection (4); and
- (b) the person nominates an account for the purposes of subsection (1);

the pension (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of widow B pension that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

SCHEDULE 1—continued

“(7) If the Secretary gives a direction under subsection (6), the widow B pension is to be payable in accordance with the direction.”.

Before section 389:

Insert in Division 7:

Secretary may require recipient to give statement of recipient's tax file number

“388A. If a recipient of a widow B pension is in Australia, the Secretary may require the recipient to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 367A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 367A (2) and (3).”.

Paragraph 392 (1) (c):

Insert “392A,” before “393”.

Before section 393:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“392A. If:

- (a) a woman is receiving a widow B pension; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the woman;

the widow B pension ceases to be payable to the woman immediately before the day on which the other pension or benefit becomes payable to the woman.”.

Section 407:

Add at the end:

“(3) If:

- (a) a woman is receiving a widow B pension; and
- (b) the woman dies; and
- (c) the woman:

- (i) was qualified at the time of her death for payments under Subdivision A in relation to the death of a dependent child; or

- (ii) would have been so qualified if she had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

- (d) the difference between:

- (i) the amount of widow B pension that would have been

SCHEDULE 1—continued

payable to the woman under section 405 if she had not died; and

(ii) the amount of widow B pension that would have been payable to the woman apart from Subdivision A for the same period if she had not died;

(e) any lump sum that would have been payable to the woman under section 406 if she had not died.”.

Section 408:

Add at the end:

“Note: if a person qualifies for fringe benefits in accordance with this Division, the person will also qualify for pharmaceutical allowance under Part 2.22.”.

After paragraph 411 (1) (b):

Insert:

“(ba) the person has not provided a tax file number for the person (see section 412A) or the person’s partner (see section 412B); or”.

After section 412:

Insert:

Provision of person’s tax file number

“412A. (1) A sheltered employment allowance is not payable to a person if:

(a) the person is required under section 418A or 434A to give the Secretary a written statement of the person’s tax file number; and

(b) at the end of the period of 28 days after the requirement is made, the person has neither:

(i) given the Secretary a written statement of the person’s tax file number; nor

(ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

(a) the person’s declaration states that the person:

(i) has a tax file number but does not know what it is; and

(ii) has asked the Commissioner of Taxation to inform the person of the person’s tax file number; and

(b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:

(i) whether the person has a tax file number; and

SCHEDULE 1—continued

- (ii) if the person has a tax file number—the tax file number;
and
 - (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.
- “(3) The person satisfies this subsection if:
- (a) the person’s declaration states that an application by the person for a tax file number is pending; and
 - (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the person’s tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.

Provision of partner’s tax file number

“412B. (1) Subject to subsection (4), a sheltered employment allowance is not payable to a person if:

- (a) the person is a member of a couple; and
- (b) the person is required under section 418B or 434B to give the Secretary a written statement of the tax file number of the person’s partner; and
- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner’s tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner’s declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner’s tax file number; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and

SCHEDULE 1—continued

- (ii) if the partner has a tax file number—the tax file number;
and
 - (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.
- “(3) The person satisfies this subsection if:
- (a) the partner’s declaration states that an application by the partner for a tax file number is pending; and
 - (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.
- “(4) The Secretary may waive the requirement for a statement of the partner’s tax file number if the Secretary is satisfied that:
- (a) the person does not know the partner’s tax file number; and
 - (b) the person can obtain none of the following from the partner:
 - (i) the partner’s tax file number;
 - (ii) a statement of the partner’s tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Section 413:

Repeal the section, substitute:

Multiple entitlement exclusion

“413. (1) A sheltered employment allowance is not payable to a person if the person is already receiving a service pension.

“(2) If:

- (a) a person is receiving a sheltered employment allowance; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the person;

the sheltered employment allowance is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: ‘social security pension’ includes rehabilitation allowance and ‘social security benefit’ includes job search and newstart allowances.

SCHEDULE 1—continued

Note 3: for the day on which the sheltered employment allowance ceases to be payable see section 438A.”.

After section 418:

Insert in Division 2:

Secretary may require claimant to give statement of claimant’s tax file number

“418A. The Secretary may require a claimant for a sheltered employment allowance to give the Secretary a written statement of the claimant’s tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 412A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant’s tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant’s tax file number: see subsections 412A (2) and (3).

Secretary may require claimant to give statement of partner’s tax file number

“418B. If:

(a) a claimant for a sheltered employment allowance is a member of a couple; and

(b) the claimant’s partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant’s partner.

Note 1: for the consequences of a failure to comply with the requirement see section 412B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner’s tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner’s tax file number: see subsections 412B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 412B (4).”.

Section 428:

Repeal the section, substitute:

Payment to person

“428. A person’s sheltered employment allowance is, subject to section 429, to be paid to that person.”.

Section 430:

Repeal the section, substitute:

Payment into bank account etc.

“430. (1) Subject to subsection (6), sheltered employment allowance payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the sheltered employment allowance is payable.

SCHEDULE 1—continued

“(3) The account may be an account that is maintained by a person to whom the sheltered employment allowance is payable either alone or jointly or in common with another person.

“(4) Where a person to whom sheltered employment allowance is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that allowance is not to be paid.

“(5) Where:

- (a) a person is not being paid sheltered employment allowance because of subsection (4); and
- (b) the person nominates an account for the purposes of subsection (1);

the allowance (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of sheltered employment allowance that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the sheltered employment allowance is to be payable in accordance with the direction.”.

Before section 435:

Insert in Division 7:

Secretary may require recipient to give statement of recipient's tax file number

“434A. The Secretary may require a recipient of a sheltered employment allowance to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 412A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 412A (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“434B. If:

- (a) a sheltered employment allowance recipient is a member of a couple; and
- (b) the recipient's partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 412B.

SCHEDULE 1—continued

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 412B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 412B (4).”.

Paragraph 438 (1) (c):

Insert “438A,” before “439”.

Paragraph 438 (2) (a):

Insert “440A,” before “441”.

Before section 439:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“438A. If:

- (a) a person is receiving a sheltered employment allowance; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the person;

the sheltered employment allowance ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.”.

Before section 441:

Insert in Subdivision C:

Automatic rate reduction—partner starting to receive pension or benefit

“440A. If:

- (a) a person is receiving a sheltered employment allowance; and
- (b) the person's partner starts to receive:
 - (i) a social security pension or benefit; or
 - (ii) a service pension; and
- (c) the person's sheltered employment allowance rate is reduced because of the partner's receipt of that pension or benefit;

the sheltered employment allowance becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.”.

Section 458:

Add at the end:

“(3) If:

- (a) a person is receiving a sheltered employment allowance; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:

SCHEDULE 1—continued

- (i) was qualified at the time of the person's death for payments under Subdivision B in relation to the death of a dependent child; or
- (ii) would have been so qualified if the person had not died; and
- (e) the person's partner claims the payments referred to in paragraph (d) within 3 months after the death of the child; there is payable to the partner an amount equal to the sum of the following amounts:
 - (f) the difference between:
 - (i) the amount of sheltered employment allowance that would have been payable to the person under section 456 if the person had not died; and
 - (ii) the amount of sheltered employment allowance that would have been payable to the person apart from Subdivision B for the same period if the person had not died;
 - (g) any lump sum that would have been payable to the person under section 457 if the person had not died.

“(4) If:

- (a) a person is receiving a sheltered employment allowance; and
 - (b) the person is not a member of a couple; and
 - (c) the person dies; and
 - (d) the person:
 - (i) was qualified at the time of the person's death for payments under Subdivision B in relation to the death of a dependent child; or
 - (ii) would have been so qualified if the person had not died;
- there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:
- (e) the difference between:
 - (i) the amount of sheltered employment allowance that would have been payable to the person under section 456 if the person had not died; and
 - (ii) the amount of sheltered employment allowance that would have been payable to the person apart from Subdivision B for the same period if the person had not died;
 - (f) any lump sum that would have been payable to the person under section 457 if the person had not died.”.

Section 459:

Add at the end:

“Note: if a person qualifies for fringe benefits in accordance with this Division, the person will also qualify for pharmaceutical allowance under Part 2.22.”.

SCHEDULE 1—continued

After paragraph 462 (1) (b):

Insert:

“(ba) the person has not provided a tax file number for the person (see section 463A) or the person’s partner (see section 463B); or”.

After section 463:

Insert:

Provision of person’s tax file number

“463A. (1) A rehabilitation allowance is not payable to a person if:

- (a) the person is required under section 467A or 486A to give the Secretary a written statement of the person’s tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person’s tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the person’s declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the person of the person’s tax file number; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the person’s declaration states that an application by the person for a tax file number is pending; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the person’s tax file number; or
 - (ii) if the application is refused—that the application has been refused; or

SCHEDULE 1—continued

- (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

Provision of partner's tax file number

“463B. (1) Subject to subsection (4), a rehabilitation allowance is not payable to a person if:

- (a) the person is a member of a couple; and
- (b) the person is required under section 467B or 486B to give the Secretary a written statement of the tax file number of the person's partner; and
- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner's tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner's declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner's tax file number; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the partner's declaration states that an application by the partner for a tax file number is pending; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or

SCHEDULE 1—continued

- (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.
- “(4) The Secretary may waive the requirement for a statement of the partner’s tax file number if the Secretary is satisfied that:
- (a) the person does not know the partner’s tax file number; and
 - (b) the person can obtain none of the following from the partner:
 - (i) the partner’s tax file number;
 - (ii) a statement of the partner’s tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Section 464:

Repeal the section, substitute:

Multiple entitlement exclusion

“464. (1) A rehabilitation allowance is not payable to a person if the person is already receiving a service pension.

“(2) If:

- (a) a person is receiving a rehabilitation allowance; and
- (b) another social security pension or a social security benefit or service pension becomes payable to the person;

the rehabilitation allowance is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: ‘social security pension’ includes sheltered employment allowance and ‘social security benefit’ includes job search and newstart allowances.

Note 3: for the day on which the rehabilitation allowance ceases to be payable see section 490A.”.

After section 467:

Insert in Division 2:

Secretary may require claimant to give statement of claimant’s tax file number

“467A. The Secretary may require a claimant for a rehabilitation allowance to give the Secretary a written statement of the claimant’s tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 463A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant’s tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant’s tax file number: see subsections 463A (2) and (3).

SCHEDULE 1—continued

Secretary may require claimant to give statement of partner's tax file number

“467B. If:

- (a) a claimant for a rehabilitation allowance is a member of a couple; and
- (b) the claimant's partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 463B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 463B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 463B (4).”.

Section 480:

Repeal the section, substitute:

Payment to person

“480. A person's rehabilitation allowance is, subject to section 481, to be paid to that person.”.

Section 482:

Repeal the section, substitute:

Payment into bank account etc.

“482. (1) Subject to subsection (6), rehabilitation allowance payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the rehabilitation allowance is payable.

“(3) The account may be an account that is maintained by a person to whom the rehabilitation allowance is payable either alone or jointly or in common with another person.

“(4) Where a person to whom rehabilitation allowance is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that allowance is not to be paid.

“(5) Where:

- (a) a person is not being paid rehabilitation allowance because of subsection (4); and
- (b) the person nominates an account for the purposes of subsection (1);

the allowance (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

SCHEDULE 1—continued

“(6) The Secretary may direct that the whole or a part of an amount of rehabilitation allowance that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the rehabilitation allowance is to be payable in accordance with the direction.”.

Before section 487:

Insert in Division 7:

Secretary may require recipient to give statement of recipient's tax file number

“486A. The Secretary may require a recipient of a rehabilitation allowance to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 463A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 463A (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“486B. If:

(a) a rehabilitation allowance recipient is a member of a couple;
and

(b) the recipient's partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 463B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 463B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 463B (4).”.

Paragraph 490 (1) (c):

Insert “490A,” before “491”.

Paragraph 490 (2) (a):

Insert “492A,” before “493”.

Before section 491:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“490A. If:

(a) a person is receiving a rehabilitation allowance; and

SCHEDULE 1—continued

(b) another social security pension or a social security benefit or service pension becomes payable to the person;
the rehabilitation allowance ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.”.

Before section 493:

Insert in Subdivision C:

Automatic rate reduction—partner starting to receive pension or benefit

“492A. If:

- (a) a person is receiving a rehabilitation allowance; and
 - (b) the person’s partner starts to receive:
 - (i) a social security pension or benefit; or
 - (ii) a service pension; and
 - (c) the person’s rehabilitation allowance rate is reduced because of the partner’s receipt of that pension or benefit;
- the rehabilitation allowance becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.”.

Section 510:

Add at the end:

- “(3) If:
- (a) a person is receiving a rehabilitation allowance; and
 - (b) the person is a member of a couple; and
 - (c) the person dies; and
 - (d) the person:
 - (i) was qualified at the time of the person’s death for payments under Subdivision B in relation to the death of a dependent child; or
 - (ii) would have been so qualified if the person had not died; and
 - (e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;
- there is payable to the partner an amount equal to the sum of the following amounts:
- (f) the difference between:
 - (i) the amount of rehabilitation allowance that would have been payable to the person under section 508 if the person had not died; and
 - (ii) the amount of rehabilitation allowance that would have been payable to the person apart from Subdivision B for the same period if the person had not died;

SCHEDULE 1—continued

- (g) any lump sum that would have been payable to the person under section 509 if the person had not died.

“(4) If:

- (a) a person is receiving a rehabilitation allowance; and
- (b) the person is not a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision B in relation to the death of a dependent child; or

- (ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

(e) the difference between:

- (i) the amount of rehabilitation allowance that would have been payable to the person under section 508 if the person had not died; and

- (ii) the amount of rehabilitation allowance that would have been payable to the person apart from Subdivision B for the same period if the person had not died;

(f) any lump sum that would have been payable to the person under section 509 if the person had not died.”.

Section 511:

Add at the end:

“Note: if a person qualifies for fringe benefits in accordance with this Division, the person will also qualify for pharmaceutical allowance under Part 2.22.”.

Section 533:

Add at the end:

Claim resulting from a major disaster

“(6) If a person:

- (a) claims a disaster relief payment; and
- (b) is qualified for the payment; and
- (c) as a result of the major disaster to which the payment relates, claims job search allowance within 14 days of claiming the disaster relief payment;

the person’s provisional commencement day is the day on which he or she was affected by the disaster.”.

Before section 590:

Insert the heading:

SCHEDULE 1—continued

“Subdivision A—Death of dependent child”.

After section 592:

Insert:

“Subdivision B—Death of recipient

Death of recipient

“592A. (1) If:

- (a) a person is receiving a job search allowance; and**
- (b) the person is a member of a couple; and**
- (c) the person dies; and**
- (d) the person:**

- (i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a dependent child; or**
- (ii) would have been so qualified if the person had not died; and**

- (e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;**

there is payable to the partner an amount equal to the sum of the following amounts:

- (f) the difference between:**

- (i) the amount of job search allowance that would have been payable to the person under section 591 if the person had not died; and**
- (ii) the amount of job search allowance that would have been payable to the person apart from Subdivision A for the same period if the person had not died;**

- (g) any lump sum that would have been payable to the person under section 592 if the person had not died.**

“(2) If:

- (a) a person is receiving a job search allowance; and**
- (b) the person is not a member of a couple; and**
- (c) the person dies; and**
- (d) the person:**

- (i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a dependent child; or**

- (ii) would have been so qualified if the person had not died;**

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

- (e) the difference between:**

- (i) the amount of job search allowance that would have been**

SCHEDULE 1—continued

payable to the person under section 591 if the person had not died; and

- (ii) the amount of job search allowance that would have been payable to the person apart from Subdivision A for the same period if the person had not died;
- (f) any lump sum that would have been payable to the person under section 592 if the person had not died.”.

Before section 660M:

Insert the heading:

“Subdivision A—Death of dependent child”.

After section 660O:

Insert:

“Subdivision B—Death of recipient

Death of recipient

“660P. (1) If:

- (a) a person is receiving a newstart allowance; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a dependent child; or

- (ii) would have been so qualified if the person had not died; and

- (e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;

there is payable to the partner an amount equal to the sum of the following amounts:

- (f) the difference between:

- (i) the amount of newstart allowance that would have been payable to the person under section 660N if the person had not died; and

- (ii) the amount of newstart allowance that would have been payable to the person apart from Subdivision A for the same period if the person had not died;

- (g) any lump sum that would have been payable to the person under section 660O if the person had not died.

“(2) If:

- (a) a person is receiving a newstart allowance; and

SCHEDULE 1—continued

- (b) the person is not a member of a couple; and
 - (c) the person dies; and
 - (d) the person:
 - (i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a dependent child; or
 - (ii) would have been so qualified if the person had not died;
- there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:
- (e) the difference between:
 - (i) the amount of newstart allowance that would have been payable to the person under section 660N if the person had not died; and
 - (ii) the amount of newstart allowance that would have been payable to the person apart from Subdivision A for the same period if the person had not died;
 - (f) any lump sum that would have been payable to the person under section 660O if the person had not died.”.

After section 664:

Insert:

Sole parent pension recipients

“664A. (1) A person is qualified for an employment entry payment under this section if:

- (a) the person's income from employment rises (including the case where a person commences employment); and
- (b) immediately before the rise in the person's income from employment, the person was receiving a sole parent pension; and
- (c) because of the rise in the person's income from employment, the person's income from employment exceeds the threshold amount; and
- (d) the person's income from employment is, in the Secretary's opinion, likely to exceed the threshold amount for more than 4 weeks; and
- (e) the person has not, within the last 12 months, received a payment under this Part.

“(2) If the Secretary is satisfied that:

- (a) a person has entered an agreement under which the person is to be employed or the person's earnings are to be increased; and
- (b) on the start of that employment or increase in those earnings, the person would, but for receiving a payment under this subsection, be qualified for a payment under subsection (1);

SCHEDULE 1—continued

the following provisions have effect:

- (c) subject to paragraph (d), the person is qualified for an employment entry payment, which is payable to the person at such time as the Secretary determines;
- (d) the person is not qualified for the employment entry payment unless the Secretary is still satisfied as mentioned in paragraphs (a) and (b) at the time at which the payment is payable to the person.

“(3) The time determined under paragraph (2) (c) must not be more than 14 days before the person is to commence the employment or the person’s income from employment is to rise.

“(4) In this section:

‘threshold amount’ means the maximum amount of ordinary income that a person receiving newstart allowance could earn, derive or receive without the allowance ceasing to be payable, if the person:

- (a) was not a member of a couple; and
- (b) had one child who had not turned 13; and
- (c) was not sharing his or her dependent child add-on with any other person; and
- (d) was not receiving rent assistance; and
- (e) was not receiving maintenance income; and
- (f) was not receiving remote area allowance.

“664B. The amount of an employment entry payment under section 664A is \$100.00.”.

Subsection 665 (1):

Omit “or 663”, substitute “, 663 or 664A”.

After subsection 665 (2):

Insert:

“(3) A person is not qualified for an employment entry payment under section 664A if the claim for payment is made more than 28 days after the rise in income in respect of which the claim was made.”.

After section 668:

Insert in Subdivision A:

Liquid assets test waiting period

“668A. (1) If:

- (a) the value of a person’s liquid assets exceeds the person’s maximum reserve on:
 - (i) the day on which the person becomes incapacitated for work; or
 - (ii) the day on which the person claims sickness benefit; and

SCHEDULE 1—continued

(b) the person is not a transferee to sickness benefit;
the person is not qualified for sickness benefit for a period unless the person has served the liquid assets test waiting period in relation to the claim before the beginning of that period.

Note 1: for 'liquid assets' see section 14A.

Note 2: for 'maximum reserve' see section 14A.

Note 3: for 'transferee to sickness benefit' see subsections 23 (6) and (7).

Note 4: for serving the liquid assets test waiting period see subsection 23 (10A).

“(2) The liquid assets test waiting period in relation to the claim lasts for 4 weeks.

“(3) Subject to subsection (4), the liquid assets test waiting period in relation to the claim starts on the day on which the person becomes incapacitated for work.

“(4) If:

(a) a person becomes unemployed; and

(b) because of section 519 (job search allowance liquid assets test disqualification) or section 598 (newstart allowance liquid assets test disqualification), the person is not qualified for job search allowance or newstart allowance during the period of 4 weeks that starts on the day on which the person becomes unemployed; and

(c) within that period of 4 weeks:

(i) the person becomes incapacitated for work; and

(ii) the person claims sickness benefit;

the liquid assets test waiting period starts on the day on which the person becomes unemployed.”.

Paragraph 669 (1) (a):

Omit the paragraph, substitute:

“(a) the person has not provided a tax file number for the person (see section 670) or for the person’s partner (see section 670A); or”.

After section 670:

Insert:

Provision of partner’s tax file number

“670A. (1) Subject to subsection (4), sickness benefit is not payable to a person if:

(a) the person is a member of a couple; and

(b) the person is required under section 692A or 712A to give the Secretary a written statement of the tax file number of the person’s partner; and

SCHEDULE 1—continued

- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner's tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).
- “(2) The person satisfies this subsection if:
- (a) the partner's declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner's number; and
 - (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
 - (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.
- “(3) The person satisfies this subsection if:
- (a) the partner's declaration states that an application by the partner for a tax file number is pending; and
 - (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.
- “(4) The Secretary may waive the requirement for a statement of the partner's tax file number if the Secretary is satisfied that:
- (a) the person does not know the partner's tax file number; and
 - (b) the person can obtain none of the following from the partner:
 - (i) the partner's tax file number;
 - (ii) a statement of the partner's tax file number;

SCHEDULE 1—continued

- (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Subsection 674 (1):

Omit the subsection, substitute:

“(1) Subject to subsection (2), sickness benefit is not payable to a person who is enrolled in a full-time course of education or vocational training for the period that:

- (a) starts when the person starts the course; and
- (b) finishes when the person:
 - (i) completes the course; or
 - (ii) abandons the course; or
 - (iii) gives notice to the provider of the course that the person:
 - (A) wishes to withdraw from the course; or
 - (B) wishes to withdraw from such number of subjects that the person’s course will no longer be a full-time course; and
- (c) includes periods of vacation; and
- (d) does not include periods of deferment.”.

Paragraph 674 (2) (a):

Omit “engaged”, substitute “enrolled”.

Section 675:

Repeal the section, substitute:

Multiple entitlement exclusion

“675. (1) Sickness benefit is not payable to a person if the person is already receiving a service pension.

“(2) If:

- (a) a person is receiving sickness benefit; and
- (b) a social security pension, another social security benefit or service pension becomes payable to the person;

the sickness benefit is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: ‘social security pension’ includes sheltered employment and rehabilitation allowances and ‘social security benefit’ includes job search and newstart allowances.

Note 3: for the day on which the sickness benefit ceases to be payable see section 716A.

“(3) Sickness benefit is not payable to a woman if:

- (a) the woman is an armed services widow; and
- (b) the woman is receiving:
 - (i) a pension under Part II or IV of the Veterans’

SCHEDULE 1—continued

Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act; or

- (ii) a pension under the *Seamen's War Pensions and Allowances Act 1940* at a rate determined under subsection 18 (2) of that Act;

unless:

- (c) the woman has been receiving a payment referred to in subparagraph (b) (i) or (ii) continuously since before 1 November 1986; and
- (d) before 1 November 1986 the woman was also receiving a social security benefit.

Note: for 'armed services widow' see subsection 4 (1).

“(4) Sickness benefit is not payable to a person for a period if a payment has been or may be made in respect of the person for that period under:

- (a) a prescribed educational scheme other than the ABSTUDY Tertiary Scheme to the extent that it applies to part-time students; or
- (b) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; or
- (c) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; or
- (d) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students.

Note: for 'prescribed educational scheme' see section 5.

“(5) If:

- (a) a person starts a full-time course of education; and
- (b) a payment under a scheme referred to in subsection (4) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (4), sickness benefit is payable to the person for a period before the person starts the course.”.

Section 676:

Add at the end:

Claim resulting from a major disaster

“(3) If a person:

- (a) claims a disaster relief payment; and
- (b) is qualified for the payment; and
- (c) as a result of the major disaster to which the payment relates, claims sickness benefit within 14 days of claiming the disaster relief payment;

SCHEDULE 1—continued

the person's provisional commencement day is the day on which he or she was affected by the disaster.”.

After paragraph 683 (1) (b):

Insert:

“and (c) is not disqualified for sickness benefit under section 668A (liquid assets test);”.

After paragraph 683 (2) (b):

Insert:

“and (c) is not disqualified for sickness benefit under section 668A (liquid assets test);”.

At the end of section 683:

Add:

“(3) If a person:

- (a) is subject to an ordinary waiting period; and
- (b) is not subject to an unused annual leave waiting period; and
- (c) is disqualified for sickness benefit under section 668A (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the day after the end of the period of 4 weeks referred to in subsections 668A (2), (3) and (4).

“(4) If a person:

- (a) is subject to an ordinary waiting period; and
- (b) is subject to an unused annual leave waiting period; and
- (c) is disqualified for sickness benefit under section 668A (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the day after the end of the period of 4 weeks referred to in subsections 668A (2), (3) and (4).”.

Paragraph 684 (1) (a):

Omit “course of education of at least 6 months duration on a full-time basis”, substitute “full-time course of education of at least 6 months duration”.

Paragraph 687 (2) (b):

Insert “, otherwise than because of section 668A (liquid assets test waiting period)” after “benefit”.

After section 692:

Insert in Division 2:

SCHEDULE 1—continued

Secretary may require claimant to give statement of partner's tax file number

“692A. If:

- (a) a claimant for sickness benefit is a member of a couple; and
- (b) the claimant's partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 670A.

Note 2: under section 670 the claimant is automatically required to give a statement of the claimant's own tax file number.

Note 3: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 670A (2) and (3).

Note 4: the Secretary can waive the requirement in some cases: see subsection 670A (4).”.

Section 697:

Repeal the section.

Section 706:

Repeal the section, substitute:

Payment to person

“706. A person's sickness benefit is, subject to section 707, to be paid to that person.”.

Section 708:

Repeal the section, substitute:

Payment into bank account etc.

“708. (1) Subject to subsection (6), sickness benefit payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the sickness benefit is payable.

“(3) The account may be an account that is maintained by a person to whom the sickness benefit is payable either alone or jointly or in common with another person.

“(4) Where a person to whom sickness benefit is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that benefit is not to be paid.

“(5) Where:

- (a) a person is not being paid sickness benefit because of subsection (4); and

SCHEDULE 1—continued

- (b) the person nominates an account for the purposes of subsection (1);

the benefit (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of sickness benefit that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the sickness benefit is to be payable in accordance with the direction.”.

Before section 713:

Insert in Division 7:

Secretary may require recipient to give statement of partner's tax file number

“712A. If:

- (a) a sickness benefit recipient is a member of a couple; and
- (b) the recipient's partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 670A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 670A (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 670A (4).”.

Paragraph 716 (1) (c):

Insert “716A,” before “717”.

Paragraph 716 (2) (a):

Insert “718A or” before “719”.

Before section 717:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“716A. If:

- (a) a person is receiving sickness benefit; and
- (b) a social security pension, another social security benefit or service pension becomes payable to the person;

the sickness benefit ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.”.

SCHEDULE 1—continued

Before section 719:

Insert in Subdivision C:

Automatic rate reduction—partner starting to receive pension or benefit

“718A. If:

- (a) a person is receiving sickness benefit; and
- (b) the person’s partner starts to receive:
 - (i) a social security pension or benefit; or
 - (ii) a service pension; and
- (c) the person’s sickness benefit rate is reduced because of the partner’s receipt of that pension or benefit;

the sickness benefit becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.”.

Before section 726:

Insert the heading:

“Subdivision A—Death of dependent child”.

After section 728:

Insert:

“Subdivision B—Death of recipient

Death of recipient

“728A. (1) If:

- (a) a person is receiving a sickness benefit; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:
 - (i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a dependent child; or
 - (ii) would have been so qualified if the person had not died; and
- (e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;

there is payable to the partner an amount equal to the sum of the following amounts:

- (f) the difference between:
 - (i) the amount of sickness benefit that would have been payable to the person under section 727 if the person had not died; and

SCHEDULE 1—continued

- (ii) the amount of sickness benefit that would have been payable to the person apart from Subdivision A for the same period if the person had not died;
 - (g) any lump sum that would have been payable to the person under section 728 if the person had not died.
- “(2) If:
- (a) a person is receiving a sickness benefit; and
 - (b) the person is not a member of a couple; and
 - (c) the person dies; and
 - (d) the person:
 - (i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a dependent child; or
 - (ii) would have been so qualified if the person had not died;
- there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:
- (e) the difference between:
 - (i) the amount of sickness benefit that would have been payable to the person under section 727 if the person had not died; and
 - (ii) the amount of sickness benefit that would have been payable to the person apart from Subdivision A for the same period if the person had not died;
 - (f) any lump sum that would have been payable to the person under section 728 if the person had not died.”.

Paragraph 729 (2) (f):

Omit the paragraph, substitute:

“(f) the person is:

- (i) an Australian resident; or
- (ii) a New Zealand citizen who is exempted under section 106 of the *Migration Act 1958* from the requirement for entry permits; or
- (iii) the holder of a refugee (temporary) entry permit, under regulations made under that Act; or
- (iv) an applicant for a refugee (temporary) entry permit who has been advised by the Department of Immigration, Local Government and Ethnic Affairs that he or she has a substantial claim for the permit; or
- (v) the holder of a PRC (temporary) entry permit under those regulations; or
- (vi) an applicant for a PRC (temporary) entry permit who has been advised by the Department of Immigration,

SCHEDULE 1—continued

Local Government and Ethnic Affairs that he or she has a substantial claim for the permit; and
(fa) the person is in Australia throughout the period; and”.

Section 731:

Add at the end:

Claim resulting from a major disaster

“(3) If a person:

- (a) claims a disaster relief payment; and
- (b) is qualified for the payment; and
- (c) as a result of the major disaster to which the payment relates, claims special benefit within 14 days of claiming the disaster relief payment;

the person’s provisional commencement day is the day on which he or she was affected by the disaster.”.

After paragraph 732 (1) (a):

Insert:

“(aa) the person has not provided a tax file number for the person (see section 734A) or the person’s partner (see section 734B); or”.

After section 734:

Insert:

Provision of person’s tax file number

“734A. (1) Special benefit is not payable to a person if:

- (a) the person is required under section 742A or 758A to give the Secretary a written statement of the person’s tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person’s tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the person’s declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the person of the person’s tax file number; and
- (b) the person has given the Secretary a document by the person

SCHEDULE 1—continued

that authorities the Commissioner of Taxation to tell the Secretary:

- (i) whether the person has a tax file number; and
- (ii) if the person has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the person’s declaration states that an application by the person for a tax file number is pending; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

Provision of partner’s tax file number

“734B. (1) Subject to subsection (4), special benefit is not payable to a person if:

- (a) the person is a member of a couple; and
- (b) the person is required under section 742B or 758B to give the Secretary a written statement of the tax file number of the person’s partner; and
- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner’s tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner’s declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner’s tax file number; and

SCHEDULE 1—continued

- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the partner’s declaration states that an application by the partner for a tax file number is pending; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

“(4) The Secretary may waive the requirement for a statement of the partner’s tax file number if the Secretary is satisfied that:

- (a) the person does not know the partner’s tax file number; and
- (b) the person can obtain none of the following from the partner:
 - (i) the partner’s tax file number;
 - (ii) a statement of the partner’s tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Section 735:

Repeal the section, substitute:

Multiple entitlement exclusion

“735. (1) Special benefit is not payable to a person if the person is already receiving a service pension.

“(2) If:

- (a) a person is receiving special benefit; and
- (b) a social security pension, another social security benefit or service pension becomes payable to the person;

SCHEDULE 1—continued

the special benefit is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: 'social security pension' includes sheltered employment and rehabilitation allowances and 'social security benefit' includes job search and newstart allowances.

Note 3: for the day on which the special benefit ceases to be payable see section 762A.

“(3) Special benefit is not payable to a woman if:

(a) the woman is an armed services widow; and

(b) the woman is receiving:

(i) a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act; or

(ii) a pension under the *Seamen's War Pensions and Allowances Act 1940* at a rate determined under subsection 18 (2) of that Act;

unless:

(c) the woman has been receiving a payment referred to in subparagraph (b) (i) or (ii) continuously since before 1 November 1986; and

(d) before 1 November 1986 the woman was also receiving a social security benefit.

Note: for 'armed services widow' see subsection 4 (1).”.

Subsection 737 (1):

Omit “engaged in a course of education on a full-time basis.”, substitute “enrolled in a full-time course of education or vocational training.”.

Subsection 737 (2):

Omit the subsection, substitute:

“(2) The period for which a special benefit is not payable under subsection (1) is the period that:

(a) starts when the person starts the course; and

(b) finishes when the person:

(i) completes the course; or

(ii) abandons the course; or

(iii) gives notice to the provider of the course that the person:

(A) wishes to withdraw from the course; or

(B) wishes to withdraw from such number of subjects that the person's course will no longer be a full-time course; and

(c) includes periods of vacation; and

(d) does not include periods of deferment.”.

SCHEDULE 1—continued

Paragraph 737 (3) (a):

Omit “engaged”, substitute “enrolled”.

After section 742:

Insert in Division 2:

Secretary may require claimant to give statement of claimant’s tax file number

“742A. The Secretary may require a claimant for special benefit to give the Secretary a written statement of the claimant’s tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 734A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant’s tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant’s tax file number: see subsections 734A (2) and (3).

Secretary may require claimant to give statement of partner’s tax file number

“742B. If:

(a) a claimant for special benefit is a member of a couple; and

(b) the claimant’s partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant’s partner.

Note 1: for the consequences of a failure to comply with the requirement see section 734B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner’s tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner’s tax file number: see subsections 734B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 734B (4).”.

Section 747:

Repeal the section.

Section 752:

Repeal the section, substitute:

Payment to person

“752. A person’s special benefit is, subject to section 707, to be paid to that person.”.

Section 754:

Repeal the section, substitute:

Payment into bank account etc.

“754. (1) Subject to subsection (6), special benefit payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

SCHEDULE 1—continued

“(2) The account must be an account nominated and maintained by the person to whom the special benefit is payable.

“(3) The account may be an account that is maintained by a person to whom the special benefit is payable either alone or jointly or in common with another person.

“(4) Where a person to whom special benefit is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that benefit is not to be paid.

“(5) Where:

(a) a person is not being paid special benefit because of subsection (4); and

(b) the person nominates an account for the purposes of subsection (1);

the benefit (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of special benefit that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the special benefit is to be payable in accordance with the direction.”.

Before section 759:

Insert in Division 7:

Secretary may require recipient to give statement of recipient's tax file number

“758A. The Secretary may require a recipient of special benefit to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 734A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 734A (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“758B. If:

(a) a special benefit recipient is a member of a couple; and

(b) the recipient's partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 734B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the

SCHEDULE 1—continued

Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 734B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 734B (4).”.

After paragraph 762 (1) (c):

Insert:

“(ca) the benefit ceases to be payable under section 762A; or”.

After section 762:

Insert:

“Subdivision AA—Automatic termination

Automatic termination—transfer to new payment type

“762A. If:

- (a) a person is receiving special benefit; and
- (b) a social security pension, another social security benefit or a service pension becomes payable to the person;

the special benefit ceases to be payable to the person on the day before the day on which the other pension or benefit becomes payable to the person.”.

Before section 769:

Insert the heading:

“Subdivision A—Death of dependent child”.

After section 771:

Insert:

“Subdivision B—Death of recipient

Death of recipient

“771A. (1) If:

- (a) a person is receiving a special benefit; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a dependent child; or
- (ii) would have been so qualified if the person had not died; and

- (e) the person's partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;

SCHEDULE 1—continued

there is payable to the partner an amount equal to the sum of the following amounts:

(f) the difference between:

(i) the amount of special benefit that would have been payable to the person under section 770 if the person had not died; and

(ii) the amount of special benefit that would have been payable to the person apart from Subdivision A for the same period if the person had not died;

(g) any lump sum that would have been payable to the person under section 771 if the person had not died.

“(2) If:

(a) a person is receiving a special benefit; and

(b) the person is not a member of a couple; and

(c) the person dies; and

(d) the person:

(i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a dependent child; or

(ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

(e) the difference between:

(i) the amount of special benefit that would have been payable to the person under section 770 if the person had not died; and

(ii) the amount of special benefit that would have been payable to the person apart from Subdivision A for the same period if the person had not died;

(f) any lump sum that would have been payable to the person under section 771 if the person had not died.”.

Section 787:

Repeal the section, substitute:

Multiple entitlement exclusion

“787. (1) A special needs pension is not payable to a person if the person is already receiving a service pension.

“(2) If:

(a) a person is receiving a special needs pension; and

(b) another social security pension or a social security benefit or service pension becomes payable to the person;

SCHEDULE 1—continued

the special needs pension is not payable to the person.

Note 1: another payment type will generally not become payable to the person until the person claims it.

Note 2: 'social security pension' includes sheltered employment and rehabilitation allowances and 'social security benefit' includes job search and newstart allowances.

Note 3: for the day on which the special needs pension ceases to be payable see section 811A.

“(3) A special needs pension is not payable to a woman if:

(a) the woman is an armed services widow; and

(b) the woman is receiving:

(i) a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act; or

(ii) a pension under the *Seamen's War Pensions and Allowances Act 1940* at a rate determined under subsection 18 (2) of that Act.

Note: for 'armed services widow' see subsection 4 (1).”.

Section 801:

Repeal the section, substitute:

Payment to person

“801. A person's special needs pension is, subject to section 802, to be paid to that person.”.

Section 803:

Repeal the section, substitute:

Payment into bank account etc.

“803. (1) Subject to subsection (6), special needs pension payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the special needs pension is payable.

“(3) The account may be an account that is maintained by a person to whom the special needs pension is payable either alone or jointly or in common with another person.

“(4) Where a person to whom special needs pension is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that pension is not to be paid.

“(5) Where:

(a) a person is not being paid special needs pension because of subsection (4); and

SCHEDULE 1—continued

(b) the person nominates an account for the purposes of subsection (1);
the pension (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of special needs pension that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the special needs pension is to be payable in accordance with the direction.”.

Paragraphs 811 (1) (c) and (d):

Insert “811A,” before “812” (wherever occurring).

Before section 812:

Insert in Subdivision B:

Automatic termination—transfer to new payment type

“811A. If:

(a) a person is receiving a special needs pension; and
(b) another special needs pension becomes payable to the person;
the special needs pension ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.”.

Section 830:

Add at the end:

“(3) If:

(a) a person is receiving a special needs pension; and
(b) the person is a member of a couple; and
(c) the person dies; and
(d) the person:
 (i) was qualified at the time of the person’s death for payments under Subdivision B in relation to the death of a dependent child; or
 (ii) would have been so qualified if the person had not died; and
(e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;
there is payable to the partner an amount equal to the difference between:
(f) the amount of special needs pension that would have been

SCHEDULE 1—continued

payable to the person under section 829 if the person had not died; and

- (g) the amount of special needs pension that would have been payable to the person apart from Subdivision B for the same period if the person had not died.

“(4) If:

- (a) a person is receiving a special needs pension; and
- (b) the person is not a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person’s death for payments under Subdivision B in relation to the death of a dependent child; or

- (ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the difference between:

- (e) the amount of special needs pension that would have been payable to the person under section 829 if the person had not died; and
- (f) the amount of special needs pension that would have been payable to the person apart from Subdivision B for the same period if the person had not died.”.

Section 832:

Add at the end:

“(2) For the purposes of this section, a prescribed student child does not include a young person qualified to receive payments under the Assistance for Isolated Children Scheme.

Note: for ‘prescribed student child’ see subsection 5 (11).”.

Subsection 833 (3):

Omit the subsection, substitute:

“(3) A dependent child who has turned 18 may be a family allowance child of a person if the person is receiving a social security or service pension or a social security benefit.”.

Subsection 833 (4):

Add at the end:

“and (d) is not precluded by paragraph 895 (1) (d) from receiving family allowance supplement;”.

Section 835:

Repeal the section, substitute:

SCHEDULE 1—continued

FA child—residence requirements

“835. A dependent child cannot be a family allowance child unless:

- (a) the child is an inhabitant of Australia; or
- (b) the child is a dependent child of an inhabitant of Australia and is living with that inhabitant.

Note: for ‘inhabitant of Australia’ see subsection 23 (1).”.

Section 836

Repeal the section, substitute:

“836. (1) If a dependent child of a person:

(a) either:

- (i) leaves Australia; or
- (ii) is born outside Australia; and

(b) continues to be absent from Australia for more than 3 years;

the child cannot be a family allowance child of the person at any time after the first 3 years of absence while the child remains absent from Australia.

“(2) If:

- (a) a dependent child who has been absent from Australia for less than 3 years comes to Australia; and
- (b) the child leaves Australia less than 3 months later;

for the purposes of subsection (1), the child is taken not to have come to Australia.

“(3) If:

- (a) a dependent child of a person is not a family allowance child because of subsection (1) or this subsection; and
- (b) the child comes to Australia; and

(c) the child leaves Australia less than 3 months later;

the child cannot be a family allowance child of the person when the child leaves Australia as mentioned in paragraph (c).”.

Paragraph 838 (b):

Omit the paragraph, substitute:

- “(b) the person is an inhabitant of Australia; and
- (c) the person satisfies the FA taxable income test.”.

Section 838 (Note):

Omit the Note, substitute:

“Note 1: for ‘inhabitant of Australia’ see subsection 23 (1).

Note 2: for the FA taxable income test see section 840A.”.

SCHEDULE 1—continued

Section 839:

Add at the end:

“(5) For the purposes of subsection (3), a prescribed student child does not include a young person qualified to receive payments under the Assistance for Isolated Children Scheme.

Note: for ‘prescribed student child’ see subsection 5 (11).”.

Section 840:

Repeal the section, substitute:

“840. (1) If a person:

(a) leaves Australia; and

(b) continues to be absent from Australia for more than 3 years;
the person is not qualified for family allowance at any time after the first 3 years of the absence while the person remains absent from Australia.

“(2) If:

(a) a person who has been absent from Australia for less than 3 years returns to Australia; and

(b) the person leaves Australia again within 3 months after returning to Australia;

for the purposes of subsection (1), the person is taken not to have returned to Australia.

“(3) If:

(a) a person who has been absent from Australia is not qualified for family allowance because of the application of subsection (1), or a previous application of this subsection, in relation to the person’s absence; and

(b) the person returns to Australia; and

(c) within 3 months after so returning, the person leaves Australia again;

the person is not qualified for family allowance at any time during the person’s absence from Australia that started when the person so left Australia.”.

After section 840:

Insert in Subdivision A:

FA taxable income test

General

“840A. (1) A person satisfies the FA taxable income test if:

(a) the person’s taxable income for the appropriate tax year is less than or equal to the person’s taxable income free area; or

SCHEDULE 1—continued

(b) the person has an exempt FA child.

Note: for 'exempt FA child' see subsection 5 (1).

Appropriate tax year

“(2) Subject to subsections (4), (5) and (6), the appropriate tax year for a family payment payday is the base tax year for that payday.

Base tax year

“(3) The base tax year for a family payment payday is the tax year that ended on 30 June in the calendar year that came immediately before the calendar year in which the payday occurs.

Example: a family payment payday occurs on 25 January 1990—this day occurs in the calendar year 1 January 1990 to 31 December 1990—the calendar year that came immediately before this one is the calendar year 1 January 1989 to 31 December 1989—the base tax year is the tax year that ended on 30 June 1989 (i.e. the year of income that commenced on 1 July 1988).

Change to appropriate tax year because of assumed notifiable event

“(4) If:

- (a) an assumed notifiable event in relation to the person occurs after the end of the base tax year and before the beginning of the FA period; and
- (b) the person's taxable income for the tax year in which the assumed notifiable event occurs:

- (i) exceeds 125% of the person's taxable income for the base tax year; and

- (ii) exceeds the person's taxable income free area limit;

the appropriate tax year, for the purposes of applying this section to the person from the beginning of the FA period, is the tax year in which the assumed notifiable event occurs.

Note: for 'assumed notifiable event' see section 840B.

Change to appropriate tax year because of notifiable event

“(5) If:

- (a) a notifiable event occurs in relation to a person; and
- (b) the person's taxable income for the tax year in which the notifiable event occurs:

- (i) exceeds 125% of the person's taxable income for the base tax year; and

- (ii) exceeds the person's taxable income free area limit;

the appropriate tax year, for the purposes of applying this section to the person for a family payment payday that occurs after the notifiable event, is the tax year in which the notifiable event occurs.

Note: for 'notifiable event' see section 840C.

SCHEDULE 1—continued

Change to appropriate tax year at recipient's request

“(6) If:

- (a) a person requests the Secretary to make a determination under section 840D; and
- (b) as a result, the Secretary determines under that section that the appropriate tax year, for the purposes of applying this section to the person for a family payment payday after the day on which the request is made, is the tax year in which the person makes the request;

the appropriate tax year, for those purposes, is the tax year in which the person makes the request.

Person's taxable income for base year—member of a couple

“(7) If a person is a member of a couple, the person's taxable income for a tax year is to be taken to include the taxable income of the person's partner for that year.

Taxable income free area limit

“(8) A person's taxable income free area for family allowance is worked out using the following Table: the taxable income free area is the amount in column 1 plus an additional amount in column 2 for each FA child (after the first).

TAXABLE INCOME FREE AREA TABLE	
column 1 basic free area	column 2 additional free area for each FA child (after the first)
\$62,057	\$3,104

Note: these amounts are indexed annually in line with CPI increases (see sections 1191 to 1194).

Secretary may determine that an event is an FA assumed notifiable event

“840B. The Secretary may determine that an event that is specified in some or all of the notices given under subsection 873 (1) is to be an FA assumed notifiable event for the purposes of subsection 840A (4).

Secretary may specify in a subsection 873 (1) notice that an event is an FA notifiable event

“840C. If the Secretary gives a person a notice under subsection 873 (1) relating to the payment of family allowance to the person, the Secretary may specify in the notice that an event described in the notice is a notifiable event for the purposes of subsection 840A (5).

SCHEDULE 1—continued

FA recipient may ask Secretary to change appropriate tax year

“840D. (1) If:

- (a) family allowance is not payable to a person under section 840A (FA taxable income test); and
- (b) the person asks the Secretary to make a determination under this section; and
- (c) the person’s taxable income for the tax year in which the request is made is likely to be 75% or less than 75% of the person’s taxable income for the tax year that is the appropriate tax year immediately before the request is made;

the Secretary must determine that the appropriate tax year, for the purposes of applying that section to the person for a payday after the day on which the request is made, is the tax year in which the request is made.

“(2) A request under paragraph (1) (b) must be made in writing, in accordance with a form approved by the Secretary.”.

After paragraph 841 (1) (a):

Insert:

“(aa) the person has not provided a tax file number for the person (see section 846A) or the person’s partner (see section 846B); or”.

Section 842:

Omit “and 845”, substitute “, 845, 845A and 845B”.

After subsection 843 (2):

Insert:

Early claim

“(3) If:

- (a) a person lodges a claim for family allowance; and
- (b) the person is not, on the day on which the claim is lodged, qualified for family allowance; and
- (c) the person becomes qualified for family allowance during the period of 3 months that starts immediately after the day on which the claim is lodged;

the person’s provisional commencement day is the first day on which the person is qualified for family allowance.”.

After section 845:

Insert:

Backdating—child disability allowance payable

“845A. If:

- (a) a person is qualified for family allowance; and

SCHEDULE 1—continued

- (b) the person claims family allowance; and
- (c) a family allowance child of the person is also a CDA child of the person (see sections 952 and 953); and
- (d) child disability allowance is payable to the person for the child from a day determined in accordance with section 959 (backdating CDA—claim within 12 months of becoming qualified) or section 960 (backdating CDA—claim after 12 months of becoming qualified);

family allowance can become payable before the family allowance provisional commencement day but cannot become payable before:

- (e) if the person's family allowance provisional commencement day is within 12 months after the day on which the person became qualified for family allowance—the first day in the period on which the person is qualified for family allowance; or
- (f) if the person's family allowance provisional commencement day is more than 12 months after the person became qualified for family allowance—the day occurring 12 months before the person's family allowance provisional commencement day.

Note 1: for 'provisional commencement day' see section 843.

Note 2: the family allowance will not necessarily be backdated to the day referred to in paragraph (e) or (f)—some other factor may make the allowance not payable at that time.

Backdating—death of former recipient

“845B. If:

- (a) a person who is receiving family allowance for a family allowance child dies; and
- (b) another person makes a claim for family allowance for the child within 3 months after the death;

family allowance can become payable to the second person before the provisional commencement day but can not become payable to that person before the day of the death.”.

After section 846:

Insert in Division 2:

Provision of person's tax file number

“846A. (1) Family allowance is not payable to a person if:

- (a) the person is required under section 850A or 872A to give the Secretary a written statement of the person's tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person's tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form

SCHEDULE 1—continued

approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

(a) the person’s declaration states that the person:

- (i) has a tax file number but does not know what it is; and
- (ii) has asked the Commissioner of Taxation to inform the person of the person’s tax file number; and

(b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:

- (i) whether the person has a tax file number; and
- (ii) if the person has a tax file number—the tax file number; and

(c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

“(3) The person satisfies this subsection if:

(a) the person’s declaration states that an application by the person for a tax file number is pending; and

(b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:

- (i) if a tax file number is issued to the person—the tax file number; or
- (ii) if the application is refused—that the application has been refused; or
- (iii) if the application is withdrawn—that the application has been withdrawn; and

(c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and

(d) the application for a tax file number has not been withdrawn.

Provision of partner’s tax file number

“846B. (1) Subject to subsection (4), family allowance is not payable to a person if:

(a) the person is a member of a couple; and

(b) the person is required under section 850B or 872B to give the Secretary a written statement of the tax file number of the person’s partner; and

(c) at the end of the period of 28 days after the requirement is made the person has neither:

SCHEDULE 1—continued

- (i) given the Secretary a written statement of the partner's tax file number; nor
- (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner's declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner's tax file number; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the partner's declaration states that an application by the partner for a tax file number is pending; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

“(4) The Secretary may waive the requirement for a statement of the partner's tax file number if the Secretary is satisfied that:

- (a) the person does not know the partner's tax file number; and
- (b) the person can obtain none of the following from the partner:
 - (i) the partner's tax file number;
 - (ii) a statement of the partner's tax file number;

SCHEDULE 1—continued

- (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Subsection 847 (3):

Insert “, subject to subsection 843 (3),” after “the claim is” (last occurring).

Section 850:

Repeal the section, substitute:

Claimant must be inhabitant of Australia

“850. A claim by a person is not a proper claim unless the person is an inhabitant of Australia on the day on which the claim is lodged.

Note: for ‘inhabitant of Australia’ see subsection 23 (1).”.

After section 850:

Insert in Division 3:

Secretary may require claimant to give statement of claimant’s tax file number

“850A. The Secretary may require a claimant for family allowance to give the Secretary a written statement of the claimant’s tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 846A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant’s tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant’s tax file number: see subsections 846A (2) and (3).

Secretary may require claimant to give statement of partner’s tax file number

“850B. If:

- (a) a claimant for family allowance is a member of a couple; and
- (b) the claimant’s partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant’s partner.

Note 1: for the consequences of a failure to comply with the requirement see section 846B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner’s tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner’s tax file number: see subsections 846B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 846B (4).”.

Section 854:

Omit all the words after “that calendar year”, substitute “if the person notifies the Department or an officer that a notifiable event has occurred in relation to the person.”.

SCHEDULE 1—continued

Sections 857, 858 and 859:

Repeal the sections.

Section 863:

Repeal the section, substitute:

Payment to person

“863. A person’s or approved care organisation’s family allowance is, subject to section 864, to be paid to that person or organisation.”.

Section 865:

Repeal the section, substitute:

Payment into bank account etc.

“865. (1) Subject to subsection (6), family allowance payable to a person or approved care organisation is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person or organisation to whom the family allowance is payable.

“(3) The account may be an account that is maintained by a person to whom the family allowance is payable either alone or jointly or in common with another person.

“(4) Where a person or organisation to whom family allowance is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that allowance is not to be paid.

“(5) Where:

(a) a person or organisation is not being paid family allowance because of subsection (4); and

(b) the person or organisation nominates an account for the purposes of subsection (1);

the allowance (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of family allowance that is payable to a person or organisation may be paid to the person or organisation in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the family allowance is to be payable in accordance with the direction.”.

Section 872:

Insert “education,” after “maintenance,”.

SCHEDULE 1—continued

After section 872:

Insert:

Secretary may require recipient to give statement of recipient's tax file number

“872A. The Secretary may require a recipient of family allowance to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 846A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 846A (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“872B. If:

- (a) a family allowance recipient is a member of a couple; and
- (b) the recipient's partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 846B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 846B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 846B (4).”.

Before section 886:

Insert the heading:

“Subdivision A—Death of dependent child”.

After section 890:

Insert:

“Subdivision B—Death of recipient

Death of recipient

“890A. (1) If:

- (a) the person is receiving family allowance; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person's death for

SCHEDULE 1—continued

payments under Subdivision A in relation to the death of a dependent child; or

- (ii) would have been so qualified if the person had not died; and

- (e) the person's partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;

there is payable to the partner an amount equal to the sum of the following amounts:

- (f) the difference between:

- (i) the amount of family allowance that would have been payable to the person under section 888 if the person had not died; and

- (ii) the amount of family allowance that would have been payable to the person apart from Subdivision A for the same period if the person had not died;

- (g) any lump sum that would have been payable to the person under section 889 if the person had not died;

- (h) any lump sum that would have been payable to the person under section 890 if the person had not died.

“(2) If:

- (a) a person is receiving family allowance; and

- (b) the person is not a member of a couple; and

- (c) the person dies; and

- (d) the person:

- (i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a dependent child; or

- (ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

- (e) the difference between:

- (i) the amount of family allowance that would have been payable to the person under section 888 if the person had not died; and

- (ii) the amount of family allowance that would have been payable to the person apart from Subdivision A for the same period if the person had not died;

- (f) any lump sum that would have been payable to the person under section 889 if the person had not died;

- (g) any lump sum that would have been payable to the person under section 890 if the person had not died.”.

SCHEDULE 1—continued

After paragraph 896 (1) (a):

Insert:

“(aa) the person has not provided a tax file number for the person (see section 900B) or the person’s partner (see section 900C); or”.

Subsection 898 (1):

Omit “and 900”, substitute “, 900, 900A and 900B”.

After subsection 898 (2):

Insert:

Early claim

“(3) If:

- (a) a person lodges a claim for family allowance supplement; and
- (b) the person is not, on the day on which the claim is lodged, qualified for family allowance supplement; and
- (c) the person becomes qualified for family allowance supplement during the period of 3 months that starts immediately after the day on which the claim is lodged;

the person’s provisional commencement day is the first day on which the person is qualified for family allowance supplement.”.

After section 900:

Insert:

Backdating—child disability allowance payable

“900A. If:

- (a) a person is qualified for family allowance supplement; and
- (b) the person claims family allowance supplement; and
- (c) a family allowance supplement child of the person is also a CDA child of the person (see sections 952 and 953); and
- (d) child disability allowance is payable to the person for the child from a day determined in accordance with section 959 (backdating CDA—claim within 12 months of becoming qualified) or section 960 (backdating—claim after 12 months of becoming qualified);

family allowance supplement can become payable before the family allowance supplement provisional commencement day but cannot become payable before:

- (e) if the person’s family allowance supplement provisional commencement day is within 12 months after the day on which the person became qualified for family allowance supplement—

SCHEDULE 1—continued

the first day in the period on which the person is qualified for family allowance supplement; or

- (f) if the person's family allowance supplement provisional commencement day is more than 12 months after the person became qualified for family allowance supplement—the day occurring 12 months before the person's family allowance supplement provisional commencement day.

Note 1: for 'provisional commencement day' see section 898.

Note 2: the family allowance supplement will not necessarily be backdated to the day referred to in paragraph (e) or (f)—some other factor may make the supplement not payable at that time.

Backdating—death of former recipient

“900B. If:

- (a) a person who is receiving family allowance supplement for a family allowance supplement child dies; and
- (b) another person makes a claim for family allowance supplement for the child within 3 months after the death;

the person's provisional commencement day is the day of the death.”.

Provision of person's tax file number

“900C. (1) Family allowance supplement is not payable to a person if:

- (a) the person is required under section 906A or 929A to give the Secretary a written statement of the person's tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person's tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the person's declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the person of the person's tax file number; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and

SCHEDULE 1—continued

- (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.
- “(3) The person satisfies this subsection if:
 - (a) the person’s declaration states that an application by the person for a tax file number is pending; and
 - (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

Provision of partner’s tax file number

“900D. (1) Subject to subsection (4), family allowance supplement is not payable to a person if:

- (a) the person is a member of a couple; and
- (b) the person is required under section 906B or 929B to give the Secretary a written statement of the tax file number of the person’s partner; and
- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner’s tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

- “(2) The person satisfies this subsection if:
 - (a) the partner’s declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner’s tax file number; and
 - (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and

SCHEDULE 1—continued

- (ii) if the partner has a tax file number—the tax file number;
and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the partner’s declaration states that an application by the partner for a tax file number is pending; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

“(4) The Secretary may waive the requirement for a statement of the partner’s tax file number if the Secretary is satisfied that:

- (a) the person does not know the partner’s tax file number; and
- (b) the person can obtain none of the following from the partner:
 - (i) the partner’s tax file number;
 - (ii) a statement of the partner’s tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

Subsection 902 (2):

Insert “, subject to subsection 898 (3),” after “the claim is” (last occurring).

Section 905:

Repeal the section, substitute:

Claimant must be inhabitant of Australia and in Australia

“905. A claim by a person is not a proper claim unless the person is:

- (a) an inhabitant of Australia; and
- (b) in Australia;

on the day on which the claim is lodged.

SCHEDULE 1—continued

Note: for 'inhabitant of Australia' see subsection 23 (1)."

After section 906:

Insert in Division 3:

Secretary may require a claimant to give statement of claimant's tax file number

"906A. The Secretary may require a claimant for family allowance supplement to give the Secretary a written statement of the claimant's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 900B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant's tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant's tax file number: see subsections 900B (2) and (3).

Secretary may require claimant to give statement of partner's tax file number

"906B. If:

- (a) a claimant for family allowance supplement is a member of a couple; and
- (b) the claimant's partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 900C.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 900C (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 900C (4)."

Section 922:

Repeal the section, substitute:

Manner of payment

"922. A person's family allowance supplement is, subject to section 923, to be paid to that person."

Section 924:

Repeal the section, substitute:

Payment into bank account etc.

"924. (1) Subject to subsection (6), family allowance supplement payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

SCHEDULE 1—continued

“(2) The account must be an account nominated and maintained by the person to whom the family allowance supplement is payable.

“(3) The account may be an account that is maintained by a person to whom the family allowance supplement is payable alone or jointly or in common with another person.

“(4) Where a person to whom family allowance supplement is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that allowance is not to be paid.

“(5) Where:

- (a) a person is not being paid family allowance supplement because of subsection (4); and
- (b) the person nominates an account for the purposes of subsection (1);

the allowance (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of family allowance supplement that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the family allowance supplement is to be payable in accordance with the direction.”.

Before section 930:

Insert in Division 8:

Secretary may require recipient to give statement of recipient's tax file number

“929A. The Secretary may require a recipient of family allowance supplement to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 900B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 900B (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“929B. If:

- (a) a family allowance supplement recipient is a member of a couple; and
- (b) the recipient's partner is in Australia;

SCHEDULE 1—continued

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 900C.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 900C (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 900C (4)."

Paragraph 933 (1) (c):

Insert "933A," before "934".

Before section 934:

Insert in Subdivision B:

Automatic termination—receipt of social security pension or benefit

"933A. If:

- (a) a person is receiving family allowance supplement; and
- (b) the person or the person's partner starts to receive a social security pension or benefit;

the family allowance supplement ceases to be payable to the person immediately before the day on which the person or the partner starts to receive the social security pension or benefit.

Note: paragraph 895 (1) (b) provides that a person is not qualified for family allowance supplement if either the person or the person's partner is receiving a social security pension or benefit."

Before section 948:

Insert the heading:

"Subdivision A—Death of dependent child".

After section 951:

Insert:

"Subdivision B—Death of recipient

Death of recipient

"951A. (1) If:

- (a) a person is receiving family allowance supplement; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:

- (i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a dependent child; or

SCHEDULE 1—continued

- (ii) would have been so qualified if the person had not died; and
- (e) the person's partner claims the payments referred to in paragraph (d) within 3 months after the death of the child; there is payable to the partner an amount equal to the sum of the following amounts:
 - (f) the difference between:
 - (i) the amount of family allowance supplement that would have been payable to the person under section 950 if the person had not died; and
 - (ii) the amount of family allowance supplement that would have been payable to the person apart from Subdivision A for the same period if the person had not died;
 - (g) any lump sum that would have been payable to the person under section 951 if the person had not died.

“(2) If:

- (a) a person is receiving family allowance supplement; and
 - (b) the person is not a member of a couple; and
 - (c) the person dies; and
 - (d) the person:
 - (i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a dependent child; or
 - (ii) would have been so qualified if the person had not died;
- there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

- (e) the difference between:
 - (i) the amount of family allowance supplement that would have been payable to the person under section 950 if the person had not died; and
 - (ii) the amount of family allowance supplement that would have been payable to the person apart from Subdivision A for the same period if the person had not died;
- (f) any lump sum that would have been payable to the person under section 951 if the person had not died.”.

Subparagraph 953 (b) (iii):

Omit the subparagraph, substitute:

“(iii) section 840A (taxable income test); or”.

Section 971:

Repeal the section, substitute:

SCHEDULE 1—continued

Payment to person

“971. A person’s child disability allowance is, subject to section 972, to be paid to that person.”.

Section 973:

Repeal the section, substitute:

Payment into bank account etc.

“973. (1) Subject to subsection (6), child disability allowance payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the child disability allowance is payable.

“(3) The account may be an account that is maintained by a person to whom the child disability allowance is payable either alone or jointly or in common with another person.

“(4) Where a person to whom child disability allowance is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that allowance is not to be paid.

“(5) Where:

- (a) a person is not being paid child disability allowance because of subsection (4); and
- (b) the person nominates an account for the purposes of subsection (1);

the allowance (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of child disability allowance that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the child disability allowance is to be payable in accordance with the direction.”.

Before section 991:

Insert the heading:

“Subdivision A—Death of CDA child”.

After section 992:

Insert:

SCHEDULE 1—continued

“Subdivision B—Death of recipient

Death of recipient

“992A. (1) If:

- (a) a person is receiving a child disability allowance; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:
 - (i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a CDA child; or
 - (ii) would have been so qualified if the person had not died; and
- (e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;

there is payable to the partner an amount equal to the sum of the following amounts:

- (f) the amount of child disability allowance that would have been payable to the person under subsection 991 (2) if the person had not died;
- (g) any lump sum that that would have been payable to the person under section 992 if the person had not died;

“(2) If:

- (a) a person is receiving a child disability allowance; and
- (b) the person is not a member of a couple; and
- (c) the person dies; and
- (d) the person:
 - (i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a CDA child; or
 - (ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

- (e) the amount of child disability allowance that would have been payable to the person under subsection 991 (2) if the person had not died;
- (f) any lump sum that would have been payable to the person under section 992 if the person had not died.”.

Subparagraph 999 (1) (a) (iii):

Omit the subparagraph, substitute:

“(iii) section 840A (taxable income test); and”.

SCHEDULE 1—continued

Section 1014:

Repeal the section, substitute:

Payment to person

“1014. A person’s double orphan pension is, subject to section 1015, to be paid to that person.”.

Section 1016:

Repeal the section, substitute:

Payment into bank account etc.

“1016. (1) Subject to subsection (6), double orphan pension payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the double orphan pension is payable.

“(3) The account may be an account that is maintained by a person to whom the double orphan pension is payable either alone or jointly or in common with another person.

“(4) Where a person to whom double orphan pension is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that pension is not to be paid.

“(5) Where:

(a) a person is not being paid double orphan pension because of subsection (4); and

(b) the person nominates an account for the purposes of subsection (1);

the pension (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of double orphan pension that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the double orphan pension is to be payable in accordance with the direction.”.

Before section 1033:

Insert the heading:

SCHEDULE 1—continued

“Subdivision A—Death of DOP child”.

After section 1034:

Insert:

“Subdivision B—Death of recipient

Death of recipient

“1034A. (1) If:

- (a) a person is receiving a double orphan pension; and**
- (b) the person is a member of a couple; and**
- (c) the person dies; and**
- (d) the person:**

(i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a DOP child; or

(ii) would have been so qualified if the person had not died; and

- (e) the person’s partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;**

there is payable to the partner an amount equal to the sum of the following amounts:

- (f) the amount of double orphan pension that would have been payable to the person under section 1033 if the person had not died;**
- (g) any lump sum that would have been payable to the person under section 1034 if the person had not died.**

“(2) If:

- (a) a person is receiving a double orphan pension; and**
- (b) the person is not a member of a couple; and**
- (c) the person dies; and**
- (d) the person:**

(i) was qualified at the time of the person’s death for payments under Subdivision A in relation to the death of a DOP child; or

(ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

- (e) the amount of double orphan pension that would have been payable to the person under section 1033 if the person had not died; and**
- (f) any lump sum that would have been payable to the person under section 1034 if the person had not died.”.**

SCHEDULE 1—continued

After paragraph 1036 (a):

Insert:

“(aa) the person has not provided a tax file number for the person (see section 1039A) or the person’s partner (see section 1039B); or”.

After section 1039:

Insert:

Provision of person’s tax file number

“1039A. (1) Mobility allowance is not payable to a person if:

- (a) the person is required under section 1042A or 1053A to give the Secretary a written statement of the person’s tax file number; and
- (b) at the end of the period of 28 days after the requirement is made, the person has neither:
 - (i) given the Secretary a written statement of the person’s tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the person’s declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the person of the person’s tax file number; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the person’s declaration states that an application by the person for a tax file number is pending; and
- (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—the tax file number; or

SCHEDULE 1—continued

- (ii) if the application is refused—that the application has been refused; or
- (iii) if the application is withdrawn—that the application has been withdrawn; and
- (c) the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

Provision of partner's tax file number

“1039B. (1) Subject to subsection (4), mobility allowance is not payable to a person if:

- (a) the person is a member of a couple; and
- (b) the person is required under section 1042B or 1053B to give the Secretary a written statement of the tax file number of the person's partner; and
- (c) at the end of the period of 28 days after the requirement is made the person has neither:
 - (i) given the Secretary a written statement of the partner's tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

- (a) the partner's declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner's tax file number; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

- (a) the partner's declaration states that an application by the partner for a tax file number is pending; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:

SCHEDULE 1—continued

- (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.
- “(4) The Secretary may waive the requirement for a statement of the partner’s tax file number if the Secretary is satisfied that:
- (a) the person does not know the partner’s tax file number; and
 - (b) the person can obtain none of the following from the partner:
 - (i) the partner’s tax file number;
 - (ii) a statement of the partner’s tax file number;
 - (iii) a declaration by the partner under subparagraph (1) (c) (ii).”.

After section 1042:

Insert in Division 2:

Secretary may require claimant to give statement of claimant’s tax file number

“1042A. The Secretary may require a claimant for mobility allowance to give the Secretary a written statement of the claimant’s tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 1039A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the claimant about the claimant’s tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant’s tax file number: see subsections 1039A (2) and (3).

Secretary may require claimant to give statement of partner’s tax file number

“1042B. If:

- (a) a claimant for mobility allowance is a member of a couple; and
- (b) the claimant’s partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant’s partner.

Note 1: for the consequences of a failure to comply with the requirement see section 1039B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner’s tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner’s tax file number: see subsections 1039B (2) and (3).

SCHEDULE 1—continued

Note 3: the Secretary can waive the requirement in some cases: see subsection 1039B (4).”.

Section 1048:

Repeal the section, substitute:

Payment to person

“1048. A person’s mobility allowance is, subject to section 1049, to be paid to that person.”.

Section 1050:

Repeal the section, substitute:

Payment into bank account etc.

“1050. (1) Subject to subsection (6), mobility allowance payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the mobility allowance is payable.

“(3) The account may be an account that is maintained by a person to whom the mobility allowance is payable either alone or jointly or in common with another person.

“(4) Where a person to whom mobility allowance is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that allowance is not to be paid.

“(5) Where:

(a) a person is not being paid mobility allowance because of subsection (4); and

(b) the person nominates an account for the purposes of subsection (1);

the allowance (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of mobility allowance that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the mobility allowance is to be payable in accordance with the direction.”.

Before section 1054:

Insert in Division 7:

SCHEDULE 1—continued

Secretary may require recipient to give statement of recipient's tax file number

“1053A. The Secretary may require a recipient of mobility allowance to give the Secretary a written statement of the recipient's tax file number.

Note 1: for the consequences of a failure to comply with the requirement see section 1039A.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number: see subsections 1039A (2) and (3).

Secretary may require recipient to give statement of partner's tax file number

“1053B. If:

- (a) a mobility allowance recipient is a member of a couple; and
- (b) the recipient's partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.

Note 1: for the consequences of a failure to comply with the requirement see section 1039B.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number: see subsections 1039B (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 1039B (4).”.

After Part 2.21:

Insert in Chapter 2:

“PART 2.22—PHARMACEUTICAL ALLOWANCE

“Division 1—Qualification for and payability of pharmaceutical allowance

Qualification for pharmaceutical allowance

“1061A. (1) A person is qualified for a pharmaceutical allowance if the person is receiving:

- (a) a social security pension; or
- (b) job search allowance; or
- (c) sickness benefit.

“(2) A person is qualified for a pharmaceutical allowance if the person:

- (a) is receiving unemployment benefit or special benefit; and
- (b) has turned 60; and
- (c) has been receiving:
 - (i) a social security pension or benefit; or

SCHEDULE 1—continued

- (ii) a service pension;
continuously for at least 6 months.

Pharmaceutical allowance not payable in some circumstances

“1061B. (1) Even though a person is qualified for a pharmaceutical allowance, the allowance is not payable to the person if on that payday:

- (a) the person is not an Australian resident; or
- (b) the person is absent from Australia; or
- (c) the person is an advance pensioner A and:
 - (i) the person has received at least one advance pharmaceutical supplement under section 151G of the 1947 Act or subsection 1061F (1) of this Act; and
 - (ii) the person’s advance payment period has not ended; or
- (d) the person is an advance pensioner B and:
 - (i) the person has received at least one advance pharmaceutical supplement under section 151H of the 1947 Act or subsection 1061F (2), (3), (4) or (5) of this Act; and
 - (ii) the person’s advance payment period has not ended.

“(2) For the purposes of subsection (1), a person’s **advance payment period** is the period that:

- (a) starts on 20 March 1991; and
- (b) lasts for the number of fortnights worked out using the following Table:

ADVANCE PAYMENT PERIOD TABLE		
column 1 item	column 2 person’s family situation	column 3 duration of advance payment period
1.	Not member of a couple	<u>advance pharmaceutical supplement</u> 5
2.	Partnered (partner getting neither pension nor benefit)	<u>advance pharmaceutical supplement</u> 5
3.	Partnered (partner getting pension or benefit)	<u>advance pharmaceutical supplement</u> 2.5
4.	Member of illness separated or respite care couple	<u>advance pharmaceutical supplement</u> 5

SCHEDULE 1—continued

“(3) In the Advance Payment Period Table in subsection (2), ‘advance pharmaceutical supplement’ means the number of dollars received by the person by way of advance pharmaceutical supplement.

“Division 2—Rate of pharmaceutical allowance

Rate of pharmaceutical allowance

“1061C. The rate of pharmaceutical allowance is worked out using the following Table:

PHARMACEUTICAL ALLOWANCE RATE TABLE		
column 1 item	column 2 person's family situation	column 3 rate per fortnight
1.	Not member of a couple	\$5.00
2.	Partnered (partner getting neither pension nor benefit)	\$5.00
3.	Partnered (partner getting pension or benefit)	\$2.50
4.	Member of an illness separated or respite care couple	\$5.00

Limitation on amount of pharmaceutical allowance

“1061D. (1) If a person is qualified for both pharmaceutical allowance and advance pharmaceutical supplement, the total amount paid to the person by way of:

- (a) pharmaceutical supplement under section 151B of the 1947 Act; and
- (b) advance pharmaceutical supplements under section 151F, 151G or 151H of the 1947 Act and section 1061F of this Act; and
- (c) pharmaceutical allowance under section 151HA of the 1947 Act and section 1061A of this Act;

before 1 January 1992 is not to exceed the person's pharmaceutical payments limit.

“(2) A person's pharmaceutical payments limit is worked out using the following Table:

SCHEDULE 1—continued

PHARMACEUTICAL PAYMENT LIMIT TABLE			
column 1 item	column 2 person's family situation	column 3 advance pensioner A	column 4 advance pensioner B
1.	Not member of a couple	\$150.00	\$5.00 × paydays
2.	Partnered (partner getting neither pension nor benefit)	\$150.00	\$5.00 × paydays
3.	Partnered (partner getting pension or benefit)	\$75.00	\$2.50 × paydays
4.	Member of an illness separated or respite care couple	\$150.00	\$5.00 × paydays

“(3) For the purposes of the Pharmaceutical Payment Limit Table in subsection (2):

- (a) column 3 (‘advance pensioner A’) applies to the person if the person receives an advance pharmaceutical supplement under:
 - (i) section 151F or 151G of the 1947 Act; or
 - (ii) subsection 1061F (1) of this Act; and
- (b) column 4 (‘advance pensioner B’) applies to the person if the person receives an advance pharmaceutical supplement under:
 - (i) section 151H of the 1947 Act; or
 - (ii) subsection 1061F (2), (3), (4) or (5) of this Act; and
- (c) ‘paydays’ in column 4 is the number of pension paydays in the period that:
 - (i) starts on the day on which the person becomes an eligible 1947 Act pensioner or an eligible 1991 Act pensioner; and
 - (ii) ends on 31 December 1991.

“Division 3—Payment of pharmaceutical allowance

Payment of pharmaceutical allowance

“1061E. If:

- (a) a pharmaceutical allowance is payable to a person; and
 - (b) the person is receiving a social security pension or benefit;
- the pharmaceutical allowance is to be paid to the person on each payday for that pension or benefit.

SCHEDULE 1—continued

“PART 2.23—ADVANCE PHARMACEUTICAL SUPPLEMENT

“Division 1—Qualification for and payability of advance pharmaceutical supplement

Qualification for advance pharmaceutical supplement

“1061F. (1) A person is qualified for an advance pharmaceutical supplement under this subsection if:

- (a) the person is a continuing advance pensioner A; and
- (b) the Secretary is satisfied that:
 - (i) the person has received a payment under subsection 151G (2) of the 1947 Act; and
 - (ii) the person has had at least 14 pharmaceutical benefit purchases for members of the person’s family within 3 months immediately after receiving the payment referred to in subparagraph (i); and
- (c) the person has not received a payment under subsection 151G (3) of the 1947 Act.

Note: for ‘continuing advance pensioner A’ and ‘pharmaceutical benefit’ see section 19A.

“(2) A person is qualified for an advance pharmaceutical supplement under this subsection if:

- (a) the person is an advance pensioner B; and
- (b) the Secretary is satisfied that the person has had at least 14 pharmaceutical benefit purchases for members of the person’s family within the 3 months immediately before the day on which the person became an eligible 1947 Act pensioner or 1991 Act pensioner; and
- (c) the person has not received a payment under subsection 151H (1) of the 1947 Act.

“(3) A person is qualified for an advance pharmaceutical supplement under this subsection if:

- (a) the person is an advance pensioner B; and
- (b) the Secretary is satisfied that:
 - (i) the person has received a payment under:
 - (A) subsection 151H (1) of the 1947 Act; or
 - (B) subsection (2) of this section; and
 - (ii) the person has had at least 14 pharmaceutical benefit purchases for members of the person’s family within 3 months immediately after the person received the payment referred to in subparagraph (i); and
- (c) the person has not received a payment under subsection 151H (2) of the 1947 Act.

SCHEDULE 1—continued

“(4) A person is qualified for an advance pharmaceutical supplement under this subsection if:

- (a) the person is an advance pensioner B; and
- (b) the Secretary is satisfied that:
 - (i) the person has received a payment under:
 - (A) subsection 151H (2) of the 1947 Act; or
 - (B) subsection (3) of this section; and
 - (ii) the person has had at least 14 pharmaceutical benefit purchases for members of the person’s family within 3 months immediately after receiving the payment referred to in subparagraph (i); and
- (c) the person has not received a payment under subsection 151H (3) of the 1947 Act.

“(5) A person is qualified for an advance pharmaceutical supplement under this subsection if:

- (a) the person is an advance pensioner B; and
- (b) the Secretary is satisfied that:
 - (i) the person has received a payment under:
 - (A) subsection 151H (3) of the 1947 Act; or
 - (B) subsection (4) of this section; and
 - (ii) the person has had at least 14 pharmaceutical benefit purchases for members of the person’s family within 3 months immediately after receiving the payment referred to in subparagraph (i); and
- (c) the person has not received a payment under subsection 151H (4) of the 1947 Act.

Advance pharmaceutical supplement not payable in some circumstances

“1061G. (1) Even though a person is qualified for an advance pharmaceutical supplement, the supplement is not payable to the person on a payday if on that payday:

- (a) the person is not an Australian resident; or
- (b) the person is absent from Australia.

“(2) An advance pharmaceutical supplement is not payable to a person if the person was not qualified, because of subsection 151AB (1) of the 1947 Act, to receive an advance pharmaceutical supplement under section 151F of that Act.

“(3) If:

- (a) a person is qualified for an advance pharmaceutical supplement; and
- (b) the amount of the supplement would otherwise exceed the amount that remains to be charged for supplies of

SCHEDULE 1—continued

pharmaceutical benefits before the person would become eligible to be issued with an entitlement card under subsection 84C (1A) of the *National Health Act 1953*; and

- (c) the amount of the advance pharmaceutical supplement is reduced under section 151M of the 1947 Act or section 1061J of this Act;

no further advance pharmaceutical supplements are payable to the person.

“Division 2—Amount of advance pharmaceutical supplement

Amount of advance pharmaceutical supplement

“1061H. The amount of the advance pharmaceutical supplement is worked out using the Advance Pharmaceutical Supplement Amount Table:

ADVANCE PHARMACEUTICAL SUPPLEMENT AMOUNT TABLE						
column 1 item	column 2 person's family situation	column 3 1061F (1)	column 4 1061F (2)	column 5 1061F (3)	column 6 1061F (4)	column 7 1061F (5)
1.	Not member of a couple	\$30.00	\$35.00	\$35.00	\$35.00	\$45.00
2.	Partnered (partner getting neither pension nor benefit)	\$30.00	\$35.00	\$35.00	\$35.00	\$45.00
3.	Partnered (partner getting pension or benefit)	\$15.00	\$17.50	\$17.50	\$17.50	\$22.50
4.	Member of illness separated or respite care couple	\$30.00	\$35.00	\$35.00	\$35.00	\$45.00

Reduction in amount of advance pharmaceutical supplement where entitlement card available

“1061J. If:

- (a) a person is qualified for an advance pharmaceutical supplement; and
- (b) the amount of the supplement would otherwise exceed the amount that remains to be charged for supplies of pharmaceutical benefits before the person would become eligible to be issued with an entitlement card under subsection 84C (1A) of the *National Health Act 1953*;

the amount of the advance pharmaceutical supplement is to be reduced by the excess.

SCHEDULE 1—continued

“PART 2.24—DISASTER RELIEF PAYMENT

Qualification for disaster relief payment

“1061K. A person is qualified for a disaster relief payment if:

- (a) because of a major disaster:
 - (i) a person’s principal residence is severely damaged; or
 - (ii) there is a significant interruption to a person’s source of livelihood; and
- (b) when the person was affected by the disaster, he or she:
 - (i) was a resident of Australia; and
 - (ii) was not an illegal entrant within the meaning of the *Migration Act 1958*.

Note: for ‘major disaster’ see subsection 23 (1).

Need for a claim

“1061L. (1) A person who wants to be granted a disaster relief payment must make a proper claim for that payment.

“(2) For the purposes of subsection (1), if:

- (a) a claim for a disaster relief payment is made by or on behalf of a person; and
- (b) at the time when the claim is made, the claim cannot be granted because the person is not qualified for the payment;

the claim is taken not to have been made.

Form of claim

“1061M. To be a proper claim, a claim must be made in writing and must be in accordance with a form approved by the Secretary.

Lodgment of claim

“1061N. (1) To be a proper claim, a claim must be lodged:

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

“(2) A place or person approved under subsection (1) must be a place or person in Australia.

Amount of payment

“1061P. (1) The amount of a disaster relief payment payable to a person who is a member of a couple is the sum of the following amounts:

- (a) the rate per fortnight for item 3 in Table B of point 1064-B1 (maximum basic rate);

SCHEDULE 1—continued

- (b) if the person has a dependent child, or dependent children, the applicable rate per fortnight in Table C of point 1064-C3 for each child (child add-ons);
- (c) one twenty-sixth of the applicable rate for item 2 in Table D of point 1064-D5 (rent assistance).

“(2) The amount of a disaster relief payment payable to a person who is not a member of a couple is the sum of the following amounts:

- (a) the rate per fortnight for item 1 in Table B of point 1064-B1 (maximum basic rate);
- (b) if the person has a dependent child, or dependent children, the applicable rate per fortnight in Table C of point 1064-C3 for each child (child add-ons);
- (c) if the person has a dependent child, or dependent children, the rate per fortnight in point 1064-C10 (guardian allowance);
- (d) one twenty-sixth of the applicable rate for item 1 in Table D of point 1064-D5 (rent assistance).

Note 1: if a person is receiving a social security pension or benefit, the disaster relief payment is in addition to the person's normal payments.

Note 2: if a person claims a social security pension or benefit as a result of a major disaster within 2 weeks of claiming a disaster relief payment, he or she will be paid as from the date he or she was affected by the disaster, in addition to the disaster relief payment.

Section 1064 (Pension Rate Calculator A—point 1064-A1):

Add at the end:

“Note 5: in some circumstances a person may also be qualified for a pharmaceutical allowance under Part 2.22.”

Section 1064 (Pension Rate Calculator A—point 1064-C7):

Omit “points 1064-C8 and 1064-C9”, substitute “point 1064-C8”.

Section 1064 (Pension Rate Calculator A—point 1064-C9):

Omit the point.

Section 1064 (Pension Rate Calculator A—paragraph 1064-D1 (d)):

Omit “\$1,040 per year (\$40 per fortnight)”, substitute “\$1,300 per year (\$50 per fortnight)”.

Section 1064 (Pension Rate Calculator A—point 1064-E8):

- (a) Insert “an Aboriginal study assistance scheme or” before “the AUSTUDY scheme”.

- (b) Add at the end:

“Note: for ‘Aboriginal study assistance scheme’ see subsection 23 (1).”

SCHEDULE 1—continued

Section 1065 (Pension Rate Calculator B—point 1065-A1):

Add at the end:

“Note: the person will also be qualified for a pharmaceutical allowance under Part 2.22.”.

Section 1065 (Pension Rate Calculator B—point 1065-C4):

Omit “, 3 and 4”, substitute “and 3”.

Section 1065 (Pension Rate Calculator B—Paragraph 1065-D1 (d)):

Omit “\$1,040 per year (\$40 per fortnight)”, substitute “\$1,300 per year (\$50 per fortnight)”.

Section 1066 (Pension Rate Calculator C—point 1066-A1):

Add at the end:

“Note 4: in some circumstances a person may also be qualified for a pharmaceutical allowance under Part 2.22.”.

Section 1066 (Pension Rate Calculator C—paragraph 1066-D1 (c)):

Omit “\$1,040 per year (\$40 per fortnight)”, substitute “\$1,300 per year (\$50 per fortnight)”.

Section 1066 (Pension Rate Calculator C—point 1066-E6):

(a) Insert “an Aboriginal study assistance scheme or” before “the AUSTUDY scheme”.

(b) Add at the end:

“Note: for ‘Aboriginal study assistance scheme’ see subsection 23 (1).”.

Section 1067 (Benefit Rate Calculator A—point 1067-A1):

Add at the end:

“Note: in some circumstances a person may also be qualified for a pharmaceutical allowance under Part 2.22.”.

Section 1067 (Benefit Rate Calculator A—paragraph 1067-F1 (e)):

Omit “\$40”, substitute “\$50”.

Section 1068 (Benefit Rate Calculator B—point 1068-A1):

Add at the end:

“Note 2: in some circumstances a person may also be qualified for a pharmaceutical allowance under Part 2.22.”.

Section 1068 (Benefit Rate Calculator B—paragraph 1068-F1 (c)):

Omit “\$40”, substitute “\$50”.

Section 1069 (Family Allowance Rate Calculator—point 1069-A1—Method statement):

Omit the Method statement, substitute:

SCHEDULE 1—continued

“	<p style="text-align: center;"><i>Method statement</i></p> <p><i>Step 1.</i> Work out the person's maximum basic rate using MODULE B below.</p> <p><i>Step 2.</i> Add to the maximum basic rate any applicable amounts for multiple birth using MODULE C: the result is the person's rate of family allowance.</p>	”.
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Section 1069 (Family Allowance Rate Calculator):

Insert after point 1069-B2:

Taxable income test—exempt FA children

“1069-B2A. If:

- (a) the person's taxable income for the tax year that is the appropriate tax year for the purposes of section 840A (FA taxable income test) is greater than the person's taxable income free area for the purposes of that section; and
 - (b) the person has an exempt FA child;
- any FA child of the person who is not an exempt FA child is to be disregarded for the purposes of working out the person's maximum basic rate under point 1069-B1.”.

Section 1069 (Family Allowance Rate Calculator—Module D):

Omit the Module.

Section 1070 (Family Allowance Supplement Rate Calculator—paragraph 1070-C1 (c)):

Omit “\$40”, substitute “\$50”.

Before Division 1 of Part 3.10:

Insert:

“Division 1AA—Ordinary income concept

Ordinary income is generally total gross income (not net income after deductions) from all sources

“1072M. (1) A person's ordinary income is to be worked out by adding together the person's ordinary income from all sources.

Note: for 'ordinary income' see subsection 8 (1).

“(2) A person's ordinary income consists of:

- (a) the person's ordinary income as defined in subsection 8 (1); and
- (b) amounts that are taken to be ordinary income of the person under section 1072N (trading stock) or under Division 1 (investment income), Division 1A (moneys held), Division 1B (loans) or Division 1C (assets disposal).

SCHEDULE 1—continued

“(3) Subject to sections 1072N, 1072P and 1072Q, a person’s ordinary income is the person’s gross ordinary income without any reduction.

Ordinary income from a business—treatment of trading stock

“1072N. (1) If:

- (a) a person carries on a business; and
- (b) the value of all the business’s trading stock on hand at the end of a tax year is greater than the value of all the business’s trading stock on hand at the beginning of that tax year;

the person’s ordinary income for that tax year in the form of profits from the business is to include the amount of the difference in values.

“(2) If:

- (a) a person carries on a business; and
- (b) the value of all the business’s trading stock on hand at the end of a tax year is less than the value of all the business’s trading stock at the beginning of that tax year;

the person’s ordinary income for that tax year in the form of profits from the business is to be reduced by the amount of the difference in values.

Permissible reductions—business income

“1072P. (1) Subject to subsections (2) and (3) and section 1072Q, if a person carries on a business, the person’s ordinary income from the business is to be reduced by:

- (a) losses and outgoings that relate to the business and are allowable deductions for the purposes of section 51 of the Income Tax Assessment Act; and
- (b) depreciation that relates to the business and is an allowable deduction for the purposes of subsection 54 (1) of that Act; and
- (c) amounts that relate to the business and are allowable deductions under subsection 82AAC (1) of that Act.

“(2) If the person is to be taken because of Division 1A to receive ordinary income or additional ordinary income from money, the person’s ordinary income from the money is not to be reduced by any expenses incurred by the person because of the investment of the money.

“(3) If the person is to be taken because of Division 1B to receive ordinary income or additional ordinary income from a loan, the person’s ordinary income from the loan is not to be reduced by any expenses incurred by the person because of the loan.

SCHEDULE 1—continued

Permissible reductions—investment income

“1072Q. If a person is to be taken because of Division 1 to receive ordinary income by way of rate of return on an investment, the person’s ordinary income on the investment may be reduced but only in accordance with section 1080 or 1095 (reasonable investment costs).”.

Subsection 1073 (1) (Table):

Insert “or acquired” after “made” (wherever occurring).

Subsection 1074 (1):

Omit the subsection, substitute:

“(1) If a person receives, whether before or after the commencement of this section, an amount that is not:

- (a) income in the form of periodic payments; or
- (b) income from remunerative work undertaken by the person; or
- (c) a return from an accruing return investment; or
- (d) a return from a market-linked investment made, or acquired, by the person on or after 9 September 1988;

the person is, for the purposes of this Act, taken to receive one fifty-second of that amount as income of the person during each week in the 12 months commencing on the day on which the person becomes entitled to receive that amount.”.

Subsection 1074 (2):

Omit “becoming entitled to receive an amount includes a reference to the person becoming entitled to receive”, substitute “receiving an amount includes a reference to a person receiving”.

Paragraph 1075 (1) (a):

Insert “or acquired” after “made”.

Sub-subparagraph 1075 (1) (b) (ii) (A):

Insert “or acquired” after “made”.

Paragraph 1075 (1) (c):

Omit “becomes entitled to receive”, substitute “realises the investment and receives”.

Subsection 1075 (2):

Omit “becomes entitled to receive”, substitute “realises the investment”.

SCHEDULE 1—continued

Section 1075:

Add at the end:

“(3) For the purposes of this section, a person realises an investment if, and only if:

- (a) all or part of the amount of the investment is withdrawn; or
- (b) all or part of the return on the investment is paid to another person; or
- (c) the investment matures; or
- (d) the investment is assigned by the person to another person; or
- (e) the investment is disposed of by the person otherwise than in the way referred to in paragraph (d).

“(4) For the purposes of this section, where a person realises an investment in circumstances where the return on the investment is paid to another person, the return is taken to be received by the person realising the investment.

“(5) A reference in this section to a person realising an investment includes a reference to a person receiving an amount under an arrangement of the kind referred to in the definition of ‘accruing return investment’ in subsection 9 (1) to the extent to which section 1076 or 1077 does not apply to that entitlement.”.

Subsection 1076 (a):

Insert “or acquired” after “made”.

Sub-subparagraph 1076 (b) (ii) (A):

After “made” insert “, or acquired, by the person”.

Section 1076:

After “made” (last occurring) insert “or acquired”.

Section 1077:

- (a) Insert “or acquired” after “made”.
- (b) Insert “or acquires” after “makes”.

Subsection 1080 (2):

- (a) After “making” insert “or acquiring”.
- (b) After “make” insert “or acquire”.

Subsection 1080 (3):

Insert “, or acquired, by the person” after “made”.

Paragraph 1081 (1) (a):

Insert “or acquired” after “made”.

SCHEDULE 1—continued

Subsection 1081 (2):

Insert “or acquiring” after “making”.

Section 1082:

Repeal the section, substitute:

“1082. (1) If a person realises a market-linked investment and receives an amount by way of return, the person is, for the purposes of this Act, taken to receive one fifty-second of that amount as ordinary income of the person during each week in 12 months commencing on the day on which the person realises the investment.

“(2) For the purposes of this section, a person realises an investment if, and only if:

- (a) all or part of the amount of the investment is withdrawn; or
- (b) all or part of the return on the investment is paid to another person; or
- (c) the investment matures; or
- (d) the investment is assigned by the person to another person; or
- (e) the investment is disposed of by the person otherwise than in the way referred to in paragraph (d).

“(3) For the purposes of this section, where a person realises an investment in circumstances where the return on the investment is paid to another person, the return is taken to be received by the person realising the investment.”.

Paragraph 1083 (1) (a):

After “made”, insert “or acquired”.

Subsection 1083 (1):

After “made” (last occurring) insert “, or acquired, by the person”.

Paragraph 1083 (2) (b):

- (a) Insert “, or acquired, by the person” after “made” (first occurring).
- (b) Insert “or acquired” after “made” (last occurring).

Subsection 1083 (3):

Insert “, or acquired, by the person” after “made” (wherever occurring).

Section 1084:

After “makes” insert “or acquires”.

Paragraph 1084 (a):

After “made” insert “, or acquired, by the person”.

SCHEDULE 1—continued

Subsection 1094 (1):

Insert “or acquired” after “made”.

Subsection 1095 (3):

Insert “, or acquired, by the person” after “made”.

Paragraph 1096 (1) (a):

Insert “or acquired” after “made”.

After Division 1 of Part 3.10:

Insert:

***“Division 1A—Interest attributed to money not invested or invested
at a low rate of interest***

Application of this Division and Division 1

“1099A. If this Division applies to a person’s available money or deposit money, Division 1 does not apply to the return on that money.

Basic concept—income money and interest received

“1099B. (1) For the purposes of this Division, a person has **income money** at a particular time if the sum of:

- (a) the person’s available money; and
- (b) the person’s deposit money;

at that time is greater than \$2,000.

“(2) This is how to work out which money forms part of the person’s income money:

Method statement

- Step 1.* Start with the amount of \$2,000 that is referred to in subsection (1).
- Step 2.* Set off against this amount any available money of the person.
- Step 3.* Set off against the remainder any deposit money of the person that does not attract interest.
- Step 4.* Set off against the remainder any deposit money of the person that does attract interest: this money is to be set off in ascending order of interest rate.
- Step 5.* Any available money or deposit money that can be set off under Steps 2 to 4 is not income money of the person.
- Step 6.* Any available money or deposit money that cannot be set off under Steps 2 to 4 is income money of the person at that time.

SCHEDULE 1—continued

“(3) For the purposes of subsection (2):

- (a) if available money or deposit money is to be set off against an amount, only so much of the money as does not exceed the amount can be set off against the amount; and
- (b) if the person does not have money of a particular kind, the amount to be set off is nil and the amount left after the setting off is called the ‘remainder’.

“(4) For the purposes of this Division, if:

- (a) interest is paid on deposit money; and
- (b) the interest is received or accounted for less frequently than the anniversary of the making of the deposit;

interest on the deposit money is taken to be received by the depositor on each anniversary of the making of the deposit.

Income money that does not attract interest

“1099C. (1) If:

- (a) money is income money of a person; and
- (b) interest is not paid on that money;

the person is taken to receive interest on that money at the assumed rate.

Note: for ‘assumed rate of interest’ see section 1099F.

“(2) Subsection (1) has effect subject to section 1099E.

Income money that attracts low interest

“1099D. (1) If:

- (a) money is income money of a person; and
- (b) the rate per year at which interest is paid on the money is less than the assumed rate;

the person is taken to receive interest on that money at the assumed rate.

Note: for ‘assumed rate of interest’ see section 1099F.

“(2) Subsection (1) has effect subject to section 1099E.

Certain income money to be disregarded

“1099E. (1) The Minister may determine that sections 1099C and 1099D do not apply to:

- (a) specified income money of a person; or
- (b) specified income money of a class of persons.

“(2) A determination under subsection (1) is to be made by notice in writing.

“(3) If:

SCHEDULE 1—continued

- (a) a person has income money; and
 - (b) a determination under subsection (1) applies to the income money;
- the income money is to be disregarded for the purposes of applying sections 1099C and 1099D to the person.

Assumed rate of interest on income money

“1099F. (1) The assumed rate of interest is:

- (a) 10% per year; or
- (b) if a lower rate is determined under subsection (2)—that lower rate.

“(2) the Minister may from time to time, by notice in writing, determine an annual rate of less than 10% per year that is to be the assumed rate for the purposes of this Division.

“(3) A notice under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

“Division 1B—Interest attributed to money on loan

Application of this Division

“1099G. (1) This Division applies to loans by a person entered into, or acquired, by the person after 21 August 1990.

“(2) If this Division applies to a person’s loan, Division 1 does not apply to the return on the loan.

Basic concepts—loan and interest

“1099H. For the purposes of this Division:

- (a) there is a **loan** by a person if, but not only if, the person has:
 - (i) debentures; or
 - (ii) bonds; or
 - (iii) other securities; and
- (b) there is no **loan** by a person:
 - (i) because the person has money in an account with a financial institution; or
 - (ii) because of a person’s entry contribution; and
- (c) the **interest** on a loan includes any payment for the use of the money that is lent; and
- (d) if the interest that is paid on a loan is received or accounted for less frequently than each anniversary of the making of the loan, interest on the loan is taken to be **received** by the lender on each anniversary of the making of the loan.

Note 1: the money excluded by paragraph (b) is dealt with under Division 1A of this Part.

SCHEDULE 1—continued

Note 2: for 'entry contribution' see section 1147.

Loans that do not attract interest

“1099J. Subject to section 1099L, if:

- (a) there is a loan by a person; and
- (b) the person is not paid interest on the loan;

the person is taken to receive, on each anniversary of the making of the loan, interest on the loan at the assumed loan rate.

Note: for 'assumed loan rate' see section 1099M.

Loans that attract a low rate of interest

“1099K. Subject to section 1099L, if:

- (a) there is a loan by a person; and
- (b) the person is paid interest on the loan; and
- (c) the rate of interest is less than the assumed loan rate;

the person is taken to receive interest on the loan at the assumed loan rate.

Note: for 'assumed loan rate' see section 1099M.

Certain loans to be disregarded

“1099L. (1) The Minister may determine that:

- (a) specified loans; or
- (b) a specified class of loans

are to be disregarded for the purposes of sections 1099J and 1099K.

“(2) A determination under subsection (1) is to be made by notice in writing.

Assumed loan rate of interest

“1099M. (1) The assumed loan rate is:

- (a) 10% per year; or
- (b) if a lower rate is determined under subsection (2)—that lower rate.

“(2) The Minister may from time to time, by notice in writing, determine a rate of less than 10% per year that is to be the assumed loan rate for the purposes of this Division.

“(3) A notice under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

“Division 1C—Income attributed to deprived assets

Application of this Division

“1099N. This Division applies to dispositions of assets that occur after 21 August 1990.

SCHEDULE 1—continued

Income attributed to deprived assets

“1099P. If:

- (a) a person disposes of an asset; and
- (b) the value of the asset is included in the value of the person’s assets under section 1125 or 1126;

the following provisions have effect:

- (c) the person is taken to obtain income from the asset; and
- (d) the income is taken to be:
 - (i) interest on the value of the asset at the assumed property rate; or
 - (ii) the amount calculated in accordance with subsection 110 (3);

whichever is the higher.

Note: for ‘assumed property rate’ see section 1099Q.

Assumed property rate

“1099Q. (1) The assumed property rate is:

- (a) 10% per year; or
- (b) if a lower rate is determined under subsection (2)—that lower rate.

“(2) The Minister may from time to time, by notice in writing, determine a rate of less than 10% per year that is to be the assumed property rate for the purposes of this Division.

“(3) A notice under subsection (2) is a disallowable instrument for the purposes of the *Acts Interpretation Act 1901*.”

Sections 1106 and 1107:

Repeal the sections, substitute:

Disposal of ordinary income

“1106. (1) For the purposes of this Act, a person **disposes of ordinary income** of the person if:

- (a) the person engages in a course of conduct that directly or indirectly:
 - (i) destroys the source of the income; or
 - (ii) disposes of the income or the source of the income; or
 - (iii) diminishes the income; and
- (b) one of the following subparagraphs is satisfied:
 - (i) the person receives no consideration in money or money’s worth for the destruction, disposal or diminution;
 - (ii) the person receives inadequate consideration in money

SCHEDULE 1—continued

or money's worth for the destruction, disposal or diminution;

- (iii) the Secretary is satisfied that the person's purpose, or the person's dominant purpose, in engaging in that course of conduct was to obtain a social security advantage.

“(2) For the purposes of subsection (1), a person has a purpose of obtaining a social security advantage if the person has a purpose of:

- (a) obtaining, or enabling the person's partner to obtain, a social security pension or benefit or a service pension; or
- (b) obtaining, or enabling the person's partner to obtain, a social security pension or benefit or a service pension at a higher rate than that which would otherwise have been payable; or
- (c) ensuring that the person or the person's partner would be qualified for fringe benefits for the purposes of this Act or the Veterans' Entitlements Act.

Note 1: for 'amount of disposition' see section 1107.

Note 2: for the effect of a transaction that constitutes both a disposal of an asset and a disposal of ordinary income see section 1110.

Amount of disposition

“1107. If a person disposes of ordinary income, the amount of the disposition is the amount that, in the Secretary's opinion, is:

- (a) if the person receives no consideration for the destruction, disposal or diminution—the annual rate of the diminution of the income because of the destruction, disposal or diminution; or
- (b) if the person receives consideration for the destruction, disposal or diminution—the annual rate of the diminution of the income because of the destruction, disposal or diminution less the part (if any) of the consideration that the Secretary considers to be fair and reasonable in all the circumstances of the case.”.

Section 1114:

Repeal the section, substitute:

Earnings credit account

“1114. (1) If:

- (a) a person is receiving a social security pension (other than a carer pension); and
- (b) either:
 - (i) the person is not a member of a couple; or
 - (ii) the person is a member of a couple and the person's partner is receiving neither a social security pension (other

SCHEDULE 1—continued

than a carer pension) nor a service pension (other than a carer service pension);
the person has an individual earnings credit account.

“(2) If:

- (a) a person is receiving a social security pension (other than a carer pension); and
- (b) the person’s partner is receiving a social security pension (other than a carer pension) or a service pension (other than a carer service pension);

the person and the partner have a joint earnings credit account.

“(3) If at a particular time:

- (a) subsection (1) ceases to apply to 2 people; and
- (b) subsection (2) applies to create a joint earnings credit account for them;

the balance of the joint earnings credit account at that time is the sum of the balances of their individual accounts immediately before that time.

“(4) If at a particular time:

- (a) subsection (2) ceases to apply to 2 people; and
- (b) subsection (1) applies to create an individual earnings credit account for either or both of them;

the balance of the individual earnings credit account or accounts at that time is 50% of the balance of their joint earnings credit account immediately before that time.”.

Section 1115 (Earnings Credit Account Balance Calculator—point 1115-A1):

Omit:

Account balance calculation

“1115-A1. This is how to work out the balance of the person’s earnings credit account.”;
substitute:

Individual account balance calculation

“1115-A1. If the person has an individual earnings credit account, this is how to work out the balance of the account.”.

Section 1115 (Earnings Credit Account Balance Calculator—points 1115-A2, 1115-A3 and 1115-A4):

Omit the points, substitute:

SCHEDULE 1—continued

Individual account balance not to exceed \$1,000

“1115-A2. The balance of an individual account is not to exceed \$1,000.

Joint account balance calculation

“1115-A3. If the person has a joint earnings credit account with the person’s partner, this is how to work out the balance of the account:

Method statement

- Step 1.* Work out the opening balance of the account using MODULE B below.
- Step 2.* If the person or the person’s partner has an earnings credit, add the amount of the earnings credit to the account: see MODULE C below.
- Step 3.* If the person or the person’s partner draws on the account, deduct from the account the amount drawn: see MODULE D below.

Joint account balance not to exceed \$2,000

“1115-A4. The balance of a joint earnings credit account is not to exceed \$2,000.

Balance not to be in debit

“1115-A5. The balance of an earnings credit account is not to fall below nil.

EC accounting periods

“1115-A6. The earnings credit accounting periods are:

- (a) the fortnight that starts on the first pension payday on or after 1 July 1991; and
- (b) the succeeding fortnights.”.

Section 1115 (Earnings Credit Account Balance Calculator—point 1115-B1):

Omit “is nil.”, substitute:

“is:

- (c) if the person has an individual earnings credit account—nil; or
- (d) if the person has a joint earnings credit account with the person’s partner and this point also applies to the partner—nil; or
- (e) if the person has a joint earnings credit account with the person’s partner and this point does not apply to the partner—the balance of the partner’s individual earnings credit account

SCHEDULE 1—continued

immediately before the person commenced to receive the pension.”.

Section 1115 (Earnings Credit Account Balance Calculator—point 1115-B2):

Omit “is the amount of the person’s earnings credit under section 12A of the 1947 Act immediately before 1 July 1991.”, substitute:

“is:

- (a) if the person has an individual earnings credit account—the amount of the person’s earnings credit under section 12A of the 1947 Act immediately before 1 July 1991; or
- (b) if the person has a joint earnings credit account with the person’s partner—the sum of:
 - (i) the amount of the person’s earnings credit under section 12A of the 1947 Act immediately before 1 July 1991; and
 - (ii) the amount of the partner’s earnings credit under section 12A of the 1947 Act or section 49B of the Veterans’ Entitlements Act immediately before 1 July 1991.”.

Section 1115 (Earnings Credit Account Balance Calculator—point 1115-C1):

Omit “The person”, substitute “A person”.

Section 1115 (Earnings Credit Account Balance Calculator—point 1115-D1):

Omit “The person”, substitute “A person”.

After subparagraph 1118 (1) (g) (ii):

Insert:

“and (iii) the person acquired or retained the granny flat interest before 22 August 1990;”.

Subsection 1118 (1):

Add at the end:

“(s) the amount of any insurance or compensation payments received by the person because of the loss, damage to buildings, plant or personal effects within the immediately preceding 12 months or such longer period as the Secretary determines for any special reason for a particular payment.”.

Sections 1123 and 1124:

Repeal the sections, substitute:

SCHEDULE 1—continued

Disposal of assets

“1123. (1) For the purposes of this Act, a person **disposes** of assets of the person if:

- (a) the person engages in a course of conduct that directly or indirectly:
 - (i) destroys all or some of the person’s assets; or
 - (ii) disposes of all or some of the person’s assets; or
 - (iii) diminishes the value of all or some of the person’s assets; and
- (b) one of the following subparagraphs is satisfied:
 - (i) the person receives no consideration in money or money’s worth for the destruction, disposal or diminution;
 - (ii) the person receives inadequate consideration in money or money’s worth for the destruction, disposal or diminution;
 - (iii) the Secretary is satisfied that the person’s purpose, or the dominant purpose, in engaging in that course of conduct was to obtain a social security advantage.

“(2) For the purposes of subsection (1), a person has a purpose of obtaining a social security advantage if the person has a purpose of:

- (a) obtaining, or enabling the person’s partner to obtain, a social security pension or benefit or a service pension; or
- (b) obtaining, or enabling the person’s partner to obtain, a social security pension or benefit or a service pension at a higher rate than that which would otherwise have been payable; or
- (c) ensuring that the person or the person’s partner would be qualified for fringe benefits for the purposes of this Act or the Veterans’ Entitlements Act.

“(3) For the purposes of subsection (1), the value of a person’s granny flat interest is to be taken not to be consideration received by the person if the interest was acquired or retained before 22 August 1990.

Note: for ‘granny flat interest’ see subsection 11 (9).

“(4) If, under subsection 1147 (1A), the value of a granny flat interest is less than the amount paid, or agreed to be paid, for the interest, then, for the purposes of this section, so much of the amount paid, or agreed to be paid, as exceeds the value of the interest is not consideration for the interest.

Note: for ‘granny flat interest’ see subsection 11 (9).

SCHEDULE 1—continued

Amount of disposition

“1124. If a person disposes of assets, the amount of the disposition is:

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

Subsection 1125 (1):

- (a) Omit “1 June 1984”, substitute “1 March 1986”.
- (b) Insert “for the period of 5 years that starts on the day on which the disposition takes place” after “assets” (second occurring).

Paragraph 1125 (1) (b):

Omit “\$2,000”, substitute “\$10,000”.

Paragraph 1125 (1) (c):

Omit “\$2,000”, substitute “\$10,000”.

Subsection 1125 (2):

Omit the subsection, substitute:

“(2) If:

- (a) a person disposes of an asset before 1 March 1991; and
- (b) an amount (in this subsection called the ‘**relevant amount**’) is included in the value of the person’s assets under subsection (1) because of the disposition;

the amount that is to be included in that value under that subsection is to be reduced, on each anniversary of the day on which the disposition took place, by an amount equal to 10% of the relevant amount.

Note 1: for ‘disposes of assets’ see section 1123.

Note 2: for ‘amount of disposition’ see section 1124.”.

Subsection 1126 (1):

Omit “1 June 1984”, substitute “1 March 1986”.

SCHEDULE 1—continued

Paragraph 1126 (1) (b):

Omit “\$4,000”, substitute “\$10,000”.

Paragraph 1126 (1) (c):

Insert “for the period of 5 years that starts on the day on which the disposition takes effect” after “assets” (first occurring).

Subparagraph 1126 (1) (c) (i):

Omit “\$4,000”, substitute “\$10,000”.

Paragraph 1126 (1) (d):

Insert “for the period of 5 years that starts on the day on which the disposition takes place” after “assets” (first occurring).

Subparagraph 1126 (1) (d) (i):

Omit “\$4,000”, substitute “\$10,000”.

Subsection 1126 (2):

Omit the subsection, substitute:

“(2) If:

(a) a person disposes of an asset before 1 March 1991; and

(b) an amount (in this subsection called the ‘**relevant amount**’) is included in the value of the person’s or the person’s partner’s assets under subsection (1) because of the disposition;

the amount that is to be included in that value under that subsection is to be reduced, on each anniversary of the day on which the disposition took place, by an amount equal to 10% of the relevant amount.

Note 1: for ‘disposes of assets’ see section 1123.

Note 2: for ‘amount of disposition’ see section 1124.”.

Heading to Division 5 of Part 3.12:

Add at the end “*and granny flats*”.

Section 1145:

Repeal the section, substitute:

Retirement village and granny flat residents

“1145. For the purposes of this Division:

(a) a person is a **retirement village resident** if the person’s principal home is in a retirement village; and

(b) a person is a **granny flat resident** if the person has a granny flat interest in the person’s principal home.

SCHEDULE 1—continued

Application of Division to granny flat residents

“1145A. This Division applies to a granny flat resident only if the resident acquired or retained the person’s granny flat interest in the person’s principal home on or after 22 August 1990.”.

Section 1146:

Insert “or granny flat” after “retirement village”.

Subsection 1147 (1):

Insert “or granny flat” after “retirement village” (wherever occurring).

After subsection 1147 (1):

Insert:

“(1A) For the purposes of subsection (1):

- (a) the total amount paid to obtain for a person his or her current right to live in a granny flat is the amount equal to the value of the person’s granny flat interest; and
- (b) the value of a person’s granny flat interest is:
 - (i) unless subparagraph (ii) applies—the amount paid, or agreed to be paid, for the interest; or
 - (ii) if the Secretary considers that, for any special reason in any particular case, that value should be another amount—that other amount.”.

After subsection 1148 (2):

Insert:

“(2A) A granny flat resident’s extra allowable amount is:

- (a) if the resident is not a member of a couple—the amount that, as at the time when the resident becomes entitled to the granny flat interest, is the difference between the pension ‘single’ homeowner AVL and the pension ‘single’ non-homeowner AVL; or
- (b) if the resident is a member of an illness separated couple—the amount that, as at the time when the resident becomes entitled to the granny flat interest, is the difference between the pension ‘single’ homeowner AVL and the pension ‘single’ non-homeowner AVL; or
- (c) in any other case—the amount that, as at the time when the resident becomes entitled to the granny flat interest, is the difference between the pension ‘partnered’ homeowner AVL and the pension ‘partnered’ non-homeowner AVL.”.

SCHEDULE 1—continued

Section 1150:

Insert “or granny flat” after “retirement village” (wherever occurring).

Section 1151:

Insert “or granny flat” after “retirement village” (wherever occurring).

Section 1152:

Insert “or granny flat” after “retirement village” (wherever occurring).

Section 1153:

Insert “or granny flat” after “retirement village” (wherever occurring).

Section 1154:

Insert “or granny flat” after “retirement village” (wherever occurring).

Section 1155:

Insert “or granny flat” after “retirement village” (wherever occurring).

Section 1156:

Insert “or granny flat” after “retirement village” (wherever occurring).

Section 1157:

Insert “or granny flat” after “retirement village” (wherever occurring).

Section 1190 (Indexed and Adjusted Amounts Table—item 21):

Omit “[Family Allowance Rate Calculator—point 1069-D8—Table D—columns 1 and 2]”, substitute “[Subsection 840A (8)—Taxable Income Free Area Table—columns 1 and 2]”.

Section 1222:

Repeal the section, substitute:

General effect of Chapter

“1222. (1) This Chapter provides the methods for recovery by the Commonwealth of:

- (a) debts owed to the Commonwealth under Part 5.2; and
- (b) assurance of support debts; and
- (c) overpayments under certain other Acts or schemes.

Note 1: the debts owed to the Commonwealth under Part 5.2 are:

- section 1223 debts—debts arising under this Act;
- section 1223A debts—debts arising from multiple entitlement exclusion date of effect provisions;
- section 1223B debts—automatic rate reductions because of partner starting to receive pension or benefit;
- section 1224 debts—debts arising because of recipient’s contravention of Act;
- section 1224A debts—pensions loan scheme;

SCHEDULE 1—continued

- section 1225 debts—compensation debts;
- section 1226 debts—compensation payer and insurer debts;
- section 1230 debts—garnishee notice debts.

Note 2: for 'assurance of support debt' see subsection 23 (1) and section 1227.

Note 3: for overpayments under other Acts and schemes see section 1228.

“(2) The methods of recovery available for the various types of debt are set out in the following Table:

RECOVERY METHODS TABLE			
item	debt	means	provision
1.	1223 (debt arising under this Act)	deductions legal proceedings garnishee notice	1231 1232 1233
2.	1223A (multiple entitlement exclusion)	deductions legal proceedings garnishee notice	1231 1232 1233
3.	1223B (partner rate adjustment)	deductions legal proceedings garnishee notice	1231 1232 1233
4.	1224 (contravention of Act)	deductions legal proceedings garnishee notice	1231 1232 1233
5.	1224A (pension loans scheme)	deductions legal proceedings garnishee notice	1231 1232 1233
6.	1225 (compensation debt)	deductions legal proceedings	1231 1232
7.	1226 (compensation payer and insurer debts)	legal proceedings	1232
8.	1227 (assurance of support debt)	deductions garnishee notice	1231 1233
9.	1230 (garnishee notice debt)	legal proceedings garnishee notice	1232 1233

Note: the Secretary may decide to allow a person to pay a debt in one or more instalments—see section 1234.

“(3) If a person has received an overpayment under certain other Acts or schemes, the amount of the overpayment may be recoverable

SCHEDULE 1—continued

by means of deductions from the person's pension, benefit or allowance under this Act.

Note: for deductions see section 1231.”.

Before section 1223:

Insert in Part 5.2:

Debts due to the Commonwealth

“1222A. If an amount has been paid by way of pension, benefit or allowance under this Act or the 1947 Act, the amount is not a debt due to the Commonwealth unless a provision of this Act or the 1947 Act expressly provides that it is.

Note: for the provisions of this Act that create debts due to the Commonwealth see sections 1135, 1223, 1223A, 1223B, 1224, 1225 and 1226.”.

Subsection 1223 (1):

Omit the subsection, substitute:

“(1) If:

- (a) an amount has been paid to a person by way of pension, benefit or allowance under this Act or the 1947 Act; and
- (b) one of the following is satisfied:
 - (i) the recipient was not qualified for the pension, benefit or allowance;
 - (ii) the amount was part of a payment made at a rate that was greater than the maximum payment rate of the pension, benefit or allowance payable to the person;
 - (iii) the recipient knew, or could reasonably be expected to have known, that the payment was incorrect;
 - (iv) the person's family allowance supplement rate should have been recalculated under section 914 and section 946 (FAS—underestimate of taxable income) applies to the determination;
 - (v) the person's family allowance supplement rate should have been recalculated under section 915 and section 947 (FAS—failure to notify FAS notifiable event) applies to the determination;

the amount so paid is a debt due to the Commonwealth and is recoverable by the Commonwealth by means of:

- (c) if the person is receiving a pension, benefit or allowance under this Act—deductions; or
- (d) legal proceedings; or
- (e) garnishee notice.

Note 1: for deductions see section 1231.

SCHEDULE 1—continued

Note 2: for legal proceedings see section 1232.

Note 3: for garnishee notice see section 1233.”.

Subsection 1223 (3):

Omit the Note.

After section 1223:

Insert:

Debts arising from multiple entitlement exclusion date of effect provisions

“1223A. (1) If:

- (a) a social security pension or benefit ceases to be payable on a particular day because of a multiple entitlement exclusion date of effect provision; and
- (b) a payment of the pension or benefit is made on or after that day to the person to whom it was previously payable;

the payment is a debt due to the Commonwealth and is recoverable by the Commonwealth by means of:

- (c) if the person who owes the debt is receiving a pension, benefit or allowance under this Act—deductions; or
- (d) legal proceedings; or
- (e) garnishee notice.

Note 1: for deductions see section 1231.

Note 2: for legal proceedings see section 1232.

Note 3: for garnishee notice see section 1233.

“(2) If:

- (a) family allowance supplement ceases to be payable on a particular day under section 933A; and
- (b) a payment of the allowance is made on or after that day to the person to whom it was previously payable;

the payment is a debt due to the Commonwealth and is recoverable by the Commonwealth by means of:

- (c) if the person is receiving a pension, benefit or allowance under this Act—deductions; or
- (d) legal proceedings; or
- (e) garnishee notice.

Note 1: for deductions see section 1231.

Note 2: for legal proceedings see section 1232.

Note 3: for garnishee notice see section 1233.

“(3) For the purposes of this section, the following are multiple entitlement exclusion date of effect provisions:

- (a) section 71A (age pension);

SCHEDULE 1—continued

- (b) section 124A (invalid pension);
- (c) section 175A (wife pension);
- (d) section 175B (wife pension—partner);
- (e) section 225A (carer pension);
- (f) section 225B (carer pension—partner);
- (g) section 287A (sole parent pension);
- (h) section 344A (widowed person allowance);
- (i) section 392A (widow B pension);
- (j) section 438A (sheltered employment allowance);
- (k) section 490A (rehabilitation allowance);
- (l) section 578 (job search allowance);
- (m) section 660A (newstart allowance);
- (n) section 716A (sickness benefit);
- (o) section 762A (special benefit);
- (p) section 811A (special needs pension).

Debts arising from automatic rate reductions because of partner starting to receive pension or benefit

“1223B. (1) If:

- (a) a person’s social security pension or benefit rate is reduced as from a particular date under a partner automatic rate adjustment provision; and
- (b) payments of the pension or benefit are made on or after that day at a rate that does not take account of the reduction;

so much of the payments as exceed the payments that would have been made if the payments had been made at the correct rate is a debt due to the Commonwealth and is recoverable by the Commonwealth by means of:

- (c) if the person who owes the debt is receiving a pension, benefit or allowance under this Act—deductions; or
- (d) legal proceedings; or
- (e) garnishee notice.

Note 1: for deductions see section 1231.

Note 2: for legal proceedings see section 1232.

Note 3: for garnishee notice see section 1233.

“(2) For the purposes of this section, the following are **partner automatic rate** adjustment provisions:

- (a) section 73A (age pension);
- (b) section 126A (invalid pension);
- (c) section 227A (carer pension);
- (d) section 290A (sole parent pension);

SCHEDULE 1—continued

- (e) section 440A (sheltered employment allowance);
- (f) section 492A (rehabilitation allowance);
- (g) section 582 (job search allowance);
- (h) section 660E (newstart allowance);
- (i) section 718A (sickness benefit).”.

After section 1224:

Insert:

Pension loans scheme debts

“1224A. A debt under section 1135 (pension loans scheme) is recoverable by the Commonwealth by means of:

- (a) if the person who owes the debt is receiving a pension, benefit or allowance under this Act—deductions; or
- (b) legal proceedings; or
- (c) garnishee notice.

Note 1: see sections 1139 and 1140 for the circumstances in which the debt may be recovered.

Note 2: for deductions see section 1231.

Note 3: for legal proceedings see section 1232.

Note 4: for garnishee notice see section 1233.”.

Subsection 1231 (1):

Omit “an overpayment or debt”, substitute “a debt under this Act, an overpayment arising under other Acts or schemes or a debt or overpayment under the 1947 Act”.

Subsection 1231 (1) (Method statement—Step 2):

Omit “overpayment or debt”, substitute “debt or overpayment”.

Subsection 1231 (2):

Omit “The overpayment or debt”, substitute “Subject to subsections (2A) to (2E), the debt or overpayment”.

After subsection 1231 (2):

Insert:

“(2A) Subject to subsections (2B), (2C), (2D) and (2E), action under this section for the recovery of a debt or overpayment is not to be commenced after the end of the period of 6 years starting on the day on which the debt or overpayment arose.

“(2B) If the debt arose under section 1224 of this Act (debt due to contravention of Act) or subsection 251 (3) of the 1947 Act applied to the debt, action under this section for the recovery of the debt may be commenced at any time within the period of 6 years starting on the first day on which an officer becomes aware, or could reasonably be

SCHEDULE 1—continued

expected to have become aware, of the circumstances that gave rise to the debt.

“(2C) If:

(a) subsection (2A) or (2B) applies so that action under this section for the recovery of a debt or overpayment must be commenced within a particular period; and

(b) within that period part of the amount owing is paid;

action under this section for the recovery of the balance of the debt or overpayment may be commenced within the period of 6 years starting on the day of payment.

“(2D) If:

(a) subsection (2A) or (2B) applies so that action under this section for the recovery of a debt or overpayment must be commenced within a particular period; and

(b) within that period, the person who owes the amount acknowledges that he or she owes it;

action under this section for the recovery of the debt or overpayment may be commenced within the period of 6 years starting on the day of acknowledgment.

“(2E) If:

(a) subsection (2A) or (2B) applies so that action under this section for the recovery of a debt or overpayment must be commenced within a particular period; and

(b) within that period:

(i) action is taken under this section or section 1232 (legal proceedings) or 1233 (garnishee notice) for the recovery of the debt or overpayment; or

(ii) a review of a file relating to action for the recovery of the debt or overpayment occurs; or

(iii) other internal Departmental activity relating to action for the recovery of the debt or overpayment occurs;

action under this section for the recovery of the debt or overpayment may be commenced within the period of 6 years after the end of the activity or action referred to in paragraph (b).”.

Subsection 1232 (2):

Insert “, (4) or (5)” after “(3)”.

Subsection 1232 (3):

Omit “overpayment”, substitute “debt”.

SCHEDULE 1—continued

Subsection 1232 (3) (Note):

Omit the Note, substitute:

“(4) If:

(a) subsection (2) or (3) applies so that legal proceedings for the recovery of a debt must be commenced within a particular period; and

(b) within that period part of the amount owing is paid;

legal proceedings for the recovery of the balance of the debt may be commenced within the period of 6 years starting on the day of payment.

“(5) If:

(a) subsection (2) or (3) applies so that legal proceedings for the recovery of a debt must be commenced within a particular period; and

(b) within that period, the person who owes the amount acknowledges that he or she owes it;

legal proceedings for the recovery of the debt may be commenced within the period of 6 years starting on the day of acknowledgment.”.

Subsection 1233 (1):

Omit “1224, 1227 or 1230”, substitute “1223, 1223A, 1223B, 1224, 1224A, 1227 or 1230 of this Act or under the 1947 Act”.

After subsection 1233 (7):

Insert:

“(7A) Subject to subsections (7B), (7C), (7D) and (7E), action under this section for the recovery of a debt is not to be commenced after the end of the period of 6 years starting on the day on which the debt arose.

“(7B) If the debt arose under section 1224 of this Act (debt due to contravention of Act) or subsection 251 (3) of the 1947 Act applied to the debt, action under this section for the recovery of the debt may be commenced at any time within the period of 6 years starting on the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt.

“(7C) If:

(a) subsection (7A) or (7B) applies so that action under this section for the recovery of a debt must be commenced within a particular period; and

(b) within that period part of the amount owing is paid;

SCHEDULE 1—continued

action under this section for the recovery of the balance of the debt may be commenced within the period of 6 years starting of the day of payment.

“(7D) If:

- (a) subsection (7A) or (7B) applies so that action under this section for the recovery of a debt must be commenced within a particular period; and
- (b) within that period, the person who owes the amount acknowledges that he or she owes it:

action under this section for the recovery of the debt may be commenced within the period of 6 years starting on the day of acknowledgment.

“(7E) If:

- (a) subsection (7A) or (7B) applies so that action under this section for the recovery of a debt must be commenced within a particular period; and
- (b) within that period:
 - (i) action is taken under this section or section 1231 (deductions) or 1232 (legal proceedings) for the recovery of the debt; or
 - (ii) a review of a file relating to action for the recovery of the debt occurs; or
 - (iii) other internal Departmental activity relating to action for the recovery of the debt occurs;

action under this section for the recovery of the debt may be commenced within the period of 6 years after the end of the activity or action referred to in paragraph (b).”.

Subsection 1236 (1):

Omit “an overpayment or”.

Subsection 1236 (2) (Note):

- (a) Omit “an overpayment or”.
- (b) Omit “overpayment or” (last occurring).

Subsection 1237 (1):

Omit “an overpayment or”.

Subsection 1237 (5) (Note):

Omit “the overpayment or” (wherever occurring).

Section 1308:

Repeal the section.

SCHEDULE 1—continued

Subsection 1312 (1):

Insert “(whether alive or dead)” after “information about another person”.

Subsection 1314 (3):

Omit the subsection.

After section 1316:

Insert:

“1316A. (1) If:

- (a) a person solicits the disclosure of protected information from an officer; and
- (b) for that purpose makes representations which the person knows or ought reasonably to know are untrue;

the person is guilty of an offence, whether or not any protected information is actually disclosed.

Note: for ‘protected information’ see subsection 23 (1).

“(2) If:

- (a) a person is convicted of an offence under subsection (1); and
- (b) the person acted as an employee or agent of another person in seeking the disclosure of the information concerned;

the other person is guilty of an offence.

“(3) It is a defence to a prosecution for an offence against subsection (2) if it is established that the employee or agent concerned was acting outside the scope of his or her authority as an employee or agent in making the untrue representations concerned.”.

Section 1319:

Insert “1316A,” after “1316,”.

After section 1325:

Insert:

Conditions of members

“1325A. (1) The National Convener and the senior members of the Social Security Appeals Tribunal hold office on such terms and conditions (if any) in respect of matters not provided for by this Part as are determined by the Governor-General in writing.

“(2) A member, other than a member referred to in subsection (1), holds office on such terms and conditions (if any) in respect of matters not provided for by this Part as are determined by the Minister in writing.”.

SCHEDULE 1—continued

Subsection 1326 (3):

Omit the subsection, substitute:

“(3) The Minister may appoint a person to act as a full-time senior member:

(a) in the place of a person who has ceased to be such a member;
or

(b) during any period, or during all periods, when the member is absent from duty or from Australia or is, for any reason, unavailable to perform the duties of the member’s office;

but a person appointed to act under paragraph (a) must not continue to act for more than 6 months.”.

Subsection 1326 (4):

Omit the subsection, substitute:

“(4) The Minister may appoint a person to act as a part-time senior member:

(a) in the place of a person who has ceased to be such a member;
or

(b) during any period, or during all periods, when the member is absent from duty or from Australia or is, for any reason, unavailable to perform the duties of the member’s office;

but a person appointed to act under paragraph (a) must not continue to act for more than 6 months.”.

Section 1331:

Repeal the section, substitute:

Leave of absence

“1331. (1) Subject to section 87E of the *Public Service Act 1922*, a member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

“(2) The Minister may grant the National Convener leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

“(3) The National Convener may grant another full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

“(4) A determination under subsection (2) or (3) must be in writing.”.

Subparagraph 1334 (8) (e) (ii):

Omit “granted under section 1331”.

SCHEDULE 1—continued

At the end of Schedule 1A:

Add:

Fringe benefits test—interest attributed to money not invested or invested at a low rate of interest (changes introduced on 1 March 1991)

“32. (1) If a person:

- (a) was not a prescribed person within the meaning of section 251A of the 1947 Act on 28 February 1991; and
- (b) would have been a prescribed person on that day if the amendments made by subsection 9 (1) of the *Social Security Legislation Amendment Act 1991* (interest attributed to money not invested or invested at a low rate of interest) had been in force on that day;

then, for the purposes of this Act and other laws of the Commonwealth, the person is to be taken to be qualified for fringe benefits under a Division of this Act if:

- (c) the person would not, at any time between 28 February and 1 July 1991, have become a prescribed person within the meaning of the 1947 Act if the amendments referred to in paragraph (b) had not been made; and
- (d) the person would not, at any time after 30 June 1991, cease to be qualified for fringe benefits under a Division of this Act if this Act did not contain Division 1A of Part 3.10.

“(2) If a person:

- (a) was not a prescribed person within the meaning of section 251A of the 1947 Act at any time after 21 August 1990 and before 28 March 1991; and
- (b) would have been a prescribed person on that day but for the person having invested the person’s available money (within the meaning of section 4D of the 1947 Act), or reinvested the person’s deposit money (within the meaning of section 4D of the 1947 Act), in:
 - (i) an account with a financial institution; or
 - (ii) a loan, including a loan by way of debentures, bonds or other securities; or
 - (iii) an accruing return investment; or
 - (iv) a market-linked investment; or
 - (v) an immediate annuity; or
 - (vi) shares;

(within the meaning of the 1947 Act) in anticipation of, or because of, the amendments made by subsection 9 (1) of the *Social Security Legislation Amendment Act 1990* (interest

SCHEDULE 1—continued

attributed to money not invested or invested at a low rate of interest);

then, for the purposes of this Act and other laws of the Commonwealth, the person is to be taken to be qualified for fringe benefits under a Division of this Act if:

- (c) the person would not, at any time between 28 February and 1 July 1991, have become a prescribed person within the meaning of the 1947 Act if the amendments referred to in paragraph (b) had not been made; and
 - (d) the person would not, at any time after 30 June 1991, cease to be qualified for fringe benefits under a Division of this Act if this Act did not contain Division 1A of Part 3.10.”.
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SCHEDULE 2

Section 4

MINOR AMENDMENTS OF THE SOCIAL SECURITY ACT 1991

Section 3:

Insert in the Index the following entries:

“period of Australian working life residence	1210-B2
transferred rehabilitation allowance	23 (7A)
working life residence	1210-B1”.

Heading to subsection 4 (3):

Omit the heading, substitute the following heading:

“Member of a couple—criteria for forming opinion about relationship”.

Subparagraph 4 (4) (d) (vi):

Omit “legally married to each other”, substitute “members of the same couple”.

Paragraph 4 (9) (b):

Omit “National Health Act 1953”, substitute “*National Health Act 1953*”.

Paragraph 5 (3) (c):

Omit “\$100”, substitute “\$107.70”.

Subsection 5 (3):

Omit Note 1, substitute:

“Note 1: this rule is modified for sole parent pension (see subsection 250 (2)) and for special needs sole parent pension (see subsection 776 (2)).”.

Subsection 5 (6):

Omit the subsection, substitute the following subsection:

Dependent child—pension, benefit and Labour Force Program recipients

“(6) A young person cannot be a **dependent child** for the purposes of this Act if:

- (a) the young person is receiving a social security pension (other than a sheltered employment allowance); or
- (b) the young person is receiving a social security benefit; or
- (c) the young person is receiving payments under a program included in the programs known as Labour Force Programs.

Note: ‘social security pension’ includes a rehabilitation allowance and would normally include a sheltered employment allowance as well (see subsection 23 (1)).”.

Subsection 7 (2) (Note):

- (a) Omit “5”, substitute “4”.
- (b) Omit “7”, substitute “15”.

SCHEDULE 2—continued

Subsection 8 (1) (definition of “income”):

(a) Omit Note 1, substitute:

“Note 1: see also sections 1073-1099 (investment income), sections 1099A-1099F (income on moneys held), sections 1099G-1099M (income on loans) and sections 1099N-1099Q (income from deprived assets).”.

(b) Add at the end:

“Note 5: income is equivalent to ordinary income plus maintenance income.”.

Subsection 8 (1) (definition of “ordinary income”):

Add at the end:

“ Note 3: ordinary income includes investment income (sections 1073-1099), income on moneys held (sections 1099A-1099F), income on loans (sections 1099G-1099M) and income from deprived assets (sections 1099N-1099Q).”.

Subsection 9 (1) (definition of “statutory rate of return”):

Omit “annum”, substitute “year”.

Paragraph 9 (7) (b):

Omit “23FA”, substitute “23FB”.

Subsection 11 (1) (definition of “exempt assets”):

Omit “(r)”, substitute “(s)”.

Subsection 11 (1) (definition of “PLS assets”):

(a) Insert “or realised” after “sold”.

(b) Insert “or realise” after “sell” (wherever occurring).

Paragraph 15 (2) (b):

Omit “parent’s”, substitute “parent”.

Paragraph 21 (a):

Omit “from”, substitute “that starts on the day after”.

After subsection 23 (7):

Insert:

“(7A) A person is receiving a **transferred rehabilitation allowance** at a particular time if:

(a) the person is receiving a rehabilitation allowance at that time; and

(b) immediately before the rehabilitation allowance became payable to the person, the person was receiving:

(i) an invalid pension; or

(ii) a sheltered employment allowance; or

(iii) sickness benefit.”.

SCHEDULE 2—continued

After subsection 39 (1):

Insert:

“(1A) For the purposes of this Act, a Note is to be taken to be part of:

- (a) if the Note immediately follows a section that does not contain subsections—the section; or
- (b) if the Note immediately follows a subsection—the subsection; or
- (c) if the Note immediately follows a point in a Rate Calculator—the point; or
- (d) if the Note immediately follows a Step in a Method Statement and is aligned with the text of the Step—the Step; or
- (e) if the Note immediately follows a Table—the Table; or
- (f) if the Note immediately follows a paragraph and is aligned with the text of the paragraph—the paragraph.”.

Paragraphs 40 (1) (c) and (d):

Omit the paragraphs, substitute:

- “(c) determination of claim (when will the claim be granted from);
- (d) rates provisions (how much will the payment be);”.

Paragraph 40 (1) (h):

Insert “continuation,” before “variation”.

Subsection 48 (2):

Insert “, subject to subsection 46 (3),” after “the claim is” (last occurring).

Paragraph 71 (1) (d):

Insert “or 78A” after “section 78”.

After section 78:

Insert:

Cancellation or suspension for failure to comply with section 69, 1304 or 1305 notice

“78A. If:

- (a) a person who is receiving an age pension is given a notice under section 69, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

the Secretary may determine that the pension is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 78 applies.

Note 2: for the date of effect of a determination under this section see section 81.”.

SCHEDULE 2—continued

Subsection 79 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s age pension under section 78 or 78A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive an age pension that was payable to the person; or
 - (ii) the person is not receiving an age pension that is payable to the person;

the Secretary is to determine that an age pension was or is payable to the person.”.

Subsection 81 (1):

Omit “or 78”, substitute “, 78 or 78A”.

After paragraph 82 (1) (d):

Insert:

“and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

- (i) the amount that would otherwise be payable to the person under section 83 (continued payment of partner’s pension or allowance); and
- (ii) the amount that would otherwise be payable to the person under section 85 (person’s continued rate);”.

Subsection 100 (2):

Insert “, subject to subsection 97 (3),” after “the claim is” (last occurring).

Paragraph 124 (1) (d):

Insert “or 131A” after “section 131”.

After section 131:

Insert:

SCHEDULE 2—continued

Cancellation or suspension for failure to comply with section 122, 1304 or 1305 notice

“131A. If:

(a) a person who is receiving an invalid pension is given a notice under section 122, 1304 or 1305 requiring the person to give the Department a statement; and

(b) the person does not comply with the notice;

the Secretary may determine that the pension is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 131 applies.

Note 2: for the date of effect of a determination under this section see section 134.”.

Subsection 132 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

(a) cancels or suspends a person’s invalid pension under section 131 or 131A; and

(b) reconsiders the decision to cancel or suspend; and

(c) becomes satisfied that because of the decision to cancel or suspend:

(i) the person did not receive an invalid pension that was payable to the person; or

(ii) the person is not receiving an invalid pension that is payable to the person;

the Secretary is to determine that an invalid pension was or is payable to the person.”.

Subsection 134 (1):

Omit “or 131”, substitute “, 131 or 131A”.

After paragraph 135 (1) (d):

Insert:

“and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

(i) the amount that would otherwise be payable to the person under section 136 (continued payment of partner’s pension or allowance); and

(ii) the amount that would otherwise be payable to the person under section 138 (person’s continued rate);”.

SCHEDULE 2—continued

Subsection 135 (4):

Omit “age”, substitute “invalid”.

Subsection 152 (2):

Insert “, subject to subsection 150 (3),” after “the claim is” (last occurring).

Paragraph 175 (1) (d):

Insert “or 182A” after “section 182”.

After section 182:

Insert:

Cancellation or suspension for failure to comply with section 173, 1304 or 1305 notice

“182A. If:

(a) a person who is receiving a wife pension is given a notice under section 173, 1304 or 1305 requiring the person to give the Department a statement; and

(b) the person does not comply with the notice;

the Secretary may determine that the pension is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 182 applies.

Note 2: for the date of effect of a determination under this section see section 185.”.

Subsection 183 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

(a) cancels or suspends a person’s wife pension under section 182 or 182A; and

(b) reconsiders the decision to cancel or suspend; and

(c) becomes satisfied that because of the decision to cancel or suspend:

(i) the person did not receive a wife pension that was payable to the person; or

(ii) the person is not receiving a wife pension that is payable to the person;

the Secretary is to determine that a wife pension was or is payable to the person.”.

Subsection 185 (1):

Omit “or 182”, substitute “, 182 or 182A”.

SCHEDULE 2—continued

Subsection 203 (2):

Insert “, subject to subsection 201 (3),” after “the claim is” (last occurring).

Paragraph 225 (1) (d):

Insert “or 231A” after “section 231”.

Section 231:

Omit “carer’s”, substitute “carer”.

After section 231:

Insert:

Cancellation or suspension for failure to comply with section 223, 1304 or 1305 notice

“231A. If:

- (a) a person who is receiving a carer pension is given a notice under section 223, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

the Secretary may determine that the pension is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 231 applies.

Note 2: for the date of effect of a determination under this section see section 234.”.

Subsection 232 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a carer pension of a person under section 231 or 231A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive a carer pension that was payable to the person; or
 - (ii) the person is not receiving a carer pension that is payable to the person;

the Secretary is to determine that a carer pension was or is payable to the person.”.

Subsection 234 (1):

Omit “or 231”, substitute “, 231 or 231A”.

SCHEDULE 2—continued

After paragraph 237 (1) (d):

Insert:

“and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

- (i) the amount that would otherwise be payable to the person under section 238 (continued payment of partner’s pension or allowance); and
- (ii) the amount that would otherwise be payable to the person under section 240 (person’s continued rate);”.

Paragraph 250 (2) (c):

Omit “\$100”, substitute “\$107.70”.

Subsection 251 (2):

Omit “SP” (wherever occurring), substitute “SPP”.

Subsection 259 (2):

Insert “, subject to subsection 255 (3),” after “the claim is” (last occurring).

Subparagraph 263 (1) (d) (vi):

Omit “legally married to each other”, substitute “members of the same couple”.

After subsection 263 (1):

Insert:

“(1A) For the purposes of subsection (1), a person’s son or daughter of any age (including an adopted son or daughter) is a child of the person.”.

Subparagraph 282 (1) (e) (vi):

Omit “legally married to each other”, substitute “members of the same couple”.

After subsection 282 (1):

Insert:

“(1A) For the purposes of subsection (1), a child of a person means a child of any age and includes an adopted child.”.

Paragraph 287 (1) (d):

Insert “, 295A” after “section 295”.

SCHEDULE 2—continued

After section 295:

Insert:

Cancellation or suspension for failure to comply with section 285, 1304 or 1305 notice

“295A. If:

- (a) a person who is receiving a sole parent pension is given a notice under section 285, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

the Secretary may determine that the pension is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 290 or 295 applies.

Note 2: for the date of effect of a determination under this section see section 300.”.

Subsection 298 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s sole parent pension under section 295 or 295A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive a sole parent pension that was payable to the person; or
 - (ii) the person is not receiving a sole parent pension that is payable to the person;

the Secretary is to determine that a sole parent pension was or is payable to the person.”.

Subsection 300 (1):

Omit “or 295”, substitute “, 295 or 295A”.

Paragraph 303 (1) (a):

Insert “because of subparagraph 249 (1) (a) (iv) (illness separation)” after “sole parent pension”.

After paragraph 303 (1) (d):

Insert:

“and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

SCHEDULE 2—continued

- (i) the amount that would otherwise be payable to the person under section 304 (continued payment of partner's pension or allowance); and
- (ii) the amount that would otherwise be payable to the person under section 306 (person's continued rate);”.

Subsection 322 (2):

Insert “, subject to subsection 318 (3),” after “the claim is” (last occurring).

Subparagraph 344 (1) (d) (ii):

Insert “or 352A” after “section 352”.

After section 352:

Insert:

Cancellation or suspension for failure to comply with section 342, 1304 or 1305 notice

“352A. If:

- (a) a person who is receiving a widowed person allowance is given a notice under section 342, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

the Secretary may determine that the allowance is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 347 or 352 applies.

Note 2: for the date of effect of a determination under this section see section 355.”.

Subsection 353 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person's widowed person allowance under section 352 or 352A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive a widowed person allowance that was payable to the person; or
 - (ii) the person is not receiving a widowed person allowance that is payable to the person;

the Secretary is to determine that a widowed person allowance was or is payable to the person.”.

SCHEDULE 2—continued

Subsection 355 (1):

Omit “or 352”, substitute “, 352 or 352A”.

Subsection 369 (2):

Insert “, subject to subsection 366 (3),” after “the claim is” (last occurring).

Paragraph 371 (1) (c):

Omit “woman”, substitute “person”.

Subsection 371 (2):

Omit “woman” (wherever occurring), substitute “person”.

Subsection 371 (3):

Omit “woman”, substitute “person”.

Paragraph 392 (1) (d):

Insert “or 400A” after “section 400”.

After section 400:

Insert:

Cancellation or suspension for failure to comply with section 390, 1304 or 1305 notice

“400A. If:

- (a) a woman who is receiving a widow B pension is given a notice under section 390, 1304 or 1305 requiring the woman to give the Department a statement; and
- (b) the woman does not comply with the notice;

the Secretary may determine that the pension is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 395 or 400 applies.

Note 2: for the date of effect of a determination under this section see section 403.”.

Subsection 401 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a woman’s widow B pension under section 400 or 400A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the woman did not receive a widow B pension that was payable to the woman; or

SCHEDULE 2—continued

(ii) the woman is not receiving a widow B pension that is payable to the woman;
the Secretary is to determine that a widow B pension was or is payable to the woman.”.

Subsection 403 (1):

Omit “or 400”, substitute “, 400 or 400A”.

Paragraph 438 (1) (d):

Insert “or 445A” after “section 445”.

After section 445:

Insert:

Cancellation or suspension for failure to comply with section 436, 1304 or 1305 notice

“445A. If:

- (a) a person who is receiving a sheltered employment allowance is given a notice under section 436, 1304 or 1305 requiring the person to give the Department a statement; and
 - (b) the person does not comply with the notice;
- the Secretary may determine that the allowance is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 445 applies.

Note 2: for the date of effect of a determination under this section see section 448.”.

Subsection 446 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s sheltered employment allowance under section 445 or 445A; and
 - (b) reconsiders the decision to cancel or suspend; and
 - (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive sheltered employment allowance that was payable to the person; or
 - (ii) the person is not receiving sheltered employment allowance that is payable to the person;
- the Secretary is to determine that a sheltered employment allowance was or is payable to the person.”.

Subsection 448 (1):

Omit “or 445”, substitute “, 445 or 445A”.

SCHEDULE 2—continued

After paragraph 449 (1) (d):

Insert:

“and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

- (i) the amount that would otherwise be payable to the person under section 450 (continued payment of partner’s pension or allowance); and
- (ii) the amount that would otherwise be payable to the person under section 452 (person’s continued rate);”.

Subsection 473 (1):

- (a) Omit paragraph (a).
- (b) Omit “(b)”, substitute “(a)”.
- (c) Omit “(c)”, substitute “(b)”.
- (d) Omit “(d)”, substitute “(c)”.
- (e) Omit “(e)”, substitute “(d)”.

Paragraph 490 (1) (d):

Insert “or 497A” after “section 497”.

After section 497:

Insert:

Cancellation or suspension for failure to comply with section 488, 1304 or 1305 notice

“497A. If:

- (a) a person who is receiving a rehabilitation allowance is given a notice under section 488, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

the Secretary may determine that the allowance is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 497 applies.

Note 2: for the date of effect of a determination under this section see section 500.”.

Subsection 498 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s rehabilitation allowance under section 497 or 497A; and
- (b) reconsiders the decision to cancel or suspend; and

SCHEDULE 2—continued

(c) becomes satisfied that because of the decision to cancel or suspend:

- (i) the person did not receive rehabilitation allowance that was payable to the person; or
- (ii) the person is not receiving rehabilitation allowance that is payable to the person;

the Secretary is to determine that a rehabilitation allowance was or is payable to the person.”.

Subsection 500 (1):

Omit “or 497”, substitute “, 497 or 497A”.

After paragraph 501 (1) (d):

Insert:

“and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

- (i) the amount that would otherwise be payable to the person under section 502 (continued payment of partner’s pension or allowance); and
- (ii) the amount that would otherwise be payable to the person under section 504 (person’s continued rate);”.

Subparagraph 521 (1) (a) (ii):

Insert “instead of a social security benefit” after “allowance”.

Subparagraph 521 (1) (a) (iii):

Insert “instead of a social security benefit” after “allowance”.

Paragraph 577 (1) (d):

Insert “or 586A” after “section 586”.

After section 586:

Insert:

Cancellation or suspension for failure to comply with section 575, 1304 or 1305 notice

“586A. If:

- (a) a person who is receiving a job search allowance is given a notice under section 575, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

the Secretary may determine that the allowance is to be cancelled or suspended.

SCHEDULE 2—continued

Note 1: this section will not apply in a case where section 581 or 586 applies.

Note 2: for the date of effect of a determination under this section see section 589.”.

Subsection 587 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s job search allowance under section 586 or 586A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive a job search allowance that was payable to the person; or
 - (ii) the person is not receiving a job search allowance that is payable to the person;

the Secretary is to determine that a job search allowance was or is payable to the person.”.

Subsection 589 (1):

Omit “or 586”, substitute “, 586 or 586A”.

Subparagraph 600 (1) (a) (i):

Omit the subparagraph, substitute:

“(i) a special benefit that was paid in advance; or”.

Subparagraph 600 (1) (a) (ii):

Insert “instead of a job search allowance” after “allowance”.

Subparagraph 600 (1) (a) (iii):

Insert “instead of a job search allowance” after “allowance”.

Paragraph 660 (1) (d):

Insert “or 660IA” after “section 660I”.

After section 660I:

Insert:

Cancellation or suspension for failure to comply with section 658, 1304 or 1305 notice

“660IA. If:

- (a) a person who is receiving newstart allowance is given a notice under section 658, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

SCHEDULE 2—continued

the Secretary may determine that the allowance is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 660D or 660I applies.

Note 2: for the date of effect of a determination under this section see section 660L.”.

Subsection 660J (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s newstart allowance under section 660I or 660IA; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive newstart allowance that was payable to the person; or
 - (ii) the person is not receiving newstart allowance that is payable to the person;

the Secretary is to determine that a newstart allowance was or is payable to the person.”.

Subsection 660L (1):

Omit “or 660I”, substitute “, 660I or 660IA”.

Subsection 666 (1):

Add at the end:

“Note 4: for ‘transferred rehabilitation allowance’ see subsection 23 (7A).”.

Subsection 671 (3) (Assets Value Limit Table):

Omit the Table (but not the Notes to the Table), substitute:

SCHEDULE 2—continued

“

ASSETS VALUE LIMIT TABLE			
column 1	column 2	column 3 assets value limit	
item	person's family situation	column 3A either person or partner homeowner	column 3B neither person nor partner homeowner
1.	Not member of a couple	\$110,750	\$190,250
2.	Partnered (partner getting neither pension nor benefit)	\$157,500	\$237,000
3.	Partnered (partner getting pension or benefit)	\$78,750	\$118,500

”

At the end of section 676:

Add:

“(4) If:

- (a) a person is subject to an education leavers waiting period (see subsection 684 (1)); and
- (b) the person became incapacitated for work while undertaking the course of education;

the person's provisional commencement day is the last day on which the person was undertaking the course.”.

After section 700:

Insert:

Sickness benefit recipient may ask Secretary to change appropriate tax year

“700A. (1) If:

- (a) the maximum basic rate of a person's sickness benefit has been reduced because of the parental income test provided in Module G of Benefit Rate Calculator A (see section 1067); and
- (b) the person asks the Secretary to make a determination under this section; and
- (c) the taxable income of the person's income test parent or parents for the tax year in which the request is made is 75% or less than 75% of the taxable income of the income test parent or parents for the tax year that is the appropriate tax year immediately before the request is made;

SCHEDULE 2—continued

the Secretary must determine that the appropriate tax year, for the purposes of applying that Module to the person for the period:

- (d) starting on the day on which the request is made; and
 - (e) finishing on the first anniversary of that day;
- is the tax year in which the request is made.

“(2) A request under paragraph (1) (b) must be made in writing, in accordance with a form approved by the Secretary.

“(3) Terms used in subsection (1) have the same meaning as they have in Module G of Benefit Rate Calculator A.”.

Paragraph 716 (1) (d):

Insert “or 722A” after “section 722”.

After section 722:

Insert:

Cancellation or suspension for failure to comply with section 714, 1304 or 1305 notice

“722A. If:

- (a) a person who is receiving a sickness benefit is given a notice under section 714, 1304 or 1305 requiring the person to give the Department a statement; and
 - (b) the person does not comply with the notice;
- the Secretary may determine that the benefit is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 722 applies.

Note 2: for the date of effect of a determination under this section see section 725.”.

Subsection 723 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s sickness benefit under section 722 or 722A; and
 - (b) reconsiders the decision to cancel or suspend; and
 - (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive sickness benefit that was payable to the person; or
 - (ii) the person is not receiving sickness benefit that is payable to the person;
- the Secretary is to determine that a sickness benefit was or is payable to the person.”.

SCHEDULE 2—continued

Subsection 725 (1):

Omit “or 722”, substitute “, 722 or 722A”.

Subparagraph 731 (2) (a) (ii):

Omit “an age pension”, substitute “special benefit”.

Subsection 733 (3) (Assets Value Limit Table):

Omit the Table (but not the Notes to the Table), substitute:

“

ASSETS VALUE LIMIT TABLE			
column 1 item	column 2 person’s family situation	column 3 assets value limit	
		column 3A either person or partner homeowner	column 3B neither person nor partner homeowner
1.	Not member of a couple	\$110,750	\$190,250
2.	Partnered (partner getting neither pension nor benefit)	\$157,500	\$237,000
3.	Partnered (partner getting pension or benefit)	\$78,750	\$118,500

”.

Subsection 738 (1):

(a) Omit “(iii)”, substitute “(c)”.

(b) Omit “(iv)”, substitute “(d)”.

(c) Omit “(v)”, substitute “(e)”.

(d) Omit “(vi)”, substitute “(f)”.

Paragraph 762 (1) (d):

Insert “or 765A” after “section 765”.

After section 765:

Insert:

Cancellation or suspension for failure to comply with section 760, 1304 or 1305 notice

“765A. If:

- (a) a person who is receiving a special benefit is given a notice under section 760, 1304 or 1305 requiring the person to give the Department a statement; and

SCHEDULE 2—continued

(b) the person does not comply with the notice;
the Secretary may determine that the benefit is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 765 applies.

Note 2: for the date of effect of a determination under this section see section 768.”.

Subsection 766 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s special benefit under section 765 or 765A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive special benefit that was payable to the person; or
 - (ii) the person is not receiving special benefit that is payable to the person;

the Secretary is to determine that a special benefit was or is payable to the person.”.

Subsection 768 (1):

Omit “or 765”, substitute “, 765 or 765A”.

Paragraph 777 (2) (b):

Omit “SP”, substitute “SPP”.

After section 777:

Insert:

Effect of maintenance rights on qualification for special needs sole parent pension

“777A. (1) A person is not qualified for a special needs sole parent pension if:

- (a) the person is entitled to maintenance; and
- (b) the Secretary considers that it is reasonable for the person to take action to obtain maintenance; and
- (c) the person does not take such action as the Secretary considers reasonable to obtain maintenance.

“(2) In subsection (1):

‘maintenance’, in relation to a person, means maintenance for the person or an SPP child of the person.”.

SCHEDULE 2—continued

Subsection 789 (2):

Insert “, subject to subsection 784 (3),” after “the claim is” (last occurring).

Subsection 796 (2):

Omit “to be worked out”, substitute “the person’s special needs proportional rate worked out”.

Subsection 796 (5):

Omit “to be worked out”, substitute “the person’s special needs proportional rate worked out”.

Section 796 (point 796-A1 of the Special Needs Proportional Rate Calculator):

Omit “calculate a person’s portability”, substitute “work out a person’s special needs proportional”.

Section 796 (Step 4 in Method statement in point 796-A1 of the Special Needs Proportional Rate Calculator):

Omit “portability”, substitute “special needs proportional”.

Paragraph 811 (1) (e):

Insert “or 818A” after “section 818”.

After section 818:

Insert:

Cancellation or suspension for failure to comply with section 809, 1304 or 1305 notice

“818A. If:

- (a) a person who is receiving a special needs pension is given a notice under section 809, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

the Secretary may determine that the pension is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 814 or 818 applies.

Note 2: for the date of effect of a determination under this section see section 821.”.

Subsection 819 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s special needs pension under section 818 or 818A; and

SCHEDULE 2—continued

- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive a special needs pension that was payable to the person; or
 - (ii) the person is not receiving a special needs pension that is payable to the person;

the Secretary is to determine that a special needs pension was or is payable to the person.”.

Subsection 821 (1):

Omit “or 818”, substitute “, 818 or 818A”.

After paragraph 822 (1) (d):

Insert:

- “and (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:
- (i) the amount that would otherwise be payable to the person under section 823 (continued payment of partner’s pension or allowance); and
 - (ii) the amount that would otherwise be payable to the person under section 825 (person’s continued rate);”.

Paragraph 839 (2) (c):

Omit “\$100”, substitute “\$107.70”.

Subsection 855 (2):

Omit “\$24.80”, substitute “\$26.70”.

Paragraph 860 (a):

Omit “pension”, substitute “allowance”.

Paragraph 860 (b):

Omit “a pension”, substitute “the allowance”.

Paragraph 876 (1) (d):

Insert “or 882A” after “section 882”.

After section 882:

Insert:

SCHEDULE 2—continued

Cancellation or suspension for failure to comply with section 874, 1304 or 1305 notice

“882A. If:

- (a) a person or an approved care organisation who is receiving a family allowance is given a notice under section 874, 1304 or 1305 requiring the person or organisation to give the Department a statement; and
 - (b) the person or organisation does not comply with the notice;
- the Secretary may determine that the allowance is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 882 applies.

Note 2: for the date of effect of a determination under this section see section 885.”.

Subsection 883 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s or an approved care organisation’s family allowance under section 882 or 882A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person or organisation did not receive family allowance that was payable to the person or organisation; or
 - (ii) the person or organisation is not receiving family allowance that is payable to the person or organisation;

the Secretary is to determine that family allowance was or is payable to the person or organisation.”.

Subsection 885 (1):

Omit “or 882”, substitute “, 882 or 882A”.

Section 889 (Lump Sum Calculator—Method statement—Step 1):

Insert “family payment” after “rate on the”.

Section 889 (Lump Sum Calculator—Method statement—Step 2):

Insert “family payment” after “rate on the”.

Section 889 (Lump Sum Calculator—Method statement—Step 4):

Insert “family payment” after “the number of”.

Section 891:

Omit “892,”.

SCHEDULE 2—continued

Section 892:

Repeal the section.

Section 894:

- (a) Insert “at a particular time” after “family allowance supplement child”.
- (b) Omit “the last year of income of the child”, substitute “the tax year of the child that ended on 30 June in the previous calendar year”.

Paragraph 895 (1) (d):

Omit “\$322,750”, substitute “\$347,500”.

Subsection 900 (2):

Omit the subsection, substitute:

“(2) Subsection (1) does not apply to a periodic payment that is made under:

- (a) section 19, 20, 21, 22 or 31 of the *Commonwealth Employees’ Rehabilitation and Compensation Act 1988*; or
- (b) section 5 of the *Seamen’s Compensation Act 1911*.”.

Subparagraph 918 (1) (c) (i):

Insert “75% or” before “less than”.

After section 921:

Insert:

Calculation of amount of instalment

“921A. If, apart from this section, the amount of an instalment of family allowance supplement would be less than \$1.00, the amount of the instalment is to be increased to \$1.00.”.

Paragraph 933 (1) (d):

Insert “or 939A” after “section 939”.

After section 939:

Insert:

Cancellation or suspension for failure to comply with section 931, 1304 or 1305 notice

“939A. If:

- (a) a person who is receiving a family allowance supplement is given a notice under section 931, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

SCHEDULE 2—continued

the Secretary may determine that the supplement is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 939 applies.

Note 2: for the date of effect of a determination under this section see section 944.”.

Subsection 940 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s family allowance supplement under section 939 or 939A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive a family allowance supplement that was payable to the person; or
 - (ii) the person is not receiving a family allowance supplement that is payable to the person;

the Secretary is to determine that family allowance supplement was or is payable to the person.”.

Subsection 944 (1):

Omit “or 939”, substitute “, 939 or 939A”.

Section 951 (Lump Sum Calculator—Method statement—Step 2):

Insert “family payment” after “rate on the”.

Subparagraph 953 (b) (iv):

Omit “\$100”, substitute “\$107.70”.

Subsection 967 (1):

Omit “\$55.60”, substitute “\$59.90”.

Paragraph 981 (1) (d):

Insert “or 987A” after “section 987”.

After section 987:

Insert:

Cancellation or suspension for failure to comply with section 979, 1304 or 1305 notice

“987A. If:

- (a) a person who is receiving a child disability allowance is given a notice under section 979, 1304 or 1305 requiring the person to give the Department a statement; and

SCHEDULE 2—continued

(b) the person does not comply with the notice;
the Secretary may determine that the allowance is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 987 applies.

Note 2: for the date of effect of a determination under this section see section 990.”.

Subsection 988 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s child disability allowance under section 987 or 987A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive a child disability allowance that was payable to the person; or
 - (ii) the person is not receiving a child disability allowance that is payable to the person;

the Secretary is to determine that a child disability allowance was or is payable to the person.”.

Subsection 990 (1):

Omit “or 987”, substitute “, 987 or 987A”.

Section 1010:

Omit “\$29.80”, substitute “\$32.10”.

Paragraph 1026 (1) (d):

Insert “or 1029A” after “section 1029”.

After section 1029:

Insert:

Cancellation or suspension for failure to comply with section 1024, 1304 or 1305 notice

“1029A. If:

- (a) a person or approved care organisation who is receiving a double orphan pension is given a notice under section 1024, 1304 or 1305 requiring the person or organisation to give the Department a statement; and
 - (b) the person or organisation does not comply with the notice;
- the Secretary may determine that the pension is to be cancelled or suspended.

SCHEDULE 2—continued

Note 1: this section will not apply in a case where section 1029 applies.

Note 2: for the date of effect of a determination under this section see section 1032.”.

Subsection 1030 (1):

Omit the subsection, substitute:

“(1) If the Secretary:

- (a) cancels or suspends a person’s or approved care organisation’s double orphan pension under section 1029 or 1029A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person or organisation did not receive double orphan pension that was payable to the person or organisation; or
 - (ii) the person or organisation is not receiving double orphan pension that is payable to the person or organisation;

the Secretary is to determine that double orphan pension was or is payable to the person or organisation.”.

Subsection 1032 (1):

Insert “or 1029A”, after “1029”.

Paragraph 1057 (1) (d):

Insert “or 1059A” after “section 1059”.

After section 1059:

Insert:

Cancellation or suspension for failure to comply with section 1055, 1304 or 1305 notice

“1059A. If:

- (a) a person who is receiving a mobility allowance is given a notice under section 1055, 1304 or 1305 requiring the person to give the Department a statement; and
- (b) the person does not comply with the notice;

the Secretary may determine that the allowance is to be cancelled or suspended.

Note 1: this section will not apply in a case where section 1059 applies.

Note 2: for the date of effect of a determination under this section see section 1061.”.

SCHEDULE 2—continued

Subsection 1059 (2):

Omit the subsection, substitute:

“(2) If the Secretary:

- (a) cancels or suspends a person’s mobility allowance under subsection (1) or section 1059A; and
- (b) reconsiders the decision to cancel or suspend; and
- (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive mobility allowance that was payable to the person; or
 - (ii) the person is not receiving mobility allowance that is payable to the person;

the Secretary is to determine that mobility allowance was or is payable to the person.”.

Subsection 1061 (1):

Insert “or section 1059A”, after “1059 (1)”.

Subparagraph 1064 (3) (b) (ii):

Insert “not” after “is”.

Section 1064 (Pension Rate Calculator A—point 1064-A1):

Add at the end:

“Note 6: a person’s rate may also be reduced because of the receipt of compensation (see section 1168) or because the person is receiving a foreign pension (see scheduled international social security agreements at section 1208).”.

Section 1064 (Pension Rate Calculator A—point 1064-B1—Table B):

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE B MAXIMUM BASIC RATES			
column 1 item	column 2 person’s family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of a couple	\$7,841.60	\$301.60
2.	Partnered (partner getting neither pension nor benefit)	\$7,841.60	\$301.60
3.	Partnered (partner getting pension or benefit)	\$6,539.00	\$251.50
4.	Member of an illness separated or respite care couple	\$7,841.60	\$301.60

”

SCHEDULE 2—continued

Section 1064 (Pension Rate Calculator A—point 1064-C3—Table C):

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE C ADD-ON FOR DEPENDENT CHILD			
column 1 item	column 2 child's age	column 3 rate per year	column 4 rate per fortnight
1.	under 13	\$1,378.00	\$53.00
2.	13 or over but under 16	\$2,009.80	\$77.30
3.	16 or over	\$884	\$34

”.

Section 1064 (Pension Rate Calculator A—point 1064-C4):

Omit the point, substitute:

“1064-C4. If:

- (a) a person is entitled to claim maintenance from someone else for a dependent child of the person; and
- (b) the Secretary considers that it is reasonable that the person should have taken action to obtain the maintenance; and
- (c) the person has not taken action that the Secretary considers reasonable to obtain the maintenance;

there is no dependent child add-on for the dependent child.”.

Section 1064 (Pension Rate Calculator A—point 1064-C10):

Omit “\$670.80 a year (\$25.80 a fortnight)”, substitute “\$722.80 a year (\$27.80 a fortnight)”.

Section 1064 (Pension Rate Calculator A—point 1064-D5—Table D):

Omit the Table (but not the Notes to the Table), substitute:

SCHEDULE 2—continued

“

TABLE D RATE OF RENT ASSISTANCE					
column 1 item	column 2 family situation	column 3 Rate A	column 4 Rate B		
			column 4A No pension increase children	column 4B 1 or 2 pension increase children	column 4C 3 or more pension increase children
1.	Not member of couple	$\frac{\text{Annual rent} - \$1,300}{2}$	\$1,612.00	\$1,882.40	\$2,150.20
2.	Partnered—partner does not have rent increased pension	$\frac{\text{Annual rent} - \$1,300}{2}$	\$1,612.00	\$1,882.40	\$2,150.20
3.	Partnered—partner has rent increased pension	$\frac{\text{Annual rent} - \$1,300}{4}$	\$806.00	\$941.20	\$1,075.10

”

Section 1064 (Pension Rate Calculator A—after point 1064-D8):

Omit the examples, substitute:

“RENT ASSISTANCE EXAMPLES (using rates to 30.6.91)

Example 1:

Facts:

Jane is a pensioner who is not a member of a couple. She does not have any children and pays \$65.00 a week for a small bedsitter.

Application:

Item 1 of Table D in Point 1064-D5 applies to Jane.

Rate A for Jane is:

$$\frac{(\$65 \times 52) - \$1,300}{2} = \frac{\$3,380 - \$1,300}{2} = \frac{\$2,080}{2} = \$1,040$$

Rate B for Jane is \$1,612. The lesser rate is \$1,040. This is the yearly rate of Jane's rent assistance amount.

Example 2:

Facts:

Martha and Fred are both pensioners and are a couple. They rent a flat for \$130 a week. They do not have any children.

Application:

Rate A for Martha is:

$$\frac{(\$130 \times 52) - \$1,300}{4} = \frac{\$6,760 - \$1,300}{4} = \frac{\$5,460}{4} = \$1,365$$

Rate B for Martha is \$806. The lesser rate is \$806. This is the yearly rate of Martha's rent assistance amount.

The same calculation applies to Fred's yearly rate of rent assistance amount.

Together they get \$1,612 of annual rent assistance.

Example 3:

Facts:

SCHEDULE 2—continued

Janet and Damian are both pensioners and are a couple. They rent a house for \$140 a week. They have a son Boris for whom Janet gets a dependent child add-on under point 1064-C3.

Application:

Item 3 of Table D in point 1064-D5 applies to both Janet and Damian.

Rate A for Janet is:

$$\frac{(\$140 \times 52) - \$1,300}{4} = \frac{\$7,280 - \$1,300}{4} = \frac{\$5,980}{4} = \$1,495$$

Rate B for Janet is \$941.20. The lesser rate is \$941.20. This is the yearly rate of Janet's rent assistance amount.

The same calculation applies to Damian's yearly rate of rent assistance.

Together they get \$1,882.40 of annual rent assistance.”.

Section 1064 (Pension Rate Calculator A—point 1064-E1—Method statement—Step 2):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

Section 1064 (Pension Rate Calculator A—point 1064-E1—Method statement—Note to Step 2):

Omit the Note, substitute:

“Note: a person's ordinary income free area is the amount of ordinary income that the person can have without any deduction being made from the person's maximum payment rate.”.

Section 1064 (Pension Rate Calculator A—point 1064-E1—Method statement—Step 3):

Omit the Step, substitute:

“Step 3. Work out whether the person's ordinary income exceeds the person's ordinary income free area.”.

Section 1064 (Pension Rate Calculator A—point 1064-E3):

Omit the point.

Section 1064 (Pension Rate Calculator A—heading to point 1064-E4):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

Section 1064 (Pension Rate Calculator A—point 1064-E4):

Omit “ordinary free area limit” (wherever occurring), substitute “ordinary income free area”.

Section 1064 (Pension Rate Calculator A—point 1064-E9—heading to Examples):

Omit “ORDINARY FREE AREA LIMIT”, substitute “ORDINARY INCOME FREE AREA”.

SCHEDULE 2—continued

Section 1064 (Pension Rate Calculator A—point 1064-E9—Examples):

Omit “ordinary free area limit” (wherever occurring), substitute “ordinary income free area”.

Section 1064 (Pension Rate Calculator A—heading to point 1064-E10):

Omit “*ordinary free area limit*”, substitute “*ordinary income free area*”.

Section 1064 (Pension Rate Calculator A—point 1064-E11):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

Section 1064 (Pension Rate Calculator A—point 1064-F1—Method statement—Step 2):

Omit “limit”.

Section 1064 (Pension Rate Calculator A—point 1064-F1—Method statement—Note to Step 2):

Omit the Note, substitute:

“Note: a person’s maintenance income free area is the amount of maintenance income that the person can have without any deduction being made from the person’s maximum payment rate.”.

Section 1064 (Pension Rate Calculator A—point 1064-F6—formula):

Omit “basic”, substitute “payment”.

Section 1064 (Pension Rate Calculator A—heading to point 1064-F9):

Omit “*limit*”.

Section 1064 (Pension Rate Calculator A—point 1064-F9):

Omit “limit” (wherever occurring).

Section 1064 (Pension Rate Calculator A—point 1064-F9—heading to Table F-1):

Omit “LIMIT”.

Section 1064 (Pension Rate Calculator A—heading to point 1064-F11):

Omit “*maintenance free area limit*”, substitute “*maintenance income free area*”.

Section 1064 (Pension Rate Calculator A—point 1064-F12):

Omit “maintenance free area limit”, substitute “maintenance income free area”.

SCHEDULE 2—continued

Section 1064 (Pension Rate Calculator A—point 1064-F13):

Omit “(in this point called the ‘child ‘DC partner’))”, substitute “(in this point called the ‘DC partner’))”.

Section 1064 (Pension Rate Calculator A—point 1064-F13—subparagraph (c) (ii):

Omit “notional”.

Section 1064 (Pension Rate Calculator A—point 1064-G3—Table G-1):

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE G-1 ASSETS VALUE LIMIT			
column 1 item	column 2 person's family situation	column 3 assets value limit	
		column 3A either person or partner homeowner	column 3B neither person nor partner homeowner
1.	Not member of a couple	\$110,750	\$190,250
2.	Partnered (partner getting neither pension nor benefit)	\$78,750	\$118,500
3.	Partnered (partner getting pension or benefit)	\$78,750	\$118,500

”.

Section 1064 (Pension Rate Calculator A—point 1064-H2—Table H):

After item 3 insert:

“4.

Member of an illness separated or respite care couple	\$364.00	\$14.00	\$182.00	\$7.00
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”.

Section 1064 (Pension Rate Calculator A—point 1064-J2—paragraph (a)):

Omit “maximum basic rate of pension”, substitute “maximum payment rate”.

Section 1064 (Pension Rate Calculator A—point 1064-J3—Table J):

Omit the Table (but not the Note to the Table), substitute:

SCHEDULE 2—continued

“

TABLE J RATE OF INCENTIVE ALLOWANCE			
column 1 item	column 2 person's situation	column 3 rate per year	column 4 rate per fortnight
1.	No pension increase children	\$1,612.00	\$62.00
2.	1 or 2 pension increase children	\$1,882.40	\$72.40
3.	3 or more pension increase children	\$2,150.20	\$82.70

”.

Section 1065 (Pension Rate Calculator B—point 1065-B1—Table B):

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE B MAXIMUM BASIC RATES			
column 1 item	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of a couple	\$7,841.60	\$301.60
2.	Partnered (partner getting neither pension nor benefit)	\$7,841.60	\$301.60
3.	Partnered (partner getting pension or benefit)	\$6,539.00	\$251.50
4.	Member of an illness separated or respite care couple	\$7,841.60	\$301.60

”.

Section 1065 (Pension Rate Calculator B—point 1065-C3—Table C):

Omit the Table (but not the Notes to the Table), substitute:

SCHEDULE 2—continued

“

<p>TABLE C APPLICABLE AMOUNT FOR DEPENDENT CHILDREN</p>			
column 1 item	column 2 additional amount	column 3 rate per year	column 4 rate per fortnight
1.	amount applicable if person has a dependent child who has not turned 13	\$1,378.00	\$53.00
2.	amount applicable if person has a dependent child who has turned 13 but has not turned 16	\$2,009.80	\$77.30
3.	amount applicable if person has a dependent child who has turned 16 (over 16 child add-on)	\$884	\$34
4.	amount applicable if the person has a dependent child or dependent children and either is not a member of a couple or is a member of an illness separated couple	\$722.80	\$27.80

”.

Section 1065 (Pension Rate Calculator B—point 1065-E2—Table E):

After item 3 insert:

“4.

Member of an illness separated or respite care couple	\$364.00	\$14.00	\$182.00	\$7.00
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”.

Section 1065 (Pension Rate Calculator B—point 1065-F3—Table F):

Omit the Table (but not the Note to the Table), substitute:

SCHEDULE 2—continued

“

column 1 item	column 2 person's situation	column 3 rate per year	column 4 rate per fortnight
1.	No pension increase children	\$1,612.00	\$62.00
2.	1 or 2 pension increase children	\$1,882.40	\$72.40
3.	3 or more pension increase children	\$2,150.20	\$82.70

”

Section 1066 (Pension Rate Calculator C—point 1066-B1):

Omit “\$7,584.20 per year (\$291.70 per fortnight)”, substitute “\$7,841.60 per year (\$301.60 per fortnight)”.

Section 1066 (Pension Rate Calculator C—point 1066-C2—Table C):

Omit the Table (but not the Notes to the Table), substitute:

“

column 1 item	column 2 child's age	column 3 rate per year	column 4 rate per fortnight
1.	under 13	\$1,378.00	\$53.00
2.	13 or over but under 16	\$2,009.80	\$77.30
3.	16 or over	\$884	\$34

”

Section 1066 (Pension Rate Calculator C—point 1066-C5):

Omit “\$670.80 per year (\$25.80 per fortnight)”, substitute “\$722.80 per year (\$27.80 per fortnight)”.

Section 1066 (Pension Rate Calculator C—point 1066-D4—Table D):

Omit the Table (but not the Notes to the Table), substitute:

SCHEDULE 2—continued

TABLE D RATE OF RENT ASSISTANCE			
column 1 Rate A	column 2 Rate B		
	column 2A No pension increase children	column 2B 1 or 2 pension increase children	column 2C 3 or more pension increase children
<u>Annual rent—\$1,300</u> 2	\$1,612	\$1,882.40	\$2,150.20

Section 1066 (Pension Rate Calculator C—point 1066-E1):

Omit “1066-E1. This is how to work out the effect of a person’s ordinary income on the person’s maximum payment rate.”, substitute “1066-E1. This is how to work out the effect of a person’s ordinary income on the person’s maximum payment rate.”.

Section 1066 (Pension Rate Calculator C—point 1066-E1—Method statement—Step 2):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

Section 1066 (Pension Rate Calculator C—point 1066-E1—Method statement—Note to Step 2):

Omit the Note, substitute:

“Note: a person’s ordinary income free area is the amount of ordinary income that the person can have without any deduction being made from the person’s maximum payment rate.”.

Section 1066 (Pension Rate Calculator C—point 1066-E3):

Omit the point.

Section 1066 (Pension Rate Calculator C—heading to point 1066-E4):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

Section 1066 (Pension Rate Calculator C—point 1066-E4):

Omit “ordinary free area limit” (wherever occurring), substitute “ordinary income free area”.

Section 1066 (Pension Rate Calculator C—point 1066-E7—heading to Example):

Omit “ORDINARY FREE AREA LIMIT”, substitute “ORDINARY INCOME FREE AREA”.

SCHEDULE 2—continued

Section 1066 (Pension Rate Calculator C—point 1066-E7—Example):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

Section 1066 (Pension Rate Calculator C—point 1066-E9):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

Section 1066 (Pension Rate Calculator C—point 1066-F1—Method statement—Step 2):

Omit “limit”.

Section 1066 (Pension Rate Calculator C—point 1066-F1—Method statement—Note to Step 2):

Omit the Note, substitute:

“Note: a person’s maintenance income free area is the amount of maintenance income that the person can have without any deduction being made from the person’s maximum payment rate.”.

Section 1066 (Pension Rate Calculator C—heading to point 1066-F8):

Omit “*limit*”.

Section 1066 (Pension Rate Calculator C—point 1066-F8):

Omit “limit” (wherever occurring).

Section 1066 (Pension Rate Calculator C—point 1066-F8—heading to Table F):

Omit “LIMIT”.

Section 1066 (Pension Rate Calculator C—heading to point 1066-F10):

Omit “*maintenance free area limit*”, substitute “*maintenance income free area*”.

Section 1066 (Pension Rate Calculator C—point 1066-F11):

Omit “maintenance free area limit”, substitute “maintenance income free area”.

Section 1066 (Pension Rate Calculator C—point 1066-G3—Table G):

Omit the Table (but not the Notes to the Table), substitute:

SCHEDULE 2—continued

“

TABLE G ASSETS VALUE LIMIT			
column 1	column 2	column 3 assets value limit	
item	person's family situation	column 3A either person or partner homeowner	column 3B neither person nor partner homeowner
1.	Not member of a couple	\$110,750	\$190,250
2.	Partnered (partner getting neither pension nor benefit)	\$78,750	\$118,500
3.	Partnered (partner getting pension or benefit)	\$78,750	\$118,500

”.

Section 1066 (Pension Rate Calculator C—point 1066-H2—Table H):

After item 3 insert:

“4.

Member of an illness separated or respite care couple	\$364.00	\$14.00	\$182.00	\$7.00
---	----------	---------	----------	--------

”.

Section 1067 (Benefit Rate Calculator A—Note 1 to point 1067-A2):

Omit the Note, substitute the following Note:

“Note 1: for ‘industrial action preclusion provision’ see point 1067-A3 and for ‘deferment provision’ see point 1067-A4.”.

Section 1067 (Benefit Rate Calculator A—point 1067-B1—Table B):

Omit the Table (but not the Notes to the Table), substitute:

SCHEDULE 2—continued

<p>TABLE B MAXIMUM BASIC RATES</p>			
column 1 item	column 2 person's family situation	column 3 rate	
		column 3A person with dependent child	column 3B person without dependent child
1.	Not member of a couple and person is: (a) not a homeless person; and (b) not an independent young person	\$301.60	\$124.10
2.	Not member of a couple and person is: (a) a homeless person; or (b) an independent young person	\$301.60	\$204.80
3.	Partnered (partner getting neither pension nor benefit)	\$251.50	\$204.80
4.	Partnered (partner getting pension or benefit)	\$251.50	\$204.80
5.	Member of illness separated couple	\$301.60	\$301.60

Section 1067 (Benefit Rate Calculator A—paragraph 1067-C3 (a)):
Omit “\$243.20”, substitute “\$251.50”.

Section 1067 (Benefit Rate Calculator A—paragraph 1067-C3 (b)):
Omit “\$291.70”, substitute “\$301.60”.

Section 1067 (Benefit Rate Calculator A—point 1067-C4):
Omit “spouse”, substitute “partner”.

Section 1067 (Benefit Rate Calculator A—point 1067-E2—Table E):
Omit the Table (but not the Notes to the Table), substitute:

SCHEDULE 2—continued

“

TABLE E DEPENDENT CHILD ADD-ON		
column 1 item	column 2 child's age	column 3 amount per fortnight
1.	under 13	\$53.00
2.	13 or over but under 16	\$77.30
3.	16 or over	\$34.00

”

Section 1067 (Benefit Rate Calculator A—after point 1067-E2):

Insert:

Failure to reasonably pursue maintenance claim

“1067-E2A. If:

- (a) a person is entitled to claim maintenance from someone else for a dependent child of the person; and
- (b) the Secretary considers that it is reasonable that the person should have taken action to obtain the maintenance; and
- (c) the person has not taken action that the Secretary considers reasonable to obtain the maintenance;

there is no dependent child add-on for the child.”.

Section 1067 (Benefit Rate Calculator A—point 1067-E3—paragraph (b)):

Omit “a person’s”, substitute “another person’s”.

Section 1067 (Benefit Rate Calculator A—point 1067-E8):

Omit “\$25.80”, substitute “27.80”.

Section 1067 (Benefit Rate Calculator A—point 1067-F13—Table F):

Omit the Table (but not the Notes to the Table), substitute:

SCHEDULE 2—continued

<p>TABLE F RATE OF RENT ASSISTANCE</p>					
column 1 item	column 2 family situation	column 3 Rate A	column 4 Rate B		
			column 4A No benefit increase children	column 4B 1 or 2 benefit increase children	column 4C 3 or more benefit increase children
1.	Not member of a couple	<u>fortnightly rent—\$50</u> 2	NIL	\$72.40	\$82.70
2.	Partnered—partner does not have rent increased benefit	<u>fortnightly rent—\$50</u> 2	\$62.00	\$72.40	\$82.70
3.	Partnered—partner has rent increased benefit	<u>fortnightly rent—\$50</u> 4	\$31.00	\$36.20	\$41.35
4.	Partnered—member of illness separated couple where person's rate is increased for partner under Module C	fortnightly rent—\$50	\$124.00	\$144.80	\$165.40
5.	Partnered—member of illness separated couple where person's rate is not increased for partner under Module C and partner is getting neither pension nor benefit	<u>fortnightly rent—\$50</u> 2	\$62.00	\$72.40	\$82.70

Section 1067 (Benefit Rate Calculator A—point 1067-G7—paragraph (b)):

Omit the paragraph, substitute:

“(b) a reference to a **parent** of the recipient is a reference to:

- (i) a natural parent of the recipient; or
- (ii) an adoptive parent of the recipient; or
- (iii) the partner of a natural or adoptive parent of the recipient; or
- (iv) the former partner of a natural or adoptive parent of the recipient; and”.

Section 1067 (Benefit Rate Calculator A—point 1067-G8):

Omit “\$53.80”, substitute “\$57.90”.

Section 1067 (Benefit Rate Calculator A—point 1067-G10):

Omit “\$322,750”, substitute “\$347,500”.

Section 1067 (Benefit Rate Calculator A—point 1067-G15—including Note 1):

Insert “or 700A” after “632” (wherever occurring).

SCHEDULE 2—continued

Section 1067 (Benefit Rate Calculator A—point 1067-G17—Table G):

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE G PARENTAL INCOME FREE AREA LIMIT		
column 1 basic fee area limit	column 2 additional free area for first dependent child	column 3 additional free area for each dependent child after the first
\$19,300	\$1,200	\$2,500

”

Section 1067 (Benefit Rate Calculator A—point 1067-H1—Method statement—Step 2):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

Section 1067 (Benefit Rate Calculator A—after point 1067-H7):

Insert:

Ordinary income generally taken into account when first earned, derived or received

“1067-H7A. Subject to point 1067-H8, ordinary income is to be taken into account in the fortnight in which it is first earned, derived or received.”.

Section 1067 (Benefit Rate Calculator A—point 1067-H8):

Omit the point, substitute:

Ordinary income received at intervals longer than one fortnight

“1067-H8. If:

- (a) a person receives a number of ordinary income payments; and
- (b) each payment is in respect of a period (in this point called the ‘**work period**’) that is greater than a fortnight; and
- (c) there is reasonable predictability or regularity as to the timing of the payments; and
- (d) there is reasonable predictability as to the quantum of the payments;

the person is taken to receive in a fortnight falling within, or overlapping with, a work period an amount calculated by:

- (e) dividing the amount received by the number of days in the work period (the result is called the ‘**daily rate**’); and

SCHEDULE 2—continued

(f) multiplying the daily rate by the number of days in the fortnight that are also within the work period.

“EXAMPLE OF HOW ORDINARY INCOME RECEIVED AT INTERVALS LONGER THAN A FORTNIGHT IS ALLOCATED TO FORTNIGHTLY PERIODS

Facts:

Fred receives \$600 each 25 days from remunerative work. The social security benefit becomes payable to Fred such that the first 25 days of his earnings that are counted as ordinary income for the purposes of the ordinary income test are spread over 3 social security benefit payment fortnights as follows:

- 5 days of the first fortnight;
- all of the second fortnight;
- 6 days of the third fortnight.

In this example, it is assumed that Fred remains qualified for the social security benefit during the three fortnights and that nothing prevents it from being payable to him. The problem is then to work out what proportion of Fred's earnings to allocate to each fortnight for ordinary income testing purposes.

Application:

To work out the amount that Fred is taken to receive in the first fortnight first divide the total amount received for the 25 day work period (\$600) by the number of days in the work period (25). This gives a daily rate. The daily rate is:

$$\frac{\$600}{25} = \$24$$

Then multiply the daily rate (\$24) by the number of days in the fortnight that are also within the work period. The result is:

$$\$24 \times 5 = \$120$$

For the second fortnight the calculation is:

$$\$24 \times 14 = \$336$$

For the third fortnight the calculation is:

$$\begin{array}{r} \$24 \times 6 = \$144 \\ \text{plus } \$24 \times 8 = \$192 \\ \hline \$336 \end{array}$$

Note that the amount of \$192 added for the third fortnight comes from the given fact that Fred receives \$600 each 25 days. So, for as long as there is reasonable predictability as to the timing and quantum of Fred's ordinary income from remunerative work where receipt is at intervals longer than a fortnight, then this provision should be used to allocate that income to fortnightly periods for the purposes of the ordinary income test.”.

Section 1067 (Benefit Rate Calculator A—heading to point 1067-H9):

Omit the heading, substitute:

“Ordinary income free area”.

Section 1067 (Benefit Rate Calculator A—point 1067-H9):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

Section 1067 (Benefit Rate Calculator A—point 1067-H10):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

SCHEDULE 2—continued

Section 1067 (Benefit Rate Calculator A—heading to point 1067-H11):

Omit “*ordinary free area limit*”, substitute “*ordinary income free area*”.

Section 1067 (Benefit Rate Calculator A—point 1067-H13):

Omit “*ordinary free area limit*”, substitute “*ordinary income free area*”.

Section 1067 (Benefit Rate Calculator A—point 1067-J1—Step 2):

Omit “*maintenance free area limit*”, substitute “*maintenance income free area*”.

Section 1067 (Benefit Rate Calculator A—after point 1067-J5):

Insert:

Maintenance income generally taken into account when first received

“1067-J5A. Subject to point 1067-J6, maintenance income is to be taken into account in the fortnight in which it is first received.”.

Section 1067 (Benefit Rate Calculator A—point 1067-J6—paragraphs (a) and (b)):

Omit the paragraphs, substitute:

- “(a) a person receives a number of maintenance income payments;
and
- (b) each payment is in respect of a period (in this point called the ‘**maintenance period**’) that is greater than a fortnight; and
- (ba) there is reasonable predictability or regularity as to the timing of the payments; and
- (bb) there is reasonable predictability as to the quantum of the payments;”.

Section 1067 (Benefit Rate Calculator A—point 1067-J6):

Omit “*within the maintenance period*”, substitute “*within a maintenance period*”.

Section 1067 (Benefit Rate Calculator A—point 1067-J6):

Omit the Example, substitute:

**“EXAMPLE OF HOW MAINTENANCE INCOME RECEIVED AT
INTERVALS LONGER THAN A FORTNIGHT IS ALLOCATED
TO FORTNIGHTLY PERIODS**

Facts:

Mary has 3 children. She receives \$600 maintenance each 25 days from her former spouse. The social security benefit becomes payable to Mary such that each 25 days worth of maintenance income for the purposes of the maintenance income test are spread over 3 social security benefit payment fortnights as follows:

SCHEDULE 2—continued

- 5 days of the first fortnight;
- all of the second fortnight;
- 6 days of the third fortnight.

In this example, it is assumed that Mary remains qualified for the social security benefit during the three fortnights and that nothing prevents it from being payable to her. The problem is then to work out what proportion of Mary's earnings to allocate to each fortnight for maintenance income testing purposes.

Application:

To work out the amount that Mary is taken to receive in the first fortnight first divide the total amount received for the 25 day maintenance period (\$600) by the number of days in the work period (25). This gives a daily rate. The daily rate is:

$$\frac{\$600}{25} = \$24$$

Then multiply the daily rate (\$24) by the number of days in the fortnight that are also within the maintenance period. The result is:

$$\$24 \times 5 = \$120$$

For the second fortnight the calculation is:

$$\$24 \times 14 = \$336$$

For the third fortnight the calculation is:

$$\begin{array}{r} \$24 \times 6 = \$144 \\ \text{plus } \$24 \times 8 = \$192 \\ \hline \$336 \end{array}$$

Note that the amount of \$192 added for the third fortnight comes from the given fact that Mary receives \$600 each 25 days. So, for as long as there is reasonable predictability as to the timing and quantum of Mary's receipt of maintenance income where the intervals between receipt are longer than a fortnight, then this provision should be used to allocate that income to fortnightly periods for the purposes of the maintenance income test.”.

Section 1067 (Benefit Rate Calculator A—point 1067-J8):

Add the following heading:

“Special maintenance income ceiling”.

Section 1067 (Benefit Rate Calculator A—point 1067-J12):

Add at the end:

“Example:

Facts:

Justin and Fran are members of a couple. Justin receives job search allowance and Fran receives invalid pension. Fran gets maintenance from her former husband for her daughter Julie.

Application:

In working out Justin's rate, point 1067-J4 splits the maintenance income between Justin and Fran and so item 5 of the Maintenance Income Free Area Table would appear to apply to Justin. Point 1067-J12 says, however, that when you have to work out which category of person in the Table applies to Justin, you ignore the splitting provided for in point 1067-J4. If you ignore point 1067-J4, Justin is not receiving any maintenance income and item 6 of the Table applies to Justin.”.

Section 1067 (Benefit Rate Calculator A—heading to point 1067-J13):

Omit *“maintenance free area limit”*, substitute *“maintenance income free area”*.

SCHEDULE 2—continued

Section 1067 (Benefit Rate Calculator A—point 1067-J14):

Omit “maintenance free area limit”, substitute “maintenance income free area”.

Section 1068 (Benefit Rate Calculator B—point 1068-A1—Method statement—Step 6):

Omit “4”, substitute “5”.

Section 1068 (Benefit Rate Calculator B—Note 1 to point 1068-A2):

Omit the Note, substitute the following Note:

“Note 1: for ‘industrial action preclusion provision’ see point 1068-A3 and for ‘deferment provision’ see point 1068-A4.”.

Section 1068 (Benefit Rate Calculator B—point 1068-B1—Table B):

Omit the Table (but not the Notes to the Table), substitute:

SCHEDULE 2—continued

TABLE B MAXIMUM BASIC RATES			
column 1 item	column 2 person's family situation	column 3 rate	
		column 3A person with a dependent child	column 3B person without a dependent child
1.	Not member of a couple and person: (a) has turned 18 but not 21; and (b) is not living at the home of parent or parents	\$301.60	\$226.50
2.	Not member of a couple and person: (a) has turned 18 but not 21; and (b) is living at the home of parent or parents	\$301.60	\$149.10
3.	Not member of a couple and person has turned 21 but has not turned 60	\$301.60	\$277.70
4.	Not member of a couple and person: (a) has turned 60; and (b) has not been receiving social security benefit continuously for at least 6 months	\$301.60	\$277.70
5.	Not member of a couple and person: (a) has turned 60; and (b) has been receiving social security benefit continuously for at least 6 months	\$301.60	\$301.60
6.	Partnered (partner getting neither pension or benefit) and person has turned 18 but not 21	\$251.50	\$226.50
7.	Partnered (partner getting neither pension or benefit) and person has turned 21	\$251.50	\$251.50
8.	Partnered (partner getting pension or benefit) and person has turned 18 but not 21	\$251.50	\$226.50

SCHEDULE 2—continued

TABLE B—continued			
column 1 item	column 2 person's family situation	column 3 rate	
		column 3A person with a dependent child	column 3B person without a dependent child
9.	Partnered (partner getting pension or benefit) and person has turned 21	\$251.50	\$251.50
10.	Member of illness separated couple	\$301.60	\$301.60

Section 1068 (Benefit Rate Calculator B—point 1068-C2):

Insert “and the person’s partner has not turned 21,” after “21,”.

Section 1068 (Benefit Rate Calculator B—paragraph 1068-C4 (a)):

Omit “243.20”, substitute “\$251.50”.

Section 1068 (Benefit Rate Calculator B—paragraph 1068-C4 (b)):

Omit “291.70”, substitute “\$301.60”.

Section 1068 (Benefit Rate Calculator B—point 1068-C5):

Omit “spouse”, substitute “partner”.

Section 1068 (Benefit Rate Calculator B—point 1068-E2—Table E):

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE E DEPENDENT CHILD ADD-ON		
column 1 item	column 2 child's age	column 3 amount per fortnight
1.	under 13	\$53.00
2.	13 or over but under 16	\$77.30
3.	16 or over	\$34.00

”.

Section 1068 (Benefit Rate Calculator B—after point 1068-E2):

Insert:

SCHEDULE 2—continued

Failure to reasonably pursue maintenance claim

“1068-E2A. If:

- (a) a person is entitled to claim maintenance from someone else for a dependent child of the person; and
- (b) the Secretary considers that it is reasonable that the person should have taken action to obtain the maintenance; and
- (c) the person has not taken action that the Secretary considers reasonable to obtain the maintenance;

there is no dependent child add-on for the child.”.

Section 1068 (Benefit Rate Calculator B—point 1068-E9):

Omit “\$25.80”, substitute “27.80”.

Section 1068 (Benefit Rate Calculator B—point 1068-F15—Table F):

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE F RATE OF RENT ASSISTANCE					
column 1 item	column 2 family situation	column 3 Rate A	column 4 Rate B		
			column 4A No benefit increase children	column 4B 1 or 2 benefit increase children	column 4C 3 or more benefit increase children
1.	Not member of a couple	<u>fortnightly rent—\$50</u> 2	\$62.00	\$72.40	\$82.70
2.	Partnered—partner does not have rent increased benefit	<u>fortnightly rent—\$50</u> 2	\$62.00	\$72.40	\$82.70
3.	Partnered—partner has rent increased benefit	<u>fortnightly rent—\$50</u> 4	\$31.00	\$36.20	\$41.35
4.	Partnered—member of illness separated couple where person's rate is increased for partner under Module C	fortnightly rent—\$50	\$124.00	\$144.80	\$165.40
5.	Partnered—member of illness separated couple where person's rate is not increased for partner under Module C and partner is getting neither pension nor benefit	<u>fortnightly rent—\$50</u> 2	\$62.00	\$72.40	\$82.70

”.

Section 1068 (Benefit Rate Calculator B)—point 1068-G1—Method statement—Step 2):

Omit “ordinary free area limit”, substitute “ordinary income free area”.

SCHEDULE 2—continued

Section 1068 (Benefit Rate Calculator B—point 1068-G2):

Omit “(other than AUSTUDY allowance received by the person’s partner)”, substitute “(other than AUSTUDY allowance) received by the person’s partner”.

Section 1068 (Benefit Rate Calculator B—after point 1068-G7):

Insert:

Ordinary income generally taken into account when first earned, derived or received

“1068-G7A. Subject to point 1068-G8, ordinary income is to be taken into account in the fortnight in which it is first earned, derived or received.”.

Section 1068 (Benefit Rate Calculator B—point 1068-G8):

Omit the point, substitute:

Ordinary income received at intervals longer than one fortnight

“1068-G8. If:

- (a) a person receives a number of ordinary income payments; and
- (b) each payment is in respect of a period (in this point called the ‘**work period**’) that is greater than a fortnight; and
- (c) there is reasonable predictability or regularity as to the timing of the payments; and
- (d) there is reasonable predictability as to the quantum of the payments;

the person is taken to receive in a fortnight falling within, or overlapping with, a work period an amount calculated by:

- (e) dividing the amount received by the number of days in the work period (the result is called the ‘**daily rate**’); and
- (f) multiplying the daily rate by the number of days in the fortnight that are also within the work period.

**“EXAMPLE OF HOW ORDINARY INCOME RECEIVED AT
INTERVALS LONGER THAN A FORTNIGHT IS ALLOCATED
TO FORTNIGHTLY PERIODS**

Facts:

Fred receives \$600 each 25 days from remunerative work. The social security benefit becomes payable to Fred such that the first 25 days of his earnings that are counted as ordinary income for the purposes of the ordinary income test are spread over 3 social security benefit payment fortnights as follows:

- 5 days of the first fortnight;
- all of the second fortnight;
- 6 days of the third fortnight.

In this example, it is assumed that Fred remains qualified for the social security benefit during the three fortnights and that nothing prevents it from being payable to him. The problem is then

SCHEDULE 2—continued

to work out what proportion of Fred's earnings to allocate to each fortnight for ordinary income testing purposes.

Application:

To work out the amount that Fred is taken to receive in the first fortnight first divide the total amount received for the 25 day work period (\$600) by the number of days in the work period (25). This gives a daily rate. The daily rate is:

$$\frac{\$600}{25} = \$24$$

Then multiply the daily rate (\$24) by the number of days in the fortnight that are also within the work period. The result is:

$$\$24 \times 5 = \$120$$

For the second fortnight the calculation is:

$$\$24 \times 14 = \$336$$

For the third fortnight the calculation is:

$$\begin{array}{r} \$24 \times 6 = \$144 \\ \text{plus } \$24 \times 8 = \$192 \\ \hline \$336 \end{array}$$

Note that the amount of \$192 added for the third fortnight comes from the given fact that Fred receives \$600 each 25 days. So, for as long as there is reasonable predictability as to the timing and quantum of Fred's ordinary income from remunerative work where receipt is at intervals longer than a fortnight, then this provision should be used to allocate that income to fortnightly periods for the purposes of the ordinary income test."

Section 1068 (Benefit Rate Calculator B—heading to point 1068-G9):

Omit the heading, substitute:

"Ordinary income free area".

Section 1068 (Benefit Rate Calculator B—point 1068-G9):

Omit "ordinary free area limit", substitute "ordinary income free area".

Section 1068 (Benefit Rate Calculator B—point 1068-G10):

Omit "ordinary free area limit", substitute "ordinary income free area".

Section 1068 (Benefit Rate Calculator B—heading to point 1068-G11):

Omit "*ordinary free area limit*", substitute "*ordinary income free area*".

Section 1068 (Benefit Rate Calculator B—point 1068-G13):

Omit "ordinary free area limit", substitute "ordinary income free area".

Section 1068 (Benefit Rate Calculator B—point 1068-H1—Step 2):

Omit "maintenance free area limit", substitute "maintenance income free area".

Section 1068 (Benefit Rate Calculator B—after point 1068-H4):

Insert:

SCHEDULE 2—continued

Maintenance income generally taken into account when first received

“1068-H4A. Subject to point 1068-H5, maintenance income is to be taken into account in the fortnight in which it is first received.”.

Section 1068 (Benefit Rate Calculator B—point 1068-H5—paragraphs (a) and (b)):

Omit the paragraphs, substitute:

- “(a) a person receives a number of maintenance income payments; and
- (b) each payment is in respect of a period (in this point called the ‘maintenance period’) that is greater than a fortnight; and
- (ba) there is reasonable predictability or regularity as to the timing of the payments; and
- (bb) there is reasonable predictability as to the quantum of the payments;”.

Section 1068 (Benefit Rate Calculator B—point 1068-H5):

- (a) Omit “within the maintenance period”, substitute “within a maintenance period”.
- (b) Omit the Example, substitute:

“EXAMPLE OF HOW MAINTENANCE INCOME RECEIVED AT INTERVALS LONGER THAN A FORTNIGHT IS ALLOCATED TO FORTNIGHTLY PERIODS

Facts:

Mary has 3 children. She receives \$600 maintenance each 25 days from her former spouse. The social security benefit becomes payable to Mary such that each 25 days worth of maintenance income for the purposes of the maintenance income test are spread over 3 social security benefit payment fortnights as follows:

- 5 days of the first fortnight;
- all of the second fortnight;
- 6 days of the third fortnight.

In this example, it is assumed that Mary remains qualified for the social security benefit during the three fortnights and that nothing prevents it from being payable to her. The problem is then to work out what proportion of Mary’s earnings to allocate to each fortnight for maintenance income testing purposes.

Application:

To work out the amount that Mary is taken to receive in the first fortnight first divide the total amount received for the 25 day maintenance period (\$600) by the number of days in that period (25). This gives a daily rate. The daily rate is:

$$\frac{\$600}{25} = \$24$$

Then multiply the daily rate (\$24) by the number of days in the fortnight that are also within the maintenance period. The result is:

$$\$24 \times 5 = \$120$$

For the second fortnight the calculation is:

$$\$24 \times 14 = \$336$$

For the third fortnight the calculation is:

SCHEDULE 2—continued

$$\begin{array}{r} \$24 \times 6 = \$144 \\ \text{plus } \$24 \times 8 = \$192 \\ \hline \$336 \end{array}$$

Note that the amount of \$192 added for the third fortnight comes from the given fact that Mary receives \$600 each 25 days. So, for as long as there is reasonable predictability as to the timing and quantum of Mary's receipt of maintenance income where the intervals between receipt are longer than a fortnight, then this provision should be used to allocate that income to fortnightly periods for the purposes of the maintenance income test."

Section 1068 (Benefit Rate Calculator B—point 1068-H11):

Add at the end:

Example:

Facts:

Justin and Fran are members of a couple. Justin receives newstart allowance and Fran receives invalid pension. Fran gets maintenance from her former husband for her daughter Julie.

Application:

In working out Justin's rate, point 1068-H3 splits the maintenance income between Justin and Fran and so item 5 of the Maintenance Income Free Area Table would appear to apply to Justin. Point 1068-H11 says, however, that when you have to work out which category of person in the Maintenance Income Free Area Table applies to Justin, you ignore the splitting provided for in point 1068-H3. If you ignore point, 1068-H3, Justin is not receiving any maintenance income and item 6 of the Table applies to Justin.

Section 1068 (Benefit Rate Calculator B—heading to point 1068-H12):

Omit "*maintenance free area limit*", substitute "*maintenance income free area*".

Section 1068 (Benefit Rate Calculator B—point 1068-H13):

Omit "*maintenance free area limit*", substitute "*maintenance income free area*".

Section 1069 (Family Allowance Rate Calculator—point 1069-B1—Table B):

Omit the Table (but not the Note to the Table), substitute:

“

TABLE B MAXIMUM BASIC RATE		
column 1 item	column 2 category of FA child	column 3 rate per fortnight
1.	first, second or third FA child of the person	\$20.00
2.	fourth or subsequent FA child of the person	\$26.70
3.	FA child specified in a determination under section 856	\$26.70

”.

Section 1069 (Family Allowance Rate Calculator—point 1069-B2):

Omit "*as if the child were an FA child of the person.*", substitute:
"as if:

(c) the child were an FA child of the person; and

SCHEDULE 2—continued

(d) the child were older than the FA child or FA children referred to in paragraph (b).”.

Section 1069 (Family Allowance Rate Calculator—paragraph 1069-C2 (a)):

Omit “\$74.50”, substitute “\$80.20”.

Section 1069 (Family Allowance Rate Calculator—paragraph 1069-C2 (b)):

Omit “\$99.40”, substitute “\$107.10”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-A1—Step 5):

Omit “maximum basic rate”, substitute “maximum payment rate”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-B1—Table B):

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE B MAXIMUM BASIC RATE		
column 1 item	column 2 category of FAS child	column 3 rate per fortnight
1.	child who has not turned 13	\$53.00
2.	child who has turned 13 but has not turned 16	\$77.30
3.	child who has turned 16	\$34.00

”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-C2—Table C):

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE C RATE OF RENT ASSISTANCE			
column 1 item	column 2 number of FAS children	column 3 Rate A	column 4 Rate B
1.	1 or 2	<u>fortnightly rent—\$50</u> 2	\$72.40
2.	3 or more	<u>fortnightly rent—\$50</u> 2	\$82.70

”.

SCHEDULE 2—continued

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-D2):

Omit “FAS allowance period”, substitute “family payment payday”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-D3):

- (a) Omit “FAS period”, substitute “family payment payday”.
- (b) Omit “period” (last occurring), substitute “payday”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-D4):

- (a) Omit “FAS period” (first occurring), substitute “family payment payday”.
- (b) Omit “FAS period” (last occurring), substitute “payday”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-D6—subparagraph (b) (ii)):

Insert “125% of ” after “exceeds”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-D7—subparagraph (b) (ii)):

Insert “125% of ” after “exceeds”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-D7):

Omit “notional”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-D8—paragraph (b)):

Omit “allowance”, substitute “payment”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-D12—paragraph (a)):

Insert “made” after “the Commissioner of Taxation has”.

Section 1070 (Family Allowance Supplement Rate Calculator—point 1070-D14—Table D):

Omit the Table (but not the Note to the Table), substitute:

SCHEDULE 2—continued

“

TABLE D TAXABLE INCOME FREE AREA LIMITS	
column 1 basic free area	column 2 additional free area
\$18,000	\$624

”

Section 1071 (Fringe Benefits Ordinary Income Test Calculator—point 1071-1—Note 1):

Insert “1071-1A,” after “points”.

Section 1071 (Fringe Benefits Ordinary Income Test Calculator—after point 1071-1):

Insert:

Ordinary incomes of members of couples

“1071-1A. If a person is a member of a couple, add the couple’s ordinary incomes (on a yearly basis) and divide by 2 to work out the amount of the person’s ordinary income for the purposes of this Calculator.”.

Section 1071 (Fringe Benefits Means Test Calculators—point 1071-4—Table):

Omit the Table (but not the Note to the Table), substitute:

“

TABLE FRINGE BENEFITS ORDINARY INCOME FREE AREA			
column 1 item	column 2 person’s family situation	column 3 basic free area	column 4 additional free area
1.	not member of a couple	\$5,356	\$1,040
2.	member of a couple	\$4,576	\$520

”

Section 1072 (Fringe Benefits Assets Test Calculator—point 1072-1—Note):

Omit the Note, substitute:

“Note 1: for the treatment of the assets of members of a couple see point 1072-1A.
Note 2: for ‘fringe benefits assets value limit’ see point 1072-2 below.”.

SCHEDULE 2—continued

**Section 1072 (Fringe Benefits Assets Test Calculator—
after point 1072-1):**

Insert:

Value of assets of members of couples

“1072-1A. For the purposes of this Calculator:

- (a) the value of the assets of a member of a couple is to be taken to be 50% of the sum of:
 - (i) the value of the person’s assets; and
 - (ii) the value of the person’s partner’s assets; and
- (b) the value of the assets of a particular kind of a member of a couple is to be taken to be 50% of the sum of:
 - (i) the value of the person’s assets of that kind; and
 - (ii) the value of the person’s partner’s assets of that kind.”.

**Section 1072 (Fringe Benefits Means Test Calculators—
point 1072-2—Table):**

Omit the Table (but not the Notes to the Table), substitute:

“

TABLE FRINGE BENEFITS ASSETS VALUE LIMIT			
column 1 item	column 2 person’s family situation	column 3 assets value limit	
		column 3A either person or partner homeowner	column 3B neither person nor partner homeowner
1.	not member of a couple	\$126,250	\$205,750
2.	member of a couple	\$90,250	\$130,000

”.

Section 1108 (Note 1):

Insert “ordinary” after “disposes of”.

Subsection 1109 (1) (Note 1):

Insert “ordinary” after “disposes of”.

Paragraph 1113 (g):

Insert “account” after “earnings credit” (second occurring).

SCHEDULE 2—continued

Subsection 1117 (1):

Omit “the maintenance that would be assessed if it were based on the value of the former family home”, substitute “the amount that the Secretary considers appropriate”.

After subsection 1117 (1):

Insert:

“(1A) In determining an amount under subsection (1), the Secretary is to have regard to:

- (a) the amount by which the value of the other residence exceeds the value of the former family home; and
- (b) the other circumstances of the case.”.

After subsection 1118 (2):

Insert:

“(2A) Subsection (2) does not apply to the calculation of the value of a person’s assets for the purposes of sections 1123 to 1128 (disposal of assets).”.

At the end of section 1126:

Add:

“(5) If:

- (a) an amount is included under subsection (1) in the value of the assets of a person who is a member of a couple and the value of the assets of the person’s partner because of a disposition of an asset by the person; and
 - (b) the partner dies;
- any amount that would, if the partner had not died, be included in the value of the partner’s assets because of the disposition is to be included in the value of the person’s assets.”.

Paragraph 1131 (1) (d):

Omit the paragraph, substitute the following:

“(d) either:

- (i) sections 1108 and 1109 (disposal of income) and 1125 and 1126 (disposal of assets) do not apply to the person; or
- (ii) the Secretary decides that the application of those sections to the person should, for the purposes of this section, be disregarded; and”.

Paragraphs 1131 (1) (f) and (g):

Omit “in relation” (wherever occurring).

SCHEDULE 2—continued

Subsection 1131 (1):

Omit “in relation” (last occurring).

Subsection 1135 (3):

Omit the subsection, substitute the following subsection:

“(3) This is how to work out the amount of the debt owed by the person from time to time:

Method statement

- Step 1.* Work out the sum of the amount of pension or allowance received by the person from time to time under the pension loans scheme: the result is the **income reduced amount**.
- Step 2.* Add to the income reduced amount the amount of any registration costs payable by the person under subsection 1143 (4): the result is the **registration cost adjusted amount**.
- Step 3.* Take away from the registration cost adjusted amount the sum of the amount of pension or allowance (if any) that would have been received by the person if the value of assets had not been disregarded under section 1134: the result is the **basic amount of debt**.
- Step 4.* Add to the basic amount of debt the amount of interest payable. The amount of interest payable is worked out under subsection (4): the result is the **total amount of debt**.
- Step 5.* From the total amount of debt take away any amount of the debt already paid to the Commonwealth: the result is the current amount of debt owed by the person.

Paragraph 1152 (5) (g):

Omit “\$92,250”, substitute “98,625”.

Paragraph 1153 (3) (e):

Omit “\$92,250”, substitute “98,625”.

Paragraph 1154 (2) (f):

Omit “\$92,250”, substitute “98,625”.

Paragraph 1154 (2) (b):

Omit the paragraph.

SCHEDULE 2—continued

Paragraph 1158 (a):

Omit the paragraph, substitute the following:

“(a) on that payday the person is:

(i) in gaol; or

(ii) undergoing psychiatric confinement because the person has been charged with committing an offence; and”.

Section 1160:

Repeal the section, substitute:

Social security benefit not payable while person in gaol or in psychiatric confinement following criminal charge

“1160. A social security benefit is not payable to a person in respect of a period during which the person is:

(a) in gaol; or

(b) undergoing psychiatric confinement because the person has been charged with committing an offence.”.

Subparagraph 1162 (a) (ii):

Omit “of a criminal conviction”, substitute “the person has been charged with committing an offence”.

Subsection 1163 (1):

Insert “or may be” after “a person is”.

Paragraph 1163 (1) (a):

(a) Omit “and”.

(b) Add at the end:

“(v) special needs invalid pension; and”.

Paragraph 1163 (1) (b):

Add at the end:

“(vii) special needs invalid pension;

(viii) special needs wife pension.”.

Subsection 1163 (2):

Insert “or may be” after “the person is”.

Subsection 1163 (3):

Insert “or all” after “some”.

SCHEDULE 2—continued

At the end of subsection 1163 (6):

Add:

“Note: compensation received before 1 May 1987 can affect a person’s rehabilitation allowance if that allowance was paid instead of a sickness benefit.”.

Paragraph 1164 (1) (a):

(a) Omit “and”.

(b) Add at the end:

“or (v) special needs invalid pension; and”.

Paragraph 1164 (2) (a):

(a) Omit “and”.

(b) Add at the end:

“or (v) special needs invalid pension; and”.

Paragraph 1165 (1) (a):

(a) Omit “and”.

(b) Add at the end:

“or (v) special needs invalid pension; and”.

Paragraph 1165 (2) (a):

(a) Omit “and”.

(b) Add at the end:

“or (v) special needs invalid pension; and”.

Paragraph 1165 (2) (d):

Add at the end:

“(v) special needs invalid pension;”.

Paragraph 1165 (2) (e):

Add at the end:

“(vii) special needs invalid pension;

(viii) special needs wife pension.”.

Section 1165 (Lump Sum Exclusion Period Examples):

(a) Omit “3,500” (wherever occurring), substitute “5,500”.

(b) Omit “350” (wherever occurring), substitute “550”.

SCHEDULE 2—continued

After subparagraph 1166 (1) (b) (iv):

Insert:

“or (v) special needs invalid pension;”.

Subsection 1166 (2) (Recoverable Amount Table):

(a) Insert “SNIP” below “IP” (wherever occurring, except in Key).

(b) Insert “SNWP” below “WP” (wherever occurring, except in Key).

Subsection 1166 (2) (Recoverable Amount Table—Key):

(a) Insert “SNIP=special needs invalid pension” below “IP=invalid pension”.

(b) Insert “SNWP=special needs wife pension” below “WP=wife pension”.

Section 1166 (Lump Sum Recoverable Amount and Exclusion Period Examples):

(a) Omit “3,500” (wherever occurring), substitute “5,500”.

(b) Omit “350” (wherever occurring), substitute “550”.

After subparagraph 1168 (1) (b) (iv):

Insert:

“or (v) special needs invalid pension;”.

Paragraph 1168 (2) (c):

Add at the end:

“or (vii) special needs invalid pension; or

(viii) special needs wife pension;”.

Subsection 1168 (3) (Reduction Table):

(a) Insert “SNIP” below “IP” (wherever occurring, except in Key).

(b) Insert “SNWP” below “WP” (wherever occurring, except in Key).

Subsection 1168 (3) (Reduction Table—Key):

(a) Insert “SNIP = special needs invalid pension” below “IP = invalid pension”.

(b) Insert “SNWP = special needs wife pension” below “WP = wife pension”.

Section 1168:

Omit the Examples, substitute:

SCHEDULE 2—continued

“RATE REDUCTION EXAMPLES

Example 1: Jane is not a member of a couple. She has had to stop work because of sickness. She claimed and was granted sickness benefit of \$260 per fortnight. Her employer has started paying her fortnightly compensation of \$160. Jane was obliged to notify the Department of Social Security (under section 713) as soon as she became aware that she was going to receive the periodic compensation payments. Her rate of sickness benefit will then be reduced while she is receiving periodic payments from her employer. Since her situation is covered by item 1 in the Table, her reduced sickness benefit rate will be \$100 per fortnight ($\260 (Jane's fortnightly benefit rate)— $\$160$ (Jane's fortnightly periodic payment) = $\$100$). This will be her rate of benefit as long as she continues to receive the periodic payments of compensation from her employer.

Example 2: Martha is a member of a couple. She has had to stop work because of sickness. She claimed and was granted sickness benefit of \$235 per fortnight. Her partner, Fred, is receiving job search allowance of \$235 per fortnight. Martha's employer has started paying her fortnightly compensation of \$160. Martha was obliged to notify the Department of Social Security (under section 713) as soon as she became aware that she was going to receive the periodic compensation payments. While she is receiving periodic payments of compensation from her employer, both her sickness benefit and Fred's job search allowance will be reduced. Since their situation is covered by item 4 in the Table, Martha's rate will be reduced by \$80 ($\$160/2$) and Fred's rate will also be reduced by \$80. As long as Martha continues to receive the periodic compensation payments from her employer, her rate of sickness benefit will be \$155 ($\235 (Martha's sickness benefit rate)— $\$80$ = $\$155$) and Fred's rate of job search allowance will also be \$155 ($\235 (Fred's job search allowance rate)— $\$80$ = $\$155$).”. .

After subparagraph 1170 (1) (b) (iv):

Insert:

“or (v) special needs invalid pension;”.

Subsection 1170 (2) (Recoverable Amount Table):

(a) Insert “SNIP” below “IP” (wherever occurring, except in Key).

(b) Insert “SNWP” below “WP” (wherever occurring, except in Key).

Subsection 1170 (2) (Recoverable Amount Table—Key):

(a) Insert “SNIP = special needs invalid pension” below “IP = invalid pension”.

(b) Insert “SNWP = special needs wife pension” below “WP = wife pension”.

After subparagraph 1172 (1) (b) (iv):

Insert:

“or (v) a special needs invalid pension;”.

After subparagraph 1174 (1) (b) (iv):

Insert:

“or (v) a special needs invalid pension;”.

SCHEDULE 2—continued

After subparagraph 1174 (5) (b) (vi):

Insert:

“or (vii) a special needs invalid pension; or
(viii) a special needs wife pension;”.

After subparagraph 1174 (6) (b) (vi):

Insert:

“or (vii) a special needs invalid pension; or
(viii) a special needs wife pension;”.

After subparagraph 1177 (1) (b) (iv):

Insert:

“or (v) a special needs invalid pension;”.

After subparagraph 1179 (1) (b) (iv):

Insert:

“or (v) a special needs invalid pension;”.

After subparagraph 1179 (5) (b) (vi):

Insert:

“or (vii) a special needs invalid pension; or
(viii) a special needs wife pension;”.

After subparagraph 1179 (6) (b) (vi):

Insert:

“or (vii) a special needs invalid pension; or
(viii) a special needs wife pension;”.

Subsection 1187 (1):

Omit the subsection, substitute the following subsections:

“(1) If:

(a) an instalment of:

- (i) invalid pension; or
- (ii) wife pension; or
- (iii) carer pension; or
- (iv) sole parent pension; or
- (v) widowed person allowance; or
- (vi) special needs pension;

is payable to a person during a pension period; and

(b) NEIS is payable to the person during that pension period;
the rate of the payment referred to in paragraph (a) is to be reduced
under this Part.

SCHEDULE 2—continued

“(1A) If:

(a) a payment of:

- (i) job search allowance; or
- (ii) newstart allowance; or
- (iii) sickness benefit; or
- (iv) special benefit; or
- (v) sheltered employment allowance; or
- (vi) rehabilitation allowance;

is payable to a person during a pension period; and

(b) NEIS is payable to the person during that pension period;
the rate of the payment referred to in paragraph (a) is to be reduced under this Part.”.

Paragraph 1187 (3) (d):

Omit “a spouse amount”, substitute “an additional payment for partner”.

Section 1190 (Indexed and Adjusted Amounts Table—item 6—column 3):

Omit “16”, substitute “15”.

Section 1190 (Indexed and Adjusted Amounts Table—item 8—column 3):

Omit “16”, substitute “15”.

Section 1190 (Indexed and Adjusted Amounts Table—item 10—column 3):

Omit “16”, substitute “15”.

Section 1190 (Indexed and Adjusted Amounts Table—item 28—column 4):

- (a) Omit “530 (2)”, substitute “529 (3)”.
- (b) Omit “601 (3)”, substitute “611 (2)”.

Section 1190 (Indexed and Adjusted Amounts Table—item 29—column 4):

- (a) Omit “530 (2)”, substitute “529 (3)”.
- (b) Omit “601 (3)”, substitute “611 (2)”.

Section 1190 (Indexed and Adjusted Amounts Table—item 30—column 4):

- (a) Omit “530 (2)”, substitute “529 (3)”.
- (b) Omit “601 (3)”, substitute “611 (2)”.

SCHEDULE 2—continued

Section 1190 (Indexed and Adjusted Amounts Table—item 31—column 4):

- (a) Omit “530 (2)”, substitute “529 (3)”.
- (b) Omit “601 (3)”, substitute “611 (2)”.

Section 1190 (Indexed and Adjusted Amounts Table—item 32—column 4):

- (a) Omit “530 (2)”, substitute “529 (3)”.
- (b) Omit “601 (3)”, substitute “611 (2)”.

Section 1190 (Indexed and Adjusted Amounts Table—item 33—column 4):

- (a) Omit “530 (2)”, substitute “529 (3)”.
- (b) Omit “601 (3)”, substitute “611 (2)”.

Subsection 1194 (2):

Insert at the beginning “Subject to subsections (3) and (4)”.

At the end of section 1194:

Add:

“(5) If a provisional indexed amount for a fringe benefits ordinary income free area is not a multiple of the rounding base, the indexed amount is the provisional indexed amount rounded up to the nearest multiple of the rounding base.”.

Subsection 1199 (1):

Insert “child” after “FAS under 13 child MBR”.

Subsection 1199 (2):

Insert “child” after “FAS under 13 child MBR”.

Subsection 1199 (3):

Omit “13-16 MBR”, substitute “13-15 child MBR”.

Subsection 1199 (4):

Omit “13-16 MBR”, substitute “13-15 child MBR”.

Subsection 1200 (1):

Omit “dependent”.

Subsection 1200 (2):

Omit “dependent”.

SCHEDULE 2—continued

Subsection 1200 (3):

Omit “13-16 dependent child”, substitute “13-15 child”.

Subsection 1200 (4):

Omit “13-16 dependent child”, substitute “13-15 child”.

Subsection 1201 (1):

Omit “dependent”.

Subsection 1201 (2):

Omit “dependent”.

Subsection 1201 (3):

Omit “13-16 dependent child”, substitute “13-15 child”.

Subsection 1201 (4):

Omit “13-16 dependent child”, substitute “13-15 child”.

Section 1205:

Add at the end:

“where:

pension ‘partnered’ homeowner AVL is the current figure, as at that 13 June, for the pension ‘partnered’ homeowner AVL;

pension ‘partnered’ non-homeowner AVL is the current figure, as at that 13 June, for the pension ‘partnered’ non-homeowner AVL.”.

Subsection 1206 (2):

Omit “2×” from the formula.

Subsection 1216 (3) (Note 5):

Omit “37”, substitute “38”.

Paragraph 1218 (1) (b):

Omit “before leaving Australia”.

Section 1221 (Pension Portability Rate Calculator—point 1221-B9):

Omit the point.

Subsection 1226 (2):

Omit the subsection.

SCHEDULE 2—continued

Paragraph 1229 (1) (a):

Omit the paragraph, substitute:

“(a) a person owes:

- (i) a debt to the Commonwealth under section 1224, 1225 or 1227 of this Act; or
- (ii) a debt to the Commonwealth under subsection 246 (1) of the 1947 Act; or
- (iii) an assurance of support debt or a compensation debt under the 1947 Act; and”.

Paragraph 1230 (3) (b):

Omit “other person”, substitute “original debtor”.

Subsection 1232 (1):

Omit the subsection, substitute:

“(1) If a debt is recoverable by the Commonwealth by means of legal proceedings under:

- (a) Part 5.2 of this Act; or
- (b) the 1947 Act;

the debt is recoverable by the Commonwealth in a court of competent jurisdiction.”.

Subsection 1234 (3):

Omit the subsection, substitute:

“(3) For the purposes of subsection (1), ‘**debt**’ includes:

- (a) a debt under the 1947 Act; and
- (b) a debt or amount payable to the Commonwealth because of subsection 42 (1) of the Veterans’ Entitlements Act.”.

Section 1235:

Repeal the section, substitute:

“1235. In this Part, ‘**debt**’ includes:

- (a) a debt under the 1947 Act; and
- (b) a debt or amount payable to the Commonwealth under section 42 (1) of the Veterans’ Entitlements Act.”.

After subsection 1236 (1):

Insert:

“(1A) The Secretary may, on behalf of the Commonwealth, decide to write off debts arising under or as a result of this Act that are

SCHEDULE 2—continued

included in a class of debts specified by the Minister by notice in writing published in the *Gazette*.”.

Subsection 1236 (2):

Insert “or (1A)” after “(1)”.

Section 1238:

Repeal the section.

Paragraph 1239 (1) (a):

Omit “other than a rate of return decision in relation to an investment product”.

Paragraph 1250 (1) (f):

Omit the paragraph.

Subsection 1253 (1):

Omit “other than a rate of return decision”, substitute “(other than a rate of return decision)”.

Subsection 1253 (4):

Omit “(4)”, substitute “(3)”.

Paragraph 1253 (4) (f):

Omit the paragraph, substitute:

“(f) section 1233 (garnishee notice); or”.

Paragraph 1255 (3) (b):

Omit the paragraph, substitute:

“(b) sets aside the decision under review (including a decision under section 1243) and substitutes a new decision for the decision under review;”.

Paragraph 1256 (2) (b):

Omit the paragraph, substitute:

“(b) sets aside the decision under review and substitutes a new decision for the decision under review;”.

SCHEDULE 2—continued

Subsection 1272 (2):

Add at the end:

“Penalty: imprisonment for 2 years.

Note: subsections 4B(2) and 4B(3) of the *Crimes Act 1914* allow a court to substitute an appropriate fine in place of a term of imprisonment: in the case of a natural person, \$12,000; in the case of a corporation, \$60,000.”.

Subsection 1304 (1):

Omit “request”, substitute “require”.

Subsection 1304 (2):

Omit “request”, substitute “requirement”.

Subsection 1305 (1):

Omit “request”, substitute “require”.

Subsection 1305 (2):

Omit “request”, substitute “requirement”.

Subsection 1306 (1):

Omit “request”, substitute “require”.

Subsection 1306 (2):

Omit “request”, substitute “requirement”.

Subsection 1307 (1):

Omit “request” (first occurring), substitute “require”.

Subsection 1307 (1) (Note):

Omit “request”, substitute “requirement”.

Subsection 1307 (2):

Omit “request”, substitute “require”.

Subsection 1307 (3):

Omit “request”, substitute “requirement”.

Subsection 1312 (1):

Insert “directly or indirectly” before “make a record”.

Paragraph 1329 (1) (b):

Omit “has”.

Schedule 1A (after clause 2):

Insert in Part 1:

SCHEDULE 2—continued

References in other Acts and instruments to provisions of the 1947 Act

“2A. A reference in:

- (a) a provision of a law of the Commonwealth or a Territory enacted before 1 July 1991 (whether or not the provision has come into operation); or
- (b) an instrument or document;

to a provision of the 1947 Act is to be construed as a reference to the corresponding provision of the 1991 Act.”.

Schedule 1A (sub-subclause 26 (2) (b)):

Omit “subclause (3)”, substitute “subclauses (3) and (3A)”.

Schedule 1A (after subclause 26 (3)):

Insert:

“(3A) If, in a fortnight, the amount of a person’s social security pension or benefit is affected by subclause (4), this clause ceases to apply to the person on the first pension payday after that fortnight.”.

SCHEDULE 3

Section 5

New Schedule 2

SCHEDULE 2

Section 1208

**AGREEMENT
ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF
AUSTRALIA
AND
THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND**

The Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland,

Wishing to strengthen the existing friendly relations between the two countries;

Having established reciprocity in the field of social security by means of an Agreement signed by the Parties at Canberra on 29 January 1958, which was amended by a further Agreement signed at Canberra on 16 August 1962 and by other Agreements set out in Exchanges of Notes at Canberra on 6 March 1975 and at London on 29 and 31 December 1986;

Wishing to consolidate the above Agreements and their extensions and modifications into a single document; and

Wishing to extend and modify the scope of that reciprocity and to take account of changes in their legislation;

Have agreed as follows:

**PART I
GENERAL PROVISIONS**

**ARTICLE 1
DEFINITIONS**

(1) For the purpose of this Agreement, unless the context otherwise requires:

‘benefit’ means pension, allowance or benefit payable under the legislation of one (or the other) Party and includes any increase payable for a dependant;

‘competent authority’ means, in relation to the territory of the United Kingdom, the Secretary of State for Social Security for Great Britain, the Department of Health and Social Services for Northern Ireland, the Department of Health and Social Security of the Isle of

SCHEDULE 3—continued

Man, the Social Security Committee of the States of the Island of Jersey or the States of Guernsey Insurance Authority, as the case may require, and, in relation to Australia the Secretary to the Department of Social Security;

‘competent institution’ means the institution from which the person concerned is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Party where that institution is situated;

‘contribution’, in relation to the legislation of the United Kingdom, does not include a reduced rate contribution payable by a married woman or a widow, or a graduated contribution within the meaning of that legislation;

‘employed person’ means a person who, in the applicable legislation, comes within the definition of an employed earner or of an employed person or is treated as such and the words “person is employed” shall be construed accordingly;

‘employment’ means employment as an employed person and the words ‘employ’, ‘employed’ or ‘employer’ shall be construed accordingly;

‘equivalent period’ means, in relation to the United Kingdom, a period for which contributions appropriate to the benefit in question have been credited under the legislation of that Party;

‘family allowance’, in relation to the United Kingdom, includes child benefit payable under the legislation of the United Kingdom, and, in relation to Australia means family allowance payable under the legislation of Australia;

‘former Agreement’ means the Agreement on Social Security signed at Canberra on 29 January 1958, on behalf of the Parties, as amended by the Agreement on Social Security signed at Canberra on 16 August 1962 and by the Agreements set out in the Exchanges of Notes at Canberra on 6 March 1975 and at London on 29 and 31 December 1986;

‘full standard rate’ means, in relation to any benefit payable under the legislation of the United Kingdom, the rate at which the beneficiary would be qualified to receive that benefit if the relevant contribution conditions were fully satisfied;

‘gainfully occupied’ means employed or self-employed;

‘Guernsey’ means the Islands of Guernsey, Alderney, Herm and Jethou;

‘income support’ means income support payable under the legislation of Great Britain and Northern Ireland and supplementary benefit payable under the legislation of the Isle of Man;

‘legislation’ means the legislation specified in Article 2 which, in relation to the United Kingdom, is in force in any part of the

SCHEDULE 3—continued

territory of the United Kingdom and, in relation to Australia, is in force in Australia;

‘means test’ means any provision of the legislation of Australia which affects the payment or rate of a benefit on account of income or property;

‘qualified to receive’ means, in relation to the United Kingdom, entitled to receive subject to any disqualification or any provision about claiming, hospital treatment or overlapping benefits which may be appropriate;

‘retirement pension’ means retirement pension or old age pension payable under the legislation of the United Kingdom and includes a contributory old age pension under that legislation and any graduated retirement benefit constituted by an increase in the weekly rate of retirement pension under that legislation, but excludes additional (earnings-related) pension payable under that legislation;

‘self-employed person’ means a person who, in the applicable legislation, comes within the definition of a self-employed earner or of a self-employed person or is treated as such, and the words ‘person is self-employed’ shall be construed accordingly;

‘spouse carer’s pension’ means a carer’s pension payable to a husband under the legislation of Australia;

‘territory’ means in relation to the United Kingdom, Great Britain, Northern Ireland and also the Isle of Man, the Island of Jersey and Guernsey;

‘widow’ means, in relation to Australia, a de jure widow but does not include a woman who is the de facto spouse of a man;

‘widow’s benefit’ means, in relation to the United Kingdom, widow’s allowance, widow’s payment, widowed mother’s allowance (including any graduated retirement benefit constituted by an increase in the weekly rate of widowed mother’s allowance), widowed father’s allowance or widow’s pension under the legislation of any part of the United Kingdom.

(2) In the application by a Party of this Agreement in relation to a person, any term not defined in this Article shall, unless the context otherwise requires, have the meaning ascribed to it in the legislation of the Parties or, in the event of a conflict of meaning, by whichever of the legislation of the Parties is the more applicable to the circumstances of that person.

(3) Any reference in this Agreement to ‘Article’ means an Article of this Agreement, and any reference to a ‘paragraph’ is a reference to a paragraph of the Article in which the reference is made, unless it is stated to the contrary.

SCHEDULE 3—continued

ARTICLE 2

SCOPE OF LEGISLATION

- (1) The provisions of this Agreement shall apply:
- (a) in relation to the territory of the United Kingdom, to:
 - (i) the Social Security Acts 1975 to 1989 and the Social Security (Northern Ireland) Acts 1975 to 1989;
 - (ii) the Social Security Acts 1975 to 1989 (Acts of Parliament) as those Acts apply to the Isle of Man by virtue of Orders made, or having effect as if made, under the Social Security Act 1982 (an Act of Tynwald);
 - (iii) the Social Security (Jersey) Law, 1974;
 - (iv) the Social Insurance (Guernsey) Law, 1978;
 - (v) the Child Benefit Act 1975, the Child Benefit (Northern Ireland) Order 1975 and the Child Benefit Act 1975 (an Act of Parliament) as that Act applies to the Isle of Man by virtue of Orders made, or having effect as if made, under the Social Security Act 1982 (an Act of Tynwald); the Family Allowances (Jersey) Law, 1972 and the Family Allowances (Guernsey) Law, 1950;
- and to the legislation which was repealed or consolidated by those Acts, Laws or Orders or repealed by legislation consolidated by them; and
- (b) in relation to Australia, to the Social Security Act 1947.
- (2) Subject to the provisions of paragraphs (3) and (4) this Agreement shall apply also to any laws, orders and regulations which supersede, replace, amend, supplement or consolidate the legislation specified in paragraph (1).
- (3) This Agreement shall not affect any benefits payable under the legislation of either Party except in the manner set out in this Agreement.
- (4) This Agreement shall not apply to legislation on social security of the Institutions of the European Communities or to any convention or agreement on social security which either Party has concluded with a third party or to any laws, orders or regulations which amend the legislation specified in paragraph (1) for the purpose of giving effect to such a convention or agreement but shall not prevent either Party from taking into account under its legislation the provisions of any other convention or agreement which that Party has concluded with a third party.
- (5) Subject to the provisions of paragraph (2), this Agreement shall apply, unless the Parties agree otherwise, only to benefits described in the legislation specified in paragraph (1) at the date of coming into force of this Agreement and for which specific provision is made in this Agreement.

SCHEDULE 3—continued

PART II

RETIREMENT PENSIONS, AGE PENSIONS AND BENEFITS FOR WIDOWS

ARTICLE 3

RETIREMENT PENSIONS

(1) For the purpose of determining entitlement to retirement pension under the legislation of any part of the territory of the United Kingdom, a person who is permanently resident in that part of the territory shall be treated as if he or she, or, in the case of a claim made by a married woman or a widow by virtue of her husband's insurance, her husband, had paid contributions under the legislation of that part of the territory for any period during which that person or that person's husband, as the case may be:

- (a) was resident in Australia and had attained the age of sixteen years; and
- (b) being a woman had not attained the age of sixty years, or sixty-five years in the case of Guernsey or Jersey, or being a man had not attained the age of sixty-five years.

(2) Where:

- (a) a woman claiming retirement pension by virtue of her own insurance had been, but is not at the time of the claim, married, and chooses to have her former husband's contributions taken into account for the purpose of her claim; and
- (b) her former husband had been resident in Australia for any period between the ages of sixteen years and sixty-five years;

her former husband shall be treated, for the purpose of her claim, as if he had paid contributions under the legislation of the territory of the United Kingdom for any period referred to in sub-paragraph (b).

(3) Where a person who is permanently resident in any part of the territory of the United Kingdom was receiving an age pension, otherwise than by virtue of this Agreement or the former Agreement, at the time when he or she was last in Australia, and was over pensionable age at that time, he or she shall, if not qualified by virtue of the preceding paragraphs of this Article to receive retirement pension at the full standard rate under the legislation of that part of the territory of the United Kingdom, be treated as if he or she satisfied the contribution conditions for such a pension.

(4) Any pension which is awarded by virtue of this Article shall continue to be payable if the pensioner ceases to be permanently resident in one part of the territory of the United Kingdom and becomes permanently resident in another part of the territory of the United Kingdom, and the competent authority of the latter part of the

SCHEDULE 3—continued

territory of the United Kingdom shall not determine entitlement under this Article.

(5) Any pension which is awarded by virtue of this Article shall cease to be payable if the pensioner ceases to be permanently resident in the territory of the United Kingdom.

(6) Where a person is entitled to receive a benefit by virtue of the provisions of this Article, the rate of benefit which he or she would otherwise be entitled to receive, but for this paragraph, shall be reduced by the amount of benefit which is payable by virtue of the legislation of Australia in accordance with the provisions of Article 8 (7).

ARTICLE 4

AGE PENSIONS

(1) Where a person is qualified to receive an age pension under the legislation of Australia otherwise than by virtue of the provisions of this Agreement, or the former Agreement, that pension shall be payable and the provisions of this Article shall not apply under that legislation.

(2) For the purpose of any claim by a person to receive an age pension under the legislation of Australia, that person shall be treated as an Australian resident for any period prior to that person's last arrival in Australia for which:

(a) that person; or

(b) if that person is a woman who is or has been married, her husband,

paid contributions, or had earnings or contributions credited, under the legislation of the United Kingdom.

(3) For the purpose of applying paragraph (2), any period during which the person (being a woman) and her husband both paid contributions or had earnings or contributions credited to them shall be counted only once.

(4) For the purpose of applying paragraph (2), a period when the person or, if the person is a woman who is or has been married, her husband paid contributions or had earnings or contributions credited, which coincided with a period in which that person was an Australian resident, shall be counted only once.

(5) A person who receives from Australia a wife's pension or a spouse carer's pension by virtue of the fact that the spouse of that person receives an age pension by virtue of this Article, shall, for the purpose of this Agreement, be deemed to receive that pension by virtue of this Agreement.

SCHEDULE 3—continued

ARTICLE 5

UK BENEFITS FOR WIDOWS

(1) For the purpose of determining entitlement to widow's benefit under the legislation of any part of the territory of the United Kingdom, a widow who is permanently resident in that part of the territory shall be treated as if her husband had paid contributions under the legislation of that part of the territory for any period during which he was resident in Australia between the ages of sixteen years and sixty-five years.

(2) Where a widow who is permanently resident in any part of the territory of the United Kingdom was receiving a pension payable to widows under the legislation of Australia, otherwise than by virtue of this Agreement or the former Agreement, at the time when she was last in Australia, and is not qualified by virtue of paragraph (1) to receive widow's allowance, widowed mother's allowance or widow's pension at the full standard rate under the legislation of that part of the territory of the United Kingdom where she is permanently resident, she shall be qualified under that legislation to receive at the full standard rate:

- (a) widow's allowance if she had been receiving a pension payable to widows under the legislation of Australia for less than one year in the case of Jersey and 26 weeks in the case of Guernsey; or
- (b) widowed mother's allowance if she is not qualified to receive widow's allowance or if she has ceased to be qualified to receive widow's allowance, and if she has a child in her family or if she has residing with her a person under the age of nineteen years or sixteen years in the case of Jersey or eighteen years in the case of Guernsey, and the pension payable to widows which she was receiving at the time when she was last in Australia was being paid to her on the basis that that child or person was her dependent child; or
- (c) widow's pension or retirement pension, as the case may require, if she is not qualified to receive widow's allowance, or widowed mother's allowance but had reached the age of fifty-five years or forty years where that widow is permanently resident in Jersey or Guernsey, either before she last left Australia or when she ceased to be qualified to receive widow's allowance or widowed mother's allowance.

(3) Any pension which is awarded by virtue of this Article shall continue to be payable if the pensioner ceases to be permanently resident in one part of the territory of the United Kingdom and becomes permanently resident in another part of the territory of the United Kingdom, and the competent authority of the latter part of the territory of the United Kingdom shall not determine entitlement under this Article.

SCHEDULE 3—continued

- (4) Any widow's benefit which is awarded by virtue of this Article shall cease to be payable if the widow ceases to be permanently resident in the territory of the United Kingdom.
- (5) Where a person is entitled to receive a benefit by virtue of the provisions of this Article, the rate of benefit which she would otherwise be entitled to receive, but for this paragraph, shall be reduced by the amount of benefit which is payable by virtue of the legislation of Australia in accordance with the provisions of Article 8 (7).
- (6) The provisions contained in this Article shall apply, in an equal and opposite way to widowed father's allowance under the legislation of Jersey.
- (7) In the case of widows' benefits payable under the legislation of Jersey, contribution credits shall only be awarded to widows permanently resident in Jersey.
- (8) In the case of widow's benefit payable under the legislation of Guernsey:
- (a) Class 3 contributions shall be credited only to a widow who is permanently resident in Guernsey;
 - (b) where Class 3 contributions have not been credited to a widow under the provisions of sub-paragraph (a) above and the rate of old age pension which would be payable is less than the rate of widow's benefit payable immediately before pension age is attained the rate of old age pension shall be adjusted so that it is equal to the rate of widow's benefit which was payable, or which would be payable, if widow's benefit were payable beyond pension age.

ARTICLE 6

UK WIDOWED MOTHER'S ALLOWANCE—CHILD IN AUSTRALIA

Where a woman would be qualified under the legislation of the United Kingdom, otherwise than by virtue of this Agreement or the former Agreement, to receive widowed mother's allowance, including an allowance for a child, if her child were in the territory of the United Kingdom, she shall be qualified to receive that allowance for any period during which the child is in Australia.

ARTICLE 7

AUSTRALIAN BENEFITS FOR WIDOWS

- (1) Where a person is qualified to receive a pension payable to widows under the legislation of Australia otherwise than by virtue of the provisions of this Agreement or the former Agreement, that pension

SCHEDULE 3—continued

shall be payable and the provisions of this Article shall not apply under that legislation.

(2) For the purpose of any claim to receive a pension payable to widows under the legislation of Australia, a widow shall be treated as if she had been an Australian resident during any period for which her husband (or her last husband if more than one) had paid contributions or had had earnings or contributions credited to him under the legislation of the United Kingdom.

(3) For the purpose of applying paragraph (2), any period when the widow was an Australian resident which coincided with a period when her husband (or her last husband if more than one) had paid contributions or had had earnings or contributions credited to him shall be counted only once.

ARTICLE 8

CONVERSION OF AUSTRALIAN RESIDENCE

(1) For the purpose of calculating entitlement under the legislation of Great Britain, Northern Ireland or the Isle of Man, to any benefit in accordance with Articles 3 and 5, periods of residence in Australia before 6 April 1975 shall be treated as if they had been contribution or equivalent periods completed under that legislation.

(2) For the purpose of calculating entitlement under the legislation of Great Britain, Northern Ireland or the Isle of Man, to any benefit in accordance with Articles 3 and 5, periods of residence in Australia on or after 6 April 1975 shall be treated as if a Class 3 contribution had been paid under that legislation for each week of residence.

(3) Notwithstanding the provisions of paragraph (2), where residence in Australia during any tax year beginning on or after 6 April 1975 is for a period of less than the complete tax year then for each week of that period during which a person satisfies the competent authority that he or she was employed in Australia:

- (a) for each week up to 5 April 1987, a person shall be treated as having paid a contribution as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit under the legislation of Great Britain, Northern Ireland or the Isle of Man;
- (b) for each week commencing on or after 6 April 1987, a person shall be treated as having earnings on which primary Class 1 contributions have been paid under the legislation of Great Britain, Northern Ireland or the Isle of Man; these earnings shall be treated as equivalent to two-thirds of that year's upper earnings limit.

SCHEDULE 3—continued

(4) For the purpose of calculating entitlement under the legislation of Guernsey to any benefit in accordance with Articles 3 and 5, residence in Australia between the ages of sixteen years and sixty-five years shall be treated as if a Class 3 contribution had been paid under the legislation of Guernsey for each week of residence.

(5) For the purpose of calculating entitlement under the legislation of Jersey to any benefit in accordance with Articles 3 and 5, a person shall be treated:

- (a) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years, being a week in the relevant quarter, as having paid contributions which derive a quarterly contribution factor of 0.077 for that quarter;
- (b) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years, being a week in a relevant year, as having paid contributions which derive an annual contribution factor of 0.0193 for that year.

(6) Where it is not possible to determine accurately the periods of time in which certain insurance periods were completed under the legislation of the United Kingdom, such periods shall be treated as if they did not overlap with periods of residence in Australia, and they shall be taken into account to the best advantage of the beneficiary.

(7) For the purpose of calculating the rate of any benefit payable to a person under the legislation of the United Kingdom in accordance with the provisions of Articles 3, 5 or 13, the amount of any Australian benefit to be taken into account shall be initially the rate which that person is receiving at the date of entitlement to the United Kingdom benefit, and thereafter the rate which that person is receiving:

- (a) on the date on which the latest uprating order, made by the Secretary of State for Social Security under section 63 of the Social Security Act 1986, came into effect; or
- (b) in respect of Guernsey, on the date on which the latest Ordinance made under Section 19 of the Social Insurance (Guernsey) Law, 1978 came into effect; or
- (c) in respect of Jersey, annually on 1 October in accordance with Article 13 of the Social Security (Jersey) Law 1974.

(8) Notwithstanding the provisions of paragraph (7), where a person referred to in that paragraph has the rate of that Australian benefit reduced under the legislation of Australia upon being absent from Australia for 12 months, the benefit payable to that person under the legislation of the United Kingdom shall be adjusted upon that reduction occurring.

SCHEDULE 3—continued

ARTICLE 9

**CONVERSION OF UK EARNINGS FACTORS OR
CONTRIBUTION FACTORS**

In order to convert to a period of contributions or credits for the purposes of Articles 4 and 7:

- (a) the competent authority of Great Britain, Northern Ireland or the Isle of Man shall divide any earnings factor achieved in any tax year commencing after 5 April 1975 under its legislation, by that year's lower earnings limit;
- (b) the competent authority of Jersey shall multiply any contribution factor achieved by a person under its legislation:
 - (i) by thirteen in the case of a quarterly contribution factor; and
 - (ii) by fifty-two in the case of an annual contribution factor.

The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated, subject to a maximum of the number of weeks during which the person was subject to that legislation in a quarter or in a year, shall be treated as representing the number of weeks of contributions or credits completed under that legislation.

PART III

UK FAMILY ALLOWANCE AND GUARDIAN'S ALLOWANCE

ARTICLE 10

FAMILY ALLOWANCE

- (1) Where a person who has been resident in Australia becomes permanently resident in the territory of the United Kingdom, the period during which that person was resident in Australia shall be treated, for the purpose of a claim by the person for family allowance under the legislation of the United Kingdom, as a period during which that person was resident in that territory.
- (2) For the purpose of any claim to family allowance under the legislation of Guernsey, a person whose place of birth is in Australia shall be treated as if his or her place of birth was in Guernsey.
- (3) In the case of Jersey, family allowance shall only be paid in respect of a child who is ordinarily resident in Jersey.

ARTICLE 11

GUARDIAN'S ALLOWANCE

- (1) Where a person who is permanently resident in the territory of the United Kingdom claims guardian's allowance under the legislation of any part of that territory for a child who is permanently resident there,

SCHEDULE 3—continued

each complete week during which either parent of that child was resident in Australia after reaching sixteen years of age shall be treated as if that week had been a complete week of residence in that part of the territory of the United Kingdom or as if that parent had been an insured person under the legislation of Guernsey.

(2) If either parent of a child referred to in paragraph (1) was born in Australia, that parent shall be treated as if he or she had been born in the United Kingdom.

PART IV

SICKNESS BENEFITS AND INVALIDITY BENEFITS

ARTICLE 12

AUSTRALIAN SICKNESS BENEFIT

Where a person who is temporarily absent from any part of the territory of the United Kingdom and who is legally in Australia claims sickness benefit under the legislation of Australia, that person shall, for the purpose of that claim, be deemed to be an Australian resident.

ARTICLE 13

UK SICKNESS BENEFIT AND INVALIDITY BENEFIT

(1) Where a person who is permanently resident in the territory of the United Kingdom and is ordinarily gainfully occupied, or would be, but for his or her incapacity for work, claims sickness or invalidity benefit under the legislation of the relevant part of that territory, then, for the purpose of calculating entitlement to those benefits, periods during which that person was in Australia shall be treated in accordance with the provisions of this Article.

(2) For the purpose of calculating entitlement under the legislation of Great Britain, Northern Ireland or the Isle of Man to sickness or invalidity benefit:

- (a) periods of gainful occupation completed in Australia before 6 April 1975 shall be treated as if they had been contribution or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man; and
- (b) periods completed as a self-employed person in Australia after 5 April 1975 shall be treated as if they have been contribution periods completed as a self-employed person or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man.

(3) For the purpose of calculating an earnings factor for assessing entitlement to sickness or invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man, a person shall be

SCHEDULE 3—continued

treated for each week beginning in a relevant tax year, during which he or she was an employed person in Australia, as follows:

- (a) for each week commencing on or after 6 April 1975 and up to 5 April 1987, as having a contribution paid as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit; and
 - (b) for each week beginning in a relevant tax year commencing on or after 6 April 1987, as having earnings on which primary Class 1 contributions have been paid. These earnings shall be treated as equivalent to two-thirds of that year's upper earnings limit.
- (4) For the purpose of calculating entitlement under the legislation of Guernsey to sickness or invalidity benefit:
- (a) periods during which a person was gainfully occupied as an employed person in Australia shall be treated as if they had been contribution or equivalent periods completed as an employed person under the legislation of Guernsey; and
 - (b) periods during which a person was gainfully occupied as a self-employed person in Australia shall be treated as if they had been contribution or equivalent periods completed as a self-employed person under the legislation of Guernsey.
- (5) For the purpose of calculating entitlement under the legislation of Jersey to any benefit in accordance with this Article, a person shall be treated:
- (a) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years being a week in the relevant quarter, as having paid contributions which derive a quarterly contribution factor of 0.077 for that quarter;
 - (b) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years being a week in a relevant year, as having paid contributions which derive an annual contribution factor of 0.0193 for that year.
- (6) For the purpose of calculating entitlement under the legislation of the relevant part of the territory of the United Kingdom to sickness or invalidity benefit, a person shall be treated as if he or she had had earnings or contributions credited to him or her:
- (a) as an employed person for any week during which he or she was in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he or she was or would ordinarily have been employed; and
 - (b) as a self-employed person for any other week during which he or she was in Australia and was incapable of work, if that week

SCHEDULE 3—continued

was part of a period during which he or she was or would ordinarily have been self-employed.

(7) Where a person who is permanently resident in the territory of the United Kingdom was receiving a sickness benefit, an invalid pension, a sheltered employment allowance or a rehabilitation allowance under the legislation of Australia when he or she was last in Australia and is incapable of work at the time when he or she arrives in the territory of the United Kingdom, he or she shall be treated under the legislation of the United Kingdom as if, at that time and for so long as he or she continues from that time to be incapable of work, he or she satisfied the contribution conditions under which sickness or invalidity benefit is payable.

(8) For the purpose of any claim to invalidity benefit under the legislation of the United Kingdom, any period in respect of which a person received sickness benefit or an invalid pension under the legislation of Australia shall be treated as if it were a period of entitlement to sickness benefit or invalidity benefit completed under the legislation of the United Kingdom.

(9) Nothing in this Article shall diminish any right which a person has, apart from this Agreement, to receive sickness or invalidity benefit under the legislation of the United Kingdom.

(10) Where a person is entitled to receive a benefit by virtue of the provisions of this Article, the rate of benefit which he or she would otherwise be entitled to receive, but for this paragraph, shall be reduced by the amount of benefit which is payable by virtue of the legislation of Australia in accordance with the provisions of Article 8 (7).

PART V

UK UNEMPLOYMENT BENEFIT

ARTICLE 14

(1) Where a person who is permanently resident in the territory of the United Kingdom except for Jersey claims unemployment benefit under the legislation of any part of that territory, then, for the purpose of calculating entitlement to that benefit, periods during which that person was in Australia shall be treated in accordance with the provisions of this Article.

(2) Periods of gainful occupation as an employed person in Australia before 6 April 1975 shall be treated as if they had been contribution or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man.

(3) For the purpose of calculating an earnings factor for assessing entitlement to unemployment benefit under the legislation of Great

SCHEDULE 3—continued

Britain, Northern Ireland or the Isle of Man, a person shall be treated for each week beginning in a relevant tax year, during which he or she was an employed person in Australia, as follows:

- (a) for each week commencing on or after 6 April 1975 and up to 5 April 1987, as having a contribution paid as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit; and
 - (b) for each week beginning in a relevant tax year commencing on or after 6 April 1987, as having earnings on which primary Class 1 contributions have been paid. These earnings shall be treated as equivalent to two-thirds of that year's upper earnings limit.
- (4) For the purpose of calculating entitlement to unemployment benefit under the legislation of Guernsey, periods during which a person was gainfully occupied as an employed person in Australia shall be treated as if they had been contribution or equivalent periods completed as an employed person under the legislation of Guernsey.
- (5) A person shall be treated as if he or she had had earnings or contributions credited to him or her as an employed person for any week during which he or she was in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he or she was or would ordinarily have been gainfully occupied under a contract of service.
- (6) Nothing in this Article shall diminish any right which a person has, apart from this Agreement, to receive unemployment benefit under the legislation of the United Kingdom.
- (7) The provisions of this Article shall not apply to a person who claims unemployment benefit under the legislation of Guernsey and who has not paid 26 contributions as an employed person under that legislation.

PART VI

MISCELLANEOUS PROVISIONS

ARTICLE 15

TEMPORARY ABSENCES

- (1) A benefit which is payable to a person by Australia under Part II of this Agreement shall not cease to be payable solely where the person is absent from Australia and the competent authority of Australia is satisfied that the absence is temporary. After the person has been temporarily absent from Australia for a period of 12 months at any one time that person shall then be deemed to have departed permanently from Australia.

SCHEDULE 3—continued

(2) Where a person, who is qualified to receive any benefit under the legislation of the United Kingdom, would be qualified to receive also an increase of that benefit for a dependant if the dependant were in that territory, he or she shall be qualified to receive that increase while the dependant is temporarily in Australia.

ARTICLE 16

CALCULATION OF AUSTRALIAN BENEFITS

(1) Subject to paragraph (5), the provisions of this Article shall apply, in relation to the territory of the United Kingdom, only to retirement pensions and widows' benefits, and, in relation to Australia only to age pensions, wives' pensions, spouse carer's pensions and pensions payable to widows, being benefits payable under the legislation of Australia solely by virtue of this Agreement; and, for the purpose of applying those provisions, the effect of any provision of the legislation of any part of the territory of the United Kingdom which concerns overlapping benefits shall be disregarded.

(2) Subject to the provisions of paragraph (3), where a person who is qualified to receive an Australian benefit also receives a United Kingdom benefit, the rate of that Australian benefit shall be set by:

- (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation the United Kingdom benefit received by that person;
- (b) deducting the amount of the United Kingdom benefit received by that person from the maximum rate of that Australian benefit; and
- (c) applying to the remaining benefit obtained under sub-paragraph (b) the relevant rate calculation set out in the legislation of Australia using as the person's income the amount calculated under sub-paragraph (a).

(3) Where a married person is, or both that person and his or her spouse are, in receipt of a United Kingdom benefit or benefits, each of them shall be deemed, for the purpose of paragraph (2) and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or the total of both of those benefits, as the case may be.

(4) If a person would receive an Australian benefit except for the operation of paragraph (2) or except for that person's failure to claim the benefit, then for the purpose of a claim by that person's spouse for a payment under the legislation of Australia that person shall be deemed to receive that benefit.

(5) The reference in paragraph (4) to a payment under the legislation of Australia to the spouse of a person is a reference to a payment of:

SCHEDULE 3—continued

- (a) an age pension;
- (b) an invalid pension;
- (c) an unemployment benefit;
- (d) a sickness benefit;
- (e) a sheltered employment allowance; or
- (f) a rehabilitation allowance,

under that legislation, whether payable by virtue of this Agreement or otherwise.

(6) For the purpose of this Article ‘benefit’ includes any additional earnings-related pension, incremental addition, invalidity allowance and age addition payable with the benefit.

ARTICLE 17

DUAL ENTITLEMENT IN AUSTRALIA

Where:

- (a) a claim is made for a benefit payable by Australia, by virtue of this Agreement; and
- (b) there are reasonable grounds for believing that the claimant may also be entitled, whether by virtue of this Agreement or otherwise, to a benefit that is payable under the legislation of the United Kingdom and that, if paid, would affect the amount of the first-mentioned benefit,

that first-mentioned benefit shall not be paid until a claim is duly lodged for payment of the second-mentioned benefit and the first-mentioned benefit shall not continue to be paid if the claim for the second-mentioned benefit is not actively pursued.

ARTICLE 18

DUAL ENTITLEMENT IN UK

Where a person is qualified to receive a benefit under the legislation of the United Kingdom pursuant to Articles 3, 5 or 13 and is also qualified to receive an Australian benefit, the rate of that Australian benefit shall be determined under the legislation of Australia but in that determination the amount of the benefit payable under the legislation of the United Kingdom shall be disregarded in the computation of that person’s income.

ARTICLE 19

RECOVERY OF BENEFIT

- (1) Where a benefit is payable by a Party to a person in respect of a past period (in this Article referred to as ‘the first benefit’), and
 - (a) for all or part of that same period, the other Party has paid to

SCHEDULE 3—continued

that person a benefit under its legislation (in this Article referred to as ‘the second benefit’); and

- (b) the amount of the second benefit would have been reduced had the first benefit been paid during that period, the competent authority of the former Party, at the request of the competent authority of the latter Party, shall:
- (c) deduct from the first benefit an amount equal to the amount of the second benefit that would not have been paid had the first benefit been paid on a periodical basis throughout that past period; and
- (d) transmit any sum deducted in accordance with sub-paragraph (c) above to the competent authority of the latter Party.

Any balance shall be paid by the former Party direct to the person.

(2) Where the United Kingdom has paid a benefit to a person in respect of a past period and:

- (a) for all or part of that same period, Australia has paid to that person a benefit under its legislation; and
- (b) the amount of the benefit paid by Australia would have been reduced had the United Kingdom paid its benefit during that period, the competent authority of Australia may determine that:
- (c) the amount of its benefit which would not have been paid had the United Kingdom paid its benefit on a periodical basis throughout that period is a debt due by that person to Australia; and
- (d) the amount, or any part, of that debt may be recovered from future benefits which Australia may pay under its legislation to that person.

(3) A reference in paragraphs (1) or (2) to a payment under the legislation of a Party means a benefit payable whether by virtue of this Agreement or otherwise.

(4) Where a person has received income support under the legislation of Great Britain, Northern Ireland or the Isle of Man for a period for which that person subsequently becomes entitled to any benefit under the legislation of Australia, the competent institution of Australia, at the request of and on behalf of the competent institution of Great Britain, Northern Ireland or the Isle of Man, shall withhold from the benefit due for that period the amount by which the income support paid exceeded what would have been paid had the benefit under the legislation of Australia been paid before the amount of income support was determined, and shall transmit the amount withheld to the competent institution of Great Britain, Northern Ireland or the Isle of Man.

SCHEDULE 3—continued

ARTICLE 20

MEANING OF PERMANENTLY RESIDENT

For the purpose of applying the provisions of this Agreement, a person shall be treated as permanently resident in the territory of the United Kingdom if he or she is ordinarily resident in that territory and the competent authority of that territory is satisfied that it is that person's intention to remain so resident permanently.

ARTICLE 21

GAINFUL OCCUPATION IN AUSTRALIA

For the purpose of Articles 13 and 14, a person shall be treated as having been gainfully occupied in Australia during:

- (a) any period of service, whether in Australia or elsewhere, in the Defence Force of Australia; and
- (b) any period of absence from Australia during which that person was an employee and was treated as being a resident of Australia within the meaning of any Act relating to the imposition, assessment and collection of a tax upon incomes in force in Australia.

PART VII

ADMINISTRATION

ARTICLE 22

ADMINISTRATIVE ARRANGEMENTS

The competent authorities of the United Kingdom of Great Britain and Northern Ireland and the Secretary to the Department of Social Security for the Government of Australia shall make whatever administrative arrangements are necessary from time to time in order to implement this Agreement.

ARTICLE 23

DISCLOSURE OF INFORMATION

- (1) The competent authorities may supply to each other such information as is necessary for the operation of this Agreement or of the legislation of each territory to which this Agreement applies as if the matter involved the application of their own legislation.
- (2) Any information received by a competent authority pursuant to paragraph (1) shall be protected in the same manner as information obtained under the legislation of that territory and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with matters, including the determination of appeals,

SCHEDULE 3—continued

arising under the provisions of this Agreement and of the legislation to which this Agreement applies and shall be used only for those purposes.

(3) In no case shall the provisions of paragraphs (1) and (2) be construed so as to impose on the competent authority of either Party the obligation:

- (a) to carry out administrative measures which are at variance with the laws or the administrative practice of either Party; or
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of either Party.

(4) The competent authorities shall notify each other of legislation that supersedes, amends, supplements or replaces the legislation within the scope of this Agreement in relation to their respective Parties, promptly after the first-mentioned legislation is enacted.

(5) The appropriate competent authority shall also provide copies of the relevant legislation and of related explanatory material and any further amplification or clarification that the other competent authority may request.

PART VIII

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 24

TRANSITIONAL PROVISIONS

(1) No provision of this Agreement shall confer any right to receive any payment of a benefit for a period before the date of the entry into force of this Agreement.

(2) Any contribution which a person has paid or earnings or contributions credited under the legislation of the United Kingdom before the date of the entry into force of this Agreement, and any period during which a person was resident in Australia before that date, shall be taken into account for the purpose of determining the right to receive a benefit in accordance with the provisions of this Agreement under the legislation of Australia and under the legislation of the United Kingdom respectively.

(3) Subject to paragraph (4), where, on the date on which this Agreement enters into force, a person:

- (a) is in receipt of a benefit under the legislation of either Party by virtue of the former Agreement; or
- (b) is qualified to receive a benefit referred to in sub-paragraph (a) and, where a claim for that benefit is required, has claimed that benefit,

no provision of this Agreement shall affect the entitlement to receive that benefit.

SCHEDULE 3—continued

(4) The rate of a benefit which is payable by virtue of paragraph (3) shall, subject to this Agreement, be assessed in accordance with the provisions of the legislation of the relevant Party.

ARTICLE 25

ENTRY INTO FORCE

(1) The Agreement shall enter into force on a date to be specified in Notes exchanged by the Parties through the Diplomatic channel notifying each other that all matters as are necessary to give effect to this Agreement have been finalised.

(2) Subject to the provisions of Article 24, the former Agreement shall terminate on the date of entry into force of this Agreement.

ARTICLE 26

TERMINATION PROVISIONS

(1) Subject to paragraph (2), this Agreement shall remain in force until the expiration of twelve months from the date on which either Party receives from the other written notice through the diplomatic channel of the intention of the other Party to terminate this Agreement.

(2) In the event that this Agreement is terminated in accordance with paragraph (1), the Agreement shall continue to have effect in relation to all persons who by virtue of this Agreement:

- (a) at the date of termination, are in receipt of benefits; or
- (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed this Agreement.

Done in duplicate at London this 1st day of October 1990.

For the Government of
Australia:
Graham Richardson

For the Government of the
United Kingdom of Great
Britain and Northern
Ireland:
Caithness

SCHEDULE 4

Section 6

New Schedule 4

SCHEDULE 4

Section 1208

AGREEMENT

between

THE GOVERNMENT OF AUSTRALIA

and the

GOVERNMENT OF NEW ZEALAND

providing for reciprocity in matters
relating to social security

The Government of Australia and

The Government of New Zealand,

WISHING to strengthen the existing friendly relations between the two countries, and

DESIRING to co-ordinate the operation of their respective social security systems and to enhance the equitable access by people covered by this Agreement to social security benefits provided for under the laws of both countries, and

WISHING to modify the Agreement providing for reciprocity in matters relating to social security which they entered into on the Fifth day of October 1986 by means of a consolidated document,

HAVE agreed as follows:

PART I—INTERPRETATION AND SCOPE

Article 1

Interpretation

1. In this Agreement, unless the context otherwise requires:
 - (a) 'Australian benefit' means a benefit referred to in Article 2 in relation to Australia;
 - (b) 'benefit' means Australian benefit or New Zealand benefit;
 - (c) 'competent authority' means, in the case of Australia, the Secretary to the Department of Social Security or an authorised representative of the Secretary and, in the case of New Zealand, the Director-General of Social Welfare or an authorised representative of the Director-General or, if either no longer exists, such other officer or body as the responsible Minister for the Party concerned notifies to the responsible Minister for the other Party;

SCHEDULE 4—continued

- (d) 'New Zealand benefit' means a benefit referred to in Article 2 in relation to New Zealand; and
- (e) 'social security laws' means in relation to a Party, the laws specified in Article 2 in relation to that Party.

2. This Agreement applies:

- (a) in relation to Australia, to its external territories in the same manner as the social security laws of Australia apply to those territories; and
- (b) in relation to New Zealand, to New Zealand only and not to the Cook Islands, Niue or Tokelau,

and references to 'Australia', 'New Zealand' or 'territory' in relation to either of them shall be read accordingly.

3. In the application by a Party of this Agreement in relation to a person, any term not defined in this Article shall, unless the context otherwise requires, have the meaning assigned to it in the social security laws of either Party or, in the event of a conflict of meanings, by whichever of those laws is the more applicable to the circumstances of that person.

Article 2

Legislative Scope

1. The legislation within the scope of this Agreement is:

- (a) in relation to Australia: the Social Security Act 1947 as amended at the date of signature of this Agreement and any legislation that subsequently amends, supplements or replaces that Act, in so far as that Act and that legislation provide for, apply to or affect the following benefits:
 - (i) age pensions;
 - (ii) invalid pensions;
 - (iii) wives' pensions;
 - (iv) carers' pensions;
 - (v) widows' pensions;
 - (vi) supporting parents' benefits;
 - (vii) unemployment benefits;
 - (viii) sickness benefits; and
 - (ix) family allowances; and
- (b) in relation to New Zealand: the Social Security Act 1964 as amended at the date of signature of this Agreement and any legislation that subsequently amends, supplements or replaces that Act, in so far as that Act and that legislation provide for, apply to or affect the following benefits:
 - (i) national superannuation;

SCHEDULE 4—continued

- (ii) invalids' benefits;
- (iii) widows' benefits;
- (iv) domestic purposes benefits;
- (v) unemployment benefits;
- (vi) sickness benefits;
- (vii) orphans' benefits; and
- (viii) family benefits.

2. Notwithstanding the provisions of paragraph 1, the legislation within the scope of this Agreement shall not include any laws made, whether before or after the date of signature of this Agreement, for the purpose of giving effect to any bilateral agreement on social security entered into by either Party.

3. The competent authorities of the Parties shall notify each other of legislation that amends, supplements or replaces the legislation within the scope of this Agreement in relation to their respective Parties, promptly after the first-mentioned legislation is enacted.

Article 3

Equality of Treatment

A Party shall treat all persons affected by this Agreement equally in regard to rights and obligations that arise by virtue of this Agreement.

PART II—RESIDENCE

Article 4

Entitlement to Benefits During Residence or Presence in a Country

1. For the purposes of this Agreement and of the Social Security laws of Australia, where a person who is ordinarily resident in New Zealand has travelled directly from New Zealand to Australia and:

- (a) has been in Australia for a continuous period of at least 26 weeks immediately prior to lodging a claim for an Australian benefit; or
- (b) has a bona fide intention to remain in Australia for more than 26 weeks,

he or she shall be deemed to be an Australian resident.

2. For the purposes of this Agreement and of the Social Security laws of New Zealand, where an Australian resident has travelled directly from Australia to New Zealand and:

- (a) has been in New Zealand for a continuous period of at least 26 weeks immediately prior to lodging a claim for a New Zealand benefit; or
- (b) has a bona fide intention to remain in New Zealand for more than 26 weeks,

SCHEDULE 4—continued

he or she shall be deemed to be ordinarily resident in New Zealand.

Article 5

Recognition of Periods of Residence in New Zealand and Periods as an Australian Resident

1. Where a person is an Australian resident and is claiming an Australian benefit each period in which that person was resident in New Zealand shall be deemed, only for the purposes of meeting any minimum qualifying periods for that claim, to be a period as an Australian resident.

2. Where a person is residing in New Zealand and is claiming a New Zealand benefit each period in which that person was an Australian resident or, as appropriate, in which a related person was an Australian resident shall be deemed, only for the purposes of meeting any minimum qualifying periods for that claim, to be a period of residence in New Zealand.

3. In paragraphs 1 and 2 'benefit' does not include unemployment benefit.

4. In paragraph 2 'related person' means:

- (a) the spouse of the claimant;
- (b) the last deceased spouse of the claimant;
- (c) a child in respect of whom the benefit referred to in paragraph 2 is claimed; or
- (d) the last surviving parent, or the deceased parent formerly responsible for the care and control, of a child,

as the circumstances require.

5. Subject to paragraph 6, the question as to whether a person is or, at any past time, was an Australian resident or residing in New Zealand for the purposes of this Agreement shall be determined by reference to the domestic laws of the relevant Party.

6. Where, for a period, a person is both an Australian resident and a resident of New Zealand, that period shall be counted:

- (a) in relation to a claim for an Australian benefit, only as a period as an Australian resident; and
- (b) in relation to a claim for a New Zealand benefit, only as a period of residence in New Zealand.

7. In relation to a claim by a person under this Agreement for national superannuation any periods in which that person was an Australian resident and was present in Australia shall, for the purposes of that claim, be deemed to be periods in which that person was resident and present in New Zealand.

SCHEDULE 4—continued

PART III—PROVISIONS RELATING TO BENEFITS

Article 6

Payment of Supplementary and Additional Amounts

Where a benefit is payable by a Party by virtue of this Agreement to or in respect of a person, there shall also be payable any supplement or additional amount that is payable, in addition to that benefit, to or in respect of a person who qualifies for that supplement or additional amount under the social security laws of that Party.

Article 7

Entitlement to Payment by New Zealand of National Superannuation

A person shall not be entitled by virtue of this Agreement to the payment by New Zealand of national superannuation unless that person is of an age at which an age pension may be payable to the person under the social security laws of Australia.

Article 8

New Zealand Widows', Domestic Purposes and Orphans' Benefits

Where a widow's benefit, a domestic purposes benefit or an orphan's benefit would be payable by New Zealand but for the fact that a child to whom that benefit would relate was born in Australia, that child shall, for the purposes of a claim for that benefit, be deemed to have been born in New Zealand.

Article 9

Unemployment Benefit

1. This Article applies to any person who is in the territory of a Party and whose right to remain in that territory is dependent on that person being a citizen of the other Party.
2. Subject to paragraph 4, a person to whom this Article applies shall not be qualified to receive unemployment benefit from a Party unless the person:
 - (a) has been continuously present in the territory of that Party for not less than 6 months since the date of his or her most recent arrival in that territory;
 - (b) satisfies the competent authority of that Party, by reference to the person's circumstances, or his or her work history in that territory, that the person has permanently settled in that territory; and
 - (c) meets those criteria which are specified for that benefit by the social security laws of that Party.
3. For the purposes of subparagraph 2 (b):
 - (a) a person shall be deemed to satisfy the requirements in relation

SCHEDULE 4—continued

to work history in the territory of a Party if, since the date referred to in subparagraph 2 (a), the person has undertaken paid work for 8 weeks of at least 30 hours per week; and

- (b) consideration of a person's circumstances shall include consideration of:
 - (i) the person's family arrangements;
 - (ii) the housing or accommodation arrangements of the person and, if applicable, of the spouse and children of the person, whether in the territory of the Party concerned, of the other Party or elsewhere, including actions such as the purchase or lease of a home in the first-mentioned territory and the disposal of a former home in the other territory or elsewhere; and
 - (iii) the arrangements made by the person in regard to any bank or comparable accounts, the transfer, disposal or location of any property, and taxation clearances.

4. This Article shall not apply to a person who has been:

- (a) in relation to Australia, an Australian resident; or
- (b) in relation to New Zealand, resident in New Zealand,

for the period of 12 months immediately preceding the date on which the person lodges a claim for unemployment benefit in, respectively, Australia or New Zealand.

5. For the purposes of paragraph 4, a period as an Australian resident or of residence in New Zealand in relation to a person shall include any period or periods of temporary absence by that person that do not exceed in the aggregate 2 calendar months, and that do not break the continuity of that period as an Australian resident or of residence of New Zealand.

Article 10

Supporting Parents' Benefits and Domestic Purposes Benefits

1. This Article applies to any person who is in the territory of a Party and whose right to remain in that territory is dependent on that person being a citizen of the other Party.

2. Subject to paragraph 3, a person to whom this Article applies shall not be granted a supporting parents' benefit or a domestic purposes benefit by a Party unless, in addition to meeting the requirements for that benefit of the social security laws of that Party, the person has been continuously present in the territory of that Party for not less than 6 months since the date of his or her most recent arrival in that territory.

3. This Article shall not apply to a person who has been:

SCHEDULE 4—continued

(a) in relation to Australia, an Australian resident; or
(b) in relation to New Zealand, resident in New Zealand,
for the period of 12 months immediately preceding the date on which the person lodges a claim, in Australia, for supporting parents' benefit or, in New Zealand, for domestic purposes benefit.

4. For the purposes of paragraph 3, a period as an Australian resident or of residence in New Zealand in relation to a person:

- (a) shall include any period or periods of temporary absence by that person that do not exceed in the aggregate 2 calendar months, and that do not break the continuity of that period as an Australian resident or of residence in New Zealand; and
- (b) shall not include any period deemed by Article 5 to be a period as an Australian resident or a period of residence in New Zealand.

Article 11

Wife's Pension and Carer's Pension

A person who receives from Australia a wife's pension or a carer's pension by virtue of the fact that the spouse of that person receives, by virtue of this Agreement, an Australian benefit shall, for the purposes of this Agreement, be deemed to receive that pension by virtue of this Agreement.

Article 12

Sickness Benefit

1. This Article applies to a person who, immediately before leaving New Zealand, was receiving a New Zealand sickness benefit or an analogous emergency benefit payable under the Social Security Act 1964 of New Zealand.

2. Where a person to whom this Article applies:

- (a) has moved directly from New Zealand to Australia, without passing through a third country;
- (b) has remained incapacitated for work since arrival in Australia; and
- (c) claims an Australian sickness benefit within 4 weeks of that arrival,

that person shall be deemed for the purposes of that claim to have suffered a loss of income by reason of that incapacity amounting to the maximum rate of Australian sickness benefit applicable to that person.

3. A person who qualifies for an Australian sickness benefit under paragraph 2 shall, subject to the social security laws of Australia, be paid that benefit from the date of that person's arrival in Australia.

SCHEDULE 4—continued

PART IV—REIMBURSEMENT PROVISIONS

Article 13

Reimbursement of Certain Australian Benefits

1. Where by virtue of this Agreement or otherwise a person receives from Australia:

- (a) an age pension;
- (b) an invalid pension;
- (c) a widow's pension;
- (d) a wife's pension;
- (e) a rehabilitation allowance under Part XVI of the Social Security Act 1947 of Australia which is paid in lieu of an invalid pension or a widow's pension; or
- (f) an allowance granted under Part XIV of the Social Security Act 1947 of Australia,

and, when that person left New Zealand, had lodged a claim for and would have been entitled to receive, or was receiving,

- (g) national superannuation;
- (h) an invalid's benefit; or
- (i) a widow's benefit,

otherwise than by virtue of the Agreement, then New Zealand will reimburse Australia the full cost of the Australian benefit subject to paragraphs 3 and 4.

2. A supplement or additional amount payable by Australia in addition to a benefit referred to in subparagraphs 1 (a) to 1 (f) inclusive shall for the purposes of paragraph 1 be deemed to be part of that benefit.

3. The Australian benefits described in subparagraphs 1 (a) to 1 (f) inclusive which are subject to reimbursement by New Zealand shall be those granted by Australia to persons who leave New Zealand on or after the First day of April 1989.

4. New Zealand shall not be required to reimburse Australia for payment of the benefits listed in subparagraphs 1 (a) to 1 (f) inclusive after a recipient has left Australia permanently or has been absent from Australia for more than 26 weeks unless and until that recipient returns to Australia when the obligation to reimburse shall revive.

5. At least 2 months before the start of any New Zealand financial year while this Agreement is in effect the competent authority for Australia will supply to the competent authority for New Zealand a written estimate of the amount of the reimbursable benefits Australia expects to pay in that financial year.

6. Within 3 months from the start of a New Zealand financial year referred to in paragraph 5, New Zealand shall pay to Australia the

SCHEDULE 4—continued

amount of the estimate given under paragraph 5 for that financial year.

7. Within 3 months from the end of a New Zealand financial year referred to in paragraph 5 the competent authority for Australia shall provide to the competent authority for New Zealand a written reconciliation statement covering the amounts of reimbursable benefits estimated and actually paid for and in that financial year.

8. If the reconciliation statement described in paragraph 7 shows that an amount of money should be paid by one Party to the other to balance the payments in the relevant New Zealand financial year then that amount shall be paid within 3 months from receipt of that statement.

PART V—MISCELLANEOUS PROVISIONS

Article 14

Payment of Benefits During Temporary Absences

1. Subject to the provisions of this Agreement, where Australia pays:

- (a) an age pension;
- (b) an invalid pension;
- (c) a wife's pension;
- (d) a widow's pension;
- (e) an allowance granted under Part XIV of the Social Security Act of Australia;
- (f) a rehabilitation allowance under Part XVI of the Social Security Act 1947 of Australia which is paid in lieu of an invalid pension or a widow's pension; or
- (g) a family allowance,

by virtue of this Agreement, that benefit (apart from any rent assistance) shall not, for a period of up to 26 weeks, cease to be payable by reason only of a temporary absence from Australia.

2. Subject to the provisions of this Agreement, where New Zealand pays:

- (a) national superannuation;
- (b) an invalid's benefit;
- (c) a widow's benefit;
- (d) an orphan's benefit; or
- (e) a family benefit,

by virtue of this Agreement, that benefit shall not, for a period of up to 26 weeks, cease to be payable by reason only of a temporary absence from New Zealand.

3. A carer's pension (apart from any rent assistance) payable by virtue of this Agreement or otherwise shall not, for a period of up to 26

SCHEDULE 4—continued

weeks, cease to be payable by reason only of a temporary absence of the beneficiary from Australia in New Zealand.

4. Where a person who resides in Australia left New Zealand with a bona fide intention to remain outside New Zealand for a period of 26 weeks or less and continued to receive from New Zealand national superannuation, an invalid's benefit, a widow's benefit, an orphan's benefit or a family benefit after that person's departure from New Zealand, subsequently decides to remain in Australia for longer than 26 weeks, the competent authority for New Zealand shall not establish an overpayment of such a benefit by reason of that person's departure from New Zealand.

Article 15

Exclusion of New Zealand Benefits from Australian Income Test

Where a benefit is paid by Australia to a person who is in New Zealand and a benefit is also paid by New Zealand to that person, the amount of the benefit paid by New Zealand shall not be included in the income of that person for the purposes of the social security laws of Australia.

Article 16

Recovery of Overpayments

1. Where:

- (a) an amount paid by one of the Parties to a person in respect of a benefit exceeds the amount, if any, that is properly payable, whether by virtue of this Agreement or otherwise, in respect of that benefit; and
- (b) a benefit is payable by the other Party to that person, whether by virtue of this Agreement or otherwise,

the competent authority of that other Party shall, if requested by the other competent authority to do so, and in accordance with this Article, deduct the amount equivalent to the excess payment referred to in subparagraph (a) from amounts due in respect of the last-mentioned benefit.

2. The amount of an excess payment referred to in paragraph 1 shall be the amount determined by the competent authority of the Party by whom the excess payment was made.

3. The rate of deductions made in accordance with paragraph 1 from amounts due in respect of a benefit, and any incidental or related matters, shall be determined by the competent authority of the Party by whom that benefit is payable, in accordance with the social security laws of that Party.

4. In cases where excess payments cannot be recovered by deductions from other benefits under paragraph 1, a competent authority, if

SCHEDULE 4—continued

requested by the other competent authority, shall assist the latter in endeavouring to arrange for repayment by the recipient of those excess payments.

5. Amounts deducted by one of the Parties in accordance with paragraph 1, and any amounts received by that Party pursuant to arrangements referred to in paragraph 4, shall be remitted to the other Party as agreed between the competent authorities or in administrative arrangements made pursuant to Article 17.

6. In this Article, 'benefit' is not limited to those benefits specified in Article 2.

Article 17

Administrative Arrangements

1. The competent authorities of the Parties shall make whatever administrative arrangements are necessary from time to time in order to implement this Agreement, and to enable benefits payable by one of the Parties, whether by virtue of this Agreement or otherwise, to persons who are residing in, or who are in, the territory of the other Party to be paid to those persons on behalf of the first-mentioned Party by that other Party.

2. Where arrangements of the kind referred to in paragraph 1 are required to be made on a mutual basis, the competent authorities shall co-operate both in regard to matters affecting the operation of both social security systems and of each of them.

3. A benefit payable by one of the Parties by virtue of this Agreement shall be paid by that Party without deduction for administrative fees and charges.

Article 18

Exchange of Information

1. The competent authorities of the Parties shall exchange such information as is necessary for the operation of this Agreement or of the social security laws of the Parties concerning all matters arising under this Agreement or under those laws other than those matters referred to in the social security laws of New Zealand as 'Contributions Towards Cost of Domestic Purposes Benefits for Solo Parents' and 'Medical and Hospital Benefits and other Related Benefits'.

2. Any information received by the competent authority of a Party pursuant to paragraph 1 shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with matters, including the determination of appeals, arising under the provisions of this Agreement or the social security laws of the Parties and shall be

SCHEDULE 4—continued

used for other purposes or disclosed to other persons only with the prior consent of the competent authority who provided the information.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on the competent authority of a Party the obligation:

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or the other Party; or
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Party.

4. A Party shall not raise any charges against the other Party for services of an administrative nature rendered by that first-mentioned Party to the other in accordance with this Agreement or the administrative arrangements made pursuant to Article 17, but that other Party shall meet any costs or expenses which are reasonably incurred for those services and are payable to another person or organisation.

Article 19

Reviews and Appeals

Any person who is affected by a decision of the competent authority of a Party in relation to a matter arising by virtue of this Agreement shall have the same rights to review by, or appeal to, administrative and judicial bodies of that Party as are provided under the domestic laws of that Party.

Article 20

Review of Agreement

The Parties may agree at any time to review any of the provisions of this Agreement and, in any case, shall, within the period of 2 years commencing on the date on which this Agreement comes into effect, review the present limitation on continuation of payment by a Party of benefits to persons who move outside the territory of the Party.

PART VI—FINAL PROVISIONS

Article 21

Entry into Force

1. This Agreement shall enter into force on the date on which the Parties exchange notes through the diplomatic channel notifying each other that the last of such things has been done as is necessary to give this Agreement the force of law in Australia and in New Zealand, as the case may be, and thereupon this Agreement shall have effect on and from the date specified for that purpose in that exchange of notes.

SCHEDULE 4—continued

2. Subject to paragraph 3, when this Agreement commences to have effect the Agreement on Social Security between the Government of Australia and the Government of New Zealand, signed at Melbourne on the Fifth day of October 1986, shall terminate and persons who were receiving benefits under that 1986 Agreement shall receive those benefits by virtue of this Agreement.

3. This Article shall not affect the provisions of paragraph 2 of Article 24 of the Agreement on Social Security between the Government of Australia and the Government of New Zealand signed at Melbourne on the Fifth day of October 1986.

Article 22

Termination

1. Subject to paragraph 2, this Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other written notice through the diplomatic channel of the intention of the other Party to terminate this Agreement.

2. In the event that this Agreement is terminated in accordance with paragraph 1, the Agreement shall continue to have effect in relation to all persons who:

(a) at the date of termination, are in receipt of benefits; or

(b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits,

by virtue of this Agreement.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at Canberra this 31st day of October 1988.

**FOR THE GOVERNMENT
OF AUSTRALIA:
BRIAN HOWE**

**FOR THE GOVERNMENT
OF NEW ZEALAND:
GEOFFREY PALMER**

SCHEDULE 5

Section 7

New Schedule 7

SCHEDULE 7

Section 1208

AGREEMENT

between

AUSTRALIA

and

MALTA

ON SOCIAL SECURITY

Australia and Malta,

Wishing to strengthen the existing friendly relations between the two countries, and

Resolved to co-ordinate their social security systems;

Have agreed as follows:

PART 1

GENERAL PROVISIONS

ARTICLE 1

Interpretation

1. In this Agreement, unless the context otherwise requires:
 - . **‘applicable rate’** means, in relation to Malta, the rate that would otherwise have been payable to a claimant had the number of totalised contributions been all paid or credited under the legislation of Malta;
 - . **‘benefit’** means, in relation to a Party, a benefit for which provision is made in the legislation of that Party, and includes any additional amount, increase or supplement that is payable, in addition to that benefit, to or in respect of a person who qualifies for that additional amount, increase or supplement under the legislation of that Party;
 - . **‘Competent Authority’** means, in relation to Australia, the Secretary of the Department of Social Security and, in relation to Malta, the Director of Social Security;
 - . **‘Competent Institution’** means, in relation to Australia the Competent Authority for Australia and in relation to Malta, the Competent Authority for Malta;

SCHEDULE 5—continued

- . **‘legislation’** means, in relation to a Party, the laws specified in Article 2 in relation to that Party;
 - . **‘period of insurance’** means, the period of contributions or any equivalent period which has been or can be used to acquire the right to a benefit under the legislation of Malta, but does not include any period deemed pursuant to Article 9 to be a period of insurance;
 - . **‘period of residence in Australia’**, in relation to a person, means a period defined as such in the legislation of Australia, but does not include any period deemed pursuant to Article 7 to be a period in which that person was an Australian resident;
 - . **‘territory’** means, in relation to Australia, Australia as defined in the legislation of Australia and in relation to Malta, Malta as defined in the Constitution of Malta; and
 - . **‘widow’** means, in relation to Australia, a de jure widow but does not include a woman who is the de facto spouse of a man.
2. In the application by a Party of this Agreement in relation to a person, any term not defined in this Article shall, unless the context otherwise requires, have the meaning assigned to it in the legislation of either Party or, in the event of a conflict of meaning, by whichever of those laws is the more applicable to the circumstances of that person.

ARTICLE 2

Legislative Scope

1. Subject to paragraph 2, this Agreement shall apply to the following laws, as amended at the date of signature of this Agreement, and to any laws that subsequently amend, supplement or replace them:
- (a) in relation to Australia: the Social Security Act 1947 in so far as the Act provides for, applies to or affects:
 - (i) age pensions;
 - (ii) invalid pensions;
 - (iii) wives’ pensions; and
 - (iv) pensions payable to widows; and
 - (b) in relation to Malta: the Social Security Act, 1987 as it provides for, applies to or affects:
 - (i) contributory pensions in respect of retirement;
 - (ii) contributory pensions in respect of invalidity;
 - (iii) contributory pensions in respect of widowhood; and
 - (iv) non-contributory assistance and pensions.
2. Notwithstanding the provisions of paragraph 1 the legislation of either Party shall not include any laws made at any time for the

SCHEDULE 5—continued

purpose of giving effect to any reciprocal agreement on Social Security entered into by either Party.

3. This Agreement shall apply to laws which extend the legislation of either Party to new categories of beneficiaries only if the two Parties so agree in a Protocol to this Agreement.
4. In respect of non-contributory assistance and pensions payable under the legislation of Malta, a citizen of Australia shall have the same rights as a citizen of Malta.

ARTICLE 3

Personal Scope

This Agreement shall apply to any person who:

- (a) is or has been an Australian resident; or
- (b) is or has been an insured person under the legislation of Malta, and, where applicable, to other persons in regard to the rights they derive from the person described above.

ARTICLE 4

Equality of Treatment

Subject to this Agreement, all persons to whom this Agreement applies shall be treated equally by a Party in regard to rights and obligations which arise whether directly under the legislation of that Party or by virtue of this Agreement.

PART II

**PROVISIONS RELATING TO
AUSTRALIAN BENEFITS**

ARTICLE 5

Residence or Presence in Malta or a Third State

1. Where a person would be qualified under the legislation of Australia or by virtue of this Agreement for a benefit except that he or she is not an Australian resident and in Australia on the date on which he or she lodges a claim for that benefit but he or she:
 - (a) is an Australian resident or residing in the territory of Malta or a third State with which Australia has concluded an agreement on social security that includes provision for co-operation in the assessment and determination of claims for benefits; and
 - (b) is in Australia, or the territory of Malta or that third State, that person shall be deemed, for the purposes of lodging that claim, to be an Australian resident and in Australia on that date.
2. Paragraph 1 shall not apply to a claimant for a wife's pension who has never been an Australian resident.

SCHEDULE 5—continued

ARTICLE 6

Spouse Related Australian Benefits

For the purposes of this Agreement, a person who receives from Australia an Australian benefit due to the fact that the spouse of that person receives, by virtue of this Agreement, another Australian benefit shall be deemed to receive that first-mentioned benefit by virtue of this Agreement.

ARTICLE 7

Totalisation for Australia

1. Where a person to whom this Agreement applies has claimed an Australian benefit under this Agreement and has accumulated:
 - (a) a period as an Australian resident that is less than the period required to qualify him or her, on that ground, under the legislation of Australia for a benefit; and
 - (b) a period of residence in Australia equal to or greater than the minimum period identified in accordance with paragraph 4 for that person,and has accumulated a period of insurance, then for the purposes of a claim for that Australian benefit, that period of insurance shall be deemed, only for the purposes of meeting any minimum qualifying periods for that benefit set out in the legislation of Australia, to be a period in which that person was an Australian resident.
2. For the purposes of paragraph 1, where a person:
 - (a) has been an Australian resident for a continuous period which is less than the minimum continuous period required by the legislation of Australia for entitlement of that person to a benefit; and
 - (b) has accumulated a period of insurance in two or more separate periods that equals or exceeds in total the minimum period referred to in subparagraph (a),the total of the periods of insurance shall be deemed to be one continuous period.
3. For all purposes of this Article, where a period by a person as an Australian resident and a period of insurance coincide, the period of coincidence shall be taken into account once only by Australia as a period as an Australian resident.
4. The minimum period of residence in Australia which a person must have accumulated before paragraph 1 applies shall be as follows:
 - (a) for the purposes of an Australian benefit that is payable to a person residing outside Australia, the minimum period required

SCHEDULE 5—continued

shall be one year, of which at least 6 months must be continuous;
and

- (b) for the purposes of an Australian benefit that is payable to an Australian resident, no minimum period shall be required.
- 5. For the purposes of a claim by a person for a pension payable to a widow, that person shall be deemed to have accumulated a period of insurance for any period for which her spouse accumulated a period of insurance but any period during which the person and her spouse both accumulated periods of insurance shall be taken into account once only.
- 6. Where a person receives in Malta a contributory pension in respect of retirement by virtue of this Agreement, Australia shall, for the purposes of this Article, regard the period during which that person receives that pension, up to the age of 65, as a period of insurance.

ARTICLE 8

Calculation of Australian Benefits

1. Subject to paragraph 2, where an Australian benefit is payable, whether by virtue of this Agreement or otherwise, to a person who is outside Australia the rate of that benefit shall be determined according to the legislation of Australia but when assessing the income of that person for the purposes of calculating the rate of the Australian benefit only a proportion of any Maltese contributory pension in respect of retirement, invalidity or widowhood which is received by that person shall be regarded as income. That proportion shall be calculated by multiplying the number of whole months accumulated by that person in a period of residence in Australia (not exceeding 300) by the amount of that Maltese benefit and dividing that product by 300.
2. A person referred to in paragraph 1 shall only be entitled to receive the concessional assessment of income described in that paragraph for any period during which the rate of that person's Australian benefit is proportionalised under the legislation of Australia.
3. Where an Australian benefit is payable, whether by virtue of this Agreement or otherwise to a person who is resident in the territory of Malta, Australia shall disregard, when assessing the income of that person any non-contributory assistance and pension paid to that person by Malta.
4. Subject to the provisions of paragraph 5, where an Australian benefit is payable only by virtue of this Agreement to a person who is in Australia, the rate of that benefit shall be determined by:
 - (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation the Maltese benefit received by that person;

SCHEDULE 5—continued

- (b) deducting the amount of the Maltese benefit received by that person from the maximum rate of that Australian benefit; and
 - (c) applying to the remaining benefit obtained under subparagraph (b) the relevant rate calculation set out in the legislation of Australia, using as the person's income the amount calculated under subparagraph (a).
5. Where a married person is, or both that person and his or her spouse are, in receipt of a Maltese benefit or benefits, each of them shall be deemed, for the purpose of paragraph 4 and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or the total of both of those benefits, as the case may be.
6. If a person would receive an Australian benefit except for the operation of paragraph 5 or except for that person's failure to claim the benefit, then for the purposes of a claim by that person's spouse for a payment under the legislation of Australia that person shall be deemed to receive that benefit.
7. The reference in paragraph 6 to a payment under the legislation of Australia to the spouse of a person is a reference to a payment of any benefit, pension or allowance payable under the Social Security Act 1947 as amended from time to time and whether payable by virtue of this Agreement or otherwise.

PART III

PROVISIONS RELATING TO MALTESE BENEFITS

ARTICLE 9

Totalisation for Malta

1. Where this Agreement applies and there is a period of insurance that is:
- (a) less than the period necessary to give a claimant entitlement to the benefit claimed under the legislation of Malta; and
 - (b) equal to or greater than the minimum period mentioned in paragraph 3 for that benefit,
- then any period of residence in Australia by the contributor to whom that period of insurance was credited shall be deemed to be a period of insurance.
2. For the purposes of this Article, where a period of insurance and a period of residence in Australia coincide, the period of coincidence shall be taken into account once only as a period of insurance.
3. The minimum period of insurance to be taken into consideration for purposes of paragraph 1 shall be 52 paid contributions. However, subject to paragraph 5, where the period of insurance, not being

SCHEDULE 5—continued

less than 52 paid contributions, does not entitle a person to a Maltese benefit, but the period of insurance in Malta and the period of residence in Australia together entitle such person to a Maltese benefit, they shall be taken into account.

4. The provisions of this Article shall not apply in the case of a Two-Thirds Pension (Retirement) or a Survivor's Pension (Widowhood) unless:
 - (a) in the case of a Two-Thirds Pension, the person concerned would have paid at least 156 contributions under the legislation of Malta after the 22nd January, 1979; and
 - (b) in the case of a Survivor's Pension, the husband of the widow concerned would have paid at least 156 contributions under the legislation of Malta after the 22nd January, 1979.
5. For the purposes of a claim by a person for a contributory widow's pension the contributor, provided the contributor meets the requirements of subparagraph 1 (b), shall be deemed to have also accumulated a period of residence in Australia for any period for which the claimant accumulated a period of residence in Australia but any period during which the contributor and the claimant both accumulated periods of residence in Australia shall be taken into account once only.

ARTICLE 10

Calculation of Maltese Benefits

1. Where Malta pays non-contributory assistance or pension by virtue of this Agreement, the rate of that benefit shall be determined according to the legislation of Malta.
2. Where a contributory benefit is payable by Malta to a claimant by virtue of this Agreement the rate of that benefit shall be calculated as follows:
 - (a) in the case of a pension in respect of retirement other than a Two-Thirds Pension, by multiplying the applicable rate of that pension attributable to the claimant by the number of reckonable contributions (not exceeding 2400) on which that pension would have otherwise been calculated under the legislation of Malta and dividing the product by the number of totalised contributions aggregated under Article 9 (not exceeding 2400);
 - (b) in the case of a Two-Thirds Pension, the rate of that pension shall be calculated according to the following formula:

$$\text{P.I.} \times 2 \times \left(\frac{T_1}{Y} + \frac{T_2}{10} \right) \times \left(\frac{C_1}{T_1} + \frac{C_2}{T_2} \right)$$

SCHEDULE 5—continued

but that pension shall not be payable if the formula $\frac{\left(\frac{T1}{Y} + \frac{T2}{10}\right)}{2}$ gives

a result that is less than 15

where:

- P.I. = the claimant's pensionable income or re-assessed pensionable income (as the case may be) according to the legislation of Malta;
 - C1 = the number of reckonable contributions (not exceeding 1000) during any period prior to the last 10 calendar years immediately before retirement;
 - C2 = the number of reckonable contributions (not exceeding 500) within the last 10 calendar years immediately before retirement;
 - T1 = the number of totalised contributions (not exceeding 1000) aggregated under Article 9 during any period prior to the last 10 calendar years immediately before retirement;
 - T2 = the number of totalised contributions (not exceeding 500) aggregated under Article 9 within the last 10 calendar years immediately before retirement; and
 - Y = the number of reckonable years (not exceeding 20) prior to the last 10 calendar years immediately before retirement.
- (c) in the case of a pension in respect of invalidity, by multiplying the applicable rate of that pension attributable to the claimant by the number of reckonable contributions (not exceeding 2400) on which that pension would have otherwise been calculated under the legislation of Malta and dividing the product by the number of reckonable totalised contributions aggregated under Article 9 (not exceeding 2400);
 - (d) in the case of a pension in respect of widowhood other than a Survivor's Pension by multiplying the applicable rate of that pension attributable to the claimant by the number of reckonable contributions (not exceeding 2400) on which that pension would have otherwise been calculated under the legislation of Malta relating to her late husband and dividing the product by the number of totalised contributions aggregated under Article 9 (not exceeding 2400); and
 - (e) in the case of a Survivor's Pension at 5/6 of the rate of pension arrived at in accordance with the provisions of paragraph 2 (b).
3. Any statutory pension additional rates that are applicable to certain benefits covered by this Agreement that are payable under the legislation of Malta, payment of which is also linked to a yearly

SCHEDULE 5—continued

contribution average, shall be calculated in the same manner as that indicated in paragraph 2, as the case may require.

4. Where Malta pays a Maltese benefit to a person only by virtue of the Agreement it shall deduct any statutory pension deductions that would be deducted if those pensions were paid solely under the legislation of Malta provided that any service pension for war service or wife's service pension paid to that person by Australia as defined in and payable under its Veterans' Entitlement Act 1986 shall not for the purposes of this Agreement or otherwise under the legislation of Malta be treated as a service pension as defined in the legislation of Malta.
5. Any pension arrived at in accordance with paragraphs 2, 3 and 4 shall be rounded up to the nearest whole cent.
6. In this Article 'reckonable contribution' and 'reckonable year' shall have the meanings given to them in the legislation of Malta.

PART IV

MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

ARTICLE 11

Lodgement of Documents

1. A claim, notice or appeal concerning a benefit, whether payable by a Party by virtue of this Agreement or otherwise, may be lodged in the territory of either of the Parties in accordance with an Administrative Arrangement made pursuant to Article 15 at any time after the Agreement enters into force.
2. The date on which a claim, notice or appeal referred to in paragraph 1 is lodged with the Competent Institution of the other Party shall be treated, for all purposes concerning the matter to which it relates, as the date of lodgement of that document with the Competent Institution of the first Party.
3. In relation to Australia, the reference in paragraph 2 to an appeal document is a reference to a document concerning an appeal that may be made to an administrative body established by, or administratively for the purposes of, the Social Security Act 1947 of Australia as amended from time to time.
4. In relation to Malta, the reference in paragraph 2 to an appeal document is a reference to a document concerning an appeal that may be made to the Umpire for the purposes of the Social Security Act, 1987 of Malta as amended from time to time.

SCHEDULE 5—continued

ARTICLE 12

Determination of Claims

1. In determining the eligibility or entitlement of a person to a benefit by virtue of this Agreement:
 - (a) a period as an Australian resident and a period of insurance; and
 - (b) any event or fact which is relevant to that entitlement,shall, subject to this Agreement, be taken into account in so far as those periods or those events are applicable in regard to that person no matter when they were accumulated or occurred.
2. The commencement date for payment of a benefit payable by virtue of this Agreement shall be determined in accordance with the legislation of the Party concerned but in no case shall that date be a date earlier than the date on which this Agreement enters into force.
3. Where:
 - (a) a claim is made for a benefit payable by one of the Parties by virtue of this Agreement; and
 - (b) there are reasonable grounds for believing that the claimant may also be entitled, whether by virtue of this Agreement or otherwise, to a benefit that is payable by the other Party and that, if paid, would affect the amount of the first-mentioned benefit, that first-mentioned benefit shall not be paid until a claim is duly lodged for payment of the second-mentioned benefit and the first-mentioned benefit shall not continue to be paid if the claim for the second-mentioned benefit is not actively pursued.
4. Where:
 - (a) a benefit is paid or payable by a Party to a person in respect of a past period;
 - (b) for all or part of that period, the other Party has paid to that person a benefit under its legislation; and
 - (c) the amount of the benefit paid by that other Party would have been reduced had the benefit paid or payable by the first Party been paid during that period;then
 - (d) the amount that would not have been paid by the other Party had the benefit described in subparagraph (a) been paid throughout that past period shall be a debt due by that person to the other Party; and

SCHEDULE 5—continued

- (e) the other Party may determine that the amount, or any part, of that debt may be deducted from future payments of a benefit payable by that Party to that person.
- 5. Where the first Party has not yet paid the arrears of benefit described in subparagraph 4 (a) to the person:
 - (a) that Party shall, at the request of the other Party, pay the amount of the debt described in subparagraph 4 (d) to the other Party and shall pay any excess to the person; and
 - (b) any shortfall in those arrears may be recovered by the other Party under subparagraph 4 (e).
- 6. The Competent Institution receiving a request under paragraph 5 shall take the action set out in an Administrative Arrangement made pursuant to Article 15, to recoup the amount of the overpayment and to transfer it to the other Competent Institution.
- 7. A reference in paragraphs 3, 4 and 5 to a benefit, in relation to Australia, means a pension, benefit or allowance that is payable under the Social Security Act 1947 of Australia as amended from time to time, and in relation to Malta, means any pension, benefit, allowance or assistance that is payable under the Social Security Act, 1987 of Malta.

ARTICLE 13

Payment of Benefits

- 1. The benefits payable by virtue of this Agreement and listed in this paragraph shall be payable within and outside the territories of both Parties:
 - (a) for Australia:
 - (i) age pensions;
 - (ii) invalid pensions;
 - (iii) wives' pensions;
 - (iv) pensions payable to widows who were widowed while both they and their husbands were Australian residents;
 - (v) class B widows' pensions; and
 - (b) for Malta: contributory pensions in respect of retirement, invalidity and widowhood.
- 2. A pension payable to a widow whether payable by virtue of this Agreement or otherwise, shall be paid by Australia in the territories of both Parties with no limitation by time.
- 3. If a Party imposes legal or administrative restrictions on the transfer of its currency abroad, both Parties shall adopt measures as soon as practicable to guarantee the rights to payment of benefits derived

SCHEDULE 5—continued

under this Agreement. Those measures shall operate retrospectively to the time the restrictions were imposed.

4. A party that imposes restrictions described in paragraph 3 shall inform the other Party of those restrictions within one calendar month of their imposition and shall adopt the measures described in paragraph 3 within 3 months of the imposition of those restrictions. If the other Party is not so informed or if the necessary measures are not adopted within the set time the other Party may treat such a failure as a material breach of the Agreement for the purposes of Article 60 of the Vienna Convention on the Law of Treaties.
5. A benefit payable by a Party by virtue of this Agreement to a person outside the territory of that Party shall be paid without deduction for government administrative fees and charges for processing and paying that benefit.
6. The payment outside Australia of an Australian benefit that is payable by virtue of this Agreement shall not be restricted by those provisions of the legislation of Australia which prohibit the payment of a benefit to a former Australian resident who returns to Australia becoming again an Australian resident, and lodges a claim for an Australian benefit and leaves Australia within 12 months of the date of that return.

ARTICLE 14

Exchange of Information and Mutual Assistance

1. The Competent Authorities and Competent Institutions responsible for the application of this Agreement:
 - (a) shall communicate to each other any information necessary for the application of this Agreement or of the Social Security Laws of the Parties;
 - (b) shall lend their good offices and furnish assistance to one another with regard to the determination or payment of any benefit under this Agreement or the legislation to which this Agreement applies as if the matter involved the application of their own legislation;
 - (c) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation in so far as these changes affect the application of this Agreement; and
 - (d) at the request of one to the other, assist each other in relation to the implementation of agreements on social security entered into by either of the Parties with third States, to the extent and

SCHEDULE 5—continued

in the circumstances specified in an Administrative Arrangement made pursuant to Article 15.

2. The assistance referred to in paragraph 1 shall be provided free of charge, subject to any Administrative Arrangement made pursuant to Article 15.
3. Unless disclosure is required under the laws of a Party, any information about an individual which is transmitted in accordance with this Agreement to a Competent Authority or a Competent Institution of that Party by a Competent Authority or a Competent Institution of the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies.
4. In no case shall the provisions of paragraphs 1 and 3 be construed so as to impose on the Competent Authority or Competent Institution of a Party the obligation:
 - (a) to carry out administrative measures at variance with the laws or the administrative practice of that Party or the other Party; or
 - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that Party or the other Party.
5. In the application of this Agreement, the Competent Authority and the Competent Institution of a Party may communicate with the other in the official language of that Party.

ARTICLE 15

Administrative Arrangement

The Competent Authorities of the Parties shall make whatever Administrative Arrangement is necessary from time to time in order to implement this Agreement.

ARTICLE 16

Resolution of Difficulties

1. The Competent Authorities of the Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.
2. The Parties shall consult promptly at the request of either concerning matters which have not been resolved by the Competent Authorities in accordance with paragraph 1.
3. Any dispute between the Parties concerning the interpretation of this Agreement which has not been resolved or settled by

SCHEDULE 5—continued

consultation in accordance with paragraph 1 or 2 shall, at the request of either Party, be submitted to arbitration.

4. Unless the Parties mutually determine otherwise, the arbitral tribunal shall consist of three arbitrators, of whom each Party shall appoint one and the two arbitrators so appointed shall appoint a third who shall act as president; provided that if the two arbitrators fail to agree, the President of the International Court of Justice shall be requested to appoint the president.
5. The arbitrators shall determine their own procedures.
6. The decision of the arbitrators shall be final and binding.
7. Unless the Parties otherwise agree, the place of arbitration shall be in the territory of the Party which did not raise the matter in dispute.

ARTICLE 17

Review of Agreement

Where a Party requests the other to meet to review this Agreement, the Parties shall meet for that purpose no later than 6 months after that request was made and, unless the Parties otherwise arrange, their meeting shall be held in the territory of the Party to which that request was made.

PART V—FINAL PROVISIONS

ARTICLE 18

Entry into Force and Termination

1. This Agreement shall enter into force one month after an exchange of notes by the Parties through the diplomatic channel notifying each other that all constitutional or legislative matters as are necessary to give effect to this Agreement have been finalized.
2. Subject to paragraph 3, this Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other a note through the diplomatic channel indicating the intention of the other Party to terminate this Agreement.
3. In the event that this Agreement is terminated in accordance with paragraph 2, the Agreement shall continue to have effect in relation to all persons who:
 - (a) at the date of termination, are in receipt of benefits; or
 - (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits, by virtue of this Agreement.

SCHEDULE 5—continued

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Canberra this fifteenth day of August 1990.

FOR AUSTRALIA:

FOR MALTA:

Graham Richardson

Louis Galea

SCHEDULE 6

Section 9

CONSEQUENTIAL AMENDMENTS

Health Insurance Act 1973

Subsection 4D (3):

Omit paragraph (a) from the definition of “qualified recipient”, substitute:

“(a) a social security pension (other than a special needs pension) or a social security benefit within the meaning of the *Social Security Act 1991*; or”.

National Health Act 1953

Subsection 4 (1):

Omit subparagraph (a) (i) from the definition of “social security beneficiary”, substitute:

“(i) a social security pension (other than a special needs pension) or a social security benefit within the meaning of the *Social Security Act 1991*; or”.

NOTE

1. No. 46, 1991.

[Minister's second reading speech made in—
House of Representatives on 16 May 1991
Senate on 5 June 1991]