



Veterans' Affairs Legislation Amendment Act (No. 2) 1992

No. 228 of 1992

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SCHEDULE 1

**AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986 RELATING TO
REMOTE AREA ALLOWANCE**

SCHEDULE 2

CONSEQUENTIAL, MINOR AND TECHNICAL AMENDMENTS



Veterans' Affairs Legislation Amendment Act (No. 2) 1992

No. 228 of 1992

**An Act to amend the law relating to veterans' affairs, and
for related purposes**

[Assented to 24 December 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Veterans' Affairs Legislation Amendment Act (No. 2) 1992*.

Commencement

2. (1) The following provisions commence on the day on which this Act receives the Royal Assent:

- (a) Part 1;
- (b) Division 1 of Part 3;
- (c) Divisions 1, 11, 12, 13 and 14 of Part 4;

(d) Part 1 of Schedule 2;

(e) Part 5.

(2) Part 2 of Schedule 2 is taken to have commenced on 1 July 1991.

(3) Part 3 of Schedule 2 is taken to have commenced on 1 July 1991, immediately after the commencement of the *Veterans' Entitlements Amendment Act 1991*. 5

(4) The following provisions commence, or are taken to have commenced, on 1 January 1993:

(a) Part 2;

(b) Division 2 of Part 3;

(c) Division 2 of Part 4;

(d) Sections 84, 98, 99, 101, 102, 103 and 104;

(e) Schedule 1. 10

(5) Part 4 of Schedule 2 commences, or is taken to have commenced, on 1 January 1993, immediately after the commencement of the *Social Security (Family Payment) Amendment Act 1992*. 15

(6) Division 3 of Part 3 and Division 3 of Part 4 commence on 4 February 1993.

(7) Division 10 of Part 4 (except sections 84, 98, 99, 101, 102, 103 and 104) and Division 15 of Part 4 commence on 20 March 1993. 20

(8) Divisions 4, 5, 6 and 7 of Part 4 commence on 1 April 1993.

(9) Division 8 of Part 4 commences on 1 July 1993.

(10) Division 9 of Part 4 commences on 20 September 1993.

Application

3. (1) The amendments made by Division 3 of Part 3 apply to instalments of pension under the *Seamen's War Pensions and Allowances Act 1940* that fall due on or after 4 February 1993. 25

(2) The amendments made by Division 3 of Part 4 apply to instalments of pension under the *Veterans' Entitlements Act 1986* that fall due on or after 4 February 1993. 30

(3) The amendments made by Division 5 of Part 4 apply to instalments of pension under Part III of the *Veterans' Entitlements Act 1986* that fall due on or after 1 April 1993.

(4) The amendment made in Part 1 of Schedule 2 omitting subsection 135(6) of the Principal Act and substituting subsections 135(6) and (7) applies not only to an application that is made to the Veterans' Review Board on or after the day on which this Act receives the Royal Assent but also to an application if the hearing of the application: 35
40

- (a) had not commenced before this Act received the Royal Assent;
or
- (b) had commenced but was not completed before this Act received the Royal Assent.

5 **PART 2—AMENDMENTS OF THE DEFENCE SERVICE HOMES ACT 1918**

Principal Act

4. In this Part, “**Principal Act**” means the *Defence Service Homes Act 1918*¹.

10 **Criteria for issue of certificate of entitlement: advances other than widow or widower advances and advances for essential repairs**

5. Section 18 of the Principal Act is amended:

- (a) by inserting in paragraph (2)(e) “, modify or repair” after “enlarge”;
- 15 (b) by inserting in paragraph (2)(j) “, modify or repair” after “enlarge”;
- (c) by omitting paragraph (2)(k) and substituting the following paragraph:
20 “(k) to discharge any debt owed by the person in relation to the person’s retirement village accommodation.”;
- (d) by omitting paragraph (3)(a) and substituting the following paragraph:
25 “(a) to enlarge, modify or repair:
(i) a dwelling-house on a holding owned by the person;
or
(ii) a person’s retirement village accommodation; or”;
- (e) by omitting paragraphs (3)(c) and (d);
- (f) by omitting paragraph (3)(f) and substituting the following paragraph:
30 “(f) to discharge any debt owed by the person in relation to the person’s retirement village accommodation.”;
- (g) by omitting subsections (4), (4A), (5), (5A), (5AA), (5AB), (5B), (5C), (5D) and (5E).

35 **PART 3—AMENDMENTS OF THE SEAMEN’S WAR PENSIONS AND ALLOWANCES ACT 1940**

Division 1—Preliminary

Principal Act

6. In this Part, “**Principal Act**” means the *Seamen’s War Pensions and Allowances Act 1940*².

Division 2—Dependants of former POWs

Pensions to dependants of certain deceased Australian mariners

7. Section 17A of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsections:

“(1A) If:

(a) an Australian mariner has died or dies; and

(b) the mariner's death was not a direct result of the mariner's having sustained a war injury; and

(c) the mariner was a prisoner of war in the course of employment as an Australian mariner;

the dependants of the mariner are, subject to this Act, entitled to receive the pensions that would have been payable to them if the mariner's death had been a direct result of having sustained a war injury.

“(1B) The date of commencement of a pension payable under subsection (1A) is not to be earlier than 1 January 1993.”;

(b) by inserting in subsection (2) “or (1A)” after “subsection (1)”.

Certain dependants to be automatically paid pension

8. Section 25A of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) If:

(a) an Australian mariner dies; and

(b) the mariner is survived by a person who is a dependant of the mariner; and

(c) subsection 17A(1A) applies to the mariner; and

(d) at the time when the mariner dies the Secretary:

(i) is aware of the person's existence; and

(ii) is aware that the person is a dependant of the mariner; and

(iii) has enough information about the mariner's and the person's circumstances to know that a pension is payable to the dependant under subsection 17A(1A);

the pension payable to the dependant in respect of the death of the mariner is payable:

(e) without the dependant having to make a claim for the pension under section 26; and

(f) without a Pensions Committee or the Commission having to make a determination under section 26AC.

Note: for the dependant's eligibility for pension see section 17A.”.

Division 3—Pension rate increases

Rates of pension on death or total incapacity

9. Section 18 of the Principal Act is amended by omitting from subsection (4A) "\$262.00" and substituting "\$394.50".

5 **Indexation of rate of pension**

10. Section 18AA of the Principal Act is amended by adding at the end of the definition of "relevant period" in subsection (1) "(other than the period of 6 months commencing on 20 September 1992)".

Schedule 1

10 **11. Schedule 1 of the Principal Act is amended:**

- (a) by omitting from Column 1 "204.20" and substituting "312.10";
- (b) by omitting from Column 3 "143.50" and substituting "216.90".

**PART 4—AMENDMENTS OF THE VETERANS'
ENTITLEMENTS ACT 1986**

15 ***Division 1—Preliminary***

Principal Act

12. In this Part, "Principal Act" means the *Veterans' Entitlements Act 1986*³.

Division 2—Dependants of former POWs

20 **Eligibility for pension**

13. Section 13 of the Principal Act is amended:

- (a) by inserting after subsection (2) the following subsections:

"(2A) If:

(a) a veteran has died; and

25 (b) the veteran's death was not war-caused; and

(c) the veteran was a prisoner of war at a time when the
veteran was on operational service;

the Commonwealth is, subject to this Act, liable to pay pensions
by way of compensation to the dependants of the veteran in
accordance with this Act.

30

"(2B) The date of commencement of a pension payable under
subsection (2A) is not to be earlier than 1 January 1993.";

- (b) by omitting from paragraph (7)(a) "or (2)" and substituting
", (2) or (2A)".

Certain dependants to be automatically paid pension

14. Section 13A of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) If:

- (a) a veteran dies; and 5
- (b) the veteran is survived by a person who is a dependant of the veteran; and
- (c) the veteran was a prisoner of war at a time when the veteran was on operational service; and
- (d) at the time when the veteran dies, the Secretary: 10
 - (i) is aware of the person's existence; and
 - (ii) is aware that the person is a dependant of the veteran; and
 - (iii) has enough information about the veteran's and the person's circumstances to know that a pension is payable 15to the dependant under subsection 13(2A);

the pension payable to the dependant in respect of the death of the veteran is payable:

- (e) without the dependant having to make a claim for the pension under section 14; and 20
- (f) without the Commission having to make a determination under section 19.

Note: for the dependant's eligibility for pension see subsection 13(2A).”.

Dependants eligible to be provided with treatment

15. Section 86 of the Principal Act is amended by inserting after paragraph (2)(b) the following word and paragraph: 25

“; or (c) a deceased veteran who was a prisoner of war at a time when the veteran was on operational service;”.

Interpretation

16. Section 116 of the Principal Act is amended by adding at the end of paragraph (a) of the definition of “eligible child of a veteran” the following subparagraph: 30

“(iv) who was a prisoner of war at a time when the veteran was on operational service; or”.

Division 3—Pension rate increases 35

General rate of pension and extreme disablement adjustment

17. Section 22 of the Principal Act is amended by omitting from subsection (3) “\$174.50” and substituting “\$216.90”.

Intermediate rate of pension

18. Section 23 of the Principal Act is amended by omitting from subsection (4) "\$262.00" and substituting "\$394.50".

Special rate of pension

- 5 19. Section 24 of the Principal Act is amended by omitting from subsection (4) "\$380.60" and substituting "\$571.70".

Increased rates of pension in certain cases

- 10 20. Section 27 of the Principal Act is amended by omitting from column 2 of the Table in subsection (1) "237.10" (wherever occurring) and substituting "354.80".

Rates at which pensions are payable to dependants

21. Section 30 of the Principal Act is amended by omitting from paragraph (1)(a) "\$204.20" and substituting "\$312.10".

15 **Service Pension Rate Calculator Where There Are No Dependent Children**

22. The Rate Calculator in section 41 of the Principal Act is amended by omitting Table B in point 41-B1 and substituting the following table:

“

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	\$8,114.60	\$312.10
2.	Partnered (partner getting neither pension nor benefit)	\$8,114.60	\$312.10
3.	Partnered (partner getting pension or benefit)	\$6,767.80	\$260.30
4.	Member of an illness separated or respite care couple	\$8,114.60	\$312.10

”

Service Pension Rate Calculator Where There Are Dependent Children

- 20 23. The Rate Calculator in section 42 of the Principal Act is amended by omitting Table B in point 42-B1 and substituting the following table:

“

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	\$8,114.60	\$312.10
2.	Partnered (partner getting neither pension nor benefit)	\$8,114.60	\$312.10
3.	Partnered (partner getting pension or benefit)	\$6,767.80	\$260.30
4.	Member of an illness separated or respite care couple	\$8,114.60	\$312.10

”.

Service Pension Rate Calculator for Blinded Veterans

24. The Rate Calculator in section 43 of the Principal Act is amended by omitting Table B in point 43-B1 and substituting the following table:

“

TABLE B MAXIMUM BASIC RATES			
column 1 item	column 2 veteran's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of a couple	\$8,114.60	\$312.10
2.	Partnered (partner getting neither pension nor benefit)	\$8,114.60	\$312.10
3.	Partnered (partner getting pension or benefit)	\$6,767.80	\$260.30
4.	Member of an illness separated or respite care couple	\$8,114.60	\$312.10

”.

Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses

5

25. The Rate Calculator in section 44 of the Principal Act is amended by omitting Table B in point 44-B1 and substituting the following table:

“

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	\$6,767.80	\$260.30
2.	Partnered (partner getting neither pension nor benefit)	\$6,767.80	\$260.30
3.	Partnered (partner getting pension or benefit)	\$6,767.80	\$260.30

”.

CPI Indexation Table

26. Section 59B of the Principal Act is amended:

(a) by omitting from subsection (1) “An” and substituting “Subject to subsection (1A), an”;

5 (b) by inserting after subsection (1) the following subsection:

“(1A) The pension MBR amount (item 1 of table) is not to be indexed on 20 March 1993.”.

Variations of rates of certain pensions

10 27. Section 198 of the Principal Act is amended by inserting in subparagraph (a)(iv) of the definition of “relevant period” in subsection (1) “(other than the period of 6 months starting on 20 September 1992)” after “months”.

Division 4—Investments

Investment income definitions

15 28. Section 5J of the Principal Act is amended:

(a) by inserting the following definitions in subsection (1):

“‘investment product’, in relation to a managed investment, means all the investments that are:

20 (a) with the same body corporate or in the same trust fund; and

(b) subject to substantially the same terms and conditions as the managed investment;

‘managed investment’ has the meaning given by subsections (1A), (1B) and (1C);”;

25 (b) by inserting after subsection (1) the following subsections:

“(1A) Subject to subsections (1B) and (1C), an investment is a **managed investment** for the purposes of this Act if:

- (a) the money or property invested is paid by the investor directly or indirectly to a body corporate or into a trust fund; and
- (b) the assets that represent the money or property invested (the '**invested assets**') are not held in the names of investors; and 5
- (c) the investor does not have effective control over the management of the invested assets; and
- (d) the investor has a legally enforceable right to share in any distribution of income or profits derived from the invested assets. 10

“(1B) Without limiting the generality of subsection (1A) but subject to subsection (1C), the following are **managed investments** for the purposes of this Act:

- (a) an investment in a public unit trust; 15
- (b) an investment in an insurance bond;
- (c) an investment with a friendly society;
- (d) an investment in a superannuation fund;

Note: see paragraph (1C)(a) for superannuation investments held before pension age is reached. 20

- (e) an investment in an approved deposit fund;

Note: see paragraph (1C)(b) for investments in approved deposit funds held before pension age is reached.

- (f) an investment in a deferred annuity.

Note: see paragraph (1C)(c) for deferred annuities held before pension age is reached. 25

“(1C) The following are not managed investments for the purposes of this Act:

- (a) an investment in a superannuation fund if the investor has not yet turned pension age;
- (b) an investment in an approved deposit fund if the investor has not yet turned pension age; 30
- (c) an investment in a deferred annuity if the investor has not yet turned pension age;
- (d) deposit money;
- (e) a loan within the meaning of Division 8B of Part III. 35

Note 1: for 'pension age' see subsection 5Q(1).

Note 2: for 'deposit money' see subsection 5H(1).

Note 3: for 'loan' see section 46ZC.”.

Repeal of section 46 and substitution of new section

29. Section 46 of the Principal Act is repealed and the following section is substituted: 40

Structure of Division

“46.(1) This Division deals with various forms of investments and non-periodic receipts. The following Table indicates which provisions are relevant to particular investments and receipts:

TABLE STRUCTURE OF DIVISION		
column 1 item	column 2 investment or receipt	column 3 section(s)
1.	Managed investments	46AA-46AG
2.	Certain accruing return investments made or acquired before 1 January 1988	46B
3.	Market-linked investments made or acquired before 9 September 1988	46J-46L
4.	Shares and other listed securities (from 20 September 1993)	46AA-46AG
5.	Superannuation fund investments before pension age	46SA
6.	Immediate annuities	46T
7.	Superannuation pensions	46U

- 5 “(2) If the person’s ordinary income is not covered by any of the other Subdivisions, it may be covered by section 46A below.”.

Insertion of new Subdivision

30. After Subdivision A of Division 8 of Part III of the Principal Act the following Subdivision is inserted:

10 “*Subdivision AA—Managed investments*”

Investments to which this Subdivision applies

“46AA. This Subdivision applies to an investment that is a managed investment unless it is:

- 15 (a) an accruing return investment that:
- (i) was made or acquired before 1 January 1988; and
 - (ii) is covered by section 46B; or

Note: for ‘accruing return investment’ see subsection 5J(1).

- (b) a market-linked investment that was made or acquired before 9 September 1988.

Note 1: for 'market-linked investment' see subsection 5J(1).

Note 2: for the treatment of these market-linked investments see sections 46J and 46K.

How investment returns are taken into account in working out pension rates

5

“46AB. If:

- (a) a person has an investment; and
- (b) this Subdivision applies to the investment; and
- (c) based on its performance over the preceding 12 months, the investment product to which that investment belongs has shown a return;

10

Note: for return on an investment product see section 46AD.

the person's ordinary income on a yearly basis is taken to be increased by:

value of investment × annualised rate of return on investment product

15

where:

'value of investment' is the value of the person's investment;

'annualised rate of return on investment product' is the annualised rate of return on the investment product based on its performance over that 12 months.

20

Note 1: for 'annualised rate of return' on the investment product see section 46AE below.

Note 2: actual receipts from the investment are not treated as ordinary income (see section 46AG below).

How investment losses are taken into account in working out pension rates

25

“46AC.(1) If:

- (a) a person has an investment; and
- (b) this Subdivision applies to the investment; and
- (c) based on its performance over the preceding 12 months, the investment product to which the investment belongs has shown a loss;

30

Note: for loss on an investment product see section 46AD.

the person's ordinary income on a yearly basis is, subject to subsection (2), taken to be reduced by:

value of investment × annualised rate of loss on investment product

35

where:

'value of investment' is the value of the person's investment;

'annualised rate of loss on investment product' is the annualised rate of loss on the investment product based on its performance over that 12 months.

40

Note: for 'annualised rate of loss' on the investment product see section 46AE below.

“(2) The reductions under subsection (1) in calculating a person's rate as at a particular day are not to exceed the sum of the increases to be made under section 46AB in working out the person's pension rate as at that day.

5 Returns and losses on investment products

“46AD. An investment product:

(a) shows a return for a 12 month period if:

(i) a rate of return on the product has been declared during the period; or

10 (ii) the formula below gives a positive number; and

(b) shows a loss for a period if the formula below gives a negative number:

$$\text{closing value} + \text{distributions} - \text{opening value}$$

where:

15 ‘closing value’ is the value of the product at the end of the period;

‘distributions’ is the sum of:

(a) the amount of the distributions (however described) made to the holders of the product during the period; and

20 (b) the value of bonus issues (however described) of the product made to holders of the product during the period; and

(c) the value of any other rights given to holders of the product during the period because they hold investments in the investment product;

‘opening value’ is:

25 (a) if the product has been available for the whole of the period—the value of the product at the beginning of the period; or

(b) if the product became available during the period—the value of the product when it became available.

Annualised rate of return or loss on investment product

30 “46AE.(1) The annualised rate of return on an investment product for a period of 12 months is:

(a) if a rate of return on the product has been declared during the period—the declared rate of return; or

35 (b) in any other case—the rate worked out in accordance with subsections (5), (6) and (7).

“(2) In applying paragraph (1)(a) disregard provisional or conditional declarations of rates of return.

“(3) For the purposes of this section, a declaration of a dividend is not a declaration of a rate of return.

“(4) The annualised rate of loss on an investment product for a period of 12 months is the rate worked out in accordance with subsections (5), (6) and (7).

“(5) The annualised rate of return or loss on an investment product is the rate of return or loss on the product expressed as a percentage per year. 5

“(6) If the investment product became available during the period, the performance of the product while it has been available is to be extrapolated for a whole 12 months.

“(7) In working out the rate of return or loss on an investment product for a period of 12 months, the following are to be taken into account: 10

- (a) if the product was available at the beginning of the period—the value of the product at the beginning of the period;
- (b) if the product became available during the period—the value of the product when it became available; 15
- (c) the value of the product at the end of the period;
- (d) the amount of the distributions (however described) made to the holders of the product during the period;
- (e) the value of bonus issues (however described) of the product made to holders of the product during the period; 20
- (f) the value of any other rights given to holders of the product during the period because they hold investments in the investment product.

Investment and disposal costs 25

“46AF.(1) If:

- (a) the person has an investment; and
- (b) this Subdivision applies to the investment; and
- (c) this Subdivision would operate, if this section did not apply, to increase the person's ordinary income on a yearly basis by a particular amount per year; 30

the amount of the increase is to be reduced by the amount of the reasonable costs that the person has incurred during the preceding 12 months in relation to the making, acquisition or disposal of investments to which this Subdivision applies. 35

“(2) For the purposes of subsection (1), costs incurred by the person are reasonable if any other person making, acquiring or disposing of an identical investment would be required to pay those costs as a condition of being permitted to make, acquire or dispose of that investment.

Actual return on investments not treated as ordinary income 40

“46AG. If:

- (a) a person has an investment; and

(b) this Subdivision applies to the investment;
any return on the investment that the person actually receives is taken,
for the purposes of this Act, not to be ordinary income of the person.”.

Heading to Subdivision B of Division 8 of Part III

5 31. The heading to Subdivision B of Division 8 of Part III of the Principal Act is amended by adding at the end “*made or acquired before 1 January 1988*”.

Investments made before 1 January 1988 with friendly societies or where no immediate return

10 **32.** Section 46B of the Principal Act is amended by omitting from subsection (1) all the words after “, for the purposes of this Act,” and substituting:

“taken to receive as ordinary income of the person during each week in the assumed receipt period the amount worked out using the formula:

15 **assessable return**

52

where:

‘assessable return’ is so much (if any) of the amount of the return as is attributable to the person’s assessable period.

20 Note: for ‘assessable period’ see subsection 5J(1).”.

Repeal of sections 46C to 46H

33. Sections 46C to 46H (inclusive) of the Principal Act are repealed.

Heading to Subdivision C of Division 8 of Part III

34. The heading to Subdivision C of Division 8 of Part III of the
25 Principal Act is amended by adding at the end "*made or acquired before
9 September 1988*".

Investments made before 9 September 1988

30 35. Section 46J of the Principal Act is amended by omitting from subsection (1) all the words after “, for the purposes of this Act,” and substituting:

“taken to receive as ordinary 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 the amount worked out using the formula:

35 **assessable return**

52

where:

“assessable return” is so much (if any) of the amount of the return as is attributable to the person’s assessable period.”.

Repeal of sections 46L to 46R

36. Sections 46L to 46R (inclusive) of the Principal Act are repealed.

Heading to Division 8A of Part III

37. The heading to Division 8A of Part III of the Principal Act is omitted and the following heading is substituted:

“Division 8A—Ordinary income test—Income money and other available money and deposit money”.

Repeal of section 46V and substitution of new section

38. Section 46V of the Principal Act is repealed and the following section is substituted:

Structure of Division

“46V. The various provisions of this Division that apply to available money and deposit money are shown in the following table:

STRUCTURE OF DIVISION		
item	type of money	section(s)
1.	income money that does not attract any interest	46X, 46Z, 46ZA
2.	income money that attracts low interest	46Y, 46Z, 46ZA
3.	other income money	46YA, 46ZA
4.	other deposit money	46YA

New section 46YA

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

Other deposit money

“46YA.(1) If a person has:

(a) deposit money that is not income money; or

(b) deposit money that:

(i) is income money of a person; and

(ii) attracts interest at a rate that is equal to or greater than the assumed rate;

the person's ordinary income on a yearly basis is taken to be increased by:

amount of deposit money × current annual rate of interest

where:

'amount of deposit money' is the amount of the deposit money;
'current annual rate of interest' is the annual rate of interest payable on the money.

“(2) If:

5 (a) a person is taken, because of subsection (1), to have received income from deposit money; and

(b) the person actually receives a return from that money;
the return actually received is taken, for the purposes of this Act, not to be ordinary income of the person.

10 “(3) If the rate of return on deposit money is not a fixed rate or a quantifiable rate, for the purposes of subsection (1), the current annual rate of return on that income money is a reasonable approximation of the rate of return.”.

New section 46ZBA

15 **40.** After section 46ZB of the Principal Act the following section is inserted:

Structure of Division

“46ZBA. The various provisions of this Division that apply to loans are shown in the following table:

STRUCTURE OF DIVISION		
item	type of loan	sections
1.	loans that do not attract interest	46ZD, 46ZF, 46ZG
2.	loans that attract low interest	46ZE, 46ZF, 46ZG
3.	other loans	46ZEA, 46ZG

”.

20 **New section 46ZEA**

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

Other loans

“46ZEA.(1) If:

25 (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 equal to or greater than the assumed loan rate;

30 the person's ordinary income on a yearly basis is taken to be increased by:

amount of loan × current annual rate of interest on the loan

where:

'amount of loan' is the amount of the loan;

'current annual rate of interest' is the annual rate of interest payable on the loan.

“(2) If:

(a) a person is taken, because of subsection (1), to have received income from a loan; and

(b) the person actually receives interest on that loan;

the interest actually received is taken, for the purposes of this Act, not to be ordinary income of the person.

“(3) If the rate of interest on a loan is not a fixed rate or a quantifiable rate, for the purposes of subsection (1), the current annual rate of interest on that loan money is a reasonable approximation of the rate of interest.”.

Division 5—Rent assistance

Service Pension Rate Calculator Where There Are No Dependent Children

42. The Rate Calculator in section 41 of the Principal Act is amended:

(a) by omitting paragraph 41-C2(c) and substituting the following paragraph:

“(c) the rent is payable at a rate of more than the rent threshold rate; and”;

(b) by adding at the end of point 41-C2 the following Note:

“Note 2: for 'rent threshold rate' see point 41-C2A.”;

(c) by inserting after point 41-C2 the following point:

Rent threshold rate

“41-C2A. A person's rent threshold rate depends on the person's family situation. Work out which family situation in Table C applies to the person. The rent threshold rate is the corresponding amount in column 3.

TABLE C RENT THRESHOLD 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	\$1,560.00	\$60.00
2.	Partnered—partner does not have rent increased pension	\$1,560.00	\$60.00
3.	Partnered—partner has rent increased pension	\$2,600.00	\$100.00

Note 1: for 'member of a couple' and 'partnered' see section 5E.

Note 2: for 'partner with a rent increased pension' see point 41-C5.

Note 3: the column 3 amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).";

(d) by omitting Table C-1 (but not the Notes to the table) in point 41-C6 and substituting the following table:

“

TABLE C-1 RATE OF RENT ASSISTANCE			
column 1 item	column 2 family situation	column 3 rate A	column 4 rate B
1.	Not member of a couple	$3 \times \frac{(\text{Annual rent} - \$1,560)}{4}$	\$1,638
2.	Partnered—partner does not have rent increased pension	$3 \times \frac{(\text{Annual rent} - \$1,560)}{4}$	\$1,638
3.	Partnered—partner has rent increased pension	$3 \times \frac{(\text{Annual rent} - \$2,600)}{8}$	\$819

”;

(e) by adding at the end of point 41-C6 the following Note:

“Note 4: the rent threshold amounts in column 3 are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”;

(f) by inserting after point 41-C6 the following point:

5

Rate B increase

“41-C6A. Rate B for a person in item 1 or 2 of Table C-1 in point 41-C6 is increased by \$104.00 on 1 April 1993.

Note: Rate B was indexed on 20 March 1993 (see sections 59B to 59E).”;

(g) by omitting from point 41-C12 the Rent Assistance Examples.

Service Pension Rate Calculator Where There Are Dependent Children

43. The Rate Calculator in section 42 of the Principal Act is amended:

- (a) by omitting paragraph 42-D2(c) and substituting the following paragraph:

“(c) the rent is payable at a rate of more than the rent threshold rate; and”;

- (b) by adding at the end of point 42-D2 the following Note:

“Note 2: for ‘rent threshold rate’ see point 42-D2A.”;

- (c) by inserting after point 42-D2 the following point:

Rent threshold rate

“42-D2A. A person’s rent threshold rate depends on the person’s family situation. Work out which family situation in Table D applies to the person. The rent threshold rate is the corresponding amount in column 3.

TABLE D RENT THRESHOLD 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	\$2,080.00	\$80.00
2.	Partnered—partner does not have rent increased pension	\$2,080.00	\$80.00
3.	Partnered—partner has rent increased pension.	\$3,120.00	\$120.00

Note 1: for ‘member of a couple’ and ‘partnered’ see section 5E.

Note 2: for ‘partner with a rent increased pension’ see point 42-D5.

Note 3: the column 3 amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”;

- (d) by omitting Table D-1 (but not the Notes to the table) in point 42-D6 and substituting the following table:

“

TABLE D-1 RATE OF RENT ASSISTANCE				
col. 1 item	column 2 family situation	column 3 rate A	column 4 rate B	
			column 4A 1 or 2 pension increase children	column 4B 3 or more pension increase children
1.	Not member of a couple	$3 \times \frac{(\text{Annual rent} - \$2,080)}{4}$	\$1,913.60	\$2,184.00
2.	Partnered— partner does not have rent increased pension	$3 \times \frac{(\text{Annual rent} - \$2,080)}{4}$	\$1,913.60	\$2,184.00
3.	Partnered— partner has rent increased pension	$3 \times \frac{(\text{Annual rent} - \$3,120)}{8}$	\$956.80	\$1,092.00

(e) by adding at the end of point 42-D6 the following Note:

“Note 4: the rent threshold amounts in column 3 are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”;

(f) by omitting from point 42-D16 the Rent Assistance Examples.

Service Pension Rate Calculator for Blinded Veterans

5 **44.** The Rate Calculator in section 43 of the Principal Act is amended by omitting paragraph 43-D2(c) and substituting the following paragraph:

“(c) the rent is payable at a rate of more than:

- 10 (i) if the Service Pension Rate Calculator Where There Are No Dependent Children applied to the person—the rate in paragraph 41-C2(c); or
- (ii) if the Service Pension Rate Calculator Where There Are Dependent Children applied to the person—the rate in paragraph 42-D2(c); and”.

Service Pension Rate Calculator For Widows, Widowers and Non-illness Separated Spouses

15 **45.** The Rate Calculator in section 44 of the Principal Act is amended:

(a) by omitting paragraph 44-C2(c) and substituting the following paragraph:

“(c) the rent is payable at a rate of more than the rent threshold rate; and”;

(b) by adding at the end of point 44-C2 the following Note:

“Note 2: for ‘rent threshold rate’ see point 44-C2A.”;

(c) by inserting after point 44-C2 the following point:

Rent threshold rate

5

“44-C2A. A person’s rent threshold rate depends on the person’s family situation. Work out which family situation in Table C applies to the person. The rent threshold rate is the corresponding amount in column 3.

TABLE C RENT THRESHOLD 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	\$1,560.00	\$60.00
2.	Partnered—partner does not have rent increased pension	\$1,560.00	\$60.00
3.	Partnered and partner: (a) has rent increased pension; and (b) does not have a pension increase child or children	\$2,600.00	\$100.00
4.	Partnered and partner: (a) has rent increased pension; and (b) has 1 or 2 pension increase children	\$3,120.00	\$120.00
5	Partnered and partner: (a) has rent increased pension; and (b) has 3 or more pension increase children	\$3,120.00	\$120.00

Note 1: for ‘member of a couple’ and ‘partnered’ see section 5E.

Note 2: for ‘pension increase child’ see section 5F.

Note 3: for ‘partner with a rent increased pension’ see point 44-C5.

Note 4: the column 3 amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”;

(d) by omitting Table C-1 (but not the Notes to the table) in point 44-C6 and substituting the following table: 10

“

TABLE C-1 RATE OF RENT ASSISTANCE			
column 1 item	column 2 family situation	column 3 rate A	column 4 rate B
1.	Not member of a couple	$3 \times \frac{(\text{Annual rent} - \$1,560)}{4}$	\$1,638
2.	Partnered—partner does not have rent increased pension	$3 \times \frac{(\text{Annual rent} - \$1,560)}{4}$	\$1,638
3.	Partnered and partner: (a) has rent increased pension; and (b) does not have a pension increase child or children	$3 \times \frac{(\text{Annual rent} - \$2,600)}{8}$	\$819
4.	Partnered and partner: (a) has rent increased pension; and (b) has 1 or 2 pension increase children	$3 \times \frac{(\text{Annual rent} - \$3,120)}{8}$	\$956.80
5.	Partnered and partner: (a) has rent increased pension; and (b) has 3 or more pension increase children	$3 \times \frac{(\text{Annual rent} - \$3,120)}{8}$	\$1,092.00

”;

(e) by adding at the end of point 44-C6 the following Note:

“Note 4: the rent threshold amounts in column 3 are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).”;

(f) by inserting after point 44-C6 the following point:

Rate B increase

“44-C6A. Rate B for a person in item 1 or 2 of Table C-1 in point 44-C6 is increased by \$104.00 on 1 April 1993.

Note: Rate B was indexed on 20 March 1993 (see sections 59B to 59E).”.

Indexed and adjusted amounts

46. Section 59A of the Principal Act is amended by inserting after item 6 of the Indexed and Adjusted Amounts Table the following item:

"6A.	Rent threshold rate for service pension	pension rent threshold	<p>*Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C2A—Table C—column 3—all amounts</p> <p>*Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C6—Table C-1—column 3—rent threshold amounts</p> <p>*Service Pension Rate Calculator Where There Are Dependent Children—point 42-D2A—Table D—column 3—all amounts</p> <p>*Service Pension Rate Calculator Where There Are Dependent Children—point 42-D6—Table D-1—column 3—rent threshold amounts</p> <p>*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses point 44-C2A—Table C—column 3—all amounts</p> <p>*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses point 44-C6—Table C-1—column 3—rent threshold amounts".</p>
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CPI Indexation Table

47. Section 59B of the Principal Act is amended by inserting after item 3 of the CPI Indexation Table in subsection (1) the following item:

5

"3A	pension rent threshold	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1979)	\$5.20
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".

Division 6—Superannuation investments prior to pension age

Income test definitions

48. Section 5H of the Principal Act is amended by omitting paragraph (8)(i) and substituting the following paragraph:

- 5 “(i) any return on a person’s investment in:
- (i) a superannuation fund; or
 - (ii) an approved deposit fund; or
 - (iii) a deferred annuity;
- until the person:
- 10 (iv) reaches pension age; or
- (v) commences to receive a pension or annuity out of the fund;

Note 1: for ‘pension age’ see subsection 5Q(1).

15 Note 2: for ‘superannuation fund’, ‘approved deposit fund’ and ‘deferred annuity’ see subsection 5J(1).”.

Investment income definitions

49. Section 5J of the Principal Act is amended:

- (a) by inserting in subsection (1) the following definitions:
- 20 “‘**investment**’, in relation to a superannuation fund, approved deposit fund or deferred annuity, has the meaning given by subsection (6);
- ‘**realise**’, in relation to an investment, has the meaning given by subsections (7) and (8);”;
- (b) by adding at the end the following subsections:
- 25 “(6) For the purposes of this Act, a person has an **investment** in a superannuation fund, approved deposit fund or deferred annuity if the person has benefits in the fund or under the annuity (whether the benefits are attributable to amounts paid by the person or someone else).
- 30 “(7) For the purposes of this Act, a person **realises an investment** if, and only if:
- (a) all or part of the amount of the investment is withdrawn; or
 - (b) where the investment is an eligible investment in a body corporate or trust fund—the person transfers all or part of the investment to another body corporate or trust fund; or
 - (c) all or part of the return on the investment is paid to another person; or
 - 40 (d) the investment matures; or
 - (e) the investment is assigned by the person to another person; or

- (f) the investment is disposed of by the person otherwise than in the way referred to in paragraph (e).

“(8) For the purposes of subsection (7), if:

- (a) a person realises an investment; and

- (b) the return on the investment is paid to another person; the return is taken to be **received** by the person realising the investment.”.

5

Investments made before 1 January 1988 with friendly societies or where no immediate return

50. Section 46B of the Principal Act is amended by omitting subsection (2) and substituting the following Notes: 10

“Note 1: for ‘assessable period’ see subsection 5J(1).

Note 2: for ‘realising’ an investment see subsections 5J(7) and (8).”.

Repeal of section 46BA

51. Section 46BA of the Principal Act is repealed. 15

Investments made before 9 September 1988

52. Section 46J of the Principal Act is amended by omitting subsection (2) and substituting the following Note:

“Note: for ‘realising’ an investment see subsections 5J(7) and (8).”.

New Subdivision D of Division 8 of Part III 20

53. Subdivision D of Division 8 of Part III of the Principal Act is repealed and the following Subdivision is substituted:

“Subdivision D—Superannuation fund investments before pension age

Provisions affecting superannuation fund investments before pension age 25

“46S.(1) If:

- (a) a person has an investment in:

- (i) a superannuation fund; or

- (ii) an approved deposit fund; or

- (iii) a deferred annuity; and

30

- (b) the person has not reached pension age; and

- (c) the person has not commenced to receive a pension or annuity from the investment;

this is how the investment is treated:

- (d) the return on the investment is not treated as ordinary income (see paragraph 5H(8)(i)); 35

Note: the investment is also disregarded for the purposes of the assets test (see paragraph 52(1)(f)).

(e) the return on the investment is not treated as ordinary income under the managed investment rules in Subdivision AA of this Division (see subsection 5J(1C));

5 (f) if the investment is realised the proceeds are spread across the following 12 months (see section 46SA).

Early withdrawal from superannuation fund

“46SA. If:

10 (a) a person realises an investment in a superannuation fund, approved deposit fund or deferred annuity before the person reaches pension age; and

(b) the amount realised is not rolled over into:

(i) a superannuation fund; or

(ii) an approved deposit fund; or

(iii) a deferred annuity;

15 the person is, for the purposes of this Act, taken to receive one fifty-second of the assessable growth component of that amount as ordinary income of the person during each week in the period of 12 months starting on the day when the person realises the investment.

Note: for ‘assessable growth component’ see subsection 5J(1).”.

20 **Certain assets to be disregarded in calculating the value of a person’s assets**

54. Section 52 of the Principal Act is amended by omitting paragraph (1)(f) and substituting the following paragraph:

“(f) the value of the person’s investment in:

25 (i) a superannuation fund; or

(ii) an approved deposit fund; or

(iii) a deferred annuity;

until the person:

(iv) reaches pension age; or

30 (v) commences to receive a pension or annuity out of the fund;”.

Division 7—Fringe benefits and treatment benefits

Disposal of ordinary income

35 **55.** Section 48 of the Principal Act is amended by omitting subparagraph (1)(c)(iii) and substituting the following subparagraph:

“(iii) to ensure that the person or the person’s partner would be eligible for benefits under Division 15 of this Part or fringe benefits under the Social Security Act.”.

Disposal of assets

56. Section 52E of the Principal Act is amended by omitting subparagraph (1)(c)(iii) and substituting the following subparagraph:

“(iii) to ensure that the person or the person’s partner would be eligible for benefits under Division 15 of this Part or fringe benefits under the Social Security Act.”.

5

Effect of participation in pension loans scheme—pension rate

57. Section 52ZB of the Principal Act is amended by omitting from subsection (3) “Division 15 (fringe benefits)” and substituting “Subdivision C of Division 15 (treatment benefits)”.

10

Division heading

58. The heading to Division 15 of Part III of the Principal Act is amended by omitting “*Fringe benefits*” and substituting “*Service pensioner benefits*”.

Fringe benefits and treatment at Departmental expense for certain service pensioners

15

59. Section 53 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

“(1) If a person is eligible for fringe benefits, benefits and concessions of various kinds may be made available to the person by the Commonwealth, State and Territory governments and authorities and local authorities.

20

Note: if a person is eligible for fringe benefits in accordance with this Division, benefits and concessions under the *National Health Act 1953* may be made available to the person.”;

25

(b) by omitting subsection (2) and substituting the following subsection:

“(2) If:

30

(a) a veteran is receiving an age or invalidity service pension; and

(b) the veteran satisfies the conditions in section 53D;

the veteran may be entitled to certain medical treatment at Departmental expense.”.

35

Repeal of sections and substitution of new section

60. Sections 53A, 53B and 53C of the Principal Act are repealed and the following section is substituted:

Fringe benefits

“53A. A person who is receiving a service pension is eligible for fringe benefits.

5 Note 1: some persons who would otherwise have lost their entitlement to fringe benefits because of Division 8A of Part III are treated as continuing to be eligible for fringe benefits (see subsection 17(1) of the *Veterans' Entitlements (Rewrite) Transition Act 1991*).

10 Note 2: some persons who would otherwise have lost their entitlement to fringe benefits because of investing money or re-investing money in anticipation of, or because of, Division 8A of Part III are treated as continuing to be eligible for fringe benefits (see subsection 17(2) of the *Veterans' Entitlements (Rewrite) Transition Act 1991*).”.

Eligibility for treatment at Departmental expense

61. Section 53D of the Principal Act is amended:

(a) by omitting paragraph (1)(a) and substituting the following paragraph:

15 “(a) the veteran is a veteran to whom section 53E applies; and”;

(b) by omitting Note 1 to subsection (1).

Insertion of new sections

20 62. After section 53D of the Principal Act the following sections are inserted in Subdivision C of Division 15 of Part III:

Veterans to satisfy certain conditions

“53E. This section applies to a veteran if:

(a) the veteran is permanently blind; or

25 (b) the veteran's service pension rate is neither income reduced nor assets reduced; or

(c) the veteran's service pension rate is income reduced and the veteran satisfies the treatment benefits ordinary income test; or

(d) the veteran's service pension rate is assets reduced and the veteran satisfies the treatment benefits assets test.

30 Note 1: the Treatment Benefits Income Test Calculator at the end of section 53F is to be used in working out whether a veteran satisfies the treatment benefits ordinary income test.

Note 2: the Treatment Benefits Assets Test Calculator at the end of section 53G is to be used in working out whether a veteran satisfies the treatment benefits assets test.

Treatment benefits ordinary income test

35 “53F. The Treatment Benefits Income Test Calculator at the end of this section is to be used in working out whether a person satisfies the treatment benefits ordinary income test for the purposes of this Division.

“TREATMENT BENEFITS INCOME TEST CALCULATOR

“53F-1. This is how to work out whether a person satisfies the treatment benefits ordinary income test:

Method statement

- Step 1.* Work out the amount of the person's ordinary income on an annual basis.
- Step 2.* Work out the person's treatment benefits income using points 53F-2 to 53F-9 below.
- Step 3.* Work out the person's treatment benefits income free area using point 53F-10 below.
- Step 4.* Compare the treatment benefits income with the treatment benefits income free area: if the person's treatment benefits income does not exceed the person's treatment benefits income free area, the person satisfies the treatment benefits ordinary income test.

Treatment benefits income of person without dependent children

“53F-2. If a person has no dependent children, the person's **treatment benefits income** is the person's annual rate of ordinary income.

5

Note: for the person's annual rate of ordinary income see Module D of the Service Pension Rate Calculator Where There Are No Dependent Children in section 41.

Treatment benefits income of person with dependent child or children

“53F-3. If a person has a dependent child or dependent children, the person's **treatment benefits income** is worked out using Table F-1.

How to calculate treatment benefits income under point 53F-3

10

“53F-4. If a person has a dependent child or dependent children, use Table F-1 to work out the person's treatment benefits income reduction amount (column 3). Multiply the treatment benefits income reduction amount by the number of dependent children the person has. Take away the result from the person's annual rate of ordinary income. The result is the person's **treatment benefits income**.

15

Note 1: for 'dependent child' see section 5F.

Note 2: for a person's annual rate of ordinary income see Module E of the Service Pension Rate Calculator Where There Are Dependent Children in section 42.

TABLE F-1 TREATMENT BENEFITS INCOME REDUCTION AMOUNT		
column 1 item	column 2 person's family situation	column 3 reduction amount
1.	Not member of a couple	\$312
2.	Member of a couple	\$156

Effect of certain child payments on treatment benefits income reduction amount

“53F-5. The treatment benefits income reduction amount for a dependent child of a person is reduced by the annual amount of any payment received by the person or the person’s partner for or in respect of that particular child. The payments referred to in point 53F-7 do not result in a reduction.

“53F-6. The treatment benefits income reduction amount for a dependent child of a person who is partnered (partner getting pension) is reduced by 50% of the annual amount of any payment received by the person or the person’s partner for or in respect of that particular child. The payments referred to in point 53F-7 do not result in a reduction.

Note: for ‘partnered (partner getting pension)’ see section 5E.

“53F-7. A reduction is not to be made under point 53F-5 or 53F-6 for a payment:

- (a) under this Act; or
- (b) of maintenance income; or
- (c) under the Social Security Act; or
- (d) under the AUSTUDY Scheme; or
- (e) under an Aboriginal study assistance scheme; or
- (f) under the Assistance for Isolated Children Scheme; or
- (g) that is similar in nature to family payment under the Social Security Act.

Note: for ‘Aboriginal study assistance scheme’ see section 5F.

Financial hardship cases

“53F-8. For the purposes of point 53F-1, a person’s treatment benefits income is to be taken to include an amount per year that is taken into account under subsection 52Z(5).

Changes in income rate (13 week buffer)

“53F-9. If on a particular day a person’s annual rate of treatment benefits income increases from a rate below or equal to the person’s treatment benefits income free area to a rate not more than 25% above

that free area, the person is to be taken to satisfy the treatment benefits ordinary income test until:

- (a) the end of the period of 13 weeks starting on the first pension payday after that day; or
- (b) the person's annual rate of treatment benefits income exceeds 125% of that free area;

whichever happens first.

Treatment benefits income free area

"53F-10. A person's treatment benefits income free area is worked out using Table F-2. Work out which family situation in the table applies to the person. The treatment benefits income free area is the corresponding amount in column 3 plus an additional corresponding amount in column 4 for each dependent child of the person.

TABLE F-2 TREATMENT BENEFITS 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	\$5,460	\$1,040
2.	Member of a couple	\$4,680	\$520

Note: the basic free area is indexed in line with CPI increases (see sections 59B to 59E).

Treatment benefits assets test

"53G. The Treatment Benefits Assets Test Calculator at the end of this section is to be used in working out whether a person satisfies the treatment benefits assets test for the purposes of this Division.

"TREATMENT BENEFITS ASSETS TEST CALCULATOR

Satisfying the treatment benefits assets test

"53G-1. A person satisfies the treatment benefits assets test if the value of the person's assets does not exceed the person's treatment benefits assets value limit.

Note: for 'treatment benefits assets value limit' see point 53G-2 below.

Treatment benefits assets value limit

"53G-2. A person's treatment benefits assets value limit is worked out using the Table. Work out which family situation applies to the person. The treatment benefits assets value limit is the corresponding amount in column 3.

TABLE TREATMENT BENEFITS ASSETS VALUE LIMIT			
column 1 item	column 2 person's family situation	column 3 assets value limit	
		column 3A either person or partner property owner	column 3B neither person nor partner property owner
1.	Not member of a couple	\$128,250	\$208,750
2.	Member of a couple	\$91,500	\$131,750

Note 1: for 'property owner' see subsection 5L(4).

Note 2: the column 3A amounts are indexed in line with CPI increases (see sections 59B to 59E).

Note 3: the column 3B amounts are adjusted annually (see section 59K).".

Secretary may require notification of an event or change of circumstances

63. Section 54 of the Principal Act is amended:

(a) by omitting from paragraph (1)(c) "fringe";

(b) by omitting from paragraph (3)(b) "fringe".

Secretary may require recipient to give particular information relevant to the payment of pension

64. Section 54A of the Principal Act is amended:

(a) by omitting from paragraph (1)(c) "fringe";

(b) by omitting from paragraph (1)(e) "fringe".

Service pension may be suspended or forfeited when pensioner in gaol

65. Section 55 of the Principal Act is amended by omitting from Note 2 to subsection (1) "fringe benefits" and substituting "benefits under Division 15".

Instalments may be redirected to partner or child

66. Section 55A of the Principal Act is amended by omitting from the Note to subsection (3) "the person may, for instance, be eligible for fringe benefits or" and substituting "for instance, the person would be eligible for fringe benefits and may be eligible".

Automatic termination—recipient complying with section 54 notification obligations

67. Section 56 of the Principal Act is amended by omitting from Note 2 to subsection (2) "fringe benefits (including treatment at Departmental expense)" and substituting "benefits under Division 15".

Automatic termination—recipient not complying with section 54 notification obligations

68. Section 56A of the Principal Act is amended by omitting from the Note to subsection (2) “fringe benefits (including treatment at Departmental expense)” and substituting “benefits under Division 15”. 5

Cancellation or suspension determination—general

69. Section 56E of the Principal Act is amended:

- (a) by omitting from Note 3 to subsection (1) “fringe benefits (see Division 15)” and substituting “benefits under Division 15”;
- (b) by omitting from Note 4 to subsection (1) “fringe benefits (including treatment at Departmental expense)” and substituting “benefits under Division 15”. 10

Cancellation or suspension determination for failure to comply with section 54A notice

70. Section 56EA of the Principal Act is amended: 15

- (a) by omitting from Note 2 to subsection (2) “fringe benefits (see Division 15)” and substituting “benefits under Division 15”;
- (b) by omitting from Note 3 to subsection (2) “fringe benefits (including treatment at Departmental expense)” and substituting “benefits under Division 15”. 20

Indexed and adjusted amounts

71. Section 59A of the Principal Act is amended:

- (a) by omitting from columns 2 and 4 of item 8 of the Indexed and Adjusted Amounts Table “Fringe” and substituting “Treatment”; 25
- (b) by omitting from column 3 of item 8 of that Table “fringe” and substituting “treatment”;
- (c) by omitting from column 4 of item 8 of that Table “53B-4—Table B-2” and substituting “53F-10—Table F-2”;
- (d) by omitting from columns 2 and 3 of items 14 to 17 of that Table “fringe” and substituting “treatment”; 30
- (e) by omitting from column 4 of items 14 to 17 of that Table “Fringe” and substituting “Treatment”;
- (f) by omitting from column 4 of items 14 to 17 of that Table “53C-2” and substituting “53G-2”. 35

CPI Indexation Table

72. Section 59B of the Principal Act is amended by omitting from column 2 of items 5, 9 and 10 of the CPI Indexation Table “fringe” and substituting “treatment”.

Adjustment of treatment benefits AVLs

73. Section 59K of the Principal Act is amended:

- (a) by omitting from subsection (1) "fringe" (wherever occurring) and substituting "treatment";
- 5 (b) by omitting from subsection (1) "fringe" (wherever occurring) and substituting "treatment";
- (c) by omitting from subsection (2) "fringe" (wherever occurring) and substituting "treatment";
- 10 (d) by omitting from subsection (2) "fringe" (wherever occurring) and substituting "treatment".

Veterans eligible to be provided with treatment

74. Section 85 of the Principal Act is amended by omitting from the Note to subsection (5) "fringe" and substituting "treatment".

Division 8—Carer service pension

15 **Eligibility for carer service pension**

75. Section 39 of the Principal Act is amended:

- (a) by omitting from subparagraph (2)(c)(i) "28" and substituting "42";
- (b) by adding at the end of subsection (2) the following Note:
20 "Note: see subsection 58K(2A) for the effect of absences from Australia during the period of cessation of care.";
- (c) by inserting after subsection (2) the following subsection:
" (2A) If:
25 (a) a person is personally providing constant care and attention for a severely handicapped veteran; and
(b) the person ceases to provide that care and attention in order to undertake training, education or employment; and
(c) the cessation does not exceed 10 hours per week;
30 the person does not cease to be eligible for a carer service pension merely because of that cessation."

Insertion of new section

76. After section 39Q of the Principal Act, the following section is inserted in Subdivision F of Division 6 of Part III:

35 **Lump sum payable in some circumstances**

"39QA. (1) A lump sum is payable to a person under this section if:

- (a) the person is receiving a carer service pension; and

(b) the person is caring for another person who is not the person's partner; and

(c) the person being cared for dies; and

(d) immediately before the death of the person being cared for either:

(i) the person being cared for was not a member of a couple; or

(ii) the person being cared for was a member of a couple and the partner of the person being cared for:

(A) was not receiving a service pension; and

(B) was not receiving a social security pension; and

(C) was not receiving a social security benefit.

Note: if the partner of the person being cared for was receiving a service pension, a social security pension or benefit, the partner would be eligible to receive bereavement payments in respect of the death of the person being cared for.

“(2) The amount of the lump sum under this section is the lesser of the amount worked out under subsection (3) and the amount worked out under subsection (4).

“(3) The amount under this subsection is:

partnered MBR \times 7

where:

‘**partnered MBR**’ is the maximum basic rate applicable, on the day that the person being cared for dies, to a person covered by item 3 of Table B in point 41-B1 of the Rate Calculator in section 41.

“(4) The amount under this subsection is:

carer's current instalment \times 7

where:

‘**carer's current instalment**’ is the amount of the last instalment of carer service pension paid to the carer before the person cared for died.”.

Earnings credit account balance may be set-off against ordinary income from remunerative work

77. Section 49 of the Principal Act is amended by omitting from paragraph (a) “(other than a carer service pension)”.

Earnings credit account

78. Section 49A of the Principal Act is amended:

(a) by omitting from paragraph (1)(a) “(other than a carer service pension)”;

(b) by omitting from subparagraph (1)(b)(ii) “(other than a carer service pension)”;

(c) by omitting from subparagraph (1)(b)(ii) “(other than a carer pension)”;

- (d) by omitting from paragraph (2)(a) “(other than a carer service pension)”;
- (e) by omitting from paragraph (2)(b) “(other than a carer service pension)”;
- 5 (f) by omitting from paragraph (2)(b) “(other than a carer pension)”.

Earnings credit account balance (Earnings Credit Account Balance Calculator)

79. The Earnings Credit Account Balance Calculator in section 49B of the Principal Act is amended:

- 10 (a) by omitting from paragraph 49B-B1(b) “(other than a carer pension)”;
- (b) by inserting after point 49B-B2 the following point:

People receiving carer service pension sometime between 1 January 1993 and 1 July 1993

15 “49B-B2A. If:

- (a) a person is receiving a carer service pension on 1 July 1993; and
- (b) the person commenced to receive the carer service pension before 1 July 1993;

20 there is to be added to the opening balance of the person’s earning credit account on 1 July 1993:

- (c) the sum of the earnings credits (if any) that the person has between 1 January 1993 and 30 June 1993 while the person has been receiving carer service pension; and

- 25 (d) if the person:

- (i) commenced to receive carer service pension on or after 1 January 1993; and

- 30 (ii) immediately before commencing to receive the carer service pension, the person was receiving a service pension or a social security pension and had an earnings credit account balance under this Act or Division 4 of Part 3.10 of the Social Security Act;

the amount of that account balance.

35 Note 1: because the person could not take advantage of the earnings credit system between 1 January 1993 and 30 June 1993, the person cannot draw on the account during that period.

40 Note 2: although the person does not have an earnings credit account until 1 July 1993, the person can have earnings credits (as defined by point 49B-C1) for the earnings credit accounting periods (as defined by point 49B-A6) that fall between 1 January 1993 and 30 June 1993.”;

- (c) by omitting from paragraph 49B-B3(b) “(other than a carer pension)”.

Age, invalidity and partner service pensions generally portable

80. Section 58K of the Principal Act is amended:

- 45 (a) by omitting from subsection (2) “A” and substituting “Subject to subsection (2A), a”;

(b) by inserting after subsection (2) the following subsection:

“(2A) If:

(a) a person ceases to provide constant care and attention for a severely handicapped veteran; and

(b) subsection 39(2) applies to the period so that the person does not cease to be eligible for a carer service pension merely because of the cessation;

subsection (2) does not apply to any absence of the person from Australia during that period.”.

Division 9—Shares and other listed securities

Investment income definitions

81. Section 5J of the Principal Act is amended:

(a) by omitting the definition of “investment product” in subsection (1) and substituting the following definition:

“‘**investment product**’, in relation to a managed investment or listed security, means all the investments or securities that are:

(a) in or with the same body corporate or in the same trust fund; and

(b) subject to substantially the same terms and conditions as that managed investment or that listed security;”;

(b) by inserting the following definition in subsection (1):

“‘**listed security**’ means:

(a) a share in a company; or

(b) another security;

listed on a stock exchange in Australia;”.

Heading to Subdivision AA of Division 8 of Part III

82. The heading to Subdivision AA of Division 8 of Part III of the Principal Act is amended by adding at the end “***and listed securities***”.

Investments to which this Subdivision applies

83. Section 46AA of the Principal Act is amended by adding at the end the following subsections:

“(2) This Subdivision applies to an investment in the form of a listed security.

Note: for ‘listed security’ see subsection 5J(1).

“(3) This Subdivision does not apply to bonds and debentures.

Note: bonds and debentures are dealt with under Division 8B.”.

Division 10—Pharmaceutical allowance

Insertion of new section

84. After section 5P of the Principal Act the following section is inserted:

5 **Pharmaceutical allowance and advance pharmaceutical allowance definitions**

“5PA.(1) If:

10 (a) a person is paid an instalment of service pension or social security pension or social security benefit on a particular day; and

(b) an amount by way of pharmaceutical allowance is to be added to the person's maximum basic rate in working out the amount of the instalment;

15 the amount of pharmaceutical allowance paid to the person on that day is worked out using subsections (2), (3), (4) and (5).

“(2) If the instalment is an instalment of service pension or social security pension, the amount of allowance paid is:

pharmaceutical allowance rate

26

20 where:

‘**pharmaceutical allowance rate**’ is the yearly amount of pharmaceutical allowance added to the person's maximum basic rate in working out the amount of the instalment.

“(3) If:

25 (a) the instalment is an instalment of social security benefit; and

(b) the instalment is for a fortnight or a period of whole fortnights; the amount of allowance paid is:

pharmaceutical allowance rate × number of fortnights

where:

30 ‘**pharmaceutical allowance rate**’ is the fortnightly amount of pharmaceutical allowance added to the person's maximum basic rate in working out the amount of the instalment;

‘**number of fortnights**’ is the number of fortnights in the period for which the instalment is paid.

35 “(4) If:

(a) the instalment is an instalment of social security benefit; and

(b) the instalment is for a period of less than a fortnight; the amount of the allowance paid is:

pharmaceutical allowance rate × week days in period

40 10

where:

'pharmaceutical allowance rate' is the fortnightly amount of pharmaceutical allowance added to the person's maximum basic rate in working out the amount of the instalment;

'week days in period' is the number of week days in the period for which the instalment is paid.

5

“(5) If:

(a) the instalment is an instalment of social security benefit; and

(b) the instalment is for a period that consists of:

(i) a fortnight or a number of whole fortnights; and

(ii) a period of less than a fortnight;

10

the amount of allowance paid is:

$$\frac{\text{pharmaceutical allowance rate} \times \text{number of whole fortnights} \times \text{week days in short period}}{10}$$

where:

'pharmaceutical allowance rate' is the fortnightly amount of pharmaceutical allowance added to the person's maximum basic rate in working out the amount of the instalment;

15

'number of whole fortnights' is the number of whole fortnights in the period for which the instalment is paid;

'week days in short period' is the number of week days in the period that is less than a fortnight.”.

20

Age service pension may not be payable in some circumstances

85. Section 36A of the Principal Act is amended:

(a) by omitting from subsection (2) “An” and substituting “Subject to subsection (3), an”;

25

(b) by adding at the end the following subsection:

“(3) Subsection (2) does not apply to a veteran if the veteran's rate is nil merely because an advance pharmaceutical allowance has been paid to the veteran under:

(a) Division 2 of Part VIIA of this Act; or

30

(b) Part 2.23 of the Social Security Act.”.

Invalidity service pension may not be payable in some circumstances

86. Section 37A of the Principal Act is amended:

(a) by omitting from subsection (2) “An” and substituting “Subject to subsection (3), an”;

35

(b) by adding at the end the following subsection:

“(3) Subsection (2) does not apply to a veteran if the veteran's rate is nil merely because an advance pharmaceutical allowance has been paid to the veteran under:

- (a) Division 2 of Part VIIA of this Act; or
- (b) Part 2.23 of the Social Security Act.”.

Partner service pension may not be payable in some circumstances

87. Section 38A of the Principal Act is amended:

- 5 (a) by omitting from subsection (2) “A” and substituting “Subject to subsection (3), a”;
- (b) by adding at the end the following subsection:

“(3) Subsection (2) does not apply to a person if the person’s rate is nil merely because an advance pharmaceutical allowance has been paid to the person under:

- 10 (a) Division 2 of Part VIIA of this Act; or
- (b) Part 2.23 of the Social Security Act.”.

Carer service pension may not be payable in some circumstances

88. Section 39A of the Principal Act is amended:

- 15 (a) by omitting from subsection (2) “A” and substituting “Subject to subsection (3), a”;
- (b) by adding at the end the following subsection:

“(3) Subsection (2) does not apply to a person if the person’s rate is nil merely because an advance pharmaceutical allowance has been paid to the person under:

- 20 (a) Division 2 of Part VIIA of this Act; or
- (b) Part 2.23 of the Social Security Act.”.

Steps in rate calculation

- 25 89. Section 40 of the Principal Act is amended by omitting from Note 1 to subsection (1) “and rent assistance” and substituting “, rent assistance and pharmaceutical allowance”.

Application of income and assets test reductions for income tax purposes

90. Section 40C of the Principal Act is amended:

- 30 (a) by omitting from paragraph (1)(a) “or the rent assistance Module of a Rate Calculator” and substituting “, the rent assistance Module of a Rate Calculator or the pharmaceutical allowance Module of a Rate Calculator”;
- 35 (b) by omitting from paragraph (1)(c) “or the rent assistance Module” and substituting “, the rent assistance Module or the pharmaceutical allowance Module”;
- (c) by omitting from paragraph (1)(e) “finally” and substituting “then”;
- 40 (d) by adding at the end of subsection (1) the following word and paragraph:

“; and (f) finally, to the amount of any increase under the pharmaceutical allowance Module.”;

- (e) by omitting from the Relevant Modules Table in subsection (2) columns 1, 2 and 3 and substituting the following columns:

“

column 1 Pension Rate Calculator	column 2 additional amounts for children Module	column 3 rent assistance Module	column 3A pharmaceutical allowance Module
Service Pension Rate Calculator Where There Are No Dependent Children (section 41)	Not applicable	Module C	Module CA
Service Pension Rate Calculator Where There Are Dependent Children (section 42)	Module C	Module D	Module DA
Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses (section 44)	Not applicable	Module C	Module CA

”

Rate of age, invalidity, partner and carer service pension (no dependent children)

5

91. Section 41 of the Principal Act is amended in the Service Pension Rate Calculator Where There Are No Dependent Children:

- (a) by inserting after Step 2 in the Method statement in point 41-A1 the following Step:

10

“*Step 2A.* Work out the amount per year (if any) of pharmaceutical allowance using Module CA below.”;

- (b) by omitting from Step 3 in the Method statement in point 41-A1 “and 2” and substituting “, 2 and 2A”;

- (c) by adding at the end of Note 6 to point 41-A1 “or apart from section 36A, 37A, 38A or 39A the person’s rate of pension would be nil”;

15

- (d) by inserting after Module C the following Module:

“MODULE CA—PHARMACEUTICAL ALLOWANCE

Eligibility for pharmaceutical allowance

20

“41-CA1. Subject to points 41-CA2, 41-CA3 and 41-CA5, an additional amount by way of pharmaceutical allowance is to be added to a person’s maximum basic rate.

No pharmaceutical allowance if person receiving pharmaceutical allowance under the Social Security Act

“41-CA2. Pharmaceutical allowance is not to be added to a person's maximum basic rate if the person is receiving pharmaceutical allowance under the Social Security Act.

No pharmaceutical allowance before advance payment period ends

“41-CA3. Pharmaceutical allowance is not to be added to a person's maximum basic rate if:

- (a) the person has received an advance pharmaceutical allowance under:
 - (i) Division 2 of Part VIIA of this Act; or
 - (ii) Part 2.23 of the Social Security Act; and
- (b) the person's advance payment period has not ended.

Note: for 'advance payment period' see point 41-CA4.

Advance payment period

“41-CA4. A person's advance payment period:

- (a) starts on the day on which the advance pharmaceutical allowance is paid to the person; and
- (b) ends after the number of paydays worked out using the following formula have passed:

$$\frac{\text{amount of advance} \times 26}{\text{pharmaceutical allowance rate}}$$

where:

'amount of advance' is the amount of the advance paid to the person;

'pharmaceutical allowance rate' is the yearly amount of pharmaceutical allowance which would be added to the person's maximum basic rate in working out the instalment for the day on which the advance is paid if pharmaceutical allowance were to be added to the person's maximum basic rate on that day.

No pharmaceutical allowance if annual limit reached

“41-CA5. Pharmaceutical allowance is not to be added to a person's maximum basic rate if:

- (a) the person has received an advance pharmaceutical allowance during the current calendar year; and
- (b) the total amount paid to the person for that year by way of:
 - (i) pharmaceutical allowance; and
 - (ii) advance pharmaceutical allowance;

equals the total amount of pharmaceutical allowance that would have been paid to the person during that year if the person had not received any advance pharmaceutical allowance.

Veterans' Affairs Legislation Amendment (No. 2) No. 228, 1992

Note 1: for the amount 'paid' to a person by way of pharmaceutical allowance see section 5PA.

Note 2: the annual limit is affected by:

- how long during the calendar year the person was on service pension or social security pension or benefit;
- the rate of pharmaceutical allowance the person attracts at various times depending on the person's family situation.

5

Social Security Act payments taken into account

"41-CA6. In points 41-CA4 and 41-CA5:

'advance pharmaceutical allowance' includes advance pharmaceutical allowance under the Social Security Act;

10

'pharmaceutical allowance' includes pharmaceutical allowance under the Social Security Act.

Rate of pharmaceutical allowance—double rate

"41-CA7. Subject to point 41-CA8, the rate of pharmaceutical allowance is twice the amount of the rate specified in point 41-CA8.

15

Rate of pharmaceutical allowance—standard rate

"41-CA8. The rate of pharmaceutical allowance for a person is \$67.60 per year if:

- (a) the person is a service pensioner; and
- (b) the person is a member of a couple; and
- (c) the person's partner is eligible for pharmaceutical allowance under Part III or Part VIIA of this Act or under the Social Security Act; and
- (d) the person is not a member of an illness separated couple or a respite care couple.

20

25

Note 1: for 'service pensioner', 'service pension', 'social security pension' and 'social security benefit' see subsection 5Q(1); for 'member of a couple' and 'partner' see section 5E; for 'illness separated couple' see subsection 5R(5) and for 'respite care couple' see subsection 5R(6).

Note 2: the amount specified in point 41-CA8 is adjusted annually in line with CPI increases under section 59L.";

30

(e) by omitting paragraph 41-G1(aa) and substituting the following paragraph:

"(aa) either:

- (i) the person's rate of pension apart from this point is greater than nil; or
- (ii) the person's rate of pension apart from this point is nil merely because an advance pharmaceutical allowance has been paid to the person under:

35

40

(A) Division 2 of Part VIIA of this Act; or

(B) Part 2.23 of the Social Security Act; and".

Rate of age, invalidity, partner and carer service pension (dependent child or children)

92. Section 42 of the Principal Act is amended in the Service Pension Rate Calculator Where There Are Dependent Children:

- 5 (a) by inserting after Step 3 in the Method statement in point 42-A1 the following Step:
- “Step 3A. Work out the amount per year (if any) of pharmaceutical allowance using Module DA below.”;
- 10 (b) by omitting from Step 4 in the Method statement in point 42-A1 “and 3” and substituting “, 3 and 3A”;
- (c) by adding at the end of Note 7 to point 42-A1 “or apart from section 36A, 37A, 38A or 39A the person’s rate of pension would be nil”;
- 15 (d) by inserting after Module D the following Module:

“MODULE DA—PHARMACEUTICAL ALLOWANCE

Eligibility for pharmaceutical allowance

- “42-DA1. Subject to points 42-DA2, 42-DA3 and 42-DA5, an additional amount by way of pharmaceutical allowance is to be added to a person’s maximum basic rate.
- 20

No pharmaceutical allowance if person receiving pharmaceutical allowance under the Social Security Act

- “42-DA2. Pharmaceutical allowance is not to be added to a person’s maximum basic rate if the person is receiving pharmaceutical allowance under the Social Security Act.
- 25

No pharmaceutical allowance before advance payment period ends

“42-DA3. Pharmaceutical allowance is not to be added to a person’s maximum basic rate if:

- 30 (a) the person has received an advance pharmaceutical allowance under:
- (i) Division 2 of Part VIIA of this Act; or
- (ii) Part 2.23 of the Social Security Act; and
- (b) the person’s advance payment period has not ended.

Note: for ‘advance payment period’ see point 42-DA4.

35 *Advance payment period*

“42-DA4. A person’s advance payment period:

- (a) starts on the day on which the advance pharmaceutical allowance is paid to the person; and

- (b) ends after the number of paydays worked out using the following formula have passed:

$$\frac{\text{amount of advance} \times 26}{\text{pharmaceutical allowance rate}}$$

where:

'amount of advance' is the amount of the advance paid to the person;

'pharmaceutical allowance rate' is the yearly amount of pharmaceutical allowance which would be added to the person's maximum basic rate in working out the instalment for the day on which the advance is paid if pharmaceutical allowance were to be added to the person's maximum basic rate on that day.

No pharmaceutical allowance if annual limit reached

"42-DA5. Pharmaceutical allowance is not to be added to a person's maximum basic rate if:

- (a) the person has received an advance pharmaceutical allowance during the current calendar year; and
- (b) the total amount paid to the person for that year by way of:
- (i) pharmaceutical allowance; and
 - (ii) advance pharmaceutical allowance;

equals the total amount of pharmaceutical allowance that would have been paid to the person during that year if the person had not received any advance pharmaceutical allowance.

Note 1: for the amount 'paid' to a person by way of pharmaceutical allowance see section 5PA.

Note 2: the annual limit is affected by:

- how long during the calendar year the person was on service pension or social security pension or benefit;
- the rate of pharmaceutical allowance the person attracts at various times depending on the person's family situation.

Social Security Act payments taken into account

"42-DA6. In points 42-DA4 and 42-DA5:

'advance pharmaceutical allowance' includes advance pharmaceutical allowance under the Social Security Act;

'pharmaceutical allowance' includes pharmaceutical allowance under the Social Security Act.

Rate of pharmaceutical allowance—double rate

"42-DA7. Subject to point 42-DA8, the rate of pharmaceutical allowance is twice the amount of the rate specified in point 42-DA8.

Rate of pharmaceutical allowance—standard rate

"42-DA8. The rate of pharmaceutical allowance for a person is \$67.60 per year if:

- (a) the person is a service pensioner; and

- (b) the person is a member of a couple; and
- (c) the person's partner is eligible for pharmaceutical allowance under Part III or Part VIIA of this Act or under the Social Security Act; and
- 5 (d) the person is not a member of an illness separated couple or a respite care couple.

Note 1: for 'service pensioner', 'service pension', 'social security pension' and 'social security benefit' see subsection 5Q(1); for 'member of a couple' and 'partner' see section 5E; for
10 'illness separated couple' see subsection 5R(5) and for 'respite care couple' see subsection 5R(6).

Note 2: the amount specified in point 42-DA8 is adjusted annually in line with CPI increases under section 59L.”;

- (e) by omitting paragraph 42-H1(aa) and substituting the following paragraph:

15 “(aa) either:

- (i) the person's rate of pension apart from this point is greater than nil; or

- (ii) the person's rate of pension apart from this point is nil merely because an advance pharmaceutical allowance has been paid to the
20 person under:

- (A) Division 2 of Part VIIA of this Act; or

- (B) Part 2.23 of the Social Security Act; and”.

Rate of age and invalidity service pension (blinded veterans)

25 **93.** Section 43 of the Principal Act is amended in the Service Pension Rate Calculator for Blinded Veterans:

- (a) by inserting after Step 3 in the Method statement in point 43-A1 the following Step:

30 “*Step 3A.* Work out the amount per year (if any) of pharmaceutical allowance using Module DA below.”;

- (b) by omitting from Step 4 in the Method statement in point 43-A1 “and 3” and substituting “, 3 and 3A”;

- (c) by inserting after Module D the following Module:

“MODULE DA—PHARMACEUTICAL ALLOWANCE

Eligibility for pharmaceutical allowance

“43-DA1. Subject to points 43-DA2, 43-DA3 and 43-DA5, an additional amount by way of pharmaceutical allowance is to be added to a person's maximum basic rate.

No pharmaceutical allowance if person receiving pharmaceutical allowance under the Social Security Act

“43-DA2. Pharmaceutical allowance is not to be added to a person’s maximum basic rate if the person is receiving pharmaceutical allowance under the Social Security Act.

5

No pharmaceutical allowance before advance payment period ends

“43-DA3. Pharmaceutical allowance is not to be added to a person’s maximum basic rate if:

(a) the person has received an advance pharmaceutical allowance under:

10

(i) Division 2 of Part VIIA of this Act; or

(ii) Part 2.23 of the Social Security Act; and

(b) the person’s advance payment period has not ended.

Note: for ‘advance payment period’ see point 43-DA4.

Advance payment period

15

“43-DA4. A person’s advance payment period:

(a) starts on the day on which the advance pharmaceutical allowance is paid to the person; and

(b) ends after the number of paydays worked out using the following formula have passed:

20

$$\frac{\text{amount of advance} \times 26}{\text{pharmaceutical allowance rate}}$$

where:

‘amount of advance’ is the amount of the advance paid to the person;

‘pharmaceutical allowance rate’ is the yearly amount of pharmaceutical allowance which would be added to the person’s maximum basic rate in working out the instalment for the day on which the advance is paid if pharmaceutical allowance were to be added to the person’s maximum basic rate on that day.

25

No pharmaceutical allowance if annual limit reached

30

“43-DA5. Pharmaceutical allowance is not to be added to a person’s maximum basic rate if:

(a) the person has received an advance pharmaceutical allowance during the current calendar year; and

(b) the total amount paid to the person for that year by way of:

35

(i) pharmaceutical allowance; and

(ii) advance pharmaceutical allowance;

equals the total amount of pharmaceutical allowance that would have been paid to the person during that year if the person had not received any advance pharmaceutical allowance.

40

Veterans' Affairs Legislation Amendment (No. 2) No. 228, 1992

Note 1: for the amount 'paid' to a person by way of pharmaceutical allowance see section 5PA.

Note 2: the annual limit is affected by:

- how long during the calendar year the person was on service pension or social security pension or benefit;
- 5 • the rate of pharmaceutical allowance the person attracts at various times depending on the person's family situation.

Social Security Act payments taken into account

"43-DA6. In points 43-DA4 and 43-DA5:

10 '**advance pharmaceutical allowance**' includes advance pharmaceutical allowance under the Social Security Act;

 '**pharmaceutical allowance**' includes pharmaceutical allowance under the Social Security Act.

Rate of pharmaceutical allowance—double rate

15 "43-DA7. Subject to point 43-DA8, the rate of pharmaceutical allowance is twice the amount of the rate specified in point 43-DA8.

Rate of pharmaceutical allowance—standard rate

 "43-DA8. The rate of pharmaceutical allowance for a person is \$67.60 per year if:

- 20 (a) the person is a service pensioner; and
- (b) the person is a member of a couple; and
- (c) the person's partner is eligible for pharmaceutical allowance under Part III or Part VIIA of this Act or under the Social Security Act; and
- 25 (d) the person is not a member of an illness separated couple or a respite care couple.

Note 1: for 'service pensioner', 'service pension', 'social security pension' and 'social security benefit' see subsection 5Q(1); for 'member of a couple' and 'partner' see section 5E; for 'illness separated couple' see subsection 5R(5) and for 'respite care couple' see subsection 5R(6).

30 Note 2: the amount specified in point 43-DA8 is adjusted annually in line with CPI increases under section 59L.”;

Rate of partner service pension for widows, widowers and non-illness separated spouses

35 **94.** Section 44 of the Principal Act is amended in the Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses:

 (a) by inserting after Step 2 in the Method statement in point 44-A1 the following Step:

40 “*Step 2A.* Work out the amount per year (if any) of pharmaceutical allowance using Module CA below.”;

 (b) by omitting from Step 3 in the Method statement in point 44-A1 “and 2” and substituting “, 2 and 2A”;

 (c) by adding at the end of Note 5 to point 44-A1 “or apart from section 38A the person's rate of pension would be nil”;

(d) by inserting after Module C the following Module:

“MODULE CA—PHARMACEUTICAL ALLOWANCE

Eligibility for pharmaceutical allowance

“44-CA1. Subject to points 44-CA2, 44-CA3 and 44-CA5, an additional amount by way of pharmaceutical allowance is to be added to a person's maximum basic rate. 5

No pharmaceutical allowance if person receiving pharmaceutical allowance under the Social Security Act

“44-CA2. Pharmaceutical allowance is not to be added to a person's maximum basic rate if the person is receiving pharmaceutical allowance under the Social Security Act. 10

No pharmaceutical allowance before advance payment period ends

“44-CA3. Pharmaceutical allowance is not to be added to a person's maximum basic rate if:

(a) the person has received an advance pharmaceutical allowance under: 15

(i) Division 2 of Part VIIA of this Act; or

(ii) Part 2.23 of the Social Security Act; and

(b) the person's advance payment period has not ended.

Note: for 'advance payment period' see point 44-CA4. 20

Advance payment period

“44-CA4. A person's advance payment period:

(a) starts on the day on which the advance pharmaceutical allowance is paid to the person; and

(b) ends after the number of paydays worked out using the following formula have passed: 25

$$\frac{\text{amount of advance} \times 26}{\text{pharmaceutical allowance rate}}$$

where: 30

'amount of advance' is the amount of the advance paid to the person;

'pharmaceutical allowance rate' is the yearly amount of pharmaceutical allowance which would be added to the person's maximum basic rate in working out the instalment for the day on which the advance is paid if pharmaceutical allowance were to be added to the person's maximum basic rate on that day. 35

No pharmaceutical allowance if annual limit reached

“44-CA5. Pharmaceutical allowance is not to be added to a person's maximum basic rate if:

(a) the person has received an advance pharmaceutical allowance during the current calendar year; and 40

(b) the total amount paid to the person for that year by way of:

(i) pharmaceutical allowance; and

(ii) advance pharmaceutical allowance;

equals the total amount of pharmaceutical allowance that would have been paid to the person during that year if the person had not received any advance pharmaceutical allowance.

Note 1: for the amount 'paid' to a person by way of pharmaceutical allowance see section 5PA.

Note 2: the annual limit is affected by:

- how long during the calendar year the person was on service pension or social security pension or benefit;
- the rate of pharmaceutical allowance the person attracts at various times depending on the person's family situation.

Social Security Act payments taken into account

"44-CA6. In points 44-CA4 and 44-CA5:

'advance pharmaceutical allowance' includes advance pharmaceutical allowance under the Social Security Act;

'pharmaceutical allowance' includes pharmaceutical allowance under the Social Security Act.

Rate of pharmaceutical allowance—double rate

"44-CA7. Subject to point 44-CA8, the rate of pharmaceutical allowance is twice the amount of the rate specified in point 44-CA8.

Rate of pharmaceutical allowance—standard rate

"44-CA8. The rate of pharmaceutical allowance for a person is \$67.60 per year if:

(a) the person is a service pensioner; and

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

(c) the person's partner is eligible for pharmaceutical allowance under Part III or Part VIIA of this Act or under the Social Security Act; and

(d) the person is not a member of an illness separated couple or a respite care couple.

Note 1: for 'service pensioner', 'service pension', 'social security pension' and 'social security benefit' see subsection 5Q(1); for 'member of a couple' and 'partner' see section 5E; for 'illness separated couple' see subsection 5R(5) and for 'respite care couple' see subsection 5R(6).

Note 2: the amount specified in point 44-CA8 is adjusted annually in line with CPI increases under section 59L.”;

(e) by omitting paragraph 44-G1(aa) and substituting the following paragraph:

“(aa) either:

(i) the person's rate of pension apart from this point is greater than nil; or

(ii) the person's rate of pension apart from this point is nil merely because an advance

pharmaceutical allowance has been paid to the person under:

- (A) Division 2 of Part VIIA of this Act; or
- (B) Part 2.23 of the Social Security Act; and”.

Rate of age, invalidity and carer service pensions (war widow and war widower) 5

95. Section 45 of the Principal Act is amended in the Service Pension Rate Calculator for “Frozen Rate” Widows and Widowers by omitting Step 1 of the Method statement in point 45-A1 and substituting the following Step: 10

“*Step 1.* Work out what the widow’s or widower’s rate would be under the relevant Rate Calculator at the end of section 41, 42, or 43 if that Rate Calculator applied to him or her and:

- (a) Step 2A (pharmaceutical allowance) of the Method statement in point 41-A1 were omitted; and 15
- (b) Step 3A (pharmaceutical allowance) of the Method statement in point 42-A1 were omitted; and
- (c) Step 3A (pharmaceutical allowance) of the Method statement in point 43-A1 were omitted.

The result is called the **provisional rate**. 20

Note: although pharmaceutical allowance is not included in the person’s rate under this Step, pharmaceutical allowance is payable under Part VIIA to a person to whom this section applies.”.

Calculation of amount of fortnightly instalment

96. Section 58A of the Principal Act is amended by inserting after subsection (3) the following subsections: 25

“(3A) If:

- (a) an amount of pharmaceutical allowance is added to a person’s maximum basic rate in working out the amount of an instalment of service pension; and 30
- (b) apart from this subsection, the amount of the instalment would be less than the person’s fortnightly pharmaceutical allowance rate;

the amount of the instalment is to be increased to the person’s fortnightly pharmaceutical allowance rate. 35

“(3B) For the purposes of subsection (3A), the person’s fortnightly pharmaceutical allowance rate is:

pharmaceutical allowance rate

26

where: 40

'pharmaceutical allowance rate' is the yearly amount of pharmaceutical allowance added to the person's maximum basic rate in working out the amount of the instalment."

Eligibility for pharmaceutical allowance

- 5 **97.** Section 118A of the Principal Act is amended by adding at the end the following Note:

Note: a person may be eligible for pharmaceutical allowance under either or both Part III or this Part. Only one amount of pharmaceutical allowance is payable to the person: see subsection 118B(2)."

10 **Pharmaceutical allowance not payable in some circumstances**

- 98.** Section 118B of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsection:

15 "(1A) Even though a person is eligible for a pharmaceutical allowance under this Part, the allowance is not payable to the person under this Part if the person is receiving a service pension under Part III that includes an amount of pharmaceutical allowance.";

(b) by omitting subsection (3) and substituting the following subsection:

20 "(3) For the purposes of subsection (1), a person's advance payment period:

(a) starts on the day on which the advance pharmaceutical allowance is paid to the person; and

25 (b) ends after the number of paydays worked out using the following formula have passed:

$$\frac{\text{amount of advance}}{\text{pharmaceutical allowance rate}}$$

where:

30 **'amount of advance'** is the amount of the advance paid to the person;

35 **'pharmaceutical allowance rate'** is the rate at which pharmaceutical allowance would be payable to the person on the day on which the advance is paid if the person were paid pharmaceutical allowance on that day."

Rate of pharmaceutical allowance

99. Section 118C of the Principal Act is amended by omitting from paragraph (2)(c) "Part 2.22 of".

Repeal of section and substitution of new section

- 40 **100.** Section 118C of the Principal Act is repealed and the following section is substituted:

Rate of pharmaceutical allowance

“118C. The rate of pharmaceutical allowance under this Part is \$5.20 per fortnight.

Note: the amount specified in this section is adjusted annually in line with CPI increases under section 59L.”.

5

Repeal of section and substitution of new section

101. Section 118D of the Principal Act is repealed and the following section is substituted:

No pharmaceutical allowance if annual limit reached

“118D.(1) Pharmaceutical allowance is not payable to a person if: 10

(a) the person has received an advance pharmaceutical allowance during the current calendar year; and

(b) the total amount paid to the person for that year by way of:

(i) pharmaceutical allowance; and

(ii) advance pharmaceutical allowance; 15

equals the total amount of pharmaceutical allowance that would have been paid to the person during that year if the person had not received any advance pharmaceutical allowance.

Note 1: for the amount ‘paid’ to a person by way of pharmaceutical allowance see section 5PA.

Note 2: the annual limit is affected by:

20

- how long during the calendar year the person was on service pension or social security pension or benefit;
- the rate of pharmaceutical allowance the person attracts at various times depending on the person’s family situation.

“(2) In this section:

25

‘advance pharmaceutical allowance’ includes advance pharmaceutical allowance under the Social Security Act;

‘pharmaceutical allowance’ includes pharmaceutical allowance under the Social Security Act.”.

Repeal of section 118G

30

102. Section 118G of the Principal Act is repealed.

Proper claim

103. Section 118M of the Principal Act is amended by adding at the end of subsection (6) the following Note:

“Note: for the amount ‘paid’ to a person by way of pharmaceutical allowance see section 5PA.”.

35

Repeal of Subdivision and substitution of new Subdivision

104. Subdivision C of Division 2 of Part VIIA of the Principal Act is repealed and the following Subdivision is substituted:

“Subdivision C—Amount of advance pharmaceutical allowance

Amount of advance pharmaceutical allowance

“118N. Subject to section 118P, the amount of a person’s advance pharmaceutical allowance is:

$$5 \quad \frac{\text{pharmaceutical allowance rate} \times 7}{26}$$

where:

10 **‘pharmaceutical allowance rate’** is the yearly amount of pharmaceutical allowance that would be added to the person’s maximum basic rate if the person were receiving service pension and a pharmaceutical allowance advance were not being paid to the person.

Note: pharmaceutical allowance rates are to be found at:

- 15 • points 41-CA7 and 41-CA8 of Service Pension Rate Calculator Where There Are No Dependent Children;
- points 42-DA7 and 42-DA8 of Service Pension Rate Calculator Where There Are Dependent Children;
- points 43-DA7 and 43-DA8 of Service Pension Rate Calculator for Blinded Veterans.
- 20 • points 44-CA7 and 44-CA8 of Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses;
- section 118C.

Annual limit

“118P.(1) The amount paid to a person in a calendar year by way of:

- 25 (a) pharmaceutical allowance; and
(b) advance pharmaceutical allowance;

is not to exceed the total amount of pharmaceutical allowance that would have been paid to the person during that year if the person had not received any advance pharmaceutical allowance.

Note: for the amount 'paid' to a person by way of pharmaceutical allowance see section 5PA.

30 “(2) In this section:

‘advance pharmaceutical allowance’ includes advance pharmaceutical allowance under the Social Security Act;

“pharmaceutical allowance” includes pharmaceutical allowance under the Social Security Act.”.

35 Indexed and adjusted amounts

105. Section 59A of the Principal Act is amended by adding at the end of the Table the following items:

“

	Pharmaceutical allowance		
18.	Pharmaceutical allowance included in service pension rate	PA (service pension) rate	* Service Pension Rate Calculator Where There Are No Dependent Children—point 41-CA8 * Service Pension Rate Calculator Where There Are Dependent Children—point 42-DA8 * Service Pension Rate Calculator For Blinded Veterans—point 43-DA8 * Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-CA8
19.	Pharmaceutical allowance under Part VIIA	PA (Part VIIA) rate	section 118C

”.

Insertion of new section

106. After section 59K of the Principal Act the following section is inserted in Part III:

Adjustment of pharmaceutical allowance

“59L.(1) This Act has effect as if, on each 1 January, the amount worked out in accordance with the following formula were substituted for the PA (service pension) rate: 5

$$\text{benefit PA 'partnered' (item 2) rate} \times 26$$

where:

‘benefit PA “partnered” (item 2) rate’ is the current figure for the benefit **‘partnered’ (item 2) rate** within the meaning of the *Social Security Act 1991*. 10

Note: see the following provisions of the *Social Security Act 1991*:

- section 1190 (item 46 of the Indexed and Adjusted Amounts Table);
- section 1191 (item 31 of the CPI Indexation Table).

“(2) This Act has effect as if, on each 1 January, the amount worked out in accordance with the following formula were substituted for the PA (Part VII) rate: 15

$$\text{benefit PA 'partnered' (item 2) rate} \times 2$$

where:

‘benefit PA “partnered” (item 2) rate’ is the current figure for the benefit **‘partnered’ (item 2) rate** within the meaning of the *Social Security Act 1991*. 20

Note: see the following provisions of the *Social Security Act 1991*:

- section 1190 (item 46 of the Indexed and Adjusted Amounts Table);
- section 1191 (item 31 of the CPI Indexation Table)."

Division 11—Rounding base for rent assistance

5 CPI Indexation Table

107. Section 59B of the Principal Act is amended by omitting from column 6 of item 3 of the CPI Indexation Table in subsection (1) "\$2.60" and substituting "\$5.20".

Division 12—Attributed interest

10 Basic concept—income money and interest received

108. Section 46W of the Principal Act is amended in the Method statement:

(a) by inserting after Step 2 the following Note:

"Note: for the treatment of the money of members of a couple see subsection (2A).";

15 (b) by inserting after Step 3 the following Note:

"Note: for the treatment of the money of members of a couple see subsection (2B).";

(c) by inserting after Step 4 the following Note:

"Note: for the treatment of the money of members of a couple see subsection (2C).";

(d) by inserting after subsection (2) the following subsections:

20 "(2A) If a person is a member of a couple, to work out the amount of the person's available money:

(a) add the person's available money (if any) and the person's partner's available money (if any); and

(b) divide the result by 2.

25 "(2B) If a person is a member of a couple, to work out the amount of the person's deposit money that does not attract interest:

(a) add the person's deposit money (if any) that does not attract interest and the person's partner's deposit money (if any) that does not attract interest; and

30 (b) divide the result by 2.

"(2C) If a person is a member of a couple, to work out the amount of the person's deposit money that attracts a particular rate of interest:

35 (a) add the person's deposit money (if any) that attracts that rate of interest and the person's partner's deposit money (if any) that attracts that rate of interest; and

(b) divide the result by 2."

Division 13—Income test definitions

Income test definitions

109. Section 5H of the Principal Act is amended by inserting after paragraph (8)(x) the following paragraph:

- “(xa) a payment made by the Mark Fitzpatrick Trust to a person by way of assistance with expenses incurred in relation to a person who has medically acquired HIV infection;”.

Division 14—Favourable determinations

Date of effect of favourable determination

110. Section 56G of the Principal Act is amended:

- (a) by omitting from subsection (2) “and (2B)” and substituting “, (2B) and (2C)”;

- (b) by inserting after subsection (2B) the following subsection:

“(2C) If:

- (a) the favourable determination is made following the death of the person’s partner; and

- (b) before the partner died, the partner was not receiving a service pension or a pension or allowance mentioned in subparagraph 36P(1)(d)(ii); and

- (c) within the period of 4 weeks that starts on the day after the day on which the partner dies:

- (i) the person notifies the Department orally or in writing of their partner’s death; or

- (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day on which the partner died.”.

Division 15—Saving and transitional

Rent assistance (changes introduced on 20 March 1993)

111.(1) This section applies to a person if:

- (a) immediately before 20 March 1993:

- (i) the person was receiving a pension under Part III of the *Veterans' Entitlements Act 1986* (a “service pension”); and

- (ii) the person’s service pension included an amount by way of rent assistance; and

- (b) this subsection continues to apply to the person.

(2) If:

- (a) a decision is made on or after 20 March 1993 under the

Veterans' Entitlements Act 1986 that a person is entitled to rent assistance under that Act in respect of a period; and

(b) the period starts before 20 March 1993; and

(c) the period continued until at least 19 March 1993;

5 the person is taken, for the purposes of this section, to have been receiving rent assistance under that Act immediately before 20 March 1993.

(3) This section applies to a person if:

10 (a) immediately before 20 March 1993, the person was receiving rent assistance under the *Social Security Act 1991*; and

(b) after that date, the person becomes entitled to be paid a service pension; and

(c) this subsection continues to apply to the person.

15 (4) Subject to subsections (7), (8) and (9), if subsection (1) or (3) applies to a person, the amount by way of rent assistance to be used to calculate the person's service pension rate is the amount by way of rent assistance that would be included in the person's service pension rate if:

20 (a) the person's service pension rate were neither income reduced nor assets reduced; and

(b) the amount of rent assistance were calculated under the *Veterans' Entitlements Act 1986* as in force immediately before 20 March 1993 (the "floor amount").

(5) Subsection (1) or (3) ceases to apply to a person if:

25 (a) the person ceases to receive a service pension; or

(b) the person ceases to be eligible for rent assistance; or

(c) the amount of rent assistance that would be payable to the person if this section applied is less than (or equal to) the amount of rent assistance that would otherwise be payable; or

30 (d) the Commission considers that there is a significant change in the person's circumstances that would affect the amount of rent assistance that is payable to the person apart from this section.

(6) If:

(a) subsection (1) or (3) ceases to apply to a person; and

35 (b) within 42 days, or such longer period as the Commission determines, of that subsection ceasing to apply to the person, there is a change in the person's circumstances; and

40 (c) the Commission considers that the change in the person's circumstances is so significant that subsection (1) or (3) should apply to the person;

the Commission may determine that subsection (1) or (3) is to apply to the person from a specified date.

- (7) If:
- (a) subsection (1) or (3) applies to a person; and
 - (b) the person becomes a member of a couple; and
 - (c) the person's partner is not a person to whom subsection (1) or (3) applies; and 5
 - (d) the person's partner is not a person to whom clause 63 of Schedule 1A of the *Social Security Act 1991* applies;
- the amount by way of rent assistance to be used to calculate the person's service pension rate and the amount by way of rent assistance to be used to calculate the person's partner's service pension, social security pension, social security benefit or additional family payment rate (if any) is not to fall below one-half of the person's floor amount. 10
- (8) If:
- (a) subsection (1) or (3) applies to a person; and
 - (b) the person becomes a member of a couple; and 15
 - (c) the person's partner is a person to whom subsection (1) or (3) applies;
- the amount by way of rent assistance to be used to calculate the person's and the person's partner's service pension rate is not to fall below one-half of the person's floor amount or one-half of the person's partner's floor amount, whichever is the greater. 20
- (9) If:
- (a) subsection (1) or (3) applies to a person; and
 - (b) the person becomes a member of a couple; and
 - (c) the person's partner is a person to whom clause 63 of Schedule 1A of the *Social Security Act 1991* applies; 25
- the amount by way of rent assistance to be used to calculate the person's service pension rate and the person's partner's social security pension, social security benefit or additional family payment rate is not to fall below one-half of the person's floor amount or one-half of the person's partner's floor amount, whichever is the greater. 30

PART 5—FURTHER AMENDMENTS

Other amendments of the Veterans' Entitlements Act

112. The *Veterans' Entitlements Act 1986* is amended as set out in Schedule 1. 35

Consequential, minor and technical amendments

113. The Acts specified in Schedule 2 are amended as set out in that Schedule.

SCHEDULE 1

Section 112

**AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986
RELATING TO REMOTE AREA ALLOWANCE**

**Section 41 (Service Pension Rate Calculator Where There Are No
Dependent Children—point 41-G2—Table G—column 3):**

Omit the column, substitute:

“

column 3 allowance per year
\$455.00
\$390.00
\$455.00

”.

**Section 41 (Service Pension Rate Calculator Where There Are No
Dependent Children—point 41-G2—Table G—column 4):**

Omit the column, substitute:

“

column 4 allowance per fortnight
\$17.50
\$15.00
\$17.50

”.

SCHEDULE 1—continued

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-H2—Table H—column 3):

Omit the column, substitute:

“

column 3 basic allowance per year
\$455.00
\$390.00
\$455.00

”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-H2—Table H—column 4):

Omit the column, substitute:

“

column 4 basic allowance per fortnight
\$17.50
\$15.00
\$17.50

”.

SCHEDULE 1—continued

**Section 43 (Service Pension Rate Calculator For Blinded Veterans—
point 43-E2—Table E—column 3):**

Omit the column, substitute:

“

column 3 basic allowance per year
\$455.00
\$390.00
\$455.00

”.

**Section 43 (Service Pension Rate Calculator For Blinded Veterans—
point 43-E2—Table E—column 4):**

Omit the column, substitute:

“

column 4 basic allowance per fortnight
\$17.50
\$15.00
\$17.50

”.

**Section 44 (Service Pension Rate Calculator For Widows, Widowers
and Non-illness Separated Spouses—point 44-G2—Table G—
column 3):**

Omit the column, substitute:

“

column 3 allowance per year
\$455.00
\$390.00
\$455.00

”.

SCHEDULE 1—continued

Section 44 (Service Pension Rate Calculator For Widows, Widowers and Non-illness Separated Spouses—point 44-G2—Table G—column 4):

Omit the column, substitute:

“

column 4 allowance per fortnight
\$17.50
\$15.00
\$17.50

”.

SCHEDULE 2

Section 113

CONSEQUENTIAL, MINOR AND TECHNICAL AMENDMENTS

PART 1—AMENDMENTS COMMENCING ON ROYAL ASSENT

Veterans' Entitlements Act 1986

Subsection 5C(1) (paragraph (b) of the definition of “Commonwealth veteran”):

After “services” insert “of the naval, military or air forces”.

Subsection 5H(1):

Omit “in this Act”, substitute “In this Act”.

Subsection 5K(1) (definition of “cash maintenance”):

Omit the definition (but not the Note), substitute:

“‘cash maintenance’, in relation to a person, means maintenance income of the person that consists of the amount of a payment received by the person or by a dependent child of the person:

- (a) that is a periodic amount; or
- (b) that is an amount of \$1,500 or less;”.

After subsection 5K(1):

Insert:

“(1A) For the purposes of subsection (1), an amount is a **periodic amount** if it is:

- (a) the amount of one payment in a series of related payments, even if the payments are irregular in time and amount; or
- (b) the amount of a payment making up for arrears in such a series.”.

Section 43 (Service Pension Rate Calculator For Blinded Veterans—paragraph 43-D2(e)):

Omit the paragraph, substitute:

- “(e) the person would be entitled to an additional amount by way of rent assistance:
- (i) if the Service Pension Rate Calculator Where There Are No Dependent Children applied to the person—under Module C of that Rate Calculator; or
 - (ii) if the Service Pension Rate Calculator Where There Are Dependent Children applied to the person—under Module D of that Rate Calculator.”.

SCHEDULE 2—continued

Section 43 (Service Pension Rate Calculator For Blinded Veterans—point 43-D2—Note 2):

Omit the Note, substitute:

“Note 2: Service Pension Rate Calculator Where There Are No Dependent Children is found in section 41.

Note 3: Service Pension Rate Calculator Where There Are Dependent Children is found in section 42.”.

Section 43 (Service Pension Rate Calculator For Blinded Veterans—point 43-D4):

(a) Omit the point (but not the Notes to the point), substitute:

“43-D4. The rate of rent assistance is:

(a) if the Service Pension Rate Calculator Where There Are No Dependent Children applied to the person—the rate at which rent assistance would be payable to the person under Module C of that Rate Calculator; or

(b) if the Service Pension Rate Calculator Where There Are Dependent Children applied to the person—the rate at which rent assistance would be payable to the person under Module D of that Rate Calculator.”;

(b) Insert before Note 1:

“Note 1: if the Service Pension Rate Calculator Where There Are No Dependent Children (see section 41) applied to the person, the person would be subject to an ordinary income test (Module D), a maintenance income test (Module E) and an assets test (Module F).

Note 2: if the Service Pension Rate Calculator Where There Are No Dependent Children applied to the person and there was to be a reduction in pension rate because of the application of the ordinary income test, the maintenance income test or the assets test, section 40C would govern the order in which the reduction would be made against the components of the maximum payment rate (first against maximum basic rate, then against the rent).”;

(c) Renumber Note 1 as Note 3;

(d) Renumber Note 2 as Note 4.

Section 44 (Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-C11):

Omit “member of couple”, substitute “member of a couple”.

Subsection 46G(1):

Before “income” insert “ordinary”.

Subsection 46G(4):

Before “income” insert “ordinary”.

Subsection 46J(2):

Omit “any only”, substitute “and only”.

SCHEDULE 2—continued

Subsection 46Q(1):

Before “income” insert “ordinary”.

Subsection 46Q(4):

Before “income” insert “ordinary”.

Section 58G:

After “to” insert “subsection (2) and”.

Section 58G:

Add at the end:

“(2) Deductions may be made from instalments of service pension payable to a person if the recipient consents under paragraph 205(2)(c) to the deductions being made.

Note: paragraph 205(2)(c) enables a debt to be recovered from a person other than the debtor if the person is receiving a service pension.”.

Subsection 98(4A):

Omit the subsection, substitute:

“(4A) Attendant allowance is not payable to a veteran if carer service pension under Division 6 of Part III:

- (a) is payable to a person because the person is caring for the veteran; or
- (b) would be payable to a person because the person is caring for the veteran, apart from action taken in relation to that pension:
 - (i) under section 56E (cancellation or suspension) because the person has contravened a provision of this Act (other than subsection 54(6) or 128(4)); or
 - (ii) under subsection 205(2) (deductions to recover overpayments).”.

Subsection 135(2):

Omit the subsection, substitute:

“(2) Where the Commission, upon a review under section 31 of a decision in relation to a pension or attendant allowance, has made a further decision:

- (a) revoking that decision; or
- (b) revoking that decision and substituting a new decision; or
- (c) varying that decision;

the veteran, or the dependant of a deceased veteran, as the case may be, affected by that further decision may make application to the Board for a review:

SCHEDULE 2—continued

- (d) of the further decision of the Commission revoking that previous decision; or
- (e) of the new decision of the Commission that was substituted for that previous decision; or
- (f) of that previous decision as varied by the further decision of the Commission.”.

Subsection 135(6):

Omit the subsection, substitute:

“(6) If:

- (a) the Commission, upon a review under section 31 of a decision (the ‘**original decision**’) of a kind referred to in subsection (1), (2) or (3), has made a further decision:
 - (i) revoking that decision; or
 - (ii) revoking that decision and substituting a new decision;
or
 - (iii) varying that decision; and
- (b) application had not, before the further decision was made, been made to the Board for a review of the original decision;
application is not to be made for a review of the original decision but may be made for a review:
- (c) of the further decision of the Commission revoking the original decision; or
- (d) of the new decision of the Commission that was substituted for the original decision; or
- (e) of the original decision as varied by the further decision of the Commission.

“(7) If:

- (a) the Commission, upon a review under section 31 of a decision (the ‘**original decision**’) of a kind referred to in subsection (1), (2) or (3), has made a further decision:
 - (i) revoking that decision; or
 - (ii) revoking that decision and substituting a new decision;
or
 - (iii) varying that decision; and
- (b) an application had been made to the Board for a review of the original decision but the hearing of the application:
 - (i) had not commenced before the further decision was made;
or
 - (ii) had commenced but was not completed before the further decision was made;

SCHEDULE 2—continued

the application is to be treated as if it were an application made for a review:

- (c) of the further decision of the Commission revoking the original decision; or
- (d) of the new decision of the Commission that was substituted for the original decision; or
- (e) of the original decision as varied by the further decision of the Commission.”.

Seamen's War Pensions and Allowances Act 1940

Subsection 18AA(1) (definition of “relevant period”):

Omit “13 December 1986”, substitute “20 September 1990”.

Subparagraph 18AA(5)(a)(i):

Omit “commences on 13 June”, substitute “starts between 1 January and 30 June (inclusive)”.

Subparagraph 18AA(5)(a)(ii):

Omit “commences on 13 December”, substitute “starts between 1 July and 31 December (inclusive)”.

Subsection 21(11):

Omit the subsection, substitute:

“(11) An allowance under this section is not payable to an Australian mariner if a carer service pension under Part III of the *Veterans' Entitlements Act 1986*:

- (a) is payable to a person because the person is caring for the Australian mariner; or
- (b) would be payable to a person because the person is caring for the Australian mariner, apart from action taken in relation to that pension:
 - (i) under section 56E (cancellation or suspension) of that Act because the person has contravened a provision of that Act (other than subsection 54(6) or 128(4)); or
 - (ii) under subsection 205(2) (deductions to recover overpayments) of that Act.”.

PART 2—AMENDMENTS COMMENCING ON 1 JULY 1991

Veterans' Entitlements Act 1986

Paragraphs 205(1)(c) and (d):

After “this Act,” insert “the Social Security Act,”.

SCHEDULE 2—continued

Paragraph 205(8)(b):

After “under” insert “the Social Security Act or”.

Subparagraph 205AA(b)(ii):

After “under” insert “the Social Security Act or”.

Subsection 205B(1):

After “under” (first occurring) insert “the Social Security Act or”.

Subsection 205B(2):

Omit “*Social Security Act 1947*”, substitute “Social Security Act”.

Social Security Act 1991

Section 1064:

Add at the end:

Rate limited for armed services widower

“(6) If:

- (a) an armed services widower is receiving 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; and
- (b) one of the following is payable to the widower:
 - (i) an age pension;
 - (ii) a disability support pension;
 - (iii) a carer pension;

the rate of pension payable to the widower is not to exceed \$3,122.60.

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

Section 1065:

Add at the end:

Rate limited for certain armed services widowers

“(5) If:

- (a) an armed services widower is receiving 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; and
- (b) an age or disability support pension is payable to the widower;

the rate of pension payable to the widower is not to exceed \$3,122.60.

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

SCHEDULE 2—continued

**PART 3—AMENDMENTS COMMENCING ON 1 JULY 1991,
IMMEDIATELY AFTER THE COMMENCEMENT OF THE
VETERANS' ENTITLEMENTS AMENDMENT ACT 1991**

Veterans' Entitlements Act 1986

After subsection 36P(2):

Insert:

“Note: if a person makes an election, the date of effect of any determination to increase the person's rate of age service pension may, in some circumstances, be the day after the day on which the person's partner died (see subsection 56G(2A)).”.

After subsection 37P(2):

Insert:

“Note: if a person makes an election, the date of effect of any determination to increase the person's rate of invalidity service pension may, in some circumstances, be the day after the day on which the person's partner died (see subsection 56G(2A)).”.

After subsection 38P(2):

Insert:

“Note: if a person makes an election, the date of effect of any determination to increase the person's rate of partner service pension may, in some circumstances, be the day after the day on which the person's partner died (see subsection 56G(2A)).”.

After subsection 39P(3):

Insert:

“Note: if a person makes an election, the date of effect of any determination to increase the person's rate of carer service pension may, in some circumstances, be the day after the day on which the person's partner died (see subsection 56G(2A)).”.

After subsection 39R(2):

Insert:

“Note: if a person makes an election, the date of effect of any determination to increase the person's rate of carer service pension may, in some circumstances, be the day after the day on which the person's partner died (see subsection 56G(2A)).”.

**Section 41 (Service Pension Rate Calculator Where There Are No
Dependent Children—point 41-A1):**

Add at the end:

“Note 6: an amount of remote area allowance is to be added under Step 10 only if the person's rate of pension is greater than nil.”.

**Section 41 (Service Pension Rate Calculator Where There Are No
Dependent Children—before paragraph 41-G1(a)):**

Insert:

“(aa) the person's rate of pension apart from this point is greater than nil; and”.

SCHEDULE 2—continued

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-A1):

Add at the end:

“Note 7: an amount of remote area allowance is to be added under Step 11 only if the person’s rate of pension is greater than nil.”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—before paragraph 42-H1(a)):

Insert:

“(aa) the person’s rate of pension apart from this point is greater than nil; and”.

Section 44 (Service Pension Rate Calculator For Widows, Widowers and Non-illness Separated Spouses—point 44-A1):

Add at the end:

“Note 5: an amount of remote area allowance is to be added under Step 10 only if the person’s rate of pension is greater than nil.”.

Section 44 (Service Pension Rate Calculator For Widows, Widowers and Non-illness Separated Spouses—before paragraph 44-G1(a)):

Insert:

“(aa) the person’s rate of pension apart from this point is greater than nil; and”.

Paragraph 52G(1)(b):

Omit “\$10,000”, substitute “the disposal limit”.

Paragraph 52G(1)(c):

Omit “\$10,000”, substitute “the disposal limit”.

Section 52G:

Add at the end:

“(3) In this section:

‘disposal limit’ means:

- (a) in relation to assets disposed of on or after 1 March 1986 and before 1 March 1991—\$2,000; and
- (b) in relation to assets disposed of on or after 1 March 1991—\$10,000.”.

Paragraph 52H(1)(b):

Omit “\$10,000”, substitute “disposal limit”.

Subparagraph 52H(1)(c)(i):

Omit “\$10,000”, substitute “disposal limit”.

SCHEDULE 2—continued

Subparagraph 52H(1)(d)(i):

Omit “\$10,000”, substitute “disposal limit”.

Section 52H:

Add at the end:

“(6) In this section:

‘disposal limit’ means:

- (a) in relation to assets disposed of on or after 1 March 1986 and before 1 March 1991—\$4,000; and
- (b) in relation to assets disposed of on or after 1 March 1991—\$10,000.”.

Subsection 56(G)(2):

Omit “If”, substitute “Subject to subsections (2A) and (2B), if”.

After subsection 56G(2):

Insert:

“(2A) If:

- (a) the favourable determination is made following the death of the person’s partner; and
- (b) the favourable determination is made because the person elects not to receive bereavement payments; and
- (c) within the bereavement period:
 - (i) the person notifies the Department orally or in writing of their partner’s death; or
 - (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day after the day on which the partner died.

“(2B) If:

- (a) a favourable determination is made following the death of the person’s partner; and
- (b) before the partner died, the partner was receiving a service pension or a pension or allowance mentioned in subparagraph 36P(1)(d)(ii); and
- (c) the favourable determination is made because the person is not eligible to receive bereavement payments; and
- (d) within the period of 4 weeks that starts on the day after the day on which the partner dies;
 - (i) the person notifies the Department orally or in writing of their partner’s death; or
 - (ii) the Secretary otherwise becomes aware of the death;

SCHEDULE 2—continued

the determination takes effect on the day after the day on which the partner died.”.

PART 4—AMENDMENTS COMMENCING ON 1 JANUARY 1993, IMMEDIATELY AFTER THE COMMENCEMENT OF THE SOCIAL SECURITY (FAMILY PAYMENT) AMENDMENT ACT 1992

Veterans' Entitlements Act 1986

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-C3—Note 1):

- (a) Omit “allowance”, substitute “payment under the Social Security Act”.
- (b) Omit “15”, substitute “16.2”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-C3—Note 2):

- (a) Omit “allowance”, substitute “payment under the Social Security Act”.
- (b) Omit “20”, substitute “21.2”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—paragraph 42-D16(f)):

Omit the paragraph, substitute:

“(f) that is similar in nature to family payment under the Social Security Act.”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—paragraph 42-E10(f)):

Omit the paragraph, substitute:

“(f) that is similar in nature to family payment under the Social Security Act.”.

Section 43 (Service Pension Rate Calculator For Blinded Veterans—point 43-C3—Note 1):

- (a) Omit “allowance”, substitute “payment under the Social Security Act”.
- (b) Omit “15”, substitute “16.2”.

Section 43 (Service Pension Rate Calculator For Blinded Veterans—point 43-C3—Note 2):

- (a) Omit “allowance”, substitute “payment under the Social Security Act”.
- (b) Omit “20”, substitute “21.2”.

SCHEDULE 2—continued

Section 44 (Service Pension Rate Calculator For Widows, Widowers and Non-illness Separated Spouses—paragraph 44-C17(f)):

Omit the paragraph, substitute:

“(f) that is similar in nature to family payment under the Social Security Act”.

Section 44 (Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—paragraph 44-D8(f)):

Omit the paragraph, substitute:

“(f) that is similar in nature to family payment under the Social Security Act”.

Section 53 (Fringe Benefits Income Test Calculator—paragraph 53B-9(f)):

Omit the paragraph, substitute:

“(f) that is similar in nature to family payment under the Social Security Act”.

Subsection 59F(1):

Omit “pension under 13 child add-on” (second occurring), substitute “AFP under 13 child MBR”.

After subsection 59F(1):

Insert:

“Note: AFP under 13 child MBR is the maximum basic rate of additional family payment for a child who has not turned 13.”.

Subsection 59F(2):

Omit “pension 13-15 child add-on” (second occurring), substitute “AFP 13-15 child MBR”.

Section 59F:

Add at the end:

“Note: AFP 13-15 child MBR is the maximum basic rate of additional family payment for a child who has turned 13 but has not turned 16.”.

Section 59G:

Omit “pension” (second occurring).

NOTES

1. No 43, 1918, as amended. For previous amendments, see No. 28, 1919; No. 35, 1920; No. 18, 1923; No. 26, 1925; No. 47, 1926; No. 17, 1927; No. 13, 1929; Nos. 6 and 68, 1932; No. 63, 1934; No. 54, 1935; No. 25, 1937; No. 1, 1941; No. 8, 1946; Nos. 1, 38 and 71, 1947; No. 67, 1948; No. 24, 1949; No. 74, 1951; No. 69, 1954; No. 69, 1955; No. 100, 1956; No. 73, 1961; Nos. 2 and 93, 1962; Nos. 65 and 93, 1966; No. 3, 1967; No. 99, 1968; No. 120, 1971; Nos. 31 and 216, 1973; No. 125, 1974; No. 25, 1975; No. 185, 1976; No. 79, 1977; Nos. 36 and 137, 1978; Nos. 4 and 128, 1980; No. 80, 1982; No. 70, 1983; No. 72, 1984; Nos. 28 and 29, 1986; No. 124, 1988; Nos. 86 and 93, 1989; Nos. 2, 14, 73, 74 and 208, 1991; and No. 70, 1992.
2. No. 60, 1940, as amended. For previous amendments, see No. 77, 1946; No. 80, 1950; Nos. 17 and 75, 1952; No. 70, 1953; No. 32, 1954; No. 40, 1955; No. 45, 1957; No. 48, 1958; No. 59, 1959; No. 46, 1960; No. 47, 1961; Nos. 64 and 113, 1964; No. 65, 1965; No. 43, 1966; No. 102, 1967; No. 67, 1968; No. 96, 1969; No. 61, 1970; Nos. 18 and 69, 1971; Nos. 16 and 83, 1972; Nos. 6 and 106, 1973; Nos. 4, 25 and 90, 1974; Nos. 35 and 111, 1975; Nos. 27, 91 and 112, 1976; No. 56, 1977; No. 129, 1978; Nos. 18 and 124, 1979; No. 129, 1980; No. 160, 1981; Nos. 80 and 100, 1982; No. 70, 1983; Nos. 93 and 97, 1984; Nos. 90, 95 and 127, 1985; Nos. 28, 29 and 106, 1986; Nos. 78, 88 and 130, 1987; Nos. 35 and 134, 1988; Nos. 163 and 164, 1989; No. 119, 1990; Nos. 2, 70 and 73, 1991; and Nos. 70 and 94, 1992.
3. No. 27, 1986, as amended. For previous amendments, see Nos. 106 and 130, 1986; Nos. 78, 88 and 130, 1987; Nos. 13, 35, 75, 99, 134 and 135, 1988; Nos. 59, 83, 84, 93, 163 and 164, 1989; Nos. 56, 84 and 119, 1990; Nos. 2, 72, 73, 74 and 208, 1991; and Nos. 12, 51, 70 and 94, 1992.

*[Minister's second reading speech made in—
House of Representatives on 4 November 1992
Senate on 12 November 1992]*