



Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994

No. 98 of 1994

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**FURTHER AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT
1986 RELATING TO DIVISION 6 OF PART 2**

SCHEDULE 3

**FURTHER AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT
1986 RELATING TO DIVISION 7 OF PART 2**



Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994

No. 98 of 1994

An Act to amend the *Veterans' Entitlements Act 1986*, and for related purposes

[Assented to 30 June 1994]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994*.

Commencement

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

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(2) Divisions 1 and 4 of Part 2 are taken to have commenced on 1 June 1994.

(3) Division 3 of Part 2 and Part 3 commence on 1 July 1994.

(4) Division 5 of Part 2 commences on 1 January 1995.

(5) Divisions 6 and 7 of Part 2 commence on 20 March 1995.

(6) Part 4 commences on 30 March 1995.

Application

3. The amendments made by Division 4 of Part 2:

- (a) apply to claims for pension under section 14 of the *Veterans' Entitlements Act 1986* that are made on or after 1 June 1994; and
- (b) apply to applications for an increase in the rate of a pension under section 15 of the *Veterans' Entitlements Act 1986* that are made on or after 1 June 1994.

**PART 2—AMENDMENTS OF THE VETERANS'
ENTITLEMENTS ACT 1986**

Division 1—Principal Act

Principal Act

4. In this Part, “**Principal Act**” means the *Veterans' Entitlements Act 1986*¹.

*Division 2—Determination of claims for pensions by reference to
Statement of Principles*

Index of definitions

5. Section 5 of the Principal Act is amended by inserting the following entries in their respective appropriate alphabetical positions (determined on a letter-by-letter basis):

“Chairperson	5AB(1)
Convener	5AB(1)
councillor	5AB(1)
defence service	5Q(1A), 68
hazardous service	5Q(1A), 68(1), 120(7)
member	5AB(1)
member of a Peacekeeping Force	5Q(1A), 68(1)
member of the Forces	5Q(1A), 68(1)
peacekeeping service	5Q(1A), 68(1)
registered medical practitioner	5AB(1)
Review Council	5AB(1)
sound medical-scientific evidence	5AB(2)”.

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Insertion of section

6. After section 5A of the Principal Act the following section is inserted:

Repatriation Medical Authority and Specialist Medical Review Council definitions

“5AB.(1) In this Act, unless the contrary intention appears:

‘Chairperson’ means the Chairperson of the Repatriation Medical Authority;

‘Convener’ means the Convener of the Review Council;

‘councillor’ means the Convener or any other person holding office as a member of the Review Council;

‘member’ means the Chairperson or any other person holding office as a member of the Repatriation Medical Authority;

‘registered medical practitioner’ means a person registered or licensed as a medical practitioner under a law of a State or Territory but does not include a person so registered or licensed:

- (a) whose registration, or licence to practice, as a medical practitioner in any State or Territory has been suspended, or cancelled, following an inquiry relating to his or her conduct; and
- (b) who has not, after that suspension or cancellation, again been authorised to register or practise as a medical practitioner in that State or Territory;

‘Review Council’ means the Specialist Medical Review Council established by section 196V;

‘sound medical-scientific evidence’, in relation to a particular kind of injury, disease or death, has the meaning given by subsection (2).

“(2) Information about a particular kind of injury, disease or death is taken to be **sound medical-scientific evidence** if:

- (a) the information:
 - (i) is consistent with material relating to medical science that has been published in a medical or scientific publication and has been, in the opinion of the Repatriation Medical Authority, subjected to a peer review process; or
 - (ii) in accordance with generally accepted medical practice, would serve as the basis for the diagnosis and management of a medical condition; and
- (b) in the case of information about how that kind of injury, disease or death may be caused—meets the applicable criteria for assessing causation currently applied in the field of epidemiology.”.

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General definitions

7. Section 5Q of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) In Parts VIII, XI and XIA, unless the contrary intention appears:
‘defence service’ has the same meaning as in Part IV;
‘hazardous service’, in relation to a member of the Forces, has the same meaning as in section 120.
‘member of a Peacekeeping Force’ has the same meaning as in Part IV;
‘member of the Forces’ has the same meaning as in Part IV;
‘peacekeeping service’ has the same meaning as in Part IV.”.

Standard of proof

8. Section 120 of the Principal Act is amended:

(a) by inserting at the end of subsection (1) the following Note:

“Note: This subsection is affected by section 120A.”;

(b) by inserting at the end of subsection (2) the following Notes:

“Note 1: For ‘member of a Peacekeeping Force’, ‘peacekeeping service’, ‘member of the Forces’ and ‘hazardous service’ see subsection 5Q(1A).

Note 2: This subsection is affected by section 120A.”;

(c) by inserting at the end of subsection (3) the following Note:

“Note: This subsection is affected by section 120A.”;

(d) by inserting at the end of subsection (4) the following Note:

“Note: This subsection is affected by section 120B.”;

(e) by omitting paragraph (7)(a).

Insertion of sections

9. After section 120 of the Principal Act the following sections are inserted:

Reasonableness of hypothesis to be assessed by reference to Statement of Principles

“120A.(1) This section applies to any of the following claims made on or after 1 June 1994:

(a) a claim under Part II that relates to the operational service rendered by a veteran;

(b) a claim under Part IV that relates to:

(i) the peacekeeping service rendered by a member of a Peacekeeping Force; or

(ii) the hazardous service rendered by a member of the Forces.

Note 1: Subsections 120(1), (2) and (3) are relevant to these claims.

Note 2: For ‘peacekeeping service’, ‘member of a Peacekeeping Force’, ‘hazardous service’ and ‘member of the Forces’ see subsection 5Q(1A).

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“(2) If the Repatriation Medical Authority has given notice under section 196G that it intends to carry out an investigation in respect of a particular kind of injury, disease or death, the Commission is not to determine a claim in respect of the incapacity of a person from an injury or disease of that kind, or in respect of a death of that kind, unless or until the Authority:

- (a) has determined a Statement of Principles under subsection 196B(2) in respect of that kind of injury, disease or death; or
- (b) has declared that it does not propose to make such a Statement of Principles.

“(3) For the purposes of subsection 120(3), a hypothesis connecting an injury suffered by a person, a disease contracted by a person or the death of a person with the circumstances of any particular service rendered by the person is reasonable only if there is in force:

- (a) a Statement of Principles determined under subsection 196B(2) or (11); or
- (b) a determination of the Commission under subsection 180A(2);

that upholds the hypothesis.

Note: See subsection (4) about the application of this subsection.

“(4) Subsection (3) does not apply in relation to a claim in respect of the incapacity from injury or disease, or the death, of a person if the Authority has neither determined a Statement of Principles under subsection 196B(2), nor declared that it does not propose to make such a Statement of Principles, in respect of:

- (a) the kind of injury suffered by the person; or
- (b) the kind of disease contracted by the person; or
- (c) the kind of death met by the person;

as the case may be.

Reasonable satisfaction to be assessed in certain cases by reference to Statement of Principles

“120B.(1) This section applies to any of the following claims made on or after 1 June 1994:

- (a) a claim under Part II that relates to the eligible war service (other than operational service) rendered by a veteran;
- (b) a claim under Part IV that relates to the defence service (other than hazardous service) rendered by a member of the Forces.

Note 1: Subsection 120(4) is relevant to these claims.

Note 2: For ‘hazardous service’ and ‘member of the Forces’ see subsection 5Q(1A).

“(2) If the Repatriation Medical Authority has given notice under section 196G that it intends to carry out an investigation in respect of a particular kind of injury, disease or death, the Commission is not to

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determine a claim in respect of the incapacity of a person from an injury or disease of that kind, or in respect of a death of that kind, unless or until the Authority:

- (a) has determined a Statement of Principles under subsection 196B(3) in respect of that kind of injury, disease or death; or
- (b) has declared that it does not propose to make such a Statement of Principles.

“(3) In applying subsection 120(4) to determine a claim, the Commission is to be reasonably satisfied that an injury suffered by a person, a disease contracted by a person or the death of a person was war-caused or defence-caused only if:

- (a) the material before the Commission raises a connection between the injury, disease or death of the person and some particular service rendered by the person; and
- (b) there is in force:
 - (i) a Statement of Principles determined under subsection 196B(3) or (12); or
 - (ii) a determination of the Commission under subsection 180A(3);

that upholds the contention that the injury, disease or death of the person is, on the balance of probabilities, connected with that service.

“(4) Subsection (3) does not apply in relation to a claim in respect of the incapacity from injury or disease, or the death, of a person if the Authority has neither determined a Statement of Principles under subsection 196B(3), nor declared that it does not propose to make such a Statement of Principles, in respect of:

- (a) the kind of injury suffered by the person; or
- (b) the kind of disease contracted by the person; or
- (c) the kind of death met by the person;

as the case may be.”.

Insertion of section

10. After section 180 of the Principal Act the following section is inserted:

Determination by Commission

“180A.(1) If:

- (a) the Repatriation Medical Authority has determined, or has declared that it does not propose to make or amend, a Statement of Principles in respect of a particular kind of injury, disease or death (see section 196B); and

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- (b) the Commission is of the opinion that, because the Statement of Principles is in force, or because of the decision by the Authority not to make or amend the Statement of Principles:
 - (i) claims for pensions in respect of incapacity from injury or disease of that kind made by veterans, members of the Forces, or members of a Peacekeeping Force, of a particular class; or
 - (ii) claims for pensions made by dependants of those veterans or members in respect of the death of such a veteran or member; cannot succeed; and
- (c) the Commission is also of the opinion that, in all the circumstances of the case, those veterans, members or their dependants should receive a pension;

the Commission may, in its discretion, make a determination in respect of that kind of injury, disease or death under subsection (2) or (3), or determinations under both subsections (as the case requires).

Note: For 'member of the Forces' and 'member of a Peacekeeping Force' see subsection 5Q(1A).

“(2) A determination under this subsection in respect of a particular kind of injury, disease or death must be in writing and must:

- (a) state that it has effect only in relation to the class of veterans, members of the Forces, or members of a Peacekeeping Force referred to in subparagraph (1)(b)(i); and
- (b) state that it applies only in respect of claims relating to:
 - (i) operational service rendered by a veteran; or
 - (ii) peacekeeping service rendered by a member of a Peacekeeping Force; or
 - (iii) hazardous service rendered by a member of the Forces; and
- (c) set out:
 - (i) the factors that must as a minimum exist; and
 - (ii) which of those factors must be related to service rendered by a person;

before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

Note 1: For 'peacekeeping service' and 'hazardous service' see subsection 5Q(1A).

Note 2: For 'factor related to service' see subsection (7).

“(3) A determination under this subsection in respect of a particular kind of injury, disease or death must be in writing and must:

- (a) state that it has effect only in relation to the class of veterans or members of the Forces referred to in subparagraph (1)(b)(i); and

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- (b) state that it applies only in respect of claims relating to:
 - (i) eligible war service (other than operational service) rendered by a veteran; or
 - (ii) defence service (other than hazardous service) rendered by a member of the Forces; and
- (c) set out:
 - (i) the factors that must exist; and
 - (ii) which of those factors must be related to service rendered by a person;

before it can be said, on the balance of probabilities, that an injury, disease or death of that kind is connected with the circumstances of that service.

Note 1: For 'defence service' and 'hazardous service' see subsection 5Q(1A).

Note 2: For 'factor related to service' see subsection (7).

“(4) A determination under subsection (2) or (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

“(5) While there is in force under subsection (2) a determination in respect of a particular kind of injury, disease or death, any Statement of Principles in force under subsection 196B(2) in respect of that kind of injury, disease or death does not apply in respect of any veteran, member of the Forces, member of any Peacekeeping Force or dependant in relation to whom the determination has effect.

“(6) While there is in force under subsection (3) a determination in respect of a particular kind of injury, disease or death, any Statement of Principles in force under subsection 196B(3) in respect of that kind of injury, disease or death does not apply in respect of any veteran or member of the Forces or dependant in relation to whom the determination has effect.

“(7) A factor causing, or contributing to, an injury, disease or death is **related to service** rendered by a person if:

- (a) it resulted from an occurrence that happened while the person was rendering that service; or
- (b) it arose out of, or was attributable to, that service; or
- (c) it resulted from an accident that occurred while the person was travelling, while rendering that service but otherwise than in the course of duty, on a journey:
 - (i) to a place for the purpose of performing duty; or
 - (ii) away from a place of duty upon having ceased to perform duty;or
- (d) it was contributed to in a material degree by, or was aggravated by, that service; or

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- (e) in the case of a factor causing, or contributing to, an injury—it resulted from an accident that would not have occurred:
 - (i) but for the rendering of that service by the person; or
 - (ii) but for changes in the person's environment consequent upon his or her having rendered that service; or
- (f) in the case of a factor causing, or contributing to, a disease—it would not have occurred:
 - (i) but for the rendering of that service by the person; or
 - (ii) but for changes in the person's environment consequent upon his or her having rendered that service; or
- (g) in the case of a factor causing, or contributing to, the death of a person—it was due to an accident that would not have occurred, or to a disease that would not have been contracted:
 - (i) but for the rendering of that service by the person; or
 - (ii) but for changes in the person's environment consequent upon his or her having rendered that service.”.

Insertion of Parts

11. After Part XI of the Principal Act the following Parts are inserted:

“PART XIA—THE REPATRIATION MEDICAL AUTHORITY

“Division 1—Establishment, functions and powers

Establishment of Authority

“196A.(1) A Repatriation Medical Authority is established.

“(2) The Repatriation Medical Authority:

- (a) is a body corporate with perpetual succession; and
- (b) has a common seal; and
- (c) may sue and be sued.

“(3) All courts, judges and persons acting judicially must:

- (a) take judicial notice of the imprint of the seal of the Authority appearing on a document; and
- (b) presume that the document was duly sealed.

“(4) Debts incurred by the Authority in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

Functions of Authority

“196B.(1) This section sets out the functions of the Repatriation Medical Authority.

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Determination of Statement of Principles

“(2) If the Authority is of the view that there is sound medical-scientific evidence that indicates that a particular kind of injury, disease or death can be related to:

- (a) operational service rendered by veterans; or
- (b) peacekeeping service rendered by members of Peacekeeping Forces;
or
- (c) hazardous service rendered by members of the Forces;

the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out:

- (d) the factors that must as a minimum exist; and
- (e) which of those factors must be related to service rendered by a person;

before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

Note 1: For ‘sound medical-scientific evidence’ see subsection 5AB(2).

Note 2: For ‘peacekeeping service’, ‘member of a Peacekeeping Force’, ‘hazardous service’ and ‘member of the Forces’ see subsection 5Q(1A).

Note 3: For ‘factor related to service’ see subsection (14).

“(3) If the Authority is of the view that on the sound medical-scientific evidence available it is more probable than not that a particular kind of injury, disease or death can be related to:

- (a) eligible war service (other than operational service) rendered by veterans; or
- (b) defence service (other than hazardous service) rendered by members of the Forces;

the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out:

- (c) the factors that must exist; and
- (d) which of those factors must be related to service rendered by a person;

before it can be said that, on the balance of probabilities, an injury, disease or death of that kind is connected with the circumstances of that service.

Note 1: For ‘sound medical-scientific evidence’ see subsection 5AB(2).

Note 2: For ‘defence service’ and ‘hazardous service’ see subsection 5Q(1A).

Note 3: For ‘factor related to service’ see subsection (14).

Investigation

“(4) If the Authority:

- (a) receives a request under section 196E to carry out an investigation in respect of a particular kind of injury, disease or death; or

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- (b) of its own initiative, decides that a particular kind of injury, disease or death ought to be investigated for the purposes of this Act to find out whether a Statement of Principles may be determined in respect of it;

the Authority must carry out an investigation to obtain information that would enable the Authority to establish:

- (c) how the injury may be suffered, the disease may be contracted or the death may occur; and
- (d) the extent (if any) to which the injury, disease or death may be war-caused or defence-caused.

Note 1: For 'war-caused' see sections 8 and 9.

Note 2: For 'defence-caused' see section 69.

“(5) If, after carrying out the investigation, the Authority is of the view that there is sound medical-scientific evidence on which it can rely to determine a Statement of Principles under subsection (2) or (3), in respect of that kind of injury, disease or death, the Authority must do so as soon as practicable.

Note: This subsection does not mean that the Authority must carry out an investigation before it can determine a Statement of Principles under subsection (2) or (3).

“(6) If, after carrying out the investigation, the Authority is of the view:

- (a) that there is no sound medical-scientific evidence on which it can rely to determine a Statement of Principles under subsection (2) or (3) in respect of that kind of injury, disease or death; or
- (b) that the sound medical-scientific evidence on which it can rely is insufficient to allow it to do so;

the Authority must make a declaration in writing:

- (c) stating that it does not propose to make a Statement of Principles; and
- (d) giving the reasons for its decision.

Subsequent investigation and review of determinations concerning Statement of Principles

“(7) If the Authority:

- (a) is asked under section 196E to review:
 - (i) the contents of a Statement of Principles; or
 - (ii) a decision of the Authority not to make a Statement of Principles in respect of a particular kind of injury, disease or death; or
- (b) thinks that there are grounds for such a review; or
- (c) is directed by the Review Council under subsection 196W(7) to carry out an investigation in respect of a particular kind of injury, disease or death;

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the Authority must, subject to subsection 196C(4) in a case where paragraph (a) applies, carry out an investigation to find out if there is new information available about:

- (d) how the injury may be suffered, the disease may be contracted or the death may occur; or
- (e) the extent to which the disease, injury or death may be war-caused or defence-caused.

“(8) If, after carrying out the investigation, the Authority is of the view that there is a new body of sound medical-scientific evidence available that, together with the sound medical-scientific evidence previously considered by the Authority, justifies the making of a Statement of Principles, or an amendment of the Statement of Principles already determined, in respect of that kind of injury, disease or death, the Authority must:

- (a) determine a Statement of Principles in respect of that kind of injury, disease or death under subsection (2) or (3); or
- (b) make a determination amending the Statement of Principles determined under subsection (2) or (3) in respect of that kind of injury, disease or death; or
- (c) revoke the Statement of Principles determined under subsection (2) or (3), and determine a new Statement of Principles under subsection (2) or (3) in respect of that kind of injury, disease or death;

as the case requires.

Note: For ‘sound medical-scientific evidence’ see subsection 5AB(2).

“(9) If, after carrying out the investigation, the Authority is of the view:

- (a) that there is no new sound medical-scientific evidence about that kind of injury, disease or death; or
- (b) that the new sound medical-scientific evidence available is not sufficient to justify the making of a Statement of Principles, or an amendment of the Statement of Principles already determined in respect of that kind of injury, disease or death;

the Authority must make a declaration in writing:

- (c) stating that it does not propose to make a Statement of Principles, or amend the Statement of Principles already determined (as the case may be); and
- (d) giving the reasons for its decision.

“(10) If the Review Council has, by a decision notified in the *Gazette*, directed the Authority to amend a Statement of Principles in respect of a particular kind of injury, disease or death, the Authority must make a

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determination amending the Statement of Principles determined in respect of that kind of injury, disease or death in accordance with the directions of the Council.

“(11) If, after reviewing a decision of the Authority not to determine a Statement of Principles under subsection 196B(2) in respect of a particular kind of injury, disease or death, the Review Council has, by a decision notified in the *Gazette*, directed the Authority to make such a Statement of Principles, the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out, in accordance with the directions of the Council:

- (a) the factors that must as a minimum exist; and
- (b) which of those factors must be related to service rendered by a person;

before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

Note: For ‘factor related to service’ see subsection (14).

“(12) If, after reviewing a decision of the Authority not to determine a Statement of Principles under subsection 196B(3) in respect of a particular kind of injury, disease or death, the Review Council has, by a decision notified in the *Gazette*, directed the Authority to make such a Statement of Principles, the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out, in accordance with the directions of the Council:

- (a) the factors that must exist; and
- (b) which of those factors must be related to service rendered by a person;

before it can be said that, on the balance of probabilities, an injury, disease or death of that kind is connected with the circumstances of that service.

Note: For ‘factor related to service’ see subsection (14).

“(13) A determination under subsection (10) amending a Statement of Principles, or a Statement of Principles under subsection (11) or (12) is to be taken to have had effect from the day on which the decision of the Review Council was notified in the *Gazette*. The determination or Statement of Principles must specify that day.

“(14) A factor causing, or contributing to, an injury, disease or death is **related to service** rendered by a person if:

- (a) it resulted from an occurrence that happened while the person was rendering that service; or
- (b) it arose out of, or was attributable to, that service; or

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- (c) it resulted from an accident that occurred while the person was travelling, while rendering that service but otherwise than in the course of duty, on a journey:
 - (i) to a place for the purpose of performing duty; or
 - (ii) away from a place of duty upon having ceased to perform duty;
or
- (d) it was contributed to in a material degree by, or was aggravated by, that service; or
- (e) in the case of a factor causing, or contributing to, an injury—it resulted from an accident that would not have occurred:
 - (i) but for the rendering of that service by the person; or
 - (ii) but for changes in the person's environment consequent upon his or her having rendered that service; or
- (f) in the case of a factor causing, or contributing to, a disease—it would not have occurred:
 - (i) but for the rendering of that service by the person; or
 - (ii) but for changes in the person's environment consequent upon his or her having rendered that service; or
- (g) in the case of a factor causing, or contributing to, the death of a person—it was due to an accident that would not have occurred, or to a disease that would not have been contracted:
 - (i) but for the rendering of that service by the person; or
 - (ii) but for changes in the person's environment consequent upon his or her having rendered that service.

Powers of Authority with respect to investigations

“196C.(1) The Repatriation Medical Authority may not, for the purposes of an investigation, carry out any new research work (including any test or experiment).

“(2) The Authority may, for the purposes of an investigation, ask the Secretary:

- (a) to forward to the Authority any information:
 - (i) in the possession of the Secretary; or
 - (ii) that the Secretary may obtain;
relating to the kind of injury, disease or death under investigation; or
- (b) to carry out research (including any test or experiment) to obtain, confirm, or disprove, specific information about that kind of injury, disease or death and forward a report to the Authority.

“(3) In forming any view during the investigation, the Authority:

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- (a) may rely only on sound medical-scientific evidence:
 - (i) that has been submitted to it; or
 - (ii) that it has obtained on its own initiative or from the Secretary (under subsection (2)) or from a consultant; and
- (b) must consider and evaluate all the evidence so made available to it.

“(4) If:

- (a) the Authority has carried out the investigation in respect of a particular kind of injury, disease or death; and
- (b) within 12 months after the Authority has, at the end of the investigation:
 - (i) determined or amended a Statement of Principles; or
 - (ii) declared that it does not propose to make or amend a Statement of Principles;

a person or organisation asks the Authority under section 196E to review:

- (iii) the contents of the Statement of Principles; or
 - (iv) its decision not to make a Statement of Principles; and
 - (c) the Authority thinks that there are no grounds for such a review;
- the Authority may decide not to carry out an investigation in respect of that kind of injury, disease or death. The Authority must then inform the person or organisation in writing of its decision, stating the reasons for it.

Disallowable instrument

“196D. A determination of the Repatriation Medical Authority under section 196B is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Request for an investigation, review etc.

“196E.(1) Any of the following:

- (a) the Commission;
- (b) a person eligible to make a claim for a pension under Part II or IV;
- (c) an organisation representing veterans, Australian mariners, members of the Forces, members of Peacekeeping Forces or their dependants;

may ask the Repatriation Medical Authority:

- (d) to carry out an investigation under subsection 196B(4) in respect of a particular kind of injury, disease or death; or
- (e) to review a decision of the Authority under subsection 196B(6) not to make a Statement of Principles in respect of a particular kind of injury, disease or death; or

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(f) to review the contents of a Statement of Principles in force under this Part.

“(2) The request must:

- (a) be in a form approved by the Authority; and
- (b) must be lodged at an office of the Department.

“(3) The Secretary must send the request to the Repatriation Medical Authority within 28 days.

Submissions to the Authority

“196F.(1) If the Repatriation Medical Authority is carrying out an investigation under subsection 196B(4) or (7), any person referred to in paragraph 196E(1)(a) or (b) or organisation referred to in paragraph 196E(1)(c) may make a submission in writing to the Authority on any matter (other than a legal matter) relevant to the investigation.

“(2) A person having expertise in a field relevant to the investigation may make a submission in writing to the Authority on any matter (other than a legal matter) within his or her expertise that is relevant to the investigation.

“(3) If an individual, the Commission or an organisation has made a written submission, the individual or his or her representative, or a representative of the Commission or of the organisation may, subject to subsection (4), appear before the Authority to make an oral submission complementing the written submission. The oral submission may not cover any legal matter.

“(4) A person or organisation may not be represented before the Authority by a legal practitioner.

Notice of investigation

“196G.(1) As soon as practicable after the Repatriation Medical Authority:

- (a) has been asked under section 196E to carry out:
 - (i) an investigation; or
 - (ii) a review of a decision of the Authority not to make a Statement of Principles; or
 - (iii) a review of the contents of a Statement of Principles; regarding a particular kind of injury, disease or death; or
- (b) has decided on its own initiative to carry out such an investigation or such a review;

the Authority must publish in the *Gazette* a notice:

- (c) stating that the Authority intends to carry out an investigation in respect of that kind of injury, disease or death; and

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(d) inviting persons or organisations authorised under subsection 196F(1) to do so to make written submissions to the Authority.

“(2) A notice is to specify:

- (a) the date on which the Authority will hold its first meeting for the purposes of the investigation; and
- (b) the date by which all submissions must have been received by the Authority.

“(3) A notice must be published in the *Gazette* at least 28 days before the date of the first meeting of the Authority.

“(4) A notice is not invalid merely because it fails to comply with subsection (2).

Copyright in submissions

“196H.(1) The Repatriation Medical Authority is not the owner of any copyright subsisting in material (**‘submitted material’**) contained in a submission made to the Authority for the purposes of an investigation under section 196B.

“(2) In spite of the *Copyright Act 1968*, the Authority does not infringe any copyright subsisting in submitted material if, in performing its functions or exercising its powers, the Authority does an act comprised in the copyright without the licence of the owner of the copyright.

Access to information

“196I.(1) Subject to subsection (2), a person referred to in paragraph 196E(1)(a) or (b), or an organisation referred to in paragraph 196E(1)(c), is entitled, on request made in writing to the Repatriation Medical Authority, to have reasonable access to any document containing information considered by the Authority for the purposes of an investigation.

“(2) The Authority may not disclose any personal information about a particular person if the information is likely to reveal the identity of that person.

Notice of decision not to make etc. Statement of Principles

“196J.(1) When the Repatriation Medical Authority decides not to make, or not to review, a Statement of Principles, it must, within 14 days, notify the Commission in writing of its decision.

“(2) If the decision is made following a request from a person or organisation under section 196E, the Authority must also notify the person or organisation in writing of its decision.

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Repatriation Medical Authority to send information to Review Council

“196K. The Repatriation Medical Authority must, within 28 days after being notified that the Review Council has been asked to review:

- (a) a Statement of Principles; or
- (b) its decision not to determine a Statement of Principles in respect of a particular kind of injury, disease or death; or
- (c) its decision under subsection 196C(4) not to carry out an investigation in respect of a particular kind of injury, disease or death;

send to the Council a copy of all the information that was available to it when it:

- (d) determined, amended, or last amended, the Statement of Principles; or
- (e) decided, or last decided, not to determine a Statement of Principles in respect of that kind of injury, disease or death; or
- (f) decided not to carry out the investigation.

“Division 2—Constitution and meetings

Membership

“196L.(1) The Repatriation Medical Authority consists of a Chairperson and 4 other members.

“(2) All members are to be appointed on a part-time basis by the Minister.

“(3) One of the members must be a person having at least 5 years experience in the field of epidemiology.

Qualifications

“196M. The Minister is to appoint a person as Chairperson or as a member only if the person is a registered medical practitioner, or a medical scientist, with at least 10 years experience.

Tenure of office

“196N.(1) Subject to this Act, a person appointed as Chairperson or as a member holds office for the period specified in the instrument of appointment.

“(2) A person may not hold office for a period of more than 5 years but is eligible for reappointment.

Resignation

“196O. A member may resign from office by written notice given to the Minister.

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Termination of appointment

“196P. The Minister may terminate the appointment of a person as Chairperson or as a member:

- (a) for misbehaviour or for physical or mental incapacity; or
- (b) if he or she becomes bankrupt, applies to take the benefit of a law for the relief of bankruptcy or insolvent debtors, compounds with his or her creditors or assigns remuneration or property for their benefit.

Acting Chairperson

“196Q. The Minister may appoint a member to act as Chairperson:

- (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Chairperson is absent from office.

Meetings

“196R.(1) The Chairperson may convene meetings of the Repatriation Medical Authority as he or she considers necessary for the performance of its functions. The Chairperson may delegate this power to another member or to a member of the staff of the Authority.

“(2) The Chairperson presides at all meetings of the Authority.

“(3) At a meeting, 3 members constitute a quorum.

“(4) A question arising at a meeting is to be determined by a majority of votes of the members present and voting. The Chairperson has only a deliberative vote.

“(5) The Authority must keep minutes of the proceedings at each meeting.

“(6) Subject to this section, the Authority determines the procedures for convening its meetings and for conducting its business.

Remuneration and allowances

“196S.(1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, a member shall be paid such remuneration as the Minister determines in writing.

“(2) A member shall be paid such allowances as the Minister determines in writing.

“(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

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“Division 3—Staff and Consultants

Staff

“196T. The staff necessary to assist the Repatriation Medical Authority consists of persons appointed or employed under the *Public Service Act 1922* and made available to the Authority by the Secretary.

Consultants

“196U.(1) The Repatriation Medical Authority may, under written agreement, engage consultants to provide expert advice to the Authority about any disease, injury or death that the Authority is investigating.

“(2) The Authority may not engage a consultant without the approval of the Minister.

“PART XIB—THE SPECIALIST MEDICAL REVIEW COUNCIL

“Division 1—Establishment and functions

Establishment of Council

“196V.(1) A Specialist Medical Review Council is established.

“(2) The Review Council:

- (a) is a body corporate with perpetual succession; and
- (b) has a common seal; and
- (c) may sue and be sued.

“(3) All courts, judges and persons acting judicially must:

- (a) take judicial notice of the imprint of the seal of the Review Council appearing on a document; and
- (b) presume that the document was duly sealed.

“(4) Debts incurred by the Review Council in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

Functions of Review Council

“196W.(1) This section sets out the functions of the Review Council.

“(2) If the Council is asked under section 196Y to review:

- (a) the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; or
- (b) a decision of the Repatriation Medical Authority not to determine a Statement of Principles under subsection 196B(2), or a Statement of Principles under subsection 196B(3), in respect of a particular kind of injury, disease or death;

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subject to subsection (3), the Council must, for that purpose, carry out a review of all the information that was available to the Authority when it:

(c) determined, amended, or last amended, the Statement of Principles;
or

(d) decided, or last decided, not to determine a Statement of Principles;
in respect of that kind of injury, disease or death.

“(3) If the Council has been asked to review the contents of a Statement of Principles, the Council may carry out a review under subsection (2) only if:

(a) the period within which the Statement of Principles may be disallowed under section 48 of the *Acts Interpretation Act 1901* has ended; and

(b) the Statement of Principles has not been disallowed.

“(4) If after carrying out the review, the Council is of the view that there is sound medical-scientific evidence on which the Authority could have relied:

(a) to amend the Statement of Principles in force in respect of that kind of injury, disease or death; or

(b) to determine a Statement of Principles under subsection 196B(2), or a Statement of Principles under subsection 196B(3), in respect of that kind of injury, disease or death;

the Council must make a declaration in writing stating its views, setting out the evidence in support and:

(c) directing the Authority to amend the Statement of Principles, or determine a Statement of Principles (as the case may be), in accordance with the directions given by the Council; or

(d) remitting the matter for reconsideration in accordance with any directions or recommendations of the Council.

“(5) If, after carrying out the review, the Council is of the view:

(a) that there is no sound medical-scientific evidence that justifies the making of a Statement of Principles, or an amendment of the Statement of Principles in force, in respect of that kind of injury, disease or death; or

(b) that the sound medical-scientific evidence available to the Authority is insufficient to justify the making of a Statement of Principles, or an amendment of the Statement of Principles, in respect of that kind of injury, disease or death;

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the Council must make a declaration in writing to that effect giving the reasons for its decision. The Council may include in the declaration any recommendation that it considers fit to make about any future investigation that the Authority may carry out in respect of that kind of injury, disease or death.

“(6) If the Council is asked under section 196Z to review a decision of the Repatriation Medical Authority under subsection 196C(4) not to carry out an investigation in respect of a particular kind of injury, disease or death, the Council must consider:

- (a) the reasons given by the Authority for making the decision; and
- (b) the information on which it relied in making that decision; and
- (c) the grounds on which the request for the review was made and any submission made in support of those grounds.

“(7) If, after considering the matters referred to in paragraphs (6)(a), (b) and (c), the Council is of the view that:

- (a) there appears to be a new body of sound medical-scientific evidence in respect of that kind of injury, disease or death that has not been previously considered by the Authority; and
- (b) that new body of evidence, together with the sound medical-scientific evidence available to the Authority, could justify the making of a Statement of Principles, or an amendment of the Statement of Principles already determined, in respect of that kind of injury, disease or death;

the Council must make a declaration in writing to that effect giving the reasons for its decision and directing the Authority to carry out an investigation under subsection 196B(7) in respect of that kind of injury, disease or death. The Council may include in the declaration any recommendation or direction that the Council considers fit to make about the carrying out of the investigation.

“(8) If, after considering the matters referred to in paragraphs (6)(a), (b) and (c), the Council is not of the view referred to in subsection (7) in respect of that kind of injury, disease or death, the Council must make a declaration in writing:

- (a) affirming the decision of the Authority not to carry out the investigation; and
- (b) giving the reasons for its decision.

The Council may include in the declaration any recommendation that it considers fit to make about any future investigation that the Authority may carry out in respect of that kind of injury, disease or death.

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Notification of decision of Review Council to be notified in *Gazette*

“196X.(1) A decision of the Review Council under section 196W must be notified in the *Gazette*.

“(2) The Council must also give a copy of the decision to:

- (a) the person or organisation that asked for the review; and
- (b) the Commission (if it is not the person referred to in (a)); and
- (c) the Repatriation Medical Authority.

Request for review of contents of Statement of Principles etc.

“196Y.(1) Subject to subsection (2), any of the following:

- (a) the Commission;
- (b) a person eligible to make a claim for a pension under Part II or IV;
- (c) an organisation representing veterans, Australian mariners, members of the Forces, members of Peacekeeping Forces or their dependants;

may ask the Review Council to review:

- (d) the contents of a Statement of Principles in force under Part XIA; or
- (e) a decision of the Repatriation Medical Authority not to make a Statement of Principles in respect of a particular kind of injury, disease or death.

“(2) The request must be made:

- (a) in the case of a request to review the contents of a Statement of Principles—within 3 months after the Statement of Principles was made, amended or last amended; or
- (b) if paragraph (a) does not apply—within 3 months after the decision of the Authority.

“(3) A request must:

- (a) be in a form approved by the Review Council; and
- (b) state the grounds on which the review is sought; and
- (c) be lodged at an office of the Department.

“(4) The Secretary must send the request to the Review Council, and notify the Repatriation Medical Authority of the request, within 28 days.

Request for review of decision of Repatriation Medical Authority not to carry out an investigation

“196Z.(1) If:

- (a) a person or organisation asks the Repatriation Medical Authority under section 196E to review:
 - (i) the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; or

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(ii) its decision not to make a Statement of Principles in respect of a particular kind of injury, disease or death; and

(b) the Authority refuses under subsection 196C(4) to carry out an investigation in respect of that kind of injury, disease or death;

the person or organisation may, within 3 months, ask the Review Council to review the decision of the Authority not to carry out the investigation.

“(2) The request must:

- (a) be in a form approved by the Review Council; and
- (b) state the grounds on which the review is sought; and
- (c) be lodged at an office of the Department, together with any submission that the person or organisation wishes to submit in support of those grounds.

“(3) The Secretary must send the request and any accompanying material to the Review Council, and notify the Repatriation Medical Authority of the request, within 28 days.

Submissions to Review Council

“196ZA.(1) If the Review Council is carrying out a review under subsection 196W(2), any person referred to in paragraph 196Y(1)(a) or (b), or an organisation referred to in paragraph 196Y(1)(c), may make a submission in writing to the Council about any information that was available to the Repatriation Medical Authority and is relevant to the review (**‘relevant information’**).

“(2) A person having expertise in a field relevant to the investigation may make a submission in writing to the Review Council on any relevant information pertaining to that field.

“(3) If an individual, the Commission or an organisation has made a written submission, the individual or his or her representative, or a representative of the Commission or of the organisation may, subject to subsection (5), appear before the Review Council to make an oral submission complementing the written submission.

“(4) If the Review Council is carrying out a review under subsection 196W(6) at the request of an individual, the Commission or an organisation, the individual or his or her representative, or a representative of the Commission or of the organisation may, subject to subsection (5), appear before the Review Council to make an oral submission complementing the written submission (if any) lodged under paragraph 196Z(2)(c).

“(5) A person or organisation may not be represented before the Review Council by a legal practitioner.

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“(6) In this section, a reference to a submission does not include a submission on a legal matter.

Notice of investigation

“196ZB.(1) As soon as practicable after the Review Council has been asked under section 196Y to review:

- (a) a decision of the Repatriation Medical Authority to make or not to make a Statement of Principles; or
- (b) a review of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death;

the Council must publish in the *Gazette* a notice:

- (c) stating that the Council intends to carry out a review of the information available to the Authority about that kind of injury, disease or death; and
- (d) inviting persons or organisations authorised under subsection 196ZA(1) to do so to make written submissions to the Council.

“(2) A notice is to specify:

- (a) the date on which the Council will hold its first meeting for the purposes of the review; and
- (b) the date by which all submissions must have been received by the Council.

“(3) A notice must be published in the *Gazette* at least 28 days before the date of the first meeting of the Council.

“(4) A notice is not invalid merely because it fails to comply with subsection (2).

Copyright in submissions

“196ZC.(1) The Review Council is not the owner of any copyright subsisting in material (**‘submitted material’**) contained in a submission made to the Council for the purposes of an investigation under section 196B.

“(2) In spite of the *Copyright Act 1968*, the Review Council does not infringe any copyright subsisting in submitted material if, in performing its functions or exercising its powers, the Council does an act comprised in the copyright without the licence of the owner of the copyright.

Access to information

“196ZD.(1) Subject to subsection (2), a person referred to in paragraph 196Y(1)(a) or (b), or an organisation referred to in paragraph 196Y(1)(c), is entitled, on request made in writing to the Review Council, to have reasonable access to any document containing information considered by the Review Council for the purposes of an investigation.

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“(2) The Review Council may not disclose any personal information about a particular person if the information is likely to reveal the identity of that person.

“Division 2—Constitution and meetings

Membership

“196ZE.(1) The Review Council consists of such number of members as the Minister determines from time to time to be necessary for the proper exercise of the functions of the Council.

“(2) The councillors are to be appointed on a part-time basis by the Minister as provided in this section.

“(3) When appointing councillors, the Minister must have regard to the branches of medical science expertise in which would be necessary for deciding matters referred to the Review Council for review. In respect of each of those branches, the Minister must ensure that, at any time, the number (not less than 2) of councillors having experience in that branch is sufficient for the proper exercise of the functions of the Council.

“(4) Each person to be appointed councillor is to be selected from a list, or lists, of nominees submitted by such colleges or similar bodies of medical practitioners or medical scientists (for example, the Royal Australasian College of Physicians) as were asked by the Minister to submit nominees for the purposes of the appointment.

“(5) The Minister must appoint one of the councillors to be the Convener.

Qualifications

“196ZF. The Minister is to appoint a person to be a councillor only if the person is a registered medical practitioner, or a medical scientist, with at least 10 years experience.

Tenure of office

“196ZG.(1) Subject to this Act, a person appointed as Convener or as a councillor holds office for the period specified in the instrument of appointment.

“(2) A person may not hold office for a period of more than 5 years but is eligible for reappointment.

Resignation

“196ZH. A councillor may resign from office by written notice given to the Minister.

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Termination of appointment

“196ZI. The Minister may terminate the appointment of a person as councillor:

- (a) for misbehaviour or for physical or mental incapacity; or
- (b) if he or she becomes bankrupt, applies to take the benefit of a law for the relief of bankruptcy or insolvent debtors, compounds with his or her creditors or assigns remuneration or property for their benefit.

Acting Convener

“196ZJ. The Minister may appoint a councillor to act as Convener:

- (a) during a vacancy in the office of Convener, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Convener is absent from Australia or from duty.

Conduct of reviews

“196ZK.(1) The Review Council is, for the purposes of a review, to be constituted by at least 3, but not more than 5, councillors selected by the Convener.

“(2) If the Review Council as constituted for the purposes of a review includes the Convener, the Convener presides at all meetings of the Council as so constituted.

“(3) If the Review Council as constituted for the purposes of a review does not include the Convener, the Convener must appoint one of the councillors selected for the purposes of the review (**‘presiding councillor’**) to preside at all meetings of the Council as so constituted.

“(4) The Convener or the presiding councillor may convene meetings of the Council as he or she considers necessary to carry out the review. The Convener may delegate this power to another councillor or to a member of the staff of the Council.

“(5) A question before the Council is to be decided by a majority of the votes of the councillors present and voting. The Convener or presiding councillor has only a deliberative vote.

“(6) The Council must keep minutes of the proceedings at each meeting.

“(7) Subject to this section, the Council determines the procedures for convening its meetings and for conducting its business.

Remuneration and allowances

“196ZL.(1) A councillor is to be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, a member is to be paid such remuneration as the Minister determines in writing.

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“(2) A councillor is to be paid such allowances as the Minister determines in writing.

“(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

“Division 3—Staff

Staff

“196ZM. The staff necessary to assist the Review Council consists of persons appointed or employed under the *Public Service Act 1922* and made available to the Council by the Secretary.”.

Division 3—Australian mariners

Eligibility related definitions

12. Section 5C of the Principal Act is amended by omitting subparagraph (b)(iii) of the definition of “veteran” in subsection (1).

Operational service

13. Section 6 of the Principal Act is amended:

(a) by adding at the end of paragraphs (1)(a), (b), (c), (d), (e), (f), (g), (h), (j) and (k) “and”;

(b) by adding at the end of subsection (1) the following word, paragraphs and Notes:

“; and (o) a person is taken to have been rendering operational service while the person was employed outside Australia on a ship as an Australian mariner; and

(p) a person is taken to have been rendering operational service during any period of employment within Australia on a ship as an Australian mariner if:

(i) the period ended immediately before; or

(ii) the period started immediately after;

a period during which the person was employed outside Australia on a ship as an Australian mariner; and

(q) a person who, while employed within Australia on a ship as an Australian mariner, was injured, or contracted a disease, as a result of enemy action is taken to have been rendering operational service when the occurrence as a result of which the person was injured, or contracted the disease, happened; and

(r) a person who was employed within Australia on a ship as an Australian mariner in such circumstances that the employment should, in the opinion of the Commission,

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be treated as employment in actual combat against the enemy is taken to have been rendering operational service while the person was so employed.

Note 1: For 'Australian mariner' see subsection 5C(1).

Note 2: Subsections (7), (8) and (9) contain information that is relevant to paragraphs (o), (p), (q) and (r).";

(c) by adding at the end the following subsections:

“(7) Without limiting paragraph (1)(o), a person is taken to be employed outside Australia on a ship as an Australian mariner in each of the following circumstances:

- (a) while the person was at a place outside Australia on leave from a ship on which the person was employed as an Australian mariner and that was at a port outside Australia;
- (b) while the person was at a place outside Australia (whether or not on land) in the course of proceeding to employment on a ship as an Australian mariner;
- (c) while the person was at a place at which the person was awaiting return to Australia from employment on a ship as an Australian mariner;
- (d) while the person was returning to Australia from employment on a ship as an Australian mariner.

“(8) For the purposes of paragraphs (1)(o), (p), (q) and (r), if:

- (a) a ship had undertaken a voyage; and
 - (b) the purpose of the voyage was to sail from a port or place within Australia to another port or place within Australia; and
 - (c) a person was employed on that ship as an Australian mariner;
- the person is taken for the duration of the voyage to be employed within Australia on that ship as an Australian mariner.

“(9) For the purposes of paragraphs (1)(o), (p), (q) and (r) and subsections (7) and (8), ‘**Australia**’ does not include an external territory.”.

Eligible war service

14. Section 7 of the Principal Act is amended:

- (a) by adding at the end of paragraphs (1)(a) and (b) “and”;
- (b) by adding at the end of subsection (1) the following word, paragraph and Notes:

“; and (e) a person who was employed on a ship as an Australian mariner is taken to have been rendering eligible war service:

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- (i) if part of that employment was operational service—for the part of that employment that was not operational service; or
- (ii) in any other case—while the person was so employed.

Note 1: For 'Australian mariner' see subsection 5C(1).

Note 2: Subsections (3) and (4) contain information that is relevant to paragraph (e).";

- (c) by adding at the end the following subsections:

“(3) Without limiting paragraph (1)(e), a person is taken to be employed on a ship as an Australian mariner while the person was at a place (being a place that is in Australia but is not on land in Australia) in the course of proceeding to employment on a ship as an Australian mariner.

“(4) For the purposes of subsection (3), ‘Australia’ does not include an external territory.”.

Consequential amendments

15. The Principal Act is further amended as set out in Schedule 1.

Division 4—Special and intermediate rates of pension

Intermediate rate of pension

16. Section 23 of the Principal Act is amended:

- (a) by inserting before paragraph (1)(a) the following paragraphs:

“(aa) the veteran has made a claim under section 14 for a pension, or an application under section 15 for an increase in the rate of the pension that he or she is receiving; and

(aab) the veteran had not yet turned 65 when the claim or application was made; and”;

- (b) by adding at the end of subparagraph (1)(a)(ii) “and”;

- (c) by inserting after subsection (3) the following subsections:

“(3A) This section applies to a veteran if:

(a) the veteran has made a claim under section 14 for a pension, or an application under section 15 for an increase in the rate of the pension that he or she is receiving; and

(b) the veteran had turned 65 before the claim or application was made; and

(c) paragraphs (1)(a) and (1)(b) (as affected by subsection (2)) apply to the veteran; and

(d) the veteran is, because of incapacity from war-caused injury or war-caused disease or both, alone, prevented from

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continuing to undertake the remunerative work ('last paid work') that the veteran was last undertaking before he or she made the claim or application; and

- (e) because the veteran is so prevented from undertaking his or her last paid work, the veteran is suffering a loss of salary or wages, or of earnings on his or her own account, that he or she would not be suffering if he or she were free from that incapacity; and
- (f) the veteran was undertaking his or her last paid work after the veteran had turned 65; and
- (g) when the veteran stopped undertaking his or her last paid work, the veteran:
 - (i) if he or she was then working as an employee of another person—had been working for that person, or for that person and any predecessor or predecessors of that person; or
 - (ii) if he or she was then working on his or her own account in any profession, trade, employment, vocation or calling—had been so working in that profession, trade, employment, vocation or calling;for a continuous period of at least 10 years that began before the veteran turned 65; and
- (h) section 24 or 25 does not apply to the veteran.

“(3B) For the purposes of paragraph (3A)(e), a veteran who is incapacitated from war-caused injury or war-caused disease or both, to the extent set out in paragraph (1)(b) is not taken to be suffering a loss of salary or wages, or of earnings on his or her own account, because of that incapacity if:

- (a) the veteran has ceased to engage in remunerative work for reasons other than his or her incapacity from that war-caused injury or war-caused disease, or both; or
- (b) the veteran is incapacitated, or prevented from engaging in remunerative work for some other reason; or
- (c) the veteran has been engaged in remunerative work on a part-time basis or intermittently for reasons other than his or her incapacity from that war-caused injury or war-caused disease, or both.”.

Special rate of pension

17. Section 24 of the Principal Act is amended:

- (a) by omitting from subsection (1) all words to and including “if” and substituting the following words and paragraphs:

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“This section applies to a veteran if:

- (aa) the veteran has made a claim under section 14 for a pension, or an application under section 15 for an increase in the rate of the pension that he or she is receiving; and
- (aab) the veteran had not yet turned 65 when the claim or application was made; and”;
- (b) by adding at the end of subparagraph (1)(a)(ii) “and”;
- (c) by adding at the end of subsection (1) the following word and paragraph:
“; and (d) section 25 does not apply to the veteran”;
- (d) by inserting after subsection (2) the following subsections:

“(2A) This section applies to a veteran if:

- (a) the veteran has made a claim under section 14 for a pension, or an application under section 15 for an increase in the rate of the pension that he or she is receiving; and
- (b) the veteran had turned 65 before the claim or application was made; and
- (c) paragraphs (1)(a) and (1)(b) apply to the veteran; and
- (d) the veteran is, because of incapacity from war-caused injury or war-caused disease or both, alone, prevented from continuing to undertake the remunerative work (**‘last paid work’**) that the veteran was last undertaking before he or she made the claim or application; and
- (e) because the veteran is so prevented from undertaking his or her last paid work, the veteran is suffering a loss of salary or wages, or of earnings on his or her own account, that he or she would not be suffering if he or she were free from that incapacity; and
- (f) the veteran was undertaking his or her last paid work after the veteran had turned 65; and
- (g) when the veteran stopped undertaking his or her last paid work, the veteran:
 - (i) if he or she was then working as an employee of another person—had been working for that person, or for that person and any predecessor or predecessors of that person; or
 - (ii) if he or she was then working on his or her own account in any profession, trade, employment, vocation or calling—had been so working in that profession, trade, employment, vocation or calling;

for a continuous period of at least 10 years that began before the veteran turned 65; and

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(h) section 25 does not apply to the veteran.

“(2B) For the purposes of paragraph (2A)(e), a veteran who is incapacitated from war-caused injury or war-caused disease or both, is not taken to be suffering a loss of salary or wages, or of earnings on his or her own account, because of that incapacity if:

- (a) the veteran has ceased to engage in remunerative work for reasons other than his or her incapacity from that war-caused injury or war-caused disease, or both; or
- (b) the veteran is incapacitated, or prevented from engaging in remunerative work for some other reason.”.

Division 5—Comparable foreign pensions

Index of definitions

18. Section 5 of the Principal Act is amended by inserting the following entry in the Index:

“comparable foreign pension” 5Q(1)).

General definitions

19. Section 5Q of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘comparable foreign pension’ means a payment that is:

- (a) available from a foreign country; and
- (b) similar to a service pension or a social security pension;”.

Insertion of section

20. After section 36J of the Principal Act the following section is inserted in Subdivision B of Division 3 of Part III:

Secretary may require claimant to take action to obtain a comparable foreign pension

"36JA.(1) If:

- (a) a person has claimed an age service pension; and
- (b) the Secretary is satisfied that the claimant may be entitled to a comparable foreign pension if the claimant applied for that pension;

the Secretary may give the claimant a notice that requires the claimant to take reasonable action to obtain the comparable foreign pension.

- “(2) The notice:**
(a) must be in writing; and
(b) must be given personally or by post; and

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(c) must specify the period within which the reasonable action is to be taken.

“(3) The period specified under paragraph (2)(c) must end at least 14 days after the day on which the notice is given.

“(4) The Commission may reject a claim if:

- (a) the claimant is given the notice; and
- (b) the Commission is satisfied that the claimant has not taken reasonable action to obtain the comparable foreign pension within the period specified in the notice.

“(5) For the purposes of this section, a person takes reasonable action to obtain a comparable foreign pension only if the person takes reasonable action to obtain the pension at the highest rate applicable to the person.”.

Insertion of section

21. After section 37J of the Principal Act the following section is inserted in Subdivision B of Division 4 of Part III:

Secretary may require claimant to take action to obtain a comparable foreign pension

“37JA.(1) If:

- (a) a person has claimed an invalidity service pension; and
 - (b) the Secretary is satisfied that the claimant may be entitled to a comparable foreign pension if the claimant applied for that pension;
- the Secretary may give the claimant a notice that requires the claimant to take reasonable action to obtain the comparable foreign pension.

“(2) The notice:

- (a) must be in writing; and
- (b) must be given personally or by post; and
- (c) must specify the period within which the reasonable action is to be taken.

“(3) The period specified under paragraph (2)(c) must end at least 14 days after the day on which the notice is given.

“(4) The Commission may reject a claim if:

- (a) the claimant is given the notice; and
- (b) the Commission is satisfied that the claimant has not taken reasonable action to obtain the comparable foreign pension within the period specified in the notice.

“(5) For the purposes of this section, a person takes reasonable action to obtain a comparable foreign pension only if the person takes reasonable action to obtain the pension at the highest rate applicable to the person.”.

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Insertion of section

22. After section 38J of the Principal Act the following section is inserted in Subdivision B of Division 5 of Part III:

Secretary may require claimant to take action to obtain a comparable foreign pension

“38JA.(1) If:

- (a) a person has claimed a partner service pension; and
- (b) the Secretary is satisfied that the claimant may be entitled to a comparable foreign pension if the claimant applied for that pension;

the Secretary may give the claimant a notice that requires the claimant to take reasonable action to obtain the comparable foreign pension.

“(2) The notice:

- (a) must be in writing; and
- (b) must be given personally or by post; and
- (c) must specify the period within which the reasonable action is to be taken.

“(3) The period specified under paragraph (2)(c) must end at least 14 days after the day on which the notice is given.

“(4) The Commission may reject a claim if:

- (a) the claimant is given the notice; and
- (b) the Commission is satisfied that the claimant has not taken reasonable action to obtain the comparable foreign pension within the period specified in the notice.

“(5) For the purposes of this section, a person takes reasonable action to obtain a comparable foreign pension only if the person takes reasonable action to obtain the pension at the highest rate applicable to the person.”.

Insertion of section

23. After section 39J of the Principal Act the following section is inserted in Subdivision B of Division 6 of Part III:

Secretary may require claimant to take action to obtain a comparable foreign pension

“39JA.(1) If:

- (a) a person has claimed a carer service pension; and
- (b) the Secretary is satisfied that the claimant may be entitled to a comparable foreign pension if the claimant applied for that pension;

the Secretary may give the claimant a notice that requires the claimant to take reasonable action to obtain the comparable foreign pension.

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“(2) The notice:

- (a) must be in writing; and
- (b) must be given personally or by post; and
- (c) must specify the period within which the reasonable action is to be taken.

“(3) The period specified under paragraph (2)(c) must end at least 14 days after the day on which the notice is given.

“(4) The Commission may reject a claim if:

- (a) the claimant is given the notice; and
- (b) the Commission is satisfied that the claimant has not taken reasonable action to obtain the comparable foreign pension within the period specified in the notice.

“(5) For the purposes of this section, a person takes reasonable action to obtain a comparable foreign pension only if the person takes reasonable action to obtain the pension at the highest rate applicable to the person.”.

Insertion of section

24. After section 54B of the Principal Act the following section is inserted:

Secretary may require a person to whom a service pension is being paid to take action to obtain a comparable foreign pension

“54BA.(1) If:

- (a) a person is receiving a service pension; and
 - (b) the Secretary is satisfied that the person may be entitled to a comparable foreign pension if the person applied for that pension;
- the Secretary may give the person a notice that requires the person to take reasonable action to obtain the comparable foreign pension.

Note: For the consequences of a failure to comply with the notice see section 56EB.

“(2) The notice:

- (a) must be in writing; and
- (b) must be given personally or by post; and
- (c) must specify the period within which the reasonable action is to be taken.

“(3) The period specified under paragraph (2)(c) must end at least 14 days after the day on which the notice is given.

“(4) For the purposes of this section, a person takes reasonable action to obtain a comparable foreign pension only if the person takes reasonable action to obtain the pension at the highest rate applicable to the person.”.

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Insertion of section

25. After section 56EA of the Principal Act the following section is inserted:

Cancellation or suspension for failure to take action to obtain a comparable foreign pension

“56EB.(1) If:

- (a) a person who is receiving a service pension has been given a notice under section 54BA; and
- (b) the Commission is satisfied that the person has not taken reasonable action to obtain the comparable foreign pension within the period specified in the notice;

the Commission may determine in writing that the service pension is to be cancelled or suspended.

“(2) For the purposes of this section, a person takes reasonable action to obtain a comparable foreign pension only if the person takes reasonable action to obtain the pension at the highest rate applicable to the person.

Note: For the date of effect of a determination under this section see section 56H.”.

Resumption of a payment after suspension

26. Section 56F of the Principal Act is amended by omitting from paragraph (a) “or 56EA” and substituting “, 56EA or 56EB”.

Date of effect of adverse determination

27. Section 56H of the Principal Act is amended by omitting from subsection (1) “or 56EA” and substituting “, 56EA or 56EB”.

Division 6—Partner service pension

Family relationships definitions—couples

28. Section 5E of the Principal Act is amended by omitting “(3)” from paragraph (b) of the definition of “non-illness separated spouse” in subsection (1) and substituting “(5)”.

Special residence and resident definitions

29. Section 5MC of the Principal Act is amended:

- (a) by omitting “; and” from paragraph (b) of the definition of “couple’s assets deeming provisions” in subsection (5) and substituting “.”;
- (b) by omitting paragraph (c) of the definition of “couple’s assets deeming provisions” in subsection (5).

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Eligibility for partner service pension

30. Section 38 of the Principal Act is amended:

- (a) by inserting in subparagraph (1)(c)(i) “who, immediately before his or her death, was receiving an age service pension or an invalidity service pension” after “veteran”;
- (b) by inserting in subparagraph (1)(c)(ii) “or a social security pension” after “pension”;
- (c) by inserting after subsection (2) the following subsections:

“(2A) A person’s eligibility under paragraph (1)(b) ceases if:

- (a) in the Commission’s opinion, the person was in a marriage-like relationship with another person when this subsection commenced; or
- (b) after this subsection commenced, the person enters into a relationship with another person and, in the Commission’s opinion, the relationship was a marriage-like relationship.

Note 1: The Commission’s opinion is to be formed as mentioned in section 11A.

Note 2: If the person starts living permanently again with his or her veteran spouse, the person regains eligibility for a partner service pension (see paragraph (1)(a)).

“(2B) If:

- (a) a person is the non-illness separated spouse of a veteran; and
- (b) the veteran dies; and
- (c) immediately before the veteran’s death, the person was not eligible for a partner service pension because of subsection (2A); and
- (d) apart from this subsection, the person would be eligible for a partner service pension under paragraph (1)(c) or (d);

the person’s eligibility under that paragraph ceases.”;

- (d) by inserting after subsection (3) the following subsection:

“(3A) A person’s eligibility under paragraph (1)(c) or (d) ceases if:

- (a) in the Commission’s opinion, the person:
 - (i) entered into a marriage-like relationship with a person after the death of the veteran; and
 - (ii) was in that marriage-like relationship when this subsection commenced; or
- (b) the person:
 - (i) enters into a relationship with another person after this subsection commenced and, in the Commission’s opinion, the relationship was a marriage-like relationship; and

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- (ii) entered into that relationship after the death of the veteran.

Note: The Commission's opinion is to be formed as mentioned in section 11A."

How to work out the rate of a person's partner service pension

31. Section 38N of the Principal Act is amended:

- (a) by omitting from subsection (1) "subsections (2) and (3)" and substituting "subsection (2)";
- (b) by omitting subsection (3) (except the Note).

Application of income and assets test reductions for income tax purposes

32. Section 40C of the Principal Act is amended by omitting from subsection (2) the Relevant Modules Table (except the Note) and substituting the following Table:

“

RELEVANT MODULES TABLE						
column 1	column 2	column 3	column 4	column 5	column 6	column 7
Pension Rate Calculator	additional amounts for children Module	rent assistance Module	maintenance income test Module	pharmaceutical allowance Module	ordinary income test Module	assets test Module
Service Pension Rate Calculator Where There Are No Dependent Children (section 41)	Not applicable	Module C	Not applicable	Module CA	Module D	Module F
Service Pension Rate Calculator Where There Are Dependent Children (section 42)	Module C	Module D	Module DAA	Module DA	Module E	Module G

”

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

33. Section 41 of the Principal Act is amended:

- (a) by omitting from subsection (1) "and (5)" and substituting ", (5) and (6)";
- (b) by adding at the end the following subsection:

Reduced rate if social security pension was payable to the person in the previous week

“(6) If:

- (a) a service pension becomes payable to a person without a dependent child or dependent children on a pension payday (**‘service pension payday’**); and
- (b) a social security pension was payable to the person on the pension payday (within the meaning of the Social Security Act) immediately before the service pension payday;

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the rate at which the service pension is payable to the person on the service pension payday is to be worked out by using the following formula:

$$\frac{\text{reduced annual rate}}{2} + \text{PA}$$

where:

'reduced annual rate' means the rate that would be the rate of the person's service pension if:

- (a) it were worked out by using the Rate Calculator at the end of this section; and
- (b) the amount of pharmaceutical allowance under Step 2A of the Method statement in point 42-A1 were nil;

'PA' means the amount of pharmaceutical allowance added to the person's maximum basic rate under Step 2A of the Method statement in point 42-A1."

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

34. Section 42 of the Principal Act is amended:

- (a) by omitting from subsection (1) "and (4)" and substituting ", (4) and (5)";
- (b) by adding at the end the following subsection:

*Reduced rate if social security pension was payable
to the person in the previous week*

"(5) If:

- (a) a service pension becomes payable to a person with a dependent child or dependent children on a pension payday (**'service pension payday'**); and
- (b) a social security pension was payable to the person on the pension payday (within the meaning of the Social Security Act) immediately before the service pension payday;

the rate at which the service pension is payable to the person on the service pension payday is to be worked out using the formula:

$$\frac{\text{reduced annual rate}}{2} + (\text{DCA} + \text{RA} + \text{PA})$$

where:

'reduced annual rate' means the rate that would be the rate of the person's service pension if:

- (a) it were worked out by using the Rate Calculator at the end of this section; and

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- (b) each of the following amounts were nil:
- (i) the amount for dependent children under Step 2 of the Method statement in point 42-A1;
 - (ii) the amount for rent under Step 3 of that Method statement;
 - (iii) the amount for pharmaceutical allowance under Step 3A of that Method statement;

'DCA' means the amount for dependent children added to the person's maximum basic rate under Step 2 of the Method statement in point 42-A1;

'RA' means the amount for rent added to the person's maximum basic rate under Step 2 of that Method statement;

'PA' means the amount of pharmaceutical allowance added to the person's maximum basic rate under Step 3A of that Method statement."

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

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

- (a) by omitting from point 42-C3AB "person's" (wherever occurring) and substituting "veteran's";
- (b) by inserting after point 42-C3AB the following point:

"42-C3AC. If:

- (a) a person is the non-illness separated spouse of a veteran; and
- (b) an amount for a child is to be added to the person's maximum basic rate; and
- (c) the child is a dependent child of the veteran; and
- (d) there is not a declaration under subsection 869(1) of the Social Security Act in relation to the child;

no amount for the child is to be added to the veteran's maximum basic rate."

Repeal of Subdivision

36. Subdivision E of Division 7 of Part III of the Principal Act is repealed.

Application of financial hardship rules

37. Section 52Z of the Principal Act is amended by omitting from paragraph (6)(b) ", 44".

Consequential amendments

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

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Division 7—Income support supplement

Family relationships definitions—couples

39. Section 5E of the Principal Act is amended:

- (a) by inserting after subparagraph (5)(b)(i) the following subparagraph:
“(ia) is not receiving income support supplement; and”;
- (b) by inserting after subparagraph (5)(c)(i) the following subparagraph:
“(ia) income support supplement; or”;
- (c) by inserting after subparagraph (5)(d)(i) the following subparagraph:
“(ia) income support supplement; or”.

Family relationships definitions—children

40. Section 5F of the Principal Act is amended:

- (a) by inserting in paragraph (6)(a) “or income support supplement rate” after “rate”;
- (b) by inserting in paragraph (6)(b) “, income support supplement rate” after “rate” (first occurring).

Income test definitions

41. Section 5H of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘**adjusted income**’, in relation to a person claiming, or entitled to, income support supplement, means the sum of:

- (a) the person’s ordinary income; and
- (b) any instalment of disability pension payable to the person; and
- (c) any instalment of pension payable to the person under subsection 30(1); and
- (d) any instalment of pension that is payable to the person under the law of a foreign country and is, in the opinion of the Commission, similar in character to the pension referred to in paragraph (c).”.

Rent definitions

42. Section 5N of the Principal Act is amended:

- (a) by omitting from the definition of “disability pension” in subsection (1) “Part III” and substituting “Parts III and IIIA”;
- (b) by inserting in paragraph (a) of the definition of “disability pension” in subsection (1) “(other than such a pension that is payable under section 30 to a dependant of a deceased veteran)” after “IV”.

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General definitions

43. Section 5Q of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘pension’ includes income support supplement;”.

Insertion of Part

44. After section 45 of the Principal Act the following Part is inserted:

“PART IIIA—INCOME SUPPORT SUPPLEMENT

“Division 1—Eligibility for and payability of income support supplement

Eligibility for income support supplement

“45A.(1) A person who has made a claim for income support supplement but whose claim has not yet been determined is eligible for income support supplement if:

(a) the person:

- (i) is a war widow or war widower; and
- (ii) is an Australian resident; and
- (iii) is in Australia; and

(b) the person:

- (i) has reached the qualifying age (see subsection (2)); or
- (ii) has a dependent child; or
- (iii) is, in the opinion of the Commission, permanently incapacitated for work (see subsection (3)).

Note: For ‘Australian resident’ see section 5G.

“(2) For the purposes of paragraph (1)(b), the qualifying age is:

- (a) 55 years for a woman; or
- (b) 60 years for a man.

“(3) For the purposes of paragraph (1)(b), a person is **permanently incapacitated for work** if:

- (a) the degree of the permanent incapacity for work is 85% or more; or
- (b) the person is permanently blinded in both eyes.

“(4) If the Commission has determined under section 45Q that the person’s claim is to be granted, the person is eligible for income support supplement if the person:

- (a) is a war widow or war widower; and
- (b) is an Australian resident; and
- (c) is in Australia.

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**Income support supplement may not be payable
in some circumstances**

“45B. Even though a person is eligible for income support supplement, income support supplement may not be payable to the person because:

- (a) the pension has not commenced to be payable (see section 45C); or
- (b) the person is in gaol (see sections 55 and 55A); or
- (c) the person is receiving an income support pension (see section 45D);
or
- (d) the pension is cancelled or suspended (see sections 56E, 56EA, 56J and 56K); or
- (e) the person has not provided a tax file number for the person or the person's partner (see section 128A).

Income support supplement generally not payable before claim

“45C.(1) Income support supplement is not payable to a person before the day on which the person claimed, or is taken to have claimed, income support supplement.

Initial incorrect claim followed by proper claim

“(2) If:

- (a) a person has made a claim (**‘initial claim’**) for income support supplement; and
- (b) the claim is not a proper claim; and
- (c) on the day on which the person made the initial claim, the person was eligible for income support supplement; and
- (d) the person subsequently makes a proper claim:
 - (i) within 3 months after being notified that the initial claim was not a proper claim; or
 - (ii) if the person was not so notified—at any time;

then:

- (e) subsection (1) does not apply to the person; and
- (f) income support supplement is not payable to the person before the day on which the initial claim was lodged.

Restrictions on dual pensions

“45D.(1) Income support supplement is not payable to a person if the person is receiving:

- (a) an age service pension; or
- (b) an invalidity service pension; or

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(c) a social security benefit.

“(2) Income support supplement is not payable to a person if:

(a) the person:

- (i) elected under subsection 45E(2); or
- (ii) is taken under subsection 45E(3) to have elected;
to continue to receive a social security pension; and

(b) that pension has not ceased to be payable to the person under the Social Security Act.

“(3) Income support supplement is not payable to a person if:

(a) the person:

- (i) elected under subsection 45F(2) or 45G(2); or
- (ii) is taken under subsection 45F(3) or 45G(3) to have elected;
to receive a social security pension in the event that it was granted to him or her; and

(b) that pension:

- (i) was granted to the person; and
- (ii) has not ceased to be payable to the person under the Social Security Act.

Election to continue to receive social security pension

“45E.(1) This section applies to a war widower or war widow who immediately before the day (**‘commencing day’**) on which this Part commences was receiving a social security pension.

“(2) A person to whom this section applies may, on the commencing day, by notice in writing given to the Secretary, elect to continue to receive, on and after that day, the social security pension that he or she was receiving immediately before that day.

Note: As a result of that election, the person is precluded from receiving income support supplement under this Part (see section 45D) for as long as the social security pension continues to be payable to the person.

“(3) If:

- (a) a person to whom this section applies has failed to make an election under subsection (2); and
- (b) the Commission is satisfied that the person was unable to make the election because of circumstances beyond his or her control (for example, because of the person’s incapacity or absence from Australia);

the Commission may determine that the person is to be taken for the purposes of this Act to have elected to continue to receive the social security pension.

Claim for social security pension by war widower or war widow pending at commencement of Part

“45F.(1) This section applies to a war widower or war widow if:

- (a) before the day (**‘commencing day’**) on which this Part commences, he or she had made a claim for a social security pension under the Social Security Act; and
- (b) on the commencement of this Part, the claim has not been determined.

“(2) A person to whom this section applies may, on the commencing day, elect to receive the social security pension in the event that it is granted to him or her.

Note: If the social security pension is granted, the person is, as a result of that election, precluded from receiving income support supplement under this Part (see section 45D) for as long as the social security pension continues to be payable to the person.

“(3) If:

- (a) a person to whom this section applies has failed to make an election under subsection (2); and
- (b) the Commission is satisfied that the person was unable to make the election because of circumstances beyond his or her control (for example, because of a person’s incapacity or absence from Australia);

the Commission may determine that the person is to be taken for the purposes of this Act to have elected to receive the social security pension in the event that it is granted to him or her.

Review of decision rejecting a claim by war widower or war widow for social security pension pending at commencement of Part

“45G.(1) This section applies to a war widower or war widow if:

- (a) before the day (**‘commencing day’**) on which this Part commences, he or she had made a claim for a social security pension, and the claim had been rejected, under the Social Security Act; and
- (b) on the commencement of this Part:
 - (i) the decision to reject the claim (or a decision confirming the decision) is still subject to review following an application for review under Chapter 6 of the Social Security Act; or
 - (ii) an application for review of the decision to reject the claim (or of a decision confirming the decision) may still be made under Chapter 6 of that Act, as a result of which a favourable determination may be made under that Act that will take effect (if made) as provided under whichever backdating provision is applicable to the determination.

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“(2) A person to whom this section applies may, on the commencing day, elect to receive the social security pension in the event that it is granted to him or her at the end of the review process.

Note: If the social security pension is granted, the person is, as a result of that election, precluded from receiving income support supplement under this Part (see section 45D) for as long as the social security pension continues to be payable to the person.

“(3) If:

- (a) a person to whom this section applies has failed to make an election under subsection (2); and
- (b) the Commission is satisfied that the person was unable to make the election because of circumstances beyond his or her control (for example, because of a person's incapacity or absence from Australia);

the Commission may determine that the person is to be taken for the purposes of this Act to have elected to receive the social security pension in the event that it is granted to him or her.

“(4) In this section:

‘backdating provision’, in relation to a determination under the Social Security Act relating to a social security pension, means:

- (a) in the case of an age pension—subsection 80(2) or (4) of the Social Security Act; or
- (b) in the case of a disability support pension—subsection 115(2) or (4) of the Social Security Act; or
- (c) in the case of a wife pension—subsection 184(2) or (4) of the Social Security Act; or
- (d) in the case of a carer pension—subsection 209(2) or (4) of the Social Security Act; or
- (e) in the case of disability wage supplement—subsection 431(2) or (4) of the Social Security Act.

Review of decision concerning rate of social security pension paid to war widower or war widow pending at commencement of Part

“45H.(1) This section applies if:

- (a) immediately before the day (**‘commencing day’**) on which this Part commences, a social security pension was payable to a war widower or war widow; and
- (b) on the commencing day:
 - (i) a decision (**‘adverse decision’**) under the Social Security Act affecting the rate at which the pension should be paid to the war widower or war widow (or a decision confirming the adverse decision) is still subject to review following an

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application for review under Chapter 6 of the Social Security Act; or

- (ii) an application for review of an adverse decision (or of a decision confirming the adverse decision) may still be made under Chapter 6 of that Act, as a result of which a favourable determination may be made under that Act that will take effect (if made) as provided under whichever backdating provision is applicable to the determination; and
- (c) the war widower or war widow does not make an election under subsection 45E(2).

“(2) Chapter 6 of the Social Security Act continues to apply until no further application for review of the adverse decision can be made under that Chapter.

“(3) This Act has effect as if on the commencing day:

- (a) the war widower or war widow had made a claim for income support supplement under section 45I; and
- (b) the Commission had determined under section 45Q that:
 - (i) the claim was to be granted; and
 - (ii) income support supplement was payable to the war widower or war widow at a rate equal to the rate (**‘operative rate’**) at which the social security pension was payable to him or her immediately before the commencing day; and
- (c) in the event that the operative rate of the social security pension is varied as a result of the review—the war widower or war widow had made, as provided in subsection (4), an application for review of the decision of the Commission concerning the rate of which income support supplement was to be paid to him or her.

“(4) For the purposes of paragraph (3)(c), an application for review by the war widower or war widow is taken to have been made:

- (a) if immediately before the commencing day the adverse decision under the Social Security Act was being reviewed by the Administrative Appeals Tribunal—to the Administrative Appeals Tribunal under section 175 of this Act; and
- (b) in any other case—to the Commission under section 57A of this Act.

“(5) In this section:

‘backdating provision’, in relation to a determination under the Social Security Act relating to a social security pension, means:

- (a) in the case of an age pension—subsection 80(2) or (4) of the Social Security Act; or

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- (b) in the case of a disability support pension—subsection 115(2) or (4) of the Social Security Act; or
- (c) in the case of a wife pension—subsection 184(2) or (4) of the Social Security Act; or
- (d) in the case of a carer pension—subsection 209(2) or (4) of the Social Security Act; or
- (e) in the case of disability wage supplement—subsection 431(2) or (4) of the Social Security Act.

“Division 2—Claim for income support supplement

Need for a claim

“45I. Subject to section 45N, a person who wants to be granted income support supplement must make a proper claim for that supplement.

Who can claim?

“45J.(1) Subject to subsection (2), the claim must be made by:

- (a) the person (**‘claimant’**) who wants to be granted income support supplement; or
- (b) with the approval of the claimant—another person on the claimant’s behalf.

“(2) If the claimant is unable, because of physical or mental incapacity, to approve another person to make the claim on his or her behalf, the Commission may approve another person to make the claim.

Form of claim

“45K. To be a proper claim, the claim must be:

- (a) made in writing; and
- (b) in accordance with a form approved by the Commission; and
- (c) accompanied by any evidence that the person making the claim considers may be relevant to the claim.

Lodgment of claim

“45L.(1) To be a proper claim, the claim must be lodged:

- (a) at an office of the Department in Australia; or
- (b) at a place approved for this purpose by the Commission; or
- (c) with a person approved for this purpose by the Commission.

“(2) A claim is taken to have been lodged on the day it is received:

- (a) at an office of the Department in Australia; or
- (b) at a place approved under subsection (1); or

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(c) by a person approved under subsection (1);
as the case may be.

Claimant must be Australian resident and in Australia

“45M.(1) Subject to subsection (2), a claim is not a proper claim unless the person making the claim, or on whose behalf the claim is being made, is:

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

on the day on which the claim is lodged.

Note: For ‘Australian resident’ see section 5G.

“(2) Subsection (1) does not apply to a person’s claim if the person:

- (a) is outside Australia; and
- (b) is receiving a service pension or a social security pension; and
- (c) would, if that pension were cancelled, be eligible for income support supplement.

Note: If the person ceases to be an Australian resident after having made a proper claim and after having met all the eligibility requirements (see section 36), the person’s eligibility is not affected.

Not necessary to make a claim in certain circumstances

“45N.(1) This section applies to:

- (a) a war widower or war widow:
 - (i) to whom section 45E applies; and
 - (ii) who has not made, or is not taken to have made, an election under subsection 45E(2); and
- (b) a war widower or war widow:
 - (i) to whom section 45F or 45G applies; and
 - (ii) who has not made, or is not taken to have made, an election under subsection 45F(2) or 45G(2) (as the case may be); and
 - (iii) to whom a social security pension is granted; and
- (c) a war widower or war widow who, immediately before being granted a pension under Part II or Part IV at a rate determined under or by reference to subsection 30(1), was receiving a partner service pension.

“(2) A person to whom this section applies does not have to make a proper claim under section 45I to be entitled to income support supplement unless the Commission asks him or her to do so.

“(3) If the person is not required by the Commission to make a claim for income support supplement, this Act applies to the person as if:

- (a) the person had made a claim for income support supplement under section 45I on the day on which this Part commenced; and

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- (b) the Commission had, on that day, determined under section 45Q that the claim was to be granted.

Withdrawal of claim

“45O.(1) A claimant for income support supplement may withdraw the claim at any time before it is determined by the Commission.

“(2) To withdraw the claim, the claimant must give written notice of withdrawal to the Secretary and the notice must be lodged at an office of the Department in Australia.

“(3) A claimant who withdraws a claim may subsequently make another claim for an income support supplement.

“Division 3—Investigation of claim

Secretary to investigate claim and submit it to Commission

“45P.(1) If a person makes a proper claim for income support supplement, the Secretary must cause an investigation to be made into the matters to which the claim relates.

“(2) When the investigation is completed, the Secretary must cause the claim to be submitted to the Commission for consideration and determination.

“(3) When the claim is submitted to the Commission it must be accompanied by:

- (a) any evidence supplied by the claimant in support of the claim; and
- (b) any documents or other evidence obtained by the Department in the course of the investigation that are relevant to the claim; and
- (c) any other documents or other evidence under the control of the Department that are relevant to the claim.

“Division 4—Consideration and determination of claim

Duties of Commission in relation to claim

“45Q.(1) When the claim is submitted to the Commission, the Commission must consider all matters that are, in the Commission's opinion, relevant to the claim and must then determine the claim.

“(2) In considering the claim, the Commission must:

- (a) satisfy itself with respect to; or
- (b) determine;

(as the case requires) all matters relevant to the determination of the claim.

“(3) Without limiting subsection (1), the Commission, in considering the claim, must consider:

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- (a) the evidence submitted with the claim under section 45P; and
- (b) any further evidence subsequently submitted to the Commission in relation to the claim.

Note: A claimant may apply to the Commission for review of a determination made under this section (see Division 16).

Date of determination

“45R. If the Commission determines that the claim is to be granted, the determination takes effect on the day on which the determination is made or on such later day or earlier day as is specified in the determination.

“Division 5—Rate of income support supplement

“Subdivision A—General

How to work out the rate of income support supplement

“45S. The rate at which a person’s income support supplement is payable is worked out in accordance with section 45X or 45Y, as the case requires.

Standard categories of family situations

“45T.(1) The Rate Calculators in this Division use the following standard categories of family situations:

- not a member of a couple;
- member of a couple (or partnered);
- partnered (partner getting neither pension nor benefit);
- partnered (partner getting pension or benefit);
- partnered (partner getting pension);
- partnered (partner getting benefit).

Note: See section 5E for definitions of those terms.

“(2) If it is necessary to distinguish between the members of sub-categories of these standard categories further words of description are added to the standard category label.

Rate Calculators

“45U.(1) For the purposes of this Act, a Rate Calculator is to be taken to be part of the section immediately preceding the Rate Calculator.

“(2) Rate Calculators are divided into Modules (for example, Module A).

“(3) A Module of a Rate Calculator is divided into points.

“(4) The points in a Module are numbered as follows:

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- (a) the initial number (followed by a hyphen) identifies the section that immediately precedes the Rate Calculator;
- (b) the letter following the hyphen is the letter allocated to the Module in which the point occurs;
- (c) the final number identifies the order of the point within the Module.

Example: Point 45X-D8 is the eighth point in Module D of the Rate Calculator at the end of section 45X.

Note: Paragraph (4)(a) has been adopted so that if a reader is looking for a particular section of the Act and opens a page that happens to be in the middle of a Rate Calculator, the reader will know whether the section the reader is looking for is before or after that page.

**Application of income and assets test reductions
for income tax purposes**

“45V.(1) If:

- (a) the rate of income support supplement applicable to a person is worked out by using the Income Support Supplement Rate Calculator Where There Are No Dependent Children at the end of section 45X; and
- (b) the maximum basic rate applicable to the person is increased by an amount worked out under the remote area allowance Module or the rent assistance Module of the Rate Calculator; and
- (c) the rate of income support supplement is to be reduced under the adjusted income test Module or the assets test Module of the Rate Calculator;

the reduction is to be applied:

- (d) first, to the rate of income support supplement apart from any increase under the remote area allowance Module or the rent assistance Module; and
- (e) then, to the amount of any increase under the remote area allowance Module; and
- (f) finally, to the amount of any increase under the rent assistance Module.

“(2) If:

- (a) the rate of income support supplement applicable to a person is worked out by using the Income Support Supplement Rate Calculator Where There Are Dependent Children at the end of section 45Y; and
- (b) the maximum basic rate applicable to the person is increased by an amount worked out under the remote area allowance Module of the Rate Calculator; and

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- (c) the rate of income support supplement is to be reduced under the adjusted income test Module or the assets test Module of the Rate Calculator;

the reduction is to be applied:

- (d) first, to the rate of income supplement apart from any increase under the remote area allowance Module or any other Module; and
(e) then, to the amount of any increase under the remote area allowance Module.

“(3) The following Table sets out details of the Modules relevant to subsection (1):

RELEVANT MODULES TABLE				
column 1 Rate Calculator	column 2 remote area allowance Module	column 3 rent assistance Module	column 4 adjusted income test Module	column 5 assets test Module
Income Support Supplement Rate Calculator Where There Are No Dependent Children (section 45X)	Module C	Module D	Module E	Module F
Income Support Supplement Calculator Where There Are Dependent Children (section 45Y)	Module C	Not applicable	Module D	Module E

Rate Calculator determination in relation to children of a couple

“45W.(1) The Commission may make a determination under subsection (2) if:

- (a) a person is a member of a couple; and
(b) the person and the person's partner are receiving income support supplement; and
(c) a child is a dependent child:
 (i) of the person; or
 (ii) of both the person and the person's partner; and
(d) the Commission:
 (i) is satisfied that it is in the best interests of the child to make the determination; or
 (ii) has been requested by the person and the person's partner to make the determination.

“(2) The Commission may determine that, for the purposes of Module G of the Income Support Supplement Rate Calculator Where There Are Dependent Children at the end of section 45Y, the child is to be taken into account as a dependent child of the person or the person's partner.

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***“Subdivision B—Income Support Supplement Rate Calculator Where
There Are No Dependent Children***

Rate of income support supplement (no dependent children)

“45X.(1) If a person entitled to income support supplement does not have any dependent child or dependent children, the rate of the person's income support supplement is to be calculated in accordance with the Rate Calculator at the end of this section.

Note 1: Module A of the Rate Calculator establishes the overall rate calculation process and the remaining Modules provide for the calculation of the component amounts used in the overall rate calculation.

Note 2: The rate obtained by applying the Rate Calculator may be reduced because of the receipt of payments under the New Enterprise Incentive Scheme (see Division 9).

“(2) If:

- (a) the person is a member of a couple; and
- (b) the person's partner is not receiving a service pension, income support supplement or a social security pension or benefit;

the rate of the person's income support supplement is not to exceed twice the rate at which income support supplement would be payable to the person if the person's partner were receiving a service pension, income support supplement or a social security pension or benefit.

Reduced rate if social security pension was payable to person in the previous week

“(3) If:

- (a) income support supplement becomes payable to a person without a dependent child or dependent children on a pension payday (**‘income support supplement payday’**); and
- (b) a social security pension was payable to the person on the pension payday (within the meaning of the Social Security Act) immediately before the income support supplement payday;

the rate at which income support supplement is payable to the person on the income support supplement payday is to be worked out by using the formula:

$$\frac{\text{annual rate}}{2}$$

where:

‘annual rate’ means the rate of the person's income support supplement worked out by using the Rate Calculator at the end of this section.

***“INCOME SUPPORT SUPPLEMENT RATE CALCULATOR
WHERE THERE ARE NO DEPENDENT CHILDREN***

“MODULE A—OVERALL RATE CALCULATION PROCESS

Method of calculating rate

“45X-A1. The rate of income support supplement is an annual rate (fortnightly amounts are provided for information only):

Method statement

- | | |
|-----------------|---|
| <i>Step 1.</i> | Work out the person's maximum basic rate using MODULE B below. |
| <i>Step 2.</i> | Work out the amount per year (if any) payable by way of remote area allowance (see MODULE C below). |
| <i>Step 3.</i> | Work out the amount per year (if any) for rent assistance using MODULE D below. |
| <i>Step 4.</i> | Add up the amounts obtained in Steps 1, 2 and 3: the result is called the maximum payment rate . |
| <i>Step 5.</i> | Apply the adjusted income test using MODULE E below to work out the reduction for adjusted income. |
| <i>Step 6.</i> | Take the amount obtained in Step 5 away from the maximum payment rate: the result is called the adjusted income reduced rate . |
| <i>Step 7.</i> | Apply the assets test using MODULE F below to work out the reduction for assets. |
| <i>Step 8.</i> | Take the reduction for assets away from the maximum payment rate: the result is called the assets reduced rate . |
| <i>Step 9.</i> | Work out the person's ceiling rate using points 45X-A3 and 45X-A4. |
| <i>Step 10.</i> | Find out, using points 45X-A5 and 45X-A6, whether the pension payable to the person under Part II or Part IV is compensation reduced. If the pension is compensation reduced, go to Step 11. If the pension is not compensation reduced, ignore Step 11 and go directly to Step 12. |

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Method statement—continued

Step 11. This Step applies only to a person whose pension under Part II or IV is compensation reduced. Compare the adjusted income reduced rate (see Step 6) and the assets reduced rate (see Step 8); the rate of **income support supplement** is equal to:

- (a) whichever is the lower of those rates; or
- (b) if the 2 rates are the same—those rates.

Step 12. This Step applies only to a person whose pension under Part II or IV is not compensation reduced. Compare the adjusted income reduced rate, the assets reduced rate and the ceiling rate; the rate of income support supplement is equal to:

- (a) whichever is the least of those rates; or
- (b) if 2 of those rates are the same and the third one is higher—the lower rate; or
- (c) if the 3 rates are the same—those rates.

Note 1: For 'adjusted income' see section 5H.

Note 2: If a person's assets reduced rate is less than the person's adjusted income reduced rate, the person may be able to take advantage of provisions dealing with:

- financial hardship (sections 52Y and 52Z);
- pension loans scheme (sections 52ZA to 52ZM).

Note 3: If a person's rate is reduced under Step 10, the order in which the reduction is to be made against the components of the maximum payment rate is laid down by section 45V (maximum basic rate first, then remote area allowance and, finally, rent assistance).

Note 4: The rate calculation for a member of a couple is affected by the operation of point 45X-A2.

Note 5: The amount of a fortnightly instalment of income support supplement will be rounded off to the nearest multiple of 10 cents (see subsections 58A(2) and (3)).

Note 6: For the minimum amount of a fortnightly instalment of income support supplement see subsection 58A(4).

Members of a couple

"45X-A2. Where 2 persons are members of a couple, they will be treated as pooling their resources (income and assets) and sharing them on a 50/50 basis (see points 45X-E2 and 45X-F2 below). They will also be treated as sharing expenses (e.g. for rent) on a 50/50 basis (see points 45X-D9 and 45X-D10 below).

Ceiling rate

"45X-A3. The ceiling rate for a war widow or war widower is \$3,122.60 unless point 45X-A4 applies to the war widow or war widower.

"45X-A4. If:

- (a) a person became a war widow or war widower before 1 November 1986; and

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- (b) immediately before 1 November 1986 the person was receiving a social security pension at a rate ('pre-November 1986 rate') equal to or more than \$3,122.60; and
 - (c) since that day the person has been continuously receiving the social security pension or income support supplement;
- his or her ceiling rate is equal to the pre-November 1986 rate.

Compensation reduced pension

"45X-A5. A pension payable to a war widow or war widower under Part II is **compensation reduced** if the pension has been reduced:

- (a) by taking into account (under subsection 30(3)) the rate, or amount, of any payment that the war widow or war widower is entitled to receive under the law of a State or of a foreign country; or
- (b) by taking into account (under Division 5A of that Part) the rate at which any compensation is payable to the war widow or war widower.

"45X-A6. A pension payable to a war widow or war widower under Part IV is **compensation reduced** if the pension has been reduced by taking into account (under Division 4 of that Part) the rate at which any compensation is payable to the war widow or war widower.

"MODULE B—MAXIMUM BASIC RATE

Maximum basic rate

"45X-B1. A person's maximum basic rate depends on the person's family situation. Work out which family situation in Table B applies to the person. The maximum basic rate is the corresponding amount in column 3.

TABLE B			
MAXIMUM BASIC RATES			
column 1 item no.	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of couple	\$8,270.60	\$318.10
2.	Partnered (partner getting neither pension nor benefit)	\$8,270.60	\$318.10
3.	Partnered (partner getting pension or benefit)	\$6,897.80	\$265.30
4.	Member of illness separated or respite care couple	\$8,270.60	\$318.10

Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)', 'partnered (partner getting pension or benefit)' see section 5E, and for 'illness separated couple' and 'respite care couple' see subsections 5R(5) and (6).

Note 2: The maximum basic rates are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

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“MODULE C—REMOTE AREA ALLOWANCE

Remote area allowance

“45X-C1. An amount by way of remote area allowance is to be added to a person's maximum basic rate if:

- (a) the person's usual place of residence is situated in a remote area; and
- (b) the person is physically present in the remote area.

Note: For 'remote area' and 'physically present in the remote area' see section 5Q.

Rate of remote area allowance

“45X-C2. The rate of remote area allowance payable to a person is worked out by using Table C. Work out which family situation in the Table applies to the person. The rate of remote area allowance is the corresponding amount in column 3.

TABLE C REMOTE AREA ALLOWANCE			
column 1 item no.	column 2 person's family situation	column 3 allowance per year	column 4 allowance per fortnight
1.	Not member of couple	\$455.00	\$17.50
2.	Partnered (partner receiving remote area allowance)	\$390.00	\$15.00
3.	Partnered (partner not receiving remote area allowance)	\$455.00	\$17.50

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

Illness separated couples

“45X-C3. For the purposes of Table C in point 45X-C2, a member of an illness separated couple or a respite care couple is to be treated as not being a member of a couple.

“MODULE D—RENT ASSISTANCE

Rent assistance

“45X-D1. Rent assistance is an amount that may be added to the maximum basic rate to help cover the cost of rent. A person who is eligible for rent assistance under point 45X-D2 can have added to his or her maximum basic rate the amount applying to that person under Table D-1.

Eligibility for rent assistance

“45X-D2. Rent assistance is to be added to a person's maximum basic rate if:

- (a) the person is not an ineligible property owner; and

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- (b) the person pays, or is liable to pay, rent (other than Government rent); and
- (c) the rent is payable at a rate of more than the rent threshold rate; and
- (d) the person is in Australia.

Note 1: For 'rent', 'Government rent' and 'ineligible property owner' see section 5N.

Note 2: For 'rent threshold amount' see point 45X-D3.

Rent threshold rate

"45X-D3. 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 no.	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of couple	\$1,591.20	\$61.20
2.	Partnered (partner does not have rent increased pension)	\$1,591.20	\$61.20
3.	Partnered (partner has rent increased pension)	\$2,652.00	\$102.00

Note 1: For 'member of a couple', 'partnered' see section 5E.

Note 2: For 'partner with a rent increased pension' see point 45X-D6.

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

No rent assistance if partner getting incentive allowance under the Social Security Act

"45X-D4. If a person is a member of a couple and the person's partner is living with the person in their home, an additional amount is not to be added to the person's maximum basic rate under point 45X-D2 if an amount by way of incentive allowance is being added to the maximum basic rate of the person's partner.

Note: For 'incentive allowance' see subsection 5Q(1).

Factors affecting rate of rent assistance

"45X-D5. The rate of rent assistance depends on:

- (a) the annual rent paid or payable by the person; and
- (b) whether or not the person has a partner with a rent increased pension.

Partner with rent increased pension

"45X-D6. A person has a **partner with a rent increased pension**, for the purposes of this Module, if:

- (a) the partner is living with the person in their home; and

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- (b) the partner is receiving a service pension, a social security pension or income support supplement; and
- (c) the rate of the pension or income support supplement is increased to take account of rent paid or payable by the person.

Note 1: 'Social security pension' includes a rehabilitation allowance.

Note 2: For the treatment of rent paid by a member of a couple see points 45X-C8 and 45X-C9.

Rate of rent assistance

"45X-D7. The rate of rent assistance is whichever is the lesser of Rate A and Rate B applicable to the person in accordance with Table D-1.

TABLE D-1			
RATE OF RENT ASSISTANCE			
column 1 item no.	column 2 person's family situation	column 3 Rate A	column 4 Rate B
1.	Not member of couple	$3 \times \frac{(\text{Annual rent} - \$1,591.20)}{4}$	\$1,778.40
2.	Partnered (partner does not have rent increased pension)	$3 \times \frac{(\text{Annual rent} - \$1,591.20)}{4}$	\$1,778.40
3.	Partnered (partner has rent increased pension)	$3 \times \frac{(\text{Annual rent} - \$2,652.00)}{8}$	\$837.20

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

Note 2: For 'partner with a rent increased pension' see point 45X-D6.

Note 3: The Rate B amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

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

Annual rent

"45X-D8. **Annual rent** is the annual rent paid or payable by the person whose rate of income support supplement is being calculated.

Rent paid by a member of a couple

"45X-D9. Where a person is a member of a couple and the person's partner is living with the person in their home, any rent that the person's partner pays or is liable to pay in respect of the home is to be treated as paid or payable by the person.

Note: For 'member of a couple' see section 5E.

Rent paid by a member of an illness separated or respite care couple

"45X-D10. Where a person is a member of an illness separated or respite care couple, any rent that the person's partner pays or is liable to pay in respect of the premises occupied by the person is to be treated as paid or payable by the person.

Note: For 'member of an illness separated couple' and 'respite care couple' see subsections 5R(5) and (6).

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“MODULE E—ADJUSTED INCOME TEST

Effect of income on maximum payment rate

“45X-E1. This is how to work out the effect of a person's adjusted income on the person's maximum payment rate:

Method statement

Step 1. Work out the amount of the person's adjusted income on a yearly basis.

Note: For the treatment of the adjusted income of members of a couple see point 45X-E2.

Step 2. Work out the person's adjusted income free area (see points 45X-E3 to 45X-E5 below).

Note: A person's adjusted income free area is the maximum amount of adjusted income the person can have without affecting the person's income support supplement rate.

Step 3. Work out whether the person's adjusted income exceeds the person's adjusted income free area.

Step 4. If the person's adjusted income does not exceed the person's adjusted income free area, the person's adjusted income excess is nil.

Step 5. If the person's adjusted income exceeds the person's adjusted income free area, the person's adjusted income excess is the person's adjusted income less the person's adjusted income free area.

Step 6. Use the person's adjusted income excess to work out the person's reduction for adjusted income using points 45X-E6 and 45X-E7.

Note 1: See point 45X-A1 (Steps 5 to 12) for the significance of the person's reduction for adjusted income.

Note 2: The application of the adjusted income test is affected by provisions concerning:

- investment income (sections 46-46U);
- disposal of income (sections 48-48E);
- earnings credit (section 49).

Adjusted incomes of members of couples

“45X-E2. If a person is a member of a couple, add the couple's adjusted incomes (on a yearly basis) and divide by 2 to work out the amount of the person's adjusted income for the purposes of this Module.

Partner's DSS earnings credit to be taken into account

“45X-E3. If:

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- (a) a person is a member of a couple; and
- (b) the person's partner is receiving a social security pension or benefit; and
- (c) an amount earned by the partner is disregarded under section 1113 or 1115A of the Social Security Act;

that amount is also to be disregarded in working out the adjusted income of the person for the purposes of point 45X-E2.

Adjusted income free area

"45X-E4. A person's adjusted income free area is the amount of adjusted income the person can have without any deduction being made from the person's maximum payment rate.

How to calculate a person's adjusted income free area

"45X-E5. A person's adjusted income free area is worked out using Table E-1. Work out which family situation in Table E-1 applies to the person. The adjusted income free area is the corresponding amount in column 3.

TABLE E-1			
ADJUSTED INCOME FREE AREA			
column 1 item no.	column 2 category of person	column 3 free area per year	column 4 free area per fortnight
1.	Not member of couple	\$2,340.00	\$90.00
2.	Partnered (partner getting neither pension nor benefit)	\$2,028.00	\$78.00
3.	Partner (partner getting benefit)	\$2,028.00	\$78.00
4.	Partner (partner getting pension)	\$2,028.00	\$78.00

Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)', 'partnered (partner getting benefit)' and 'partnered (partner getting pension)' see section 5E.

Note 2: Items 2, 3 and 4 of Table E-1 apply to a member of illness separated and respite care couples.

Note 3: The free area is indexed annually in line with CPI increases (see sections 59B to 59E).

Reduction for adjusted income in excess of adjusted income free area

"45X-E6. A person's reduction for adjusted income is worked out using Table E-2. Work out which family situation applies to the person. The reduction for adjusted income is the amount per year worked out using the corresponding calculations in column 3.

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TABLE E-2 REDUCTION FOR ADJUSTED INCOME		
column 1 item no.	column 2 person's family situation	column 3 reduction
1.	Not member of couple	<u>adjusted income excess</u> 2
2.	Partnered (partner getting neither pension nor benefit)	<u>adjusted income excess</u> 2
3.	Partnered (partner getting benefit)	<u>adjusted income excess</u> 2
4.	Partnered (partner getting pension)	<u>adjusted income excess</u> 2

Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)', 'partnered (partner getting benefit)' and 'partnered (partner getting pension)' see section 5E.

Note 2: 'Social security pension' includes a rehabilitation allowance.

Note 3: For 'adjusted income excess' see point 45X-E7 below.

Adjusted income excess

"45X-E7. A person's **adjusted income excess** is the person's adjusted income less the person's adjusted income free area.

"MODULE F—ASSETS TEST

Effect of assets on maximum payment rate

"45X-F1. This is how to work out the effect of a person's assets on the person's maximum payment rate:

<i>Method statement</i>	
Step 1.	Work out the value of the person's assets. Note 1: For the treatment of the assets of a couple see point 45X-F2. Note 2: For the assets that are to be disregarded in valuing a person's assets see section 52. Note 3: For the valuation of an asset that is subject to a charge or encumbrance see section 52C.
Step 2.	Work out the person's assets value limit (see point 45X-F3 below). Note: A person's assets value limit is the maximum value of assets a person can have without affecting the rate of the person's income support supplement.
Step 3.	Work out whether the value of the person's assets exceeds the person's assets value limit.

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Method statement—continued

- Step 4.** If the value of the person's assets does not exceed the person's assets value limit, the person's assets excess is nil.
- Step 5.** If the value of the person's assets exceeds the person's assets value limit, the person's assets excess is the value of the person's assets less the person's assets value limit.
- Step 6.** Use the person's assets excess to work out the person's reduction for assets using points 45X-F4 to 45X-F6 below.

Note 1: See point 45X-A1 (Steps 7 to 12) for the significance of the person's reduction for assets.

Note 2: The application of the assets test is affected by provisions concerning:

- disposal of assets (sections 52E-52J);
- retirement villages (sections 52K-52X);
- financial hardship (sections 55Y and 55Z);
- the pension loans scheme (sections 52ZA-52ZM).

Value of assets of members of couples

“45X-F2. For the purposes of this Module:

- (a) the value of the assets of a member of a couple is to be taken to be 50% of the sum of:
- (i) the value of the person's assets; and
 - (ii) the value of the person's partner's assets; and
- (b) the value of the assets of a particular kind of a member of a couple is to be taken to be 50% of the sum of:
- (i) the value of the person's assets of that kind; and
 - (ii) the value of the person's partner's assets of that kind.

Assets value limit

“45X-F3. A person's assets value limit is worked out using Table F-1. Work out the person's family situation and property ownership situation. The assets value limit is the corresponding amount in column 3.

TABLE F-1			
ASSETS VALUE LIMIT			
column 1	column 2	column 3	
		assets value limit	
item no.	person's family situation	column 3A either person or partner property owner	column 3B neither person nor partner property owner
1.	Not member of couple	\$115,000	\$197,000
2.	Partnered (partner getting neither pension nor benefit)	\$81,750	\$122,750
3.	Partnered (partner getting pension or benefit)	\$81,750	\$122,750

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Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)' and 'partnered (partner getting benefit or pension)' see section 5E.

Note 2: For 'property owner' see section 5L.

Note 3: Items 2 and 3 apply to members of illness separated and respite care couples.

Note 4: The assets value limit in column 3B of item 1 is adjusted annually in line with CPI increases (see section 59H). The other assets value limits are indexed annually in line with CPI increases (see sections 59B to 59E).

Reduction for assets in excess of assets value limit

"45X-F4. A person's reduction for assets is worked out using Table F-2. Work out which family situation applies to the person. The reduction for assets is the amount per year worked out using the corresponding calculations in column 3.

TABLE F-2 REDUCTION FOR ASSETS		
column 1 item no.	column 2 person's family situation	column 3 reduction
1.	Not member of couple	$\frac{[\text{assets excess}] \times 19.50}{250}$
2.	Partnered (partner getting neither pension nor benefit)	$\frac{[\text{assets excess}] \times 19.50}{250}$
3.	Partnered (partner getting benefit)	$\frac{[\text{assets excess}] \times 19.50}{250}$
4.	Partnered (partner getting pension)	$\frac{[\text{assets excess}] \times 19.50}{250}$

Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)', 'partnered (partner getting benefit)' and 'partnered (partner getting pension)' see section 5E.

Note 2: 'Social security pension' includes a rehabilitation allowance.

Note 3: For 'assets excess' see point 45X-F5 below.

Assets excess

"45X-F5. A person's **assets excess** is the value of the person's assets less the person's asset value limit.

"45X-F6. In calculating a person's assets excess under point 45X-F5 disregard any part of the excess that is not a multiple of \$250.

"Subdivision C—Income Support Supplement Rate Calculator Where There Are Dependent Children

Rate of income support supplement (dependent child or children)

"45Y.(1) If a person entitled to income support supplement has a dependent child or dependent children, the rate of the person's income support supplement is, subject to subsection (2), to be calculated in accordance with the Rate Calculator at the end of this section.

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Note 1: Module A of the Rate Calculator establishes the overall rate calculation process and the remaining Modules provide for the calculation of the component amounts used in the overall rate calculation.

Note 2: The rate obtained by applying the Rate Calculator may be reduced because of the receipt of payments under the New Enterprise Incentive Scheme (see Division 9).

“(2) If:

- (a) the person is a member of a couple; and
- (b) the person's partner is not receiving a service pension, income support supplement or a social security pension or benefit;

the rate of the person's income support supplement is not to exceed twice the rate at which income support supplement would be payable to the person if the person's partner were receiving a service pension, income support supplement or a social security pension or benefit.

Reduced rate if social security pension was payable to person in the previous week

“(3) If:

- (a) income support supplement is payable to a person with a dependent child or dependent children on a pension payday (**‘income support supplement payday’**); and
- (b) a social security pension was payable to the person on the pension payday (within the meaning of the Social Security Act) immediately before the income support supplement payday;

the rate at which income support supplement is payable to the person on the income support supplement payday is to be worked out by using the Rate Calculator at the end of this section modified by omitting Step 17 and substituting the following Step:

‘*Step 17.* Divide the person's provisional rate (see Step 10 or 11) by 2 and add to the result the amount obtained in Step 16: the result is the rate of income support supplement.’.

**“INCOME SUPPORT SUPPLEMENT RATE CALCULATOR
WHERE THERE ARE DEPENDENT CHILDREN**

“MODULE A—OVERALL RATE CALCULATION PROCESS

Method of calculating rate

“45Y-A1. The rate of income support supplement is an annual rate (fortnightly amounts are provided for information only):

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Method statement

- Step 1.* Work out the person's **maximum basic rate** using MODULE B below.
- Step 2.* Work out the amount per year (if any) payable by way of remote area allowance using MODULE C below.
- Step 3.* Add up the amounts obtained in Steps 1 and 2.
- Step 4.* Apply the adjusted income test using MODULE D below to work out the reduction for adjusted income.
- Step 5.* Take the amount obtained in Step 4 away from the amount obtained in Step 3: the result is called the **adjusted income reduced rate**.
- Step 6.* Apply the assets test using MODULE E below to work out the reduction for assets.
- Step 7.* Take the amount obtained in Step 6 from the amount obtained in Step 3: the result is called the **assets reduced rate**.
- Step 8.* Work out the person's ceiling rate using points 45Y-A3 and 45Y-A4.
- Step 9.* Find out, using points 45Y-A5 and 45Y-A6, whether the pension payable to the person under Part II or Part IV is compensation reduced. If the pension is compensation reduced, go to Step 10. If the pension is not compensation reduced, ignore Step 10 and go directly to Step 11.
- Step 10.* This Step applies only to a person whose pension under Part II or IV is compensation reduced. Work out the person's provisional rate as follows: compare the adjusted income reduced rate (see Step 5) and the assets reduced rate (see Step 7); the person's **provisional rate** is equal to:
- (a) whichever is the lower of those rates; or
 - (b) if the 2 rates are the same—those rates.
- Go now to Step 12.

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Method statement—continued

- Step 11.** This Step applies only to a person whose pension under Part II or IV is not compensation reduced. Work out the person's provisional rate as follows: compare the adjusted income reduced rate, the assets reduced rate and the ceiling rate; the person's **provisional rate** is equal to:
- (a) whichever is the least of those rates; or
 - (b) if 2 of those rates are the same and the third one is higher—the lower rate; or
 - (c) if the 3 rates are the same—those rates.
- Step 12.** Work out the amount per year (if any) for rent assistance using MODULE F below.
- Step 13.** Work out the amount per year (if any) for dependent children using MODULE G below.
- Step 14.** Add up the amounts obtained in Steps 12 and 13.
- Step 15.** Apply the maintenance income test to the maintenance income of the person using MODULE H below to work out the reduction for maintenance income.
- Step 16.** Take the reduction for maintenance income away from the result obtained in Step 14.
- Step 17.** Add the amount obtained in Step 16 to the person's provisional rate (see Step 10 or 11); the result is the rate of income support supplement.

Note 1: If a person's assets reduced rate is less than the person's adjusted income reduced rate, the person may be able to take advantage of provisions dealing with:

- financial hardship (sections 52Y and 52Z);
- pension loans scheme (section 52ZA).

Note 2: If a person's rate is reduced under Step 14 the order in which the reduction is to be made against the components of the maximum payment rate is laid down by section 45V (maximum basic rate first, then remote area allowance).

Note 3: The rate calculation for a member of a couple is affected by the operation of point 45Y-A2.

Note 4: The amount of a fortnightly instalment of income support supplement will be rounded off to the nearest multiple of 10 cents (see subsections 58A(2) and (3)).

Note 5: For the minimum amount of a fortnightly instalment of income support supplement see subsection 58A(4).

Members of a couple

“45Y-A2. Where 2 persons are members of a couple, they will be treated as pooling their resources and, in the case of adjusted income and assets (but not maintenance income), sharing them on a 50/50 basis (see points

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45Y-D2, 45Y-E2, and 45Y-H3 below). They will also be treated as sharing expenses (e.g. for rent) on a 50/50 basis (see points 45Y-F8, 45Y-F9 and 45Y-F10 below).

Ceiling rate

“45Y-A3. The ceiling rate for a war widow or war widower is \$3,122.60 unless point 45Y-A4 applies to the war widow or war widower.

“45Y-A4. If:

- (a) a person became a war widow or war widower before 1 November 1986; and
- (b) immediately before 1 November 1986 the person was receiving a social security pension at a rate (**‘pre-November 1986 rate’**) equal to or more than \$3,122.60;
- (c) since that day the person has been continuously receiving the social security pension or income support supplement;

his or her ceiling rate is equal to the pre-November 1986 rate.

Compensation reduced pension

“45Y-A5. A pension payable to a war widow or war widower under Part II is **compensation reduced** if the pension has been reduced:

- (a) by taking into account (under subsection 30(3)) the rate, or amount, of any payment that the war widow or war widower is entitled to receive under the law of a State or of a foreign country; or
- (b) by taking into account (under Division 5A of that Part) the rate at which any compensation is payable to the war widow or war widower.

“45Y-A6. A pension payable to a war widow or war widower under Part IV is **compensation reduced** if the pension has been reduced by taking into account (under Division 4 of that Part) the rate at which any compensation is payable to the war widow or war widower.

“MODULE B—MAXIMUM BASIC RATE

Maximum basic rate

“45Y-B1. A person’s maximum basic rate depends on the person’s family situation. Work out which family situation in Table B applies to the person. The maximum basic rate is the corresponding amount in column 3.

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TABLE B MAXIMUM BASIC RATES			
column 1 item no.	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of couple	\$8,270.60	\$318.10
2.	Partnered (partner getting neither pension nor benefit)	\$8,270.60	\$318.10
3.	Partnered (partner getting pension or benefit)	\$6,897.80	\$265.30
4.	Member of illness separated or respite care couple	\$8,270.60	\$318.10

Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)' and 'partnered (partner getting pension or benefit)' see section 5E, and for 'illness separated couple' and 'respite care couple' see subsections 5R(5) and (6).

Note 2: The maximum basic rates are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

“MODULE C—REMOTE AREA ALLOWANCE

Remote area allowance

“45Y-C1. An amount by way of remote area allowance is to be added to a person's maximum basic rate if:

- (a) the person's usual place of residence is situated in a remote area; and
- (b) the person is physically present in the remote area.

Note: For 'remote area' and 'physically present in the remote area' see section 5Q.

Rate of remote area allowance

“45Y-C2. The rate of remote area allowance payable to a person is worked out using Table C. Work out which family situation in the Table applies to the person. The rate of remote area allowance is the corresponding amount in column 3 plus an additional corresponding amount in column 5 for each income support supplement add-on child of the person.

TABLE C REMOTE AREA ALLOWANCE					
column 1 item no.	column 2 person's family situation	column 3 basic allowance per year	column 4 basic allowance per fortnight	column 5 additional allowance per year	column 6 additional allowance per fortnight
1.	Not member of couple	\$455.00	\$17.50	\$182.00	\$7.00
2.	Partnered—partner receiving remote area allowance	\$390.00	\$15.00	\$182.00	\$7.00
3.	Partnered—partner not receiving remote area allowance	\$455.00	\$17.50	\$182.00	\$7.00

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

Note 2: For 'income support supplement add-on child' see point 45Y-C4.

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Illness separated and respite care couples

“45Y-C3. For the purposes of Table C in point 45Y-C2, a member of an illness separated couple or a respite care couple is to be treated as not being a member of a couple.

Income support supplement add-on child

“45Y-C4. A person has an income support supplement add-on child if:

- (a) the person is receiving income support supplement; and
- (b) the person has a child; and
- (c) the person's income support supplement rate includes a dependent child add-on for the child.

Dependent children must be physically present in Australia

“45Y-C5. Additional allowance is not payable for a child unless the child is physically present in Australia.

“45Y-C6. If 2 persons have an income support supplement add-on for the same child, additional allowance is not payable to either person for that child except as directed by the Commission. The Commission may direct that additional allowance is payable either to one of the persons or to both.

“MODULE D—ADJUSTED INCOME TEST

Effect of income on maximum payment rate

“45Y-D1. This is how to work out the effect of a person's adjusted income on the person's maximum payment rate:

<i>Method statement</i>	
Step 1.	Work out the amount of the person's adjusted income on a yearly basis. Note: For the treatment of the adjusted income of members of a couple see point 45Y-D2.
Step 2.	Work out the person's adjusted income free area (see points 45Y-D4 to 45Y-D10 below). Note: A person's adjusted income free area is the maximum amount of adjusted income the person can have without affecting the person's income support supplement rate.
Step 3.	Work out whether the person's adjusted income exceeds the person's adjusted income free area.
Step 4.	If the person's adjusted income does not exceed the person's adjusted income free area, the person's adjusted income excess is nil.

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Method statement—continued

- Step 5.** If the person's adjusted income exceeds the person's adjusted income free area, the person's adjusted income excess is the person's adjusted income less the person's adjusted income free area.
- Step 6.** Use the person's adjusted income excess to work out the person's reduction for ordinary income using points 45Y-D11 to 45Y-D13 below.

Note 1: See point 45Y-A1 (Steps 4 to 9) for the significance of the person's reduction for adjusted income.

Note 2: The application of the adjusted income test is affected by provisions concerning:

- investment income (sections 46-46U);
- disposal of income (sections 48-48E);
- earnings credit (section 49).

Adjusted incomes of members of couples

"45Y-D2. If a person is a member of a couple, add the couple's adjusted incomes (on a yearly basis) and divide by 2 to work out the amount of the person's adjusted income for the purposes of this Module.

Partner's DSS earnings credit to be taken into account

"45Y-D3. If:

- (a) a person is a member of a couple; and
- (b) the person's partner is receiving a social security pension or benefit; and
- (c) an amount earned by the partner is disregarded under section 1113 or 1115A of the Social Security Act;

that amount is also to be disregarded in working out the adjusted income of the person for the purposes of point 45Y-D2.

Adjusted income free area

"45Y-D4. A person's adjusted income free area is the amount of adjusted income the person can have without any deduction being made from the person's maximum payment rate.

How to calculate a person's adjusted income free area

"45Y-D5. A person's adjusted income free area is worked out using Table D-1. Work out which family situation in Table D-1 applies to the person. The adjusted income free area is the corresponding amount in column 3 plus an additional corresponding amount in column 5 for each dependent child of the person.

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TABLE D-1					
ADJUSTED INCOME FREE AREA					
column 1	column 2	column 3	column 4	column 5	column 6
item	category of person	basic free area per year	basic free area per fortnight	additional free area per year	additional free area per fortnight
1.	Not member of couple	\$2,340	\$90	\$624	\$24
2.	Partnered (partner getting neither pension nor benefit)	\$2,028	\$78	\$624	\$24
3.	Partnered (partner getting benefit)	\$2,028	\$78	\$624	\$24
4.	Partnered (partner getting pension)	\$2,028	\$78	\$312	\$12

Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)', 'partnered (partner getting benefit)', 'partnered (partner getting pension)' and 'dependent child' see sections 5E and 5F.

Note 2: Items 2, 3 and 4 of Table D-1 apply to members of illness separated and respite care couples.

Note 3: The basic free area is indexed annually in line with CPI increases (see sections 59B to 59E).

Maintenance obligation

"45Y-D6. For the purposes of point 45Y-D5, a child is a dependent child of a person if the person is liable to maintain the child under a law of the Commonwealth, a State or a Territory.

Additional free area for children in some cases

"45Y-D7. If:

- (a) a person is a member of a couple; and
- (b) the person's partner is receiving an age service pension or invalidity service pension; and
- (c) the partner's service pension rate includes a child add-on for a child or child add-ons for children;

the person's adjusted income free area is to be increased by \$312 for the child or for each of the children.

No additional free area for certain prescribed student children

"45Y-D8. No additional free area is to be added for a dependent child who:

- (a) has turned 18; and
- (b) is a prescribed student child;

unless the person whose rate is being calculated, or the person's partner, receives child disability allowance under the Social Security Act for the child.

Reduction of additional free area for dependent children

"45Y-D9. The additional free area for a dependent child of a person to whom item 1, 2 or 3 of Table D-1 applies is reduced by the annual amount

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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 45Y-D11 do not result in a reduction.

“45Y-D10. The additional free area for a dependent child of a person to whom item 4 of Table D-1 applies 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 45Y-D11 do not result in a reduction.

“45Y-D11. No reduction is to be made under point 45Y-D9 or 45Y-D10 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.

Reduction for adjusted income in excess of adjusted income free area

“45Y-D12. A person's reduction for adjusted income is worked out using Table D-2. Work out which family situation applies to the person. The reduction for adjusted income is the amount per year worked out using the corresponding calculation in column 3.

TABLE D-2 REDUCTION FOR ADJUSTED INCOME		
column 1 item no.	column 2 person's family situation	column 3 reduction
1.	Not member of couple	<u>adjusted income excess</u> 2
2.	Partnered (partner getting neither pension nor benefit)	<u>adjusted income excess</u> 2
3.	Partnered (partner getting pension or benefit)	<u>adjusted income excess</u> 2

Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)' and 'partnered (partner getting pension or benefit)' see section 5E.

Note 2: 'Social security pension' includes a rehabilitation allowance.

Note 3: For 'adjusted income excess' see point 45Y-D13 below.

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Adjusted income excess

“45Y-D13. A person’s **adjusted income excess** is the person’s adjusted income less the person’s adjusted income free area.

“MODULE E—ASSETS TEST

Effect of assets on provisional rate

“45Y-E1. This is how to work out the effect of a person’s assets on the person’s provisional rate:

Method statement

Step 1. Work out the value of the person’s assets.

Note 1: For the treatment of the assets of members of a couple see point 45Y-E2.

Note 2: For the assets that are to be disregarded in valuing a person’s assets see section 52.

Note 3: For the valuation of an asset that is subject to a charge or encumbrance see section 52C.

Step 2. Work out the person’s assets value limit (see point 45Y-E3 below).

Note: A person’s assets value limit is the maximum value of assets the person can have without affecting the rate of the person’s income support supplement.

Step 3. Work out whether the value of the person’s assets exceeds the person’s assets value limit.

Step 4. If the value of the person’s assets does not exceed the person’s assets value limit, the person’s assets excess is nil.

Step 5. If the value of the person’s assets exceeds the person’s assets value limit, the person’s assets excess is the value of the person’s assets less the person’s assets value limit.

Step 6. Use the person’s assets excess to work out the person’s reduction for assets using points 45Y-E4 to 45Y-E6 below.

Note 1: See point 45Y-A1 (Steps 6 to 10) for the significance of the person’s reduction for assets.

Note 2: The application of the assets test is affected by provisions concerning:

- disposal of assets (sections 52E-52J);
- retirement villages (sections 52K-52X);
- financial hardship (sections 55Y and 55Z);
- the pension loans scheme (sections 52ZA-52ZM).

Value of assets of members of couples

“45Y-E2. For the purposes of this Module:

(a) the value of the assets of a member of a couple is to be taken to be 50% of the sum of:

- (i) the value of the person’s assets; and
- (ii) the value of the person’s partner’s assets; and

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- (b) the value of the assets of a particular kind of a member of a couple is to be taken to be 50% of the sum of:
- (i) the value of the person's assets of that kind; and
 - (ii) the value of the person's partner's assets of that kind.

Assets value limit

"45Y-E3. A person's assets value limit is worked out using Table E-1. Work out the person's family situation and property ownership situation. The assets value limit is the corresponding amount in column 3.

TABLE E-1			
ASSETS VALUE LIMIT			
column 1	column 2	column 3 assets value limit	
item no.	person's family situation	column 3A either person or partner property owner	column 3B neither person nor partner property owner
1.	Not member of couple	\$115,000	\$197,000
2.	Partnered (partner getting neither pension nor benefit)	\$81,750	\$122,750
3.	Partnered (partner getting pension or benefit)	\$81,750	\$122,750

Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)' and 'partnered (partner getting pension or benefit)' see section 5E.

Note 2: For 'property owner' see section 5L.

Note 3: Items 2 and 3 apply to members of illness separated and respite care couples.

Note 4: The assets value limit in column 3B of item 1 is adjusted annually in line with CPI increases (see section 59H). The other assets value limits are indexed annually in line with CPI increases (see sections 59B to 59E).

Reduction for assets in excess of assets value limit

"45Y-E4. A person's reduction for assets is worked out using Table E-2. Work out which family situation applies to the person. The reduction for assets is the amount per year worked out using the corresponding calculation in column 3.

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TABLE E-2 REDUCTION FOR ASSETS		
column 1 item no.	column 2 person's family situation	column 3 reduction
1.	Not member of couple	$\frac{[\text{assets excess}] \times 19.50}{250}$
2.	Partnered (partner getting neither pension nor benefit)	$\frac{[\text{assets excess}] \times 19.50}{250}$
3.	Partnered (partner getting benefit)	$\frac{[\text{assets excess}] \times 19.50}{250}$

Note 1: For 'member of a couple', 'partnered (partner getting neither pension nor benefit)', 'partnered (partner getting benefit)' and 'partnered (partner getting pension)' see section 5E.

Note 2: For 'additional amounts for dependent children' see subsection 5Q(1).

Note 3: 'Social security pension' includes a rehabilitation allowance.

Note 4: For 'assets excess' see point 45Y-E5 below.

Assets excess

"45Y-E5. A person's **assets excess** is the value of the person's assets less the person's assets value limit.

"45Y-E6. In calculating a person's assets excess under point 45Y-E5, disregard any part of the excess that is not a multiple of \$250.

"MODULE F—RENT ASSISTANCE

Rent assistance

"45Y-F1. Rent assistance is an amount that may be taken into account when working out the rate of a person's income support supplement. If the person is eligible for rent assistance under point 45Y-F2, the amount to be so taken into account is the amount applying to that person under Table F-1.

Eligibility for rent assistance

"45Y-F2. A person is eligible for rent assistance if:

- (a) the person is not an ineligible property owner; and
- (b) the person pays, or is liable to pay, rent (other than Government rent); and
- (c) the rent is payable at a rate of more than the rent threshold rate; and
- (d) the person is in Australia.

Note 1: For 'rent', 'Government rent' and 'ineligible property owner' see section 5N.

Note 2: For 'rent threshold rate' see point 45Y-F3.

Rent threshold rate

"45Y-F3. A person's rent threshold rate depends on the person's family situation. Work out which family situation in Table F applies to the person. The rent threshold rate is the corresponding amount in column 3.

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TABLE F			
RENT THRESHOLD RATES			
column 1 item no.	column 2 person's family situation	column 3 rate per year	column 4 rate per fortnight
1.	Not member of couple	\$2,116.40	\$81.40
2.	Partnered (partner does not have rent increased pension)	\$2,116.40	\$81.40
3.	Partnered (partner has rent increased pension)	\$3,182.40	\$122.40

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

Note 2: For 'partner with a rent increased pension' see point 45Y-F6.

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

No rent assistance if partner getting incentive allowance under the Social Security Act

"45Y-F4. If a person is a member of a couple and the person's partner is living with the person in their home, an additional amount is not to be added to the person's provisional rate under point 45Y-F2 if an amount by way of incentive allowance is being added to the maximum basic rate of the person's partner.

Note: For 'incentive allowance' see subsection 5Q(1).

Factors affecting rate of rent assistance

"45Y-F5. The rate of rent assistance depends on:

- (a) the annual rent paid or payable by the person; and
- (b) the number of pension increase children (if any) that the person has; and
- (c) whether or not the person has a partner with a rent increased pension.

Note: For 'pension increase child' see subsection 5F(6).

Partner with rent increased pension

"45Y-F6. A person has a **partner with a rent increased pension**, for the purposes of this Module, if:

- (a) the partner is living with the person in their home; and
- (b) the partner is receiving income support supplement, a service pension or a social security pension; and
- (c) the rate of income support supplement or of the pension is increased to take account of rent paid or payable by the person.

Note 1: 'Social security pension' includes a rehabilitation allowance.

Note 2: For the treatment of rent paid by a member of a couple see point 45Y-F9.

Rate of rent assistance

"45Y-F7. The rate of rent assistance is whichever is the lesser of Rate A and Rate B applicable to the person in accordance with Table F-1.

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TABLE F-1				
RATE OF RENT ASSISTANCE				
column 1	column 2	column 3	column 4 rate B	
item no.	family situation	rate A	column 4A 1 or 2 pension increase children	column 4B 3 or more pension increase children
1.	Not member of couple	$3 \times \frac{(\text{Annual rent} - \$2,116.40)}{4}$	\$1,955.20	\$2,230.80
2.	Partnered (partner does not have rent increased pension)	$3 \times \frac{(\text{Annual rent} - \$2,116.40)}{4}$	\$1,955.20	\$2,230.80
3.	Partnered (partner has rent increased pension)	$3 \times \frac{(\text{Annual rent} - \$3,182.40)}{8}$	\$977.60	\$1,115.40
4.	Member of illness separated or respite care couple	$3 \times \frac{(\text{Annual rent} - \$3,182.40)}{4}$	\$977.60	\$1,115.40

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

Note 2: For 'partner with a rent increased pension' see point 45Y-F6.

Note 3: The Rate B amounts are indexed 6 monthly in line with CPI increases (see sections 59B to 59E).

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

Annual rent

"45Y-F8. **Annual rent** is the annual rent paid or payable by the person whose rate of income support supplement is being calculated.

Rent paid by a member of a couple

"45Y-F9. Where a person is a member of a couple and the person's partner is living with the person in their home, any rent that the person's partner pays or is liable to pay in respect of the home is to be treated as paid or payable by the person.

Note: For 'member of a couple' see section 5E.

Rent paid by a member of an illness separated or respite care couple

"45Y-F10. Where a person is a member of an illness separated or respite care couple, any rent that the person's partner pays or is liable to pay in respect of the premises occupied by the person is to be treated as paid or payable by the person.

Note: For 'member of an illness separated couple' and 'respite care couple' see subsections 5R (5) and (6).

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***“MODULE G—ADDITIONAL AMOUNTS FOR DEPENDENT
CHILDREN***

Additional amounts for dependent children

“45Y-G1. This is how to work out the amount per year for dependent children that is to be taken into account in working out the income support supplement rate.

Method statement

- | |
|--|
| <p><i>Step 1.</i> Work out the amount of the child add-on (if any) for each dependent child of the person using points 45Y-G3 to 45Y-G5.</p> <p><i>Step 2.</i> Work out the amount per year of the person's guardian allowance (if any) using points 45Y-G6 to 45Y-G8.</p> <p><i>Step 3.</i> Add up all of the amounts obtained in Steps 1 and 2: the result is called the DC total and is the amount per year for children that is to be taken into account in working out the income support supplement rate.</p> |
|--|

Note: Guardian allowance is a single amount per year for a person who is not a member of a couple or who is a member of an illness separated couple.

Children of a couple

“45Y-G2. If a member (whether the man or the woman), or both members, of a couple have dependent children, use Table G-1 to work out how the dependent children are to be taken into account for the purposes of this Module.

Work out the column that applies to the man's payment entitlement (if any) using the horizontal axis and then work out the item that applies to the woman's payment entitlement (if any) using the vertical axis; find the box for that item in that column.

If the box contains the word 'man', a dependent child of the woman is to be taken into account as a dependent child of the man; if the box contains the word 'woman', a dependent child of the man is to be taken into account as a dependent child of the woman.

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TABLE G-1									
ALLOCATION OF DEPENDENT CHILDREN									
column 1	column 2	column 3	column 4	column 5	column 6	column 7	column 8	column 9	column 10
item no.	man woman	service age	service invalidity	ISS	service partner	service illness separated	service carer	social security	nothing
1.	service age	man	man	woman	woman	woman	woman	man	woman
2.	service invalidity	man	man	woman	woman	woman	woman	man	woman
3.	ISS	man	man	woman	N/P	woman	woman	woman	woman
4.	service partner	man	man	N/P		woman	man	man	N/P
5.	service illness separated	man	man	man	man		man	man	woman
6.	service carer	man	man	man	woman	woman	woman	man	woman
7.	social security	man	man	man	woman	woman	woman		
8.	nothing	man	man	man	N/P	man	man		

KEY

service age	=	age service pension
service invalidity	=	invalidity service pension
ISS	=	income support supplement
service care	=	carer service pension
service partner	=	partner service pension
social security	=	social security pension
service illness separated (man)	=	the person is receiving an age service or invalidity service pension and the couple is an illness separated couple because of the person's illness or infirmity
nothing	=	the person is not receiving a service pension, income support supplement or a social security pension
N/P	=	the pensioner combination is not possible.

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Dependent child add-ons

“45Y-G3. If a person has a dependent child, there is, subject to points 45Y-G4 and 45Y-G5, a dependent child add-on for the child. The amount of the add-on depends on the child's age and is worked out using Table G-2.

TABLE G-2			
ADD-ON FOR DEPENDENT CHILD			
column 1 item no.	column 2 child's age	column 3 rate per year	column 4 rate per fortnight
1.	under 13	\$1,669.20	\$64.20
2.	13 or over but under 16	\$2,355.60	\$90.60
3.	16 or over	\$884.00	\$34.00

No add-on for prescribed student children

“45Y-G4. Once a dependent child of a person turns 16, there is no dependent child add-on for the child if the child is a prescribed student child.

Note 1: For ‘prescribed student child’ and ‘dependent child’ see section 5F.

Note 2: Even though no child add-on applies to a particular dependent child, the child:

- (a) may attract guardian allowance under points 45Y-G6 to 45Y-G8; and
- (b) will attract additional free area under point 45Y-D5 for the purposes of the adjusted income test.

No add-on for child if another person already has an add-on etc. for him or her

“45Y-G5. If a person has a dependent child and:

- (a) a dependent child add-on for that child has been taken into account in working out the rate of income support supplement payable to another person; or
- (b) that child is the only child in respect of whom an amount by way of guardian allowance is taken into account in working out the rate of income support supplement payable to another person;

that child is not to be taken into account for the purposes of point 45Y-G3.

Guardian allowance

“45Y-G6. Subject to points 45Y-G7 and 45Y-G8, a person who has a dependent child or dependent children is to have a single amount per year by way of guardian allowance if:

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

No guardian allowance in respect of certain dependent children who have turned 18

“45Y-G7. Once a dependent child of a person turns 18, the child is not to be taken into account for the purposes of point 45Y-G6 unless:

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- (a) the child is a student child but not a prescribed student child; or
- (b) the person receives child disability allowance under the Social Security Act in respect of the child.

Guardian allowance not payable twice in respect of same child

“45Y-G8. If:

- (a) a person has only one dependent child; and
- (b) that child is the only child in respect of whom an amount by way of guardian allowance is taken into account in working out the rate of income support supplement of another person;

that child is not to be taken into account for the purposes of point 45Y-G6.

Rate of guardian allowance

“45Y-G9. The rate of guardian allowance is \$769.60 a year (\$29.60 a fortnight).

Note: The rate is adjusted annually (see section 59G).

“MODULE H—MAINTENANCE INCOME TEST

Effect of maintenance income on maximum payment rate

“45Y-H1. This is how to work out the effect of a person's maintenance income on the person's child related payment:

Method statement

Step 1. Work out the amount of the person's maintenance income on a yearly basis.

Note 1: For the treatment of the maintenance income of members of a couple see points 45Y-H2 and 45Y-H3.

Note 2: 'Special maintenance income' (see subsection 5K(1)) can in some circumstances be disregarded under points 45Y-H4 to 45Y-H7.

Step 2. Work out the person's maintenance income free area (see point 45Y-H8 below).

Note: A person's maintenance income free area is the maximum amount of maintenance income the person can have without affecting the rate of the person's income support supplement.

Step 3. Work out whether the person's maintenance income exceeds the person's maintenance income free area.

Step 4. If the person's maintenance income does not exceed the person's maintenance income free area, the person's maintenance income excess is nil.

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Method statement—continued

Step 5. If the person's maintenance income exceeds the person's maintenance income free area, the person's maintenance income excess is the person's maintenance income less the person's maintenance income free area.

Step 6. Use the person's maintenance income excess to work out the person's reduction for maintenance income using point 45Y-H9 below.

Note 1: See point 45Y-A1 (Steps 5 to 7) for the significance of the person's reduction for maintenance income.

Note 2: The application of the maintenance income test is affected by provisions concerning:

- apportionment of capitalised maintenance income (section 51).
- in-kind housing maintenance—value of substitute for family home (section 51A).

Only maintenance income for dependent child to be taken into account

“45Y-H2. In working out a person's maintenance income for the purposes of this Module, disregard any maintenance income for a child who is not a dependent child of the person.

Maintenance incomes of members of couples

“45Y-H3. If the person is a member of a couple, add the couple's maintenance incomes (on a yearly basis) to work out the amount of the person's maintenance income for the purposes of this Module.

“45Y-H4. Subject to points 45Y-H6 and 45Y-H7, if a person has special maintenance income in excess of the ceiling applicable to the person, the excess is disregarded for the purposes of this Module.

Note: See subsection 5K(1) for 'special maintenance income'.

Amount of ceiling

“45Y-H5. The ceiling applicable to a person is worked out using the formula:

$$\text{MIFA} + \frac{\text{Table Amount} + \text{DC Add-ons}}{2}$$

where:

‘MIFA’ is the person's maintenance income free area;

‘Table Amount’ is whichever of the amounts in the following Table is applicable to the person:

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TABLE	
Not member of couple	Partnered
\$8,270.60	2 × \$6,897.80

Note: The amounts specified in the Table are indexed in line with CPI increases (see sections 59A to 59E).

'DC add-ons' is the sum of the amounts of dependent child add-on, guardian allowance and rent assistance that would be payable to the person before the application of the maintenance income test.

"45Y-H6. No amount is to be disregarded under point 45Y-H4 if:

- (a) child support is payable under the *Child Support (Assessment) Act 1989* to the person for a child; and
- (b) the person is entitled to make an application for assessment child support under Part V of that Act for the child payable by another person; and
- (c) the person has:
 - (i) neither:
 - (A) properly made such an application; nor
 - (B) properly made an application under Part VI of that Act for acceptance of an agreement in relation to the child; or
 - (ii) the person has properly made an application of either kind, but:
 - (A) the person has subsequently withdrawn the application; or
 - (B) after child support has become payable by the other person under that Act for the child, the person has ended the entitlement to child support.

"45Y-H7. No amount is to be disregarded under point 45Y-H4 if:

- (a) child support is not payable under the *Child Support (Assessment) Act 1989* to the person for a child; and
- (b) the person is entitled to make an application under section 128 of that Act; and
- (c) an application by the person under that section is not in force.

How to calculate a person's maintenance income free area

"45Y-H8. A person's maintenance income free area is worked out using Table H-1. Work out which family situation in Table H-1 applies to the person. The maintenance income free area is the corresponding amount in column 3 plus an additional corresponding amount in column 5 for each maintained child after the first.

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TABLE H-1					
MAINTENANCE INCOME FREE AREA					
column 1 item no.	column 2 person's family situation	column 3 basic free area per year	column 4 basic free area per fortnight	column 5 additional free area per year	column 6 additional free area per fortnight
1.	Not member of couple	\$865.80	\$33.30	\$288.60	\$11.10
2.	Partnered (both the person and the partner have maintenance income)	\$1,731.60	\$66.60	\$288.60	\$11.10
3.	Partnered (only one member of a couple has maintenance income)	\$865.80	\$33.30	\$288.60	\$11.10

Reduction for maintenance income

“45Y-H9. A person's reduction for maintenance income is:

maintenance income excess

2

“Division 6—Bereavement payments

“Subdivision A—Bereavement payments (death of pensioner partner)

Eligibility for payments under this Subdivision

“45Z.(1) If:

- (a) a person is receiving income support supplement; and
- (b) the person is a member of a couple; and
- (c) the person's partner dies; and
- (d) immediately before the partner died, the partner was receiving:
 - (i) income support supplement; or
 - (ii) a service pension; or
 - (iii) any of the following under the Social Security Act:
 - (A) an age pension; or
 - (B) a disability support pension; or
 - (C) a carer pension; or
 - (D) a sole parent pension under subparagraph 249 (1)(a)(iv) of the Social Security Act (illness separated couple); or
 - (E) a rehabilitation allowance instead of a pension referred to in sub-subparagraph (A) or (B); or

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- (F) a special needs age, disability support or sole parent pension; and
- (e) on the pension payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not eligible for payments under this Subdivision is less than the sum of:
- (i) the amount that would otherwise be payable to the person under section 45ZA (continued payment of partner's pension); and
 - (ii) the amount that would otherwise be payable to the person under section 45ZC (person's continued rate);

the person is eligible for payments under this Subdivision to cover the bereavement period.

Note 1: Section 45ZA provides for the payment to the person, up to the first available bereavement adjustment payday, of amounts equal to the instalments that would have been paid to the person's partner during that period if the partner had not died.

Note 2: Section 45ZB provides for a lump sum that represents the instalments that would have been paid to the person's partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the partner had not died.

Note 3: If one member of a couple is receiving a social security payment and the other member is receiving income support supplement and one of them dies, the bereavement payments will be paid under the Act that governs the survivor's payment (that is, if the person who dies was receiving a social security payment and the survivor was receiving income support supplement, the bereavement payments will be made under this Act, but if the person who dies was receiving income support supplement and the survivor was receiving a social security payment, the bereavement payments will be made under the Social Security Act).

“(2) A person who is eligible for payments under this Subdivision may choose not to receive payments under this Subdivision.

Note: If a person makes an election, the date of effect of any determination to increase the rate of the person's income support supplement may, in some circumstances, be the day after the day on which the person's partner died (see subsection 56G(2A)).

“(3) An election under subsection (2):

- (a) must be made by written notice to the Commission; and
- (b) may be made after the person has been paid an amount or amounts under this Subdivision; and
- (c) cannot be withdrawn after the Department has taken all the action required to give effect to that election.

“(4) If a person is eligible for payments under this Subdivision in relation to the death of the person's partner, then, unless the person has made an election under subsection (2), the rate at which income support supplement is payable to the person during the bereavement period is governed by section 45ZC.

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“(5) If the person and the person’s partner were an illness separated or a respite care couple immediately before the partner died, this Subdivision applies to the calculation of rates during the bereavement period as if they were not members of an illness separated or a respite care couple.

Continued payment of partner’s pension

“45ZA. If a person is eligible for payments under this Subdivision in relation to the death of the person’s partner, there is payable to the person, on each of the pension paydays in the bereavement rate continuation period, an amount equal to the amount that would have been payable to the person’s partner on that payday if the partner had not died.

Lump sum payable in some circumstances

“45ZB. If:

- (a) a person is eligible for payments under this Subdivision in relation to the death of the person’s partner; and
- (b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the person as a lump sum an amount worked out by using the lump sum calculator at the end of this section.

“LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

<i>Method statement</i>	
<i>Step 1.</i>	Work out (taking section 45ZE into account) the amount that, if the person’s partner had not died, would have been payable to the person on the pension payday immediately before the first available bereavement adjustment payday.
<i>Step 2.</i>	Work out the amount that, if the partner had not died, would have been payable to the partner on the pension payday immediately before the first available bereavement adjustment payday.
<i>Step 3.</i>	Add up the amounts obtained in Steps 1 and 2: the result is called the combined pensioner couple rate .
<i>Step 4.</i>	Work out (taking section 45ZE into account) the amount that, but for section 45ZC, would have been payable to the person on the pension payday immediately before the first available bereavement adjustment payday: the result is called the person’s individual rate .

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Method statement—continued

- Step 5.** Take the person's individual rate away from the combined pensioner couple rate: the result is called the **partner's instalment component**.
- Step 6.** Work out the number of pension paydays in the bereavement lump sum period.
- Step 7.** Multiply the partner's instalment component by the number of pension paydays in the bereavement lump sum period: the result is the amount of the lump sum payable to the person under this section.

Adjustment of person's income support supplement rate

“45ZC. If:

- (a) a person is eligible for payments under this Subdivision; and
- (b) the person does not elect under subsection 36P(2) not to receive payments under this Subdivision;

the rate of the person's income support supplement during the bereavement period is worked out as follows:

- (c) during the bereavement rate continuation period, the rate of income support supplement payable to the person is the rate at which income support supplement would have been payable to the person if the person's partner had not died;

Note: See section 45ZE for the method of calculating this rate.

- (d) during the bereavement lump sum period (if any), the rate at which income support supplement is payable to the person is the rate at which income support supplement would be payable to the person apart from this Subdivision.

Effect of death of person entitled to payments under this Subdivision

“45ZD. If:

- (a) a person is eligible for payments under this Subdivision in relation to the death of the person's partner; and
- (b) the person dies within the bereavement period; and
- (c) the Commission does not become aware of the death of the person's partner before the person dies;

there is payable, to such person as the Commission thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

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"LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

- Step 1.* Work out (taking section 45ZE into account) the amount that, if neither the person nor the person's partner had died, would have been payable to the person on the pension payday immediately after the day on which the person died.
- Step 2.* Work out the amount that, if neither the person nor the person's partner had died, would have been payable to the person's partner on that pension payday.
- Step 3.* Add up the amounts obtained in Steps 1 and 2: the result is called the **combined pensioner couple rate**.
- Step 4.* Work out (taking section 45ZE into account) the amount that, but for section 45ZC, would have been payable to the person on the pension payday immediately after the day on which the person died if the person had not died: the result is called the **person's individual rate**.
- Step 5.* Take the person's individual rate away from the combined pensioner couple rate: the result is called the **partner's instalment component**.
- Step 6.* Work out the number of pension paydays in the period that commences on the day after the person dies and ends on the day on which the bereavement period ends.
- Step 7.* Multiply the partner's instalment component by the number obtained in Step 6: the result is the amount of the lump sum payable under this section.

Method of calculating rate at which income support supplement would have been payable in certain circumstances

"45ZE. If it is necessary for the purposes of:

- (a) Step 1 or 4 of the Method statement in the Lump Sum Calculator at the end of section 45ZB; or
- (b) paragraph 45ZC(c); or
- (c) Step 1 or 4 of the Method statement in the Lump Sum Calculator at the end of section 45ZD;

to work out the rate at which income support supplement would have been payable to a person on a particular day, or during a particular period, if certain specified circumstances applied, that rate is to be worked out:

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- (d) if the Income Support Supplement Rate Calculator Where There Are No Dependent Children at the end of section 45X is to be used—as if Step 10 of the Method statement in point 45X-A1 were omitted and the following Step were substituted:

'Step 10. Compare the adjusted income reduced rate and the assets reduced rate: the rate of income support supplement is equal to:

- (a) whichever is the lower of those rates; or
- (b) if the 2 rates are the same—those rates.'; or

- (e) if the Income Support Supplement Rate Calculator Where There Are Dependent Children at the end of section 45Y is to be used—as if Step 9 of the Method statement in point 45Y-A1 were omitted and the following Step were substituted:

'Step 9. Work out the person's provisional rate as follows: Compare the adjusted income reduced rate and the assets reduced rate; the person's **provisional rate** is equal to:

- (a) whichever is the lower of those rates; or
- (b) if the 2 rates are the same—those rates.'.

Matters affecting payment of benefits under this Subdivision

“45ZF.(1) If:

- (a) a person is eligible for payments under this Subdivision in relation to the death of the person's partner; and
- (b) after the person's partner died, an amount to which the partner would have been entitled if the partner had not died has been paid under this Part or Part III or under the Social Security Act; and
- (c) the Commission is not satisfied that the person has not had the benefit of that amount;

the following provisions have effect:

- (d) the amount referred to in paragraph (b) is not recoverable from the person or from the personal representative of the person's partner, except to the extent (if any) that the amount exceeds the amount payable to the person under this Subdivision;
- (e) the amount payable to the person under this Subdivision is to be reduced by the amount referred to in paragraph (b).

“(2) If:

- (a) a person is eligible for payments under this Subdivision in relation to the death of the person's partner; and

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- (b) an amount to which the person's partner would have been entitled if the person's partner had not died has been paid under this Part or Part III or under the Social Security Act, within the bereavement period, into an account with a bank, credit union or building society ('**financial institution**'); and
- (c) the financial institution pays to the person, out of the account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (b);

the financial institution is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the person's partner or anyone else in respect of the payment of that money to the person.

"Subdivision B—Bereavement payments (death of dependent child)

Bereavement payments on death of dependent child

"45ZG. If:

- (a) a person is receiving income support supplement; and
- (b) a child dies; and
- (c) immediately before the child died, the rate of the person's income support supplement included:
 - (i) a dependent child add-on in respect of the child; or
 - (ii) guardian allowance in respect of the child;

the person is eligible for payments under this Subdivision to cover the bereavement period.

Note 1: Section 45ZH provides for income support supplement to be paid to the person, up to the first available bereavement adjustment payday, at the rate at which it would have been paid if the child had not died but were disregarded for the purposes of working out the person's income test free areas.

Note 2: Section 45HI provides for a lump sum to be paid to the person if the first available bereavement adjustment payday occurs before the end of the bereavement period. The lump sum represents the difference, over the bereavement lump sum period, between the new rate for the person's income support supplement and the rate at which income support supplement would have been paid if the child had not died but were disregarded for the purposes of working out the person's income test free areas.

Note 3: The additional payments preserved by this Subdivision are:

- dependent child add-on;
- guardian allowance;
- additional rent assistance;
- additional remote area allowance.

Continued payment of child-related amounts

"45ZH. If a person is eligible for payments under this Subdivision in relation to the death of a child, the rate of the person's income support supplement during the bereavement rate continuation period is to be calculated as if:

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- (a) the child had not died; and
- (b) the child were disregarded in calculating the person's adjusted income free area and maintenance income free area.

Lump sum payable in some circumstances

“45ZI. If:

- (a) a person is eligible for payments under this Subdivision in relation to the death of a child; and
- (b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

a lump sum (worked out using the lump sum calculator at the end of this section) is payable to the person.

“LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the instalment of income support supplement payable to the person on the pension payday immediately before the first available bereavement adjustment payday: the result is called the **continued rate**.

Note: Section 45ZH applies in working out the amount of this instalment because the payday on which it is payable is within the bereavement rate continuation period.

Step 2. Work out the instalment of income support supplement that would have been payable to the person on the payday immediately before the first available bereavement adjustment payday if the rate of the person's income support supplement were not calculated under section 45ZH: the result is called the **new rate**.

Step 3. Take the new rate away from the continued rate: the result is called the **deceased child component**.

Step 4. Work out the number of pension paydays in the bereavement lump sum period.

Step 5. Multiply the deceased child component by the number of pension paydays in the bereavement lump sum period: the result is the amount of the lump sum payable to the person under this section.

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“Subdivision C—Bereavement payments (death of recipient)

Death of recipient

“45ZJ.(1) If:

- (a) a person is receiving income support supplement; and
- (b) either:
 - (i) the person is not a member of a couple; or
 - (ii) the person is a member of a couple and the person's partner:
 - (A) is not receiving income support supplement; and
 - (B) is not receiving a service pension; and
 - (C) is not receiving a social security pension; and
 - (D) is not receiving a social security benefit; and
- (c) the person dies;

there is payable, to such person as the Commission thinks appropriate, an amount equal to the amount that would have been payable to the person under this Part on the pension payday after the person's death if the person had not died.

“(2) If an amount is paid under subsection (1) in respect of a person, the Commonwealth is not liable to any action, claim or demand for any further payment under that subsection in respect of the person.

Note: For death of a person eligible for bereavement payments under Subdivision A see section 45ZD.”.

Creation of new Part

45.(1) The object of this section is to create in the Principal Act a new Part IIIB that is to consist of Divisions 8AA to 21 of Part III of the Principal Act as in force immediately before this section commenced.

(2) Immediately after the new Part (Part IIIA) inserted by section 44 in the Principal Act, the following heading is inserted:

“PART IIIB—PROVISIONS APPLICABLE TO SERVICE PENSIONS AND INCOME SUPPORT SUPPLEMENT”.

(3) The headings to Divisions 8AA to 15 of Part III of the Principal Act as in force immediately before this section commenced are amended as set out in the following Table.

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TABLE AMENDMENTS TO DIVISION HEADINGS		
item no.	Division	amendments
1.	8AA	(a) Omit "8AA", substitute "1". (b) Omit " <i>Ordinary income test</i> ", substitute " <i>Income tests</i> ".
2.	8	(a) Omit "8", substitute "2". (b) Omit " <i>Ordinary income test</i> ", substitute " <i>Income tests</i> ".
3.	8A	(a) Omit "8A", substitute "3". (b) Omit " <i>Ordinary income test</i> ", substitute " <i>Income tests</i> ".
4.	8B	(a) Omit "8B", substitute "4". (b) Omit " <i>Ordinary income test</i> ", substitute " <i>Income tests</i> ".
5.	8C	(a) Omit "8C", substitute "5". (b) Omit " <i>Ordinary income test</i> ", substitute " <i>Income tests</i> ".
6.	9	(a) Omit "9", substitute "6". (b) Omit " <i>Ordinary income test</i> ", substitute " <i>Income tests</i> ".
7.	10	(a) Omit "10", substitute "7". (b) Omit " <i>Ordinary income test</i> ", substitute " <i>Income tests</i> ".
8.	11	(a) Omit "11", substitute "8". (b) Omit " <i>Ordinary income test</i> ", substitute " <i>Income tests</i> ".
9.	12	Omit "12", substitute "9".
10.	13	Omit "13", substitute "10".
11.	14	Omit "14", substitute "11".
12.	15	(a) Omit "15", substitute "12". (b) Insert " <i>and income support supplement recipient</i> " after " <i>pensioner</i> ".

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(4) The heading to Subdivision B of Division 20 of Part III of the Principal Act as in force immediately before this section commenced is amended by omitting “*service*”.

(5) The headings to Divisions 16 to 21 of Part III of the Principal Act as in force immediately before this section commenced are renumbered sequentially 13 to 18.

(6) Section 45A of the Principal Act as in force immediately before this section commenced is renumbered 45ZK.

(7) The Principal Act is further amended as set out in Schedule 3.

Appropriation

46. Section 199 of the Principal Act is amended by inserting in paragraph (c) “, IIIA” after “III”.

PART 3—REPEAL OF THE SEAMEN’S WAR PENSIONS AND ALLOWANCES ACT 1940 AND SAVING AND TRANSITIONAL PROVISIONS RELATING TO THE REPEAL OF THAT ACT

Division 1—Repeal of the Seamen’s War Pensions and Allowances Act 1940

Repeal of Act

47. The *Seamen’s War Pensions and Allowances Act 1940* is repealed.

Division 2—Saving and transitional provisions relating to the repeal of the Seamen’s War Pensions and Allowances Act 1940

Interpretation

48. In this Part:

“SWPA” means the *Seamen’s War Pensions and Allowances Act 1940* as in force immediately before 1 July 1994;

“SWPA regulations” means regulations under the *Seamen’s War Pensions and Allowances Act 1940* as in force immediately before 1 July 1994;

“VEA” means the *Veterans’ Entitlements Act 1986* as in force on 1 July 1994.

Correspondence of pensions, allowances and benefits

49.(1) For the purposes of this Part:

- (a) a pension under paragraph 12(1)(a) of the SWPA and a pension under paragraph 13(1)(c) of the VEA correspond to each other; and
- (b) a pension under paragraph 12(1)(b) of the SWPA and a pension under paragraph 13(1)(d) of the VEA correspond to each other; and

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- (c) a pension under subsection 17A(1A) of the SWPA and a pension under subsection 13(2A) of the VEA correspond to each other; and
 - (d) a pension under section 17B of the SWPA and a pension under subsection 13(4) of the VEA correspond to each other.
- (2) For the purposes of this Part:
- (a) a clothing allowance under section 19 of the SWPA and a clothing allowance under section 97 of the VEA correspond to each other; and
 - (b) an attendant allowance under section 21 of the SWPA and an attendant allowance under section 98 of the VEA correspond to each other; and
 - (c) a telephone allowance under Part IIIA of the SWPA and a telephone allowance under Part VIIB of the VEA correspond to each other; and
 - (d) an allowance under regulation 37 of the SWPA regulations and an allowance under paragraph 30(1)(b) of the VEA correspond to each other; and
 - (e) a temporary incapacity allowance under regulation 38B of the SWPA regulations and a temporary incapacity allowance under section 107 of the VEA correspond to each other; and
 - (f) a loss of earnings allowance under regulation 39 of the SWPA regulations and a loss of earnings allowance under section 108 of the VEA correspond to each other.
- (3) For the purposes of this Part:
- (a) a funeral benefit under regulation 38 of the SWPA regulations and a funeral benefit under section 99 of the VEA correspond to each other; and
 - (b) an education benefit under regulation 36 of the SWPA regulations and an education benefit under section 118 of the VEA correspond to each other.

General aim of Division

50. The main aim of this Division is to allow:

- (a) for the payment of pensions, allowances, benefits and expenses that were granted under the SWPA or the SWPA regulations; and
- (b) for the provision of medical treatment that was granted under the SWPA regulations; and
- (c) for processes (such as claims and applications) that were begun under the SWPA or the SWPA regulations;

to be continued under the VEA without the need for people to make new claims or begin those processes again.

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VEA to apply on and after 1 July 1994

51. Subject to section 64 of this Act, on and after 1 July 1994, a matter that, but for this section, would have been determined or decided by the Repatriation Commission, the Veterans' Review Board, a court, a tribunal or any other person or body under the SWPA or the SWPA regulations is to be determined under the VEA.

Saving of pensions, allowances, benefits etc.

52.(1) If a determination granting a claim for a pension, allowance or benefit under the SWPA or the SWPA regulations was in force immediately before 1 July 1994, the determination has effect, on and after 1 July 1994, as if it were a determination made under the VEA on that day granting a claim for the corresponding pension, allowance or benefit under the VEA.

(2) If a determination directing the making of a payment of a pension, allowance or benefit under the SWPA or the SWPA regulations was in force immediately before 1 July 1994, the determination has effect, on and after 1 July 1994, as if it were a determination made under the VEA on that day directing the making of a payment of the corresponding pension, allowance or benefit under the VEA.

(3) If a determination of the rate or the amount of a pension, allowance or benefit under the SWPA or the SWPA regulations was in force immediately before 1 July 1994, the determination has effect, on and after 1 July 1994, as if it were a determination made under the VEA on that day of the rate or the amount of the corresponding pension, allowance or benefit under the VEA.

(4) If a determination authorising or approving medical treatment under Division 2 of Part IV of the SWPA regulations was in force immediately before 1 July 1994, the determination has effect, on and after 1 July 1994, as if it were a determination made under the VEA on that day authorising or approving treatment under Part V of the VEA.

(5) If a determination granting a claim for travelling expenses under Division 2 of Part IV of the SWPA regulations was in force immediately before 1 July 1994, the determination has effect, on and after 1 July 1994, as if it were a determination made under the VEA on that day granting a claim for travelling expenses under section 110 of the VEA.

(6) If a determination authorising payment of an advance of a loss of earnings allowance under regulation 39B of the SWPA regulations was in force immediately before 1 July 1994, the determination has effect, on and after 1 July 1994, as if it were a determination under the VEA authorising payment of an advance of a loss of earnings allowance under section 109 of the VEA.

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(7) If a review referred to in section 58, 59, 60, 61 or 62 of this Act deals with:

- (a) a determination referred to in this section; or
 - (b) a decision made in response to a review of such a determination;
- this section does not apply to the determination.

(8) In this section, “**claim**” includes an application.

Continuation of pensions payable without determinations

53.(1) If, immediately before 1 July 1994, a pension under subsection 17A(1) of the SWPA was payable to a person, the pension continues to be payable to the person, on and after 1 July 1994, as if it were a pension under subsection 13(2) of the VEA.

Note: A person is not required to make a claim for a pension under subsection 17A(1) and the pension is payable without the Commission having to make a determination. This is also the case for a pension under subsection 13(2).

(2) If, immediately before 1 July 1994:

- (a) a pension under subsection 17A(1A) of the SWPA was payable to a person; and
- (b) a determination was not in force under section 26A of the SWPA for the person because of subsection 25A(1A) of that Act;

the pension continues to be payable to the person, on and after 1 July 1994, as if:

- (c) the pension were a pension under subsection 13(2A) of the VEA; and
- (d) a determination under section 19 of the VEA for the person were not necessary because of subsection 13A(1A) of that Act.

Instruments in force on 30 June 1994

54.(1) If:

- (a) an instrument made under a provision of the SWPA or the SWPA regulations was in force immediately before 1 July 1994; and
- (b) a provision with the same legal effect is included in the VEA as in force on 1 July 1994;

the instrument has effect, on and after 1 July 1994, as if it were an instrument made on that day under the provision referred to in paragraph (b).

Note 1: The SWPA and the SWPA regulations were repealed on 1 July 1994.

Note 2: See subsections (3) and (4) about the application of this subsection.

(2) Without limiting subsection (1), the instrument may be:

- (a) a determination; or
- (b) a decision; or
- (c) a direction; or

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- (d) an approval; or
- (e) a notice; or
- (f) a declaration; or
- (g) an authorisation.

(3) Subsection (1) does not apply to a determination if section 52 of this Act applies to the determination.

(4) If a review referred to in section 58, 59, 60, 61 or 62 of this Act deals with:

- (a) an instrument referred to in this section; or
 - (b) a decision made in response to a review of such an instrument;
- this section does not apply to the instrument.

(5) In this section:
“**legal effect**” includes conferring the power to issue an instrument.

Saving of claims for pensions, allowances, benefits etc.

55.(1) If:

- (a) a person lodged a claim for a pension, allowance or benefit under the SWPA or the SWPA regulations on a day (“**claim day**”) before 1 July 1994; and
 - (b) the claim was not determined before 1 July 1994;
- the claim has effect, on and after 1 July 1994, as if it were a claim made under the VEA on the claim day for the corresponding pension, allowance or benefit under the VEA.

(2) If:

- (a) a person lodged a claim for an increase in the rate of a pension under the SWPA on a day (“**claim day**”) before 1 July 1994; and
 - (b) the claim was not determined before 1 July 1994;
- the claim has effect, on and after 1 July 1994, as if it were a claim made under the VEA on the claim day for an increase in the rate of the corresponding pension under the VEA.

(3) If:

- (a) a person lodged a claim for travelling expenses under Division 2 of Part IV of the SWPA regulations on a day (“**claim day**”) before 1 July 1994; and
 - (b) the claim was not determined before 1 July 1994;
- the claim has effect, on and after 1 July 1994, as if it were a claim made under the VEA on the claim day for travelling expenses under section 110 of the VEA.

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(4) If:

- (a) subsection (1), (2) or (3) applies to a claim; and
- (b) the claim is granted under the VEA; and
- (c) the determination granting the claim has a date of effect before 1 July 1994;

the payment of instalments or other monies during the period that starts on the date of effect of the determination and ends on 30 June 1994 is to be made under the VEA and the person making the claim has no rights under the SWPA or the SWPA regulations arising from the claim.

(5) In this section, “**claim**” includes an application.

Saving of requests for medical treatment and advance of loss of earnings allowance

56.(1) If:

- (a) a person made a request, on a day (“**request day**”) before 1 July 1994, for medical treatment under Division 2 of Part IV of the SWPA regulations to be authorised or approved; and
- (b) the request was not determined before 1 July 1994;

the request has effect, on and after 1 July 1994, as if it were a request made under the VEA on the request day for treatment under Part V of the VEA to be authorised or approved.

(2) If:

- (a) a person made a request, on a day (“**request day**”) before 1 July 1994, for payment of an advance of a loss of earnings allowance under regulation 39B of the SWPA regulations to be authorised; and
- (b) the request was not determined before 1 July 1994;

the request has effect, on and after 1 July 1994, as if it were a request made under the VEA on the request day for payment of an advance of a loss of earnings allowance under section 109 of the VEA to be authorised.

(3) If:

- (a) subsection (1) or (2) applies to a request; and
- (b) the request is granted under the VEA; and
- (c) the determination granting the request has a date of effect before 1 July 1994;

the payment of monies during the period that starts on the date of effect of the determination and ends on 30 June 1994 is to be made under the VEA and the person making the request has no rights under the SWPA or the SWPA regulations arising from the request.

Investigations of claims by Secretary

57. If, before 1 July 1994, the Secretary has not completed an investigation under section 26A of the SWPA in relation to:

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- (a) a claim for a pension under the SWPA; or
- (b) an application for an increase in the rate of a pension under the SWPA;

the Secretary is to continue the investigation, on and after 1 July 1994, as if it were an investigation under section 17 of the VEA in relation to:

- (c) a claim for the corresponding pension under the VEA; or
- (d) an application for an increase in the rate of the corresponding pension under the VEA.

Unfinalised review of decisions—review by Veterans' Review Board

58.(1) If:

- (a) a person made an application under subsection 35(1) of the SWPA for a review of a decision under the SWPA in relation to a pension or allowance under the SWPA on a day ("**application day**") before 1 July 1994; and
- (b) the application was not determined before 1 July 1994;

the VEA has effect as if:

- (c) on the day on which the decision under the SWPA was made, a similar decision ("**VEA decision**") under the VEA had been made in relation to the corresponding pension or allowance under the VEA; and
- (d) on the application day, an application under subsection 135(1) of the VEA had been made for a review of the VEA decision.

(2) If:

- (a) subsection (1) applies to an application; and
- (b) the date of effect of the decision made in response to the application is before 1 July 1994;

the decision has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1994, as if it were a decision under the VEA.

Unfinalised review of decisions—review by Commission

59.(1) If:

- (a) a person made a request under subsection 37A(1) of the SWPA for a review of a decision under the SWPA or the SWPA regulations in relation to an allowance or benefit under the SWPA or the SWPA regulations on a day ("**request day**") before 1 July 1994; and
- (b) the request was not determined before 1 July 1994;

the VEA has effect as if:

- (c) on the day on which the decision under the SWPA or the SWPA regulations was made, a similar decision ("**VEA decision**") under the VEA had been made in relation to the corresponding allowance or benefit under the VEA; and

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(d) on the request day, a request under subsection 115(1) of the VEA had been made for a review of the VEA decision.

(2) If:

(a) subsection (1) applies to a request; and

(b) the date of effect of the decision made in response to the request is before 1 July 1994;

the decision has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1994, as if it were a decision under the VEA.

Unfinalised review of decisions—review by AAT

60.(1) If:

(a) a person made an application under subsection 39(1) of the SWPA for a review of a decision under the SWPA or the SWPA regulations in relation to a pension, allowance or benefit under the SWPA or the SWPA regulations on a day (“**application day**”) before 1 July 1994; and

(b) the application was not determined before 1 July 1994;

the VEA has effect as if:

(c) on the day on which the decision under the SWPA or the SWPA regulations was made, a similar decision (“**VEA decision**”) under the VEA had been made in relation to the corresponding pension, allowance or benefit under the VEA; and

(d) on the application day, an application under subsection 175(1) of the VEA had been made for a review of that VEA decision.

(2) If:

(a) subsection (1) applies to an application; and

(b) the date of effect of the decision made in response to the application is before 1 July 1994;

the decision has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1994, as if it were a decision under the VEA.

Review by Commission of its own initiative

61.(1) If, before 1 July 1994, the Commission has not completed a review under section 55 of the SWPA of a decision under the SWPA or the SWPA regulations in relation to a pension, allowance or benefit under the SWPA or the SWPA regulations, the Commission is to continue the review, on and after 1 July 1994, as if:

(a) on the day on which the decision under the SWPA or the SWPA regulations was made, a similar decision (“**VEA decision**”) under the VEA had been made in relation to the corresponding pension, allowance or benefit under the VEA; and

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(b) the review were a review under section 31 of the VEA of the VEA decision.

(2) If:

(a) subsection (1) applies to a review; and

(b) the date of effect of the decision made in response to the review is before 1 July 1994;

the decision has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1994, as if it were a decision under the VEA.

Unfinalised review of decisions under the SWPA regulations

62.(1) If:

(a) a person appealed under regulation 22 of the SWPA regulations against a decision under the SWPA regulations in relation to an allowance or benefit under the SWPA regulations on a day (“**appeal day**”) before 1 July 1994; and

(b) the appeal was not determined before 1 July 1994;

the VEA has effect as if:

(c) on the day on which the decision under the SWPA regulations was made, a similar decision under the VEA had been made in relation to the corresponding allowance or benefit under the VEA; and

(d) on the appeal day, a request under subsection 115(1) of the VEA had been made for a review of that VEA decision.

(2) If:

(a) a person appealed under regulation 22 of the SWPA regulations against a decision under the SWPA regulations in relation to travelling expenses under the SWPA regulations on a day (“**appeal day**”) before 1 July 1994; and

(b) the appeal was not determined before 1 July 1994;

the appeal has effect, on and after 1 July 1994, as if:

(c) on the day on which the decision under the SWPA regulations was made, a similar decision under the VEA had been made in relation to travelling expenses under section 110 of the VEA; and

(d) on the appeal day, a request under subsection 115(1) of the VEA had been made for a review of that VEA decision.

(3) If:

(a) subsection (1) or (2) applies to a request; and

(b) the date of effect of the decision made in response to the request is before 1 July 1994;

the decision has effect, for the period that starts on the date of effect of the decision and ends on 30 June 1994, as if it were a decision under the VEA.

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Directions by the Commission under section 6 of the SWPA

63. If a determination, under section 6 of the SWPA, was in force immediately before 1 July 1994 directing that a particular case or class of cases be referred to the Commission, the determination has effect, on and after 1 July 1994, as if it were a determination under section 19 of the VEA made on that day in relation to that particular case or each member of that class of cases.

Bereavement payments

64.(1) If:

- (a) an Australian mariner died before 1 July 1994; and
- (b) the widow or widower of the deceased Australian mariner is entitled under subsection 24B(2) of the SWPA, in respect of the period of 12 weeks after the deceased Australian mariner's death, to bereavement payments;

section 24B of the SWPA as in force immediately before 1 July 1994 continues to apply to the widow or widower in respect of that part of the period that occurs after 30 June 1994 as if the SWPA had not been repealed.

(2) If:

- (a) an Australian mariner died before 1 July 1994; and
- (b) the widow or widower ('**person**') of the deceased Australian mariner is entitled under subsection 24B(2) of the SWPA, in respect of the period of 12 weeks after the deceased Australian mariner's death, to bereavement payments; and
- (c) the person died before the end of that period; and
- (d) the Commission did not become aware of the death of the deceased Australian mariner before the death of the person; and
- (e) the Commission had not made a decision under subsection 24B(3) of the SWPA before 1 July 1994;

section 24B of the SWPA as in force immediately before 1 July 1994 continues to apply in relation to the death of the person as if the SWPA had not been repealed.

Request to pay pension to another person

65. If:

- (a) before 1 July 1994, a person made a request under subsection 54(2) of the SWPA for the payment of a pension under the SWPA to a specified person to be approved; and
- (b) the request was not determined before 1 July 1994;

the request has effect, on and after 1 July 1994, as if it were a request under subsection 122(2) of the VEA for the payment of the corresponding pension under the VEA to that specified person to be approved.

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Certain pensions not payable

66.(1) If, before 1 July 1994, a person had been paid an amount under subsection 23(2) of the SWPA in respect of an injury, any pension in respect of that injury that would, apart from this subsection, be payable to the person under the VEA on and after 1 July 1994 is not payable.

(2) If, before 1 July 1994, a person had been paid a lump sum amount under subsection 23(3) of the SWPA in respect of an injury, any pension in respect of that injury that would, apart from this subsection, be payable to the person under the VEA on and after 1 July 1994 is not payable.

Medical treatment for widows

67. If, immediately before 1 July 1994, a person was eligible for medical treatment because of a determination under subregulation (2) or (3) of the Seamen's War Pensions and Allowances Regulations 1985, No. 271, the person is eligible, on and after 1 July 1994, to be provided with treatment under Part V of the VEA as if the person were a dependant of a veteran whose death was war caused.

Application of sections 52 and 54 affected by review begun after commencement

68.(1) This section applies to a review of a decision if:

(a) after this section commenced:

- (i) an application for the review is made under subsection 135(1) of the VEA; or
- (ii) a request for the review is made under subsection 115(1) of the VEA; or
- (iii) an application for the review is made under subsection 175(1) of the VEA; or
- (iv) the Commission initiates the review under section 31 of the VEA; and

(b) the review:

- (i) deals with a determination made on a day ("**determination day**") before 1 July 1994 under the SWPA or the SWPA regulations and that is taken under section 52 of this Act to be a determination made under the VEA on 1 July 1994; or
- (ii) deals with an instrument made on a day ("**instrument day**") before 1 July 1994 under the SWPA or the SWPA regulations and that is taken under section 54 of this Act to be an instrument made under the VEA on 1 July 1994; or
- (iii) is of a decision made in response to a review of such a determination or instrument.

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(2) If this section applies to a review of a decision, for the purposes of the review:

- (a) the determination is taken to have been made on the determination day; and
- (b) the instrument is taken to have been made on the instrument day.

**PART 4—AMENDMENTS OF THE SOCIAL SECURITY ACT
1991 RELATING TO DIVISION 7 OF PART 2**

Principal Act

69. In this Part, “**Principal Act**” means the Social Security Act².

Multiple entitlement exclusion

70. Section 47 of the Principal Act is amended by adding at the end the following subsections:

- “(3) An age pension is not payable to a person who:
- (a) is an armed services widow or an armed services widower; and
 - (b) 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
 - (c) is receiving income support supplement under Part IIIA of that Act or would be eligible for income support supplement under that Part if he or she made a claim under section 45I of that Act.

“(4) Subsection (3) does not apply if:

- (a) the person:
 - (i) was on 20 March 1995 receiving; and
 - (ii) has from that day continuously received; and
 - (iii) is receiving;the age pension; and
- (b) the person elected under subsection 45E(2) of the Veterans’ Entitlements Act, or is taken under subsection 45E(3) of that Act to have elected, to continue to receive the age pension.

“(5) Subsection (3) does not apply if:

- (a) before 20 March 1995, the person had made a claim for age pension; and
- (b) the person elected under subsection 45F(2) of the Veterans’ Entitlements Act, or is taken under subsection 45F(3) of that Act to have elected, to receive the pension in the event that it were granted to him or her; and

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- (c) on or after 20 March 1995, the person was granted age pension; and
- (d) the person has since that time continued to receive, and is receiving, the pension.

“(6) Subsection (3) does not apply if:

- (a) before 20 March 1995:
 - (i) the person had made a claim for age pension; and
 - (ii) the claim had been rejected; and
 - (iii) the person had applied, under Chapter 6, for a review of the decision to reject the claim; and
- (b) the person elected under subsection 45G(2) of the Veterans' Entitlements Act, or is taken under subsection 45G(3) of that Act to have elected, to receive the pension in the event that it were granted to him or her after review of the decision; and
- (c) on or after 20 March 1995, the decision to reject the claim was set aside and the person was granted age pension; and
- (d) the person has since that time continued to receive, and is receiving, the pension.”.

Multiple entitlement exclusion

71. Section 103 of the Principal Act is amended by adding at the end the following subsections:

- “(3) A disability support pension is not payable to a person who:
- (a) is an armed services widow or an armed services widower; and
 - (b) 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
 - (c) is receiving income support supplement under Part IIIA of that Act or would be eligible for income support supplement under that Part if he or she made a claim under section 45I of that Act.
- “(4) Subsection (3) does not apply if:
- (a) the person:
 - (i) was on 20 March 1995 receiving; and
 - (ii) has from that day continuously received; and
 - (iii) is receiving;the disability support pension; and
 - (b) the person elected under subsection 45E(2) of the Veterans' Entitlements Act, or is taken under subsection 45E(3) of that Act to have elected, to continue to receive the disability support pension.

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“(5) Subsection (3) does not apply if:

- (a) before 20 March 1995, the person had made a claim for disability support pension; and
- (b) the person elected under subsection 45F(2) of the Veterans' Entitlements Act, or is taken under subsection 45F(3) of that Act to have elected, to receive the pension in the event that it were granted to him or her; and
- (c) on or after 20 March 1995, the person was granted disability support pension; and
- (d) the person has since that time continued to receive, and is receiving, the pension.

“(6) Subsection (3) does not apply if:

- (a) before 20 March 1995:
 - (i) the person had made a claim for disability support pension; and
 - (ii) the claim had been rejected; and
 - (iii) the person had applied, under Chapter 6, for a review of the decision to reject the claim; and
- (b) the person elected under subsection 45G(2) of the Veterans' Entitlements Act, or is taken under subsection 45G(3) of that Act to have elected, to receive the pension in the event that it were granted to him or her after review of the decision; and
- (c) on or after 20 March 1995, the decision to reject the claim was set aside and the person was granted disability support pension; and
- (d) the person has since that time continued to receive, and is receiving, the pension.”.

Multiple entitlement exclusion

72. Section 151 of the Principal Act is amended by adding at the end the following subsections:

“(3) A wife pension is not payable to a person who:

- (a) is an armed services widow or an armed services widower; and
- (b) 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
- (c) is receiving income support supplement under Part IIIA of that Act or would be eligible for income support supplement under that Part if he or she made a claim under section 45I of that Act.

“(4) Subsection (3) does not apply if:

- (a) the person:

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- (i) was on 20 March 1995 receiving; and
 - (ii) has from that day continuously received; and
 - (iii) is receiving;
- the wife pension; and
- (b) the person elected under subsection 45E(2) of the Veterans' Entitlements Act, or is taken under subsection 45E(3) of that Act to have elected, to continue to receive the wife pension.
- “(5) Subsection (3) does not apply if:
- (a) before 20 March 1995, the person had made a claim for wife pension; and
 - (b) the person elected under subsection 45F(2) of the Veterans' Entitlements Act, or is taken under subsection 45F(3) of that Act to have elected, to receive the pension in the event that it were granted to him or her; and
 - (c) on or after 20 March 1995, the person was granted wife pension; and
 - (d) the person has since that time continued to receive, and is receiving, the pension.
- “(6) Subsection (3) does not apply if:
- (a) before 20 March 1995:
 - (i) the person had made a claim for wife pension; and
 - (ii) the claim had been rejected; and
 - (iii) the person had applied, under Chapter 6, for a review of the decision to reject the claim; and
 - (b) the person elected under subsection 45G(2) of the Veterans' Entitlements Act, or is taken under subsection 45G(3) of that Act to have elected, to receive the pension in the event that it were granted to him or her after review of the decision; and
 - (c) on or after 20 March 1995, the decision to reject the claim was set aside and the person was granted wife pension; and
 - (d) the person has since that time continued to receive, and is receiving, the pension.”.

Multiple entitlement exclusion

73. Section 202 of the Principal Act is amended by adding at the end the following subsections:

- “(3) A carer pension is not payable to a person who:
- (a) is an armed services widow or an armed services widower; and
 - (b) 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

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- (c) is receiving income support supplement under Part IIIA of that Act or would be eligible for income support supplement under that Part if he or she made a claim under section 45I of that Act.

“(4) Subsection (3) does not apply if:

- (a) the person:
 - (i) was on 20 March 1995 receiving; and
 - (ii) has from that day continuously received; and
 - (iii) is receiving;the carer pension; and
- (b) the person elected under subsection 45E(2) of the Veterans' Entitlements Act, or is taken under subsection 45E(3) of that Act to have elected, to continue to receive the carer pension.

“(5) Subsection (3) does not apply if:

- (a) before 20 March 1995, the person had made a claim for carer pension; and
- (b) the person elected under subsection 45F(2) of the Veterans' Entitlements Act, or is taken under subsection 45F(3) of that Act to have elected, to receive the pension in the event that it were granted to him or her; and
- (c) on or after 20 March 1995, the person was granted carer pension; and
- (d) the person has since that time continued to receive, and is receiving, the pension.

“(6) Subsection (3) does not apply if:

- (a) before 20 March 1995:
 - (i) the person had made a claim for wife pension; and
 - (ii) the claim had been rejected; and
 - (iii) the person had applied, under Chapter 6, for a review of the decision to reject the claim; and
- (b) the person elected under subsection 45G(2) of the Veterans' Entitlements Act, or is taken under subsection 45G(3) of that Act to have elected, to receive the pension in the event that it were granted to him or her after review of the decision; and
- (c) on or after 20 March 1995, the decision to reject the claim was set aside and the person was granted wife pension; and
- (d) the person has since that time continued to receive, and is receiving, the pension.”.

Multiple entitlement exclusion

74. Section 418 of the Principal Act is amended by adding at the end the following subsections:

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- “(3) Disability wage supplement is not payable to a person who:
- (a) is an armed services widow or an armed services widower; and
 - (b) 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
 - (c) is receiving income support supplement under Part IIIA of that Act or would be eligible for income support supplement under that Part if he or she made a claim under section 45I of that Act.

“(4) Subsection (3) does not apply if:

- (a) the person:
 - (i) was on 20 March 1995 receiving; and
 - (ii) has from that day continuously received; and
 - (iii) is receiving;
disability wage supplement; and
- (b) the person elected under subsection 45E(2) of the Veterans' Entitlements Act, or is taken under subsection 45E(3) of that Act to have elected, to continue to receive disability wage supplement.

“(5) Subsection (3) does not apply if:

- (a) before 20 March 1995, the person had made a claim for disability wage supplement; and
- (b) the person elected under subsection 45F(2) of the Veterans' Entitlements Act, or is taken under subsection 45F(3) of that Act to have elected, to receive disability wage supplement in the event that it were granted to him or her; and
- (c) on or after 20 March 1995, the person was granted disability wage supplement; and
- (d) the person has since that time continued to receive, and is receiving, disability wage supplement.

“(6) Subsection (3) does not apply if:

- (a) before 20 March 1995:
 - (i) the person had made a claim for disability wage supplement;
and
 - (ii) the claim had been rejected; and
 - (iii) the person had applied, under Chapter 6, for a review of the decision to reject the claim; and
- (b) the person elected under subsection 45G(2) of the Veterans' Entitlements Act, or is taken under subsection 45G(3) of that Act to have elected, to receive disability wage supplement in the event that it were granted to him or her after review of the decision; and

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- (c) on or after 20 March 1995, the decision to reject the claim was set aside and the person was granted disability wage supplement; and
 - (d) the person has since that time continued to receive, and is receiving, disability wage supplement.”.
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SCHEDULE 1

Section 15

**FURTHER AMENDMENTS OF THE VETERANS' ENTITLEMENTS
ACT 1986 RELATING TO DIVISION 3 OF PART 2**

- 1. Subsection 5E(1) (subparagraph (b)(ii) of the definition of "war widow"):**
Omit the subparagraph.
- 2. Subsection 5E(1) (sub-subparagraph (b)(iv)(B) of the definition of "war widow"):**
Omit ", (ii)".
- 3. Paragraph 5H(8)(d):**
Omit the paragraph.
- 4. Paragraph 5H(8)(e):**
Omit ", (c) or (d)", substitute "or (c)".
- 5. Paragraph 5H(8)(e) (Note):**
Omit ", (d)".
- 6. Paragraph 5H(8)(g):**
Omit the paragraph (but not the Note).
- 7. Paragraph 5H(8)(g) (Note):**
Omit "or (g)".
- 8. Subparagraph 5H(8)(zb)(viii):**
Omit "or".
- 9. Subparagraphs 5H(8)(zb)(ix) and (x):**
Omit the subparagraphs.
- 10. Paragraph 5H(8)(zc):**
Omit the paragraph.
- 11. Subsection 5N(1) (paragraphs (d) and (e) of the definition of "disability pension"):**
Omit the paragraphs.
- 12. Subsection 5N(1) (paragraph (f) of the definition of "disability pension"):**
Omit ", (c) or (d)", substitute "or (c)".

SCHEDULE 1—continued

13. Paragraph 36N(2)(c):

Omit the paragraph, substitute:

“(c) if the veteran is a war widow who is receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30(1)—the Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers at the end of section 45; or”.

14. Paragraph 37N(2)(c):

Omit the paragraph, substitute:

“(c) if the veteran is a war widow who is receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30(1)—the Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers at the end of section 45; or”.

15. Paragraph 39N(2)(b):

Omit the paragraph, substitute:

“(b) if the person is a war widow who is receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30(1)—the Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers at the end of section 45; or”.

16. Paragraph 45(1)(a):

Omit the paragraph, substitute:

“(a) if a woman is a war widow because she is receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30(1); and”.

17. Paragraph 52Z(3A)(c):

Omit the paragraph.

18. Paragraph 52Z(3A)(d):

Omit “, (b) or (c)”, substitute “or (b)”.

19. Paragraph 52Z(3A)(f):

Omit the paragraph (but not the Note).

20. Paragraph 52Z(3A)(f) (Note):

Omit “(f)”, substitute “(e)”.

21. Subsection 72(1):

Omit “or an Australian Mariner within the meaning of the *Seamen's War Pensions and Allowances Act 1940*”.

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SCHEDULE 1—continued

22. Paragraph 72(1)(b):

Omit “or under the *Seamen's War Pensions and Allowances Act 1940*, as the case may be”.

23. Subsection 72(2):

Omit “or an Australian Mariner within the meaning of the *Seamen's War Pensions and Allowances Act 1940*”.

24. Paragraph 72(2)(b):

Omit “or under the *Seamen's War Pensions and Allowances Act 1940*, as the case may be”.

25. Subsection 89(2):

Omit the subsection, substitute:

“(2) In subsection (1), a reference to a hospital or other institution is to be read as including a reference to a home, a hostel, a medical centre, an out-patient clinic and a rehabilitation or training establishment.”.

26. Paragraph 118A(c):

Omit “(whether the person's eligibility arises under this Act or under the *Seamen's War Pensions and Allowances Act 1940*)”.

27. Paragraph 118R(a):

Omit “or the *Seamen's War Pensions and Allowances Act 1940*”.

28. Subparagraph 118S(2)(d)(ii):

Omit “or”, substitute “and”.

29. Subparagraph 118S(2)(d)(iii):

Omit the subparagraph.

SCHEDULE 2

Section 38

**FURTHER AMENDMENTS OF THE VETERANS' ENTITLEMENTS
ACT 1986 RELATING TO DIVISION 6 OF PART 2**

1. Section 59A (Table—item 1—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-B1—Table B—column 3—**all amounts**”.

2. Section 59A (Table—item 6A—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses point 44-C2A—Table C—column 3—**all amounts**

*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses point 44-C6—Table C-1—column 3—**rent threshold amounts**

*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-C6—Table C-1—column 4—**all amounts**”.

3. Section 59A (Table—item 7—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—**point 44-D4**”.

4. Section 59A (Table—item 7AA—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-C12—Table C-2—column 3—**all amounts**”.

5. Section 59A (Table—item 7A—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-E6—Table E-1—columns 3 and 5—**all amounts**”.

6. Section 59A (Table—item 9—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-F3—column 3A—**item 1**”.

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SCHEDULE 2—continued

7. Section 59A (Table—item 10—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-F3—Table F-1—column 3B—**item 1**”.

8. Section 59A (Table—item 11—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-F3—Table F-1—column 3A—**items 2 and 3**”.

9. Section 59A (Table—item 12—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-F3—Table F-1—column 3B—**items 2 and 3**”.

10. Section 59A (Table—item 18—column 4):

Omit:

“*Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-CA8”.

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SCHEDULE 3

Subsection 45(7)

**FURTHER AMENDMENTS OF THE VETERANS' ENTITLEMENTS
ACT 1986 RELATING TO DIVISION 7 OF PART 2**

1. Subsection 5L(9):

Insert “, income support supplement” after “service pension”.

2. Paragraph 45A(2)(b):

Omit “8”, “8A”, “8B” and “8C”, substitute “2”, “3”, “4” and “5” respectively.

3. Subsection 45C(2):

Omit “8A”, substitute “3”.

4. Subsection 45C(3):

Omit “8B”, substitute “4”.

5. Section 45D:

Omit “8”, substitute “2”.

6. Subsection 47(3):

Omit “44 and 45”, substitute “45, 45X and 45Y”.

7. Subparagraph 48(1)(c)(i):

Insert “, income support supplement” after “service pension”.

8. Subparagraph 48(1)(c)(ii):

Insert “, income support supplement” after “service pension”.

9. Subparagraph 48(1)(c)(iii):

Omit “15”, substitute “12”.

10. Paragraph 49(a):

Insert “or income support supplement” after “pension”.

11. Paragraph 49(c):

Omit the paragraph, substitute:

“(c) in that period:

- (i) if the person is receiving a service pension—the annual rate of the person's ordinary income exceeds the person's ordinary income free area; or

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- (ii) if the person is receiving income support supplement—the annual rate of the person's adjusted income exceeds the person's adjusted income free area; and”.

12. Section 49:

Insert “or adjusted income test” after “ordinary income test”.

13. Paragraph 49A(1)(a):

Insert “or income support supplement” after “pension”.

14. Subparagraph 49A(1)(b)(ii):

Omit all words from and including “receiving”, substitute “not receiving a service pension, income support supplement or a social security pension”.

15. Paragraph 49A(2)(a):

Insert “or income support supplement” after “pension”.

16. Paragraph 49A(2)(b):

Insert “, income support supplement” after “service pension”.

17. Section 49 (Earnings Credit Account Balance Calculator—point 49B-B1—paragraph (a)):

Insert “or commences to receive income support supplement” after “1991”.

18. Section 49 (Earnings Credit Account Balance Calculator—point 49B-B1—paragraph (b)):

(a) Insert “, income support supplement” after “service pension”.

(b) Add at the end “or income support supplement”.

19. Section 49 (Earnings Credit Account Balance Calculator—point 49-B1—paragraph (e)):

Add at the end “or income support supplement”.

20. Section 49 (Earnings Credit Account Balance Calculator—point 49-B2):

Insert “service” before “pension”.

21. Section 49 (Earnings Credit Account Balance Calculator—point 49-B3—paragraph (a)):

Insert “or commences to receive income support supplement” after “1991”.

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22. Section 49 (Earnings Credit Account Balance Calculator—point 49-B3—paragraph (b)):

- (a) Insert “or income support supplement” after “pension” (first occurring).
- (b) Insert “, income support supplement” after “service pension”.

23. Section 50:

Insert “or income support supplement rate” after “rate”.

24. Paragraph 50A(1)(a):

Insert “or income support supplement” after “service pension”.

25. After subsection 50A(2):

Insert the following subsection:

“(3) If:

- (a) an instalment of income support supplement is payable to a person during a pension period; and
- (b) NEIS is payable to the person during that pension period; and
- (c) an instalment of:
 - (i) age service pension; or
 - (ii) invalidity service pension; or
 - (iii) carer service pension;

is payable to the person’s partner during a pension period;
the rate of the partner’s payment is also to be reduced under this Division.”.

26. Section 50B:

Omit “this Part” (wherever occurring), substitute “Part III or IIIA”.

27. Paragraph 50B(2)(a):

Insert “or (3)” after “50A(2)”.

28. Paragraph 52E(1)(c):

Insert “, income support supplement” after “service pension” (wherever occurring).

29. Subparagraph 52E(1)(c)(iii):

Omit “15”, substitute “12”.

30. Subparagraph 52H(1)(a)(ii):

Insert “, income support supplement” after “service pension”.

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31. Paragraph 52J(a):

Insert “or income support supplement” after “pension”.

32. Paragraph 52J(b):

Add at the end “or income support supplement”.

33. Subparagraph 52Y(1)(a)(i):

Insert “or income support supplement” after “pension”.

34. Subparagraph 52Y(1)(a)(ii):

Insert “or income support supplement rate” after “rate”.

35. Subsection 52Z(1):

Add at the end “or income support supplement rate”.

36. Subsection 52Z(2):

Insert “or income support supplement maximum payment rate” after “payment rate”.

37. Paragraph 52ZA(1)(a):

Insert “or income support supplement” after “pension”.

38. Subsection 52ZA(1) (Note 1):

Insert “or Income Support Supplement” after “Pension”.

39. Paragraph 52ZA(2)(c):

Insert “or income support supplement” after “pension”.

40. Subsection 52ZA(2) (Note 1):

Insert “or Income Support Supplement” after “Pension”.

41. Subsection 52ZB(3):

Omit “15”, substitute “12”.

42. Subsection 52ZB(3) (Note):

Insert “or Income Support Supplement” after “Pension”.

43. Section 53A:

Insert “or income support supplement” after “pension”.

44. Subsection 54(1):

Insert “or income support supplement” after “pension” (wherever occurring).

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45. Paragraph 54(1)(c):

Omit “15”, substitute “12”.

46. Subsection 54(2):

Omit “service”.

47. Paragraph 54(3)(a):

Omit “service”.

48. Paragraph 54(3)(b):

Omit “15”, substitute “12”.

49. Subsection 54A(1):

(a) Insert “or income support supplement” after “pension” (wherever occurring).

(b) Omit “15” (wherever occurring), substitute “12”.

50. Subsection 54A(2):

Omit “service”.

51. Subsection 55(1):

Insert “or income support supplement” after “service pension” (wherever occurring).

52. Subsection 55(1) (Note 2):

Omit “15”, substitute “12”.

53. Paragraph 55A(1)(a):

Insert “or income support supplement” after “pension”.

54. Subsection 55A(3) (Note):

Insert “or income support supplement” after “pension”.

55. Paragraph 55B(1)(a):

Insert “or income support supplement” after “pension”.

56. Paragraph 55B(2)(a):

Omit “service”.

57. Paragraph 55C(1)(c):

Omit “service”.

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58. Paragraph 55D(1)(a):

Omit “service”.

59. Subsection 56(1):

Insert “or income support supplement” after “pension” (wherever occurring).

60. Subsection 56(2):

Omit “the pension” (first occurring), substitute “a pension”.

61. Subsection 56(2) (Note 2):

(a) Omit “service”.

(b) Omit “15”, substitute “12”.

62. Subsection 56A(1):

Insert “or income support supplement” after “pension” (wherever occurring).

63. Subsection 56A(2):

Omit “the pension” (first occurring), substitute “a pension”.

64. Subsection 56A(2) (Note):

(a) Omit “service”.

(b) Omit “15”, substitute “12”.

65. Section 56B:

Insert “or income support supplement” after “pension” (wherever occurring).

66. Subsection 56C(1):

Insert “or income support supplement” after “pension”.

67. Subsection 56D(1):

Insert “or income support supplement” after “pension”.

68. Subsection 56E(1):

Insert “or income support supplement” after “service pension”.

69. Subsection 56E(1) (Notes 3 and 4):

Omit “15” (wherever occurring), substitute “12”.

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70. Subsection 56EA(1):

Insert “or income support supplement” after “pension” (wherever occurring).

71. Subsection 56EA(2) (Notes 2 and 3):

Omit “15” (wherever occurring), substitute “12”.

72. Section 56F:

Insert “or income support supplement” after “pension” (wherever occurring).

73. Subsection 56G(2) (Note):

Omit “13”, substitute “10”.

74. Paragraph 56G(2B)(b):

Insert “, income support supplement” after “service pension”.

75. Paragraph 56G(2C)(b):

Insert “, income support supplement” after “service pension”.

76. Paragraph 56H(5)(b):

Insert “or income support supplement” after “pension”.

77. Paragraph 56H(6)(b):

Insert “or income support supplement” after “pension”.

78. Subsection 56J(1):

Omit “or partner service pension”, substitute “, partner service pension or income support supplement”.

79. Section 56K:

- (a) Omit “service” (first occurring).
- (b) Omit “or partner service pension”, substitute “, partner service pension or income support supplement”.
- (c) Insert “or income support supplement” after “pension” (last occurring).

80. Subsection 56L(1):

Omit “service”.

81. Paragraph 57(1)(b):

Insert “or income support supplement” after “pension”.

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82. Subsection 57(2):

- (a) Omit “service” (first occurring).
- (b) Insert “or income support supplement” after “pension” (wherever occurring).

83. Subsection 57B(3):

Insert “or income support supplement” after “pension” (wherever occurring).

84. Subsection 57C(1):

Insert “or income support supplement” after “pension” (wherever occurring).

85. Subsection 57C(3):

Insert “or income support supplement” after “pension”.

86. Paragraph 57H(1)(a):

Omit “or a service pension”, substitute “, a service pension or income support supplement”.

87. Paragraph 57H(1)(b):

Insert “or income support supplement” after “pension”.

88. Section 58:

Repeal the section, substitute the following sections:

Application of Subdivision

“58. This Subdivision applies to pensions payable under Part III (Service Pensions) or Part IIIA (Income Support Supplement).

Payment by instalments

“58AA. Subject to section 58L, a fortnightly instalment of pension is payable to a person on each pension payday on which:

- (a) the person is eligible for the pension; and
- (b) the pension is payable to the person.”.

89. Subsection 58A(1):

Omit “service”.

90. Subsection 58A(4):

Omit “service”.

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- 91. Section 58B:**
Omit “service” (wherever occurring).
- 92. Section 58C:**
Omit “service” (wherever occurring).
- 93. Subsection 58D(1):**
Omit “service” (wherever occurring).
- 94. Subsection 58D(3):**
Omit “service” (wherever occurring).
- 95. Section 58E:**
Omit “service”.
- 96. Section 58F:**
Omit “service” (wherever occurring).
- 97. Subsection 58G(1):**
Omit “service”, substitute “a”.
- 98. Subsection 58G(2):**
Omit “service” (wherever occurring).
- 99. Subsection 58H(1):**
Omit “service”.
- 100. Section 58J:**
Omit “service”.
- 101. After paragraph 58K(1)(c):**
Insert:
“or (d) income support supplement;”.
- 102. Subsection 58K(1) (Note):**
Omit “service” (first occurring).
- 103. Section 58L:**
Omit “service”.
- 104. Subparagraph 58M(1)(d)(iii):**
Omit “and”, substitute “or”.
- 105. After subparagraph 58M(1)(d)(iii):**
Insert:
“or (iv) income support supplement; and”.

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106. Subsection 58M(1):

Omit “service” (last occurring).

107. After subparagraph 58N(a)(iii):

Insert:

“(iiia) income support supplement; or”.

108. After subparagraph 58N(c)(iii):

Insert:

“or (iv) income support supplement;”.

109. Table at the end of section 59A:

(a) *Item 1, column 2:*

Insert “or income support supplement” after “pension”.

(b) *Item 1, column 4:*

Add at the end:

“*Income Support Supplement
Rate Calculator Where There
Are No Dependent Children—
point 45X-B1— Table B—
column 3—
all amounts

*Income Support Supplement
Rate Calculator Where There
Are Dependent Children—
point 45Y-B1—Table B—
column 3—**all amounts**”.

(c) *Item 2, column 2:*

Insert “or income support supplement” after “pension”.

(d) *Item 2, column 4:*

Add at the end:

“*Income Support Supplement
Rate Calculator Where There
Are Dependent Children—
point 45Y-G3—Table G-2—
item 1”.

(e) *Item 3, column 2:*

Insert “or income support supplement” after “pension”.

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(f) *Item 3, column 4:*

Add at the end:

**“*Income Support Supplement
Rate Calculator Where There
Are Dependent Children—
point 45Y-G3—Table G-2—
item 2”.**

(g) *Item 4, column 2:*

Insert “or income support supplement” after “pension”.

(h) *Item 4, column 4:*

Add at the end:

**“*Income Support Supplement
Rate Calculator Where There
Are Dependent Children—
point 45Y-G9”.**

(i) *Item 6, column 2:*

Insert “or income support supplement” after “pension”.

(j) *Item 6, column 4:*

Add at the end:

**“*Income Support Supplement
Rate Calculator Where There
Are No Dependent
Children—point 45X-D7—
Table D-1—column 4—
all amounts**

***Income Support Supplement
Rate Calculator Where There
Are Dependent Children—
point 45Y-F7—Table F-1—
column 4—all amounts”.**

(k) *Item 6A, column 2:*

Insert “or income support supplement” after “pension”.

(l) *Item 6A, column 4:*

Add at the end:

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“*Income Support Supplement
Rate Calculator Where There
Are No Dependent Children—
point 45X-D3—Table D
—column 3—**all amounts**

*Income Support Supplement
Rate Calculator Where There
Are No Dependent Children—
point 45X-D7—Table D-1—
column 3—**rent threshold
amounts**

*Income Support Supplement
Rate Calculator Where There
Are Dependent Children—
point 45Y-F3—Table F—
column 3—**all amounts**

*Income Support Supplement
Rate Calculator Where There
Are Dependent Children—
point 45Y-F7—Table F-1—
column 3—**rent threshold
amounts”**.

(m) *After item 7:*

Insert the following item:

“

7AAA.	Adjusted income free area for income support supplement	Supplement free area	*Income Support Supplement Rate Calculator With No Dependent Children— point 45X-E5—Table E-1— column 3— all amounts *Income Support Supplement Rate Calculator With Dependent Children— point 45X-D5—Table D-1— column 3— all amounts
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”.

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- (n) *Item 7A, column 2:*
Insert “or income support supplement” after “pension”.
- (o) *Item 7A, column 4:*
Add at the end:
“*Income Support Supplement
Rate Calculator With
Dependent Children—
point 45Y-H8—Table H-1—
columns 3 and 5—**all amounts**”.
- (p) *Item 9, column 2:*
Insert “or income support supplement” after “pension”.
- (q) *Item 9, column 4:*
Add at the end:
“*Income Support Supplement
Rate Calculator With No
Dependent Children—
point 45X-F3—Table F-1—
column 3A—**item 1**

*Income Support Supplement
Rate Calculator With
Dependent Children—
point 45Y-E3—Table E-1—
column 3A—**item 1**”.
- (r) *Item 10, column 2:*
Insert “or income support supplement” after “pension”.
- (s) *Item 10, column 4:*
Add at the end:
“*Income Support Supplement
Rate Calculator With No
Dependent Children—
point 45X-F3—Table F-1—
column 3B—**item 1**

*Income Support Supplement
Rate Calculator With
Dependent Children—
point 45Y-E3—Table E-1—
column 3B—**item 1**”.

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(t) *Item 11, column 2:*

Insert “or income support supplement” after “pension”.

(u) *Item 11, column 4:*

Add at the end:

“*Income Support Supplement
Rate Calculator With No
Dependent Children—
point 45X-F3—Table F-1—
column 3A—**items 2 and 3**

*Income Support Supplement
Rate Calculator With
Dependent Children—
point 45Y-E3—Table E-1—
column 3A—**items 2 and 3”**.

(v) *Item 12, column 2:*

Insert “or income support supplement” after “pension”.

(w) *Item 12, column 4:*

Add at the end:

“*Income Support Supplement
Rate Calculator With No
Dependent Children—
point 45X-F3—Table F-1—
column 3B—**items 2 and 3**

*Income Support Supplement
Rate Calculator With
Dependent Children—
point 45Y-E3—Table E-1—
column 3B—**items 2 and 3”**.

113. After section 59GA:

Insert the following section:

Adjustment of adjusted income free area

“59GB. This Act has effect as if, on 1 July each year, the adjusted income free area applicable to a person were replaced with the amount that is, on that day, the ordinary income free area applicable to the person.”.

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NOTES

Veterans' Entitlements Act 1986

1. No. 27, 1986, as amended. For previous amendments, see No. 106, 1986 (as amended by Nos. 78 and 130, 1987); No. 130, 1986; No. 78, 1987 (as amended by No. 164, 1989); No. 88, 1987; No. 130, 1987 (as amended by No. 133, 1988); No. 13, 1988 (as amended by No. 83, 1989; and No. 73, 1991); Nos. 35 and 79, 1988; No. 134, 1988 (as amended by No. 164, 1989); No. 135, 1988 (as amended by Nos. 84 and 164, 1989; and No. 73, 1991); Nos. 59, 83, 84, 93 and 163, 1989; No. 164, 1989 (as amended by No. 56, 1990; and No. 73, 1991); Nos. 56, 84 and 119, 1990; No. 2, 1991 (as amended by No. 73, 1991); No. 72, 1991; No. 73, 1991 (as amended by No. 74, 1991); Nos. 74, 122, 175 and 208, 1991; Nos. 12, 51, 70, 94 and 228, 1992; Nos. 27, 36 and 121, 1993; and Nos. 54, 60 and 00, 1994.

Social Security Act 1991

2. No. 46, 1991, as amended. For previous amendments, see Nos. 68, 69, 70, 73, 74, 115, 116, 141, 175, 194 and 208, 1991; Nos. 12, 69, 81, 94, 118, 133, 134, 138, 228, 229, 230, 233 and 241, 1992; Nos. 25, 36, 61, 120 and 121, 1993; and No. 55, 1994.

[*Minister's second reading speech made in—*
House of Representatives on 9 June 1994
Senate on 9 June 1994]