



Social Security and Veterans' Affairs Legislation Amendment Act 1995

Act No. 1 of 1996 as amended

This compilation was prepared on 1 September 2005

[This Act was amended by Act Nos. 5 and 157 of 1997; No. 100 of 2005]

Amendments from Act No. 5 of 1997

[Schedule 4 (item 1) amended item 26 of Schedule 5

Schedule 4 (item 2) repealed item 240 of Schedule 5

Schedule 4 (items 1 and 2) commenced immediately after 20 September 1996]

Amendment from Act No. 157 of 1997

[Schedule 8 (item 8) repealed and substituted item 13 of Schedule 17

Schedule 8 (item 8) commenced immediately after 9 January 1996]

Amendment from Act No. 100 of 2005

[Schedule 2 (item 23) amended item 114 of Schedule 5

Schedule 2 (item 23) commenced immediately after 20 September 1996]

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

[Assented to 9 January 1996]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security and Veterans' Affairs Legislation Amendment Act 1995*.

2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Part 1 of Schedule 8 is taken to have commenced on 1 January 1995.
- (3) The following provisions commence, or are taken to have commenced, on 20 March 1996:
 - (a) Schedules 2 and 3;
 - (b) Part 1 of Schedule 10.
- (4) The following provisions commence, or are taken to have commenced, on 1 July 1996:
 - (a) Part 2 of Schedule 1;
 - (b) Schedule 6 and Part 1 of Schedule 9;
 - (c) Part 2 of Schedule 10;
 - (d) Part 1 of Schedule 11;
 - (e) Part 2 of Schedule 16.
- (5) The following provisions commence, or are taken to have commenced, on 20 September 1996:
 - (a) Schedules 4 and 5;
 - (b) Part 2 of Schedule 9;
 - (c) Part 3 of Schedule 10;
 - (d) Division 1 of Part 2 of Schedule 11;
 - (e) Schedules 12, 13, 14 and 15 .

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- (6) Division 2 of Part 2 of Schedule 11 commences on 1 July 1997.
 - (7) Subject to subsection (8), Schedule 7 and Schedule 17 commence on a day or days to be fixed by Proclamation.
 - (8) If Schedule 7 or Schedule 17 does not commence under subsection (7) within 6 months after the day on which this Act receives the Royal Assent, that Schedule commences on the first day after the end of that period.

3 Amendments

- (1) The *Social Security Act 1991* is amended in accordance with the applicable items in Schedules 1, 2, 3, 4, 5, 6, 7 and 8 and the other items in those Schedules have effect according to their terms.
- (2) The *Veterans' Entitlements Act 1986* is amended in accordance with Schedules 9, 16 and 17.
- (3) The *National Health Act 1953* is amended in accordance with Schedule 10.
- (4) The *Income Tax Assessment Act 1936* is amended in accordance with Schedule 11.
- (5) The *Childcare Rebate Act 1993* is amended in accordance with Schedule 12.
- (6) The *Health Insurance Act 1973* is amended in accordance with Schedule 13.
- (7) The *Farm Household Support Act 1992* is amended in accordance with Schedule 14.
- (8) The *Disability Services Act 1986* is amended in accordance with Schedule 15.

Schedule 1—Amendments of the Social Security Act 1991 relating to extended deeming

Section 3(1)

Part 1—Amendments commencing on Royal Assent

1. Paragraph 1074A(1)(a):

Omit the paragraph, substitute:

- (a) an accruing return investment that was made or acquired before 1 January 1988; or

2. Sections 1075, 1076, 1077, 1079:

Repeal the sections.

3. Schedule 1A:

Add at the end:

81A Provisions regarding the treatment of returns from the realisation of certain investments

(1) If:

- (a) before the commencement of this clause, a person realised an investment; and
- (b) section 1075 of this Act, as in force immediately before the commencement of this clause, applied to the person as a result of the realisation of the investment; and
- (c) the period of 12 months commencing on the day on which the investment was realised had not expired when this clause commenced;

sections 1075 and 1076 of this Act, as in force immediately before the commencement of this clause, are taken to continue to apply to the person in relation to the realisation of the investment until:

- (d) the end of the period referred to in paragraph (c); or
- (e) the end of 30 June 1996;

whichever is the earlier.

(2) If:

- (a) before the commencement of this clause, a person realised an investment; and
 - (b) section 1077 of this Act, as in force immediately before the commencement of this clause, applied to the person as a result of the realisation of the investment; and
 - (c) the period of 12 months commencing on the day on which the investment was realised had not expired when this clause commenced;
- sections 1077 and 1079 of this Act, as in force immediately before the commencement of this clause, are taken to continue to apply to the person in relation to the realisation of the investment until:
- (d) the end of the period referred to in paragraph (c); or
 - (e) the end of 30 June 1996;
- whichever is the earlier.

Part 2—Amendments commencing on 1 July 1996

4. Section 3 (Index):

Omit the following entries:

accruing return investment	9(1)
annual rate of return	9(3)
eligible investment	9(1)
investment product	9(1)
investment product	9(1), (2)
market-linked investment	9(1)
SSAT rate of return decision	22
statutory rate of return	9(1)

5. Section 3 (Index):

Insert the following entries in the Index in their appropriate alphabetical positions, determined on a letter-by-letter basis:

deprived asset	9(4)
financial asset	9(1)
financial investment	9(1)
loan	9(2), (3)
money that attracts interest	1080
pensioner couple	9(1)
unlisted public security	9(1)

6. Subsection 8(1) (definition of *available money*):

Omit paragraph (c), substitute:

(c) is not the subject of a loan made by the person;

7. Subsection 8(1) (definition of *income*):

Omit Notes 1, 2 and 3, substitute:

Note 1: See also sections 1074 and 1075 (business income), sections 1076-1084 (deemed income from financial assets) and sections 1095-1099 (income from retirement funds and annuities).

8. Subsection 8(1) (definition of *income*) (Note 4):

Omit "4", substitute "2".

9. Subsection 8(1) (definition of *income*) (Note 5):

Omit "5", substitute "3".

10. Subsection 8(1) (definition of *ordinary income*):

Omit Note 3, substitute:

Note 3: For provisions affecting the amount of a person's ordinary income see sections 1072 and 1073 (ordinary income concept), sections 1074 and 1075 (business income), sections 1076-1084 (deemed income from financial assets) and sections 1095-1099 (income from retirement funds and annuities).

11. Subsection 9(1) (definition of *friendly society*):

Omit all words after paragraph (b).

12. Subsection 9(1) (definition of *return*):

Omit "investment (including an investment in the nature of superannuation)", substitute "investment in the nature of superannuation".

13. Subsection 9(1) (definitions of *accruing return investment*, *annual rate of return*, *eligible investment*, *investment product*, *market-linked investment*, *statutory rate of return*):

Omit the definitions.

14. Subsection 9(1):

Insert:

financial asset means:

- (a) a financial investment; or
- (b) a deprived asset.

Note: For *deprived asset* see subsection 9(4).

financial investment means:

- (a) available money; or
- (b) deposit money; or
- (c) a managed investment; or
- (d) a listed security; or
- (e) a loan that has not been repaid in full; or
- (f) an unlisted public security; or
- (g) gold, silver or platinum bullion.

pensioner couple means a couple, one or both of the members of which are receiving a social security pension, a service pension or a rehabilitation allowance.

unlisted public security means:

- (a) a share in a public company; or
 - (b) another security;
- that is not listed on a stock exchange.

15. Paragraph 9(1C)(e):

Omit the paragraph, substitute:

- (e) a loan;

16. Subsection 9(1C) (Note 3):

Omit the Note, substitute:

Note 3: For provisions relating to when a loan is taken to be made see subsection (2).

17. Subsections 9(3) and (4):

Omit the subsections, substitute:

- (2) The following rules apply for the purposes of this Act:
 - (a) the acquisition by a person of debentures, bonds or other securities is treated as the making of a loan by the person;
 - (b) a person is not treated as having made a loan merely because:
 - (i) the person has an account with a financial institution; or
 - (ii) the person has paid an entry contribution.

Note: For ***entry contribution*** see section 1147.

- (3) Subsection (2) does not limit the meaning of the word loan in this Act.
- (4) For the purposes of this Act, an asset is a deprived asset if:
 - (a) a person has disposed of the asset; and
 - (b) the value of the asset is included in the value of the person's assets by section 1124A, 1125, 1125A or 1126.

18. Paragraph 9(10)(b):

Omit the paragraph.

19. Section 22 (definition of *SSAT rate of return decision*):

Omit the definition.

20. Section 1064 (Pension Rate Calculator A—point 1064-E1—Note 2):

Omit ".• investment income (sections 1073 to 1099);", substitute:

- the general concept of ordinary income (sections 1072 and 1073);
- business income (sections 1074 and 1075);
- deemed income from financial assets (sections 1076 to 1084);
- income from retirement funds and annuities (sections 1095 to 1099);

21. Section 1066 (Pension Rate Calculator C—point 1066-E1—Note 2):

Omit ".• investment income (sections 1073 to 1099);", substitute:

- the general concept of ordinary income (sections 1072 and 1073);
- business income (sections 1074 and 1075);
- deemed income from financial assets (sections 1076 to 1084);
- income from retirement funds and annuities (sections 1095 to 1099);

22. Section 1066A (Pension Rate Calculator D—point 1066A-F1—Note 2):

Omit ".• investment income (sections 1073 to 1099);", substitute:

- the general concept of ordinary income (sections 1072 and 1073);
- business income (sections 1074 and 1075);
- deemed income from financial assets (sections 1076 to 1084);
- income from retirement funds and annuities (sections 1095 to 1099);

23. Section 1067 (Benefit Rate Calculator A—point 1067-H1—Note 3):

Omit ".• investment income (sections 1073 to 1099);", substitute:

- the general concept of ordinary income (sections 1072 and 1073);
- business income (sections 1074 and 1075);
- deemed income from financial assets (sections 1076 to 1084);
- income from retirement funds and annuities (sections 1095 to 1099);

24. Section 1067E (Sickness Allowance Rate Calculator—point 1067E-G1—Note 2):

Omit ".• investment income (sections 1073 to 1099);", substitute:

- the general concept of ordinary income (sections 1072 and 1073);
- business income (sections 1074 and 1075);
- deemed income from financial assets (sections 1076 to 1084);
- income from retirement funds and annuities (sections 1095 to 1099);

25. Section 1068 (Benefit Rate Calculator B—point 1068-G1—Note 3):

Omit ".• investment income (sections 1073 to 1099);", substitute:

- the general concept of ordinary income (sections 1072 and 1073);
- business income (sections 1074 and 1075);
- deemed income from financial assets (sections 1076 to 1084);
- income from retirement funds and annuities (sections 1095 to 1099);

26. Section 1068A (Parenting Allowance Rate Calculator—point 1068A-D1—Note 3):

Omit ".• investment income (sections 1073 to 1099);", substitute:

- the general concept of ordinary income (sections 1072 and 1073);
- business income (sections 1074 and 1075);
- deemed income from financial assets (sections 1076 to 1084);
- income from retirement funds and annuities (sections 1095 to 1099);

27. Section 1071 (Seniors Health Card Ordinary Income Test Calculator—point 1071-1—Note):

Omit the Note, substitute:

Note: The application of the ordinary income test is affected by the following provisions:

- sections 1072 and 1073 (the general concept of ordinary income);
- sections 1074 and 1075 (business income);
- sections 1076-1084 (deemed income from financial assets);
- sections 1095-1099 (income from retirement funds and annuities).

28. Division 1AA of Part 3.10:

Repeal the Division, substitute:

Division 1—Ordinary income concept

1072 General meaning of ordinary income

A reference in this Act to a person's ordinary income for a period is a reference to the person's gross ordinary income from all sources for the period calculated without any reduction, other than a reduction under Division 1A.

Note 1: For *ordinary income* see subsection 8(1). See also point 1068A-D4 (Parenting Allowance Rate Calculator).

Note 2: For other provisions affecting the amount of a person's ordinary income see sections 1074 and 1075 (business income), sections 1076 to 1084 (deemed income from financial assets) and sections 1095 to 1099 (income from retirement funds and annuities).

1073 Certain amounts taken to be received over 12 months

If a person receives, whether before or after the commencement of this section, an amount of income that:

- (a) is not income within the meaning of Division 1B or 1C of this Part; and
- (b) is not:
 - (i) income in the form of periodic payments; or
 - (ii) ordinary income from remunerative work undertaken by the person;

the person is, for the purposes of this Act, taken to receive one fifty-second of that amount as ordinary income of the person during each week in the 12 months commencing on the day on which the person becomes entitled to receive that amount.

Division 1A—Business income

1074 Ordinary income from a business—treatment of trading stock

- (1) If:
 - (a) a person carries on a business; and
 - (b) the value of all the trading stock on hand at the end of a tax year is greater than the value of all the trading stock on hand at the beginning of that tax year;

the person's ordinary income for that tax year in the form of profits from the business is to include the amount of the difference in values.

(2) If:

- (a) a person carries on a business; and
- (b) the value of all the trading stock on hand at the end of a tax year is less than the value of all the trading stock on hand at the beginning of that tax year;

the person's ordinary income for that tax year in the form of profits from the business is to be reduced by the amount of the difference in values.

1075 Permissible reductions of business income

- (1) Subject to subsection (2), if a person carries on a business, the person's ordinary income from the business is to be reduced by:
 - (a) losses and outgoings that relate to the business and are allowable deductions for the purposes of section 51 of the Income Tax Assessment Act; and
 - (b) depreciation that relates to the business and is an allowable deduction for the purposes of subsection 54(1) of that Act; and
 - (c) amounts that relate to the business and are allowable deductions under subsection 82AAC(1) of that Act.
- (2) If, under Division 1B, a person is taken to receive ordinary income on a financial investment, that ordinary income is not to be reduced by the amount of any expenses incurred by the person because of that investment.

Note: For *financial investment* see subsection 9(1).

29. Heading to Division 1 of Part 3.10:

Omit the heading, substitute:

Division 1B—Deemed income from financial assets

30. Subdivisions A, AA and B of Division 1 of Part 3.10:

Repeal the Subdivisions, substitute:

1076 Deemed income from financial assets—persons other than members of couples

- (1) This section applies to a person who is not a member of a couple.
- (2) A person who has financial assets is taken, for the purposes of this Act, to receive ordinary income on those assets in accordance with this section.
- (3) This is how to work out the ordinary income the person is taken to receive:

Method statement

Step 1. If any part of the person's deposit concession money attracts interest, multiply the amount of each such part by the rate of interest and add together the amounts so worked out.

Note: For *deposit concession money* see section 1079.

Step 2. Subtract the total amount of the person's deposit concession money from the person's deeming threshold or, if the total value of the person's financial assets is less than that threshold, from that total value.

Note: For *deeming threshold* see subsection 1081(1).

Step 3. Multiply the remainder (if any) worked out at Step 2 by the below threshold rate.

Note: For *below threshold rate* see subsection 1082(1).

Step 4. If the total value of the person's financial assets exceeds the person's deeming threshold, subtract the person's deeming threshold from the total value of those assets.

Step 5. Multiply the remainder (if any) worked out at Step 4 by the above threshold rate.

Note: For *above threshold rate* see subsection 1082(2).

Step 6. The total of the amounts worked out at Steps 1, 3 and 5 represents the ordinary income the person is taken to receive per year on the financial assets.

EXAMPLE OF HOW DEEMED INCOME OF A PERSON WHO IS NOT A MEMBER OF A COUPLE IS WORKED OUT
(using rates in force on 1 July 1996)

Facts:

Elaine, a single pensioner, has \$36,500 worth of financial assets. \$1,500 is in a cheque account not earning any interest. \$25,000 is earning 6% in interest and \$10,000 is earning 8% in interest. The below threshold rate is 5%. The above threshold rate is 7%.

Application:

- Step 1. Elaine's deposit concession money amounts to \$1,500 (see section 1079) which earns no interest. Under this Step, \$1,500 is multiplied by 0%, giving a nil amount.
- Step 2. Elaine's deeming threshold is \$30,000 (see subsection 1081(1)). Her deposit concession money totals \$1,500. The difference is \$28,500.
- Step 3. The amount of \$28,500 is multiplied by the below threshold rate (5%):

$$\$28,500 \times \frac{5}{100} = \$1,425$$

- Step 4. Elaine's deeming threshold of \$30,000 is subtracted from the total value of her financial assets (\$36,500). The remainder is \$6,500.
- Step 5. The amount of \$6,500 is multiplied by the above threshold rate (7%):

$$\$6,500 \times \frac{7}{100} = \$455.$$

- Step 6. The amounts worked out at Steps 1, 3 and 5 are added together:

\$	
Step 1	0
Step 3	1,425
Step 5	455
<hr/>	
	1,880

The ordinary income Elaine is deemed to receive per year from her financial assets is \$1,880.

- (4) The person is taken, for the purposes of this Act, to receive one fifty-second of the amount calculated under subsection (3) as ordinary income of the person during each week.

1077 Deemed income from financial assets—members of pensioner couples

- (1) This section applies to the members of a pensioner couple.

- (2) If one or both of the members of a couple have financial assets, the members of the couple are taken, for the purposes of this Act, to receive together ordinary income on those assets in accordance with this section.
- (3) This is how to work out the ordinary income the couple is taken to receive:

Method statement

Step 1. If any part of the couple's deposit concession money attracts interest, multiply the amount of each such part by the rate of interest and add together the amounts so worked out.

Note: For *deposit concession money* see section 1079.

Step 2. Subtract the total amount of the couple's deposit concession money from the couple's deeming threshold or, if the total value of the couple's financial assets is less than that threshold, from that total value.

Note: For *deeming threshold* see subsection 1081(2).

Step 3. Multiply the remainder (if any) worked out at Step 2 by the below threshold rate.

Note: For *below threshold rate* see subsection 1082(1).

Step 4. If the total value of the couple's financial assets exceeds the couple's deeming threshold, subtract the couple's deeming threshold from the total value of those assets.

Step 5. Multiply the remainder (if any) worked out at Step 4 by the above threshold rate.

Note: For *above threshold rate* see subsection 1082(2).

Step 6. The total of the amounts worked out at Steps 1, 3 and 5 represents the ordinary income the members of the couple are taken to receive per year on the financial assets.

EXAMPLE OF HOW DEEMED INCOME OF A PENSIONER COUPLE IS
WORKED OUT
(using rates in force on 1 July 1996)

Facts:

Maree and Peter, a pensioner couple, have \$68,500 worth of financial assets. They have \$3,500 in a savings account earning interest at 2.8% and deposits of \$25,000 and \$40,000 earning 5% p.a. and 8% p.a. in interest respectively. The below threshold rate is 5%. The above threshold rate is 7%.

Application:

- Step 1. The couple's deposit concession money amounts to \$3,500 (see section 1079) earning interest at 2.8%. The interest amounts to \$98.
- Step 2. The couple's deeming threshold is \$50,000 (see subsection 1081(2)). Their deposit concession money amounts to \$3,500. The remainder is \$46,500.
- Step 3. The amount of \$46,500 is multiplied by the below threshold rate (5%):

$$\$46,500 \times \frac{5}{100} = \$2,325.$$
- Step 4. The couple's deeming threshold of \$50,000 is subtracted from the total value of their financial assets (\$68,500). The remainder is \$18,500.
- Step 5. The amount of \$18,500 is multiplied by the above threshold rate (7%):

$$\$18,000 \times \frac{7}{100} = \$1,295.$$
- Step 6. The amounts worked out at Steps 1, 3 and 5 are added together:

	\$
Step 1	98
Step 3	2,325
<u>Step 5</u>	<u>1,295</u>
	3,718

The ordinary income Maree and Peter are deemed to receive per year from their financial assets is \$3,718. (Subsection (4) shows how this amount is divided between Maree and Peter.)

- (4) Each member of the couple is taken, for the purposes of this Act, to receive, as ordinary income during each week, an amount calculated according to the formula:

$$\frac{\text{Amount calculated under subsection (3)}}{52} \times \frac{1}{2}$$

1078 Deemed income from financial assets—members of non-pensioner couples

- (1) This section applies to a person who is a member of a couple, other than a pensioner couple.
- (2) A person who has financial assets is taken, for the purposes of this Act, to receive ordinary income on those assets in accordance with this section.
- (3) This is how to work out the ordinary income the person is taken to receive:

Method statement

Step 1. If any part of the person's deposit concession money attracts interest, multiply the amount of each such part by the rate of interest and add together the amounts so worked out.

Note: For *deposit concession money* see section 1079.

Step 2. Subtract the total amount of the person's deposit concession money from the person's deeming threshold or, if the total value of the person's financial assets is less than that threshold, from that total value.

Note: For *deeming threshold* see subsection 1081(3).

Step 3. Multiply the remainder (if any) worked out at Step 2 by the below threshold rate.

Note: For *below threshold rate* see subsection 1082(1).

Step 4. If the total value of the person's financial assets exceeds the person's deeming threshold, subtract the person's deeming threshold from the total value of those assets.

Step 5. Multiply the remainder (if any) worked out at Step 4 by the above threshold rate.

Note: For *above threshold rate* see subsection 1082(2).

Step 6. The total of the amounts worked out at Steps 1, 3 and 5 represents the ordinary income the person is taken to receive per year on the financial assets.

EXAMPLE OF HOW DEEMED INCOME OF A MEMBER OF A NON-PENSIONER COUPLE IS WORKED OUT
(using rates in force on 1 July 1996)

Facts:

Kerry, who is married and receiving newstart allowance, has \$1,200 worth of financial assets. Her spouse, Robert, is not receiving a pension. Kerry has a cheque account containing \$200 on which no interest is paid. The remaining \$1,000 is held in a savings account on which interest is paid at 3%. The below threshold rate is 5%.

Application:

- Step 1. Kerry's deposit concession money amounts to \$1,200 (section 1079). Of that amount, \$200 earns no interest. The remaining \$1,000 earns interest at less than the below threshold rate. Amounts are worked out as follows:
- $\$200 \times 0\% = \0
 - $\$1,000 \times 3\% = \30 .
- Step 2. As Kerry has no financial assets other than deposit concession money, the result of this Step is a zero remainder. Kerry's deeming threshold is \$25,000.
- Step 3. Because of the outcome of Step 2, Steps 3 to 5 have no application, and no income is assessed under those Steps.
- Step 6. The only amount of income worked out is the amount of \$30 under Step 1. Therefore, the ordinary income Kerry is deemed to receive per year from her financial assets is \$30.

- (4) The person is taken, for the purposes of this Act, to receive one fifty-second of the amount calculated under subsection (3) as ordinary income of the person during each week.

1079 Deposit concession money

- (1) This is how to work out which money constitutes, at a particular time, the deposit concession money of a person who is not a member of a couple:

Method statement

Step 1. Start with the amount of \$2,000.

- Step 2.* Set off against this amount any available money of the person.
- Step 3.* Set off against the remainder any deposit money of the person that does not attract interest.
Step 4. Set off against the remainder any deposit money of the person that attracts interest at a rate lower than the below threshold rate: this money is to be set off in ascending order of interest rate.
- Note: For ***below threshold rate*** see subsection 1082(1).
- Step 5.* The total of the available money or deposit money that can be set off under Steps 2 to 4 is the deposit concession money of the person at that time.
- Note: Because of subsection (5), the total worked out under this Step cannot exceed \$2,000.

- (2) This is how to work out which money constitutes, at a particular time, the deposit concession money of a pensioner couple:

Method statement

- Step 1.* Start with the amount of \$4,000.
- Step 2.* Set off against this amount any available money of the couple.
- Step 3.* Set off against the remainder any deposit money of the couple that does not attract interest.
- Step 4.* Set off against the remainder any deposit money of the couple that attracts interest at a rate lower than the below threshold rate: this money is to be set off in ascending order of interest rate.
- Note: For ***below threshold rate*** see subsection 1082(1).
- Step 5.* The total of the available money or deposit money that can be set off under Steps 2 to 4 is the deposit concession money of the couple at that time.

Note:	Because of subsection (5), the total worked out under this Step cannot exceed \$4,000.
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Note: For *pensioner couple* see subsection 9(1).

- (3) This is how to work out which money constitutes, at a particular time, the deposit concession money of a person who is a member of a couple other than a pensioner couple:

Method statement

Step 1. Start with the amount of \$2,000.

Step 2. Set off against this amount any available money of the person.

Step 3. Set off against the remainder any deposit money of the person that does not attract interest.

Step 4. Set off against the remainder any deposit money of the person that attracts interest at a rate lower than the below threshold rate: this money is to be set off in ascending order of interest rate.

Note: For *below threshold rate* see subsection 1082(1).

Step 5. The total of the available money or deposit money that can be set off under Steps 2 to 4 is the deposit concession money of the person at that time.

Note: Because of subsection (5), the total worked out under this Step cannot exceed \$2,000.

- (4) For the purposes of this section:
- (a) the available money of a pensioner couple is the total of the available money of the members of the couple; and
 - (b) the deposit money of a pensioner couple that does not attract interest is the total of the deposit money of the members of the couple that does not attract interest; and
 - (c) the deposit money of a pensioner couple that attracts interest at a particular rate is the total of the deposit money of the members of the couple that attracts interest at that rate.

- (5) For the purposes of subsections (1), (2) and (3) if available money or deposit money is to be set off against an amount, only so much of the money as does not exceed the amount can be set off against the amount.

- (6) In this section:

available money does not include money specified in a determination under subsection 1084(1).

Note: For *available money* see subsection 8(1).

deposit money does not include money specified in a determination under subsection 1084(1).

Note: For *deposit money* see subsection 8(1).

1080 Meaning of money that attracts interest

A reference in any of sections 1076 to 1079 to money that attracts interest is a reference to money on which interest accrues, whenever the interest is paid.

1081 Deeming threshold

- (1) The deeming threshold for a person who is not a member of a couple is \$30,000.
- (2) The deeming threshold for a pensioner couple is \$50,000.
- (3) The deeming threshold for a member of a couple, other than a pensioner couple, is an amount equal to one-half of the amount fixed by subsection (2).

Note: The amounts fixed by subsections (1) and (2) are indexed every 1 July. See sections 1190-1192.

1082 Below threshold rate, above threshold rate

- (1) For the purposes of this Division, the below threshold rate is the rate determined by the Minister to be the below threshold rate for the purposes of this Division.
- (2) For the purposes of this Division, the above threshold rate is the rate determined by the Minister to be the above threshold rate for the purposes of this Division.

- (3) A rate determined under this section must be in the form of a specified percentage.
- (4) A determination under this section:
 - (a) must be in writing; and
 - (b) is a disallowable instrument.

1083 Actual return on financial assets not treated as ordinary income

- (1) Subject to subsection (2), any return on a financial asset that a person actually receives is taken, for the purposes of this Act, not to be ordinary income of the person.
- (2) If, because of a determination under subsection 1084(1), a financial investment is not to be regarded as a financial asset for the purposes of section 1076, 1077 or 1078, subsection (1) does not apply to any return on the investment that the person actually receives.

1084 Certain money and financial investments not taken into account

- (1) The Minister may determine that:
 - (a) specified financial investments; or
 - (b) a specified class of financial investments;are not to be regarded as financial assets for the purposes of section 1076, 1077 or 1078.
- (2) Money that constitutes a financial investment to which a determination under subsection (1) applies is not to be taken into account under section 1079.
- (3) A determination under subsection (1) must be in writing.
- (4) A determination under subsection (1) takes effect on the day on which it is made or on such other day (whether earlier or later) as is specified in the determination.

1084A Valuation and revaluation of certain financial investments

The total value of a person's listed securities and managed investments (being listed securities and managed investments that

fluctuate depending on the market) (the **relevant investments**) is determined in accordance with the following:

- (a) an initial total valuation is to be given to the relevant investments on 1 July 1996, or when a new claim is determined, by the method set out in departmental guidelines;
- (b) that total valuation continues in effect until the relevant investments are revalued by the method set out in departmental guidelines, and that revaluation must occur:
 - (i) on 20 March in each calendar year after 1996; and
 - (ii) on 20 September in each calendar year after 1996; and
 - (iii) when the person requests a revaluation of one or more of the person's listed securities and managed investments; and
 - (iv) following an event that affects the relevant investments and is the subject of a recipient notification notice.

31. Subdivision D of Division 1 of Part 3.10:

Repeal the Subdivision, substitute:

Division 1C—Income from retirement funds and annuities

Subdivision A—Investments taken into account on realisation

1095 Treatment of superannuation fund investments before pension age

If:

- (a) a person has an investment in:
 - (i) a superannuation fund; or
 - (ii) an approved deposit fund; or
 - (iii) a deferred annuity; and
- (b) the person has not reached pension age; and
- (c) the person has not commenced to receive a pension or annuity from the investment;

the investment is treated as follows:

- (d) the return on the investment is not treated as ordinary income (see paragraph 8(8)(b));

Note: The investment is also disregarded for the purposes of the assets test (see paragraph 1118(1)(f)).

- (e) if the investment is realised, the return is spread across the following 12 months (see section 1096).

1096 Early withdrawal from superannuation fund

If:

- (a) a person realises an investment in a superannuation fund, approved deposit fund or deferred annuity before the person reaches pension age; and
- (b) the amount is not rolled over into
 - (i) a superannuation fund; or
 - (ii) an approved deposit fund; or
 - (iii) a deferred annuity; or
 - (iv) an immediate annuity;

the person is taken to receive one fifty-second of the assessable growth component of that amount as ordinary income of the person during each week in the period of 12 months commencing on the day on which the person realises the investment

Note: For assessable growth component see subsection 9(1).

1097 Adjustment of ordinary income for investment losses

(1) If:

- (a) a person realises an investment to which section 1096 applies; and
- (b) the investment is realised at a loss;

the person's ordinary income is taken to be reduced during each week in the 12 months commencing on the day on which the person realises the investment by the amount worked out using the formula:

$$\frac{\text{assessable}}{52}$$

where:

assessable loss is so much (if any) of the amount of the loss as is attributable to the person's assessable period.

Note: For **assessable period** see subsection 9(1).

- (2) The reduction under subsection (1) in a person's rate as at a particular day is not to exceed the increase to be made under section 1096 in working out the person's rate as at that day.

32. Heading to Subdivision E of Division 1 of Part 3.10:

Omit "*Subdivision E*", substitute "*Subdivision B*".

33. Divisions 1A, 1B and 1C of Part 3.10:

Repeal the Divisions.

34. Section 1190 (Table):

Add at the end the following heading and items:

Deeming thresholds			
63.	Deeming threshold for a person who is not a member of a couple	Deeming threshold individual	Subsection 1081(1)
64.	Deeming threshold for a pensioner couple	Deeming threshold pensioner couple	Subsection 1081(2)

5. Subsection 1191(1) (CPI Indexation Table):

Add at the end the following heading and items:

Deeming thresholds					
35.	Deeming threshold individual	1 July	March	highest March quarter before reference quarter (but not earlier than March 1994 quarter)	\$200.00
36.	Deeming threshold pensioner couple	1 July	March	highest March quarter before reference quarter (but not earlier than March 1994 quarter)	\$200.00

36. Section 1192:

Add at the end:

- (7) The first indexation of amounts under items 35 and 36 of the CPI Indexation Table in subsection 1191(1) is to take place on 1 July 1997.

37. Subsection 1283(4) (Note):

Omit the Note.

38. Schedule 1A:

Add at the end (after proposed clause 87 added by item 81 of Schedule 6):

88 Saving: Determinations under repealed sections 1099E and 1099L

A determination in force under section 1099E or 1099L immediately before the commencement of this clause continues to have effect after that commencement as if:

- (a) section 1084 of this Act, as in force immediately after the commencement of this clause, had been in force when the determination was made; and
- (b) the determination had been made under that section as so in force; and
- (c) any reference in the determination to section 1099B, 1099J or 1099K were a reference to sections 1076 to 1078 of this Act.

89 Saving: Benefit rates

If a social security benefit (including parenting allowance) is payable to a person for a fortnightly period that starts before 1 July 1996 and ends after that day, the rate of the person's payment for that period is to be worked out in accordance with this Act as in force immediately before 1 July 1996.

Schedule 2—Amendments of the Social Security Act 1991 to end transfers from job search allowance and newstart allowance to sickness allowance

Part 1—Amendments of sickness allowance provisions

Section 3(1)

1. After paragraph 666(1)(c):

Insert:

(ca) either of the following applies:

- (i) immediately before the incapacity occurred the person was in employment (whether the person was self-employed, or was employed by another person, on a full-time, part-time, casual or temporary basis) and the Secretary is satisfied that, when the incapacity ends, the employment will be again available to the person (whether or not the same kind of work will be available);
- (ii) immediately before the incapacity occurred the person was in full-time education and was receiving payments under the AUSTUDY scheme or the ABSTUDY scheme and the Secretary is satisfied that the person is committed to resuming full-time study under that scheme when the incapacity ends;

2. Paragraph 666(1)(d):

Omit, substitute:

- (d) the person satisfies the Secretary that the person has suffered, or is likely to suffer, a loss of salary, wages or other income of a similar nature because of the incapacity; or

3. After paragraph 666(1A)(d):

Insert:

- (da) immediately before the incapacity occurred the person was in employment (whether the person was self-employed, or was employed by another person, on a full-time, part-time, casual or temporary basis) and the Secretary is satisfied that, when the incapacity ends, the employment will be again available to the person (whether or not the same kind of work will be available);

4. Subparagraphs 666(1A)(e)(ii) and (iii):

Omit.

5. Subsections 666(2) and (3):

Omit, substitute:

- (2) In this section:

work, in relation to a person, means work that the person has contracted to perform under a contract of employment that:

- (a) the person had immediately before the person becomes incapacitated; and
- (b) continues after the person becomes incapacitated.

6. Subsections 666(7) and (8):

Omit.

7. Subsection 666(9):

After "obtaining" insert "job search allowance, newstart allowance, youth training allowance,

8. Subsection 666(10):

Omit.

9. Paragraph 667(3)(a):

Omit, substitute:

- (a) immediately before the rehabilitation period began the person was receiving sickness allowance in respect of a period; and

10. Paragraph 667(3)(d):

Omit "benefit or".

11. Subsection 667(5):

After "obtaining" insert "job search allowance, newstart allowance, youth training allowance,".

12. Paragraphs 677(1)(c) and (ca):

Omit.

13. Paragraph 677(1)(m):

Omit "721", substitute "720".

14. Sections 682, 683 and 684:

Repeal.

15. Subsection 686(1):

Add at the end ", a job search allowance, a newstart allowance or a youth training allowance".

16. Sections 690, 691 and 692:

Repeal.

17. Paragraph 694(1)(b):

Omit.

Note: The heading to subsection 694(1) is omitted.

18. Subsection 694(2):

Omit.

19. Paragraph 695(2)(b):

Omit "an unemployment benefit,", substitute "a".

20. Paragraph 696(6)(b):

Omit "an unemployment benefit,", substitute "a".

21. Sections 711 and 712:

Repeal.

22. Paragraph 728N(b):

Omit "pension" (wherever occurring), substitute "allowance".

Part 2—Amendments of job search allowance provisions

23. After paragraph 513(1)(ba):

Insert:

Note: A person who, under Subdivision BAA, is not required to satisfy the activity test is not to be required to enter into a Job Search Activity Agreement (see subsection 525A(1A)).

24. Subparagraph 513(1)(c)(iii):

Before "is" insert "subject to subsection (1B),".

25. Subsection 513(1) (Note 12):

Omit.

26. After paragraph 513(1A)(ca):

Insert:

Note: A person who, under Subdivision BAA, is not required to satisfy the activity test is not to be required to enter into a Job Search Activity Agreement (see subsection 525A(1A)).

27. Subparagraph 513(1A)(f)(iv):

Before "is" insert "subject to subsection (1B),".

28. Subsection 513(1A) (Note 12):

Omit.

29. After subsection 513(1A):

Insert:

(1B) For the purposes of subparagraphs (1)(c)(iii) and (1A)(f)(iv), if:

- (a) a person is, under Subdivision BAA, not required to satisfy the activity test; and
- (b) the person is temporarily absent from Australia; and
- (c) the person is absent in order to seek medical treatment of a kind that is not available in Australia;

the person is taken to be in Australia during:

- (d) if the period is not more than 3 months—the whole of the period; or

-
- (e) if the period is more than 3 months—the first 3 months of the period.

30. Section 514:

Repeal.

31. Subsection 519(3):

Omit "subsection (4)", substitute "subsections (3AA) and (4)".

32. After subsection 519(3):

Insert:

(3AA) Subject to subsection (4), if the person:

- (a) is not a member of a couple; and
- (b) is, under Subdivision BAA, not required to satisfy the activity test;

the liquid assets test waiting period in relation to the claim starts on the day on which the person became incapacitated.

33. Subsection 519(3A):

Omit "subsection (4)", substitute "subsections (3B) and (4)".

34. After subsection 519(3A):

Insert:

(3B) Subject to subsection (4), if the person:

- (a) is a member of a couple; and
- (b) is, under Subdivision BAA, not required to satisfy the activity test;

the liquid assets test waiting period in relation to the claim starts on the last occurring of the following days:

- (c) the day on which the person became incapacitated for work;
 - (d) if, when the claim is made, the person's partner is unemployed—the day on which the person's partner became unemployed;
 - (e) if, when the claim is made, the person's partner is incapacitated for work—the day on which the person's partner became incapacitated for work.
-

35. Section 521:

Add at the end:

- (3) A person is qualified for job search allowance in respect of a period determined by the Secretary if:
 - (a) immediately before the start of the period, the person:
 - (i) was receiving job search allowance; and
 - (ii) was incapacitated for work; and
 - (iii) was, under Subdivision BAA, not required to satisfy the activity test; and
 - (b) in the Secretary's opinion:
 - (i) the person will comply with the requirements of this Act during the period; and
 - (ii) the person may reasonably be expected to be qualified for job search allowance in respect of the period; and
 - (iii) job search allowance may reasonably be expected to be payable to the person in respect of the period.

36. After Subdivision B of Division 1 of Part 2.11:

Insert:

Subdivision BAA—Exemption from activity test—people temporarily incapacitated for work

525AB Interpretation

A reference in this Subdivision to a person being exempt from the activity test, or ceasing to be exempt from the activity test, under, or under a provision of, this Subdivision is a reference to a person not being required to satisfy the activity test, or becoming required to satisfy the activity test, as the case may be, because of the operation of, or the operation of that provision of, this Subdivision.

525AC Incapacitated person not required to satisfy activity test

- (1) Subject to this Subdivision, a person is not required to satisfy the activity test in respect of a period if:
 - (a) throughout the period the person is incapacitated for work because of sickness or an accident; and

-
- (b) the incapacity is caused wholly, or virtually wholly, by a medical condition arising from the sickness or accident; and
 - (c) the incapacity is, or is likely to be, of a temporary nature; and
 - (d) if this Subdivision had not been enacted and paragraphs 513(1)(b), (ba), (bb) and (bc) were disregarded, the person would qualify for job search allowance; and
 - (e) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner, in a form approved by the Secretary, stating:
 - (i) the medical practitioner's diagnosis; and
 - (ii) the medical practitioner's prognosis; and
 - (iii) that the person is incapacitated for work; and
 - (iv) the period for which the person is incapacitated for work; and
 - (f) the Secretary is satisfied that the incapacity has not been brought about with a view to obtaining an exemption from the activity test.

(2) In this section:

work, in relation to a person, means work (whether full-time, part-time, permanent or casual) that:

- (a) is of a kind that the person could, in the Secretary's opinion, be reasonably expected to do; and
- (b) is for at least 8 hours per week at award wages or above.

525AD Person cannot obtain exemption from activity test in respect of same medical condition within 2 years

- (1) Subject to subsection (2), if a person who, because of an incapacity resulting from a medical condition, was exempt, under section 525AC, from the activity test ceases to be so exempt because of the operation of section 525AG or 525AH, section 525AC does not apply to the person again during the period of 104 weeks after the person ceased to be exempt.
 - (2) Subsection (1) does not apply to a person:
 - (a) if the person's incapacity for work is caused by a medical condition that is different from, or significantly more serious than, the medical condition referred to in subsection (1); or
 - (b) if:
-

- (i) the medical condition referred to in subsection (1) is a chronically relapsing condition; and
- (ii) the person's incapacity for work is caused by a relapse of the condition; or
- (c) if:
 - (i) the person is undergoing a program of counselling, treatment or therapy for drug or alcohol abuse; and
 - (ii) the person's participation in the program is not likely to extend beyond 78 weeks; and
 - (iii) the program is approved by the Secretary in writing for the purposes of this section; or
- (d) if:
 - (i) the person's incapacity for work is caused by a medical condition (whether the same as or different from the medical condition referred to in subsection (1)); and
 - (ii) arrangements have been made for the person to undergo surgery in respect of the condition; and
 - (iii) the surgery is expected to result in the person's incapacity for work ceasing within 104 weeks from the date on which the person became exempt from the activity test in respect of the incapacity.

525AE Refusal to attend interview etc. may result in person being required to satisfy activity test

- (1) A person ceases to be exempt, under this Subdivision, from the activity test if:
 - (a) the Secretary is of the opinion that the person should:
 - (i) contact a particular officer of the Department; or
 - (ii) attend an interview at a particular place; or
 - (iii) complete a questionnaire; or
 - (iv) attend a medical, psychiatric or psychological examination; and
 - (b) the Secretary gives the person a written notice stating that the person is required, within a period stated in the notice, to:
 - (i) contact the officer; or
 - (ii) attend the interview; or
 - (iii) complete the questionnaire; or
 - (iv) attend the examination; or

-
- (v) if the person has undergone an examination—give the Secretary a report on the examination in the approved form; and
 - (c) the Secretary is satisfied that it is reasonable for this section to apply to the person; and
 - (d) the person does not take reasonable steps to comply with the requirement.
 - (2) A notice under paragraph (1)(b) must inform the person to whom it is given of the effect of failure by the person to take reasonable steps to comply with the requirement set out in the notice.

525AF Time limit for exemption from requirement to satisfy activity test

- (1) A person ceases to be exempt, under this Subdivision, from the activity test if the person's maximum exemption period ends.
- (2) Subject to this section, a person's maximum exemption period is:
 - (a) if the person has, whether before or after the commencement of this section, given the Secretary a medical certificate for the purpose of enabling the Secretary to decide whether the person was required to satisfy the activity test—the lesser of the following periods:
 - (i) the period stated in the certificate as the period for which the person would be incapacitated for work;
 - (ii) the period of 13 weeks that started or starts on the first day of the period so stated in the certificate; or
 - (b) otherwise—the period of 4 weeks that started or starts on the day determined by the Secretary to have been the day on which the person's incapacity for work began.
- (3) If:
 - (a) a person is exempt, under this Subdivision, from the activity test; and
 - (b) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner that states the matters listed in paragraph 525AC(1)(e) and is in accordance with the form approved under that paragraph; and

- (c) the Secretary is satisfied that the person's incapacity for work will continue after the end of the person's maximum exemption period;

the Secretary may extend the person's maximum exemption period by a period that is not more than the lesser of the following periods:

- (d) a period equal to the period stated in the certificate as the period for which the person would be incapacitated for work;
- (e) 13 weeks.

(4) If:

- (a) a person is exempt, under this Subdivision, from the activity test; and
- (b) the person gives the Secretary written evidence (other than a certificate referred to in paragraph (3)(b)) that the person's incapacity for work will continue after the end of the person's maximum exemption period; and
- (c) the Secretary is satisfied that:
 - (i) the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in paragraph (3)(b) before the end of the maximum exemption period; and
 - (ii) the person's incapacity for work will continue after the end of the person's maximum exemption period;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

(5) If:

- (a) a person is exempt, under this Subdivision, from the activity test; and
- (b) the person has, whether before or after the commencement of this section, given the Secretary a certificate referred to in paragraph (3)(b) before the end of the person's maximum exemption period; and
- (c) before the end of the person's maximum exemption period, the Secretary does not satisfy himself or herself that the person's incapacity for work will continue after the end of that period; and

-
- (d) the sole or dominant cause of the Secretary failing so to satisfy himself or herself is an act or omission of an officer of the Department;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

525AG Person ceases to be exempt from activity test after one year

Subject to section 525AH, a person ceases to be exempt, under section 525AC, from the activity test if the person has been so exempt in respect of the immediately preceding period of 52 weeks.

525AH If Secretary makes determination, person ceases to be exempt after 2 years

- (1) The Secretary may make a determination in writing that section 525AG does not apply to a person if the Secretary is satisfied that:
 - (a) the person's incapacity for work will end during the next 52 weeks; or
 - (b) the medical condition that wholly, or virtually wholly, causes the person's incapacity for work at the end of the period of 52 weeks referred to in section 525AG is different from, or significantly more serious than, the medical condition because of which the person was exempt, under section 525AC, from the activity test at the beginning of that period of 52 weeks; or
 - (c) the person's incapacity is caused by a chronically relapsing medical condition; or
 - (d) all the following circumstances apply:
 - (i) the person is undergoing a program of counselling, treatment or therapy for drug or alcohol abuse;
 - (ii) the person's participation in the program is not likely to extend beyond 78 weeks;
 - (iii) the program is approved by the Secretary in writing for the purposes of this section.
- (2) If the Secretary makes a determination under subsection (1) in relation to a person, section 525AG does not apply to the person but the person ceases to be exempt, under section 525AC, from the

activity test if the person has been so exempt in respect of the immediately preceding period of 104 weeks.

- (3) For the purposes of subsection (2), a person who has not been exempt, under section 525AC, from the activity test continuously in respect of the immediately preceding period of 104 weeks is taken to have been exempt, under that section, from the test in respect of that period if the period, or each period, during those 104 weeks in respect of which the person was not exempt was less than 6 weeks.

37. Subsection 525A(1):

Omit "If", substitute "Subject to subsection (1A), if".

38. After subsection 525A(1):

Insert:

- (1A) A person who, under Subdivision BAA, is not required to satisfy the activity test is not to be required to enter into a Job Search Activity Agreement.

39. After paragraph 526(1)(ha):

Insert:

- (hb) section 534B applies to the person and the person fails to comply with a requirement in a notice given to the person under that section; or

40. After paragraph 532(4)(b):

Insert:

- (ba) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; or
(bb) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students; or

41. After subsection 533(1):

Insert:

- (1A) Subject to the following provisions of this section, if a person is, under Subdivision BAA, not required to satisfy the activity test, the

person's provisional commencement day is the day on which the person became incapacitated for work.

42. Subsection 533(5):

Omit "If", substitute "Subject to subsections (5A) and (5B), if".

43. After subsection 533(5):

Insert:

(5A) Subject to subsection (5B), if:

- (a) a person is a transferee to job search allowance; and
- (b) the person is, under Subdivision BAA, not required to satisfy the activity test; and
- (c) the person claims the job search allowance within 4 weeks after the person's transfer day;

the person's provisional commencement day is the person's transfer day.

(5B) If:

- (a) a person is, under Subdivision BAA, not required to satisfy the activity test; and
- (b) the person is subject to an education leaver's waiting period (see subsection 540(1)); and
- (c) the person became incapacitated for work while undertaking the course of education;

the person's provisional commencement day is the last day on which the person was undertaking the course.

44. Section 534:

Add at the end (before the Notes):

- (2) This section does not apply to a person who is, under Subdivision BAA, not required to satisfy the activity test.

Note: The heading to section 534 is replaced by "**Commencement of job search allowance—person subject to activity test**".

45. After section 534:

Insert in Subdivision C of Division 1 of Part 2.11:

534A Commencement of job search allowance—person not subject to activity test

- (1) If a person who is, under Subdivision BAA, not required to satisfy the activity test is qualified for job search allowance, the allowance is not payable to the person before the day worked out in accordance with the following provisions of this section.
- (2) If the person:
- (a) claims the allowance within 5 weeks after the day on which the person becomes incapacitated for work; and
 - (b) the person is not subject to a waiting period;
- the allowance is not payable to the person before the person's provisional commencement day.

Note 1: A waiting period is:

- (a) an unused annual leave waiting period (see sections 535 to 537); or
- (b) an ordinary waiting period (see sections 538 and 539); or
- (c) an education leavers waiting period (see sections 540 to 541A); or
- (d) a newly arrived resident's waiting period (see sections 541B and 541C).

Note 2: For *provisional commencement day* see section 533.

- (3) If the person:
- (a) claims the allowance within 5 weeks after the day on which the person becomes incapacitated for work; and
 - (b) the person is subject to a waiting period;
- the allowance is not payable to the person before the first day after the end of the waiting period.

Note 1: If the person:

- (a) is subject to an unused annual leave waiting period; and
 - (b) is subject to an ordinary waiting period;
- the ordinary waiting period will follow the unused annual leave waiting period (see subsection 539(2)).

Note 2: If the person is subject to an education leavers waiting period and another waiting period, the education leavers waiting period runs concurrently with the other waiting period and the job search allowance will not be payable until the longest waiting period has ended.

Schedule 2 Amendments of the Social Security Act 1991 to end transfers from job search allowance and newstart allowance to sickness allowance

Part 2 Amendments of job search allowance provisions

Note 3: If the person is subject to a newly arrived resident's waiting period and another waiting period, the newly arrived resident's waiting period runs concurrently with the other waiting period and the job search allowance will not be payable until the longest waiting period has ended.

(4) If:

- (a) the person claims the allowance more than 5 weeks after the day on which the person becomes incapacitated for work; and
- (b) the Secretary is satisfied that the incapacity is the sole or dominant cause for the failure to claim the allowance within 5 weeks after that day;

the allowance is not payable to the person before the day determined by the Secretary.

(5) The day determined under subsection (4):

- (a) must not be more than 4 weeks before the day on which the person lodges the claim for the allowance; and
- (b) if the person is subject to a waiting period—must not be earlier than the first day after the end of the waiting period.

Note 1: If the person:

- (a) is subject to an unused annual leave waiting period; and
- (b) is subject to an ordinary waiting period;

the ordinary waiting period will follow the unused annual leave waiting period (see subsection 539(2)).

Note 2: If the person is subject to an education leavers waiting period and another waiting period, the education leavers waiting period runs concurrently with the other waiting period and the job search allowance will not be payable until the longest waiting period has ended.

Note 3: If the person is subject to a newly arrived resident's waiting period and another waiting period, the newly arrived resident's waiting period runs concurrently with the other waiting period and the job search allowance will not be payable until the longest waiting period has ended.

(6) If:

- (a) the person claims the allowance more than 5 weeks after the day on which the person becomes incapacitated for work; and

- (b) the Secretary is not satisfied that the incapacity is the sole or dominant cause of the failure to claim the allowance within 5 weeks after that day;
- the allowance is not payable to the person before the day on which the claim is lodged.

534B Refusal to attend interview etc.

- (1) A job search allowance is not payable to a person who is not required to satisfy the activity test if:
 - (a) the person is receiving a job search allowance; and
 - (b) the Secretary is of the opinion that the person should:
 - (i) contact a particular officer of the Department; or
 - (ii) attend an interview at a particular place; or
 - (iii) complete a questionnaire; or
 - (iv) attend a medical, psychiatric or psychological examination; and
 - (c) the Secretary gives the person a written notice stating that the person is required, within a period stated in the notice, to:
 - (i) contact the officer; or
 - (ii) attend the interview; or
 - (iii) complete the questionnaire; or
 - (iv) attend the examination; or
 - (v) if the person has undergone an examination—give the Secretary a report on the examination in the approved form; and
 - (d) the Secretary is satisfied that it is reasonable for this section to apply to the person; and
 - (e) the person does not take reasonable steps to comply with the requirement.
- (2) A notice under paragraph (1)(c) must inform the person to whom it is given of the effect of failure by the person to take reasonable steps to comply with the requirement set out in the notice.

46. Paragraph 546C(1)(a):

After "person" insert "(other than a person who is not required to satisfy the activity test)".

Part 3—Amendments of newstart allowance provisions

47. Paragraph 593(1)(b):

Omit, substitute:

- (b) throughout the period, or for each period within the period, the person either:
 - (i) satisfies the activity test; or
 - (ii) is not required to satisfy the activity test; and

48. Paragraph 593(1)(c):

Before "at all times" insert "if subsection 604(1) applies to the person,".

49. Paragraph 593(1)(d):

Before "at all times" insert "if subsection 604(1) applies to the person,".

50. Paragraph 593(1)(e):

Omit "when", substitute "if".

51. Subparagraph 593(1)(g)(iii):

Before "is" insert "subject to subsection (1A),".

52. Subsection 593(1) (Note 14):

Omit.

53. After subsection 593(1):

Insert:

- (1A) For the purposes of subparagraph (1)(g)(iii), if:
 - (a) a person is, under Subdivision BA, not required to satisfy the activity test; and
 - (b) the person is temporarily absent from Australia; and
 - (c) the person is absent in order to seek medical treatment of a kind that is not available in Australia;the person is taken to be in Australia during:

- (d) if the period is not more than 3 months—the whole of the period; or
- (e) if the period is more than 3 months—the first 3 months of the period.

54. Subsection 593(2) (Note 11):

Omit.

55. Section 594:

Repeal.

56. Subsection 598(3):

Omit "subsection (4)", substitute "subsections (3AA) and (4)".

57. After subsection 598(3):

Insert:

(3AA) Subject to subsection (4), if the person:

- (a) is not a member of a couple; and
- (b) is, under Subdivision BA, not required to satisfy the activity test;

the liquid assets test waiting period in relation to the claim starts on the day on which the person became incapacitated.

58. Subsection 598(3A):

Omit "subsection (4)", substitute "subsections (3B) and (4)".

59. After subsection 598(3A):

Insert:

(3B) Subject to subsection (4), if the person:

- (a) is a member of a couple; and
- (b) is, under Subdivision BA, not required to satisfy the activity test;

the liquid assets test waiting period in relation to the claim starts on the last occurring of the following days:

- (c) the day on which the person became incapacitated for work;

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- (d) if, when the claim is made, the person's partner is unemployed—the day on which the person's partner became unemployed;
 - (e) if, when the claim is made, the person's partner is incapacitated for work—the day on which the person's partner became incapacitated for work.

60. Section 600:

Add at the end:

- (3) A person is qualified for newstart allowance in respect of a period determined by the Secretary if:
 - (a) immediately before the start of the period, the person:
 - (i) was receiving newstart allowance; and
 - (ii) was incapacitated for work; and
 - (iii) was, under Subdivision BA, not required to satisfy the activity test; and
 - (b) in the Secretary's opinion:
 - (i) the person will comply with the requirements of this Act during the period; and
 - (ii) the person may reasonably be expected to be qualified for newstart allowance in respect of the period; and
 - (iii) newstart allowance may reasonably be expected to be payable to the person in respect of the period.

61. After Subdivision B of Division 1 of Part 2.12:

Insert:

Subdivision BA—Exemption from activity test—people temporarily incapacitated for work

603B Interpretation

A reference in this Subdivision to a person being exempt from the activity test, or ceasing to be exempt from the activity test, under, or under a provision of, this Subdivision is a reference to a person not being required to satisfy the activity test, or becoming required to satisfy the activity test, as the case may be, because of the operation of, or the operation of that provision of, this Subdivision.

603C Incapacitated person not required to satisfy activity test

- (1) Subject to this Subdivision, a person is not required to satisfy the activity test in respect of a period if:
- (a) throughout the period the person is incapacitated for work because of sickness or an accident; and
 - (b) the incapacity is caused wholly, or virtually wholly, by a medical condition arising from the sickness or accident; and
 - (c) the incapacity is, or is likely to be, of a temporary nature; and
 - (d) if this Subdivision had not been enacted and paragraphs 593(1)(b), (c), (d) and (e) were disregarded, the person would qualify for newstart allowance; and
 - (e) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner, in a form approved by the Secretary, stating:
 - (i) the medical practitioner's diagnosis; and
 - (ii) the medical practitioner's prognosis; and
 - (iii) that the person is incapacitated for work; and
 - (iv) the period for which the person is incapacitated for work; and
 - (f) the Secretary is satisfied that the incapacity has not been brought about with a view to obtaining an exemption from the activity test.
- (2) In this section:
- work**, in relation to a person, means work (whether full-time, part-time, permanent or casual) that:
- (a) is of a kind that the person could, in the Secretary's opinion, be reasonably expected to do; and
 - (b) is for at least 8 hours per week at award wages or above.

603D Person cannot obtain exemption from activity test in respect of same medical condition within 2 years

- (1) Subject to subsection (2), if a person who, because of an incapacity resulting from a medical condition, was exempt, under section 603C, from the activity test ceases to be so exempt because of the operation of section 603G or 603H, section 603C does not apply to the person again during the period of 104 weeks after the person ceased to be exempt.

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- (2) Subsection (1) does not apply to a person:
- (a) if the person's incapacity for work is caused by a medical condition that is different from, or significantly more serious than, the medical condition referred to in subsection (1); or
 - (b) if:
 - (i) the medical condition referred to in subsection (1) is a chronically relapsing condition; and
 - (ii) the person's incapacity for work is caused by a relapse of the condition; or
 - (c) if:
 - (i) the person is undergoing a program of counselling, treatment or therapy for drug or alcohol abuse; and
 - (ii) the person's participation in the program is not likely to extend beyond 78 weeks; and
 - (iii) the program is approved by the Secretary in writing for the purposes of this section; or
 - (d) if:
 - (i) the person's incapacity for work is caused by a medical condition (whether the same as or different from the medical condition referred to in subsection (1)); and
 - (ii) arrangements have been made for the person to undergo surgery in respect of the condition; and
 - (iii) the surgery is expected to result in the person's incapacity for work ceasing within 104 weeks from the date on which the person became exempt from the activity test in respect of the incapacity.

603E Refusal to attend interview etc. may result in person being required to satisfy activity test

- (1) A person ceases to be exempt, under this Subdivision, from the activity test if:
- (a) the Secretary is of the opinion that the person should:
 - (i) contact a particular officer of the Department; or
 - (ii) attend an interview at a particular place; or
 - (iii) complete a questionnaire; or
 - (iv) attend a medical, psychiatric or psychological examination; and

- (b) the Secretary gives the person a written notice stating that the person is required, within a period stated in the notice, to:
 - (i) contact the officer; or
 - (ii) attend the interview; or
 - (iii) complete the questionnaire; or
 - (iv) attend the examination; or
 - (v) if the person has undergone an examination—give the Secretary a report on the examination in the approved form; and
 - (c) the Secretary is satisfied that it is reasonable for this section to apply to the person; and
 - (d) the person does not take reasonable steps to comply with the requirement.
- (2) A notice under paragraph (1)(b) must inform the person to whom it is given of the effect of failure by the person to take reasonable steps to comply with the requirement set out in the notice.

603F Time limit for exemption from requirement to satisfy activity test

- (1) A person ceases to be exempt, under this Subdivision, from the activity test if the person's maximum exemption period ends.
- (2) Subject to this section, a person's maximum exemption period is:
 - (a) if the person has, whether before or after the commencement of this section, given the Secretary a medical certificate for the purpose of enabling the Secretary to decide whether the person was required to satisfy the activity test—the lesser of the following periods:
 - (i) the period stated in the certificate as the period for which the person would be incapacitated for work;
 - (ii) the period of 13 weeks that started or starts on the first day of the period so stated in the certificate; or
 - (b) otherwise—the period of 4 weeks that started or starts on the day determined by the Secretary to have been the day on which the person's incapacity for work began.
- (3) If, immediately before the day on which a person became qualified for newstart allowance, the person was qualified for job search allowance and was, under section 525AC, not required to satisfy

the activity test, the person's maximum exemption period is the period that, immediately before that day, was the person's maximum exemption period under section 525AF.

(4) If:

- (a) a person is exempt, under this Subdivision, from the activity test; and
- (b) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner that states the matters listed in paragraph 603C(1)(e) and is in accordance with the form approved under that paragraph; and
- (c) the Secretary is satisfied that the person's incapacity for work will continue after the end of the person's maximum exemption period;

the Secretary may extend the person's maximum exemption period by a period that is not more than the lesser of the following periods:

- (d) a period equal to the period stated in the certificate as the period for which the person would be incapacitated for work;
- (e) 13 weeks.

(5) If:

- (a) a person is exempt, under this Subdivision, from the activity test; and
- (b) the person gives the Secretary written evidence (other than a certificate referred to in paragraph (4)(b)) that the person's incapacity for work will continue after the end of the person's maximum exemption period; and
- (c) the Secretary is satisfied that:
 - (i) the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in paragraph (4)(b) before the end of the maximum exemption period; and
 - (ii) the person's incapacity for work will continue after the end of the person's maximum exemption period;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

(6) If:

- (a) a person is exempt, under this Subdivision, from the activity test; and
- (b) the person has, whether before or after the commencement of this section, given the Secretary a certificate referred to in paragraph (4)(b) before the end of the person's maximum exemption period; and
- (c) before the end of the person's maximum exemption period, the Secretary does not satisfy himself or herself that the person's incapacity for work will continue after the end of that period; and
- (d) the sole or dominant cause of the Secretary failing so to satisfy himself or herself is an act or omission of an officer of the Department;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

603G Person ceases to be exempt from activity test after one year

Subject to section 603H, a person ceases to be exempt, under section 603C, from the activity test if the person has been so exempt in respect of the immediately preceding period of 52 weeks.

603H If Secretary makes determination, person ceases to be exempt after 2 years

- (1) The Secretary may make a determination in writing that section 603G does not apply to a person if the Secretary is satisfied that:
 - (a) the person's incapacity for work will end during the next 52 weeks; or
 - (b) the medical condition that wholly, or virtually wholly, causes the person's incapacity for work at the end of the period of 52 weeks referred to in section 603G is different from, or significantly more serious than, the medical condition because of which the person was exempt, under section 603C, from the activity test at the beginning of that period of 52 weeks; or
 - (c) the person's incapacity is caused by a chronically relapsing medical condition; or

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- (d) all the following circumstances apply:
- (i) the person is undergoing a program of counselling, treatment or therapy for drug or alcohol abuse;
 - (ii) the person's participation in the program is not likely to extend beyond 78 weeks;
 - (iii) the program is approved by the Secretary in writing for the purposes of this section.
- (2) If the Secretary makes a determination under subsection (1) in relation to a person, section 603G does not apply to the person but the person ceases to be exempt, under section 603C, from the activity test if the person has been so exempt in respect of the immediately preceding period of 104 weeks.
- (3) For the purposes of subsection (2), a person who has not been exempt, under section 603C, from the activity test continuously in respect of the immediately preceding period of 104 weeks is taken to have been exempt, under that section, from the test in respect of that period if the period, or each period, during those 104 weeks in respect of which the person:
- (a) was not exempt under section 525AC or 603C from an activity test; and
 - (b) was not in receipt of sickness allowance; was less than 6 weeks.

62. Subsection 604(1):

Omit "For", substitute "Subject to this section, for".

63. After subsection 604(1):

Insert:

- (1A) Subsection (1) does not apply to a person who, under Subdivision BA, is not required to satisfy the activity test.

64. Subsection 605(1):

Omit "If a person", substitute "Subject to this section, if a person".

65. Subsection 605(2):

Omit "The Secretary", substitute "Subject to this section, the Secretary".

66. After subsection 605(2):

Insert:

- (2A) Subsections (1) and (2) do not apply to a person who, under Subdivision BA, is not required to satisfy the activity test."

67. After paragraph 608(1)(ha):

Insert:

- (hb) section 616B applies to the person and the person fails to comply with a requirement in a notice given to the person under that section; or

68. After paragraph 614(4)(b):

Insert:

- (ba) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; or
(bb) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students; or

69. After subsection 615(1):

Insert:

- (1A) Subject to the following provisions of this section, if a person is, under Subdivision BA, not required to satisfy the activity test, the person's provisional commencement day is the day on which the person became incapacitated for work.

70. Subsection 615(5):

Omit "If", substitute "Subject to subsections (6) and (7), if".

71. Section 615:

Add at the end:

- (6) Subject to subsection (7), if:
- (a) a person is a transferee to newstart allowance; and
 - (b) the person is, under Subdivision BA, not required to satisfy the activity test; and
 - (c) the person claims the newstart allowance within 4 weeks after the person's transfer day;

the person's provisional commencement day is the person's transfer day.

(7) If:

- (a) a person is, under Subdivision BA, not required to satisfy the activity test; and
- (b) the person is subject to an education leaver's waiting period (see subsection 622(1)); and
- (c) the person became incapacitated for work while undertaking the course of education;

the person's provisional commencement day is the last day on which the person was undertaking the course.

72. Section 616:

Add at the end (before the Notes):

- (2) This section does not apply to a person who is, under Subdivision BA, not required to satisfy the activity test.

Note: The heading to section 616 is replaced by "**Commencement of newstart allowance—person subject to activity test**".

73. After section 616:

Insert in Subdivision D of Division 1 of Part 2.12:

616A Commencement of newstart allowance—person not subject to activity test

- (1) If a person who is, under Subdivision BA, not required to satisfy the activity test is qualified for newstart allowance, the allowance is not payable to the person before the day worked out in accordance with the following provisions of this section.

(2) If the person:

- (a) claims the allowance within 5 weeks after the day on which the person becomes incapacitated for work; and
- (b) the person is not subject to a waiting period;

the allowance is not payable to the person before the person's provisional commencement day.

Note 1: A waiting period is:

- (a) an unused annual leave waiting period (see sections 617 to 619);
or
- (b) an ordinary waiting period (see sections 620 and 621); or
- (c) an education leavers waiting period (see sections 622 and 623);
or
- (d) a newly arrived resident's waiting period (see sections 623A and 623B).

Note 2: For *provisional commencement day* see section 615.

(3) If the person:

- (a) claims the allowance within 5 weeks after the day on which the person becomes incapacitated for work; and
- (b) the person is subject to a waiting period;

the allowance is not payable to the person before the first day after the end of the waiting period.

Note 1: If the person:

- (a) is subject to an unused annual leave waiting period; and
- (b) is subject to an ordinary waiting period;

the ordinary waiting period will follow the unused annual leave waiting period (see subsection 621(2)).

Note 2: If the person is subject to an education leavers waiting period and another waiting period, the education leavers waiting period runs concurrently with the other waiting period and the newstart allowance will not be payable until the longest waiting period has ended.

Note 3: If the person is subject to a newly arrived resident's waiting period and another waiting period, the newly arrived resident's waiting period runs concurrently with the other waiting period and the newstart allowance will not be payable until the longest waiting period has ended.

(4) If:

- (a) the person claims the allowance more than 5 weeks after the day on which the person becomes incapacitated for work; and
- (b) the Secretary is satisfied that the incapacity is the sole or dominant cause for the failure to claim the allowance within 5 weeks after that day;

the allowance is not payable to the person before the day determined by the Secretary.

(5) The day determined under subsection (4):

Schedule 2 Amendments of the Social Security Act 1991 to end transfers from job search allowance and newstart allowance to sickness allowance

Part 3 Amendments of newstart allowance provisions

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- (a) must not be more than 4 weeks before the day on which the person lodges the claim for the allowance; and
 - (b) if the person is subject to a waiting period—must not be earlier than the first day after the end of the waiting period.

Note 1: If the person:

- (a) is subject to an unused annual leave waiting period; and
- (b) is subject to an ordinary waiting period;
the ordinary waiting period will follow the unused annual leave waiting period
(see subsection 621(2)).

Note 2: If the person is subject to an education leavers waiting period and another waiting period, the education leavers waiting period runs concurrently with the other waiting period and the newstart allowance will not be payable until the longest waiting period has ended.

Note 3: If the person is subject to a newly arrived resident's waiting period and another waiting period, the newly arrived resident's waiting period runs concurrently with the other waiting period and the newstart allowance will not be payable until the longest waiting period has ended.

(6) If:

- (a) the person claims the allowance more than 5 weeks after the day on which the person becomes incapacitated for work; and
- (b) the Secretary is not satisfied that the incapacity is the sole or dominant cause of the failure to claim the allowance within 5 weeks after that day;

the allowance is not payable to the person before the day on which the claim is lodged.

616B Refusal to attend interview etc.

(1) A newstart allowance is not payable to a person who is not required to satisfy the activity test if:

- (a) the person is receiving a newstart allowance; and
- (b) the Secretary is of the opinion that the person should:
 - (i) contact a particular officer of the Department; or
 - (ii) attend an interview at a particular place; or
 - (iii) complete a questionnaire; or
 - (iv) attend a medical, psychiatric or psychological examination; and

- (c) the Secretary gives the person a written notice stating that the person is required, within a period stated in the notice, to:
 - (i) contact the officer; or
 - (ii) attend the interview; or
 - (iii) complete the questionnaire; or
 - (iv) attend the examination; or
 - (v) if the person has undergone an examination—give the Secretary a report on the examination in the approved form; and
 - (d) the Secretary is satisfied that it is reasonable for this section to apply to the person; and
 - (e) the person does not take reasonable steps to comply with the requirement.
- (2) A notice under paragraph (1)(c) must inform the person to whom it is given of the effect of failure by the person to take reasonable steps to comply with the requirement set out in the notice."

74. Paragraph 630C(1)(a):

After "person" insert "(other than a person who is not required to satisfy the activity test)".

Part 4—Amendments of other provisions

75. Subsection 94(6):

Add at the end:

or with a view to obtaining an exemption, because of the person's incapacity, from the requirement to satisfy the activity test for the purposes of job search allowance, newstart allowance or youth training allowance

76. Subsection 95(2):

Add at the end:

or with a view to obtaining an exemption, because of the person's blindness, from the requirement to satisfy the activity test for the purposes of job search allowance, newstart allowance or youth training allowance

77. Subsection 409(7):

Add at the end:

or with a view to obtaining an exemption, because of the person's incapacity, from the requirement to satisfy the activity test for the purposes of job search allowance, newstart allowance or youth training allowance

78. Subsection 410(2):

Add at the end:

or with a view to obtaining an exemption, because of the person's blindness, from the requirement to satisfy the activity test for the purposes of job search allowance, newstart allowance or youth training allowance

79. Subparagraph 729(2)(d)(i):

Omit "subsection 546C(4) or 630C(4)", substitute "section 534B, subsection 546C(4), section 616B or subsection 630C(4);".

80. Point 1067-D2 (excluding the Note):

Omit, substitute:

Incapacity for work

1067-D2. This point applies to a person if:

- (a) the person is incapacitated for work; and
- (b) if the person is receiving job search allowance—the person is, under Subdivision BAA of Division 1 of Part 2.11, exempt from the activity test.

81. Point 1067-F14:

After "allowance" insert "or sickness allowance".

82. Point 1067-H4:

Omit, substitute:

Friendly society amounts

1067-H4. The ordinary income of a person:

- (a) to whom, or to whose partner, sickness allowance is payable; or
- (b) to whom, or to whose partner, job search allowance is payable and who, or whose partner, under Subdivision BAA of Division 1 of Part 2.11, is not required to satisfy the activity test;

is not to include any amount received by the person or partner from an approved friendly society in respect of the incapacity because of which the person or partner is qualified for the sickness allowance or is not required to satisfy the activity test, as the case may be.

83. Point 1068-D2:

Omit, substitute:

Incapacity for work—job search allowance and newstart allowance

1068-D2. This point applies to a person if:

- (a) the person has reached the age of 18 years; and
- (b) the person is incapacitated for work; and
- (c) if the person is receiving job search allowance—the person is, under Subdivision BAA of Division 1 of Part 2.11, exempt from the activity test; and

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- (d) if the person is receiving newstart allowance—the person is, under Subdivision BA of Division 1 of Part 2.12, exempt from the activity test.

84. Point 1068-F16:

Omit, substitute:

Fortnightly rent

- 1068-F16. ***Fortnightly rent*** means the fortnightly rent paid or payable by the person whose widow allowance, job search allowance, newstart allowance, sickness allowance or partner allowance is being calculated.

85. Point 1068-G4:

Omit, substitute:

Friendly society amounts

- 1068-G4. The ordinary income of a person:

- (a) to whom, or to whose partner, sickness allowance is payable; or
- (b) to whom, or to whose partner, job search allowance is payable and who, or whose partner, under Subdivision BAA of Division 1 of Part 2.11, is not required to satisfy the activity test; or
- (c) to whom, or to whose partner, newstart allowance is payable and who, or whose partner, under Subdivision BA of Division 1 of Part 2.12, is not required to satisfy the activity test;

is not to include any amount received by the person or partner from an approved friendly society in respect of the incapacity because of which the person or partner is qualified for the sickness allowance or is not required to satisfy the activity test, as the case may be.

86. Subsection 1163(5):

Omit "sickness allowance and partner allowance", substitute "an allowance excluded by subsection (5A)

87. After subsection 1163(5):

Insert:

- (5A) The following allowances are excluded from the operation of subsection (5):
- (a) sickness allowance;
 - (b) partner allowance;
 - (c) job search allowance if, under Subdivision BAA of Division 1 of Part 2.11, the recipient of the allowance is not required to satisfy the activity test;
 - (d) newstart allowance if, under Subdivision BA of Division 1 of Part 2.12, the recipient of the allowance is not required to satisfy the activity test.

88. Section 1211:

After Note 1 insert:

- Note 1A: Subsection 513(1B) provides that a person is taken to be in Australia for the purposes of subsections 513(1) and (1A) (qualification for job search allowance) if the person is, because of incapacity, not required to satisfy the job search activity test and is temporarily absent from Australia for a period of 3 months or less.
- Note 1B: Subsection 593(1A) provides that a person is taken to be in Australia for the purposes of subsection 593(1) (qualification for newstart allowance) if the person is, because of incapacity, not required to satisfy the newstart activity test and is temporarily absent from Australia for a period of 3 months or less.

89. Schedule 1A:

Add at the end:

84 Application of legislative changes made to end transfers from job search allowance or newstart allowance to sickness allowance

- (1) The amendments made by Part 1 of Schedule 2 to the *Social Security and Veterans' Affairs Legislation Amendment Act 1995* apply to claims for sickness allowance lodged on or after 20 March 1996.
- (2) The amendments made by Part 2 of Schedule 2 to the *Social Security and Veterans' Affairs Legislation Amendment Act 1995* apply in respect of job search allowance for any fortnight starting on or after 20 March 1996.

Schedule 2 Amendments of the Social Security Act 1991 to end transfers from job search allowance and newstart allowance to sickness allowance

Part 4 Amendments of other provisions

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- (3) The amendments made by Part 3 of Schedule 2 to the *Social Security and Veterans' Affairs Legislation Amendment Act 1995* apply in respect of newstart allowance for any fortnight starting on or after 20 March 1996.

Schedule 3—Amendments of the Social Security Act 1991 relating to earnings credits

Section 3(1)

1. Paragraph 1115A(1)(a):

After "special benefit" insert ", or partner allowance received by a partner of a person who is receiving special benefit".

2. Paragraph 1115A(1)(d):

Omit.

3. Paragraphs 1115A(1)(f) and (g):

Omit, substitute:

- (f) if the person's earnings credit account balance is equal to or more than the amount earned—the part of the amount earned that is not more than \$100; or
- (g) if the person's earnings credit account balance is less than the amount earned—the part of the amount earned that is not more than the lesser of:
 - (i) the earnings credit account balance; or
 - (ii) \$100.

4. Subsection 1115A(3):

Omit "subsection (1)" (first occurring), substitute "subsection (2)".

5. Subsection 1115B(1):

After "special benefit" insert ", or partner allowance received by a partner of a person who is receiving special benefit".

6. Section 1115C (Earnings Credit Account Balance Calculator B—Module C):

Omit, substitute:

MODULE C—EARNINGS CREDIT

When earnings credit arises

- 1115C-C1.(1) A person has an earnings credit for an earnings credit accounting period if the person's fortnightly rate of ordinary income for that period is less than the person's ordinary income free area.

Amount of credit

- (2) The amount of the earnings credit is the amount by which that fortnightly rate of ordinary income is less than that ordinary income free area.

Meaning of fortnightly rate of ordinary income

- (3) If subsection 1115A(1) applies in relation to the application of an ordinary income test to a person for an earnings credit accounting period, a reference in subsection (1) or (2) to the person's fortnightly rate of ordinary income for the period is taken to be a reference to:
- (a) if the person is a member of a couple and the person's partner is receiving a social security pension—the rate worked out using the formula:

$$\frac{\text{person's reduced income rate} + \text{partner's income rate}}{2}; \text{ or}$$

- (b) in any other case—the **person's reduced income rate**; where:

person's reduced income rate means the person's fortnightly rate of ordinary income for the period after taking into account any application of subsection 1115A(1) in relation to amounts of money that the person has earned for remunerative work.

partner's income rate means the partner's fortnightly rate of ordinary income for the period.

Note: For ***ordinary income free area*** see points 1067-H12 (Benefit Rate Calculator A), 1067E-G15 (Sickness Allowance Rate Calculator), 1068-G12 (Benefit Rate Calculator B) and 1068A-D16 (Parenting Allowance Rate Calculator).

7. Section 1115C (Module D of Earnings Credit Account Balance Calculator B):

Omit, substitute:

MODULE D—DRAWING ACCOUNT

Drawing on account (recipient account)

- 1115C-D1. Subject to point 1115C-D2, if, under point 1115A, an amount is disregarded in applying an ordinary income test to a person or a person's partner, the person is taken to draw the disregarded amount on an account established under section 1115B.

If social security benefit rate is nil—account not taken to be drawn

1115C-D2. If:

- (a) because a person earned an amount of money from remunerative work done by the person during an earnings credit accounting period, the person would, apart from this point, be taken under point 1115C-D1 to have drawn an amount on the person's earnings credit account established under section 1115B; and
 - (b) the rate of social security benefit payable to the person for the period is nil;
- the person is taken not to have drawn that amount on the account.

8. Schedule 1A:

Add at the end (after proposed clause 84 added by item 89 of Schedule 2):

85 Application of legislative changes relating to earnings credits

The amendments made by Schedule 4 to the *Social Security and Veterans' Affairs Legislation Amendment Act 1995* apply:

- (a) in respect of social security benefits (other than parenting allowance)—for any fortnight starting on or after 20 March 1996; or
- (b) in respect of parenting allowance—for any fortnight starting on or after the first parenting allowance payday on or after 20 March 1996.

Schedule 4—Amendment of the Social Security Act 1991 to increase flexibility of reporting requirements for recipients of newstart allowance

Section 3(1)

1. Section 600:

Repeal, substitute:

600 Prospective determinations for some allowance recipients

- (1) A person is qualified for newstart allowance for a period if:
 - (a) the person is receiving newstart allowance; and
 - (b) he Secretary considers at the start of the period that:
 - (i) the person may reasonably be expected to satisfy the qualification requirements for newstart allowance (sections 593 to 599) during the period; and
 - (ii) it is reasonable to expect that newstart allowance will be payable to the person for the period; and
 - (iii) the person will comply with the Act during the period; and
 - (c) the person is not indebted at the start of the period to the Commonwealth under or as a result of this Act; and
 - (d) one or more of subsections (3), (4), (5), (6) and (7) apply to the person at the start of the period.
- (2) The Minister:
 - (a) must determine in writing guidelines for making decisions under paragraph (1)(b); and
 - (b) may revoke or vary the determination.

If the Minister revokes a determination, the Minister must determine guidelines that take effect immediately after the revocation. A determination is a disallowable instrument.
- (3) This subsection applies to a person who has a Case Management Activity Agreement with a case manager if the Secretary has decided (either on the recommendation of the case manager or on the Secretary's own initiative) not to give the person recipient

statement notices under section 658 at intervals of a fortnight or less. For this purpose, ***Case Management Activity Agreement*** and ***case manager*** have the meanings that they have in the *Employment Services Act 1994*.

- (4) This subsection applies to a person who satisfies the activity test:
 - (a) under subsection 601(2) (except subparagraph 601(2)(a)(i)); or
 - (b) under subsection 601(4) by taking reasonable steps to comply with a Newstart Activity Agreement that requires the person to undertake full-time unpaid voluntary work proposed by the person and approved by the Secretary; or
 - (c) under section 603AA (which provides for a person to satisfy the activity test by engaging in full-time unpaid voluntary work).
- (5) This subsection applies to a person if:
 - (a) the person is incapacitated for work; and
 - (b) under Subdivision BA the person is not required to satisfy the activity test.
- (6) This subsection applies to a person if:
 - (a) the person has been receiving a social security pension, social security benefit or job search allowance in respect of a continuous period of at least 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this section); and
 - (b) the person is at least 50; and
 - (c) the Secretary considers that the person's income from employment is not likely to increase during the period (whether as a result of a person becoming employed or otherwise).
- (7) This subsection applies to a person if the Secretary considers that the person should be qualified for newstart allowance for the period because of one or more of the following:
 - (a) the place where the person lives;
 - (b) the person's recent employment history;
 - (c) the state of the labour market;
 - (d) any other reason that the Secretary considers relevant.

Schedule 5—Amendments of the Social Security Act 1991 to amalgamate job search allowance and newstart allowance

Section 3(1)

1. Section 3 (Index of definitions):

Omit:

approved organisation 15(1)

2. Paragraph 5(10)(c):

Omit ", job search allowance".

3. Subsection 5(10):

Omit "540, 541, 541A, 542,".

4. Subparagraph 8(8)(r)(i):

Omit "job search or".

5. Subsection 9(1) (definition of *assessable period*):

After paragraph (b), insert:

(ba) a job search allowance; or

6. Paragraphs 11(10)(d), (e) and (f):

Omit, substitute:

(d) if the person is a member of a couple and, immediately before the person and the person's partner became members of that couple, the person was receiving a pension, benefit or payment referred to in paragraph (a), (b) or (c) or a job search allowance and the person's partner was receiving such a pension, benefit or payment, a job search allowance or a youth training allowance—the period of 12 months beginning on the day on which they became members of that couple; or

(e) if:

(i) the person is a member of a couple but paragraph (d) does not apply; and

- (ii) the person's partner is receiving a pension, benefit or payment referred to in paragraph (a), (b) or (c), a job search allowance or a youth training allowance;

the period of 12 months beginning on the day on which:

- (iii) the pension, benefit or payment referred to in paragraph (a), (b) or (c) or the job search allowance first became payable to the person; or
- (iv) the pension, benefit or payment referred to in paragraph (a), (b) or (c), the job search allowance or the youth training allowance first became payable to the person's partner;

whichever was the earlier; or

- (f) otherwise—the period of 12 months beginning on the day on which a pension, benefit or payment referred to in paragraph (a), (b) or (c) or a job search allowance first became payable to the person;

and to each following and each preceding period of 12 months.

7. Paragraph 12C(5)(c):

Omit.

8. Subsections 14A(1) and (2):

Omit "2.11,".

9. Subsection 14A(3):

Omit "job search allowance," (wherever occurring).

10. Subparagraph 14A(3)(b)(ii):

Omit "job search allowance".

11. Subsection 14A(6):

Omit "519,".12. Subsection 15(1) (definition of approved organisation):

12. Subsection 15(1) (definition of *approved organisation*):

Omit.

13. After paragraph 15(2)(aa):Insert:

- (ab) a job search allowance;

Note: The heading to section 15 is altered by omitting "**JSA and**".

14. Subsection 15(2) (Note):

Omit "524", substitute "603AA".

15. Subsection 17(1) (definition of *former payment type*):

After paragraph (h) insert:

(ha) a job search allowance; or

16. Subsection 23(1):

Insert:

job search allowance means job search allowance under this Act as previously in force.

this Act means this Act as originally enacted or as amended and in force at any time.

17. Subsection 23(1) (definition of *activity test deferment period*):

Omit paragraph (a), substitute:

(a) a period worked out under section 546A of this Act as previously in force in relation to the application of a JSA automatic deferment provision included in Subdivision E of Division 1 of Part 2.11 of this Act as previously in force; or

18. Subsection 23(1) (definition of *administrative breach deferment period*):

Omit paragraph (a), substitute:

(a) a period worked out under section 547A of this Act as previously in force in relation to the application of a JSA automatic deferment provision included in Subdivision F of Division 1 of Part 2.11 of this Act as previously in force; or

19. Subsection 23(1) (definition of *assurance of support debt*):

Omit paragraph (d), substitute:

(d) job search allowance; or

20. Subsection 23(1) (definition of *Commonwealth funded employment program*):

Omit "job search or".

21. Subsection 23(1) (definition of *compensation arrears debt*):

Omit "589,"

22. Subsection 23(1) (definition of *education leavers waiting period*):

Omit paragraph (b).

23. Subsection 23(1) (definition of *income support payment*):

After paragraph (a) insert:

(aa) a job search allowance; or

24. Subsection 23(1) (definition of *JSA automatic deferment provision*):

After "means" insert "any of the following provisions of this Act as previously in force".

25. Subsection 23(1) (definition of *JSA discretionary deferment provision*):

After "means" insert "any of the following provisions of this Act as previously in force".

26. Subsection 23(1) (definition of *newly arrived resident's waiting period*):

Omit paragraph (c).

27. Subsection 23(1) (definition of *ordinary waiting period*):

Omit paragraph (b).

28. Subsection 23(1) (definition of *partner allowance automatic deferment provision*):

Omit "subsection 547(1)", substitute "section 771HO".

29. Subsection 23(1) (definition of *recipient notification notice*):

Omit paragraph (h).

30. Subsection 23(1) (definition of *recipient statement notice*):

Omit paragraph (h).

31. Subsection 23(1) (definition of *social security benefit*):

Omit paragraph (b).

32. Subsection 23(1) (definition of *social security recipient status*):

After "benefit," insert "a job search allowance,".

33. Subsection 23(1) (definition of *unused annual leave waiting period*):

Omit paragraph (b).

34. Subsection 23(1) (definition of *waiting period*):

Omit paragraphs (d), (e), (f) and (fa).

35. Subsection 23(4A):

Omit "2.11,".

36. Subsection 23(4A) (Note):

- (a) Omit "a job search allowance or".
- (b) Omit "those allowances", substitute "that allowance".

37. Subsection 23(10):

Omit "Part 2.11 (job search allowance),".

38. Subsection 23(10) (Note 1):

Omit "536,".

39. Subsection 23(10) (Note 2):

Omit "539,".

40. Subsection 23(10B):

Omit "519,".

41. Section 28:

Repeal.

42. After subparagraph 82(5)(b)(iia):

Insert:

(iib) was receiving a job search allowance; or".

43. Subsection 103(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

44. After subparagraph 146F(5)(b)(iia):

Insert:

(iib) was receiving a job search allowance; or".

45. Subsection 151(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

46. Subsection 202(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

47. Subsection 258(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

48. Subsection 321(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

49. Subsection 368(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

50. Paragraph 408QA(1)(b):

Omit, substitute:

- (b) the person has been receiving income support payments in respect of a continuous period of at least 9 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of whether a person received income support payments in respect of a continuous period of at least 9 months see section 38B.

51. Subsection 418(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

52. After subparagraph 469(6)(b)(iia):

Insert:

(iib) was receiving a job search allowance; or".

53. Paragraph 469(7)(a):

After "social security benefit," insert "job search allowance".

54. Part 2.11:

Repeal.

55. Subparagraph 593(1)(g)(i):

Omit " is at least 18", substitute "subject to subsection (2B), is at least 16 years of age".

56. Paragraph 593(1)(h):

Omit.

57. Paragraph 593(1)(i):

Omit "a job search allowance or".

58. Subsection 593(1) (Notes 11 and 12):

Omit, substitute:

Note 12: A person could be in receipt of a youth training allowance during a period for which the person would qualify for a newstart allowance, if paragraph (i) was disregarded, because of section 67 of the *Student and Youth Assistance Act 1973* (extension of youth training allowance to end of payment period).59. Subsection 593(1) (Note 17):

59. Subsection 593(1) (Note 17):

Omit.

60. Paragraph 593(2)(c):

Before "at all times" insert "if subsection 604(1) applies to the person,".

61. Paragraph 593(2)(d):

Before "at all times" insert "if subsection 604(1) applies to the person,".

62. Paragraph 593(2)(e):

Omit "when", substitute "if".

63. Paragraph 593(2)(h):

Omit.

64. Paragraph 593(2)(i):

Omit "a job search allowance or".

65. Subsection 593(2) (Notes 8 and 9):

Omit, substitute:

Note 9: A person could be in receipt of a youth training allowance during a period for which the person would qualify for a newstart allowance, if paragraph (i) was disregarded, because of section 67 of the *Student and Youth Assistance Act 1973* (extension of youth training allowance to end of payment period).

66. After subsection 593(2A):

Insert:

- (2B) A person who is under the age of 18 years is not qualified for a newstart allowance at a particular time (the ***relevant time***) unless:
- (a) the person was in receipt of job search allowance immediately before 20 September 1996; and
 - (b) the person was in receipt of newstart allowance throughout the period (the ***test period***) from and including that date until the relevant time other than any part of the test period that was not longer than 6 weeks.

67. Subsections 598(6) and (7):

Omit, substitute:

- (6) Subsection (1) does not apply to a person who becomes qualified for newstart allowance at the end of a continuous period in respect

of which the person received income support payments (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this subsection).

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

68. Subsections 599(2) and (3):

Omit.

69. Section 599A:

Repeal.

70. Section 601 (Note):

After paragraph (c) insert:

; (d) section 603AA (voluntary work).

71. Section 602:

Repeal, substitute:

602 Relief from activity test—certain people over 50 in employment

If a person has received income support payments in respect of a continuous period of at least 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this section), the person is taken to satisfy the activity test if:

- (a) the person is at least 50 years of age; and
- (b) the person is in employment that began on or after 1 January 1990; and
- (c) the person earns at least 35% of average male full-time weekly earnings from the employment.

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of whether a person received income support payments in respect of a continuous period of at least 12 months see section 38B.

Note 3: For *activity test* see section 601.

Note 4: For *average male full-time weekly earnings* see section 15.

72. Subparagraph 603A(3)(a)(i):

Add at the end "of this Act as previously in force".

73. After section 603A:

Insert:

603AA Relief from activity test—people engaged in voluntary work

- (1) Subject to this section, a person is taken to satisfy the activity test in respect of a period (the *relevant period*) if:
 - (a) on each day in the relevant period the person is engaged in full-time unpaid voluntary work; and
 - (b) if the person is under 50 years of age—the person has been a qualified beneficiary for:
 - (i) if the person is under 18 years of age—at least 3 months; or
 - (ii) if the person has reached 18 years of age—at least 6 months;
immediately before the person starts working for the organisation.
- (2) Paragraph (1)(b) does not apply to a person in respect of the relevant period if the person has received income support payments in respect of a continuous period of at least 12 months immediately before the start of the relevant period (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this section).
- (3) Subsection (1) does not apply to a person in respect of a day if:
 - (a) in respect of a person who is under 50 years of age—there are already 30 days in the same calendar year on which the person is taken to satisfy the activity test because of that subsection; or
 - (b) in respect of a person who has reached 50 years of age—there are already 65 days in the same calendar year on which the person is taken to satisfy the activity test because of that subsection; or

- (c) in respect of any person—having regard to the opportunities, or possible opportunities, for employment that become available to the person on or before the day, the Secretary considers that that subsection should not apply to the person in relation to that day.

Note 1: For *activity test* see section 601.

Note 2: For *qualified beneficiary* see section 15.

Note 3: For *income support payment* see subsection 23(1).

Note 4: For the determination of whether a person received income support payments in respect of a continuous period of at least 12 months see section 38B.

74. After subsection 604(1A):

Insert:

(1B) Subsection (1) does not apply to a person who:

- (a) is under 18 years of age; or
- (b) has reached 18 years of age and has not been registered by the CES as unemployed for more than 12 months;

but the Secretary may require such a person to enter into a Newstart Activity Agreement.

75. Paragraph 604(2)(b):

Omit, substitute:

- (b) immediately before that day, the person was a party to:
 - (i) a Youth Training Activity Agreement under Part 8 of the *Student and Youth Assistance Act 1973*; or
 - (ii) a Job Search Activity Agreement under this Act as previously in force; and

76. Subsection 605(1):

Omit "must", substitute "may".

77. Subsection 607A(2):

Omit, substitute:

- (2) For the purposes of subparagraph (1)(b)(ii), the person's maximum basic rate is:

- (a) if the person is under 18 years of age—the person's maximum basic rate worked out under Module B of Benefit Rate Calculator A; or
- (b) if the person has reached 18 years of age—the person's maximum basic rate worked out under Module B of Benefit Rate Calculator B.

78. Subsection 607B(3):

Omit, substitute:

- (3) For the purposes of subparagraph (1)(b)(ii) and paragraph (2)(b), the person's maximum basic rate is:
 - (a) if the person is under 18 years of age—the person's maximum basic rate worked out under Module B of Benefit Rate Calculator A; or
 - (b) if the person has reached 18 years of age—the person's maximum basic rate worked out under Module B of Benefit Rate Calculator B.

79. Before subparagraph 608(1)(j)(i):

Insert:

- (ia) a period of non—payment was imposed on the person before 20 September 1996 under section 526 of this Act as in force before that date and the period extended beyond that date; or

80. Subsection 611(1):

Omit, substitute:

- (1) A newstart allowance is not payable to a person if:
 - (a) the person is not excluded from the newstart allowance assets test; and
 - (b) the value of the person's assets is more than the person's assets value limit.
- (1A) A person is excluded from the newstart allowance assets test if the person:
 - (a) is under 18 years of age; and
 - (b) is not a member of a couple; and
 - (c) does not have a dependent child; and

- (d) is not an independent young person; and
- (e) is not a homeless person.

81. Subsection 614(2) (Note 2):

Omit "and 'social security benefit' includes job search allowance".

82. Paragraph 615(1)(a):

Omit.

83. Paragraph 617(1)(b):

Omit "period; and", substitute "period.".

84. Paragraph 617(1)(c):

Omit.

85. Subsections 617(2) and (3):

Omit, substitute:

- (2) Subsection (1) does not apply to a person who becomes qualified for newstart allowance at the end of a continuous period in respect of which the person received income support payments (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this subsection).

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

86. Paragraph 620(a):

Omit, substitute:

- (a) at some time in the 13 weeks immediately before the person's provisional commencement day, the person received an income support payment; or

Note: For *income support payment* see subsection 23(1).

87. Subsection 621(6):

Omit, substitute:

- (6) If:

- (a) after the commencement of the subsection for which this subsection is substituted and before 20 September 1996, a person became unemployed and claimed job search allowance; and
- (b) because of sections 538 and 539 of this Act as in force before that date (ordinary waiting period), job search allowance was not payable to the person for a period starting on the day (the ***applicable day***) applicable to the person under subparagraph (i), (ii) or (iii), as the case may be:
 - (i) if the person was not subject to a job search allowance unused annual leave waiting period and was not disqualified for job search allowance under section 519 of this Act as so in force (liquid assets test)—the person's job search allowance provisional commencement day; or
 - (ii) if the person was subject to a job search allowance unused annual leave waiting period and was not disqualified for job search allowance under section 519 of this Act as so in force (liquid assets test)—the day after the day on which the person's job search allowance unused annual leave waiting period ended; or
 - (iii) if the person was disqualified for job search allowance under section 519 of this Act as so in force (liquid assets test)—the day after the day on which the person's job search allowance liquid assets waiting period ended; and
- (c) during that period the person claimed newstart allowance; then, despite subsections (1), (2) and (3), the person's ordinary waiting period is a period of 7 days starting on the applicable day.

88. Paragraph 622(1)(c):

Omit, substitute:

- (c) immediately before stopping the course, was not receiving an income support payment; and

89. Paragraph 622(1)(d):

Omit "a job search allowance or".

90. Subsection 622(1):

Add at the end:

; and (f) is not covered by subsection (6) (people otherwise qualified for special benefit).

91. Subsections 622(2) and (3):

Omit, substitute:

- (2) Subsection (1) does not apply to a person who becomes qualified for newstart allowance at the end of a continuous period in respect of which the person received income support payments (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this subsection).

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

92. After section 622(4):

Insert:

- (4A) Subsection (1) does not apply to a person if:

- (a) the person is receiving a social security pension, a social security benefit or a youth training allowance; and
- (b) the person stops receiving the pension, benefit or allowance on a particular day (the *termination day*); and
- (c) the person undertakes a full-time course of education of at least 6 months duration; and
- (d) the person stops the course; and
- (e) the person's provisional commencement day is within 12 months after the termination day.

Note 1: For *social security pension and social security benefit* see subsection 23(1).

Note 2: For *provisional commencement day* see section 615.

93. Section 622:

Add at the end:

- (6) A person is not subject to an education leavers waiting period if the Secretary is satisfied that special benefit would be payable to the person during the waiting period if the person were subject to the waiting period.

Note: For *education leavers waiting period* see subsection 23(1).

94. Section 623:

Repeal, substitute:

623 Duration of education leavers waiting period—non-secondary school leavers

People covered by this section

623(1) This section applies to a person unless section 623AA (secondary school leavers) applies to the person.

General rule

- (2) Subject to this section, the education leavers waiting period starts on the person's provisional commencement day and lasts for:
- (a) 13 weeks if, on the person's provisional commencement day, the person:
 - (i) has not reached the age of 21 years; and
 - (ii) is not a member of a couple; and
 - (iii) does not have a dependent child; or
 - (b) 6 weeks if, on the person's provisional commencement day, the person:
 - (i) has reached the age of 21 years; or
 - (ii) is a member of a couple; or
 - (iii) has a dependent child.

Note 1: The duration of the education leavers waiting period may be modified by:

- (a) subsections (3) and (4) (change of status during waiting period);
- (b) subsection (6) (periods of employment or periods on special benefit);
- (c) subsections (7) and (8) (periods of part-time employment);
- (d) subsection (10) (previous periods of non-payment because of education leavers waiting period);
- (e) subsection (11) (6 months ceiling).

Note 2: For *provisional commencement day* see section 615.

Change of status in first 6 weeks

- (3) Subject to subsection (5), if:
- (a) a person who is covered by paragraph (1)(a):
 - (i) reaches the age of 21 years; or
 - (ii) becomes a member of a couple; or
 - (b) a young person becomes a dependent child of someone who is covered by paragraph (1)(a);
- within 6 weeks from and including the person's provisional commencement day, the education leavers waiting period starts on the person's provisional commencement day and lasts for 6 weeks.

Note: For *provisional commencement day* see section 615.

Change of status after 6 weeks

- (4) Subject to subsection (5), if:
- (a) a person who is covered by paragraph (1)(a):
 - (i) reaches the age of 21 years; or
 - (ii) becomes a member of a couple; or
 - (b) a young person becomes a dependent child of someone who is covered by paragraph (1)(a);
- in the period:
- (c) starting at the end of 6 weeks from the person's provisional commencement day; and
 - (d) lasting for 6 weeks;
- the education leavers waiting period starts on the person's provisional commencement day and ends on the day before the day on which the person is first covered by paragraph (a) or (b).

Note: For *provisional commencement day* see section 615.

Notification required

- (5) For the purposes of subsections (3) and (4):
- (a) a person is not taken to have become a member of a couple; and
 - (b) a young person is not taken to have become a dependent child of someone;
- until the person tells the Department that this is the case.
-

Reduction of waiting period for periods of special benefit and full-time employment

- (6) The waiting period imposed by subsection (2) or (3) is reduced by a period equivalent to:
- (a) if the person is subject to a 13 week education leavers waiting period—any period during which the person was employed on a full-time basis after stopping the course; and
 - (b) if the person is subject to a 6 week education leavers waiting period—any period during which the person has been employed, at any time, on a full-time basis; and
 - (c) any period during which the person was paid special benefit after stopping the course.

Reduction of waiting period for periods of part-time work

- (7) The waiting period imposed by subsection (2) or (3) is reduced by the period worked out under subsection (8) if the person has had at least 35 hours of part-time work.

Note: For **part-time work** see subsection (12).

Calculation of part-time work reduction

- (8) If subsection (7) applies to the person, the waiting period reduction is:
- (a) one week for the first 35 hours of part-time work the person has had; and
 - (b) one day for each complete additional 7 hours of part-time work the person has had.

Date of part-time work

- (9) If the person is subject to a 13 week education leavers waiting period, only part-time work that the person has had since stopping the course of education is taken into account for the purposes of subsections (7) and (8).

Reduction of education leavers waiting period if already partially served

- (10) If:

- (a) a person is subject to an education leavers waiting period; and
- (b) the person started the course concerned at a time when a job search allowance, a youth training allowance, a newstart allowance or sickness allowance was not payable to the person because of an education leavers waiting period; and
- (c) the person's provisional commencement day is within 12 months after the person started the course concerned;

the duration of the education leavers waiting period is reduced by the number of days of the previous education leavers waiting period that the person had served immediately before starting the course.

Note 1: For *provisional commencement day* see section 615.

Note 2: For *education leavers waiting period* see section 23.

6 month ceiling

- (11) An education leavers waiting period that applies in respect of a course of study undertaken by a person is not to extend more than 6 months after the person has stopped the course.

Interpretation

- (12) In this section:

part-time work means work engaged in otherwise than on a full-time basis and includes such work engaged in on a casual basis.

623AA Duration of education leavers waiting period—secondary school leavers

People covered by this section

- 623AA(1) This section applies to a person if the course of education that the person stops is a full-time course of education at a secondary school.

General rule

- (2) Subject to this section, the education leavers waiting period starts on the person's waiting period start day and lasts for:

- (a) 13 weeks if, on that day, the person:
 - (i) has not reached the age of 21 years; and
 - (ii) is not a member of a couple; and
 - (iii) does not have a dependent child; or
- (b) 6 weeks if, on that day, the person:
 - (i) has reached the age of 21 years; or
 - (ii) is a member of a couple; or
 - (iii) has a dependent child.

Note 1: The duration of the education leavers waiting period may be modified by:

- (a) subsections (3) and (4) (change of status during waiting period);
- (b) subsection (6) (15 February cut-off);
- (c) subsection (7) (periods of full-time employment or periods on special benefit);
- (d) subsections (8) and (9) (periods of part-time employment);
- (e) subsection (11) (previous periods of non-payment because of education leavers waiting period).

Note 2: For *waiting period start day* see subsection (12).

Change of status in first 6 weeks

- (3) Subject to subsection (5), if:
 - (a) a person who is covered by paragraph (2)(a):
 - (i) reaches the age of 21 years; or
 - (ii) becomes a member of a couple; or
 - (b) a young person becomes a dependent child of someone who is covered by paragraph (2)(a);within 6 weeks from and including the person's waiting period start day, the education leavers waiting period starts on the person's waiting period start day and lasts for 6 weeks.

Note: For *waiting period start day* see subsection (12).

Change of status after 6 weeks

- (4) Subject to subsection (5), if:
 - (a) a person who is covered by paragraph (2)(a):
 - (i) reaches the age of 21 years; or
 - (ii) becomes a member of a couple; or

- (b) a young person becomes a dependent child of someone who is covered by paragraph (2)(a);
- in the period:
- (c) starting at the end of 6 weeks from the person's waiting period start day; and
 - (d) lasting for 6 weeks;
- the education leavers waiting period starts on the person's waiting period start day and ends on the day before the day on which the person is first covered by paragraph (a) or (b).

Note: For *waiting period start day* see subsection (12).

Notification required

- (5) For the purposes of subsections (3) and (4):
 - (a) a person is not taken to have become a member of a couple; and
 - (b) a young person is not taken to have become a dependent child of someone;until the person tells the Department that this is the case.

Waiting period to end on 15 February

- (6) If, apart from this subsection, a person's education leavers waiting period would end later than 15 February next after the person's waiting period start day, then the waiting period ends on that 15 February.

Reduction of waiting period for periods of special benefit and full-time employment

- (7) The waiting period imposed by subsection (2) or (3) is reduced by a period equivalent to:
 - (a) if the person is subject to a 13 week education leavers waiting period—any period during which the person was employed on a full-time basis after stopping the course; and
 - (b) if the person is subject to a 6 week education leavers waiting period—any period during which the person has been employed, at any time, on a full-time basis; and
 - (c) any period during which the person was paid special benefit after stopping the course.

Reduction of waiting period for periods of part-time work

- (8) The waiting period imposed by subsection (2) or (3) is reduced by the period worked out under subsection (9) if the person has had at least 35 hours of part-time work.

Note: For *part-time work* see subsection (12).

Calculation of part-time work reduction

- (9) If subsection (8) applies to the person, the waiting period reduction is:
- (a) one week for the first 35 hours of part-time work the person has had; and
 - (b) one day for each complete additional 7 hours of part-time work the person has had.

Date of part-time work

- (10) If the person is subject to a 13 week education leavers waiting period, only part-time work that the person has had since stopping the course of education is taken into account for the purposes of subsections (8) and (9).

Reduction of education leavers waiting period if already partially served

- (11) If:
- (a) a person is subject to an education leavers waiting period; and
 - (b) the person started the course concerned at a time when a job search allowance, a youth training allowance, a newstart allowance or sickness allowance was not payable to the person because of an education leavers waiting period; and
 - (c) the person's provisional commencement day is within 12 months after the person started the course concerned;
- the duration of the education leavers waiting period is reduced by the number of days of the previous education leavers waiting period that the person had served immediately before starting the course.

Note 1: For *provisional commencement day* see section 615.

Note 2: For *education leavers waiting period* see subsection 23(1).

Interpretation

(12) In this section:

part-time work means work engaged in otherwise than on a full-time basis and includes such work engaged in on a casual basis.

waiting period start day, in relation to a person, means the day after the day on which the person stops a full-time course of education at a secondary school.

95. Subsections 630A(7) to (10):

Omit, substitute:

(7) For the purposes of subsection (6), if the person:

- (a) was receiving a job search allowance; and
- (b) ceased for a period of not longer than 6 weeks to receive the allowance; and
- (c) at the end of the period either:
 - (i) began again to receive a job search allowance; or
 - (ii) would, apart from this section, have begun again to receive a job search allowance;

the person is taken to have been continuously receiving the job search allowance during the period.

(8) For the purposes of subsection (6), if the person:

- (a) was receiving a job search allowance; and
- (b) ceased for a period of not longer than 13 weeks to receive the allowance; and
- (c) at the end of the period either:
 - (i) began to receive a newstart allowance; or
 - (ii) would, apart from this section, have begun to receive a newstart allowance;

the person is taken to have been continuously receiving the newstart allowance during the period.

(9) For the purposes of subsection (6), if the person:

- (a) was receiving a newstart allowance; and
- (b) ceased for a period of not longer than 13 weeks to receive the allowance; and

- (c) at the end of the period either:
 - (i) began again to receive a newstart allowance; or
 - (ii) would, apart from this section, have begun again to receive a newstart allowance;

the person is taken to have been continuously receiving the newstart allowance during the period.

- (10) For the purposes of subsection (6), if the person:
 - (a) is in receipt of a newstart allowance; and
 - (b) has received income support payments in respect of a continuous period of less than 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this subsection); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

- (c) ceased for a period of not longer than 6 weeks to receive the newstart allowance; and
- (d) at the end of the period either:
 - (i) began again to receive a newstart allowance; or
 - (ii) would, apart from this section, have begun again to receive a newstart allowance;

the person is taken to have been continuously receiving the newstart allowance during the period.

- (11) For the purposes of subsection (6), if the person:
 - (a) is in receipt of a newstart allowance; and
 - (b) has received income support payments in respect of a continuous period of at least 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this subsection); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

- (c) ceased for a period of not longer than 13 weeks to receive newstart allowance; and
- (d) at the end of the period either:

- (i) began again to receive a newstart allowance; or
- (ii) would, apart from this section, have begun again to receive a newstart allowance;

the person is taken to have been continuously receiving the newstart allowance during the period.

(12) For the purposes of subsection (6), if:

- (a) the person was receiving a job search allowance or a newstart allowance; and
- (b) as a result of the application of an automatic deferment provision or a discretionary deferment provision, a job search allowance or a newstart allowance was not payable to the person for a period; and
- (c) at the end of the period the person began to receive a newstart allowance;

the person is taken to have been continuously receiving the newstart allowance during the period.

Note: For *automatic deferment provision* and *discretionary deferment provision* see subsection 23(1).

96. After subsection 635(1):

Insert:

(1A) If:

- (a) a person made a proper claim for job search allowance before 20 September 1996; and
- (b) the claim was not withdrawn, and had not been determined, before that date;

then, despite any other provision of this Division, the claim is taken to be a proper claim made by the person for newstart allowance.

(1B) Subsection (1) does not apply to a person if:

- (a) the person was in receipt of job search allowance immediately before 20 September 1996; or
- (b) paragraph (a) does not apply but the person made a proper claim for job search allowance before that date and the claim was granted before that date.

97. Paragraph 635(3)(a):

Omit "a job search allowance or".

98. Paragraph 635(4)(a):

Omit "job search", substitute "newstart".

99. Subsection 635(4) (Note):

Omit "519", substitute "598".

100. Section 643:

Repeal, substitute:

643 How to work out a person's newstart allowance rate

A person's newstart allowance rate is worked out using:

- (a) if the person is under 18 years of age—the Benefit Rate Calculator A at the end of section 1067; or
- (b) if the person has reached the age of 18 years—the Benefit Rate Calculator B at the end of section 1068.

Note: For *double payments on release from gaol* see section 1161.

101. After section 644:

Insert in Division 4 of Part 2.12:

644A NSA recipient may ask Secretary to change appropriate tax year

(1) If:

- (a) the maximum basic rate of a person's newstart allowance has been reduced because of the parental income test provided in Module G of Benefit Rate Calculator A (see section 1067); and
- (b) the person asks the Secretary to make a determination under this section; and
- (c) the income of the person's income test parent or parents for the tax year in which the request is made is 75% or less than 75% of the income of the income test parent or parents for the tax year that was the appropriate tax year immediately before the request is made;

the Secretary must determine that the appropriate tax year, for the purposes of applying that Module to the person for the period:

- (d) starting on the day on which the request is made; and
 - (e) finishing on the first anniversary of that day;
- is the tax year in which the request is made.

- (2) A request under paragraph (1)(b) must be made in writing, in accordance with a form approved by the Secretary.
- (3) Expressions used in subsection (1) have the same meanings as in Module G of Benefit Rate Calculator A.
- (4) In this section:

income, in relation to a person's income test parent, means the parent's taxable income and the person's parental adjusted fringe benefits value.

102. Paragraph 660L(7)(a):

Before "1068-G8A" insert "1067-H8A or".

103. Paragraph 660L(8)(a):

Before "1068-G8A" insert "1067-H8A or".

104. Subsection 660LA(4):

Omit "job search allowance", substitute "newstart allowance".

105. Paragraph 660W(1)(b):

Omit, substitute:

- (b) a person has been receiving income support payments in respect of a continuous period of at least 9 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

106. Subsection 660W(1):

Insert before the Note:

- Note 1: For *income support payment* see subsection 23(1).
- Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

107. Subsection 660W(1) (Note):

Renumber as Note 3.

108. After subparagraph 660XBA(1)(d)(ii):

Insert:

(iia) a job search allowance;

109. After paragraph 660XBA(1B)(b):

Insert:

(ba) a job search allowance;

110. After subparagraph 660XKA(6)(b)(iia):

Insert:

(iib) was receiving a job search allowance; or

111. Paragraph 660XKA(7)(a):

After "social security benefit," insert "job search allowance,".

112. After subparagraph 660YBA(3)(a)(ii):

Insert:

(iia) a job search allowance;

113. Paragraph 660YCA(f):

Omit "job search allowance or".

114. Paragraph 660YCI(a):

Omit "job search allowance,".

115. Paragraph 660YCI (Note 1):

Omit.

116. Paragraph 660YCA(1)(f):

Omit "job search allowance or".

117. Paragraph 661(1)(c):

Omit, substitute:

(c) immediately before the person commenced the employment:

- (i) the person was receiving a job search allowance or a newstart allowance; and
- (ii) the person had been receiving income support payments in respect of a continuous period of at least 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of whether a person received income support payments in respect of a continuous period of at least 12 months see section 38B.

118. Subsection 661(2):

Omit.

119. Paragraph 663(1)(c):

Omit, substitute:

- (c) immediately before the person commenced the employment:
 - (i) the person was receiving a job search allowance, a newstart allowance or a youth training allowance; and
 - (ii) the person had been receiving income support payments in respect of a continuous period of at least 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of whether a person received income support payments in respect of a continuous period of at least 12 months see section 38B.

Note: The heading to section 663 is altered by omitting "**Job search**" and substituting "**Newstart**".

120. Paragraph 663(2)(c):

Omit, substitute:

- (c) immediately before the person commenced the employment:
 - (i) the person was receiving special benefit or sickness allowance; and

-
- (ii) the person's partner was receiving a job search allowance, a newstart allowance or a youth training allowance; and
 - (iii) the partner had been receiving income support payments in respect of a continuous period of at least 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of whether a person received income support payments in respect of a continuous period of at least 12 months see section 38B.

121. Paragraph 664I(1)(b):

Omit, substitute:

- (b) immediately before the person commenced the employment:
 - (i) the person was receiving partner allowance; and
 - (ii) the person's partner had been receiving income support payments in respect of a continuous period of at least 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of whether a person received income support payments in respect of a continuous period of at least 12 months see section 38B.

122. Divisions 5 and 6 of Part 2.13A:

Repeal, substitute:

Division 6—Former job search, youth training or newstart allowance recipients

665U Payment to recipient

- (1) A person is qualified for an education entry payment under this section if:
 - (a) either:

- (i) the Secretary is satisfied that the person intends to enrol in a full-time course of education that is an approved course under the AUSTUDY scheme or ABSTUDY scheme; or
 - (ii) the person is enrolled in such a course; and
- (b) immediately before starting the course of education:
 - (i) the person is receiving a newstart allowance or a youth training allowance; and
 - (ii) the person had been receiving income support payments in respect of a continuous period of at least 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this section); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of whether a person received income support payments in respect of a continuous period of at least 12 months see section 38B.

- (c) the person:
 - (i) ceases to be qualified for newstart allowance or youth training allowance because the person takes part in the course of education; or
 - (ii) is not qualified for payments under the AUSTUDY scheme or ABSTUDY scheme because the person takes part in the course to satisfy the activity test under section 601 or to comply with a Newstart Activity Agreement; or
 - (iii) is not qualified for payments under the AUSTUDY scheme or ABSTUDY scheme because the person takes part in the course to comply with a Case Management Activity Agreement under the *Employment Services Act 1994*; or
 - (iv) is not qualified for payments under the AUSTUDY scheme or ABSTUDY scheme because the person takes part in the course to satisfy the activity test under section 75 of the *Student and Youth Assistance Act 1973* or to comply with a Youth Training Activity Agreement under that Act; and
- (d) the person has not, within the last 12 months, received a payment under this Part.

- (2) A person is also taken to be qualified for an education entry payment under this section if:
- (a) immediately before 20 September 1996, the person:
 - (i) was qualified for an education entry payment under section 665Q of this Act, or under this section, as in force immediately before that date; or
 - (ii) would have been so qualified if the person had, before that date, duly made a claim for the payment; and
 - (b) the person has not received the payment.

665V Amount of section 665U payment

The amount of an education entry payment under section 665U is \$200.

665W Need for a claim

A person is not qualified for an education entry payment under section 665U unless:

- (a) the person has made a claim for the payment; and
- (b) the claim is in writing and in a form approved by the Secretary.

665X Claim may be withdrawn

- (1) A claimant for an education entry payment under this Division, or a person on behalf of a claimant, may withdraw a claim that has not been determined.
- (2) A claim that is withdrawn is taken not to have been made.
- (3) A withdrawal may be made orally or in writing.

123. Subsection 666(9):

Omit "job search allowance,".

124. Subsection 667(5):

Omit "job search allowance,".

125. Paragraph 676(5)(b):

Omit, substitute:

(b) either:

- (i) the person became unemployed before 20 September 1996 and, because of section 519 (job search allowance liquid assets test disqualification) of this Act as in force before that date, the person was not qualified for job search allowance during the period of 4 weeks that started on the day on which the person became unemployed; or
- (ii) the person became or becomes unemployed and, because of section 598 (newstart allowance liquid assets test disqualification) or because of section 72 of the *Student and Youth Assistance Act 1973* (youth training allowance liquid assets test disqualification), the person was not or is not qualified for newstart allowance or for youth training allowance during the period of 4 weeks that started or starts on the day on which the person became or becomes unemployed; and

126. Paragraph 677(1)(c):

Omit "job search allowance or".

127. Subsection 680(3) (Note 4):

Omit "job search or newstart", substitute "sickness".

128. Subsection 686(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

129. Subsection 692(2):

Omit, substitute:

(2) If:

- (a) after the commencement of the subsection for which this subsection is substituted, a person became or becomes unemployed and:
 - (i) claimed job search allowance before 20 September 1996; or
 - (ii) claimed or claims newstart allowance or youth training allowance; and

- (b) because of sections 535 to 537 of this Act as in force before 20 September 1996, sections 617 to 619 of this Act or sections 93 to 95 of the *Student and Youth Assistance Act 1973* (unused annual leave waiting period), the allowance was not or is not payable to the person for a period starting on the day after the day on which the person's employment ended; and
- (c) during that period the person became or becomes temporarily incapacitated for work and claimed or claims sickness allowance;

the person's unused annual leave waiting period is taken to have started on the day after the day on which the person's employment ended.

130. Paragraph 693(a):

Omit, substitute:

- (a) at some time in the 13 weeks immediately before the person's provisional commencement day, the person received an income support payment; or

Note: For *income support payment* see subsection 23(1).

131. Subsection 694(5):

Omit, substitute:

(5) If:

- (a) after the commencement of the subsection for which this subsection is substituted and before 20 September 1996, a person became unemployed and claimed job search allowance; and
- (b) because of sections 538 and 539 of this Act as in force before 20 September 1996, (ordinary waiting period), job search allowance was not payable to the person for a period starting on the day (the *applicable day*) applicable to the person under subparagraph (i), (ii) or (iii), as the case may be:
 - (i) if the person was not subject to a job search allowance unused annual leave waiting period and was not disqualified for job search allowance under section 519 of this Act as in force before 20 September 1996 (liquid assets test)—the day that was the person's job search allowance provisional commencement day; or

- (ii) if the person was subject to a job search allowance unused annual leave waiting period and was not disqualified for job search allowance under section 519 of this Act as so in force (liquid assets test)—the day after the day on which the person's job search allowance unused annual leave waiting period ended; or
- (iii) if the person was disqualified for job search allowance under section 519 of this Act as so in force (liquid assets test)—the day after the day on which the person's job search allowance liquid assets waiting period ended; and
- (c) during that period the person became temporarily incapacitated for work and claimed sickness allowance; then, despite subsections (1), (2) and (3), the person's ordinary waiting period is a period of 7 days starting on the applicable day.

132. Paragraph 695(1)(c):

Omit, substitute:

- (c) immediately before stopping the course was not receiving an income support payment; and

Note: For income support payment see subsection 23(1).

133. Paragraph 695(3)(a):

After "benefit" insert ", job search allowance".

134. Subsection 696(3A):

Omit, substitute:

(3A) If:

- (a) after the commencement of the subsection for which this section is substituted and before 20 September 1996, a person became unemployed and claimed job search allowance; and
- (b) because of sections 540 and 541 of this Act as in force before 20 September 1996 (education leavers waiting period—non-secondary school leavers), job search allowance was not payable to the person for a period starting on the person's provisional commencement day; and
- (c) during that period the person claimed sickness allowance;

then, despite subsections (1), (2) and (3), the person's education leavers waiting period is taken to have started on the day that was the person's job search allowance provisional commencement day.

135. Subsection 728PA(4):

Omit "job search", substitute "sickness".

136. Paragraph 728ZC(1)(b):

Omit, substitute:

- (b) the person has been receiving income support payments in respect of a continuous period of at least 9 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

137. Paragraphs 729(2)(c) and (d):

Omit, substitute:

- (c) the person is not disqualified for a newstart allowance for the period solely because of the operation of one or more of the following:
 - (i) subparagraph 593(g)(iv) (is not registered by the CES as being unemployed);
 - (ii) section 596 (unemployment due to industrial action);
 - (iii) section 597 (move to area of lower employment prospects); and
- (d) if the person is qualified for a newstart allowance but the allowance is not payable to the person for the period—that result is not produced solely by the operation of one or more of the following:
 - (i) subsection 630C(4) (person failing to comply with Secretary's requirements);
 - (ii) section 624 (person failing to satisfy activity test);
 - (iii) section 628 (unemployment due to voluntary act);
 - (iv) section 629 (unemployment due to misconduct);
 - (v) section 630 (refusal of job offer);

- (vi) section 631 (person failing to comply with notification requirement);
- (vii) section 632 (person failing to continue CES registration);
- (viii) section 633 (seasonal workers);
- (ix) section 634 (move to area of lower employment prospects); and

138. Subsection 729(4):

Omit "job search allowance or".

139. Subsection 732(2) (Note):

Omit "job search allowance or".

140. Subsection 735(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

141. Subsection 746(2):

Omit "job search allowance," (wherever occurring).

142. Subsection 768A(4):

Omit "job search", substitute "newstart".

143. Paragraph 771H(1)(b):

Omit, substitute:

- (b) the person has been receiving income support payments in respect of a continuous period of at least 9 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

144. Paragraph 771HA(1)(c):

Omit "job search allowance,".

145. Subsection 771HA(1B):

Omit, substitute:

(1B) For the purposes of paragraph (1)(c), if the person's partner would be receiving newstart allowance except for the imposition of a period of non-payment under paragraph 608(1)(j) (other than subparagraph 608(1)(j)(x)), the partner is taken to be receiving newstart allowance.

146. Subsection 771HA(3):

Omit "job search allowance,".

147. Paragraph 771HA(3)(b):

Omit "526(1)(j) or".

148. Subsection 771HA(3) (Note 2):

Omit.

149. Section 771KA:

Omit "a job search allowance or".

Note: The heading to section 771KA is altered by omitting "job search allowance or".

150. Subsection 771KE(2):

Omit "job search allowance, (wherever occurring)".

151. Subparagraph 771NU(1)(c)(ii):

After "benefit" insert "or a job search allowance".

152. Paragraph 771NU(1)(e):

Omit "job search allowance,".

153. Paragraph 771NU(3)(e):

Omit "job search" (wherever occurring), substitute "newstart".

154. Subsection 771NX(6):

Omit "job search" (wherever occurring), substitute "newstart".

155. Subsection 787(2) (Note 2):

Omit "job search and newstart allowances", substitute "newstart allowance".

156. After subparagraph 822(5)(ia):

Insert:

(iib) was receiving a job search allowance; or".

157. Paragraph 909(1)(k):

Omit, substitute:

(k) a period of non-payment of job search allowance or newstart allowance has been applied to the person and the period has not ended (see section 926); or

158. Paragraph 926(1)(a):

After "526(1)(j)" insert "of this Act as previously in force".

159. Paragraph 951ZF(1)(b):

Omit, substitute:

(b) the person has been receiving income support payments in respect of a continuous period of at least 9 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

160. Subsection 951ZF(1):

After Note 1 insert:

Note 1A: For *income support payment* see subsection 23(1).

161. Subparagraph 1035(ba)(ii):

Omit "job search allowance or".

162. Subparagraph 1058(1)(b)(i):

Omit, substitute:

(i) to receive newstart allowance for a reason other than the application of section 597, 601, 605 or 660IA; or

163. Subparagraph 1061A(1)(b)(i):

Omit "job search allowance or".

164. Paragraph 1061A(2)(a):

Omit "job search allowance or".

165. Paragraphs 1061A(3)(a) and (b):

Omit "job search allowance or".

166. Subparagraph 1061A(3)(b)(i):

Omit.

167. Section 1061EC:

Omit "job search allowance or of".

Note: The heading to section 1061EC is altered by omitting "job search allowance or".

168. Subsection 1061Q(2):

Omit.

169. Paragraph 1061Q(3)(a):

Omit "job search", substitute "newstart".

170. Paragraph 1061Q(3)(b):

Omit, substitute:

- (b) the person has been receiving income support payments in respect of a continuous period of at least 9 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph); and

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

171. Paragraph 1061Q(3A)(e):

Omit, substitute:

- (e) the person's partner has been receiving income support payments in respect of a continuous period of at least 9

months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph).

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

172. Subsection 1061Q(3A) (Note):

Renumber the Note as Note 1.

173. Subsection 1061Q(3A):

Add at the end the following Note:

Note 2: For *income support payment* see subsection 23(1).

174. Subsection 1067(1):

Omit "job search", substitute "newstart".

Note: The heading to section 1067 is altered by omitting "**Job search**" and substituting "**Newstart**".

175. Point 1067-D1 (subparagraph (c)(ii)):

Omit "job search", substitute "newstart".

176. Point 1067-D2 (paragraph (b) and Note):

Omit, substitute:

- (b) if the person is receiving newstart allowance—the person is, under Subdivision BA of Part 2.12, not required to satisfy the activity test.

177. Point 1067-F12 (subparagraph (b)(i)):

Omit "job search allowance,".

178. Point 1067-F14:

Omit "job search", substitute "newstart".

179. Point 1067-G15 (including Note 1):

Omit "561" (wherever occurring), substitute "644A".

180. Point 1067-G18 (Note 2):

Omit "JSA", substitute "YTA or NSA".

181. Point 1067-H4 (paragraph (b)):

Omit, substitute:

- (b) to whom, or to whose partner, newstart allowance is payable and who, or whose partner, under Subdivision BA of Division 1 of Part 2.12, is not required to satisfy the activity test;

182. Point 1067-H8A (paragraph (a)):

Omit "job search", substitute "newstart".

183. Point 1067-H9 (paragraph (a)):

Omit "job search", substitute "newstart".

184. Point 1067-H16 (Example):

Omit "job search", substitute "newstart".

185. Point 1067-J1 (paragraphs (a), (b) and (c)):

Omit, substitute:

- (a) a newstart allowance is payable to the person; and
- (b) the person has received an advance payment under:
 - (i) Division 5A of Part 2.11 of this Act as previously in force; or
 - (ii) Division 5A of Part 2.12;or an instalment of such an advance payment; and
- (c) the person has not yet repaid, by previous deductions under Module H of Benefit Rate Calculator B or this Module or by any other means of payment, the whole of the advance payment or instalment.

186. Point 1067E-D5 (subparagraph (b)(i)):

Omit "job search allowance,".

187. Point 1067E-E3 (paragraph (b)):

Omit "job search allowance,".

188. Point 1067E-F3 (paragraph (a)):

Omit "job search allowance,".

189. Point 1067E-G12 (paragraph (a)):

Omit "job search allowance would not be payable to the person if the person were qualified for a job search allowance", substitute "newstart allowance would not be payable to the person if the person were qualified for a newstart allowance and were under 18 years of age".

190. Paragraphs 1068(1)(a) and (aa):

Omit, substitute:

- (a) newstart allowance for a person who has reached the age of 18 years; or

Note: The heading to section 1068 is altered by omitting "**Job Search Allowance (18 or over), Newstart Allowance**", substitute "**Newstart allowance (18 or over)**".

191. Point 1068-B1 (Table B—tem 3):

Omit from paragraph (a) in column 2 "job search allowance or".

192. Point 1068-B1 (Table B—tem 4):

- (a) Omit from paragraph (a) in column 2 "job search allowance or".
- (b) After "benefit" in paragraph (c) in column 2 insert "or job search allowance".

193. Point 1068-B1 (Table B—item 4B):

After "benefit" in paragraph (c) in column 2 insert "or job search allowance".

194. Point 1068-B1 (Table B—item 5):

After "benefit" in paragraph (b) insert "or job search allowance".

195. Point 1068-D1 (subparagraph (c)(ii)):

- (a) Omit ", job search allowance or".
- (b) Omit "- job search allowance and".

196. Point 1068-D2 (paragraph (b)):

Omit.

197. Point 1068-D3 (paragraph (b)):

Omit, substitute:

- (b) has been receiving income support payments in respect of a continuous period of at least 9 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph).

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

198. Point 1068-F16:

Omit "or, in the case of a person who has turned 18, job search allowance,".

199. Point 1068-G4 (paragraph (b)):

Omit.

200. Point 1068-G8A (paragraph (a)):

Omit "job search allowance,".

201. Point 1068-G9 (paragraph (a)):

Omit "job search allowance" (wherever occurring), substitute "newstart allowance".

202. Point 1068-H1 (paragraphs (a), (b) and (c)):

Omit, substitute:

- (a) a newstart allowance is payable to the person; and
- (b) the person has received an advance payment under:
 - (i) Division 5A of Part 2.11 of this Act as previously in force; or
 - (ii) Division 5A of Part 2.12;or an instalment of such an advance payment; and
- (c) the person has not yet repaid, by previous deductions under Module J of Benefit Rate Calculator A or this Module or by any other means of payment, the whole of the advance payment or instalment.

203. Point 1068A-D12 (paragraph (a)):

Omit "job search" (wherever occurring), substitute "newstart".

204. Point 1068A-E1 (paragraph (e)):

Omit, substitute:

- (e) the person has been receiving income support payments in respect of a continuous period of at least 9 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this paragraph).

Note 1: For *income support payment* see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

205. Point 1068A-E1 (Note):

Renumber the Note as Note 1.

206. Point 1068A-E1:

Add at the end:

Note 2: For *income support payment* see subsection 23(1).

207. Point 1069-D20 (paragraph (a)):

After subparagraph (i) insert:

- (ia) a person or the person's partner has, before 20 September 1996, ceased to receive a job search allowance; or".

208. Subsection 1112(1):

Omit "2.11," and "job search allowance,".

209. Point 1115-B6 (paragraph (b)):

After "benefit" insert ", a job search allowance".

210. Point 1115-B6 (paragraph (c)):

After "benefit" insert ", the job search allowance".

211. Point 1115C-B4 (paragraph (b)):

After "benefit" (last occurring) insert ", a job search allowance".

212. Point 1115C-B4 (paragraph (c)):

After "benefit" insert ", the job search allowance".

213. Subsection 1128(1):

Omit "2.11," and "job search allowance,".

214. Paragraph 1131(2)(b):

Omit ", youth training allowance or job search allowance", substitute
"or youth training allowance".

215. Paragraph 1132(6)(b):

Omit "530,".

216. Subparagraph 1157E(1)(c)(ii):

Omit "job search", substitute "newstart".

217. Subparagraph 1157E(2)(c)(ii):

Omit "job search", substitute "newstart".

218. Subparagraph 1157F(1)(c)(iv):

Omit "job search", substitute "newstart".

219. Subparagraph 1157F(2)(c)(iv):

Omit "job search", substitute "newstart".

220. Paragraph 1161(1)(b):

Omit "job search allowance,".

221. Section 1168 (Example 2):

Omit "job search" (wherever occurring), substitute "newstart".

222. Subsection 1170(1) (Note):

Omit "589(7) and (8) (job search allowance),".

223. Subparagraph 1187(1A)(a)(i):

Omit.

**224. Section 1190 (Indexed and Adjusted Amounts
Table-column 4 of item 28):**

Omit "[subsection 529(3)—Table—column 3A—item 1]".

**225. Section 1190 (Indexed and Adjusted Amounts
Table-column 4 of item 29):**

Omit "[subsection 529(3)—Table—column 3B—item 1]".

**226. Section 1190 (Indexed and Adjusted Amounts
Table-column 4 of item 30):**

Omit "[subsection 529(3)—Table—column 3A—item 2]".

**227. Section 1190 (Indexed and Adjusted Amounts
Table-column 4 of item 31):**

Omit "[subsection 529(3)—Table—column 3B—item 2]".

**228. Section 1190 (Indexed and Adjusted Amounts
Table-column 4 of item 32):**

Omit "[subsection 529(3)—Table—column 3A—item 3]".

**229. Section 1190 (Indexed and Adjusted Amounts
Table-column 4 of item 33):**

Omit "[subsection 529(3)—Table—column 3B—item 3]".

230. Section 1211:

Omit "513(1)(c), 513(1A)(f),".

231. Paragraph 1222A(a):

Omit "expressly provides that it is", substitute "expressly provided that it was or expressly provides that it is, as the case may be; or".

232. Subparagraph 1223(2)(b)(iv):

Omit.

233. Subparagraph 1223(7)(b)(ii):

Omit.

234. Paragraph 1223(7)(d):

Omit.

235. Subparagraph 1223(8)(c)(ii):

Omit.

236. Paragraph 1223AA(1)(b):

Omit, substitute:

- (b) the person fails to provide a statement under section 575 of this Act as previously in force (job search allowance), or under section 658 (newstart allowance), in relation to the period;

237. Subsection 1223AA(2) (definition of *prepayment*):

Omit "569,".

238. Paragraph 1223A(3)(l):

Omit.

239. Paragraph 1223B(2)(g):

Omit.

241. Subsection 1224E(3):

Omit, substitute:

- (3) For the purposes of paragraph (1)(b), a job search allowance is taken not to have ceased to become payable if a newstart allowance became payable to the person immediately after the job search allowance ceased to be payable to the person.

242. Subsection 1239(1) (Note 1):

Omit "583A," and "586B,".

243. Subsection 1240(1) (Note 1):

Omit "583A," and "586B,".

244. Subparagraph 1245(1)(a)(i):

Omit, substitute:

- (i) a decision under section 525B of this Act as previously in force to the extent to which it relates to the terms of a

Job Search Activity Agreement that was previously in force; and

245. Subsection 1247(1) (Note):

Omit "583A," and "586B,".

246. Subsection 1248(1):

Omit, substitute:

- (1) The Social Security Appeals Tribunal may only review a decision under section 525B of this Act as previously in force (to the extent to which it relates to the terms of a Job Search Activity Agreement that was previously in force) if the application is expressed to be an application for review of that decision.

247. Paragraph 1250(1)(c):

Omit.

248. Paragraph 1250(1)(d):

Omit "552, 553,".

249. After paragraph 1250(1)(d):

Insert:

- (daa) under section 552 or 553 of this Act as previously in force; or".

250. Subsection 1252A(1):

Omit.

251. Paragraph 1252A(2)(a):

Omit, substitute:

- (a) a decision has been made, whether before or after the commencement of this paragraph, to give a notice under section 607 because of a person's failure to agree to terms of a Newstart Activity Agreement proposed by the CES (subparagraph 607(1)(b)(iii)); and

252. Paragraph 1252A(2)(d):

Omit "job search or".

253. Paragraph 1252A(2)(e):

Omit "section 589 or".

254. Paragraph 1253(4)(c):

Omit.

255. Paragraph 1253(7)(a):

Omit, substitute:

- (a) a decision under section 525B of this Act as previously in force to the extent to which it relates to the terms of a Job Search Activity Agreement that was previously in force; or

256. Section 1254A:

Omit "under section 525B or 606 to the extent that it relates to the terms of a Job Search or Newstart Activity Agreement that is in force", substitute "under section 525B of this Act as previously in force to the extent to which it related to the terms of a Job Search Activity Agreement that was previously in force or a decision under section 606 to the extent to which it relates to the terms of a Newstart Activity Agreement that is in force".

257. Paragraph 1255(6)(a):

Omit, substitute:

- (a) a decision under section 525B of this Act as previously in force to the extent to which it relates to the terms of a Job Search Activity Agreement that was previously in force; or

258. Paragraph 1256A(1)(a):

Omit, substitute:

- (a) a decision under section 525B of this Act as previously in force to the extent to which it relates to the terms of a Job Search Activity Agreement that was previously in force; or

259. Section 1298A:

Repeal, substitute:

1298A The Secretary and the Employment Secretary may agree on administrative arrangements

- (1) The Secretary and the Employment Secretary may agree on administrative arrangements to further the objectives of Part 2.12.
- (2) The arrangements may provide for officers of the Employment Department to perform functions or duties, or exercise powers, under or in relation to that Part.

260. Paragraph 1299(3)(a):

Omit.

261. Paragraph 1301(1A)(a):

Omit.

262. Section 1311 (Note 2):

Omit, substitute:

Note 2: The statement could be relevant in determining a person's claim for newstart allowance or special benefit. The statement may establish whether the person is affected by, for example, section 628 (unemployment due to voluntary act) or section 629 (unemployment due to misconduct).

263. Paragraph 1363(2)(a):

After "section 560" insert "of this Act as previously in force".

264. Schedule 1A:

Add at the end:

91 Application of legislative changes made in conjunction with the abolition of job search allowance

The amendments made by Schedule 5 to the *Social Security and Veterans' Affairs Legislation Amendment Act 1995* apply in respect of newstart allowance for any fortnight starting on or after 20 September 1996.

92 Initial incorrect or inappropriate claim for job search allowance followed by claim for social security pension or social security benefit

If:

- (a) a person has, before 20 September 1996, made a claim (the *initial claim*) for a job search allowance; and
- (b) on the day on which the person made the initial claim, the person was qualified for a social security pension or social security benefit; and
- (c) the person later makes a claim for that pension or benefit; and
- (d) the Secretary is satisfied that it is reasonable for this section to apply to the person;

then, despite any other provision of this Act, the person's provisional commencement day in relation to that pension or benefit is the day on which the person made the initial claim.

93 Newstart deferment periods to include unserved parts of job search deferment periods

If, immediately before 20 September 1996, under a JSA automatic deferment provision or a JSA discretionary deferment provision, job search allowance was not payable to a person for a period (the *job search deferment period*) that did not end until on or after that day, any deferment period that is applicable to the person under the corresponding NS allowance automatic deferment provision or NS allowance discretionary deferment provision, as the case may be, is reduced by a period equal to the part of the job search deferment period that occurred before that day.

94 Newstart waiting period for former job search allowees not to extend beyond former job search waiting period

If, immediately before 20 September 1996 (the *commencement day*), because of the operation of section 534 of this Act as in force immediately before the commencement day, job search allowance was not payable to a person before a day later than the commencement day, section 616 does not preclude payment of newstart allowance to the person on and after that later day.

95 Approval of unpaid voluntary work

If an approval of an organisation was in force immediately before 20 September 1996 under section 28 of this Act as in force at that time, the approval continues in force as if it were an approval given on that day, for the purposes of section 603AA, of any full-time unpaid voluntary work carried out for that organisation.

Schedule 6—Amendments of the Social Security Act 1991 relating to mature age allowance

Section 3(1)

1. Section 3 (Index):

Insert in their appropriate alphabetical positions (determined on a letter-by-letter basis):

income support payment	23(1)
mature age allowance	23(1)

2. Subsection 12C(5) (definition of *couple's assets deeming provisions*):

After paragraph (c) insert:

(ca) section 660YCK; and".

3. Subsection 21(1) (definition of *partner bereavement payment*):

After "304," insert "660YKD,".

4. Subsection 23(1):

Insert:

income support payment means a payment of:

- (a) a social security benefit; or
- (b) a social security pension; or
- (c) a youth training allowance; or
- (d) a service pension.

mature age allowance means:

- (a) in Part 2.12A—mature age allowance under that Part; or
- (b) in Part 2.12B—mature age allowance under that Part; or
- (c) otherwise—mature age allowance under either of those Parts.

5. Subsection 23(1) (definition of *assurance of support debt*):

Omit from paragraph (ea) "under Part 2.12A of this Act".

6. Subsection 23(1) (definition of *recipient notification notice*):

After paragraph (ia) insert:

- (ib) section 660YIC (mature age allowance);

7. Subsection 23(1) (definition of *recipient statement notice*):

After paragraph (ia) insert:

- (ib) section 660YI. (mature age allowance);

8. Subsection 23(1) (definition of *social security benefit*):

After paragraph (e) insert:

- (ea) a mature age allowance under Part 2.12B; or

9. Subsection 23(1) (definition of *social security pension*):

Omit paragraph (h), substitute:

- (h) a mature age allowance under Part 2.12A; or

10. After section 38A:

Insert in Part 1.3:

38B Notional continuous period of receipt of income support payments

- (1) The object of this section is to treat a person in certain circumstances as having received an income support payment in respect of a continuous period even though the person did not actually receive such a payment during a part or parts of the period.
- (2) A continuous period in respect of which a person has received income support payments can only start on a day on which the person is receiving such a payment and can only end on a day when the person is receiving such a payment, and the following provisions of this section have effect subject to this section.
- (3) Subject to subsection (4), in determining the continuous period in respect of which a person has received income support payments, any period of not longer than 6 weeks in respect of which the person did not receive an income support payment is taken to have been a period in respect of which the person received such a payment.

-
- (4) If a person is taken, because of subsection (3), to have received income support payments in respect of a continuous period of at least 12 months, then, in determining, as at a time after the end of that period of 12 months, the continuous period in respect of which the person has received income support payments, any period of not longer than 13 weeks in respect of which the person did not receive an income support payment is taken to have been a period in respect of which the person received such a payment.
- (5) In determining for the purposes of subsection (4) the length of a period in respect of which a person did not receive an income support payment, any part of the period that occurred immediately before the end of the period of 12 months referred to in that subsection is to be taken into account.

Example of application of subsection(5)

Facts:

John receives an income support payment for 48 weeks. He is then employed for 14 weeks. After the 14 weeks he again begins to receive an income support payment. How does his break in payments affect the calculation of his continuous period of receipt of income support payments?

Application:

At the end of the first 4 weeks of John's employment he may be taken, under subsection 38B(3), to have received income support payments for a continuous period of 12 months because no longer than 6 weeks have elapsed since he actually received such a payment.

Therefore, as John may be taken to have accrued 12 months continuous receipt of income support payments, he may have a period, under subsection 38B(4), of not longer than 13 weeks without income support payments and still be taken to be in continuous receipt.

However, under subsection 38B(5), the period of not longer than 13 weeks allowed under subsection 38B(4) must include the period of 4 weeks that occurred immediately before, as well as the 10 weeks immediately after, John was taken to have accrued 12 months duration.

As his total period in which he did not receive income support payments was 14 weeks, it exceeds the 13 weeks allowed under subsection 38B(4). His continuous period in receipt of income support ceased, under subsection 38B(2), on the last day he received payment before he started employment.

A new period of continuous receipt of income support payments will begin when John resumes income support payments after his 14 week break.

- (6) For the purposes of this section, a person who was receiving an income support payment is taken to have continued to receive the payment in respect of a period if:
-

- (a) for the duration of the period, the person remained qualified to receive the income support payment by the operation of the exercise of the discretion under:
 - (i) section 516 of this Act as in force at a time before 20 September 1996; or
 - (ii) section 595 of this Act or subsection 68(1) of the *Student and Youth Assistance Act 1973* (disregard a period of employment);but the person's rate of payment was reduced to nil because of the operation of:
 - (iii) section 1067 or 1068 of this Act; or
 - (iv) Module G of Schedule 1 to the *Student and Youth Assistance Act 1973*; or
- (b) the period was a period of non-payment that was imposed under paragraph 526(1)(j), 608(1)(j) or 771HC(1)(b) on the person in respect of the income support payment other than a period of non-payment imposed because the person was a seasonal worker.

Note: For *income support payment* see subsection 23(1).

11. Subparagraph 237(1)(d)(viia):

Omit "a mature age allowance or", substitute "a mature age allowance under Part 2.12A or a".

12. Subparagraph 303(1)(d)(via):

Omit "a mature age allowance or", substitute "a mature age allowance under Part 2.12A or a".

13. Paragraph 408QA(1)(b):

Omit "12", substitute "9".

14. Paragraph 408QA(1)(d):

Omit "or has a qualifying residence exemption for widow allowance".

15. Subsection 408QA(1) (Note):

Omit "and `qualifying residence exemption' ".

16. Paragraph 592H(1)(b):

Omit "12", substitute "9".

17. Subsection 593(1) (Note 16):

Omit.

18. Paragraph 614(2A)(a):

After "allowance" insert "under Part 2.12A".

19. Paragraph 614(2A)(b):

After "allowance" insert "under that Part".

20. Paragraph 660W(1)(b):

Omit "12", substitute "9".

21. Heading to Part 2.12A:

Omit, substitute:

**Part 2.12A—Mature age (pre-1 July 1996)
allowances**

22. Heading to Division 1 of Part 2.12A:

Omit, substitute:

Division 1—Application of Part

23. Section 660XAA:

Omit "Division 1 sets out the date after which claims cannot be made.",
substitute "Division 1 deals with the application of this Part.".

24. Subsection 660XAB(1):

Omit, substitute:

- (1) In spite of any other provision of this Part, other than
section 660XJO, a person is not to be granted a mature age
allowance under this Part unless:
- (a) the person's claim for the allowance was lodged on or before
30 June 1996; and
 - (b) the person qualified for the allowance on or before that date.

25. After subsection 660XAB(2):

Insert:

- (2A) For the purposes of paragraph (1)(a), if subsection 660XCC(2) applies, the person is taken to have lodged his or her claim on the day on which the person makes his or her initial claim.

26. After Part 2.12A:

Insert:

**Part 2.12B—Mature age (post-30 june 1996)
allowance**

Division 1—Preliminary

660YAA Application of Part

This Part deals with mature age allowance to which Part 2.12A does not apply.

Division 2—Qualification for mature age allowance

660YBA Qualification for mature age allowance

- (1) A person is qualified for a mature age allowance in respect of a period if the person fulfils the requirements set out in this section in respect of the period.
- (2) The first requirement is that the person has reached 60 years of age but has not reached pension age.

Note: For *pension age* see section 23.
- (3) Subject to subsection (4), the second requirement is that either of the following paragraphs applies to the person:
 - (a) the person was receiving a job search allowance or a newstart allowance immediately before the claim lodgment day and has been receiving an income support payment for a continuous period of at least 9 months immediately before the claim lodgment day;
 - (b) at any time during the period of 13 weeks immediately before the claim lodgment day the person received a social security

pension, a service pension, a widow allowance, a partner allowance, sickness allowance or a parenting allowance (other than a non-benefit parenting allowance).

Note 1: For *income support payment* see subsection 23(1).

Note 2: For calculation of continuous period of receipt of income support payments see section 38B.

- (4) The requirement set out in subsection (3) does not apply to a person who has previously received mature age allowance under this Part or Part 2.12A.
- (5) The third requirement is that the person satisfies the Secretary that the person has no recent workforce experience.
- (6) For the purposes of subsection (5), ***recent workforce experience*** is employment of 20 hours or more a week for a total of 13 weeks or more at any time during the 12 months immediately before the claim lodgment day.
- (7) The fourth requirement is that the person is an Australian resident.
Note: For ***Australian resident*** see section 7.
- (8) The fifth requirement is that the person is in Australia.
- (9) If a person is temporarily absent from Australia, the person is to be treated, for the purposes of subsection (8), as if he or she were in Australia:
 - (a) if the temporary absence is no longer than 3 months—throughout the period of the absence; or
 - (b) otherwise—throughout the first 3 months of the period of the absence.
- (10) In determining under subsection (9) whether an absence is temporary, regard must be had to the following:
 - (a) the purpose of the absence;
 - (b) the intended duration of the absence;
 - (c) the frequency of such absences.

- (11) In this section:

claim lodgment day means the day on which the claim is lodged.

Note: A mature age allowance is not payable in certain situations even if the person is qualified (see Division 3).

660YBB Assurance of support

A person is not qualified for mature age allowance in respect of a period if the Secretary is satisfied that:

- (a) an assurance of support is in force in respect of the person (the *assuree*) for the period; and
- (b) throughout the period the person who gave the assurance of support is willing and able to provide an adequate level of support to the assuree; and
- (c) throughout the period it would be reasonable for the assuree to accept the support.

Note: For *assurance of support* see subsection 23(1).

660YBC Attendance at reserve or emergency force training camp

A person is not disqualified for mature age allowance in respect of a period because of being outside Australia if the person is outside Australia throughout the period while attending a training camp as a member of:

- (a) the Australian Naval Reserve; or
- (b) the Naval Emergency Reserve Forces; or
- (c) the Australian Army Reserve; or
- (d) the Australian Air Force Reserve; or
- (e) the Air Force Emergency Force; or
- (f) the Army Individual Emergency Reserve.

Division 3—Payability of mature age allowance

660YCA Mature age allowance not payable in some circumstances

- (1) Even though a person is qualified for mature age allowance, the allowance may not be payable to the person because:
 - (a) the allowance has not begun to be payable (see sections 660YCB, 660YCC and 660YGA); or
 - (b) the person has not provided a tax file number for the person (see section 660YCD) or the person's partner (see section 660YCE); or
 - (c) another benefit or a pension is being paid to the person (see section 660YCF); or

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- (d) the person is receiving a payment under an educational scheme, a scheme providing allowances to refugees or a LEAP program (see section 660YCG); or
 - (e) the person is receiving income that is paid by a community or group from funds provided under a Commonwealth funded employment program (see section 660YCH); or
 - (f) the person is subject to a non-payment period for job search allowance, newstart allowance or partner allowance (see section 660YCI); or
 - (g) the value of the person's assets is greater than the person's assets value limit (see section 660YCJ); or
 - (h) the person has not nominated a financial institution for payment of the allowance (see section 660YGF); or
 - (i) the person is in gaol (see Part 3.13); or
 - (j) the person is subject to a compensation preclusion period (see Part 3.14).
- (2) Subject to subsection (3), a mature age allowance is not payable to a person if the person's mature age allowance rate would be nil.
- (3) Subsection (2) does not apply to a person if the person's rate would be nil merely because an advance pharmaceutical allowance has been paid to the person under:
- (a) Part 2.23; or
 - (b) Division 2 of Part VIIA of the Veterans' Entitlements Act.

660YCB Mature age allowance generally not payable before claim

A mature age allowance is not payable to a person before the person's provisional commencement day (identified under section 660YCC).

660YCC Provisional commencement day

General rule

- (1) Subject to this section, a person's provisional **commencement day** is the day on which the person claims the mature age allowance.

Initial incorrect claim followed by claim for mature age allowance

- (2) If:

- (a) a person makes a claim (the *initial claim*) for:
 - (i) a social security pension, a service pension, a social security benefit or a parenting allowance; or
 - (ii) a youth training allowance; or
 - (iii) a pension, allowance, benefit or other payment under another Act, or under a program administered by the Commonwealth, that is similar in character to the mature age allowance; and
 - (b) on the day on which the person makes the initial claim the person is qualified for a mature age allowance; and
 - (c) the person subsequently makes a claim for a mature age allowance; and
 - (d) the Secretary is satisfied that it is reasonable for this subsection to apply to the person;
- the person's provisional commencement day is the day on which the person made the initial claim.

Transferee

- (3) If:
- (a) a person is a transferee to mature age allowance; and
 - (b) the person claims the allowance within 14 days after the transfer day;
- the person's provisional commencement day is the transfer day.

Note: For *transferee to social security benefit and transfer day* see subsections 23(6) and (7).

Early claim

- (4) If:
- (a) a person lodges a claim for a mature age allowance; and
 - (b) the person is not, on the day on which the claim is lodged, qualified for a mature age allowance; and
 - (c) the person becomes qualified for a mature age allowance sometime during the period of 3 months that starts immediately after the day on which the claim is lodged;
- the person's provisional commencement day is the first day on which the person is qualified for the allowance.

Claim resulting from a major disaster

- (5) If a person:
- (a) claims a disaster relief payment; and
 - (b) is qualified for the payment; and
 - (c) as a result of the major disaster to which the payment relates, claims mature age allowance within 14 days after the date of lodgment of the claim for the disaster relief payment;
- the person's provisional commencement day is the day on which he or she was affected by the disaster.

660YCD Provision of person's tax file number

- (1) A mature age allowance is not payable to a person if:
- (a) the person is requested under section 660YDF or 660YIA to:
 - (i) give the Secretary a written statement of the person's tax file number; or
 - (ii) apply for a tax file number and give the Secretary a written statement of the person's tax file number once it has been issued; and
 - (b) at the end of the period of 28 days after the request is made, the person has neither:
 - (i) given the Secretary a written statement of the person's tax file number; nor
 - (ii) given the Secretary a declaration by the person in a form approved by the Secretary and satisfied either subsection (2) or (3).
- (2) The person satisfies this subsection if:
- (a) the person's declaration states that the person:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the person of the person's tax file number; and
 - (b) the person has given the Secretary a document by the person that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—the tax file number; and

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

660YCE Provision of partner's tax file number

- (1) Subject to subsection (4), a mature age allowance is not payable to a person if:
 - (a) the person is a member of a couple; and
 - (b) the person is requested under section 660YDG or 660YIB to give the Secretary a written statement of the tax file number of the person's partner; and
 - (c) at the end of the period of 28 days after the request is made, the person has neither:
 - (i) given the Secretary a written statement of the partner's tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).
 - (2) The person satisfies this subsection if:
 - (a) the partner's declaration states that the partner:
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- (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner's tax file number; and
 - (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
 - (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.
 - (3) The person satisfies this subsection if:
 - (a) the partner's declaration states that an application by the partner for a tax file number is pending; and
 - (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
 - (d) the application for a tax file number has not been withdrawn.
 - (4) The Secretary may waive the request for a statement of the partner's tax file number if the Secretary is satisfied that:
 - (a) the person does not know the partner's tax file number; and
 - (b) the person can obtain none of the following from the partner:
 - (i) the partner's tax file number;
 - (ii) a statement of the partner's tax file number;
 - (iii) a declaration by the partner under subparagraph (1)(c)(ii).
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660YCF Multiple entitlement exclusion

- (1) A mature age allowance is not payable to a person if the person is already receiving a mature age allowance under Part 2.12A or a service pension.

- (2) If:

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

the mature age allowance is not payable to the person.

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

Note 2: For the day on which the mature age allowance ceases to be payable see section 660YJA.

- (3) Subject to subsection (4), a mature age allowance is not payable to a woman if:

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

Note 1: For *armed services widow* see subsection 4(1).

Note 2: A widow receiving a payment under the Veterans' Entitlements Act who is not covered by paragraph (3)(b) may be paid at a lower rate (see subsection 1068(3)).

- (4) Subsection (3) does not apply to a woman if:

- (a) the woman has been receiving a payment referred to in paragraph (3)(b) continuously since before 1 November 1986; and
- (b) before 1 November 1986 the woman was also receiving a social security benefit.

- (5) A mature age allowance is not payable to a man if:

- (a) the man is an armed services widower; and
- (b) the man 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.

Note: For *armed services widower* see subsection 4(1).

660YCG Educational and other schemes exclusion

(1) Subject to subsections (2) and (3), a mature age allowance is not payable to a person for a period if a payment has been or may be made in respect of the person for that period under:

- (a) a prescribed educational scheme other than the ABSTUDY Tertiary Scheme to the extent that it applies to part-time students; or
- (b) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; or
- (c) a LEAP program.

Note 1: For *prescribed educational scheme* see section 5.

Note 2: For *LEAP program* see subsection 23(1).

(2) If:

- (a) a person enrolls in a full-time course of education; and
- (b) a payment under a scheme referred to in subsection (1) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (1), mature age allowance is payable to the person for a period before the person starts the course.

(3) If:

- (a) a person enrolls in a full-time course of education; and
- (b) the course is to last for 6 months or longer; and
- (c) an application is made for a payment in respect of the person under:
 - (i) the AUSTUDY Scheme; or
 - (ii) the ABSTUDY Schools Scheme; or
 - (iii) the ABSTUDY Tertiary Scheme; and
- (d) the person was receiving mature age allowance immediately before the start of the course;

the Secretary may decide that, in spite of subsection (1), mature age allowance is payable to the person until:

- (e) the application is determined; or
- (f) the end of 3 weeks beginning on the day on which the course starts;

whichever happens first.

660YCH Commonwealth funded employment program exclusion

Mature age allowance is not payable to a person for a period if the person has received, or may receive, income for the period that is paid by a community or group from funds provided under a Commonwealth funded employment program.

Note: For *Commonwealth funded employment program* see subsection 23(1).

660YCI Exclusion for non-payment period for job search allowance, newstart allowance or partner allowance

If:

- (a) a period of non-payment of job search allowance, newstart allowance or partner allowance has been imposed in respect of a person; and
- (b) the period has not ended;

mature age allowance is not payable to the person for the period.

Note 1: For the imposition of a period of non-payment of job search allowance see paragraph 526(1)(j).

Note 2: For the imposition of a period of non-payment of newstart allowance see paragraph 608(1)(j).

Note 3: For the imposition of a period of non-payment of partner allowance see paragraph 771HC(1)(b).

660YCJ Allowance not payable if assets value limit exceeded

- (1) A mature age allowance is not payable to a person if the value of the person's assets is greater than the person's assets value limit.
- (2) A person's assets value limit is calculated by working out which family situation in column 2 of the following Table applies to the person; the assets value limit is the corresponding amount in column 3.

ASSETS VALUE LIMIT TABLE			
column 1	column 2	column 3	
item	person's family situation	assets value limit	
		column 3A	column 3B
		either the person or the partner is a homeowner	neither the person nor the partner is a homeowner
1.	Not member of a couple	\$118,000	\$202,000
2.	Partnered (partner getting neither pension nor allowance)	\$167,500	\$251,500
3.	Partnered (partner getting pension or allowance)	\$83,750	\$125,750

- (3) If the Secretary determines in writing, for the purposes of column 3A or 3B of an item in the Table at the end of subsection (2), a higher amount in substitution for an amount (the existing amount) set out in that column of that item, the higher amount is taken, from and including 1 July 1996, to be substituted for the existing amount. A determination under this subsection is a disallowable instrument.

Note 1: For *member of a couple*, *partnered (partner getting neither pension nor allowance)* and *partnered (partner getting pension or allowance)* see section 4.

Note 2: For *homeowner* see section 11.

Note 3: If item 2 applies to a person, the value of all the assets of the person's partner is to be taken as being included in the value of the person's assets (see subsection 660YCK(1))—this is why the assets value limit is so high. If, on the other hand, item 3 applies to a person, the value of the person's assets is only *half* the combined value of the person's assets and the assets of the person's partner (see subsection 660YCK(2)).

Note 4: If a mature age allowance is not payable to a person because of the value of the person's assets, the person may be able to take advantage of provisions dealing with financial hardship (see sections 1131 and 1132).

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- Note 5: The assets value limits of items 1 and 3 in column 3A and item 3 in column 3B are indexed annually in line with CPI increases (see sections 1191 to 1194).
- Note 6: The assets value limit of item 1 in column 3B is adjusted annually (see subsection 1204(1)).
- Note 7: The assets value limits of item 2 are adjusted annually so that they are twice the corresponding item 3 limits (see subsections 1204(2) and (3)).

660YCK Value of assets of members of couples

- (1) If:
- (a) a person is a member of a couple; and
 - (b) the person's partner is not in receipt of an income support payment;
- the value of the person's assets, or of assets of a particular kind of the person, includes the value of the partner's assets or of assets of that kind of the partner.
- (2) If:
- (a) a person is a member of a couple; and
 - (b) the person's partner is in receipt of an income support payment;
- the following paragraphs apply:
- (c) the value of the person's assets is taken to be 50% of the sum of the value of the assets of the person and the value of the assets of the person's partner; and
 - (d) the value of the person's assets of a particular kind is taken to be 50% of the sum of the value of the assets of that kind of the person and the value of the assets of that kind of the person's partner.

Note: For *income support payment* see subsection 23(1).

Division 4—Claim for mature age allowance

660YDA Need for a claim

- (1) A person who wants to be granted mature age allowance must make a proper claim for the allowance.

Note: For **proper claim** see section 660YDB (form), section 660YDC (manner of lodgment) and section 660YDD (residence and presence in Australia).

- (2) For the purposes of subsection (1), if:
- (a) a claim for mature age allowance is made by or on behalf of a person; and
 - (b) at the time when the claim is made, the claim cannot be granted because the person is not qualified for the allowance; and
 - (c) the person does not become qualified for the allowance during the period of 3 months that starts immediately after the day on which the claim is lodged;
- the claim is taken not to have been made.

660YDB Form of claim

To be a proper claim, a claim must be made in writing and must be in accordance with a form approved by the Secretary.

660YDC Lodgment of claim

To be a proper claim, a claim must be lodged:

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

660YDD Residence and presence in Australia

A claim by a person is not a proper claim unless the person:

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

on the day on which the claim is lodged.

Note: For **Australian resident** see section 7.

660YDE Claim may be withdrawn

- (1) A claimant for mature age allowance, or a person on behalf of a claimant, may withdraw a claim that has not been determined.

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- (2) A claim that is withdrawn is taken to have not been made.
 - (3) A withdrawal may be made orally or in writing.

660YDF Secretary may request claimant to give statement of claimant's tax file number

- (1) The Secretary may request, but not compel, the claimant:
 - (a) if the claimant has a tax file number—to give the Secretary a written statement of the claimant's tax file number; or
 - (b) if the claimant does not have a tax file number:
 - (i) to apply to the Commissioner of Taxation for a tax file number; and
 - (ii) to give the Secretary a written statement of the claimant's tax file number after the Commissioner of Taxation has issued it.
- (2) A mature age allowance is not payable to a claimant if, at the end of the period of 28 days after a request is made:
 - (a) the claimant has failed to satisfy the request; and
 - (b) the Secretary has not exempted the claimant from having to satisfy the request.

Note: In some cases the request can be satisfied by giving the Secretary a declaration by the claimant about the claimant's tax file number and an authority by the claimant to the Commissioner of Taxation to give the Secretary certain information about the claimant's tax file number (see subsections 660YCD(2) and (3)).

660YDG Secretary may request claimant to give statement of partner's tax file number

- (1) If:
 - (a) a claimant for mature age allowance is a member of a couple; and
 - (b) the claimant's partner is in Australia;the Secretary may request, but not compel, the claimant to give the Secretary a written statement of the tax file number of the claimant's partner.
- (2) A mature age allowance is not payable to a claimant if, at the end of the period of 28 days after a request is made:
 - (a) the claimant has failed to satisfy the request; and

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- (b) the Secretary has not exempted the claimant from having to satisfy the request.

Note 1: In some cases the request can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number (see subsections 660YCE(2) and (3)).

Note 2: The Secretary may waive the request in some cases (see subsection 660YCE(4)).

Division 5—Determination of claim

660YEA Secretary to determine claim

The Secretary must, in accordance with this Act, determine the claim.

660YEB Grant of claim

The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:

- (a) the person is qualified for a mature age allowance; and
- (b) the allowance is payable.

660YEC Date of effect of determination

- (1) Subject to subsections (2), (3) and (4), a determination under section 660YEB takes effect:
 - (a) on the day on which the determination is made; or
 - (b) if a later or earlier day is stated in the determination—on that later or earlier day.

Notified decision—review sought within 3 months

- (2) If:
 - (a) a decision (the ***previous decision***) is made rejecting a person's claim for a mature age allowance; and
 - (b) a notice is given to the person telling the person of the making of the previous decision; and

- (c) the person applies to the Secretary under section 1240, within 3 months after the notice is given, for review of the previous decision; and
 - (d) a determination granting the claim is made as a result of the application for review;
- the determination takes effect on the day on which the previous decision took effect.

Notified decision—review sought after 3 months

- (3) If:
- (a) a decision (the ***previous decision***) is made rejecting a person's claim for mature age allowance; and
 - (b) a notice is given to the person telling the person of the making of the previous decision; and
 - (c) the person applies to the Secretary under section 1240, more than 3 months after the notice is given, for review of the previous decision; and
 - (d) a determination granting the claim is made as a result of the application for review;
- the determination takes effect on the day on which the person sought the review.

Decision not notified

- (4) If:
- (a) a decision (the ***previous decision***) is made rejecting a person's claim for mature age allowance; and
 - (b) no notice is given to the person telling the person of the making of the previous decision; and
 - (c) the person applies to the Secretary under section 1240 for review of the previous decision; and
 - (d) a determination granting the claim is made as a result of the application for review;
- the determination takes effect on the day on which the previous decision took effect.

Division 6—Rate of mature age allowance

660YFA How to work out a person's mature age allowance

A person's mature age allowance rate is worked out by using Benefit Rate Calculator B at the end of section 1068 (see Part 3.6).

Note: For double payment on release from gaol or psychiatric confinement see section 1161.

660YFB Mature age allowance training supplement

- (1) If a person who is receiving mature age allowance is undertaking a course of vocational training approved by the Employment Secretary for the purposes of this section, the rate of his or her mature age allowance may be increased by an amount, to be known as mature age allowance training supplement, that the Employment Secretary thinks appropriate.
- (2) The mature age training supplement for a person is made up of one or more of the following:
 - (a) an amount to help with the person's expenses in undertaking the training (the *training component*);
 - (b) an amount to help with the person's expenses in living away from his or her usual residence while undertaking the training (the *living away from home component*);
 - (c) an amount to help with the person's expenses in maintaining his or her usual residence while living away from the residence and undertaking the training (the *home base maintenance component*).
- (3) The maximum amount of the training component is \$60 a fortnight.
- (4) The maximum amount of the living away from home component is \$40 a fortnight.
- (5) The maximum amount of the home base maintenance component is \$75.80 a fortnight.
- (6) The Employment Secretary is to calculate the amount of the training supplement for a person by determining:
 - (a) which of the 3 components the person is to receive; and

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- (b) the appropriate amount for each component that the person is to receive.

Note: For *Employment Secretary* see section 23.

Division 7—Payment of mature age allowance

660YGA Start of payment of mature age allowance

A mature age allowance becomes payable to a person on the first day on which:

- (a) the person is qualified for the allowance; and
- (b) no provision of this Act makes the allowance not payable to the person.

Note 1: For qualification for mature age allowance see section 660YBA.

Note 2: For the circumstances in which a mature age allowance is not payable see section 660YCA.

660YGB Instalments

- (1) Mature age allowance is to be paid by instalments for periods determined by the Secretary.
- (2) Instalments of mature age allowance are to be paid at the times determined by the Secretary.

660YGC Instalments for period less than a fortnight

- (1) If an instalment of mature age allowance is for a period (the *short period*) that is less than a fortnight, the instalment for the short period is the amount worked out using the formula:

$$\text{mature age allowance rate} \times \frac{\text{number of week days in the short period}}{10}$$

- (2) If an instalment of mature age allowance is for a period that consists of:
 - (a) a number of whole fortnights; and
 - (b) a period (the *short period*) that is less than a fortnight; the instalment, so far as it relates to the short period, is the amount worked out using the formula:

$$\text{mature age allowance rate} \times \frac{\text{number of week days in the short period}}{10}$$

660YGD Rounding off instalment

- (1) If the amount of an instalment is:
 - (a) a number of whole dollars and a part of a cent; or
 - (b) a number of whole dollars and cents and a part of a cent;the amount is, subject to subsection (2), to be increased or decreased to the nearest whole cent.
- (2) If the amount of an instalment is:
 - (a) a number of whole dollars and 0.5 cent; or
 - (b) a number of whole dollars and cents and 0.5 cent;the amount is to be increased by 0.5 cent.
- (3) If:
 - (a) an amount of pharmaceutical allowance is added to a person's maximum basic rate in working out the amount of an instalment of mature age allowance; and
 - (b) apart from this subsection, the amount of the instalment would be less than the person's fortnightly PA rate;the amount of the instalment is to be increased to the person's fortnightly PA rate.
- (4) In subsection (3):

person's fortnightly PA rate means the amount worked out using the formula:

pharmaceutical allowance rate \times relevant number

where:

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

relevant number means:

- (a) if the instalment is for a number of whole fortnights—the number of fortnights; or
- (b) if the instalment is for a period (the ***short period***) of less than a fortnight—the number worked out using the formula:

$$\frac{\text{number of week days in the short period}}{10}; \text{ or}$$

- (c) if the instalment is for a period that consists of a number of whole fortnights and a period (the short period) of less than a fortnight—the number worked out using the formula:

$$\text{number of whole fortnights} + \frac{\text{number of week days in the short period}}{10}$$

- (5) If, apart from this section, the amount of an instalment would be less than \$1.00, the amount is to be increased to \$1.00.

660YGE Instalments to be paid to person or nominee

- (1) Subject to subsection (3), instalments of a person's mature age allowance are to be paid to the person.
- (2) The Secretary may direct that the whole or a part of the instalments of a person's allowance be paid to someone else on behalf of the person.
- (3) If the Secretary gives a direction under subsection (2), the instalments are to be paid in accordance with the direction.

660YGF Payment into bank account etc.

- (1) An amount that is to be paid to a person under section 660YGE is to be paid in the manner set out in this section.
- (2) Subject to this section, the amount is to be paid, at intervals determined by the Secretary, to the credit of a bank account, credit union account or building society account nominated and kept by the person.
- (3) The account may be an account that is kept by the person either alone or jointly or in common with another person.
- (4) The Secretary may direct that the whole or a part of the amount be paid to the person in a different way from that provided for by subsection (2).
- (5) If the Secretary gives a direction under subsection (4), the amount is to be paid in accordance with the direction.

- (6) If, at the end of the period (the *preliminary period*) of 28 days starting on the day on which the mature age allowance became payable to the person:
 - (a) he person has not nominated an account for the purposes of subsection (2); and
 - (b) the Secretary has not given a direction under subsection (4) in relation to payments of the allowance to the person;the allowance ceases to be payable to the person.
- (7) If the person nominates an account for the purposes of subsection (2) after the end of the preliminary period, then, subject to this Part, the mature age allowance again becomes payable to the person and is so payable:
 - (a) if the nomination was made within 3 months after the end of the preliminary period—on and from the first day after the end of that period; or
 - (b) otherwise—on and from the day on which the nomination was made.

660YGG If allowance payday would fall on public holiday etc.

If the Secretary is satisfied that an amount of mature age allowance that would normally be paid on a particular day cannot reasonably be paid on that day (because, for example, it is a public holiday or a bank holiday), the Secretary may direct that the amount be paid on an earlier day.

660YGH Payment of mature age allowance after death

- (1) If:
 - (a) a mature age allowance is payable to a person; and
 - (b) the person dies; and
 - (c) at the date of the person's death the person had not received an amount of the allowance payable to him or her; and
 - (d) another person applies to receive the amount; and
 - (e) the application is made:
 - (i) within 6 months after the death; or
 - (ii) within a further period allowed by the Secretary in special circumstances;

the Secretary may pay the amount to the person who, in the Secretary's opinion, is best entitled to it.

- (2) If the Secretary pays an amount of the allowance under subsection (1), the Commonwealth has no further liability to any person in respect of that amount of the allowance.

Division 8—Protection of mature age allowance

660YHA Mature age allowance to be inalienable

General rule

- (1) Subject to subsections (2) and (3) and section 1359, mature age allowance is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

Payments to Commissioner of Taxation at recipient's request

- (2) The Secretary may make deductions from the instalments of mature age allowance payable to a person if the person asks the Secretary:
- (a) to make the deductions; and
 - (b) to pay the amounts to be deducted to the Commissioner of Taxation.

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

Deductions from instalments with recipient's consent

- (3) The Secretary may make deductions from the instalments of mature age allowance payable to a person if the person consents under section 1234A to the Secretary making the deductions.

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

660YHB Effect of garnishee or attachment order

- (1) If:

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- (a) a person has an account with a financial institution; and
 - (b) instalments of mature age allowance payable to the person (whether on the person's own behalf or not) are being paid to the credit of the account; and
 - (c) a court order in the nature of a garnishee order comes into force in respect of the account;
- the court order does not apply to a saved amount (if any) in the account.
- (2) The saved amount is worked out as follows:

Method statement

- Step 1.* Work out the total amount of mature age allowance payable to the person that has been paid to the credit of the account during the 4 week period immediately before the court order came into force.
- Step 2.* Subtract from that amount the total amount withdrawn from the account during the same 4 week period: the result is the ***saved amount***.

- (3) This section applies to an account whether it is kept by a person:
- (a) alone; or
 - (b) jointly with another person; or
 - (c) in common with another person.

Note: A person affected by a garnishee order may have other saved amounts if the person receives telephone allowance (see section 1061X).

Division 9—Recipient obligations

660YIA Secretary may request recipient to give statement of recipient's tax file number

- (1) The Secretary may request, but not compel, a recipient of mature age allowance:
- (a) if the recipient has a tax file number—to give the Secretary a written statement of the recipient's tax file number; or
 - (b) if the recipient does not have a tax file number:

- (i) to apply to the Commissioner of Taxation for a tax file number; and
 - (ii) to give the Secretary a written statement of the recipient's tax file number after the Commissioner of Taxation has issued it.
- (2) A mature age allowance is not payable to a recipient if, at the end of the period of 28 days after a request is made:
 - (a) the recipient has failed to satisfy the request; and
 - (b) the Secretary has not exempted the recipient from having to satisfy the request.

Note: In some cases the request can be satisfied by giving the Secretary a declaration by the recipient about the recipient's tax file number and an authority by the recipient to the Commissioner of Taxation to give the Secretary certain information about the recipient's tax file number (see subsections 660YCD(2) and (3)).

660YIB Secretary may request recipient to give statement of partner's tax file number

- (1) If:
 - (a) a recipient of a mature age allowance is a member of a couple; and
 - (b) the recipient's partner is in Australia;the Secretary may request, but not compel, the recipient to give the Secretary a written statement of the tax file number of the recipient's partner.
- (2) A mature age allowance is not payable to a recipient if, at the end of the period of 28 days after a request is made:
 - (a) the recipient has failed to satisfy the request; and
 - (b) the Secretary has not exempted the recipient from having to satisfy the request.

Note 1: In some cases the request can be satisfied by giving the Secretary a declaration by the partner about the partner's tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information about the partner's tax file number (see subsections 660YCE(2) and (3)).

Note 2: The Secretary may waive the request in some cases (see subsection 660YCE(4)).

660YIC Secretary may require notice of the happening of an event or a change in circumstances

- (1) The Secretary may give a person to whom a mature age allowance is being paid a notice that requires the person to tell the Department if:
 - (a) a stated event or change in circumstances occurs; or
 - (b) the person becomes aware that a stated event or change in circumstances is likely to occur.
- (2) An event or change in circumstances is not to be stated in a notice under subsection (1) unless the occurrence of the event or change in circumstances might affect the payment of the allowance.
- (3) Subject to subsection (4), a notice under subsection (1):
 - (a) must be in writing; and
 - (b) may be given personally or by post; and
 - (c) must state how the person is to give the information to the Department; and
 - (d) must state the period within which the person is to give the information to the Department; and
 - (e) must state that the notice is a recipient notification notice given under this Act.
- (4) A notice under subsection (1) is not invalid merely because it fails to comply with paragraph (3)(c) or (e) or with both of those paragraphs.
- (5) Subject to subsections (6) and (7), the period stated under paragraph (3)(d) must end at least 7 days after:
 - (a) the day on which the event or change in circumstances occurs; or
 - (b) the day on which the person becomes aware that the event or change in circumstances is likely to occur.
- (6) If a notice requires the person to tell the Department of any proposal by the person to leave Australia, subsection (5) does not apply to that requirement.
- (7) If the notice requires information about receipt of a compensation payment, the period stated under paragraph (3)(d) in relation to the information must end at least 7 days after the day on which the

person becomes aware that he or she has received or is to receive a compensation payment.

- (8) A person must not, without reasonable excuse, refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: Imprisonment for 6 months.

Note: Subsections 4B(2) and (3) of the *Crimes Act 1914* allow a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment.

- (9) This section extends to:
- (a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
 - (b) all people irrespective of their nationality or citizenship.

660YID Secretary may require recipient to give particular information relevant to payment of mature age allowance

- (1) The Secretary may give a person to whom a mature age allowance is being paid a notice that requires the person to give the Department a statement about a matter that might affect the payment of the allowance to the person.
- (2) Subject to subsection (3), a notice under subsection (1):
- (a) must be in writing; and
 - (b) may be given personally or by post; and
 - (c) must state how the statement is to be given to the Department; and
 - (d) must state the period within which the person is to give the statement to the Department; and
 - (e) must state that the notice is a recipient statement notice given under this Act.
- (3) A notice under subsection (1) is not invalid merely because it fails to comply with paragraph (2)(c) or (e) or with both of those paragraphs.
- (4) The period stated under paragraph (2)(d) must end at least 7 days after the day on which the notice is given.
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- (5) A statement given in response to a notice under subsection (1) must be in writing and in accordance with a form approved by the Secretary.
- (6) A person must not, without reasonable excuse, refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: Imprisonment for 6 months.

Note: Subsections 4B(2) and (3) of the *Crimes Act 1914* allow a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment.

- (7) This section extends to:
- (a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
 - (b) all people irrespective of their nationality or citizenship.

Division 10—Continuation, variation and termination

Subdivision A—General

660YJA Continuing effect of determination

Entitlement determination

- (1) A determination that:
- (a) a person's claim for a mature age allowance is granted; or
 - (b) a mature age allowance is payable to a person;
- continues in effect until:
- (c) the allowance ceases to be payable under section 660YJB, 660YJC, 660YJD, 660YJE or 660YJF; or
 - (d) a further determination in relation to the allowance under section 660YJM or 660YJN has taken effect.

Note 1: For paragraph (a) see section 660YEB.

Note 2: For paragraph (b) see section 660YJP—this paragraph is relevant where the determination in question reverses an earlier cancellation or suspension.

Note 3: For paragraph (d) see section 660YJO.

Rate determination

- (2) A determination of the rate of a mature age allowance continues in effect until:
- (a) the allowance becomes payable at a lower rate under section 660YJG, 660YJH or 660YJI; or
 - (b) a further determination in relation to the allowance under section 660YJK or 660YJL has taken effect.

Note: For paragraph (b) see section 660YJJ.

Subdivision B—Automatic termination

660YJB Automatic termination—transfer to new payment type

If:

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

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

660YJC Automatic termination—recipient *complying with* section 660YIC notification obligations

If:

- (a) a person who is receiving a mature age allowance is given a notice under section 660YIC; and
- (b) the notice requires the person to tell the Department of the occurrence of an event or change in circumstances within a stated period (the *notification period*); and
- (c) the event or change in circumstances occurs; and
- (d) the person tells the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change in circumstances:
 - (i) the person ceases to be qualified for the allowance; or
 - (ii) the allowance would, apart from this section, cease to be payable to the person; and

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- (f) the allowance is not cancelled before the end of the notification period;

the allowance continues to be payable to the person until the end of the notification period and then ceases to be payable to the person.

Note: If the person tells the Department, within the notification period, of an event or change in circumstances that reduces the rate of the person's allowance, there is no automatic rate reduction and a determination under section 660YJL must be made in order to bring the rate reduction into effect.

660YJD Automatic termination—recipient *not complying* with section 660YIC notification obligations

If:

- (a) a person who is receiving a mature age allowance is given a notice under section 660YIC; and
- (b) the notice requires the person to tell the Department of the occurrence of an event or change in circumstances within a stated period (the *notification period*); and
- (c) the event or change in circumstances occurs; and
- (d) the person does not tell the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or the change in circumstances:
 - (i) the person ceases to be qualified for the allowance; and
 - (ii) the allowance ceases to be payable to the person;

the allowance ceases to be payable to the person immediately before the day on which the event or change in circumstances occurs.

660YJE Automatic termination—failure to provide section 660YI. statement

(1) If:

- (a) a person who is receiving a mature age allowance is given a notice under section 660YID requiring the person to give the Department a statement; and
- (b) the notice relates to the payment of the allowance in respect of a period stated in the notice; and

- (c) the person does not comply with the notice;
then, subject to subsection (2), the allowance ceases to be payable to the person as from the first day in that period.
- (2) If the Secretary is satisfied that, in the special circumstances of the case, it is appropriate to do so, the Secretary may determine in writing that subsection (1) does not apply to the person from a day stated in the determination.
- (3) The day stated under subsection (2) may be before or after the making of the determination.

660YJF Automatic termination—changes to payments by computer following automatic termination

If:

- (a) a person is receiving a mature age allowance on the basis of data in a computer; and
- (b) the allowance is automatically terminated by the operation of a provision of this Act; and
- (c) the automatic termination is given effect to by the operation of a computer program approved by the Secretary stopping payment of the allowance;

there is taken to be a decision by the Secretary that the automatic termination provision applies to the person's allowance.

Note: The decision that is taken to have been made is a decision of an officer for the purposes of review by the Secretary (see sections 1239 and 1240) and the Social Security Appeals Tribunal (see section 1247).

Subdivision C—Automatic rate reduction

660YJG Automatic rate reduction of mature age allowance—partner starting to receive benefit, pension or allowance

If:

- (a) a person is receiving a mature age allowance; and
- (b) the person's partner starts to receive an income support payment; and
- (c) the person's mature age allowance rate is reduced because of the partner's receipt of the income support payment;

the mature age allowance becomes payable to the person at the reduced rate on the day on which the partner starts to receive the income support payment.

Note: For *income support payment* see subsection 23(1).

660YJH Automatic rate reduction—recipient *not complying* with section 660YIC notification obligations

If:

- (a) a person who is receiving a mature age allowance is given a notice under section 660YIC; and
- (b) the notice requires the person to tell the Department of the occurrence of an event or change in circumstances within a stated period (the *notification period*); and
- (c) the event or change in circumstances occurs; and
- (d) the person does not tell the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change in circumstances, the person's rate of allowance is to be reduced;

the allowance becomes payable to the person at the reduced rate immediately before the day on which the event or change in circumstances occurs.

660YJI Automatic rate reduction—failure to tell Department of payment for remunerative work if earnings credit account balance available

If:

- (a) a person who is receiving a mature age allowance is given a notice under section 660YIC; and
- (b) the notice requires the person to tell the Department of income for remunerative work undertaken by the person or the person's partner; and
- (c) the person fails to tell the Department, in accordance with the notice, of income of that kind in respect of a particular period; and
- (d) immediately before the beginning of that period, the person's earnings credit account balance is greater than nil; and

(e) because of the income mentioned in paragraph (c):

(i) the person's fortnightly rate of ordinary income is greater than the ordinary income free area; and

(ii) the person's rate of allowance is to be reduced;

the allowance is payable to the person at the reduced rate on and from the first day of that period.

Note 1: Income for remunerative work is taken into account in accordance with Benefit Rate Calculator B (Module G).

Note 2: Division 5 of Part 3.10 deals with earnings credit accounts.

660YJJ Changes to payments by computer following automatic reduction

If:

(a) a person is receiving a mature age allowance on the basis of data in a computer; and

(b) the allowance rate is automatically reduced by the operation of a provision of this Act; and

(c) the automatic reduction is given effect to by the operation of a computer program approved by the Secretary reducing the rate of payment of the allowance;

there is taken to be a decision by the Secretary that the automatic rate reduction provision applies to the person's allowance.

Note: The decision that is taken to have been made is a decision of an officer for the purposes of review by the Secretary (see sections 1239 and 1240) and the Social Security Appeals Tribunal (see section 1247).

Subdivision D—Determinations

660YJK Rate increase determination

If the Secretary is satisfied that the rate at which a mature allowance is being, or has been, paid is less than the rate provided for by this Act, the Secretary is to make a determination increasing the rate to the rate stated in the determination.

Note: For the date of effect of a determination under this section see section 660YJQ.

660YJL Rate reduction determination

If the Secretary is satisfied that the rate at which a mature age allowance is being, or has been, paid is more than the rate provided for by this Act, the Secretary is to make a determination reducing the rate to the rate stated in the determination.

Note 1: A determination under this section is not necessary if an automatic rate reduction is produced by section 660YJG, 660YJH or 660YJI (see subsection 660YJA(2)).

Note 2: For the date of effect of a determination under this section see section 660YJR.

660YJM Cancellation or suspension determination

If the Secretary is satisfied that a mature age allowance is being, or has been, paid to a person to whom it is not, or was not, payable under this Act, the Secretary is to determine that the allowance is to be cancelled or suspended.

Note 1: A determination under this section is not necessary if an automatic termination is produced by section 660YJB, 660YJC, 660YJD or 660YJE (see subsection 660YJA(1)).

Note 2: For the date of effect of a determination under this section see section 660YJR.

660YJN Cancellation or suspension for failure to comply with section 660YID, 1304 or 1305 notice

If:

- (a) a person who is receiving a mature age allowance is given a notice under section 660YID, 1304 or 1305; and
- (b) the person does not comply with the requirements set out in the notice;

the Secretary may determine that the allowance is to be cancelled or suspended.

Note 1: This section will not apply if section 660YJM applies.

Note 2: For the date of effect of a determination under this section see section 660YJR.

660YJO Changes to payments by computer

If:

- (a) payment of a mature age allowance to a person is based on data in a computer; and
- (b) the allowance rate is increased or reduced, or the allowance is cancelled or suspended, because of the operation of a computer program approved by the Secretary; and
- (c) the program causes the increase, reduction, cancellation or suspension (the *change*) for a reason for which the Secretary could determine the change;

the change is taken to have been made because of a determination by the Secretary for that reason.

Note: The determination that is taken to have been made is a decision of an officer for the purposes of review by the Secretary (see sections 1239 and 1240) and the Social Security Appeals Tribunal (see section 1247).

660YJP Resumption of payment after cancellation or suspension

- (1) If the Secretary:
 - (a) cancels or suspends a person's mature age allowance under section 660YJM or 660YJN; and
 - (b) reconsiders the decision to cancel or suspend; and
 - (c) becomes satisfied that because of the decision to cancel or suspend:
 - (i) the person did not receive a mature age allowance that was payable to the person; or
 - (ii) the person is not receiving a mature age allowance that is payable to the person;

the Secretary is to determine that a mature age allowance was or is payable to the person.

- (2) The reconsideration referred to in paragraph (1)(b) might be a reconsideration on an application under section 1240 for review or a reconsideration on the Secretary's own initiative.

Note: For the date of effect of a determination under this section see section 660YJQ.

Subdivision E—Date of effect of determinations

660YJQ Date of effect of a favourable determination

- (1) The day on which a determination under section 660YJK or 660YJP (the *favourable determination*) takes effect is worked out in accordance with this section.

Notified decision—review sought within 3 months

- (2) If:
- (a) a decision (the *previous decision*) is made in relation to a person's mature age allowance; and
 - (b) a notice is given to the person to whom the allowance is payable telling the person of the making of the previous decision; and
 - (c) the person applies to the Secretary under section 1240, within 3 months after the notice is given, for review of the previous decision; and
 - (d) the favourable determination is made as a result of the application for review;
- the determination takes effect on the day on which the previous decision took effect.

Notified decision—review sought after 3 months

- (3) If:
- (a) a decision (the *previous decision*) is made in relation to a person's mature age allowance; and
 - (b) a notice is given to the person to whom the allowance is payable telling the person of the making of the previous decision; and
 - (c) the person applies to the Secretary under section 1240, more than 3 months after the notice is given, for review of the previous decision; and
 - (d) the favourable determination is made as a result of the application for the review;
- the determination takes effect on the day on which the person sought the review.

Decision not notified

- (4) If:
- (a) a decision (the ***previous decision***) is made in relation to a person's mature age allowance; and
 - (b) notice is not given to the person to whom the allowance is payable telling the person of the making of the previous decision; and
 - (c) the person applies to the Secretary under section 1240 for review of the previous decision; and
 - (d) the favourable determination is made as a result of the application for review;
- the determination takes effect on the day on which the previous decision took effect.

Notified change in circumstances

- (5) Subject to subsection (6), if:
- (a) the favourable determination is made following a person having informed the Department of a change in circumstances; and
 - (b) the change is not a decrease in the rate of the person's maintenance income;
- the determination takes effect on the day on which the information was received or on the day on which the change occurred, whichever is the later.

Section 660YID statements

- (6) If the favourable determination is made following a person having given the Department a statement about a matter in accordance with section 660YID, the determination takes effect on the day on which the matter arose.

Other determinations

- (7) In any other case, the favourable determination takes effect:
- (a) on the day on which the determination was made; or
 - (b) if a later or earlier day is stated in the determination—on that later or earlier day.

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- (8) The day stated under paragraph (7)(b) must not be more than 3 months before the determination was made.

660YJR Date of effect of adverse determination

- (1) The day on which a determination under section 660YJL, 660YJM or 660YJN (the *adverse determination*) takes effect is worked out in accordance with this section.

Note: If the adverse determination depends on a discretion or opinion and a person affected by the determination applies for review, the Secretary may continue payment pending the outcome of the review (see section 1241 (internal review) and section 1251 (review by the Social Security Appeals Tribunal)).

General rule

- (2) Subject to subsection (9), the adverse determination takes effect:
- (a) on the day on which the determination is made; or
 - (b) if another day is stated in the determination—on that day.
- (3) Subject to subsections (4), (5), (6), (7) and (8), the day stated under paragraph (2)(b) must be later than the day on which the determination is made.

Contravention of Act

- (4) If:
- (a) the person whose mature age allowance is affected by the adverse determination has contravened a provision of this Act (other than section 1304, 1305, 1306 or 1307); and
 - (b) the contravention causes a delay in making the determination;
- the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

False statement or misrepresentation—suspension or cancellation

- (5) If:
- (a) a person has made a false statement or misrepresentation; and
 - (b) because of the false statement or misrepresentation, a mature age allowance has been paid to a person when it should have been cancelled or suspended;

the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

False statement or misrepresentation—rate reduction

(6) If:

- (a) a person has made a false statement or misrepresentation; and
- (b) because of the false statement or misrepresentation, the rate at which the mature age allowance was paid to a person was more than it should have been;

the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

Payment of arrears of periodic compensation payments—suspension or cancellation

(7) If:

- (a) an adverse determination is made in relation to a person because of point 1067-H8A or 1068-G8A (payment of arrears of periodic compensation payments); and
- (b) the mature age allowance has been paid to the person when, because of the payment of arrears of periodic compensation, the allowance should have been cancelled or suspended;

the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

Payment of arrears of periodic compensation payments—rate reduction

(8) If:

- (a) an adverse determination is made in relation to a person because of point 1067-H8A or 1068-G8A (payment of arrears of periodic compensation payments); and
- (b) the rate at which the mature age allowance was paid to the person was, because of the payment of arrears of periodic compensation, more than the rate at which the allowance should have been paid;

the day stated under paragraph (2)(b) may be earlier than the day on which the determination is made.

Section 660YID statements

- (9) If the adverse determination is made following a person having given the Department a statement about a matter in accordance with section 660YID, the determination takes effect on the day on which the matter arose.

Division 11—Bereavement payments

Subdivision A—Preliminary

660YKA Surviving partner and deceased partner

If:

- (a) a person is receiving mature age allowance; and
- (b) the person's partner dies;

then, for the purposes of this Division:

- (c) the person is the surviving partner; and
- (d) the person's partner is the deceased partner.

Subdivision B—Continuation of mature age allowance following death of recipient's partner

660YKB Continuation of mature age allowance for bereavement period

- (1) This section applies if:
- (a) a person is receiving mature age allowance; and
 - (b) the person's partner dies; and
 - (c) immediately before the deceased partner died, the partner:
 - (i) was a long-term social security recipient; or
 - (ii) was receiving a social security pension or a service pension; and
 - (d) immediately before the deceased partner died, the surviving partner was a long-term social security recipient.
- (2) The surviving partner remains qualified for mature age allowance during the bereavement period as if:
- (a) the deceased partner had not died; and

- (b) the deceased partner had continued to receive an income support payment; and
 - (c) the surviving partner and the deceased partner had continued to be members of a couple.
- (3) The surviving partner's mature age allowance rate during the bereavement rate continuation period is the rate that would have been payable to the surviving partner if:
 - (a) the deceased partner had not died; and
 - (b) if the couple had been an illness separated couple or a respite care couple—they had not been such a couple.
- (4) The surviving partner's mature age allowance rate during the bereavement lump sum period (if any) is the rate at which mature age allowance would have been payable to the surviving partner if he or she was not a member of a couple.

Note 1: For *long-term social security recipient* see subsection 23(1).

Note 2: For *bereavement period*, *bereavement rate continuation period* and *bereavement lump sum period* see section 21.

Note 3: For *illness separated couple* and *respite care couple* see subsections 4(7) and 4(8) respectively.

Note 4: For *income support payment* see subsection 23(1).

Subdivision C—Bereavement payments for person receiving mature age allowance following death of the person's partner

660YKC Qualification for payments under this Subdivision

- (1) If:
 - (a) a person is receiving mature age allowance; and
 - (b) the person's partner dies; and
 - (c) immediately before the deceased partner died, the partner:
 - (i) was a long-term social security recipient; or
 - (ii) was receiving a social security pension or a service pension; and
 - (d) immediately before the deceased partner died, the surviving partner was a long-term social security recipient; and
 - (e) on the person's payday immediately before the first available bereavement adjustment payday, the amount that would be

payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

- (i) the amount that would otherwise be payable to the person under section 660YKB (person's continued rate) on that payday; and
- (ii) the amount that would otherwise be payable to the person under section 660YKD (continued payment of partner's pension or benefit) on the partner's payday immediately before the first available bereavement adjustment payday;

the surviving partner is qualified for payments under this Subdivision to cover the bereavement period.

Note 1: Section 660YK. provides for the payment to the surviving partner, up to the first available bereavement adjustment payday, of amounts equal to the instalments that would have been paid to the deceased partner during that period if the partner had not died.

Note 2: Section 660YKE provides for payment to the surviving partner of a lump sum that represents the instalments that would have been paid to the deceased partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the deceased partner had not died.

Note 3: For *bereavement period* see section 21.

- (2) A surviving partner who is qualified for payments under this Subdivision may choose not to receive payments under this Subdivision.
- (3) An election under subsection (2):
 - (a) must be made by written notice to the Secretary; and
 - (b) may be made after the surviving partner 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.

660YKD Continued payment of deceased partner's previous entitlement

If a surviving partner is qualified for payments under this Subdivision in relation to the death of the deceased partner, there is payable to the surviving partner, on each of the deceased partner's paydays in the bereavement rate continuation period, an amount

equal to the amount that would have been payable to the deceased partner on that payday if he or she had not died.

Note: For *bereavement rate continuation period* see section 21.

660YKE Lump sum payable in some circumstances

If:

- (a) a surviving partner is qualified for payments under this Subdivision in relation to the death of the deceased partner; and
- (b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the surviving partner as a lump sum an amount worked out using the following Lump Sum Calculator:

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the amount that would have been payable to the surviving partner on the surviving partner's payday immediately before the first available bereavement adjustment payday if:

- (a) the deceased partner had not died; and
- (b) if immediately before the partner's death the couple were an illness separated couple or a respite care couple—they were not such a couple.

Note: For *illness separated couple* and *respite care couple* see subsections 4(7) and 4(8) respectively.

Step 2. Work out the amount that would have been payable to the deceased partner on the deceased partner's payday immediately before the first available bereavement adjustment payday if:

- (a) the deceased partner had not died; and

<p>(b) if immediately before the partner's death the couple were an illness separated couple or a respite care couple—they were not such a couple.</p> <p>Note: For <i>illness separated couple</i> and <i>respite care couple</i> see subsections 4(7) and 4(8) respectively.</p>	
<p>Step 3. Add the results of Step 1 and Step 2: the result is called the <i>combined rate</i>.</p>	
<p>Step 4. Work out the amount of mature age allowance that would have been payable to the surviving partner on the surviving partner's payday immediately before the first available bereavement adjustment payday if:</p> <p>(a) mature age allowance had been payable to the surviving partner on that payday; and</p> <p>(b) the surviving partner was not a member of a couple on that payday:</p> <p>the result is called the <i>surviving partner's notional rate</i>.</p>	
<p>Step 5. Take the surviving partner's notional rate away from the combined rate: the result is called the <i>deceased partner's instalment component</i>.</p>	
<p>Step 6. Work out the number of the deceased partner's paydays in the bereavement lump sum period.</p>	
<p>Step 7. Multiply the deceased partner's instalment component by the number obtained in Step 6: the result is the amount of the lump sum payable to the surviving partner under this section.</p>	

Note: For *bereavement period*, *bereavement lump sum period* and *first available bereavement adjustment payday* see section 21.

660YKF Effect of death of surviving partner

If:

- (a) a surviving partner is qualified for payments under this Subdivision in relation to the death of the deceased partner; and

-
- (b) the surviving partner dies within the bereavement period; and
(c) the Secretary does not become aware of the death of the deceased partner before the surviving partner dies;
- there is payable, as a lump sum, to any person that the Secretary thinks appropriate, an amount worked out using the following Lump Sum Calculator:

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the amount that would have been payable to the surviving partner on the surviving partner's payday immediately after the day on which the surviving partner died if:

(a) neither the surviving partner nor the deceased partner had died; and

(b) if immediately before the deceased partner's death the couple were an illness separated couple or a respite care couple—they were not such a couple.

Note: For *illness separated couple* and *respite care couple* see subsections 4(7) and 4(8) respectively.

Step 2. Work out the amount that would have been payable to the deceased partner on the deceased partner's payday immediately after the day on which the surviving partner dies if:

(a) neither the surviving partner nor the deceased partner had died; and

(b) if immediately before the deceased partner's death the couple were an illness separated couple or a respite care couple—they were not such a couple.

Note: For *illness separated couple* and *respite care couple* see subsections 4(7) and 4(8) respectively.

<i>Step 3.</i>	Add the results of Step 1 and Step 2: this result is called the <i>combined rate</i> .
<i>Step 4.</i>	Work out the amount of mature age allowance that would have been payable to the surviving partner on the surviving partner's payday immediately after the day on which the surviving partner died if: (a) mature age allowance had been payable to the surviving partner on that payday; and (b) the surviving partner was not a member of a couple on that payday: the result is called the <i>surviving partner's notional rate</i> .
<i>Step 5.</i>	Take the surviving partner's notional rate away from the combined rate: the result is called the <i>deceased partner's instalment component</i> .
<i>Step 6.</i>	Work out the number of the surviving partner's paydays in the period that starts on the day after the surviving partner dies and ends on the day on which the bereavement period ends.
<i>Step 7.</i>	Multiply the deceased partner's instalment component by the number obtained in Step 6: the result is the amount of the lump sum payable under this section.

Note: For ***bereavement period*** and ***first available bereavement adjustment payday*** see section 21.

660YKG Matters affecting payments under this Subdivision

- (1) If:
- (a) the surviving partner is qualified for payments under this Subdivision; and
 - (b) after the deceased partner died, an amount to which the deceased partner would have been entitled if he or she had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act; and

- (c) the Secretary is not satisfied that the surviving partner had 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 surviving partner or from the personal representative of the deceased partner, except to the extent (if any) to which the amount is greater than the amount payable to the surviving partner under this Subdivision;
- (e) the amount payable to the surviving partner under this Subdivision is to be reduced by the amount referred to in paragraph (b).

(2) If:

- (a) the surviving partner is qualified for payments under this Subdivision; and
- (b) an amount to which the deceased partner would have been entitled if the deceased partner had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act, within the bereavement period, into an account with a financial institution; and
- (c) the financial institution pays to the surviving partner, out of that 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 deceased partner or anyone else in respect of the payment of that money to the surviving partner.

Note: For *bereavement period* see section 21.

Division 12—Fringe benefits

660YLA Fringe benefits

- (1) A person who:
 - (a) is receiving a mature age allowance; and
 - (b) is an Australian resident; and
 - (c) is in Australia;is qualified for fringe benefits.

Note: For *Australian resident* see subsections 7(2) and (3).

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

Note: For an example of Commonwealth benefits and concessions see the *National Health Act 1953*.

27. Paragraph 664AA(1)(b):

After "allowance" insert "under Part 2.12A".

28. Paragraph 664AA(1)(c):

After "allowance" insert "under that Part".

Note: The heading to subsection 664AA(1) is altered by adding at the end "(Part 2.12A)".

29. After subsection 664AA(1):

Insert:

Mature age allowance recipient (Part 2.12B)

- (1A) A person is qualified for an employment entry payment under this section if:
- (a) the person starts employment; and
 - (b) immediately before the person started the employment, the person was receiving a mature age allowance under Part 2.12B; and
 - (c) the income earned by the person from the employment results in that mature age allowance ceasing to be payable to the person; and
 - (d) the employment is, in the Secretary's opinion, likely to continue for more than 4 weeks; and
 - (e) the person has not, within the last 12 months, received a payment under this Part.

30. Paragraph 664AA(3)(b):

After "(1)" insert ", (1A)".

31. Subparagraph 665Y(a)(i):

Omit "full-time course of education", substitute "course of education (whether full-time or part-time)".

32. Paragraph 728ZC(1)(b):

Omit "12", substitute "9".

33. Paragraph 771H(1)(b):

Omit "12", substitute "9".

34. Paragraph 771NZA(1)(b):

Omit "12", substitute "9".

35. Paragraph 951ZF(1)(b):

Omit "12", substitute "9".

36. Paragraph 951ZF(1)(d):

Omit "or has a qualifying residence exemption for parenting allowance".

37. Subsection 951ZF (Note 2):

Omit "and `qualifying residence exemption' ".

38. Paragraph 1061Q(3)(b):

Omit "12 months", substitute "9 months".

39. Paragraph 1061Q(3A)(e):

Omit "12 months", substitute "9 months".

40. After subsection 1061Q(3A):

Insert:

(3B) A person is qualified for telephone allowance if:

- (a) the person is receiving a mature age allowance under Part 2.12B; and
- (b) the person is a telephone subscriber.

41. Paragraph 1064(1)(f):

Omit, substitute:

- (f) mature age allowance under Part 2.12A; and

42. Subparagraph 1064(5)(b)(v):

Omit, substitute:

(v) a mature age allowance under Part 2.12A;

43. Point 1064-E3 (paragraph (a)):

After "mature age allowance" insert "under Part 2.12A".

44. Point 1067-F12:

Omit from subparagraph (b)(i) "a job search allowance, youth training allowance, newstart allowance, sickness allowance or partner allowance", substitute "a social security benefit or youth training allowance".

45. Point 1067E-D5:

Omit from subparagraph (b)(i) "a youth training allowance, job search allowance, newstart allowance or sickness allowance", substitute "a social security benefit or youth training allowance".

46. Point 1067E-E3 (paragraph (b)):

Omit "or special benefit", substitute ", special benefit, or mature age allowance under Part 2.12B".

47. Point 1067E-F3 (paragraph (a)):

Omit "or special benefit", substitute ", special benefit, or mature age allowance under Part 2.12B".

48. After paragraph 1068(1)(c):

Insert:

; or (ca) mature age allowance under Part 2.12B; or

49. Subsection 1068(3) (Note 1):

After "614," insert "660YCF,".

Note: The heading to section 1068 is altered by omitting "**and partner allowance**" and substituting "**partner allowance, and mature age allowance under Part 2.12B**".

50. Point 1068-B1 (Table B—item 4—column 2—paragraph (c)):

Omit, substitute:

-
- (c) has not been receiving one, or a combination, of social security pension, social security benefit or service pension for a continuous period of at least 9 months

51. Point 1068-B1 (Table B—item 4B—column 2—paragraph (c)):

Omit, substitute:

- (c) has not been receiving one, or a combination, of social security pension, social security benefit or service pension for a continuous period of at least 9 months

52. Point 1068-B1 (Table B—item 5—column 2—paragraph (b)):

Omit, substitute:

- (b) has been receiving one, or a combination, of social security pension, social security benefit or service pension for a continuous period of at least 9 months

53. Point 1068-B1 (Table B):

After item 5 insert:

5A.	Not member of a couple and person receives mature age allowance under Part 2.12B	\$326.10	\$326.10
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54. Point 1068-B1 (Table B):

- (a) Omit "\$312.10" (wherever occurring), substitute "\$326.10".
- (b) Omit "\$156.10", substitute "\$161.80".
- (c) Omit "\$237.00" (wherever occurring), substitute "\$245.60".
- (d) Omit "\$282.70" (wherever occurring), substitute "\$301.50".
- (e) Omit "\$260.30" (wherever occurring), substitute "\$272.00".

55. After Point 1068-B1:

Insert:

1068-B1AA Secretary may increase rates to give effect to indexation

1068-B1AA.(1) If the Secretary determines in writing, for the purposes of column 3A or 3B of an item in Table B, a higher amount in

substitution for an amount (the *existing amount*) set out in that column of that item, the higher amount is taken, from and including 1 July 1996, to be substituted for the existing amount.

(2) A determination under subpoint (1) is a disallowable instrument.

56. Point 1068-D1:

- (a) Omit from paragraph (c) "either", substitute "one of the following subparagraphs applies".
- (b) Omit from subparagraph (c)(i) "or".
- (c) After subparagraph (c)(i) insert:
 - (ia) the person is receiving mature age allowance under Part 2.12B;

57. Point 1068-D3:

Omit from paragraph (b) "6", substitute "9".

58. Point 1068-F14 (subparagraph (b)(i)):

Omit "a job search allowance, youth training allowance, newstart allowance, sickness allowance or partner allowance", substitute "a social security benefit or youth training allowance".

59. Point 1068-G8A (paragraph (a)):

Omit "or sickness allowance", substitute ", sickness allowance, or mature age allowance under Part 2.12B".

60. Point 1068A-E1 (paragraph (e)):

Omit "6", substitute "9".

61. Point 1068A-F5 (subparagraph (b)(i)):

After "social security benefit" insert "or youth training allowance".

62. Paragraph 1161(1)(b):

Omit "or partner allowance", substitute ", partner allowance, or mature age allowance under Part 2.12B,".

63. Subparagraph 1187(1)(a)(vii):

After "allowance" insert "under Part 2.12A".

64. After subparagraph 1187(1A)(a)(v):

Insert:

(va) mature age allowance under Part 2.12B; or".

65. Subparagraph 1187(2)(a)(iii):

After "allowance" insert "under Part 2.12A".

66. Section 1190 (Indexed and Adjusted Amounts Table—item 2—column 4):

After "5," insert "5A,".

67. Section 1190 (Indexed and Adjusted Amounts Table—item 28—column 4):

After:

[subsection 611(2)-Table-column 3A-item 1]

insert:

[subsection 660YCJ(2)-Table-column 3A-item 1]

68. Section 1190 (Indexed and Adjusted Amounts Table—item 29—column 4):

After:

[subsection 611(2)-Table-column 3B-item 1]

insert:

[subsection 660YCJ(2)-Table-column 3B-item 1]

69. Section 1190 (Indexed and Adjusted Amounts Table—item 30—column 4):

After:

[subsection 611(2)—Table—column 3A—item 2]

insert:

[subsection 660YCJ(2)—Table—column 3A—item 2]

70. Section 1190 (Indexed and Adjusted Amounts Table—item 31—column 4):

After:

[subsection 611(2)—Table—column 3B—item 2]

insert:

[subsection 660YCJ(2)—Table—column 3B—item 2]

71. Section 1190 (Indexed and Adjusted Amounts Table—item 32—column 4):

After:

[subsection 611(2)—Table—column 3A—item 3]

insert:

[subsection 660YCJ(2)—Table—column 3A—item 3]

72. Section 1190 (Indexed and Adjusted Amounts Table—item 33—column 4):

After:

[subsection 611(2)—Table—column 3B—item 3]

insert:

[subsection 660YCJ(2)—Table—column 3B—item 3]

73. Section 1211:

- (a) After "Mature age allowance" insert "under Part 2.12A".
- (b) After "660XBI(1)(c)," insert "subsection 660YBA(8), and paragraphs".

74. Section 1211 (Note 5):Omit, substitute:

Note 5: Subsection 660XBA(3) provides that a person is taken to be in Australia for the purposes of paragraph 660XBA(1)(f) (qualification for mature age allowance under Part 2.12A) if the person is temporarily absent from Australia for a period of 26 weeks or less. Similar provisions exist for mature age partner allowance (see subsection 660XBI(2) and paragraph 660XBI(1)(c)).

Note 5A: Subsection 660YBA(9) provides that a person is taken to be in Australia for the purposes of subsection 660YBA(8) if the person is temporarily absent from Australia for a period of 3 months or less.

75. Subparagraph 1212(3)(a)(via):

After "allowance" insert "under Part 2.12A".

76. After subparagraph 1223(2)(b)(vi):

Insert:

(via) subsection 660YCF(3) or (5) or section 660YCG
(mature age allowance);

77. Paragraph 1223A(3)(ma):

After "allowance" insert "under Part 2.12A".

78. After paragraph 1223A(3)(ma):

Insert:

(maa) section 660YJB (mature age allowance under Part 2.12B);

79. Paragraph 1223B(2)(ha):

After "allowance" insert "under Part 2.12A".

80. After paragraph 1223B(2)(ha):

Insert:

(hb) section 660YJG (mature age allowance under Part 2.12B);

81. Schedule 1A:

Add at the end:

87 Application of legislative changes made in relation to mature age allowance

- (1) The amendments made by Schedule 6 to the *Social Security and Veterans' Affairs Legislation Amendment Act 1995* to items 4, 4B and 5 in Table B in point 1068-B1 in Benefit Rate Calculator B at the end of section 1068 of this Act as in force immediately before 1 July 1996 do not apply to a person who, immediately before that date, was receiving social security benefit at a rate set out in that Table in relation to that item.
- (2) The amendment made by Schedule 6 to the *Social Security and Veterans' Affairs Legislation Amendment Act 1995* to point 1068-D3 in Benefit Rate Calculator B at the end of section 1068 of this Act as in force immediately before 1 July 1996 does not apply to a person who, immediately before that date, had been receiving a social security benefit, a social security pension or a service pension for a continuous period of at least 6 months.
- (3) The amendment made by Schedule 6 to the *Social Security and Veterans' Affairs Legislation Amendment Act 1995* to point

1068A-E1 in the Parenting Allowance Rate Calculator at the end of section 1068A of this Act as in force immediately before 1 July 1996 does not apply to a person who, immediately before that date, had been receiving a social security benefit, a social security pension or a service pension for a continuous period of at least 6 months.

Schedule 7—Amendments of the Social Security Act 1991 relating to the pension loans scheme

Section 3

1. Section 3 (Index of definitions):

Omit:

participation in pension loans scheme	23(11)
PLS assets	11(1)

2. Section 3 (Index of definitions):

Insert in their respective appropriate alphabetical positions (determined on a letter-by-letter basis):

assets reduced rate	1133AA(1)
disposes of real assets	1133AA(1)
guaranteed amount	1133AA(1)
income reduced rate	1133AA(1)
maximum payment rate	1133AA(1)
participating in the pension loans scheme	23(11)
real assets	1133AA(1)

3. Subsection 11(1) (definition of *PLS assets*):

Omit the definition and the Note immediately following the definition.

4. Subsection 11(1) (definition of *disposes of assets*):

Omit the definition, substitute:

disposes of assets has the meaning given by section 1123.

5. Paragraph 23(11)(b):

Omit the paragraph, substitute:

- (b) because of the request, the rate of the pension or allowance payable to the person is:
 - (i) the maximum payment rate; or
 - (ii) some other rate nominated by the person;whichever is the lower; and

Note: For *maximum payment rate* see Step 4 of the Method statement in Module A of the relevant Pension Rate Calculator.

6. Section 1064 (Pension Rate Calculator A—Module A—point 1064-A1):

Omit from Note 1 all words following "provisions", substitute "dealing with financial hardship (sections 1129 and 1130)".

7. Section 1064 (Pension Rate Calculator A—Module A—point 1064-A1):

After Note 1 insert:

Note 1A: If a person's rate is, or is to be, an income reduced rate or an assets reduced rate, and at least one of those reduced rates is not a nil rate, the person may be able to take advantage of provisions dealing with the pension loans scheme (sections 1133AA to 1144).

8. Section 1066 (Pension Rate Calculator C—Module A—point 1066-A1):

Omit from Note 1 all words following "provisions", substitute "dealing with financial hardship (sections 1129 and 1130)".

9. Section 1066 (Pension Rate Calculator C—Module A—point 1066-A1):

After Note 1, insert:

Note 1A: If a person's rate is, or is to be, an income reduced rate or an assets reduced rate, and at least one of those reduced rates is not a nil rate, the person may be able to take advantage of provisions dealing with the pension loans scheme (sections 1133AA to 1144).

10. Section 1066A (Pension Rate Calculator D—Module A—point 1066A-A1):

Omit from Note 1 all words following "provisions", substitute "dealing with financial hardship (sections 1129 and 1130)".

11. Subsection 1118(1):

Omit "and 1126", substitute ", 1126, 1133 and 1135A".

12. Before section 1133:

Insert in Division 4 of Part 3.12:

1133AA Pension loans scheme definitions

- (1) In this Division, unless the contrary intention appears:

assets reduced rate means the rate worked out at Step 10 of the Method statement in Module A of the relevant Pension Rate Calculator.

disposes of real assets has its ordinary meaning.

guaranteed amount means the amount (if any) specified under paragraph 1136(1A)(b) or subsection 1137(1) (as the case may be).

income reduced rate means the rate worked out at Step 8 of the Method statement in Module A of the relevant Pension Rate Calculator.

maximum payment rate means the rate worked out at Step 4 of the Method statement in Module A of the relevant Pension Rate Calculator.

real assets, in relation to a person or couple, means the real property (including the principal home) of the person or couple in Australia, but does not include any real property specified under paragraph 1136(1A)(a).

- (2) For the purposes of this Division, a reference to a charge under section 1138 includes a reference to a charge continued in force by subsection 1138(3) or paragraph 1139(2A)(b).

13. Paragraph 1133(1)(b):

Omit the paragraph, substitute:

- (b) the rate of that pension or allowance is, or is to be:
 - (i) an income reduced rate; or
 - (ii) an assets reduced rate;
- and at least one of those reduced rates is not a nil rate; and

14. Paragraphs 1133(1)(d) and (e):

Omit the paragraphs, substitute:

- (d) the value of the person's real assets (after deduction of any guaranteed amount) is sufficient to secure the payment of any

debt that may become payable to the Commonwealth under this Division.

15. Subsection 1133(1) (Notes 1 to 3 (inclusive)):

Omit the Notes, substitute:

Note 1: For *income reduced rate* and *assets reduced rate* see subsection 1133AA(1).

Note 2: For *real assets* see subsection 1133AA(1).

Note 3: For *guaranteed amount* see subsection 1133AA(1).

16. Paragraph 1133(2)(b):

Omit the paragraph, substitute:

- (b) the rate of that pension or allowance is, or is to be:
- (i) an income reduced rate; or
 - (ii) an assets reduced rate;
- and at least one of those reduced rates is not a nil rate; and

17. Paragraphs 1133(2)(d) and (e):

Omit the paragraphs, substitute:

- (d) the value of the couple's real assets (after deduction of any guaranteed amount) is sufficient to secure the payment of any debt that may become payable to the Commonwealth under this Division.

18. Subsection 1133(2) (Notes 1 to 3 (inclusive)):

Omit the Notes, substitute:

Note 1: For *income reduced rate* and *assets reduced rate* see subsection 1133AA(1).

Note 2: For *real assets* see subsection 1133AA(1).

Note 3: For *guaranteed amount* see subsection 1133AA(1).

19. Paragraph 1134(1)(c):

Omit the paragraph.

20. Paragraphs 1134(1)(e) and (f):

Omit the paragraphs, substitute:

- (e) the rate of the pension or allowance payable to the person by operation of the scheme is to be:

- (i) the maximum payment rate; or
 - (ii) some other rate nominated by the person;
- whichever is the lower.

Note: For *maximum payment rate* see subsection 1133AA(1).

21. Subsection 1134(1) (Note):

Omit the Note.

22. Subsections 1134(2) and (3):

Omit the subsections, substitute:

- (2) The pension or allowance at the rate payable by operation of the scheme is to be paid on and after the first pension payday after the request is lodged.
- (3) For the purposes of sections 92, 146R, 146T, 196, 247, 313, 360, 408 and 477 (fringe benefits), if but for the operation of the scheme the person would not have received a pension or allowance, the person is to be taken to be a person who is not receiving a pension or allowance.

23. Subsection 1135(1):

Omit the subsection, substitute:

- (1) If the rate of the pension or allowance payable by operation of the pension loans scheme is more than the rate that would have been received by the person but for the operation of the scheme, the person owes a debt to the Commonwealth.

24. Subsection 1135(2):

Omit the subsection.

25. Subsection 1135(3) (Method statement—Step 1):

Omit "income reduced amount", substitute "*primary loan amount*".

26. Subsection 1135(3) (Method statement—Step 2):

Omit "income reduced amount", substitute "primary loan amount".

27. Subsection 1135(3) (Method statement—Step 3):

Omit "if the value of assets had not been disregarded under section 1134", substitute "but for the operation of the scheme".

28. Subsection 1135(3) (Method statement—Step 4):

Omit "amount of interest payable is worked out under subsection (4)", substitute "interest payable is compound interest at the rate fixed under subsection (4) and compounding fortnightly".

29. Subsection 1135(4):

Omit the subsection, substitute:

- (4) The rate at which compound interest is payable under subsection (3) is the rate fixed from time to time by the Minister by determination in writing.
- (5) A determination made under subsection (4) is a disallowable instrument.

30. After section 1135:

Insert:

1135A Effect of participation in pension loans scheme—maximum loan available

- (1) The maximum loan available to a person under the pension loans scheme is the amount worked out using the formula:

$$\frac{\text{age component amount}}{\text{amount}} \times \frac{\text{value of real assets}}{10,000}$$

where:

age component amount means the amount specified in column 2 of the Table in subsection (3), in relation to:

- (a) if the person is not a member of a couple—the age the person turned on his or her last birthday; or
- (b) if the person is a member of a couple—the age the younger member of the couple turned on his or her last birthday.

value of real assets means the value of the real assets (after deduction of any guaranteed amount).

Note 1: For **real assets** see subsection 1133AA(1).

Note 2: For **guaranteed amount** see subsection 1133AA(1).

- (2) For the purposes of subsection (1), the following provisions have effect:
- (a) if, but for this paragraph, the value of real assets would be an amount that exceeds \$10,000 but is not a multiple of \$10,000, the value is to be taken to be the next lower amount that is a multiple of \$10,000;
 - (b) if, but for this paragraph, the value of real assets would be less than \$10,000, the value is to be taken to be nil.

(3) The following is the Table referred to in subsection (1):

AGE COMPONENT AMOUNT TABLE			
column 1 age	column 2 age component amount	column 1 age	column 2 age component amount
55, and each earlier year	\$1,710.00	75	\$3,750.00
56	\$1,780.00	76	\$3,900.00
57	\$1,850.00	77	\$4,050.00
58	\$1,920.00	78	\$4,210.00
59	\$2,000.00	79	\$4,380.00
60	\$2,080.00	80	\$4,560.00
61	\$2,160.00	81	\$4,740.00
62	\$2,250.00	82	\$4,930.00
63	\$2,340.00	83	\$5,130.00
64	\$2,430.00	84	\$5,330.00
65	\$2,530.00	85	\$5,550.00
66	\$2,630.00	86	\$5,770.00
67	\$2,740.00	87	\$6,000.00
68	\$2,850.00	88	\$6,240.00
69	\$2,960.00	89	\$6,490.00
70	\$3,080.00	90, and each later year	\$6,750.00
71	\$3,200.00		
72	\$3,330.00		
73	\$3,460.00		

AGE COMPONENT AMOUNT TABLE			
column 1 age	column 2 age component amount	column 1 age	column 2 age component amount
74	\$3,600.00		

31. After subsection 1136(1):

Insert:

(1A) A request under subsection (1) must:

- (a) specify any real property that is not to be included in working out the value of real assets for the purposes of sections 1133 and 1135A, or that is not to be subject to a charge under section 1138; and
- (b) specify the minimum amount (if any) that the person is to be entitled to retain out of the proceeds of the enforcement of a charge under section 1138; and
- (c) specify the rate of the pension or allowance (if any) nominated by the person for the purposes of subparagraph 1134(1)(e)(ii).

32. Subsection 1136(2):

Omit "A request under subsection (1)", substitute "The request".

33. Subsection 1136(2):

Omit "and", substitute "or".

34. Section 1137:

Repeal the section, substitute:

1137 Need for a request to later nominate or change guaranteed amount or rate of pension or allowance

- (1) A person who is participating in the pension loans scheme and who wants to:
 - (a) nominate a minimum amount that the person is to be entitled to retain out of the proceeds of the enforcement of the charge under section 1138; or

- (b) nominate a rate of pension or allowance for the purposes of subparagraph 1134(1)(e)(ii); or
 - (c) change the guaranteed amount earlier specified; or
 - (d) change the rate of the pension or allowance earlier specified;
- must make a request that specifies the nomination or change (as the case may be).

- (2) A request under subsection (1) must be signed:
 - (a) if the person is not a member of a couple—by the person; or
 - (b) if the person is a member of a couple—by both members of the couple.
- (3) The request must:
 - (a) be in writing; and
 - (b) be lodged at an office of the Department.

35. Section 1138:

Omit "assets" (wherever occurring), substitute "real assets".

36. Subsection 1138(1):

Add at the end:

Note: If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount (see subsection 1144(2)).

37. Subsection 1138(2):

Add at the end:

Note: If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount (see subsection 1144(2)).

38. Section 1138:

Add at the end:

- (3) If:
 - (a) the pension loans scheme ceases to operate in relation to a person because of the effect of section 1141 or 1142; and
 - (b) at the time the scheme ceases to operate, the person owes a debt to the Commonwealth because of the person's participation in the scheme;

the charge in favour of the Commonwealth under subsection (1) or (2) of this section continues in relation to the real assets until the debt is repaid or recovered.

Note 1: Section 1141 provides that a person ceases to participate in the scheme if the debt owed by the person exceeds the maximum loan available.

Note 2: Section 1142 provides for a person to withdraw from the scheme.

Note 3: If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount (see subsection 1144(2)).

39. After subsection 1139(2):

Insert:

(2A) In relation to the period between the person's death and the time of recovery of the debt by the Commonwealth:

(a) compound interest continues to accrue, and forms part of the debt, in accordance with Step 4 of the Method statement in subsection 1135(3); and

(b) the charge in favour of the Commonwealth under section 1138 continues in relation to the real assets until the debt is recovered.

Note: If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount (see subsection 1144(2)).

40. Subsection 1139(3):

Omit "sections", substitute "section".

41. Subsection 1139(3):

Omit "and 1142 (automatic termination of participation in pension loans scheme)".

42. Section 1140:

Omit "assets" (wherever occurring), substitute "real assets".

43. Subsection 1140(1):

After "those proceeds" insert "but after deduction of any guaranteed amount".

44. Sections 1141 and 1142:

Repeal the sections, substitute:

1141 Person ceases to participate in pension loans scheme if debt exceeds maximum loan available

If:

- (a) a person is participating in the pension loans scheme; and
- (b) the debt owed by the person under section 1135 exceeds the maximum loan available to the person under the scheme;

the scheme ceases to operate in relation to the person on the first pension payday after the debt exceeds the maximum loan available.

Note 1: The maximum loan available is worked out by using the formula set out in subsection 1135A(1).

Note 2: For repayment or recovery of the debt owed by the person see sections 1142A and section 1139.

1142 Person withdraws from pension loans scheme

- (1) If a person who is participating in the pension loans scheme makes a request to withdraw from the scheme, the scheme ceases to operate in relation to the person on the first pension payday after the request is lodged.
- (2) A request under subsection (1) must be signed:
 - (a) if the person is not a member of a couple—by the person; or
 - (b) if the person is a member of a couple—by both members of the couple.
- (3) The request must:
 - (a) be in writing; and
 - (b) be lodged at an office of the Department.

1142A Repayment or recovery of debt after pension loans scheme ceases to operate because debt exceeds maximum loan available or person withdraws

- (1) The debt owed by a person under section 1135, at the time the pension loans scheme ceases to operate in relation to the person by operation of section 1141 or 1142, may be repaid by the person at any time.

Note 1: Section 1141 provides that a person ceases to participate in the scheme if the debt owed by the person exceeds the maximum loan available.

Note 2: Section 1142 provides for a person to withdraw from the scheme.

(2) If the debt owed by the person is not repaid by the person at the time the scheme ceases to operate in relation to the person, compound interest continues to accrue, and forms part of the debt, in accordance with Step 4 of the Method statement in subsection 1135(3), until the debt is repaid or recovered.

(3) If the debt is not repaid under subsection (1) of this section, subject to section 1139 the Commonwealth is entitled to recover the debt.

Note: Section 1139 provides that a debt cannot be recovered from a person until after the person's death.

45. Section 1143:

Omit "assets" (wherever occurring), substitute "real assets".

46. Subsection 1143(2):

Omit "a bill of sale or".

47. Section 1144:

Omit "assets" (wherever occurring), substitute "real assets".

48. Section 1144:

After "may" insert ", subject to subsection (2),".

49. Section 1144:

Add at the end:

(2) If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount.

50. Section 1224A (Note 1):

Omit "and 1140", substitute ", 1140, 1141 and 1142".

51. Schedule 1A:

Add at the end:

86 Transitional and saving provisions applicable to the amendments relating to the pension loans scheme

(1) If:

- (a) a person has made a request to participate in the previous pension loans scheme; and
- (b) Schedule 7 to the Amending Act commences before the first pension payday after the lodging of the request;

for the purposes of this clause, the person is to be treated as a person who is participating in the previous pension loans scheme.

(2) Subject to subclause (3), in relation to a person who is participating in the previous pension loans scheme, subsection 11(1), paragraph 23(11)(b), subsection 1118(1) and Division 4 of Part 3.12 of this Act, as in force immediately before the commencement of Schedule 7 to the Amending Act, continue to have effect as if the Amending Act had not been enacted.

(3) If a person who is participating in the previous pension loans scheme:

- (a) is qualified to participate in the current pension loans scheme; and

(b) makes a request to participate in the current scheme;

and the Secretary is satisfied that the amount of any debt that would become payable by the person to the Commonwealth under the current scheme would be readily recoverable, the current scheme applies to the person on and after the first pension payday after the request is lodged.

(4) The debt owed by a person who was participating in the previous pension loans scheme and who is participating in the current pension loans scheme by operation of subclause (3) is, for the purposes of working out the debt owed by the person under the current scheme, to be added to the basic amount of debt accrued under the current scheme.

(5) In this clause:

Amending Act means the *Social Security and Veterans' Affairs Legislation Amendment Act 1995*.

current pension loans scheme means the pension loans scheme in operation under the provisions of this Act, as amended by the Amending Act.

previous pension loans scheme means the pension loans scheme in operation under the provisions of this Act, as in force immediately before the commencement of Schedule 7 to the Amending Act.

Schedule 8 Amendments of the Social Security Act 1991 relating to the Agreement set out in Schedule 4 to the Act

Part 1 Amendments taken to have commenced on 1 January 1995

Schedule 8—Amendments of the Social Security Act 1991 relating to the Agreement set out in Schedule 4 to the Act

Part 1—Amendments taken to have commenced on 1 January 1995

Section 3

1. Subsection 1208(2):

Omit "the agreement", substitute "the provision".

2. Schedule 4:

Under "SCHEDULE 4" insert "PART A".

3. Schedule 4:

Add at the end:

“PART B

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF NEW ZEALAND

WISHING to amend and supplement the Agreement on Social Security between the two States signed at Wellington on the nineteenth day of July 1994, have agreed as follows:

Article I

1. In this Protocol "Agreement" means the Agreement between the Government of New Zealand and the Government of Australia on Social Security signed on the nineteenth day of July 1994 at Wellington.
2. In the application of this Protocol (the first Protocol to the Agreement) any term defined in the Agreement shall, unless the context otherwise requires, have the same meaning.
3. In the application of this Protocol any term not defined in the Agreement or this Protocol shall, unless the context otherwise requires, have the meaning assigned to it by the legislation of either Party.

Article II

Subparagraph (j) of paragraph 1 of Article 1 of the Agreement shall be deleted and substituted by the following:

- "(j) "period of New Zealand working life residence" means,
in relation to New Zealand, a period of ordinary residence in New Zealand
between the ages of 16 and 65, but includes any period during which the
person to whom it relates relied on Article 4(2)(b) of the Agreement between
the Government of Australia and the Government of New Zealand providing
for reciprocity in matters relating to Social Security signed at Canberra on
31 October 1988 or relies on Article 7(2)(b)(ii) or (iii) of the Agreement to
be eligible for a New Zealand benefit."

Article III

Subparagraph (a) of paragraph 1 of Article 2 of the Agreement shall be deleted and
substituted by the following:

- "(a) in relation to Australia: the *Social Security Act 1991* in so far as the Act
provides for, applies to or affects the following benefits:
- (i) age pension;
 - (ii) disability support pension;
 - (iii) widow B pension;
 - (iv) sole parent pension;
 - (v) wife pension;
 - (vi) partner allowance payable to the female partner of a person in receipt of
an age pension or a disability support pension (referred to in this
Agreement as partner allowance);
 - (vii) parenting allowance payable to the female partner of a person in receipt
of an age pension or a disability support pension (referred to in this
Agreement as parenting allowance); and
 - (viii) additional family payment payable to persons in receipt of the above
benefits; and"

Article IV

In order to clarify the original intentions of the Parties when first drafting Article 3 of
the Agreement, paragraph 1 of Article 3 of the Agreement shall be deleted and
substituted by the following:

- "1. This Agreement shall apply to any person who:
- (a) is or has been an Australian resident; or
 - (b) is or has been ordinarily resident in the territory of New Zealand; and
to any other person who derives rights to a benefit from a person who is
eligible for a benefit under this Agreement."

Schedule 8 Amendments of the Social Security Act 1991 relating to the Agreement set out in Schedule 4 to the Act

Part 1 Amendments taken to have commenced on 1 January 1995

Article V

Subparagraph (b) of paragraph 1 of Article 12 of the Agreement shall be deleted and substituted by the following:

- "(b) by multiplying the nominal benefit rate (as calculated below) by the smaller of:
- (i) the result obtained under subparagraph (a); or
 - (ii) one."

Article VI

Paragraph 3 of Article 14 of the Agreement shall be deleted and substituted by the following:

"3. Subject to paragraph 4, the amount determined in paragraph 1 shall be payable in equal quarterly instalments by the competent institution of a Party to the competent institution of the other Party on 1 July, 1 October, 1 January and 1 April or, if those dates are not banking days, on the first banking day thereafter."

Article VII

Paragraph 4 of Article 15 of the Agreement shall be deleted and substituted by the following:

"4. For the purposes of this Article only, benefits for the unemployed means, in relation to Australia:

- (i) job search allowance; and
- (ii) newstart allowance; and

in relation to New Zealand:

- (i) unemployment benefit;
- (ii) job search allowance;
- (iii) training benefit; and
- (iv) independent youth allowance."

Article VIII

Upon an exchange of notes by the Parties through the diplomatic channel notifying each other that all matters as are necessary to give effect to this Protocol have been finalised, this Protocol shall be deemed to have entered into force on 1 January 1995, except for Article III which shall be deemed to have entered into force on 1 July 1995.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their
respective Governments, have signed this Protocol.

DONE in duplicate at Sydney this seventh day of September 1995.

FOR THE GOVERNMENT OF
AUSTRALIA:

PETER BALDWIN

FOR THE GOVERNMENT
OF NEW ZEALAND:

GRAHAM FORTUNE".

Schedule 8 Amendments of the Social Security Act 1991 relating to the Agreement set out in Schedule 4 to the Act

Part 2 Amendment commencing on Royal Assent

Part 2—Amendment commencing on Royal Assent

4. Schedule 4:

Add at the end:

"PART C

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF NEW ZEALAND

WISHING to amend and supplement the Agreement on Social Security between the two States signed at Wellington on the nineteenth day of July 1994, have agreed as follows:

Article I

1. In this Protocol "Agreement" means the Agreement between the Government of New Zealand and the Government of Australia on Social Security signed on the nineteenth day of July 1994 at Wellington as amended by the first Protocol signed on the seventh day of September 1995 at Sydney.
2. In the application of this Protocol (the second Protocol to the Agreement) any term defined in the Agreement shall, unless the context otherwise requires, have the same meaning.
3. In the application of this Protocol any term not defined in the Agreement or this Protocol shall, unless the context otherwise requires, have the meaning assigned to it by the legislation of either Party.

Article II

1. The heading to Article 7 of the Agreement shall be amended to read "Eligibility for New Zealand Benefits".
2. Paragraphs 4 and 5 of Article 7 of the Agreement shall be deleted and the remaining paragraph shall be renumbered as paragraph 4.

Article III

1. The heading to Article 8 of the Agreement shall be amended to read "Eligibility for Australian Benefits".
2. Paragraphs 4 and 5 of Article 8 of the Agreement shall be deleted and the remaining paragraphs shall be renumbered as paragraphs 4, 5 and 6.

Article IV

A new Article shall be inserted after Article 8 of the Agreement, to read as follows:

"Article 8A

Portability of Benefits

New Zealand benefits

1. Except as provided in paragraphs 2 and 3, the temporary absence provisions under the legislation of New Zealand shall apply to a person who is receiving a New Zealand benefit under this Agreement.
2. A person who is in receipt of New Zealand Superannuation and who is present in Australia but not an Australian resident, shall be eligible to continue to receive that benefit for up to 26 weeks:
 - (a) where that person is temporarily absent from New Zealand for up to 26 weeks; or
 - (b) where that person is temporarily absent from New Zealand for over 26 weeks and in the opinion of the New Zealand Competent Authority that person has sufficient reason for remaining outside New Zealand for more than 26 weeks.
3. A person who is in receipt of an invalid's benefit, a widow's benefit or a domestic purposes benefit and who is present in Australia but not an Australian resident, shall be eligible to continue to receive that benefit for up to 4 weeks during a temporary absence from New Zealand.

Australian benefits in New Zealand

4. A person who, by virtue of this Agreement or otherwise, is in receipt of an age pension and who is present but not ordinarily resident in New Zealand, shall be eligible to continue to receive that benefit for up to 26 weeks during a temporary absence from Australia.
5. A person who, by virtue of this Agreement or otherwise, is in receipt of a disability support pension, a wife pension, a widow B pension or a sole parent pension and who is present but not ordinarily resident in New Zealand, shall be eligible to continue to receive that benefit for up to 4 weeks during a temporary absence from Australia.
6. A person who, by virtue of this Agreement or otherwise, is in receipt of a partner or parenting allowance and who is present but not ordinarily resident in New Zealand, shall be eligible to continue to receive that benefit during a temporary absence from Australia for the period allowed under the legislation of Australia, except where the partner of that person is in receipt of a disability support pension in which case the person shall be eligible to receive his or her benefit for up to 4 weeks during a temporary absence from Australia.

Australian benefits in a Third Country

7. A person who, by virtue of this Agreement, is in receipt of an age pension and who is not present or ordinarily resident in New Zealand shall be eligible to continue to receive that benefit for up to 26 weeks during a temporary absence from Australia.
8. A person who, by virtue of this Agreement, is in receipt of a disability support pension, a wife pension, a widow B pension, or a sole parent pension who is not present or ordinarily resident in New Zealand shall be eligible to continue to receive that benefit for up to 4 weeks during a temporary absence from Australia.
9. A person who, by virtue of this Agreement, is in receipt of a partner or parenting allowance who is not present or ordinarily resident in New Zealand shall be eligible to continue to receive that benefit during a temporary absence from Australia for the period allowed under the legislation of Australia, except where the partner of that person is in receipt of a disability support pension in which case the person shall be eligible to receive his or her benefit for up to 4 weeks during a temporary absence from Australia.

Dual Payments

10. A person who is in New Zealand shall not be eligible for any pension, benefit or allowance paid under the social security laws of Australia where that person would otherwise be eligible for a New Zealand benefit under this Agreement or any payment (other than an emergency benefit, a special benefit or a benefit payable in respect of specified costs) under the social security laws of New Zealand.
11. A person who is in Australia shall not be eligible for any payment made under the social security laws of New Zealand where that person is eligible for an Australian benefit under this Agreement or any payment made under the social security laws of Australia."

Article V

1. Subparagraph (e) of paragraph 1 of Article 11 of the Agreement shall be deleted and substituted by the following:
 - (e) is an Australian resident or is in receipt of a benefit by virtue of Article 8 or Article 8A; and"
2. Subparagraph (e) of paragraph 2 of Article 11 of the Agreement shall be deleted and substituted by the following:
 - (e) is ordinarily resident in New Zealand or is in receipt of a benefit by virtue of Article 7 or Article 8A; and"
3. Paragraph 5 of Article 11 of the Agreement shall be deleted and substituted by the following:

"5. Neither Party shall be required to reimburse the other Party for a benefit paid to a person who is outside the territory of the Party paying the benefit except:

-
- (a) during a period of absence as provided in Article 8A; and
 - (b) in the case of a benefit which is not paid by virtue of this Agreement and is not paid into the territory of either Party, for a period up to:
 - (i) 26 weeks for age pension and New Zealand superannuation;
 - (ii) 13 weeks for partner and parenting allowance payable to the partner of a person in receipt of an age pension; and
 - (iii) 4 weeks for all other benefits."

Article VI

This Protocol shall enter into force on the first day of the month following the month in which notes are exchanged by the Parties through the diplomatic channel notifying each other that all matters as are necessary to give effect to this Protocol have been finalised.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Sydney this seventh day of September 1995.

FOR THE GOVERNMENT OF
AUSTRALIA:
PETER BALDWIN

FOR THE GOVERNMENT
OF NEW ZEALAND:
GRAHAM FORTUNE".

Schedule 9—Amendments of the Veterans' Entitlements Act 1986

Part 1—Amendment relating to mature age allowance

Section 3(2)

1. Subsection 5Q(1) (definition of *social security benefit*):

After paragraph (b) insert:

(ba) mature age allowance under Part 2.12B; or".

**Part 2—Amendments consequential on the
amalgamation of job search allowance and
newstart allowance**

2. Paragraph 5F(5)(c):

Omit "or a job search allowance".

3. Subparagraph 5H(8)(v)(i):

Omit "or job search allowance".

4. Subsection 5Q(1) (definition of *education leavers waiting period*):

Omit paragraph (b).

5. Subsection 5Q(1) (definition of *social security benefit*):

Omit paragraph (a).

6. Section 36C (Note):

Omit "job search allowance and".

7. Section 37C (Note):

Omit "job search allowance and".

8. Subsection 38C(1) (Note):

Omit "job search allowance and".

9. Section 39C (Note):

Omit "job search allowance and".

Schedule 10—Amendments of the National Health Act 1953

Part 1—Amendments relating to the activity test for job search allowance and newstart allowance

Section 3(3)

1. Subsection 4(1) (definition of pensioner):

- (a) After subparagraph (aa)(ii) insert:
 - (ia) to whom or in respect of whom job search allowance is payable under Part 2.11 of the *Social Security Act 1991* and who, under Subdivision BAA of Division 1 of that Part, is not required to satisfy the activity test; or
 - (ib) to whom or in respect of whom newstart allowance is payable under Part 2.12 of the *Social Security Act 1991* and who, under Subdivision BA of Division 1 of that Part, is not required to satisfy the activity test; or".
- (b) Omit paragraph (ab).

2. Paragraph 4(3)(a):

Add at the end "or".

3. After paragraph 4(3)(a) insert:

- (aa) a job search allowance that is payable under Part 2.11 of the *Social Security Act 1991* to a person who, under Subdivision BAA of Division 1 of that Part, is not required to satisfy the activity test; or
- (ab) a newstart allowance that is payable under Part 2.12 of the *Social Security Act 1991* to a person who, under Subdivision BA of Division 1 of that Part, is not required to satisfy the activity test;".

Part 2—Amendments relating to mature age allowance

4. Subsection 4(1) (definition of *pensioner*):

Omit subparagraph (aa)(iii), substitute:

- (iic) who is receiving mature age allowance under Part 2.12B of the *Social Security Act 1991*; or
- (iii) who is over 60 years of age, is receiving social security benefit (other than mature age allowance) within the meaning of the *Social Security Act 1991* and has been a social security beneficiary for a continuous period of at least 9 months;".

5. Paragraph 4AAA(2)(b):

Omit "for a continuous period of 12 months", substitute "(other than a mature age allowance under Part 2.12B of the *Social Security Act 1991*) for a continuous period of 9 months".

6. Paragraph 4AAAB(a):

After "within the meaning of" insert "Part 2.12A of".

7. After paragraph 4AAAB(a):

Insert:

- (aa) a person who has been receiving a mature age allowance (within the meaning of Part 2.12B of the *Social Security Act 1991*); and

Note: Such a person is a pensioner within the meaning of subparagraph (aa)(iic) of the definition of *pensioner* in subsection 4(1).

**Part 3—Amendments consequential on the
amalgamation of job search allowance and
newstart allowance**

8. Subsection 4(1) (definition of *pensioner*):

Omit subparagraph (aa)(ia).

9. Subsection 4(1AAA):

Omit.

10. Subsection 4(1AAB):

Omit, substitute:

(1AAB) A reference in this Act to an unemployment benefit is a reference to a newstart allowance under the *Social Security Act 1991*.

11. Subsection 84(1) (definition of *concessional beneficiary*):

Omit from paragraph (aa) "job search", substitute "newstart".

Schedule 11—Amendments of the Income Tax Assessment Act 1936

Part 1—Amendments relating to mature age allowance

Section 3(4)

1. Section 24A (definition of *bereavement Subdivision*):

After subparagraph (a)(viba) insert:

(vibb) Subdivision C of Division 11 of Part 2.12B;

2. Section 24A (definition of *exclusion provision*):

After "660XKA(1)(e)," insert "660YKC(1)(e),".

3. Section 24AB (Table):

(a) After "Mature age allowance" insert "(Part 2.12A)".

(b) After:

Mature age partner allowance		24ABMB
insert:		
Mature age allowance (Part 2.12B)		24ABMC

4. Subsection 24ABA(1) (Table):

(a) After "mature age allowance" insert "(Part 2.12A)".

(b) Immediately below "Special benefit" insert "Mature age allowance (Part 2.12B)".

5. After section 24ABMB:

Insert:

24ABMC Mature age allowance (Part 2.12B)

(1) The treatment of payments of mature age allowance under Part 2.12B of the *Social Security Act 1991* is as follows:

- (a) the supplementary amount is exempt;
- (b) the balance is not exempt.

- (2) Subsection (1) has effect subject to subsection (4) (which deals with taxpayers who derive bereavement lump sum payments under section 660YKE of the *Social Security Act 1991*).
- (3) Payments under section 660YKD of the *Social Security Act 1991* (which deals with continued payment of deceased partner's previous entitlement) are exempt.
- (4) If a taxpayer derives a payment under section 660YKE of the *Social Security Act 1991*:
 - (a) so much of the sum of that payment and other payments under the *Social Security Act 1991* derived by the taxpayer during the bereavement lump sum period as do not exceed the tax—free amount calculated using the Exempt Bereavement Payment Calculator AB in section 24ABZD is exempt; and
 - (b) the balance of the sum is not exempt.
- (5) If:
 - (a) a taxpayer's partner died; and
 - (b) the taxpayer would have been qualified for payments under a bereavement Subdivision except for an exclusion provision (taxpayer's pension or allowance increased on partner's death to such an extent that there are no bereavement payments); and
 - (c) the taxpayer derives payments of mature age allowance under Part 2.12B of the *Social Security Act 1991* during the bereavement period;then those payments are not treated under subsection (1) but are treated as follows:
 - (d) supplementary amounts are exempt;
 - (e) so much of the balance as exceeds what would have been the balance (payments less supplementary amounts) if the the partner had not died is exempt;
 - (f) the rest of the balance is not exempt.

6. Subsection 160AAA(1) (definition of *rebatable benefit*):

After "2.12," in paragraph (a) insert "2.12B,".

7. Subsection 160AAA(1) (definition of *rebatable pension*):

After "2.12," in paragraph (b) insert "2.12B,".

Part 2—Amendments consequential on the amalgamation of job search allowance and newstart allowance

Division 1—Amendments commencing on 20 September 1996

8. Paragraph 24A(1)(b):

Omit, substitute:

- (b) so much of the instalment as is equal to the amount (if any) that would have been included in the instalment by way of remote area allowance if it were assumed that the instalment had been:
 - (i) to the extent to which the instalment was in respect of a period before 20 September 1996—an instalment of job search allowance under the *Social Security Act 1991* as previously in force; or
 - (ii) to the extent to which the instalment was in respect of a later period—an instalment of newstart allowance under the *Social Security Act 1991*;instead of an instalment of drought relief payment.

9. Subsection 79A(4) (definition of *prescribed allowance*):

Omit paragraph (b), substitute:

- (b) so much of an instalment of drought relief payment under the *Farm Household Support Act 1992* as is equal to the amount (if any) that would have been included in the instalment by way of remote area allowance if it were assumed that the instalment had been:
 - (i) to the extent to which the instalment was in respect of a period before 20 September 1996—an instalment of job search allowance under the *Social Security Act 1991* as previously in force; or
 - (ii) to the extent to which the instalment was in respect of a later period—an instalment of newstart allowance under the *Social Security Act 1991*;instead of an instalment of drought relief payment.

Division 2—Amendments commencing on 1 July 1997

10. Section 24A (definition of *bereavement Subdivision*):

Omit subparagraph (a)(via).

11. Section 24A (definition of *exclusion provision*):

Omit from paragraph (a) "589A(1)(f)".

12. Section 24AB (Index):

Omit:

Job search allowance

24ABL

13. Subsection 24ABA(1):

Omit "Job search allowance".

14. Section 24ABL:

Omit.

15. Paragraph 24AIA(1)(b):

Omit, substitute:

- (b) so much of the instalment as is equal to the amount (if any) that would have been included in the instalment by way of remote area allowance if it were assumed that the instalment had been an instalment of newstart allowance under the *Social Security Act 1991* instead of an instalment of drought relief payment;

16. Subsection 79A(4) (definition of *prescribed allowance*):

Omit paragraph (b), substitute:

- (b) so much of the instalment of drought relief payment under the *Farm Household Support Act 1992* as is equal to the amount (if any) that would have been included in the instalment by way of remote area allowance if it were assumed that the instalment had been an instalment of newstart allowance under the *Social Security Act 1991* instead of an instalment of drought relief payment;

17. Subsection 160AAA(1) (definition of *rebatable benefit*):

Omit "2.11,".

18. Subsection 160AAA(1) (definition of *rebatable pension*):

Omit "2.11,".

19. Paragraph 202CB(6)(a):

Omit "a job search allowance,".

20. Paragraph 202CE(7)(a):

Omit "a job search allowance,".

21. Subsection 221A(1) (definition of *prescribed non-resident*):

Omit from paragraph (c) "2.11,".

Schedule 12—Amendments of the Childcare Rebate Act 1993

Section 3(5)

1. Subsection 29(2):

Omit "Parts 2.11 and", substitute "Part".

2. Section 29 (Note):

Omit "a job search allowance or".

Schedule 13—Amendments of the Health Insurance Act 1973

Section 3(6)

1. Subsection 3(1) (definition of *DSS benefit dependant*):

Omit "job search allowance,".

2. Subsection 3(1AA):

Omit.

3. Subsection 3(1AAA):

Omit, substitute:

(1AAA) A reference in this Act to an unemployment benefit is a reference to a newstart allowance or a partner allowance under the *Social Security Act 1991*.

4. Paragraph 4D(1)(c):

Omit.

5. Subsection 5B(12) (definition of *dependant*):

Omit "or job search allowance" from subparagraphs (a)(i) and (ii).

6. Paragraph 5D(1)(a):

Omit ", a job search allowance".

Note: The heading to section 5. is altered by omitting ", job search allowance".

7. Paragraph 5D(1A)(b):

Omit ", a job search allowance".

8. Subsection 5D(8) (definition of *job search allowance*):

Omit.

Schedule 14—Amendments of the Farm Household Support Act 1992

Section 3(7)

1. Subsection 10(4):

Omit, substitute:

- (4) A person's assets value limit at a particular time for the purposes of this Act is equal to the amount that would be the person's assets value limit at that time for the purposes of Part 2.12 of the *Social Security Act 1991* if at that time the person had made a claim for, or was in receipt of, newstart allowance under that Act (see subsection 611(2) and section 612 of the *Social Security Act 1991*).

2. Subsection 12(2):

Omit ", job search allowance".

3. Section 22:

Omit "job search" (wherever occurring), substitute "newstart".

4. Paragraph 24A(1)(a):

Omit "job search" (wherever occurring), substitute "newstart".

5. Paragraphs 43(1)(b) and (d):

Omit ", job search allowance" (wherever occurring).

6. Section 52:

Repeal, substitute:

52 Person entitled to grant on sale of farm within grant period

- (1) If the person sold his or her farm within the grant period in relation to the person, subsections (2), (3) and (4) apply.
- (2) The total amount of farm household support paid to the person is converted into a grant and the person is not liable to repay any instalments of farm household support.
- (3) If the farm was sold within the period of 9 months from the beginning of the grant period in relation to the person and the

person had reached the age of 18 years at the time of the sale, the person is entitled to a grant equal to the amount of newstart allowance that would be payable to the person in respect of the period (the *qualifying period*) from the time of the sale to the end of the period of 9 months if, under the *Social Security Act 1991*:

- (a) the person were entitled to receive newstart allowance for the qualifying period; and
- (b) newstart allowance were payable to the person at the rate that would be the person's maximum payment rate at the beginning of the qualifying period.

Note: For the person's maximum payment rate, see Module A of the Benefit Rate Calculator applicable to the person under section 643 of the *Social Security Act 1991*.

- (4) If the farm was sold within the period of 9 months from the beginning of the grant period in relation to the person and the person had not reached the age of 18 years at the time of the sale:

- (a) the person is entitled to a grant equal to the amount of youth training allowance that would be payable to the person in respect of the period (the *youth qualifying period*) from the time of the sale of the farm to the end of the period of 9 months or the time when the person reaches the age of 18 years, whichever first happens, if, under Part 8 of the *Student and Youth Assistance Act 1973*:

- (i) the person were entitled to receive youth training allowance for the youth qualifying period; and
 - (ii) youth training allowance were payable to him or her at the rate that would be the person's maximum payment rate at the beginning of the youth qualifying period; and

Note: For the person's maximum payment rate, see Module A in Schedule 1 to the *Student and Youth Assistance Act 1973*.

- (b) if the person reaches the age of 18 years before the end of the period of 9 months, the person is entitled to a grant equal to the amount of newstart allowance that would be payable to the person in respect of the period (the *post-18 period*) from the time when the person reached that age until the end of the period of 9 months if, under the *Social Security Act 1991*:
 - (i) the person were entitled to receive newstart allowance for the post-18 period; and

- (ii) inewstart allowance were payable to the person at the rate that would be the person's maximum payment rate at the beginning of the post-18 period.

Note: For the person's maximum payment rate, see Module A of the Benefit Rate Note: Calculator applicable to the person under section 643 of the *Social Security Act 1991*.

(5) If:

- (a) subsection (2) has applied to a person because the person sold his or her farm; and
- (b) after the sale the person sells another farm, whether the other farm was acquired before or after the sale of the first-mentioned farm;

that subsection does not apply to the person in respect of the sale of the other farm.

(6) If the person sold his or her farm:

- (a) after the end of the grant period in relation to the person; and
- (b) before farm household support ceased to be payable to the person;

the total amount of farm household support paid to the person in respect of the grant period is converted into a grant and the person is not liable to repay any instalment of farm household support paid to him or her in respect of the grant period.

(7) In this section, a reference to the total amount of farm household support paid to a person includes, in the case of a person who is a former RAS (Part C) beneficiary, the amount of Part C assistance paid to the person by way of loan under the RAS scheme applicable to the person.

Schedule 15—Amendment of the Disability Services Act 1986

Section 3(8)

1. Paragraph 22(4)(b):

Omit "2.11,".

Schedule 16—Amendments of the Veterans' Entitlements Act 1986 relating to extended deeming

Part 1—Amendments commencing on Royal Assent

Section 3(2)

1. Paragraph 46AA(1)(a):

Omit the paragraph, substitute:

- (a) an accruing return investment that was made or acquired before 1 January 1988; or".

2. Sections 46B and 46J:

Repeal the sections.

3. Schedule 5:

Add at the end:

5 Provisions regarding the treatment of returns from the realisation of certain investments

(1) If:

- (a) before the commencement of this section, a person realised an investment; and
- (b) section 46B of this Act, as in force immediately before the commencement of this section, applied to the person as a result of the realisation of the investment; and
- (c) the period of 12 months commencing on the day on which the investment was realised had not expired when this section commenced;

section 46B of this Act, as in force immediately before the commencement of this section, is taken to continue to apply to the person in relation to the realisation of the investment until:

- (d) the end of the period referred to in paragraph (c); or
- (e) the end of 30 June 1996;

whichever is the earlier.

(2) If:

-
- (a) before the commencement of this section, a person realised an investment; and
 - (b) section 46J of this Act, as in force immediately before the commencement of this section, applied to the person as a result of the realisation of the investment; and
 - (c) the period of 12 months commencing on the day on which the investment was realised had not expired when this section commenced;

section 46J of this Act, as in force immediately before the commencement of this section, is taken to continue to apply to the person in relation to the realisation of the investment until:

- (d) the end of the period referred to in paragraph (c); or
- (e) the end of 30 June 1996;

whichever is the earlier.

Part 2—Amendments commencing on 1 July 1996

4. Section 5 (Index):

Omit the following entries:

accruing return investment	5J(1)
annual rate of return	5J(2)
eligible investment	5J(1)
investment product	5J(1)
market-linked investment	5J(1)

5. Section 5 (Index):

Insert the following entries in the Index in their appropriate alphabetical positions, determined on a letter-by-letter basis:

deprived asset	5J(2B)
financial asset	5J(1)
financial investment	5J(1)
loan	5J(2), (2A)
money that attracts interest	46G
unlisted public security	5J(1)

6. Subsection 5H(1) (definition of *available money*):

Omit paragraph (c), substitute:

(c) is not the subject of a loan made by the person;

7. Subsection 5H(1) (definition of *income*):

Omit Notes 1, 2 and 3, substitute:

Note 1: See also sections 46B and 46C (business income), sections 46D to 46L (deemed income from financial assets) and sections 46Q to 46U (income from retirement funds and annuities).

8. Subsection 5H(1) (definition of *income*) (Note 4):

Omit "Note 4", substitute "Note 2".

9. Subsection 5H(1) (definition of *income*) (Note 5):

Omit "Note 5", substitute "Note 3".

10. Subsection 5H(1) (definition of *ordinary income*):

Omit "Note", substitute "Note 1".

11. Subsection 5H(1) (definition of *ordinary income*):

Add at the end:

Note 2: The receipt of a series of periodic compensation payments may result in reduction of the person's rate of service pension or income support supplement under Part IIIC. If this happens, the payments are not treated as ordinary income (see section 59X).

Note 3: For provisions affecting the amount of a person's ordinary income see sections 46 and 46A (ordinary income concept), sections 46B and 46C (business income), sections 46D to 46L (deemed income from financial assets) and sections 46Q to 46U (income from retirement funds and annuities).

12. Subsection 5J(1) (definition of *friendly society*):

Omit all words after paragraph (a), substitute:

- (b) a society that had, before 13 December 1987, been approved for the purpose of the definition of friendly society in subsection 115(1) of the *Social Security Act 1947*.

13. Subsection 5J(1) (definition of *listed security*):

Omit "in Australia".

14. Subsection 5J(1) (definition of *return*):

Omit "investment (including an investment in the nature of superannuation)", substitute "investment in the nature of superannuation".

15. Subsection 5J(1) (definitions of *accruing return investment, annual rate of return, eligible investment, investment product, market-linked investment*):

Omit the definitions.

16. Subsection 5J(1):

Insert:

financial asset means:

- (a) a financial investment; or
(b) a deprived asset.

Schedule 16 Amendments of the Veterans' Entitlements Act 1986 relating to extended
deeming

Part 2 Amendments commencing on 1 July 1996

Note: For *deprived asset* see subsection 5J(2B).

financial investment means:

- (a) available money; or
- (b) deposit money; or
- (c) a managed investment; or
- (d) a listed security; or
- (e) a loan that has not been repaid in full; or
- (f) an unlisted public security; or
- (g) gold, silver or platinum bullion.

Note: For *loan* see subsections (2) and (2A).

unlisted public security means:

- (a) a share in a public company; or
- (b) another security;
that is not listed on a stock exchange.

17. Paragraph 5J(1C)(e):

Omit the paragraph, substitute:

- (e) a loan;
- (f) an immediate annuity;
- (g) a superannuation pension.

18. Subsection 5J(1C) (Note 3):

Omit the Note, substitute:

- Note 3: For provisions relating to when a loan is taken to be made see subsection (2).
- Note 4: An immediate annuity is dealt with under section 46T.
- Note 5: A superannuation pension is dealt with under section 46U.

19. Subsection 5J(2):

Omit the subsection, substitute:

- (2) The following rules apply for the purposes of this Act:
 - (a) the acquisition by a person of debentures, bonds or other securities is treated as the making of a *loan* by the person;
 - (b) a person is not treated as having made a *loan* merely because:
 - (i) the person has an account with a financial institution; or

(ii) the person has paid an entry contribution.

Note: For *entry contribution* see section 52M.

(2A) Subsection (2) does not limit the meaning of the word *loan* in this Act.

(2B) For the purposes of this Act, an asset is a *deprived asset* if:

- (a) a person has disposed of the asset; and
- (b) the value of the asset is included in the value of the person's assets by section 52FA, 52G, 52GA or 52H.

Note: For circumstances in which a person is taken to dispose of assets see section 52E.

20. Paragraph 5J(7)(b):

Omit the paragraph.

21. Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—point 41-D1—Note 2):

Omit "• investment income (sections 46 to 46U);", substitute:

- the general concept of ordinary income (sections 46 and 46A);
- business income (sections 46B and 46C);
- deemed income from financial assets (sections 46D to 46L);
- income from retirement funds and annuities (sections 46Q to 46U);

22. Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-E1—Note 2):

Omit "• investment income (sections 46 to 46U);", substitute:

- the general concept of ordinary income (sections 46 and 46A);
- business income (sections 46B and 46C);
- deemed income from financial assets (sections 46D to 46L);
- income from retirement funds and annuities (sections 46Q to 46U);

23. Section 45X (Income Support Supplement Pension Rate Calculator Where There Are No Dependent Children—point 45X-E1—Note 2):

Omit • investment income (sections 46 to 46U);", substitute:

- the general concept of ordinary income (sections 46 and 46A);
- business income (sections 46B and 46C);
- deemed income from financial assets (sections 46D to 46L);
- income from retirement funds and annuities (sections 46Q to 46U);

24. Section 45Y (Income Support Supplement Rate Calculator Where There Are Dependent Children—point 45Y-D1—Note 2):

Omit • investment income (sections 46 to 46U);", substitute:

- the general concept of ordinary income (sections 46 and 46A);
- business income (sections 46B and 46C);
- deemed income from financial assets (sections 46D to 46L);
- income from retirement funds and annuities (sections 46Q to 46U);

25. Division 1 of Part IIIB:

Repeal the Division, substitute:

Division 1—Ordinary income concept

46 General meaning of ordinary income

A reference in this Act to a person's ordinary income for a period is a reference to the person's gross ordinary income from all sources for the period calculated without any reduction, other than a reduction under Division 2.

Note 1: For *ordinary income* see subsection 5H(1).

Note 2: For other provisions affecting the amount of a person's ordinary income see sections 46B and 46C (business income), sections 46D to 46L (deemed income from financial assets) and sections 46Q to 46U (income from retirement funds and annuities).

46A Certain amounts taken to be received over 12 months

If a person receives, whether before or after the commencement of this section, an amount that:

- (a) is not income within the meaning of Division 3 or 4 of this Part; and
- (b) is not:
 - (i) income in the form of periodic payments; or
 - (ii) ordinary income from remunerative work undertaken by the person;

the person is, for the purposes of this Act, taken to receive one fifty-second of that amount as ordinary income of the person during each week in the 12 months commencing on the day on which the person becomes entitled to receive that amount.

Division 2—Business income

46B Ordinary income from a business—treatment of trading stock

(1) If:

- (a) a person carries on a business; and
- (b) the value of all the trading stock on hand at the end of a tax year is greater than the value of all the trading stock on hand at the beginning of that tax year;

the person's ordinary income for that tax year in the form of profits from the business is to include the amount of the difference in values.

(2) If:

- (a) a person carries on a business; and
- (b) the value of all the trading stock on hand at the end of a tax year is less than the value of all the trading stock on hand at the beginning of that tax year;

the person's ordinary income for that tax year in the form of profits from the business is to be reduced by the amount of the difference in values.

46C Permissible reductions of business income

- (1) Subject to subsection (2), if a person carries on a business, the person's ordinary income from the business is to be reduced by:
 - (a) losses and outgoings that relate to the business and are allowable deductions for the purposes of section 51 of the Income Tax Assessment Act; and
 - (b) depreciation that relates to the business and is an allowable deduction for the purposes of subsection 54(1) of that Act; and
 - (c) amounts that relate to the business and are allowable deductions under subsection 82AAC(1) of that Act.
- (2) If, under Division 3, a person is taken to receive ordinary income on a financial investment, that ordinary income is not to be reduced by the amount of any expenses incurred by the person because of that investment.

Note: For *financial investment* see subsection 5J(1).

26. Heading to Division 2 of Part IIIB:

Omit the heading, substitute:

Division 3—Deemed income from financial assets

27. Subdivisions A, AA, B and C of Division 2 of Part IIIB:

Repeal the Subdivisions, substitute:

46D Deemed income from financial assets—persons other than members of couples

- (1) This section applies to a person who is not a member of a couple.
- (2) A person who has financial assets is taken, for the purposes of this Act, to receive ordinary income on those assets in accordance with this section.
- (3) This is how to work out the ordinary income the person is taken to receive:

Method statement

Step 1. If any part of the person's deposit concession money attracts interest, multiply the amount of each such part by the rate of interest and add together the amounts so worked out.

Note: For *deposit concession money* see section 46F.

Step 2. Subtract the total amount of the person's deposit concession money from the person's deeming threshold or, if the total value of the person's financial assets is less than that threshold, from that total value.

Note: For *deeming threshold* see subsection 46H(1).

Step 3. Multiply the remainder (if any) worked out at Step 2 by the below threshold rate.

Note: For *below threshold rate* see subsection 46J(1).

Step 4. If the total value of the person's financial assets exceeds the person's deeming threshold, subtract the person's deeming threshold from the total value of those assets.

Step 5. Multiply the remainder (if any) worked out at Step 4 by the above threshold rate.

Note: For *above threshold rate* see subsection 46J(2).

Step 6. The total of the amounts worked out at Steps 1, 3 and 5 represents the ordinary income the person is taken to receive per year on the financial assets.

EXAMPLE OF HOW DEEMED INCOME OF A PERSON WHO IS NOT A MEMBER OF A COUPLE IS WORKED OUT
(using rates in force on 1 July 1996)

Facts:

Elaine, a single pensioner, has \$36,500 worth of financial assets. \$1,500 is in a cheque account not earning any interest. \$25,000 is earning 6% in interest and \$10,000 is earning 8% in interest. The below threshold rate is 5%. The above threshold rate is 7%.

Schedule 16 Amendments of the Veterans' Entitlements Act 1986 relating to extended deeming

Part 2 Amendments commencing on 1 July 1996

Application:

- Step 1 Elaine's deposit concession money amounts to \$1,500 (see section 46F) which earns no interest. Under this Step, \$1,500 is multiplied by 0%, giving a nil amount.
- Step 2 Elaine's deeming threshold is \$30,000 (see subsection 46H(1)). Her deposit concession money totals \$1,500. The difference is \$28,500.
- Step 3 The amount of \$28,500 is multiplied by the below threshold rate (5%):
$$\$28,500 \times \frac{5}{100} = \$1,425.$$
- Step 4 Elaine's deeming threshold of \$30,000 is subtracted from the total value of her financial assets (\$36,500). The remainder is \$6,500.
- Step 5 The amount of \$6,500 is multiplied by the above threshold rate (7%):
$$\$6,500 \times \frac{7}{100} = \$455.$$
- Step 6 The amounts worked out at Steps 1, 3 and 5 are added together:

	\$
Step 1	0
Step 3	1,425
Step 5	455
	<hr/> 1,880

The ordinary income Elaine is deemed to receive per year from her financial assets is \$1,880.

- (4) The person is taken, for the purposes of this Act, to receive one fifty-second of the amount calculated under subsection (3) as ordinary income of the person during each week.

46E Deemed income from financial assets—members of a couple

- (1) This section applies to the members of a couple.
- (2) If one or both of the members of a couple have financial assets, the members of the couple are taken, for the purposes of this Act, to receive together ordinary income on those assets in accordance with this section.
- (3) This is how to work out the ordinary income the couple is taken to receive:

Method statement

Step 1. If any part of the couple's deposit concession money attracts interest, multiply the amount of each such part by the rate of interest and add together the amounts so worked out.

Note: For **deposit concession money** see section 46F.

Step 2. Subtract the total amount of the couple's deposit concession money from the couple's deeming threshold or, if the total value of the couple's financial assets is less than that threshold, from that total value.

Note: For **deeming threshold** see subsection 46H(2).

Step 3. Multiply the remainder (if any) worked out at Step 2 by the below threshold rate.

Note: For **below threshold rate** see subsection 46J(1).

Step 4. If the total value of the couple's financial assets exceeds the couple's deeming threshold, subtract the couple's deeming threshold from the total value of those assets.

Step 5. Multiply the remainder (if any) worked out at Step 4 by the above threshold rate.

Note: For **above threshold rate** see subsection 46J(2).

Step 6. The total of the amounts worked out at Steps 1, 3 and 5 represents the ordinary income the members of the couple are taken to receive per year on the financial assets.

EXAMPLE OF HOW DEEMED INCOME OF A COUPLE IS WORKED OUT
(using rates in force on 1 July 1996)

Facts:

Maree and Peter, a couple, have \$68,500 worth of financial assets. They have \$3,500 in a savings account earning interest at 2.8% and deposits of \$25,000 and \$40,000 earning 5% p.a. and 8% p.a. in interest respectively. The below threshold rate is 5%. The above threshold rate is 7%.

Schedule 16 Amendments of the Veterans' Entitlements Act 1986 relating to extended deeming

Part 2 Amendments commencing on 1 July 1996

Application:

- Step 1. The couple's deposit concession money amounts to \$3,500 (see section 46F) earning interest at 2.8%. The interest amounts to \$98.
- Step 2. The couple's deeming threshold is \$50,000 (see subsection 46H(2)). Their deposit concession money amounts to \$3,500. The remainder is \$46,500.
- Step 3. The amount of \$46,500 is multiplied by the below threshold rate (5%):
- $$\$46,500 \times \frac{5}{100} = \$2,325$$
- Step 4. The couple's deeming threshold of \$50,000 is subtracted from the total value of their financial assets (\$68,500). The remainder is \$18,500.
- Step 5. The amount of \$18,500 is multiplied by the above threshold rate (7%):
- $$\$18,500 \times \frac{7}{100} = \$1,295$$
- Step 6. The amounts worked out at Steps 1, 3 and 5 are added together:

	\$
Step 1	98
Step 3	2,325
<u>Step 5</u>	<u>1,295</u>
	3,718

The ordinary income Maree and Peter are deemed to receive per year from their financial assets is \$3,718. (Subsection (4) shows how this amount is divided between Maree and Peter.)

- (4) Each member of the couple is taken, for the purposes of this Act, to receive, as ordinary income during each week, an amount calculated according to the formula:

$$\frac{\text{Amount calculated under subsection (3)}}{52} \times \frac{1}{2}$$

46F Deposit concession money

- (1) This is how to work out which money constitutes, at a particular time, the deposit concession money of a person who is not a member of a couple:

Method statement

Step 1. Start with the amount of \$2,000.

Step 2. Set off against this amount any available money of the person.

Step 3. Set off against the remainder any deposit money of the person that does not attract interest.

Step 4. Set off against the remainder any deposit money of the person that attracts interest at a rate lower than the below threshold rate: this money is to be set off in ascending order of interest rate.

Note: For ***below threshold rate*** see subsection 46J(1).

Step 5. The total of the available money or deposit money that can be set off under Steps 2 to 4 is the deposit concession money of the person at that time.

Note: Because of subsection (4), the total worked out under this Step cannot exceed \$2,000.

- (2) This is how to work out which money constitutes, at a particular time, the deposit concession money of a couple:

Method statement

Step 1. Start with the amount of \$4,000.

Step 2. Set off against this amount any available money of the couple.

Step 3. Set off against the remainder any deposit money of the couple that does not attract interest.

Step 4. Set off against the remainder any deposit money of the couple that attracts interest at a rate lower than the below threshold rate: this money is to be set off in ascending order of interest rate.

Note: For ***below threshold rate*** see subsection 46J(1).

<p><i>Step 5.</i> The total of the available money or deposit money that can be set off under Steps 2 to 4 is the deposit concession money of the couple at that time.</p>
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<p>Note: Because of subsection (4), the total worked out under this Step cannot exceed \$4,000.</p>

- (3) For the purposes of this section:
- (a) the available money of a couple is the total of the available money of the members of the couple; and
 - (b) the deposit money of a couple that does not attract interest is the total of the deposit money of the members of the couple that does not attract interest; and
 - (c) the deposit money of a couple that attracts interest at a particular rate is the total of the deposit money of the members of the couple that attracts interest at that rate.
- (4) For the purposes of subsections (1) and (2), if available money or deposit money is to be set off against an amount, only so much of the money as does not exceed the amount can be set off against the amount.

- (5) In this section:

available money does not include money specified in a determination under subsection 46L(1).

Note: For *available money* see subsection 5H(1).

deposit money does not include money specified in a determination under subsection 46L(1).

Note: For *deposit money* see subsection 5H(1).

46G Meaning of money that attracts interest

A reference in any of sections 46D to 46F to money that attracts interest is a reference to money on which interest accrues, whenever the interest is paid.

46H Deeming threshold

- (1) The deeming threshold for a person who is not a member of a couple is \$30,000.

-
- (2) The deeming threshold for a couple is \$50,000.

Note: The amounts fixed by subsections (1) and (2) are indexed every 1 July. See sections 59A to 59C.

46J Below threshold rate, above threshold rate

- (1) For the purposes of this Division, the below threshold rate is the rate that is the below threshold rate for the purposes of Division 1B of Part 3.10 of the Social Security Act.
- (2) For the purposes of this Division, the above threshold rate is the rate that is the above threshold rate for the purposes of Division 1B of Part 3.10 of the Social Security Act.

46K Actual return on financial assets not treated as ordinary income

- (1) Subject to subsection (2), any return on a financial asset that a person actually receives is taken, for the purposes of this Act, not to be ordinary income of the person.
- (2) If, because of a determination under subsection 46L(1), a financial investment is not to be regarded as a financial asset for the purposes of section 46D or 46E, subsection (1) does not apply to any return on the investment that the person actually receives.

46L Certain money and financial investments not taken into account

- (1) The Minister may determine that:
- (a) specified financial investments; or
 - (b) a specified class of financial investments;
- are not to be regarded as financial assets for the purposes of section 46D or 46E.
- (2) Money that constitutes a financial investment to which a determination under subsection (1) applies is not to be taken into account under section 46F.
- (3) A determination under subsection (1) must be in writing.
- (4) A determination under subsection (1) takes effect on the day on which it is made or on such other day (whether earlier or later) as is specified in the determination.
-

46M Valuation and revaluation of certain financial investments

The total value of a person's listed securities and managed investments (being listed securities and managed investments that fluctuate depending on the market) (the **relevant investments**) is determined in accordance with the following:

- (a) an initial total valuation is to be given to the relevant investments on 1 July 1996, or when a new claim is determined, by the method set out in departmental guidelines;
- (b) that total valuation continues in effect until the relevant investments are revalued by the method set out in departmental guidelines, and that revaluation must occur:
 - (i) on 20 March in each calendar year after 1996; and
 - (ii) on 20 September in each calendar year after 1996; and
 - (iii) when the person requests a revaluation of one or more of the person's listed securities and managed investments; and
 - (iv) following an event that affects the relevant investments and is the subject of a recipient notification notice.

28. Subdivision D of Division 2 of Part IIIB:

Omit the Subdivision, substitute:

Division 4—Income from retirement funds and annuities

Subdivision A—Investments taken into account on realisation

46Q Treatment of superannuation fund investments before pension age

If:

- (a) a person has an investment in:
 - (i) a superannuation fund; or
 - (ii) an approved deposit fund; or
 - (iii) a deferred annuity; and
 - (b) the person has not reached pension age; and
 - (c) the person has not commenced to receive a pension or annuity from the investment;
-

the investment is treated as follows:

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

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

- (e) if the investment is realised, the return is spread across the following 12 months (see section 46R).

46R Early withdrawal from superannuation fund

If:

- (a) a person realises an investment in a superannuation fund, approved deposit fund or deferred annuity before the person reaches pension age; and
- (b) the amount is not rolled over into:
 - (i) a superannuation fund; or
 - (ii) an approved deposit fund; or
 - (iii) a deferred annuity; or
 - (iv) an immediate annuity;

the person is taken to receive one fifty-second of the assessable growth component of that amount as ordinary income of the person during each week in the period of 12 months commencing on the day on which the person realises the investment.

Note: For *assessable growth component* see subsection 5J(1).

46S Adjustment of ordinary income for investment losses

(1) If:

- (a) a person realises an investment to which section 46R applies; and
- (b) the investment is realised at a loss;

the person's ordinary income is taken to be reduced during each week in the 12 months commencing on the day on which the person realises the investment by the amount worked out using the formula:

$$\frac{\text{assessable loss}}{52}$$

where:

Schedule 16 Amendments of the Veterans' Entitlements Act 1986 relating to extended deeming

Part 2 Amendments commencing on 1 July 1996

assessable loss is so much (if any) of the amount of the loss as is attributable to the person's assessable period.

Note: For *assessable period* see subsection 5J(1).

- (2) The reduction under subsection (1) in a person's rate as at a particular day is not to exceed the increase to be made under section 46R in working out the person's rate as at that day.

29. Heading to Subdivision E of Division 2 of Part IIIB:

Omit "*Subdivision E*", substitute "*Subdivision B*".

30. Divisions 3, 4 and 5 of Part IIIB:

Repeal the Divisions.

31. Section 59A (Indexed and Adjusted Amounts Table):

Add at the end the following heading and items:

Deeming thresholds

20.	Deeming threshold for a person who is not a member of a couple	Deeming threshold individual	Subsection 46H(1)
21.	Deeming threshold for a couple	Deeming threshold couple	Subsection 46H(2)

32. Subsection 59B(1) (CPI Indexation Table):

Add at the end the following heading and items:

Deeming thresholds

11.	Deeming threshold individual	1 July	March	highest March quarter before reference quarter (but not earlier than March 1994 quarter)	\$200.00
12.	Deeming threshold couple	1 July	March	highest March quarter before reference quarter (but not earlier than March 1994 quarter)	\$200.00

33. Section 59C:

Add at the end:

-
- (3) The first indexation of amounts under items 11 and 12 of the CPI Indexation Table in subsection 59B(1) is to take place on 1 July 1997.

34. Section 118ZAA (Seniors Health Card Ordinary Income Test Calculator—point 118ZAA-1—Note 2):

Omit the Note, substitute:

Note 2: The application of the ordinary income test is affected by the following provisions:

- sections 46 and 46A (the general concept of ordinary income);
- sections 46B and 46C (business income);
- sections 46D to 46L (deemed income from financial assets);
- sections 46Q to 46U (income from retirement funds and annuities);
- sections 48 to 48E (disposal of ordinary income).

35. Schedule 5:

Add at the end:

7 Saving: Determinations under repealed sections 46Z and 46ZF

A determination in force under section 46Z or 46ZF immediately before the commencement of this section continues to have effect after that commencement as if:

- (a) section 46L of this Act, as in force immediately after the commencement of this section, had been in force when the determination was made; and
- (b) the determination had been made under that section as so in force; and
- (c) any reference in the determination to section 46W, 46ZD or 46ZE were a reference to sections 46D to 46F of this Act.

Schedule 17—Amendments of the Veterans' Entitlements Act 1986 relating to the pension loans scheme

Section 3(2)

1. Section 5 (Index of definitions):

Omit:

dispose	5L(1)
PLS assets	5L(1)

2. Section 5 (Index of definitions):

Insert in their respective appropriate alphabetical positions (determined on a letter-by-letter basis):

adjusted income reduced rate	52ZAAA(1)
assets reduced rate	52ZAAA(1)
dispose of assets	52E
dispose of real assets	52ZAAA(1)
guaranteed amount	52ZAAA(1)
income reduced rate	52ZAAA(1)
maximum payment rate	52ZAAA(1)
participating in the pension loans scheme	52ZAAA(3)
real assets	52ZAAA(1)

3. Subsection 5L(1) (definition of *PLS assets*):

Omit the definition and the Note immediately following the definition.

4. Subsection 5L(1) (definition of *dispose*):

Omit the definition, substitute:

dispose of assets has the meaning given by section 52E.

5. Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—Module A—point 41-A1):

Omit from Note 1 all words following "provisions", substitute "dealing with financial hardship (sections 52Y and 52Z).".

6. Section 41 (Service Pension Rate Calculator Where There Are No Dependent Children—Module A—point 41-A1):

After Note 1, insert:

Note 1A: If a person's rate is, or is to be, an income reduced rate or an assets reduced rate, and at least one of those reduced rates is not a nil rate, the person may be able to take advantage of provisions dealing with the pension loans scheme (sections 52ZAAA to 52ZM).

7. Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—Module A—point 42-A1):

Omit from Note 1 all words following "provisions", substitute "dealing with financial hardship (sections 52Y and 52Z).".

8. Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—Module A—point 42-A1):

After Note 1, insert:

Note 1A: If a person's rate is, or is to be, an income reduced rate or an assets reduced rate, and at least one of those reduced rates is not a nil rate, the person may be able to take advantage of provisions dealing with the pension loans scheme (sections 52ZAAA to 52ZM).".

9. Section 45X (Income Support Supplement Rate Calculator Where There Are No Dependent Children—Module B—point 45X-B1):

Omit from Note 2 all words following "provisions", substitute "dealing with financial hardship (sections 52Y and 52Z).".

10. Section 45X (Income Support Supplement Rate Calculator Where There Are No Dependent Children—Module B—point 45X-B1):

After Note 2, insert:

Note 2A: If a person's rate is, or is to be, an adjusted income reduced rate or an assets reduced rate, and at least one of those reduced rates is not a nil rate, the person may be able to take advantage of provisions dealing with the pension loans scheme (sections 52ZAAA to 52ZM).".

11. Section 45Y (Income Support Supplement Rate Calculator Where There Are Dependent Children—Module B—point 45Y-B1):

Omit from Note 1 all words following "provisions", substitute "dealing with financial hardship (sections 52Y and 52Z)".

12. Section 45Y (Income Support Supplement Rate Calculator Where There Are Dependent Children—Module B—point 45Y-B1):

After Note 1, insert:

Note 1A: If a person's rate is, or is to be, an adjusted income reduced rate or an assets reduced rate, and at least one of those reduced rates is not a nil rate, the person may be able to take advantage of provisions dealing with the pension loans scheme (sections 52ZAAA to 52ZM).

13 Subsection 52(1)

After "52H," insert "52ZA, 52ZCA,".

14. Before section 52ZA:

Insert in Subdivision E of Division 11 of Part IIIB:

52ZAAA Pension loans scheme definitions

(1) In this Subdivision, unless the contrary intention appears:

adjusted income reduced rate means the rate worked out at the relevant Step of the Method statement in Module B of the relevant Income Support Supplement Rate Calculator.

assets reduced rate means the rate worked out at the relevant Step of the Method statement in Module A or B (as the case may be) of the relevant Service Pension or Income Support Supplement Rate Calculator.

dispose of real assets has its ordinary meaning.

guaranteed amount means the amount (if any) specified under paragraph 52ZD(1A)(b) or subsection 52ZE(1) (as the case may be).

income reduced rate means the rate worked out at the relevant Step of the Method statement in Module A of the relevant Service Pension Rate Calculator.

maximum payment rate means the rate worked out at the relevant Step of the Method statement in Module A or B (as the case may

be) of the relevant Service Pension or Income Support Supplement Rate Calculator.

real assets, in relation to a person or couple, means the real property (including the principal home) of the person or couple in Australia, but does not include any real property specified under paragraph 52ZD(1A)(a).

- (2) For the purposes of this Subdivision, a reference to a charge under section 52ZF includes a reference to a charge continued in force by subsection 52ZF(3) or paragraph 52ZG(2A)(b).
- (3) For the purposes of this Subdivision, a person is **participating in the pension loans scheme** if:
 - (a) the person has made a request to participate in the scheme under section 52ZD; and
 - (b) because of the request, the rate of the pension payable to the person is:
 - (i) the maximum payment rate; or
 - (ii) some other rate nominated by the person;whichever is the lower; and
 - (c) the person owes a debt to the Commonwealth under section 52ZC.

15. Paragraph 52ZA(1)(a):

Omit "to receive", substitute "for".

16. Paragraph 52ZA(1)(c):

Omit the paragraph, substitute:

- (c) the pension or income support supplement rate is, or is to be:
 - (i) an income reduced rate or an adjusted income reduced rate (as the case may be); or
 - (ii) an assets reduced rate;and at least one of those reduced rates is not a nil rate; and

17. Paragraphs 52ZA(1)(e) and (f):

Omit the paragraphs, substitute:

- (e) the value of the person's real assets (after deduction of any guaranteed amount) is sufficient to secure the payment of any

debt that may become payable to the Commonwealth under this Subdivision.

18. Subsection 52ZA(1) (Notes 1 to 3 (inclusive)):

Omit the Notes, substitute:

- Note 1: For *income reduced rate* or *adjusted income reduced rate* and *assets reduced rate* see subsection 52ZAAA(1).
- Note 2: For real assets see subsection 52ZAAA(1).
- Note 3: For guaranteed amount see subsection 52ZAAA(1).

19. Paragraph 52ZA(2)(a):

Omit "to receive", substitute "for".

20. Paragraph 52ZA(2)(c):

Omit the paragraph, substitute:

- (c) the pension or income support supplement rate is, or is to be:
- (i) an income reduced rate or an adjusted income reduced rate (as the case may be); or
 - (ii) an assets reduced rate;
- and at least one of those reduced rates is not a nil rate; and

21. Paragraphs 52ZA(2)(e) and (f):

Omit the paragraphs, substitute:

- (e) the value of the couple's real assets (after deduction of any guaranteed amount) is sufficient to secure the payment of any debt that may become payable to the Commonwealth under this Subdivision.

22. Subsection 52ZA(2) (Notes):

Omit the Notes, substitute:

- Note 1: For *income reduced rate* or *adjusted income reduced rate* and *assets reduced rate* see subsection 52ZAAA(1).
- Note 2: For real assets see subsection 52ZAAA(1).
- Note 3: For guaranteed amount see subsection 52ZAAA(1).
- Note 4: For pension age see section 5QA.

23. Paragraph 52ZB(1)(c):

Omit the paragraph.

24. Paragraph 52ZB(1)(d):

Omit "Division", substitute "Subdivision".

25. Paragraphs 52ZB(1)(e) and (f):

Omit the paragraphs, substitute:

- (e) the rate of the pension payable to the person by operation of the scheme is to be:
 - (i) the maximum payment rate; or
 - (ii) some other rate nominated by the person;whichever is the lower.

Note: For *maximum payment rate* see subsection 52ZAAA(1).

26. Subsection 52ZB(1) (Note):

Omit the Note.

27. Subsections 52ZB(2) and (3):

Omit the subsections, substitute:

- (2) The pension at the rate payable by operation of the scheme is to be paid on and after the first pension payday after the request is lodged.
- (3) For the purposes of section 53A (fringe benefits), if but for the operation of the scheme the person would not have received a service pension or income support supplement, the person is to be taken to be a person who is not receiving a service pension or income support supplement.
- (4) For the purposes of Subdivision C of Division 12 (treatment benefits), if but for the operation of the scheme the person would not have received a service pension or income support supplement, the person is to be taken to be a person who is not receiving an age or invalidity service pension.

28. Subsection 52ZB(3) (Note):

Omit the Note.

29. Subsection 52ZC(1):

Omit the subsection, substitute:

-
- (1) If the rate of the pension payable by operation of the pension loans scheme is more than the rate that would have been received by the person but for the operation of the scheme, the person owes a debt to the Commonwealth.

30. Subsection 52ZC(2):

Omit the subsection and the Notes.

31. Subsection 52ZC(3) (Method statement—Step 1):

Omit "income reduced amount", substitute "*primary loan amount*".

32. Subsection 52ZC(3) (Method statement—Step 2):

Omit "income reduced amount", substitute "primary loan amount".

33. Subsection 52ZC(3) (Method statement—Step 2):

Omit "if the value of assets had not been disregarded under section 52ZB", substitute "but for the operation of the scheme".

34. Subsection 52ZC(3) (Method statement—Step 3):

Omit "amount of interest payable is worked out under subsection (4)", substitute "interest payable is compound interest at the rate fixed under subsection (4) and compounding fortnightly".

35. Subsection 52ZC(3) (Method statement—Step 4):

Omit "subject to subsection (2),".

36. Subsection 52ZC(4):

Omit the subsection, substitute:

- (4) The rate at which compound interest is payable under subsection (3) is the rate fixed from time to time by the Minister for Social Security by determination in writing.
- (5) A determination made under subsection (4) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

37. After section 52ZC:

Insert:

52ZCA Effect of participation in pension loans scheme—maximum loan available

- (1) The maximum loan available to a person under the pension loans scheme is the amount worked out using the formula:

$$\frac{\text{age component amount}}{\text{age component amount}} \times \frac{\text{value of real assets}}{10,000}$$

where:

age component amount means the amount specified in column 2 of the Table in subsection (3), in relation to:

- (a) if the person is not a member of a couple—the age the person turned on his or her last birthday; or
- (b) if the person is a member of a couple—the age the younger member of the couple turned on his or her last birthday.

value of real assets means the value of the real assets (after deduction of any guaranteed amount).

Note 1: For **real assets** see subsection 52ZAAA(1).

Note 2: For **guaranteed amount** see subsection 52ZAAA(1).

- (2) For the purposes of subsection (1), the following provisions have effect:
- (a) if, but for this paragraph, the value of real assets would be an amount that exceeds \$10,000 but is not a multiple of \$10,000, the value is to be taken to be the next lower amount that is a multiple of \$10,000;
 - (b) if, but for this paragraph, the value of real assets would be less than \$10,000, the value is to be taken to be nil.
- (3) The following is the Table referred to in subsection (1):

AGE COMPONENT AMOUNT TABLE			
column 1 age	column 2 age component amount	column 1 age	column 2 age component amount
55, and each earlier year	\$1,710.00	75	\$3,750.00
56	\$1,780.00	76	\$3,900.00
		77	\$4,050.00

AGE COMPONENT AMOUNT TABLE			
column 1	column 2	column 1	column 2
age	age component amount	age	age component amount
57	\$1,850.00	78	\$4,210.00□
58	\$1,920.00	79	\$4,380.00□
59	\$2,000.00	80	\$4,560.00□
60	\$2,080.00	81	\$4,740.00□
61	\$2,160.00	82	\$4,930.00□
62	\$2,250.00	83	\$5,130.00□
63	\$2,340.00	84	\$5,330.00□
64	\$2,430.00	85	\$5,550.00□
65	\$2,530.00	86	\$5,770.00□
66	\$2,630.00	87	\$6,000.00□
67	\$2,740.00	88	\$6,240.00□
68	\$2,850.00	89	\$6,490.00□
69	\$2,960.00	90,	
70	\$3,080.00	and each	\$6,750.00
		later year	
71	\$3,200.00		
72	\$3,330.00		
73	\$3,460.00		
74	\$3,600.00		

38. After subsection 52ZD(1):

Insert:

(1A) A request under subsection (1) must:

- (a) specify any real property that is not to be included in working out the value of real assets for the purposes of sections 52ZA and 52ZCA, or that is not to be subject to a charge under section 52ZF; and
- (b) specify the minimum amount (if any) that the person is to be entitled to retain out of the proceeds of the enforcement of a charge under section 52ZF; and
- (c) specify the rate of the pension (if any) nominated by the person for the purposes of subparagraph 52ZB(1)(e)(ii).

39. Subsection 52ZD(2):

Omit "A request under subsection (1)", substitute "The request".

40. Subsection 52ZD(2):

Omit "and", substitute "or".

41. Section 52ZE:

Repeal the section and the Notes, substitute:

**52ZE Need for a request to later nominate or change guaranteed
amount or rate of pension**

- (1) A person who is participating in the pension loans scheme and who wants to:
 - (a) nominate a minimum amount that the person is to be entitled to retain out of the proceeds of the enforcement of the charge under section 52ZF; or
 - (b) nominate a rate of pension for the purposes of subparagraph 52ZB(1)(e)(ii); or
 - (c) change the guaranteed amount earlier specified; or
 - (d) change the rate of the pension earlier specified;must make a request that specifies the nomination or change (as the case may be).
- (2) A request under subsection (1) must be signed:
 - (a) if the person is not a member of a couple—by the person; or
 - (b) if the person is a member of a couple—by both members of the couple.
- (3) The request must:
 - (a) be in writing; and
 - (b) be lodged at an office of the Department in Australia.

42. Section 52ZF:

Omit "assets" (wherever occurring), substitute "real assets".

43. Subsection 52ZF(1):

Add at the end:

Note: If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount (see subsection 52ZM(2)).

44. Subsection 52ZF(2):

Add at the end:

Note: If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount (see subsection 52ZM(2)).

45. Section 52ZF:

Add at the end:

(3) If:

- (a) the pension loans scheme ceases to operate in relation to a person because of the effect of section 52ZJ or 52ZK; and
- (b) at the time the scheme ceases to operate, the person owes a debt to the Commonwealth because of the person's participation in the scheme;

any charge in favour of the Commonwealth under subsection (1) or (2) of this section continues in relation to the real assets until the debt is repaid or recovered.

Note 1: Section 52ZJ provides that a person ceases to participate in the scheme if the debt owed by the person exceeds the maximum loan available.

Note 2: Section 52ZK provides for a person to withdraw from the scheme.

Note 3: If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount (see subsection 52ZM(2)).

46. After subsection 52ZG(2):

Insert:

(2A) In relation to the period between the person's death and the time of recovery of the debt by the Commonwealth:

- (a) compound interest continues to accrue, and forms part of the debt, in accordance with Step 3 of the Method statement in subsection 52ZC(3); and
- (b) the charge in favour of the Commonwealth under section 52ZF continues in relation to the real assets until the debt is recovered.

Note: If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount (see subsection 52ZM(2)).

47. Subsection 52ZG(3):

Omit "sections", substitute "section".

48. Subsection 52ZG(3):

Omit "and 52ZK (automatic termination of participation in pension loans scheme)".

49. Section 52ZH:

Omit "assets" (wherever occurring), substitute "real assets".

50. Subsection 52ZH(1):

After "those proceeds" insert "but after deduction of any guaranteed amount".

51. Sections 52ZJ and 52ZK:

Repeal the sections and the Notes, substitute:

52ZJ Person ceases to participate in pension loans scheme if debt exceeds maximum loan available

If:

- (a) a person is participating in the pension loans scheme; and
 - (b) the debt owed by the person under section 52ZC exceeds the maximum loan available to the person under the scheme;
- the scheme ceases to operate in relation to the person on the first pension payday after the debt exceeds the maximum loan available.

Note 1: The maximum loan available is worked out by using the formula set out in subsection 52ZCA(1).

Note 2: For repayment or recovery of the debt owed by the person see section 52ZKA and section 52ZG.

52ZK Person withdraws from pension loans scheme

- (1) If a person who is participating in the pension loans scheme makes a request to withdraw from the scheme, the scheme ceases to

operate in relation to the person on the first pension payday after the request is lodged.

- (2) A request under subsection (1) must be signed:
 - (a) if the person is not a member of a couple—by the person; or
 - (b) if the person is a member of a couple—by both members of the couple.
- (3) The request must:
 - (a) be in writing; and
 - (b) be lodged at an office of the Department in Australia.

52ZKA Repayment or recovery of debt after pension loans scheme ceases to operate because debt exceeds maximum loan available or person withdraws

- (1) The debt owed by a person under section 52ZC, at the time the pension loans scheme ceases to operate in relation to the person by operation of section 52ZJ or 52ZK, may be repaid by the person at any time.

Note 1: Section 52ZJ provides that a person ceases to participate in the scheme if the debt owed by the person exceeds the maximum loan available.

Note 2: Section 52ZK provides for a person to withdraw from the scheme.

- (2) If the debt owed by the person is not repaid by the person at the time the scheme ceases to operate in relation to the person, compound interest continues to accrue, and forms part of the debt, in accordance with Step 3 of the Method statement in subsection 52ZC(3), until the debt is repaid or recovered.
- (3) If the debt is not repaid under subsection (1) of this section, subject to section 52ZG the Commonwealth is entitled to recover the debt.

Note: Section 52ZG provides that a debt cannot be recovered from a person until after the person's death.

52. Section 52ZL:

Omit "assets" (wherever occurring), substitute "real assets".

53. Subsection 52ZL(2):

Omit "a bill of sale or".

54. Section 52ZM:

Omit "assets" (wherever occurring), substitute "real assets".

55. Section 52ZM:

After "may" insert ", subject to subsection (2)".

56. Section 52ZM:

Add at the end:

- (2) If there is a guaranteed amount, the charge is enforceable only to the extent that the value of the real assets exceeds the guaranteed amount.

57. Schedule 5:

Add at the end:

6 Transitional and saving provisions applicable to the amendments relating to the pension loans scheme

- (1) If:
 - (a) a person has made a request to participate in the previous pension loans scheme; and
 - (b) Schedule 17 to the Amending Act commences before the first pension payday after the lodging of the request;for the purposes of this clause, the person is to be treated as a person who is participating in the previous pension loans scheme.
- (2) Subject to subclause (3), in relation to a person who is participating in the previous pension loans scheme, subsections 5L(1) and 52(1) and Subdivision E of Division 11 of Part IIIB of this Act, as in force immediately before the commencement of Schedule 17 to the Amending Act, continue to have effect as if the Amending Act had not been enacted.
- (3) If a person who is participating in the previous pension loans scheme:
 - (a) is eligible to participate in the current pension loans scheme; and
 - (b) makes a request to participate in the current scheme;

and the Commission is satisfied that the amount of any debt that would become payable by the person to the Commonwealth under the current scheme would be readily recoverable, the current scheme applies to the person on and after the first pension payday after the request is lodged.

- (4) The debt owed by a person who was participating in the previous pension loans scheme and who is participating in the current pension loans scheme by operation of subclause (3) is, for the purposes of working out the debt owed by the person under the current scheme, to be added to the basic amount of debt accrued under the current scheme.

- (5) In this clause:

Amending Act means the *Social Security and Veterans' Affairs Legislation Amendment Act 1995*.

current pension loans scheme means the pension loans scheme in operation under the provisions of this Act, as amended by the Amending Act.

participating in the pension loans scheme has the same meaning as in subsection 52ZAAA(3).

previous pension loans scheme means the pension loans scheme in operation under the provisions of this Act, as in force immediately before the commencement of Schedule 17 to the Amending Act.

NOTES ABOUT SECTION HEADINGS

1. On the commencement of Part 2 of Schedule 1 to this Act, the heading to section 9 of the *Social Security Act 1991* is omitted and the following heading is substituted:

Financial assets, retirement funds and annuities definitions

2. On the commencement of Part 2 of Schedule 16 to this Act, the heading to section 5J of the Veterans' Entitlements Act 1986 is omitted and the following heading is substituted:

Financial assets, retirement funds and annuities definitions