OUTLINE

This bill gives effect to measures announced in the 2008 Budget to provide extra assistance for certain older Australians, carers and members of the veteran community. The first two measures involve making one-off payments to certain older Australians and carers. The third measure provides for concession cards to remain current for up to 13 weeks while the cardholder travels overseas.

The 2008 payments of $500 to older Australians, which are generally to be paid in June 2008, are as follows:

- A 2008 one-off payment to people who have reached pension age on or before Budget night 2008 (13 May 2008) and who are receiving income support payments paid under the Social Security Act 1991.

- A 2008 one-off payment to members of the veteran community who have reached qualifying age on or before 13 May 2008 and who are receiving service pension or income support supplement under the Veterans’ Entitlements Act 1986.

- A 2008 one-off payment to people who are qualified for seniors concession allowance on 13 May 2008 under the Social Security Act 1991 or would so qualify because the person has lodged a claim for the seniors health card on or before 13 May 2008 and the person is eligible for the card on 13 May 2008.

- A 2008 one-off payment to members of the veteran community who are eligible for seniors concession allowance on 13 May 2008 under the Veterans’ Entitlements Act 1996 or would be so eligible because the person has lodged a claim for the seniors health card on or before 13 May 2008 and the person is eligible for the card on 13 May 2008.

- A 2008 one-off payment to people who are receiving widow allowance, mature age allowance, partner allowance, wife pension or widow B pension for a period that includes 13 May 2008 because of a claim made on or before 13 May 2008.
The 2008 one-off payments for carers, which are also generally to be paid in June 2008, are as follows:

- A 2008 one-off payment of $1,000 to recipients of carer payment on Budget night 2008 (13 May 2008).
- A 2008 one-off payment of $1,000 to people receiving wife pension in addition to carer allowance on 13 May 2008.
- A 2008 one-off payment of $1,000 to people receiving partner service pension in addition to carer allowance on 13 May 2008.
- A 2008 one-off payment of $1,000 to recipients of carer service pension on 13 May 2008.
- A 2008 one-off payment to recipients of carer allowance on 13 May 2008, generally payable as an amount of $600 for each person being cared for who attracts carer allowance.

The bill contains provisions to enable administrative schemes to be established in relation to the one-off payments. In broad terms, the purpose of the administrative scheme will be to provide payments in circumstances where the statutory one-off payments regime does not produce an appropriate result. The relevant Ministers will determine the details of the scheme by legislative instrument.

This bill also gives effect to another 2008 Budget measure, to provide for a person's concession card to remain current for a maximum period of 13 weeks when the cardholder leaves Australia temporarily.

### Financial impact statement

<table>
<thead>
<tr>
<th>Measure</th>
<th>Total resourcing</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-off payment for older Australians</td>
<td>$1,374.5m</td>
</tr>
<tr>
<td>One-off payment for carers</td>
<td>$426.7m</td>
</tr>
<tr>
<td>Non-cancellation of concession cards</td>
<td>$2.2m</td>
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</tbody>
</table>
NOTES ON CLAUSES

Clause 1 sets out how the Act is to be cited, that is, as the Social Security and Veterans’ Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008.

Clause 2 provides for the commencement of the various provisions in the Act. Sections 1 to 3 and anything in the Act not elsewhere covered in the table of commencement commence on Royal Assent. Schedules 1 to 4 commence on Royal Assent. Schedule 5 commences on 1 July 2008.

Clause 3 provides that each Act that is specified in a Schedule is amended or repealed as set out in the applicable items of the Schedule concerned and that any other item in a Schedule has effect according to its terms (see notes on the following pages).

This explanatory memorandum uses the following abbreviations:

• ‘Social Security Act' means the Social Security Act 1991;

• ‘Social Security Administration Act’ means the Social Security (Administration) Act 1999;

• ‘Veterans’ Entitlements Act’ means the Veterans’ Entitlements Act 1986;


• ‘2005 One-off Payments Act’ means the Social Security Legislation Amendment (One-off Payments for Carers) Act 2005;

• ‘2006 One-off Payments Act’ means the Social Security and Veterans’ Entitlements Legislation Amendment (One-off Payments to Increase Assistance for Older Australians and Carers and Other Measures) Act 2006; and

Schedule 1 – 2008 one-off payments to older Australians

Summary
This Schedule provides for a one-off payment to be made to a person who has reached pension age on or before Budget night 2008 (13 May 2008) and receives income support payments under the Social Security Act for a period that includes 13 May 2008. Provision is also made for one-off payments to be made to members of the veteran community who have reached qualifying age on or before Budget night 2008 (13 May 2008) and who are receiving service pension or income support supplement under the Veterans’ Entitlements Act for a period that includes 13 May 2008.

In addition, provision is made for a one-off payment to people who are qualified on 13 May 2008 for seniors concession allowance under the Social Security Act or would so qualify because the person has lodged a claim for the seniors health card on or before 13 May 2008 and is eligible for the card on 13 May 2008. Similarly, provision is made for a one-off payment to members of the veteran community who are eligible for seniors concession allowance on 13 May 2008 under the Veterans’ Entitlements Act, or who would be so eligible because the person has lodged a claim for the seniors health card on or before 13 May 2008 and is eligible for the card on 13 May 2008.

Finally, provision is made for a one-off payment to people who are receiving a widow allowance, a mature age allowance, a partner allowance, a wife pension or a widow B pension for a period that includes 13 May 2008 because of a claim made on or before 13 May 2008.

Background
In broad terms, this Schedule introduces new 2008 one-off payments for older Australians, to be paid as a lump sum payment, generally before 30 June 2008. There will not be a claim process attached to the 2008 one-off payment. The amount of one-off payment is $500 per person.

Explanation of the changes
Part 1 – Main amendments

Amendments of the Social Security Act

Item 1 inserts new Division 4 at the end of Part 2.2B of Chapter 2 of the Social Security Act.

New Division 4 contains the provisions relevant to the 2008 one-off payment to older Australians.
New section 93ZC contains the qualification criteria for the 2008 one-off payment to older Australians.

New subsection 93ZC(1) provides that a person is qualified for a 2008 one-off payment to older Australians if subsection 93ZC(2), (3) or (4) applies to the person.

New subsection 93ZC(2) applies where a person is qualified for the 2008 one-off payment because of certain income support payments. Subsection 93ZC(2) provides that a person is qualified for a 2008 one-off payment if the person meets the following criteria:

- the person has reached pension age on or before 13 May 2008 (the pension age is 65 for males and currently age 63.5 for females according to age equalisation rules set out in subsection 23(5C) of the Social Security Act); and

- the person was receiving an income support payment, as defined in subsection 23(1) of the Social Security Act (other than a service pension or income support supplement paid under the Veterans Entitlements Act), in respect of an instalment period that includes 13 May 2008; and

- the person was paid an instalment of that payment because of a claim the person made on or before 13 May 2008; and

- on 13 May 2008 the person:
  - was in Australia; or
  - was temporarily absent from Australia and had been so for a continuous period not exceeding 13 weeks.

Subsection 93ZC(2) reflects the intention to pay the one-off bonus only in circumstances where the income support payment (other than service pension or income support supplement) was payable to the person in respect of a period that includes 13 May 2008. Subsection 23(2) of the Social Security Act provides that a person is taken to be receiving a payment under this Act from the earliest day on which the payment is payable to the person even if the first instalment of the payment is not actually paid until a later day. Subsection 93ZC(2) therefore applies to people who are granted the relevant payments after 13 May 2008, provided that the payments in question are payable to the person for a period that includes 13 May 2008.

New subsection 93ZC(3) applies where the person is qualified for the 2008 one-off payment because of being qualified for seniors concession allowance. Subsection 93ZC(3) provides that a person is qualified for a 2008 one-off payment to older Australians if:
• the person was qualified for seniors concession allowance under section 1061U of the Social Security Act on 13 May 2008 (seniors concession allowance is provided under Part 2.25B of the Social Security Act); or

• the person meets both of the following criteria:
  - the person made a claim for the seniors health card and had not withdrawn that claim on or before 13 May 2008; and
  - on 13 May 2008, the person either was qualified for the card or would have been so qualified but for being temporarily absent from Australia for a continuous period not exceeding 13 weeks.

Subsection 93ZC(4) applies where the person is qualified for the 2008 one-off payment because he or she is receiving widow allowance, mature age allowance, partner allowance, wife pension or widow B pension in respect of an instalment period that includes 13 May 2008. In addition, the claim must be made on or before 13 May 2008 and, on 13 May 2008, the person has to be in Australia or temporarily absent from Australia for a period that does not exceed 13 weeks.

Subsection 93ZC(5) clarifies that a person may receive only one one-off payment under section 93ZC, regardless of how many times the person qualifies under this section.

Subsection 93ZC(6) clarifies that a person is not qualified for a one-off payment under section 93ZC if the person is eligible for a payment under section 118ZZL of the Veterans’ Entitlements Act.

Section 93ZD provides that the amount of the one-off payment under section 93ZC is $500.

Item 2 is concerned with determining whether a person has made a claim, or should be taken to have made a claim, on or before 13 May 2008. In determining whether this has occurred, the effect of section 12 and section 15 of the Social Security Administration Act is to be disregarded.

In relation to section 12, subitem 2(a) provides that a person should not be paid a one-off payment where he or she has claimed a payment (for example, newstart allowance), has subsequently become qualified for another payment (for example, widow allowance), and, after 13 May 2008, is transferred to that latter payment by virtue of section 12 of the Social Security Administration Act.
In relation to section 15, **subitem 2(b)** clarifies that the effect of a decision of the Secretary made after 13 May 2008 for the purposes of section 15 of the Social Security Administration Act (dealing with certain incorrect or inappropriate claims) is to be disregarded. This is intended to restrict access to the one-off payments to cases where the relevant decision for the purposes of section 15 is made before or on 13 May 2008.

**Items 3 to 10** make consequential amendments to section 1223ABAA (which deals with debts arising in respect of one-off payments to older Australians) to include references to the 2008 one-off payments to older Australians and related provisions.

**Item 3** amends subsection 1223ABAA(1) and inserts new paragraph (c) to provide that the 2008 one-off payment to older Australians under Division 4 is a ‘relevant payment’.

**Items 4 to 8 and 10** insert references to section 93ZC into various provisions, to ensure that they apply with respect to the 2008 one-off payments.

**Item 9** amends subsection 1223ABAA(4A) by inserting a new paragraph (c) to provide that 13 May 2008 is ‘the relevant day’ in respect of the 2008 one-off payment to older Australians.

**Amendments of the Social Security Administration Act**

**Item 11** amends section 12AAA by inserting a new paragraph (c) to provide that a claim is not required for a 2008 one-off payment to older Australians.

**Item 12** inserts new paragraph (gc) into the definition of ‘lump sum benefit’ in subsection 47(1) to clarify that the 2008 one-off payment to older Australians is to be regarded as a lump sum benefit.

**Item 13** repeals sections 47AA and 47AB of the Social Security Administration Act and substitutes new section 47AA. New section 47AA consolidates previous sections 47AA and 47AB and provides that the 2006 one-off payment to older Australians, the 2007 one-off payment to older Australians and the 2008 one-off payments to older Australians must be paid to the individual in a single lump sum on the earliest practicable date, and in such manner, as the Secretary considers appropriate. It is anticipated that the majority of the 2008 one-off payments will be paid before the end of the financial year ending 30 June 2008.

**Item 14** is an application provision, which provides that the amendment made by **item 13** does not entitle a person to be paid a 2006 one-off payment to older Australians or a 2007 one-off payment to older Australians if such a payment has already been paid to the person under section 47AA or 47AB of the Social Security Administration Act as in force before the commencement of this Schedule.
Amendments of the Veterans’ Entitlements Act

Item 15 inserts new Part VIIF into the Veterans’ Entitlements Act after Part VIIE.

New Part VIIF gives effect to the 2008 Budget measure to provide a one-off payment to certain older Australians.

New subsection 118ZZL(1) provides that a person is eligible for a 2008 one-off payment to older Australians if subsection 118ZZL(2) or 118ZZL(3) applies to the person.

New subsection 118ZZL(2) provides that a person is eligible for a 2008 one-off payment to older Australians if the person meets the following criteria:

- the person has reached qualifying age on or before 13 May 2008 (qualifying age is defined in subsection 5Q(1) of the Veterans’ Entitlements Act); and
- a service pension or income support supplement was payable to the person in respect of a period that includes 13 May 2008; and
- the pension or supplement was payable to the person because of a claim that the person made on or before 13 May 2008; and
- the person is in Australia; or
- the person was temporarily absent from Australia and that absence was for a continuous period not exceeding 13 weeks.

New subsection 118ZZL(3) provides that a person is eligible for a 2008 one-off payment to older Australians if:

- the person was eligible for seniors concession allowance on 13 May 2008 (seniors concession allowance is provided under section 118PA of the Veterans’ Entitlements Act); or
- the person meets both the following criteria:
  - the person made a claim for a seniors health card on or before 13 May 2008 and that claim had not been withdrawn on or before 13 May 2008; and
  - the person was eligible for a seniors health card on 13 May 2008 or the person would have been eligible for the seniors health card except for being temporarily absent from Australia for a continuous period not exceeding 13 weeks.
New subsection 118ZZL(4) provides that a person may receive one payment of the 2008 one-off payment only, regardless of how many times the person may be eligible under new section 118ZZL.

New section 118ZZM provides that the amount of the one-off payment under section 118ZZL is $500.

New section 118ZZN provides that a person does not have to claim for the 2008 one-off payment to older Australians.

New subsection 118ZZO provides that the Repatriation Commission must pay the 2008 one-off payment for older Australians to an eligible individual:

- in a single lump sum; and
- on the earliest date that is reasonably practicable; and
- in such a manner as the Repatriation Commission considers appropriate.

New section 118ZZP provides for the circumstances under which a debt may arise in respect of a 2008 one-off payment to older Australians. In very broad terms, a one-off payment will be a debt where it is established that the recipient knowingly made a false or misleading statement (or provided false information) and, if the true circumstances had been known, the determination in relation to the relevant payment or card (which gave rise to the qualification for the one-off payment) would not have been made.

New subsection 118ZZP(7) provides that the other provisions of the Veterans’ Entitlements Act under which debts arise do not apply in relation to payments to which section 118ZZP applies.

New subsection 118ZZP(8) provides that a debt that arises under section 118ZZP is a recoverable amount within the meaning of subsection 205(8).

Part 2 – Related amendments

Amendments of the Income Tax Assessment Act 1936

The Separate Net Income (SNI) of the dependants of a taxpayer is used to determine the taxpayer’s eligibility for certain dependant offsets. SNI is income and other specified amounts earned, derived or received, less certain expenses incurred in earning that income. Payments such as carer allowance, child care benefit and family tax benefit (FTB) are not included as part of SNI. As it is not intended that the one-off payments to older Australians (or any payment under an administrative scheme determined under Schedule 2 to the bill) form part of SNI, item 16 makes the necessary amendments to subsection 159Ji(6) of the Income Tax Assessment Act 1936 to clarify this.
**Amendments of the Income Tax Assessment Act 1997**

**Item 17** makes a consequential amendment to the table in section 11-15 in the *Income Tax Assessment Act 1997*, inserting references to the 2008 one-off payment to older Australians and payments made under the scheme determined under Schedule 2 to this bill.

The effect of **items 18 and 21** is to make the 2008 one-off payment to older Australians (as well as payments to older Australians under the administrative scheme determined under Schedule 2 to the bill) exempt from income tax.

**Item 19** amends subsection 52-10(1B) and is consequential to the amendment made by **item 28**, which consolidates the one-off payment to the aged into Division 1 of Part 2.2B.

**Item 20** repeals subsections 52-10(1CA) and (1CAA) and substitutes a new section 52-10(1CA), which provides that the 2006 one-off payment to older Australians, the 2007 one-off payment to older Australians and the 2008 one-off payment to older Australians are exempt from income tax.

**Item 22** inserts reference to the 2008 one-off payment for older Australians into paragraph 52-65(1)(ba).

**Item 23** repeals subsections 52-65(1B) and (1BA) and substitutes a new section 52-65(1B), which provides that the 2006 one-off payment to older Australians, the 2007 one-off payment to older Australians and the 2008 one-off payment to older Australians are exempt from income tax.

The effect of **item 24** is to make payments to older Australians under the administrative scheme determined under Schedule 2 of the bill exempt from income tax.

**Item 25** inserts a reference to the 2008 one-off payment to older Australians to the table in section 52-75, which lists payments that are wholly or partly exempt from income tax.

**Amendments of the Social Security Act**

**Item 26** inserts new paragraphs 8(8)(yf) and (yg) to provide that the 2008 one-off payment to older Australians (and any payment under an administrative scheme determined under Schedule 2 to the bill) are not to be treated as income for the purposes of the Social Security Act.

**Item 27** repeals the heading to Part 2.2B and substitutes a new heading.

**Items 28 to 34** consolidate Parts 2.2B, 2.2C and 2.2D of the Social Security Act into new Part 2.2B. New Part 2.2B will contain the following divisions (in addition to Division 4 added by this Schedule):
• Division 1 provides for the one-off payment to the aged;

• Division 2 provides for the 2006 one-off payment to older Australians; and

• Division 3 provides for the 2007 one-off payment to older Australians.

Amendments of the 2007 One-off Payments Act

Item 35 amends paragraph 1(2)(a) of Schedule 2 to the 2007 One-off Payments Act. Item 35 is consequential to the amendments made by items 31, 32 and 34.

Amendments to the 2006 One-off Payments Act

Item 36 amends paragraph 1(2)(a) of Schedule 2 to the 2006 One-off Payments Act. Item 36 is consequential to the amendments made by items 29, 30 and 33.

Amendments of the Veterans' Entitlements Act

Item 37 inserts new paragraph 5H(8)(zzae) and (zzaf) to provide that the one-off payments are not to be treated as income for the purposes of the Veterans' Entitlements Act.
Schedule 2 – Administrative schemes for 2008 one-off payments to older Australians

Summary

This Schedule contains provisions to enable administrative schemes to be established. In broad terms, the purpose of each administrative scheme will be to provide payments in circumstances where the statutory one-off payments regime provided for in Schedule 1 does not produce an appropriate result in relation to circumstances that occur in the 2007-08 income year. The relevant Minister will determine the details of the scheme by legislative instrument.

Background

This Schedule enables an administrative scheme to be established alongside the statutory regime providing for one-off payments to older Australians.

Explanation of the changes

Item 1 provides for the establishment of an administrative scheme by the relevant Minister administering the Social Security Act, under which one-off lump sum payments can be made to older Australians in specified circumstances. The purpose of the scheme is to provide payments in circumstances where the statutory one-off payments regime does not produce an appropriate result in relation to circumstances that occur in the 2007-08 income year.

The details of the administrative scheme (including such matters as eligibility, amount of the payment and administrative matters) would be set out in a legislative instrument.

Payments under the administrative scheme would be made out of the Consolidated Revenue Fund (in accordance with subitem 1(4)).

The administrative scheme provisions in this bill are substantively the same as those used for one-off payments in previous years, including the legislative instrument basis, and the appropriation arrangements, for the scheme.

It is unlikely that the provisions in the other Acts, enabling a scheme to be made, will ever be used. This is consistent with the fact that the primary one-off payment provisions are intended to cover all the known situations in which payments should be made. A scheme would be made only to cover unusual and unforeseen situations that come within the spirit of the one-off payment measures but are not strictly covered by the primary legislation. It would be impractical to include such situations in primary legislation.
Similarly, and given the very slight use made of the scheme-enabling provisions in the past, and the fact that any future use is unlikely and would be small in scale, it is not considered necessary to provide for any funding limits and formal review of any decision to make a scheme. The special (standing) appropriation mechanism is appropriate to fund any such payments, consistent with the appropriation mechanism for one-off payments under the primary legislation and for payments generally under the family assistance law, social security law and Veterans’ Entitlements Act.

The tabling and disallowance process for any schemes made give sufficient opportunity to address any issues arising.

**Item 2** provides for the establishment of an administrative scheme by the Minister administering the Veterans’ Entitlements Act, under which one-off lump sum payments can be made to older Australians (veterans) in specified circumstances. The purpose of the scheme is to provide payments in circumstances where the statutory one-off payments regime does not produce an appropriate result in relation to circumstances that occur in the 2007-08 income year.

The details of the administrative scheme (including such matters as eligibility, amount of the payment and administrative matters) would be set out in a legislative instrument.

Payments under the administrative scheme would be made out of the Consolidated Revenue Fund (in accordance with *subitem 2(4)*).

Discussion regarding the legislative instrument and appropriation basis of the administrative scheme can be found under **item 1** of Schedule 2.
Schedule 3 – 2008 one-off payments to carers

Summary

In broad terms, this Schedule introduces new one-off payments for certain carers, which will be paid as a lump sum payment generally before 30 June 2008. The bonuses are to be paid to people who will have received targeted payments in an instalment period that includes 13 May 2008. It will also be paid to those people who have lodged a claim, or have contacted Centrelink about and indicated an intention to apply, for a targeted payment on or shortly before 13 May 2008 and are subsequently granted that payment in respect of that claim or contact.

Background

This Schedule provides for a one-off payment to eligible carers that will be paid automatically and without the need for a claim.

Specifically, and subject to qualification, a payment of $1,000 will be paid to people who are paid an instalment of:

- carer payment in respect of a period that includes 13 May 2008;
- wife pension in respect of a period that includes 13 May 2008 where that person is also paid an instalment of carer allowance in respect of a period that includes that same date;
- partner service pension under the Veterans’ Entitlements Act in respect of a period that includes 13 May 2008 where that person is also paid an instalment of carer allowance in respect of a period that includes that same date; and
- carer service pension under the Veterans’ Entitlements Act in respect of a period that includes 13 May 2008.

Further, and subject to qualification, carers will be entitled to $600 in respect of each care receiver in relation to whom the person receives an instalment of carer allowance for a period that includes 13 May 2008. Where the care of the care receiver is shared, the $600 will also be shared. Where qualification for an instalment of carer allowance depends on the person providing care for two care receivers, the payment will also be $600.
Explanation of the changes

Part 1 – Main amendments

Amendments of the Social Security Act

Item 1 inserts new Divisions 12, 13, 14 and 15 at the end of Part 2.5A of Chapter 2 of the Social Security Act. It is noted that carers who qualify for one-off payments under this item may also qualify for another one-off payment under item 2 of this Schedule.

New Division 12 contains the provisions relevant to the 2008 one-off payment to carers eligible for carer payment.

New section 269 provides that a person is qualified for a one-off payment if the person has been paid an instalment of carer payment in respect of a period that includes 13 May 2008 and the person was paid that instalment because of a claim the person made on or before 13 May 2008.

New section 270 provides that the amount of the 2008 one-off payment is $1,000. The note to the provision makes it clear that the maximum available to a person is $1,000, regardless of the number of people in relation to whom the qualified person provides care.

New Division 13 contains the provisions relevant to the 2008 one-off payment to certain carers eligible for wife pension.

New section 271 provides that a person is qualified for a one-off payment if the person has been paid an instalment of wife pension and an instalment of carer allowance, both in respect of a period that includes 13 May 2008, where three conditions are satisfied in relation to one or more instalments of carer allowance that have been paid to the person. These conditions are that: the instalment was in respect of a period that includes 13 May 2008; the reason that the instalment covered 13 May 2008 was not only because of clause 16 or 17 of Schedule 2 to the Social Security Administration Act; and the person was paid that instalment because of a claim the person made on or before 13 May 2008. The second requirement is not to be taken to limit the third requirement in any way.

New section 272 provides that the amount of the 2008 one-off payment is $1,000. The note to the provision makes it clear that the maximum available to a person is $1,000, regardless of the number of people in relation to whom the qualified person provides care.

New Division 14 contains the provisions relevant to the 2008 one-off payment to certain carers eligible for partner service pension.
New section 273 provides that a person is qualified for a one-off payment if the person has been paid an instalment of partner service pension under Part 3 of the Veterans’ Entitlements Act and an instalment of carer allowance, both in respect of a period that includes 13 May 2008 where three conditions are satisfied in relation to one or more instalments of carer allowance that have been paid to the person. These conditions are that: the instalment was in respect of a period that includes 13 May 2008; the reason that the instalment covered 13 May 2008 was not only because of clause 16 or 17 of Schedule 2 to the Social Security Administration Act; and the person was paid that instalment because of a claim the person made on or before 13 May 2008. The second requirement is not to be taken to limit the third requirement in any way.

New section 274 provides that the amount of the 2008 one-off payment is $1,000. The note to the provision makes it clear that the maximum available to a person is $1,000, regardless of the number of people in relation to whom the qualified person provides care.

New Division 15 contains the provisions relevant to the 2008 one-off payment to carers eligible for carer service pension.

The only people receiving carer service pension are those whose entitlement to carer service pension was preserved under savings and transitional provisions under subclause 8(2) or (4) of Schedule 5 to the Veterans’ Entitlements Act. This is because the Veterans’ Affairs Legislation Amendment (Budget and Compensation Measures) Act 1997 made changes that removed all carer provisions from the Veterans’ Entitlements Act, allowing the recipients to transfer to carer payments that were available at that time under the Social Security Act. Because, at the time of these changes, it was recognised that a number of people would be adversely affected by those changes, they could elect to remain on the carer service pension rather than transferring to carer payment.

New section 275 provides that a person is qualified for a one-off payment if the person has been paid an instalment of carer service pension as a result of the operation of subclause 8(2) or (4) of Schedule 5 to the Veterans’ Entitlements Act and the person was paid the instalment because of a claim the person made on or before 13 May 2008.

New section 276 provides that the amount of the 2008 one-off payment is $1,000. The note to the provision makes it clear that the maximum available to a person is $1,000, regardless of the number of people in relation to whom the qualified person provides care.

Item 2 inserts new Division 5 into Part 2.19A of Chapter 2 of the Social Security Act.
New Division 5 of Part 2.19A contains the provisions relevant to the 2008 one-off payment to people eligible for carer allowance. It is noted that people who qualify for a one-off payment under this item may also qualify for another one-off payment under item 1 of this Schedule.

New section 992WD sets out the criteria to be satisfied for a person to qualify for a 2008 one-off payment to carers (carer allowance related). In effect, subsection 992WD(1) sets out three requirements that must be met in relation to one or more instalments of carer allowance that have been paid to the person. The first requirement is that the instalment of carer allowance was paid to the person in respect of a period that includes 13 May 2008. The second requirement is that the operation of clause 16 or 17 of Schedule 2 to the Social Security Administration Act (which deal with backdating) must not be the reason that the instalment covered 13 May 2008. The third requirement is that the person was paid the instalment because of a claim the person made on or before 13 May 2008. The second requirement is not to be taken to limit the third requirement in any way.

The effect of subsection 992WD(2) is that each instalment that meets all three requirements of subsection 992WD(1) is a ‘qualifying instalment’.

The broad operation of the scheme is that a qualified person will receive payment in respect of each ‘eligible care receiver’ in relation to the person. The concept of who is an ‘eligible care receiver’ is dealt with in new section 992WE. Subsection 992WE(1) essentially provides for the general rule that, where providing care to a person gives rise to a qualifying instalment of carer allowance, that person is an ‘eligible care receiver’ in relation to the qualified person. However, there are situations where a person’s qualification for an instalment of carer allowance arises on account of the care the person provides for two disabled children (subsection 953(2) of the Social Security Act). Accordingly, subsection 992WE(2) qualifies the general rule by providing that, where subsection 953(2) applies in relation to the qualifying instalment, the two disabled children are treated as a single ‘eligible care receiver’.

New section 992WF is concerned with working out the amount of the one-off payment. Subsection 992WF(1) provides that the amount is worked out by adding together the amounts applicable for each eligible care receiver. Subsection 992WF(2) provides that the applicable amount for an eligible receiver is $600 unless subsection 992WF(3) applies. Subsection 992WF(3) is concerned with situations where two people are qualified for carer allowance because they share the care of a care receiver (or care receivers). In those circumstances, subsection 981(1) of the Social Security Act provides for the Secretary to make a written determination specifying the share of carer allowance that each of the two people is to receive. The effect of subsection 992WF(3) is that, where the qualifying instalment was paid on the basis of a determination as to a particular share of carer allowance, the amount applicable for an eligible care receiver in relation to a qualified person is that same share of $600.
Item 3 is concerned with determining whether a person has made a claim, or should be taken to have made a claim, on or before 13 May 2008. In determining whether this has occurred, the effect of section 12 and section 15 of the Social Security Administration Act is to be disregarded.

In relation to section 12, subitem 3(a) provides that a person should not be paid a one-off payment where he or she has claimed a payment (for example, age pension), has subsequently become qualified for another payment (for example, carer payment), and, after 13 May 2008, is transferred to that latter payment by virtue of section 12 of the Social Security Administration Act.

In relation to section 15, subitem 3(b) clarifies that the effect of a decision of the Secretary made after 13 May 2008 for the purposes of section 15 of the Social Security Administration Act (dealing with certain incorrect or inappropriate claims) is to be disregarded. This is intended to restrict access to the one-off payments to cases where the relevant decision for the purposes of section 15 is made before or on 13 May 2008.

Items 4 to 6 deal with overpayment arising in respect of the five 2008 one-off payments. These amendments ensure that section 1223ABA of the Social Security Act (which applies in relation to the payments made under the 2004 One-off Payments Act, the 2005 One-off Payments Act, the 2006 One-off Payments Act, and the 2007 One-off Payments Act) will also apply to the 2008 one-off payments. Section 1223ABA, in very broad terms, provides that a one-off payment (or part of a one-off payment) will be an overpayment where it is established that the recipient knowingly made a false or misleading statement (or provided false information) and, if the true circumstances had been known, the determination in relation to the relevant instalment (which gave rise to the qualification for the one-off payment) would not have been made.

Item 7 repeals sections 12AA, 12AB, 12AC and 12AD of the Social Security Administration Act and substitutes new section 12AA. New section 12AA consolidates previous sections 12AA, 12AB, 12AC and 12AD, which provided that a claim is not required in order to be paid: the one-off payments to carers; the 2005 one-off payments to carers; the 2006 one-off payments to carers; or the 2007 one-off payments to carers. New section 12AA, in paragraphs 12AA(n), (o), (p), (q) and (r), also provides that a claim is not required in order to be paid any of the five 2008 one-off payments.

Item 8 inserts a reference to the five new one-off payments into the existing definition of ‘lump sum benefit’ contained in subsection 47(1) of the Social Security Administration Act.
Item 9 repeals sections 47B, 47C, 47D and 47E of the Social Security Administration Act and substitutes new section 47B. New section 47B consolidates old sections 47B, 47C, 47D and 47E, which provided that the Secretary must pay: the one-off payments to carers; the 2005 one-off payments to carers; the 2006 one-off payments to carers; and, the 2007 one-off payments to carers; in a single lump sum on the date that the Secretary determines is the earliest reasonably practicable date on which to do so, and in the manner by which the Secretary considers is appropriate. New section 47B, in paragraphs 47(2)(p), (q), (r), (s) and (t), also provides that the 2008 one-off payments to carers contained in this schedule are to be paid in the same way as previous one-off payments.

Item 10 is an application provision, which provides that the amendment made by item 9 does not entitle a person to be paid a one-off payment to carers, a 2005 one-off payment to carers, a 2006 one-off payment to carers or a 2007 one-off payment to carers if such a payment has already been paid to the person under section 47B, 47D, 47D or 47E of the Social Security Act as in force before the commencement of this item.

Part 2 – Related amendments

Amendments of the Income Tax Assessment Act 1936

The Separate Net Income (SNI) of the dependants of a taxpayer is used to determine the taxpayer’s eligibility for certain dependant offsets. SNI is income and other specified amounts earned, derived or received, less certain expenses incurred in earning that income. A payment of carer allowance is not included as part of SNI. As it is not intended that any of the 2008 one-off payments to carers form part of SNI, items 11 and 12 make the necessary amendments to the Income Tax Assessment Act 1936.

Item 13 amends the Income Tax Assessment Act 1936 to provide that payment to carers made under the administrative scheme determined under Schedule 4 to this bill is not included as part of SNI.

Amendments of the Income Tax Assessment Act 1997

The 2008 one-off payments to carers, and a payment made under the scheme determined under Schedule 4 to this bill, will be exempt from income tax. Amendments are made to section 52-10 of the Income Tax Assessment Act 1997 to achieve this effect (items 15, 31 and 32).

A consequential amendment is also made to the table in section 11-15 to add in references to the 2008 one-off payments to carers and a payment made under the scheme determined under Schedule 4 to this bill (item 14).

Items 16 to 30 amend subsection 52-10(1D) and are consequential to the amendments made by items 35 to 67, which consolidate various parts of the Social Security Act.
Amendments of the Social Security Act

Item 33 inserts a new paragraph 8(8)(jaf) into the Social Security Act. This ensures that any payment made under the administrative scheme determined under Schedule 4 to this bill, does not count as income for the purposes of the social security law.

Items 34 to 57 consolidate Parts 2.5A, 2.5B, 2.5C, 2.5D, 2.5E, 2.5F, 2.5G, 2.5H, 2.5J, and 2.5K of the Social Security Act into new Part 2.5A. New Part 2.5A will contain the following Divisions (in addition to the Divisions added by this Schedule):

- Division 1 – One-off payment to carers eligible for carer payment;
- Division 2 – 2005 one-off payment to carers eligible for carer payment;
- Division 3 – 2005 one-off payment to carers eligible for carer service pension;
- Division 4 - 2006 one-off payment to carers eligible for carer payment;
- Division 5 – 2006 one-off payment to carers eligible for wife pension;
- Division 6 - 2006 one-off payment to carers eligible for partner service pension;
- Division 7 - 2006 one-off payment to carers eligible for carer service pension;
- Division 8 - 2007 one-off payment to carers eligible for carer payment;
- Division 9 - 2007 one-off payment to carers eligible for wife pension;
- Division 10 - 2007 one-off payment to carers eligible for partner service pension; and
- Division 11 - 2007 one-off payment to carers eligible for carer service pension.

Items 58 to 67 consolidate Parts 2.19A, 2.19B, 2.19C and 2.19D into new Part 2.19A of the Social Security Act. New Part 2.19A will contain the following Divisions (in addition to the Divisions added by this Schedule):

- Division 1 – One-off payment to carers eligible for carer allowance;
- Division 2 – 2005 one-off payment to carers eligible for carer allowance;
• Division 3 – 2006 one-off payment to carers eligible for carer allowance; and

• Division 4 – 2007 one-off payment to carers eligible for carer allowance.

Amendments of the 2007 One-off Payments Act

Item 68 amends paragraph 1(2)(a) of Schedule 4 to the 2007 One-Off Payments Act. Item 68 is consequential to the amendments made by items 50 to 57 and items 66 and 67.

Amendments of the 2006 One-off Payments Act

Item 69 amends paragraph 1(2)(a) of Schedule 2 to the 2006 One-Off Payments Act. Item 70 is consequential to the amendments made by items 42 to 49 and items 64 and 65.

Amendments of the 2005 One-off Payments Act

Item 70 amends paragraph 1(2)(a) of Schedule 4 to the 2005 One-Off Payments Act. Item 69 is consequential to the amendments made by items 37 to 41 and items 62 and 63.

Amendments of the Veterans’ Entitlements Act

Item 71 inserts a new paragraph 5H(8)(zze) into the Veterans’ Entitlements Act. This ensures that any payment made under the administrative scheme determined under Schedule 4 to this bill, does not count as income for the purposes of the Veterans’ Entitlements Act.
Schedule 4 – Administrative scheme for 2008 one-off payments to carers

Summary

This Schedule contains provisions to enable an administrative scheme to be established. In broad terms, the purpose of the administrative scheme will be to provide payments in circumstances where the statutory one-off payments regime provided for in Schedule 3 does not produce an appropriate result in relation to circumstances that occur in the 2007–2008 financial year. The Minister for Families, Housing, Community Services and Indigenous Affairs can determine the details of the scheme by legislative instrument.

Background

This Schedule enables an administrative scheme to be established alongside the statutory one-off payment scheme.

Explanation of the changes

Item 1 provides for the establishment by legislative instrument of an administrative scheme by the Minister for Families, Housing, Community Services and Indigenous Affairs, under which one-off lump sum payments can be made to carers in specified circumstances. The purpose of the scheme is to provide payments in circumstances where the statutory one-off payments regime does not produce an appropriate result in relation to circumstances that occur in the 2007-2008 financial year.

The details of the administrative scheme (including such matters as eligibility, amount of the payment, debt recovery and administrative matters) would be set out in a legislative instrument.

Payments under the administrative scheme would be made out of the Consolidated Revenue Fund (in accordance with subitem 1(4)).

Discussion regarding the legislative instrument and appropriation basis of the administrative scheme can be found under Schedule 2 above.
Schedule 5 – Non-cancellation of concession cards for temporary overseas absences

Summary

This Schedule gives effect to the 2008 Budget measure that will provide for concession cards to remain current for a period of no more than 13 weeks when the cardholder travels overseas temporarily.

Background

Currently, if a person travels overseas, he or she is not able to retain a concession card issued under the Social Security Act or Veterans' Entitlements Act, as qualification for each type of concession card requires the person to be ‘in Australia’. As a result, if a cardholder departs Australia, his or her concession card is cancelled, despite some cards being linked to a payment which is portable under Chapter 4 of the Social Security Act.

This Schedule provides for a person’s concession card to remain current for a maximum period of 13 weeks when the cardholder leaves Australia temporarily. Although the cardholder is generally not able to use their card while overseas, Schedule 5 will end the requirement to cancel a concession card from the day the cardholder departs Australia and will result in the cardholder being able to use their concession card on the day of their departure to purchase required pharmaceuticals.

Explanation of the changes

Part 1 – Main amendments

Amendments of the Social Security Act

Item 1 inserts into subsection 6A(1) a definition of ‘concession card’, which means a pensioner concession card, a health care card or a seniors health card.

Items 2 to 8 inserts a note at the end of various subsections in Division 1, signposting that Division 4 sets out provisions allowing a person to continue to be qualified for a pensioner concession card for a maximum period of 13 weeks if the person is temporarily absent from Australia.

Item 9 inserts a note at the end of subsection 1061ZG(1), signposting that Division 4 sets out provisions allowing a person to continue to be qualified for a seniors health card for a maximum period of 13 weeks if the person is temporarily absent from Australia.
Items 10 and 11 insert notes at the end of various subsections in Division 3, signposting that Division 4 sets out provisions allowing a person to continue to be qualified for a health care card for a maximum period of 13 weeks if the person is temporarily absent from Australia.

Item 12 inserts new Division 4 at the end of Part 2A.1 of Chapter 2A of the Social Security Act.

New Division 4 provides for the non-cancellation of concession cards (whether automatically issued to a person who is receiving a social security payment or issued to a person who has made a claim for the card) if the concession cardholder travels temporarily overseas. If the holder of a concession card leaves Australia permanently, the person’s concession card will be cancelled from the date of departure.

New section 1061ZUA sets out the circumstances in which this Division applies to a person.

New subsection 1061ZUA(1) provides that Division 4 applies to a person if:

(a) a person temporarily leaves Australia (subsection (2) sets out how to determine whether an absence is temporary); and

(b) the person is absent from Australia for a continuous period (period of absence) which begins on the day the person leaves Australia; and

(c) any of the following applies:

(i) immediately before the commencement of the period of absence, the person was the holder of a concession card; or

(ii) during the period of absence, the person’s claim for a seniors health card or a health care card is granted under the Social Security Administration Act; or

(iii) during the period of absence, the person is issued an automatic issue card.

New subsection 1061ZUA(2) provides that (for the purposes of paragraph (1)(a)) in determining whether an absence is temporary, the purpose of the absence and the intended duration of the absence must be taken into account.

New section 1061ZUB provides for the non-cancellation of concession cards if a person is temporarily absent from Australia.
New subsection 1061ZUB(1) provides that, if a person is absent from Australia throughout the person’s maximum non-cancellation period (see subsection (3)), the person’s qualification for the concession card is not affected by that absence. In other words, provided a person continues to meet the qualification requirements for a concession card, and despite the requirement that a person must be ‘in Australia’ to be qualified for a card, the fact that a person may be temporarily absent from Australia will not affect qualification for a card. For example, where a person is receiving a social security pension, qualifies for a pensioner concession card under subsection 1061ZA(1) of the Social Security Act, and leaves Australia temporarily, if he or she continues to receive the social security payment (as a result of the portability rules for that pension), then the qualification under section 1061ZA is not affected. Qualification for the pensioner concession card can continue for a maximum of 13 weeks outside Australia.

New subsection 1061ZUB(2) provides that a person will no longer be qualified for a concession card after the end of the person’s period of absence of 13 weeks, if the period of absence exceeds 13 weeks. Where a person’s card is attached to receiving a social security payment, the person will no longer qualify for the card after 13 weeks even if the person is still qualified and receiving the social security payment. For example, a person may be issued with a pensioner concession card due to their qualification for age pension. The person may continue to receive age pension for more than 13 weeks while overseas. However, the attached pensioner concession card will be cancelled after 13 weeks’ absence from Australia.

The portability provisions for payments allow a person to negotiate an extension to their maximum portability period in certain circumstances. However, any concession card linked to the payment will be cancelled after 13 weeks’ absence from Australia.

New subsection 1061ZUB(3) provides that (for the purposes of subsection (1)) a person’s maximum non-cancellation period is the shorter of either:

(a) the person’s period of absence (if less than 13 weeks); or

(b) the period of 13 weeks beginning on the day the person leaves Australia.

New section 1061ZUC provides for a person, whose qualification for a concession card is extended for a limited period as a result of the person’s social security payment being cancelled, for example, due to employment income, they will continue to be qualified for the residual period of the card if the person’s temporary absence from Australia exceeds 13 weeks. If a person returns to Australia after the end of the 13 week period of absence and is still qualified for a concession card, under sections 1061ZF and 1061ZS the Secretary must issue a card for the residual period of the extended period of the card.
New subsection 1061ZUC(1) sets out the circumstances in which a person remains qualified for a concession card which has been extended for a limited period. The section applies if:

(a) a person qualifies for a concession card under section 1061ZB, 1061ZC, 1061ZD, 1061ZE, 1061ZEB, 1061ZM or 1061ZEA (as a result of the operation of subsection 1061ZEA(2A) (the qualification section)); and

(b) the person’s qualification for the card is not affected by a period of absence as provided by subsection 1061ZUB(1); and

(c) the card is cancelled at the end of the period of 13 weeks as mentioned in subsection 1061ZUB(2); and

(d) the person returns to Australia after the end of the 13 week period; and

(e) the person qualifies again for the card under the qualification section; and

(f) the period for which the person was qualified under the qualification section, before the card was cancelled, has not yet ended.

New subsection 1061ZUC(2) clarifies that a person will continue to qualify for a concession card until the end of the extended period that the person was originally qualified for under the qualification section. This does not apply if a person ceases to be qualified for the card at an earlier time. For example, a person receiving disability support pension may lose qualification for payment due to an increase in their ordinary income from employment. The person is given a 52 week retention of their pensioner concession card (‘extension card’). If the person travels overseas for six months, their extension card would remain current for 13 weeks and then be cancelled. Upon the person’s return to Australia, subsection 1061ZUC(2) provides for the person to be reissued with their extension card for the remainder of their 52 week extension period, provided they remain qualified. The reissued extension card would have the same expiry date as the person’s original extension card.

Amendments of Social Security Administration Act

Item 13 is a minor technical amendment which is consequential to item 1 and repeals the definition of concession card in subclause 1(1) of Schedule 1.

Amendments of the Veterans’ Entitlements Act

Item 14 is a consequential amendment to subsection 118PA(1), brought about as a result of the proposed amendments to section 118V (refer to items 15 to 21 of this Schedule).

The amendment repeals paragraphs 118PA(1)(a) and (b) and substitutes new paragraph 118PA(1)(a).
Subsection 118PA(1) sets out the eligibility criteria for the payment of seniors concession allowance. Repealed paragraphs 118PA(1)(a) and (b) had referred to the person being eligible where either the person was the ‘holder of a seniors health card and in Australia’ or the circumstances in which a person who was holder of a seniors health card before they left and was temporarily absent from Australia would retain eligibility for the seniors concession allowance.

New paragraph 118PA(1)(a) provides that a person will be eligible for a seniors concession allowance if the person is the holder of a seniors health card. This reflects that a person may now retain their seniors health card during a temporary absence from Australia not exceeding 13 weeks.

Items 15 to 21 amend section 118V, which sets out the various criteria under which a person may be eligible for a seniors health card.

Subsection 118V(1) sets out the criteria under which a veteran with qualifying service may be eligible for a seniors health card.

Item 15 repeals and substitutes paragraph 118V(1)(e). Paragraph 118V(1)(e) had provided that a veteran who met all of the other criteria had to be ‘in Australia’ to be eligible for a seniors health card.

New paragraph 118V(1)(e) provides that a veteran may be eligible for a seniors health card if he or she is in Australia or is temporarily absent from Australia and the absence has been for a continuous period that has not exceeded 13 weeks.

Item 16 inserts a new Note 5 that refers the reader to the definition of ‘temporarily’ in section 5Q.

Item 17 repeals and substitutes paragraph 118V(1A)(d).

Subsection 118V(1A) sets out the criteria under which a war widow or war widower may be eligible for a seniors health card.

New paragraph 118V(1A)(d) provides that a war widow or war widower may be eligible for a seniors health card if he or she is in Australia or is temporarily absent from Australia and the absence has been for a continuous period that has not exceeded 13 weeks.

Item 18 repeals and substitutes paragraph 118V(2)(e).

Subsection 118V(2) sets out the criteria under which the partner of a veteran may be eligible for a seniors health card.
New paragraph 118V(2)(e) provides that the partner of a veteran may be eligible for a seniors health card if he or she is in Australia or is temporarily absent from Australia and the absence has been for a continuous period that has not exceeded 13 weeks.

**Item 19** inserts a new Note 6 to subsection 118V(2) that refers the reader to the definition of ‘temporarily’ in section 5Q.

**Item 20** repeals and substitutes paragraph 118V(3)(e).

Subsection 118V(3) sets out the criteria under which the non-illness separated spouse or the widow or widower of a veteran may be eligible for a seniors health card.

New paragraph 118V(3)(e) provides that the non-illness separated spouse or the widow or widower of a veteran may be eligible for a seniors health card if he or she is in Australia or is temporarily absent from Australia and the absence has been for a continuous period that has not exceeded 13 weeks.

**Item 21** inserts a new Note 6 to subsection 118V(3) that refers the reader to the definition of ‘temporarily’ in section 5Q.


The Veterans’ Entitlements Legislation Amendment (2007 Election Commitments) Bill 2008 was introduced into the House on 13 March 2008. It is expected that the bill will be passed during the Winter sittings.

Included in the bill are amendments to subsection 118V(1A) [refer to **Item 38** of Part 2 to Schedule 2] that insert Note 5 referring to the definition of ‘qualifying age’ in section 5Q.

The amendments made by this Part 2 are contingency amendments to section 118V(1A) of the Veterans’ Entitlements Act and to section 2 of the Veterans’ Entitlements Legislation Amendment (2007 Election Commitments) Act 2008 that will depend on whether Royal Assent is given to that Act before this particular Act.

**Division 1 – Amendments if the Veterans’ Entitlements Legislation Amendment (2007 Election Commitments) Act 2008 receives the Royal Assent on the same day or earlier**

**Item 22** inserts Note 5 to subsection 118V(1A) referring the reader to the definition of ‘temporarily’ in section 5Q.
Division 2 – Amendments if the Veterans’ Entitlements Legislation Amendment (2007 Election Commitments) Act 2008 does not receive the Royal Assent on the same day or earlier

Item 23 inserts Note 3A to subsection 118V(1A) referring the reader to the definition of ‘temporarily’ in section 5Q.

Item 24 repeals and substitutes section 2 of the Veterans’ Entitlements Legislation Amendment (2007 Election Commitments) Act 2008. The amendment is a consequential amendment to the commencement provision of that Act relating to the amendment made by item 23 of this Schedule.

The commencement provision is amended to provide that the amendment made by Item 38 of Schedule 2 of the Veterans’ Entitlements Legislation Amendment (2007 Election Commitments) Act 2008 will commence immediately after the commencement of item 23 of this Schedule.

Part 3 – Application

Item 25 is an application provision, which sets out that the amendments made by this Schedule apply in relation to a person who leaves Australia on or after 1 July 2008.