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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Social Services Legislation Amendment
(Fair and Sustainable Pensions) Bill 2015**

No. , 2015

(Social Services)

**A Bill for an Act to amend the law relating to social
security and veterans' entitlements, and for related
purposes**

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A Bill for an Act to amend the law relating to social security and veterans' entitlements, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	1 January 2016.	1 January 2016
3. Schedule 2	1 January 2017.	1 January 2017
4. Schedule 3, Part 1, Division 1	1 January 2017.	1 January 2017
5. Schedule 3, Part 1, Division 2	The day this Act receives the Royal Assent.	
6. Schedule 3, Part 2	1 January 2017.	1 January 2017
7. Schedule 4	20 June 2015.	20 June 2015
8. Schedules 5 and 6	1 January 2016.	1 January 2016

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Defined benefit income streams

Social Security Act 1991

1 Subsection 9(1)

Insert:

military defined benefit income stream means a defined benefit income stream provided under:

- (a) the scheme provided for by the *Defence Forces Retirement Benefits Act 1948*; or
- (b) the scheme provided for by the *Defence Force Retirement and Death Benefits Act 1973*; or
- (c) the superannuation scheme referred to in section 4 of the *Military Superannuation and Benefits Act 1991*; or
- (d) a superannuation scheme specified in an instrument under subsection (2).

2 After subsection 9(1F)

Insert:

- (2) The Secretary may, by legislative instrument, specify superannuation schemes for the purposes of paragraph (d) of the definition of ***military defined benefit income stream*** in subsection (1).

3 Subsection 23(1)

Insert:

military defined benefit income stream: see subsection 9(1).

4 Section 1099A

Omit “If”, substitute “(1) Subject to subsection (2), if”.

5 At the end of section 1099A

Add:

Cap on deductible amount

- (2) If:
- (a) the defined benefit income stream is not a military defined benefit income stream; and
 - (b) apart from this subsection, the deductible amount under subsection (1) in relation to the income stream for the year would exceed 10% of the amount payable to the person for the year under the income stream;
- then that deductible amount is taken to be an amount equal to 10% of the amount payable to the person for the year under the income stream.

6 Section 1099D

Omit “If”, substitute “(1) Subject to subsection (2), if”.

7 At the end of section 1099D

Add:

Cap on deductible amount

- (2) If:
- (a) the defined benefit income stream is not a military defined benefit income stream; and
 - (b) apart from this subsection, the deductible amount under subsection (1) in relation to the income stream for the year would exceed 10% of the amount payable to the person for the year under the income stream;
- then that deductible amount is taken to be an amount equal to 10% of the amount payable to the person for the year under the income stream.

8 After subclause 136(3) of Schedule 1A

Insert:

- (3A) If:
- (a) this clause applies; and

- (b) an amount (the *transitional amount*) is worked out under subclause (2) in relation to a defined benefit income stream for a year starting on or after 1 January 2016; and
- (c) that income stream is not a military defined benefit income stream; and
- (d) that amount is worked out in relation to the operation of section 1099A or 1099D;

then, for the purposes of the operation of paragraph 1099A(2)(b) or 1099D(2)(b), the transitional amount is taken to be the deductible amount under subsection 1099A(1) or 1099D(1) in relation to that income stream for that year.

Note: The effect of this subclause is that the cap on the deductible amount under subsection 1099A(2) or 1099D(2) might apply.

9 Application provision

The amendments made by this Schedule apply in relation to working out the ordinary income of a person in relation to days occurring on or after the commencement of this item (whether the defined benefit income stream began to be provided to the person before, on or after that commencement).

Schedule 2—Proportional payment of pensions outside Australia

Social Security Act 1991

1 Subsection 1214(1) (note 2)

Omit “26 weeks”, substitute “6 weeks”.

2 Paragraph 1220A(a)

Omit “26 weeks”, substitute “6 weeks”.

3 Paragraph 1220B(1)(a)

Omit “26 weeks”, substitute “6 weeks”.

4 Paragraph 1221(1)(a)

Omit “26 weeks”, substitute “6 weeks”.

5 Application provision

The amendments made by this Schedule apply in relation to periods of absence from Australia starting on or after the commencement of this item.

Schedule 3—Assets test and concession cards

Part 1—Assets test

Division 1—Main amendments

Social Security Act 1991

1 Subsection 408CE(2) (table item 1, column 3)

Omit “\$115,000”, substitute “\$250,000”.

2 Subsection 408CE(2) (table item 2, column 3)

Omit “\$197,000”, substitute “\$450,000”.

3 Subsection 500Q(2) (table item 1, column 3)

Omit “\$125,750”, substitute “\$250,000”.

4 Subsection 500Q(2) (table item 2, column 3)

Omit “\$215,750”, substitute “\$450,000”.

5 Subsection 500Q(3) (table item 1, column 3A)

Omit “\$178,500”, substitute “\$375,000”.

6 Subsection 500Q(3) (table item 1, column 3B)

Omit “\$268,500”, substitute “\$575,000”.

7 Subsection 500Q(3) (table item 2, column 3A)

Omit “\$89,250”, substitute “\$187,500”.

8 Subsection 500Q(3) (table item 2, column 3B)

Omit “\$134,250”, substitute “\$287,500”.

9 Paragraph 547C(b)

Omit “\$125,750”, substitute “\$250,000”.

10 Paragraph 547C(c)

Omit "\$215,750", substitute "\$450,000".

11 Paragraph 547C(d)

Omit "\$178,500", substitute "\$375,000".

12 Paragraph 547C(e)

Omit "\$268,500", substitute "\$575,000".

13 Paragraph 573B(a)

Omit "\$125,750", substitute "\$250,000".

14 Paragraph 573B(b)

Omit "\$215,750", substitute "\$450,000".

15 Paragraph 573B(c)

Omit "\$178,500", substitute "\$375,000".

16 Paragraph 573B(d)

Omit "\$268,500", substitute "\$575,000".

17 Subsection 611(2) (table item 1, column 3A)

Omit "\$110,750", substitute "\$250,000".

18 Subsection 611(2) (table item 1, column 3B)

Omit "\$190,250", substitute "\$450,000".

19 Subsection 611(2) (table item 2, column 3A)

Omit "\$157,500", substitute "\$375,000".

20 Subsection 611(2) (table item 2, column 3B)

Omit "\$237,000", substitute "\$575,000".

21 Subsection 611(2) (table item 3, column 3A)

Omit "\$78,750", substitute "\$187,500".

22 Subsection 611(2) (table item 3, column 3B)

Omit "\$118,500", substitute "\$287,500".

23 Subsection 680(3) (table item 1, column 3A)

Omit "\$110,750", substitute "\$250,000".

24 Subsection 680(3) (table item 1, column 3B)

Omit "\$190,250", substitute "\$450,000".

25 Subsection 680(3) (table item 2, column 3A)

Omit "\$157,500", substitute "\$375,000".

26 Subsection 680(3) (table item 2, column 3B)

Omit "\$237,000", substitute "\$575,000".

27 Subsection 680(3) (table item 3, column 3A)

Omit "\$78,750", substitute "\$187,500".

28 Subsection 680(3) (table item 3, column 3B)

Omit "\$118,500", substitute "\$287,500".

29 Subsection 733(3) (table item 1, column 3A)

Omit "\$110,750", substitute "\$250,000".

30 Subsection 733(3) (table item 1, column 3B)

Omit "\$190,250", substitute "\$450,000".

31 Subsection 733(3) (table item 2, column 3A)

Omit "\$157,500", substitute "\$375,000".

32 Subsection 733(3) (table item 2, column 3B)

Omit "\$237,000", substitute "\$575,000".

33 Subsection 733(3) (table item 3, column 3A)

Omit "\$78,750", substitute "\$187,500".

34 Subsection 733(3) (table item 3, column 3B)

Omit "\$118,500", substitute "\$287,500".

35 Subsection 771HF(2) (table item 1, column 3)

Omit "\$80,250.00", substitute "\$187,500".

36 Subsection 771HF(2) (table item 2, column 3)

Omit "\$120,500.00", substitute "\$287,500".

37 Point 1064-G3 (table G-1, item 1, column 3A)

Omit "\$110,750", substitute "\$250,000".

38 Point 1064-G3 (table G-1, item 1, column 3B)

Omit "\$190,250", substitute "\$450,000".

39 Point 1064-G3 (table G-1, item 2, column 3A)

Omit "\$78,750", substitute "\$187,500".

40 Point 1064-G3 (table G-1, item 2, column 3B)

Omit "\$118,500", substitute "\$287,500".

41 Point 1064-G3 (table G-1, item 3, column 3A)

Omit "\$78,750", substitute "\$187,500".

42 Point 1064-G3 (table G-1, item 3, column 3B)

Omit "\$118,500", substitute "\$287,500".

43 Point 1064-G4 (table G-2, items 1, 2 and 3, column 3, formula)

Repeal the formula, substitute:

$$\frac{\text{Assets excess} \times 19.5}{250}$$

44 Point 1066-G3 (table G, item 1, column 3A)

Omit "\$110,750", substitute "\$250,000".

45 Point 1066-G3 (table G, item 1, column 3B)

Omit "\$190,250", substitute "\$450,000".

46 Point 1066-G3 (table G, item 2, column 3A)

Omit "\$78,750", substitute "\$187,500".

47 Point 1066-G3 (table G, item 2, column 3B)

Omit "\$118,500", substitute "\$287,500".

48 Point 1066-G3 (table G, item 3, column 3A)

Omit "\$78,750", substitute "\$187,500".

49 Point 1066-G3 (table G, item 3, column 3B)

Omit "\$118,500", substitute "\$287,500".

50 Point 1066-G4 (formula)

Repeal the formula, substitute:

$$\frac{\text{Assets excess} \times 19.5}{250}$$

51 Point 1066A-H3 (table H-1, item 1, column 3A)

Omit "\$110,750", substitute "\$250,000".

52 Point 1066A-H3 (table H-1, item 1, column 3B)

Omit "\$190,250", substitute "\$450,000".

53 Point 1066A-H3 (table H-1, item 2, column 3A)

Omit "\$78,750", substitute "\$187,500".

54 Point 1066A-H3 (table H-1, item 2, column 3B)

Omit "\$118,500", substitute "\$287,500".

55 Point 1066A-H3 (table H-1, item 3, column 3A)

Omit "\$78,750", substitute "\$187,500".

56 Point 1066A-H3 (table H-1, item 3, column 3B)

Omit "\$118,500", substitute "\$287,500".

57 Point 1066A-H4 (table H-2, items 1, 2 and 3, column 3, formula)

Repeal the formula, substitute:

$$\frac{\text{Assets excess} \times 19.5}{250}$$

58 Paragraph 1130(3)(d)

Omit "\$9.75", substitute "\$19.50".

59 Paragraph 1152(5)(g)

Omit "\$98,625", substitute "\$237,500".

60 Paragraph 1153(3)(e)

Omit "\$98,625", substitute "\$237,500".

61 Paragraph 1154(2)(f)

Omit "\$98,625", substitute "\$237,500".

62 After subsection 1192(5B)

Insert:

- (5C) For the purposes of working out the indexed amount for pension "single" homeowner AVL on 1 July 2017, the current figure for pension "single" homeowner AVL immediately before that day is taken to be \$250,000.
 - (5D) For the purposes of working out the indexed amount for pension "partnered" homeowner AVL on 1 July 2017, the current figure for pension "partnered" homeowner AVL immediately before that day is taken to be \$187,500.
 - (5E) For the purposes of working out the indexed amount for pension "partnered" non-homeowner AVL on 1 July 2017, the current figure for pension "partnered" non-homeowner AVL immediately before that day is taken to be \$287,500.
-

- (5F) For the purposes of working out the indexed amount for benefit “single” homeowner AVL on 1 July 2017, the current figure for benefit “single” homeowner AVL immediately before that day is taken to be \$250,000.
- (5G) For the purposes of working out the indexed amount for benefit “partnered” (item 3) homeowner AVL on 1 July 2017, the current figure for benefit “partnered” (item 3) homeowner AVL immediately before that day is taken to be \$187,500.
- (5H) For the purposes of working out the indexed amount for benefit “partnered” (item 3) non-homeowner AVL on 1 July 2017, the current figure for benefit “partnered” (item 3) non-homeowner AVL immediately before that day is taken to be \$287,500.

63 Application provision

The amendments made by items 1 to 61 apply in relation to working out the payability or rate of social security payments for days on or after the commencement of this item.

Veterans’ Entitlements Act 1986

64 Paragraph 52S(5)(g)

Omit “\$98,625”, substitute “\$237,500”.

65 Paragraph 52T(3)(e)

Omit “\$98,625”, substitute “\$237,500”.

66 Paragraph 52U(2)(e)

Omit “\$98,625”, substitute “\$237,500”.

67 Paragraph 52Z(3)(d)

Omit “\$9.75”, substitute “\$19.50”.

68 Subsections 59C(2A) and (3)

Repeal the subsections, substitute:

- (2A) For the purposes of working out the indexed amount for pension *single* property owner AVL on 1 July 2017, the current figure for

pension *single* property owner AVL immediately before that day is taken to be \$250,000.

- (2B) For the purposes of working out the indexed amount for pension *partnered* property owner AVL on 1 July 2017, the current figure for pension *partnered* property owner AVL immediately before that day is taken to be \$187,500.
- (3) For the purposes of working out the indexed amount for pension *partnered* non-property owner AVL on 1 July 2017, the current figure for pension *partnered* non-property owner AVL immediately before that day is taken to be \$287,500.

69 Sections 59H and 59J

Repeal the sections, substitute:

59H Adjustment of pension *single* non-property owner AVL

This Act has effect as if, on 1 July each year, the amount worked out in accordance with the following formula were substituted for the pension *single* non-property owner AVL:

$$\text{Pension } \begin{matrix} \textit{single} \\ \text{property} \\ \text{owner AVL} \end{matrix} + 2 \times \left[\begin{matrix} \text{Pension} & \text{Pension} \\ \textit{partnered} & \textit{partnered} \\ \text{non-property} & \text{property} \\ \text{owner AVL} & \text{owner AVL} \end{matrix} \right]$$

where:

pension partnered non-property owner AVL is the current figure, as at that 1 July, for the pension *partnered* non-property owner AVL.

pension partnered property owner AVL is the current figure, as at that 1 July, for the pension *partnered* property owner AVL.

pension single property owner AVL is the current figure, as at that 1 July, for the pension *single* property owner AVL.

59J Adjustment of special illness separated special resident AVL

This Act has effect as if, on 1 July each year, the amount worked out in accordance with the following formula were substituted for each special illness separated special resident AVL:

$$\frac{\begin{array}{l} \text{Pension} \\ \textit{partnered} \\ \text{non-property} \\ \text{owner AVL} \end{array} + \begin{array}{l} \text{Pension} \\ \textit{partnered} \\ \text{property} \\ \text{owner AVL} \end{array}}{2}$$

where:

pension partnered non-property owner AVL is the current figure, as at that 1 July, for the pension *partnered* non-property owner AVL.

pension partnered property owner AVL is the current figure, as at that 1 July, for the pension *partnered* property owner AVL.

70 Point SCH6-F3 of Schedule 6 (table F-1, item 1, column 3A)

Omit “124,000”, substitute “250,000”.

71 Point SCH6-F3 of Schedule 6 (table F-1, item 1, column 3B)

Omit “212,500”, substitute “450,000”.

72 Point SCH6-F3 of Schedule 6 (table F-1, item 2, column 3A)

Omit “88,000”, substitute “187,500”.

73 Point SCH6-F3 of Schedule 6 (table F-1, item 2, column 3B)

Omit “132,250”, substitute “287,500”.

74 Point SCH6-F3 of Schedule 6 (note 4)

Omit “in line with CPI increases (see section 59H)”, substitute “under section 59H”.

75 Subpoint SCH6-F4(1) of Schedule 6 (formula)

Repeal the formula, substitute:

$$\frac{(\text{Assets excess}) \times 19.5}{250}$$

76 Application provision

The amendments made by items 64 to 67 and 70 to 75 apply in relation to working out the rate of service pension or income support supplement for days on or after the commencement of this item.

Division 2—Other amendments

***Social Services and Other Legislation Amendment (2014
Budget Measures No. 6) Act 2014***

77 Subsection 2(1) (table item 5)

Repeal the item.

78 Part 2 of Schedule 2

Repeal the Part.

Part 2—Concession cards

Social Security Act 1991

79 Subsection 1061ZG(1)

After “subsection (2)”, insert “and sections 1061ZJA and 1061ZJB”.

80 At the end of Division 2 of Part 2A.1

Add:

1061ZJA Modifications if person’s rate of social security pension is nil on 1 January 2017

- (1) This section applies in relation to a person if:
 - (a) immediately before 1 January 2017, the person was receiving a social security pension; and
 - (b) the Secretary is satisfied that the rate of that pension is nil on 1 January 2017 because of the operation of the amendments made by Part 1 of Schedule 3 to the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*.

Seniors health card income test does not apply

- (2) In determining whether the person is qualified for a seniors health card at any time on or after 1 January 2017, paragraph 1061ZG(1)(d) does not apply to the person.

Automatic issue of seniors health card

- (3) If the person is qualified for a seniors health card on 1 January 2017, the Secretary must issue a seniors health card to the person.

Note: The person does not need to make a claim for the card.

- (4) If:
 - (a) on 1 January 2017, the person is outside Australia; and
 - (b) the person returns to Australia before the end of the period of 19 weeks beginning on the day the person left Australia; and

(c) the person is qualified for a seniors health card on the day the person returns to Australia;

the Secretary must issue a seniors health card to the person.

Note 1: The person does not need to make a claim for the card.

Note 2: If the person returns to Australia after the end of that 19-week period, the person will need to make a claim for a seniors health card.

1061ZJB Other modifications because of Veterans' Entitlements Act

If section 118XA of the Veterans' Entitlements Act applies in relation to a person, then, in determining whether the person is qualified for a seniors health card under this Division at any time on or after 1 January 2017, paragraph 1061ZG(1)(d) does not apply to the person.

81 Subdivision A of Division 3 of Part 2A.1 (heading)

Repeal the heading, substitute:

Subdivision A—Qualification for automatic issue health care card where no health care card income test

82 Subdivision B of Division 3 of Part 2A.1 (heading)

Repeal the heading, substitute:

Subdivision B—Qualification for health care card in other circumstances

83 Subsections 1061ZO(2), (3) and (4)

Omit "This section", substitute "Subject to sections 1061ZRA and 1061ZRB, this section".

84 At the end of Subdivision B of Division 3 of Part 2A.1

Add:

1061ZRA Modifications if person's rate of social security pension is nil on 1 January 2017

(1) This section applies in relation to a person if:

- (a) immediately before 1 January 2017, the person was receiving a social security pension; and
- (b) the Secretary is satisfied that the rate of that pension is nil on 1 January 2017 because of the operation of the amendments made by Part 1 of Schedule 3 to the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*.

Health care card income test does not apply

- (2) In determining whether the person is qualified for a health care card under section 1061ZO at any time on or after 1 January 2017, paragraphs 1061ZO(2)(d), (3)(e) and (4)(d) do not apply to the person.

Automatic issue of health care card

- (3) If the person is qualified for a health care card under section 1061ZO on 1 January 2017, the Secretary must issue a health care card to the person.

Note: The person does not need to make a claim for the card.

- (4) If:
 - (a) on 1 January 2017, the person is outside Australia; and
 - (b) the person returns to Australia before the end of the period of 19 weeks beginning on the day the person left Australia; and
 - (c) the person is qualified for a health care card under section 1061ZO on the day the person returns to Australia;the Secretary must issue a health care card to the person.

Note 1: The person does not need to make a claim for the card.

Note 2: If the person returns to Australia after the end of that 19-week period, the person will need to make a claim for a health care card.

1061ZRB Other modifications because of Veterans' Entitlements Act

If section 118XA of the Veterans' Entitlements Act applies in relation to a person, then, in determining whether the person is qualified for a health care card under section 1061ZO at any time

on or after 1 January 2017, paragraphs 1061ZO(2)(d), (3)(e) and (4)(d) do not apply to the person.

Social Security (Administration) Act 1999

85 Subsection 11(1)

Omit “subsection (2)”, substitute “subsections (2) to (4)”.

86 At the end of section 11

Add:

- (3) Subsection (1) does not apply to a seniors health card that the Secretary must issue to a person under subsection 1061ZJA(3) or (4) of the 1991 Act.
- (4) Subsection (1) does not apply to a health care card that the Secretary must issue to a person under subsection 1061ZRA(3) or (4) of the 1991 Act.

87 After subsection 37A(1)

Insert:

- (1A) However, subsection (1) does not apply to a seniors health card issued under subsection 1061ZJA(3) or (4) of the 1991 Act.

88 After subsection 37A(2)

Insert:

- (2A) However, subsection (2) does not apply to a health care card issued under subsection 1061ZRA(3) or (4) of the 1991 Act.

89 Subsection 240A(3)

After “other than an automatic issue card”, insert “or a card issued under subsection 1061ZJA(3) or (4) or 1061ZRA(3) or (4) of the 1991 Act”.

90 Section 240C (heading)

Repeal the heading, substitute:

240C Issue of replacement card on expiry of certain concession cards

91 Paragraphs 240C(1)(a) and (2)(a)

Omit “automatic issue card under paragraph 240A(2)(b)”, substitute “automatic issue card, or in a card issued under subsection 1061ZJA(3) or (4) or 1061ZRA(3) or (4) of the 1991 Act, under paragraph 240A(2)(b) of this Act”.

92 At the end of clause 3 of Schedule 2

Add:

(4) If:

- (a) section 1061ZJA of the 1991 Act applies in relation to a person; and
- (b) as mentioned in subsection 1061ZJA(3) of the 1991 Act, the person is qualified for a seniors health card on 1 January 2017;

the person’s start day in relation to the card is 1 January 2017.

(5) If:

- (a) section 1061ZJA of the 1991 Act applies in relation to a person; and
- (b) as mentioned in subsection 1061ZJA(4) of the 1991 Act, the person is qualified for a seniors health card on the day the person returns to Australia;

the person’s start day in relation to the card is the day the person returns to Australia.

(6) If:

- (a) section 1061ZRA of the 1991 Act applies in relation to a person; and
- (b) as mentioned in subsection 1061ZRA(3) of the 1991 Act, the person is qualified for a health care card on 1 January 2017;

the person’s start day in relation to the card is 1 January 2017.

(7) If:

- (a) section 1061ZRA of the 1991 Act applies in relation to a person; and

- (b) as mentioned in subsection 1061ZRA(4) of the 1991 Act, the person is qualified for a health care card on the day the person returns to Australia;
- the person's start day in relation to the card is the day the person returns to Australia.

Veterans' Entitlements Act 1986

93 Paragraph 63D(2)(b)

Omit "section 118ZG", substitute "Part VIIC".

94 At the end of section 85

Add:

(13) If:

- (a) immediately before 1 January 2017, a veteran was receiving a service pension under Part III; and
- (b) the Commission is satisfied that the rate of that pension is nil on 1 January 2017 because of the operation of the amendments made by Part 1 of Schedule 3 to the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*;

then, for the purposes of paragraph (7)(b) or (7A)(a), on and after 1 January 2017 the veteran is taken to be receiving a service pension under Part III.

95 Subsections 118V(1), (1A), (2) and (3)

Omit "A person", substitute "Subject to subsection (4) and sections 118XA and 118XB, a person".

96 At the end of Division 1 of Part VIIC

Add:

Subdivision C—Modifications of provisions in this Division

118XA Modifications if person's rate of service pension or income support supplement is nil on 1 January 2017

- (1) This section applies in relation to a person if:
-

- (a) immediately before 1 January 2017, the person was receiving a service pension or income support supplement; and
- (b) the Commission is satisfied that the rate of that pension or supplement is nil on 1 January 2017 because of the operation of the amendments made by Part 1 of Schedule 3 to the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*.

Seniors health card income test does not apply

- (2) In determining whether the person is eligible for a seniors health card at any time on or after 1 January 2017, paragraphs 118V(1)(h), (1A)(f), (2)(h) and (3)(h) do not apply to the person.

Entitlement to seniors health card

- (3) If the person is eligible for a seniors health card under this Part on 1 January 2017 and section 118X does not prevent the person from being entitled to a seniors health card, the Commission must make a determination under section 118ZG that the person is entitled to a seniors health card.

Note: The person does not need to make a claim for the card.

118XB Other modifications because of social security law

If section 1061ZJA of the *Social Security Act 1991* applies in relation to a person, then, in determining whether the person is eligible for a seniors health card under this Part at any time on or after 1 January 2017, paragraphs 118V(1)(h), (1A)(f), (2)(h) and (3)(h) do not apply to the person.

97 Section 118Y

Before “A person”, insert “(1)”.

98 At the end of section 118Y

Add:

- (2) However, subsection (1) does not apply to a person if, because of subsection 118XA(3), the Commission made a determination under section 118ZG that the person is entitled to a seniors health card and the determination is in force.

Schedule 4—Energy supplement replacing seniors supplement

Part 1—Main amendments

Social Security Act 1991

1 Subparagraph 8(8)(y)(viib)

Omit “seniors supplement”, substitute “energy supplement”.

2 Subsection 23(1) (definition of *seniors supplement*)

Repeal the definition.

3 Paragraph 916D(3)(c)

Omit “seniors supplement”, substitute “energy supplement”.

4 Paragraph 1061R(d)

Omit “seniors supplement under this Act or the Veterans’ Entitlements Act”, substitute “energy supplement under Part 2.25B of this Act or Part VIIAD of the Veterans’ Entitlements Act”.

5 Paragraph 1061T(2)(b)

Omit “seniors supplement”, substitute “energy supplement under Part 2.25B”.

6 Paragraph 1061TA(2)(b)

Omit “seniors supplement under the Veterans’ Entitlements Act”, substitute “energy supplement under Part VIIAD of the Veterans’ Entitlements Act”.

7 Part 2.25B

Repeal the Part, substitute:

Part 2.25B—Energy supplement

Division 1—Qualification and payability

1061U Qualification for energy supplement

A person is qualified for energy supplement if the person is the holder of a seniors health card.

1061UA When energy supplement is payable

- (1) Energy supplement is payable to a person in relation to each day on which the person is qualified for the supplement.
- (2) However, energy supplement is not payable to the person in relation to a day if:
 - (a) before that day:
 - (i) the person had elected not to be covered by this Part; and
 - (ii) that election had not been withdrawn; or
 - (b) subsection 55(5) (failing to nominate a bank account) of the Administration Act applies to the person.

Division 2—Rate of energy supplement

1061UB Rate of energy supplement

- (1) If subsection (2) applies to the person on a day, the person's daily rate of energy supplement, for that day, is $\frac{1}{364}$ of the amount worked out using the following table:

Energy supplement		
Item	Person's family situation	Amount of energy supplement
1	Not a member of a couple	\$366.60
2	Partnered	\$275.60
3	Member of an illness separated couple	\$366.60

Schedule 4 Energy supplement replacing seniors supplement
Part 1 Main amendments

Energy supplement		
Item	Person's family situation	Amount of energy supplement
4	Member of a respite care couple	\$366.60
5	Partnered (partner in gaol)	\$366.60

- (2) This subsection applies to a person on a day if on that day the person is residing in Australia and either:
- (a) is in Australia; or
 - (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 6 weeks.

8 Section 1190 (note)

Omit “the rate of seniors supplement (see section 1061UB) and”.

Social Security (Administration) Act 1999

9 Section 12D (heading)

Repeal the heading, substitute:

12D Energy supplement

10 Section 12D

Omit “seniors supplement”, substitute “energy supplement under Part 2.25B of the 1991 Act”.

11 Section 48B (heading)

Repeal the heading, substitute:

48B Payment of energy supplement

12 Subsection 48B(1)

Omit “Seniors supplement”, substitute “Energy supplement under Part 2.25B of the 1991 Act”.

13 Subsection 48B(2)

Omit “seniors supplement”, substitute “energy supplement”.

14 Paragraph 48B(3)(a)

Omit “seniors supplement”, substitute “energy supplement”.

15 Subsection 48B(4) (paragraph (a) of the definition of *instalment period*)

Omit “seniors supplement”, substitute “energy supplement”.

16 Subsection 48B(4) (note to paragraph (a) of the definition of *instalment period*)

Omit “seniors supplement”, substitute “energy supplement”.

17 Subparagraphs 66A(2)(a)(i) and (3)(a)(i)

Omit “seniors supplement”, substitute “energy supplement under Part 2.25B of the 1991 Act”.

18 Subsection 68(1)

Omit “seniors supplement”, substitute “energy supplement under Part 2.25B of the 1991 Act”.

19 Subsection 69(1)

Omit “seniors supplement”, substitute “energy supplement under Part 2.25B of the 1991 Act”.

20 Paragraph 75(1)(b)

Omit “seniors supplement”, substitute “energy supplement under Part 2.25B of the 1991 Act”.

21 Section 78A

Omit “seniors supplement”, substitute “energy supplement under Part 2.25B of the 1991 Act”.

22 Section 90A

Omit “seniors supplement”, substitute “energy supplement under Part 2.25B of the 1991 Act”.

23 Section 123A (paragraph (e) of the definition of *relevant payment*)

Omit “seniors supplement”, substitute “energy supplement under Part 2.25B of the 1991 Act”.

24 Saving and transitional provisions

- (1) Paragraph 916D(3)(c) of the *Social Security Act 1991* applies on and after the commencement of this item as if a reference in that paragraph to energy supplement included a reference to seniors supplement.
- (2) Despite the amendments made by items 7 and 12 to 16, Part 2.25B of the *Social Security Act 1991*, and section 48B of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to an instalment period ending before that commencement.
- (3) An election referred to in subparagraph 1061UA(2)(a)(i) of the *Social Security Act 1991* that was in force immediately before the commencement of this item continues in force on and after that commencement.

Veterans’ Entitlements Act 1986

25 Paragraph 5H(8)(gb)

Omit “seniors supplement”, substitute “energy supplement”.

26 Subsection 5Q(1) (definition of *seniors supplement*)

Repeal the definition.

27 Section 59A (note 1)

Omit “Note 1”, substitute “Note”.

28 Section 59A (note 1)

Omit “and the rate of seniors supplement (see section 118PB)”.

29 Section 59A (note 2)

Repeal the note.

30 Subsection 62E(1) (note 1)

Repeal the note.

31 Subsection 62E(1) (note 2)

Omit “Note 2”, substitute “Note”.

32 Paragraph 118B(3)(c)

Omit “seniors supplement under this Act or the Social Security Act”, substitute “energy supplement under Part VIIAD of this Act or Part 2.25B of the Social Security Act”.

33 Part VIIAD (heading)

Repeal the heading, substitute:

Part VIIAD—Energy supplement

34 Section 118P (heading)

Repeal the heading, substitute:

118P Eligibility for energy supplement

35 Subsection 118P(1)

Omit “for seniors supplement”, substitute “for energy supplement”.

36 Subparagraph 118P(1)(b)(iv)

Repeal the subparagraph, substitute:

(iv) energy supplement under Part 2.25B of the Social Security Act.

37 Subsection 118P(2)

Omit “for seniors supplement”, substitute “for energy supplement”.

38 Subparagraph 118P(2)(d)(iv)

Repeal the subparagraph, substitute:

(iv) energy supplement under Part 2.25B of the Social Security Act.

39 Section 118PA (heading)

Repeal the heading, substitute:

118PA When energy supplement is payable

40 Subsection 118PA(1)

Omit “Seniors supplement”, substitute “Energy supplement”.

41 Subsection 118PA(2)

Omit “seniors supplement”, substitute “energy supplement”.

42 Division 2 of Part VIIAD (heading)

Repeal the heading, substitute:

Division 2—Rate of energy supplement

43 Section 118PB (heading)

Repeal the heading, substitute:

118PB Rate of energy supplement

44 Subsections 118PB(1) and (1A)

Repeal the subsections, substitute:

- (1) If subsection (2) applies to the person on a day, the person’s daily rate of energy supplement, for that day, is $\frac{1}{364}$ of the amount worked out using the following table:

Energy supplement		
Item	Person’s family situation	Amount of energy supplement
1	Not a member of a couple	\$366.60
2	Partnered	\$275.60
3	Member of an illness separated couple	\$366.60
4	Member of a respite care couple	\$366.60

Note: For *member of a couple, partnered, illness separated couple* and *respite care couple* see subsections 5E(1) and (5) and 5R(5) and (6) respectively.

45 Subsection 118PB(2) (heading)

Repeal the heading.

46 Division 3 of Part VIIAD

Repeal the Division, substitute:

Division 3—Payment of energy supplement

118PC Payment of energy supplement

- (1) Energy supplement under this Part is to be paid by instalments.
- (2) An instalment of energy supplement is to be paid to a person as soon as is reasonably practicable after the end of an instalment period.
- (3) The amount of the instalment is worked out by:
 - (a) working out the person's amount of energy supplement for each day in the instalment period (using the daily rate of the supplement for that day); and
 - (b) adding up the amounts resulting from paragraph (a).
- (4) In this section:

instalment period means a period:

- (a) in relation to each day of which energy supplement is payable to the person; and

Note: For when energy supplement is payable to the person, see section 118PA.

- (b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and
- (c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and
- (d) that is not included in a longer instalment period.

47 Subsections 122A(1A) and (1C)

Omit “seniors supplement”, substitute “energy supplement under Part VIIAD”.

48 Saving and transitional provisions

- (1) Despite the amendments made by items 33 to 46, Part VIIAD of the *Veterans’ Entitlements Act 1986*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to an instalment period ending before that commencement.
- (2) An election referred to in subparagraph 118PA(2)(a)(i) of the *Veterans’ Entitlements Act 1986* that was in force immediately before the commencement of this item continues in force on and after that commencement.

Part 2—Consequential amendments

Income Tax Assessment Act 1997

49 Section 52-10 (table item 22B.1)

Omit “Seniors supplement”, substitute “Energy supplement under Part 2.25B of the *Social Security Act 1991*”.

50 Section 52-40 (table item 22B)

Omit “Seniors supplement”, substitute “Energy supplement”.

51 Section 52-65 (table item 16A.1)

Omit “Seniors supplement”, substitute “Energy supplement under Part VIIAD of the *Veterans’ Entitlements Act 1986*”.

52 Section 52-75 (table item 16A)

Omit “Seniors supplement”, substitute “Energy supplement”.

53 Saving provision

Despite the amendments of sections 52-10 and 52-65 of the *Income Tax Assessment Act 1997* made by this Schedule, item 22B.1 of the table in section 52-10 of that Act, and item 16A.1 of the table in section 52-65 of that Act, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to a payment of seniors supplement made before, on or after that commencement.

Military Rehabilitation and Compensation Act 2004

54 Paragraph 222(5)(d)

Repeal the paragraph, substitute:

- (d) energy supplement under Part 2.25B of the *Social Security Act 1991* or Part VIIAD of the *Veterans’ Entitlements Act 1986*; or

55 Paragraph 246(4)(d)

Repeal the paragraph, substitute:

- (d) energy supplement under Part 2.25B of the *Social Security Act 1991* or Part VIIAD of the *Veterans' Entitlements Act 1986*; or

Part 3—Transitional provisions

56 Transitional provision—seniors supplement

If a person has been paid seniors supplement under Part 2.25B of the *Social Security Act 1991* or Part VIIAD of the *Veterans' Entitlements Act 1986* in relation to a day on or after 20 June 2015 and before 20 September 2015, then the amendments made by this Schedule do not apply in relation to the person in relation to that day.

Schedule 5—Pensioner education supplement

Part 1—Main amendments

Social Security Act 1991

1 Subsection 7(6)

Omit “a pensioner education supplement,”.

2 Subsection 17(1) (subparagraph (l)(v) of the definition of *compensation affected payment*)

Repeal the subparagraph.

3 Subsection 17(1) (paragraph (l) of the definition of *compensation affected payment*)

Omit “or supplement,”.

4 Subsection 17(1) (paragraph (m) of the definition of *compensation affected payment*)

Repeal the paragraph, substitute:

- (m) a fares allowance, where the allowance or payment (the *underlying compensation affected payment*) mentioned in subparagraph 1061ZAAA(1)(b)(i), (ii) or (iii) is a compensation affected payment to which any of paragraphs (aa) to (k) of this definition applies; or

5 Subsection 19AB(2) (note at the end of the definition of *approved course of education or study*)

Repeal the note.

6 Subsection 23(1) (definition of *independent*)

Repeal the definition, substitute:

independent, in Parts 2.11, 2.11B, 3.4A, 3.4B, 3.5 and 3.7, has the meaning given by section 1067A.

7 Subsection 23(1) (paragraph (cb) of the definition of *newly arrived resident's waiting period*)

Repeal the paragraph.

8 Subsection 23(1) (paragraph (a) of the definition of *payday*)

Omit “, a double orphan pension or a pensioner education supplement”, substitute “or a double orphan pension”.

9 Subsection 23(1) (paragraph (a) of the definition of *payday*)

Omit “, supplement”.

10 Paragraph 23(4AA)(c)

Repeal the paragraph.

11 Paragraphs 23(10F)(c) and (d)

Omit “paragraph 1061PB(1)(b)”, substitute “subsection 541B(5)”.

12 Section 119

Repeal the section.

13 Subsection 503AA(1)

Repeal the subsection.

14 Subsection 503AA(2)

Omit “(2)”.

15 Subparagraph 569H(7)(g)(iii)

Omit “, 569A(b) or 1061PB(1)(b)”, substitute “or 569A(b)”.

16 Subsection 1049(1)

Repeal the subsection.

17 Part 2.24A

Repeal the Part.

18 At the end of subparagraph 1061ZAAA(1)(b)(iii)

Add “and”.

19 Subparagraph 1061ZAAA(1)(b)(iv)

Repeal the subparagraph.

20 Section 1158

Omit “, a mobility allowance or a pensioner education supplement”, substitute “or a mobility allowance”.

Social Security (Administration) Act 1999

21 Subsection 15(5) (paragraph (i) of the definition of supplementary payment)

Omit “allowance; or”, substitute “allowance.”.

22 Subsection 15(5) (paragraph (j) of the definition of supplementary payment)

Repeal the paragraph.

23 Subsection 50(3)

Repeal the subsection.

24 Paragraph 52(1)(h)

Repeal the paragraph.

25 Paragraphs 55(4A)(a) and (b)

Omit “, austudy payment or pensioner education supplement” (wherever occurring), substitute “or austudy payment”.

26 Section 123TC (paragraphs (i) and (o) of the definition of category I welfare payment)

Repeal the paragraphs.

27 Section 123TC (paragraphs (d) and (i) of the definition of category Q welfare payment)

Repeal the paragraphs.

28 Subclause 1(1) of Schedule 1 (paragraph (i) of the definition of *social security periodic payment*)

Repeal the paragraph.

29 Clauses 30 to 32 of Schedule 2

Repeal the clauses.

Part 2—Other amendments

A New Tax System (Family Assistance) Act 1999

30 Subparagraph 14(1A)(b)(i)

Omit “, 17(1)(c)”.

31 Paragraph 17(1)(c)

Repeal the paragraph.

Farm Household Support Act 2014

32 Paragraph 94(i)

Repeal the paragraph.

Income Tax Assessment Act 1997

33 Section 52-10 (table item 22A.1)

Repeal the item.

34 Section 52-40 (table item 22A)

Repeal the item.

Part 3—Application and saving provisions

35 Application and saving provisions

- (1) Despite the amendments of the definition of *compensation affected payment* in subsection 17(1) of the *Social Security Act 1991* made by Part 1 of this Schedule, Parts 3.6A and 3.14 of that Act continue to apply as if those amendments had not been made.
- (2) Despite the amendments made by items 12, 13, 14 and 16, sections 119, 503AA and 1049 of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to working out whether an approved program of work supplement, or language, literacy and numeracy supplement, is payable in respect of a fortnight beginning before that commencement.
- (3) Despite the amendment made by item 17, Part 2.24A of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to days occurring before that commencement.
- (4) Despite the amendments made by items 18 and 19, paragraph 1061ZAAA(1)(b) of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a relevant period that began before that commencement.
- (5) Despite the amendment made by item 20, section 1158 of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to days occurring before that commencement.
- (6) Despite the amendments made by items 23 and 25, subsections 50(3) and 55(4A) of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to the payment of fares allowance on or after that commencement, to the extent that payment is being made because of the receipt of pensioner education supplement.

Schedule 5 Pensioner education supplement
Part 3 Application and saving provisions

- (7) Despite the amendment made by item 24, paragraph 52(1)(h) of the *Social Security (Administration) Act 1999*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the payment of pensioner education supplement on or after that commencement.
- (8) Despite the amendments of the definitions of ***category I welfare payment*** and ***category Q welfare payment*** in section 123TC of the *Social Security (Administration) Act 1999* made by Part 1 of this Schedule, Part 3B of that Act continues to apply as if those amendments had not been made.
- (9) Despite the amendments made by items 30 and 31, subparagraph 14(1A)(b)(i) and paragraph 17(1)(c) of the *A New Tax System (Family Assistance) Act 1999*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to working out whether an individual satisfies the work/training/study test, or has recognised study commitments, before, on or after that commencement.
- (10) Despite the amendment made by item 33, item 22A.1 of the table in section 52-10 of the *Income Tax Assessment Act 1997*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment of pensioner education supplement before, on or after that commencement.

Schedule 6—Education entry payment

Part 1—Main amendments

Social Security Act 1991

1 Subsection 17(1) (subparagraph (l)(iv) of the definition of *compensation affected payment*)

Repeal the subparagraph.

2 Subsection 17(1) (paragraph (l) of the definition of *compensation affected payment*)

Omit “allowance, payment”, substitute “allowance”.

3 Part 2.13A

Repeal the Part.

4 Subsection 1222(2) (table item 7)

Repeal the item.

5 Paragraph 1223ABAAB(1)(a)

Omit “or an education entry payment supplement”.

6 Paragraph 1223ABAAB(2)(e)

Omit “benefit; and”, substitute “benefit.”.

7 Paragraph 1223ABAAB(2)(h)

Repeal the paragraph.

8 Section 1224B

Repeal the section.

Social Security (Administration) Act 1999

9 Subsection 15(5) (paragraph (c) of the definition of *supplementary payment*)

Repeal the paragraph.

10 Subsection 47(1) (paragraph (d) of the definition of *lump sum benefit*)

Repeal the paragraph.

11 Section 123TC (paragraph (c) of the definition of *household stimulus payment*)

Repeal the paragraph.

Veterans' Entitlements Act 1986

12 Subsection 5NB(1) (paragraph (c) of the definition of *compensation affected pension*)

Omit “age; or”, substitute “age.”.

13 Subsection 5NB(1) (paragraph (f) of the definition of *compensation affected pension*)

Repeal the paragraph.

14 Subsection 59M(1)

Omit “pensions, supplements and payments”, substitute “pensions and supplements”.

15 Paragraph 59M(1)(f)

Omit “supplement;”, substitute “supplement.”.

16 Paragraph 59M(1)(i)

Repeal the paragraph.

17 Subsection 59M(1) (note 2)

Omit “pensions, supplements, allowances and payments”, substitute “pensions and supplements”.

18 Subsections 59M(2), (3) and (4)

Omit “, supplement or payment”, substitute “or supplement”.

19 Part VIIAA

Repeal the Part.

Part 2—Other amendments

Farm Household Support Act 2014

20 Paragraph 94(e)

Repeal the paragraph.

Income Tax Assessment Act 1936

21 Subparagraph 160AAAA(2)(c)(i)

Omit “or education entry payment”.

22 Subparagraph 160AAAB(2)(c)(i)

Omit “or education entry payment”.

Income Tax Assessment Act 1997

23 Section 11-15 (table item headed “social security or like payments”)

Omit:

education entry payment supplement under the *Social Security Act 1991*..... 52-10

24 Paragraph 51-35(e)

Omit “purposes;”, substitute “purposes.”.

25 Paragraph 51-35(f)

Repeal the paragraph.

26 Section 51-40

Repeal the section, substitute:

51-40 Payments to a secondary student

A *Commonwealth education or training payment made to or on behalf of a student is *not* exempt from income tax under item 2.1B of the table in section 51-10.

Note: The whole or part of a Commonwealth education or training payment may be exempt under Subdivision 52-E or 52-F.

27 Paragraph 52-10(1)(za)

Repeal the paragraph.

28 Subsection 52-10(1J)

Repeal the subsection.

29 Section 55-10

Repeal the section.

Taxation Administration Act 1953

30 Paragraph 12-110(1)(c) in Schedule 1

Omit “, 55-5 or 55-10”, substitute “or 55-5”.

Part 3—Application and saving provisions

31 Application and saving provisions

- (1) Despite the amendments of the definition of *compensation affected payment* in subsection 17(1) of the *Social Security Act 1991* made by Part 1 of this Schedule, Parts 3.6A and 3.14 of that Act continue to apply as if those amendments had not been made.
- (2) Despite the amendment made by item 3, Part 2.13A of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the 2015 calendar year and earlier calendar years.
- (3) Despite the amendments made by items 5 to 8, sections 1223ABAAB and 1224B of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to payments of education entry payment supplement or education entry payment made before, on or after that commencement.
- (4) Despite the amendments of the definition of *compensation affected pension* in subsection 5NB(1) of the *Veterans' Entitlements Act 1986* made by Part 1 of this Schedule, Part IIIC of that Act continues to apply as if those amendments had not been made.
- (5) Despite the amendment made by item 19, Part VIIAA of the *Veterans' Entitlements Act 1986*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the 2015 calendar year and earlier calendar years.
- (6) Despite the amendments made by items 21 and 22, subparagraphs 160AAAA(2)(c)(i) and 160AAAB(2)(c)(i) of the *Income Tax Assessment Act 1936*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to payments of education entry payment made before, on or after that commencement.
- (7) Despite the amendments made by items 25, 26 and 29, paragraph 51-35(f) and sections 51-40 and 55-10 of the *Income Tax*

Assessment Act 1997, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to payments of education entry payment made before, on or after that commencement.

- (8) Despite the amendment made by item 28, subsection 52-10(1J) of the *Income Tax Assessment Act 1997*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to payments of education entry payment supplement made before that commencement.