



Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Act 2003

Act No. 35 of 2003 as amended

This compilation was prepared on 12 December 2003

[This Act was amended by Act No. 122 of 2003]

Amendments from Act No. 122 of 2003

[Schedule 7 (item 2) repealed Part 1 of Schedule 6
Schedule 7 (item 4) amended heading to item 11E of Schedule 5
Schedule 7 (item 2) commenced on 19 September 2003
Schedule 7 (item 4) commenced on 20 September 2003]

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

[Assented to 24 April 2003]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Act 2003*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	24 April 2003
2. Schedules 1, 1A and 2	20 September 2003	20 September 2003
3. Schedule 3	The 28th day after the day on which this Act receives the Royal Assent	22 May 2003
4. Schedules 4, 5 and 6	20 September 2003	20 September 2003
5. Schedule 7	The day on which this Act receives the Royal Assent	24 April 2003
Note:	This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.	

Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Act 2003 1

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Section T3T

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Evaluation

- (1) The Minister must conduct an evaluation of the measures contained in Schedules 1 and 5 of this Act.
- (2) Without limiting the generality of subsection (1), the evaluation must include the following:
 - (a) the numbers of parenting payment (single) recipients and parenting payment (partnered) recipients required to enter into participation agreements and the number of such recipients granted an exemption;
 - (b) details of expenditure on ancillary assistance provided to those affected by the measures such as expenditure on job network and training;
 - (c) employment outcomes of parenting payment (single) recipients, parenting payment (partnered) recipients and newstart mature age recipients targeted by the measures compared to the employment outcomes of these groups prior to the implementation of the measures;
 - (d) details of average earnings of the target population affected by the measures compared to earnings of the target population prior to the implementation of the measures;
 - (e) details of compliance with the activity agreements for parenting payment (single) recipients, parenting payment (partnered) recipients and newstart mature age recipients, including the numbers for each group in situations where a breach penalty was applied, and the reasons for applying a breach penalty;

Section T4T

- (f) details of total savings resulting from breach penalties applied to parenting payment (single) recipients, parenting payment (partnered) recipients and newstart mature age recipients required to enter into activity agreements;
 - (g) an assessment of the impact of the measures in Schedule 1 on children of parenting payment recipients;
 - (h) a cost benefit analysis of the new participation measures applying to parenting payment (single) recipients, parenting payment (partnered) recipients and newstart mature age recipients.
- (3) The evaluation must be completed and tabled in each House of the Parliament by 30 June 2006.

Schedule 1—Parenting Payment Participation Agreements

Part 1A—Amendment of the A New Tax System (Family Assistance) Act 1999

A New Tax System (Family Assistance) Act 1999

1A Subsection 3(1) (definition of *receiving*)

Repeal the definition, substitute:

***receiving*:**

- (a) in relation to a social security payment—has the same meaning as in subsections 23(2) and (4) of the *Social Security Act 1991*; and
- (b) for the purpose of construing references to a person receiving a social security pension or a social security benefit in clauses 1 and 17 of Schedule 1, and in clause 7 of Schedule 2, to this Act—is taken to include the meaning provided in subsection 23(4A) of the *Social Security Act 1991* as if those clauses were specified in provisions of that Act referred to in subsection 23(4AA) of that Act; and
- (c) for the purpose of construing references to a person receiving a social security pension or social security benefit in clauses 1 and 17 of Schedule 1, and in clause 7 of Schedule 2, to this Act where those references relate to a person:
 - (i) to whom parenting payment would be payable if not for a determination that a participation agreement breach non-payment period applies in relation to the person; or
 - (ii) to whom parenting payment would be payable if not for a determination that a participation agreement breach rate reduction period applies in relation to the person; has effect as if that determination had not been made.

Part 1—Amendment of the Social Security Act 1991

Social Security Act 1991

1 Subsection 23(1)

Insert:

approved program of work for income support payment means a program of work that is declared by the Employment Secretary, under section 28, to be an approved program of work for income support payment.

2 Subsection 23(1) (definition of *approved program of work for unemployment payment*)

Repeal the definition.

3 Subsection 23(1) (definition of *approved program of work supplement*)

Repeal the definition, substitute:

approved program of work supplement means:

- (a) an amount payable under section 503A to a person receiving parenting payment; or
- (b) an amount payable under section 556A to a person receiving youth allowance; or
- (c) an amount payable under section 644AAA to a person receiving newstart allowance.

4 Subsection 23(1)

Insert:

participation agreement means a participation agreement entered into in accordance with a requirement under section 501A.

5 Subsection 23(1)

Insert:

participation agreement breach non-payment period, in relation to a person, means a participation agreement breach non-payment

period applying to a person in accordance with the terms of section 500ZA.

6 Subsection 23(1)

Insert:

participation agreement breach rate reduction period, in relation to a person, means a participation agreement breach rate reduction period applying to the person in accordance with section 503B.

7 Subsections 28(1) and (2)

Omit “for unemployment payment”, substitute “for income support payment”.

Note: The heading to section 28 is altered by omitting “for unemployment payment” and substituting “for income support payment”.

8 After paragraph 500(1)(b)

Insert:

- (c) the person satisfies any requirement to enter into a participation agreement that applies to the person under Division 2; and

9 At the end of section 500

Add:

(4) If:

- (a) a person ceases to be qualified for parenting payment because of a failure to comply with a requirement to enter into a participation agreement; and
- (b) the Secretary, under section 80 of the Administration Act, cancels or suspends the person’s parenting payment because of that loss of qualification; and
- (c) within 13 weeks after the date of effect of the action taken by the Secretary, the person enters into a participation agreement;

the person’s qualification for parenting payment is taken, for the purposes of paragraph 500(1)(c) of this Act, never to have ceased.

10 Subdivision B of Division 1 of Part 2.10 (heading)

Repeal the heading, substitute:

Subdivision B—General principles relating to payability

11 At the end of Division 1 of Part 2.10

Add:

Subdivision C—Payability in circumstances of participation agreement breach

500ZA Third and subsequent participation agreement breach consequences

- (1) Parenting payment is not payable to a person who is qualified for parenting payment while a participation agreement breach non-payment period applies to the person.
- (2) A participation agreement breach non-payment period applies to a person if:
 - (a) the person commits a participation agreement breach (the *latest breach*); and
 - (b) the latest breach is the third or subsequent participation agreement breach within the 2 years immediately before the day after the latest breach.

500ZB Participation agreement breaches

A person has committed a participation agreement breach if the person fails to take reasonable steps to comply with the terms of a participation agreement that is in force in respect of the person.

500ZC Length of participation agreement breach non-payment period

Basic rule

- (1) Subject to subsections (2) and (3), the length of a participation agreement breach non-payment period is 8 weeks.

Pre-existing non-payment period

- (2) If, at the time of the commencement of a participation agreement breach non-payment period, the person is already subject to a participation agreement breach non-payment period (***pre-existing non-payment period***), the pre-existing non-payment period is taken to end immediately before the commencement of the participation agreement breach non-payment period.

Effect on non-payment period of complying with terms of agreement within 13 weeks

- (3) If:
- (a) a participation agreement breach non-payment period applies to a person (or would apply to a person apart from this subsection); and
 - (b) not more than 13 weeks after the start of the period, the person takes reasonable steps to comply, or resume compliance, with the terms of:
 - (i) a participation agreement that is in force in respect of the person; or
 - (ii) if there is no participation agreement in force in respect of the person—the participation agreement that was in force in respect of the person immediately before the commencement of the non-payment period;
- this Subdivision has effect, for the purpose only of determining the payability of parenting payment in relation to the person:
- (c) as if the non-payment period had never started; and
 - (d) if a prior breach penalty period had started not more than 13 weeks before the person took those reasonable steps—as if that prior breach penalty period had also never started.

- (4) In subsection (3):

breach penalty period means a participation agreement breach rate reduction period or a participation agreement breach non-payment period.

500ZD Start of participation agreement breach non-payment period

Notice of start of period

- (1) If a participation agreement breach non-payment period applies to a person, the Secretary must give the person a written notice telling the person of the start of the period.
- (2) A notice under subsection (1) must contain reasons why the participation agreement breach non-payment period applies to the person.

General rule

- (3) Subject to subsection (4), the participation agreement breach non-payment period starts on the 14th day after the day on which the notice is given to the person.

Parenting payment ceasing to be payable

- (4) If:
 - (a) on or before the day on which a person's participation agreement breach non-payment period would (apart from this subsection) have started, parenting payment ceases to be payable to the person; and
 - (b) it has not ceased to be payable because of the application of a participation agreement breach non-payment period;the participation agreement breach non-payment period starts on the day on which parenting payment ceases to be payable to the person.

500ZE Interaction with participation agreement breach rate reduction periods

Application of section

- (1) This section applies if:
 - (a) a participation agreement breach non-payment period applies to a person; and

- (b) during the whole or a part of that period, the whole or a part of a participation payment breach rate reduction period (*overlap period*) applies to the person.

Overlap period

- (2) Subject to subsection (4), the participation agreement breach non-payment period and the participation agreement breach rate reduction period are to run concurrently during the overlap period.

Which restriction is to apply

- (3) Only the non-payment restriction relating to the participation agreement breach non-payment period is to apply to the person during the overlap period.

Pre-existing participation agreement breach rate reduction period

- (4) If, at the time of the commencement of a participation agreement breach non-payment period under this Act, the person is already subject to a participation agreement breach rate reduction period (*pre-existing reduction period*), the pre-existing reduction period is taken to end immediately before the commencement of the participation agreement breach non-payment period under this Part.

12 After Division 1 of Part 2.10

Insert:

Division 2—Parenting Payment Participation Agreements

501 General requirements relating to participation agreements

General

- (1) The requirements that apply to a person in respect of parenting payment participation agreements are as follows:
- (a) the person must enter into a participation agreement when the person is required by the Secretary under section 501A to do so;
 - (b) while the agreement is in force the person must take reasonable steps to comply with its terms;

- (c) at any time while the agreement is in force the person must be prepared to enter into another such agreement, instead of the existing agreement, if required to do so by the Secretary.

What are reasonable steps?

- (2) For the purposes of paragraph (1)(b), a person is to be regarded as taking reasonable steps to comply with the terms of a participation agreement if the Secretary is satisfied:
 - (a) that the person has attempted in good faith and to the best of his or her ability to comply with those terms; or
 - (b) that the terms:
 - (i) have never been appropriate; or
 - (ii) because of a change in the person's circumstances since entry into the agreement, have become inappropriate; for compliance by that person.

Appropriate terms

- (3) In determining whether the terms of an agreement have always been, or have become, inappropriate for compliance by a person, the Secretary is to have regard to the person's capacity to comply with the terms and to the person's needs.

Capacity to comply with agreement, and person's needs

- (4) In having regard to a person's capacity to comply with the terms of a participation agreement and the person's needs, the Secretary is to take into account, but is not limited to, the following matters:
 - (a) the person's education, experience, skills, age, disability, illness, mental and physical condition; and
 - (b) the state of the local labour market and the transport options available to the person in accessing that market; and
 - (c) the participation opportunities available to the person; and
 - (d) the family and caring responsibilities of the person, (including those arising from any significant adverse effect on a PP child of a person that would result from the person's compliance with the terms of the agreement); and

- (e) current court proceedings in the Family Court or criminal courts or current child welfare concerns, such as drugs or school truanting; and
- (f) the length of travel time required for compliance with the agreement; and
- (g) the financial costs of compliance with the agreement, such as travel costs, and the capacity to pay for such compliance; and
- (h) any other matters that the Secretary or the person considers relevant in the circumstances.

Secretary must contact person before determining failure to comply with terms

- (5) The Secretary must not determine that a person has failed to take reasonable steps to comply with the terms of a participation agreement unless the Secretary:
 - (a) is satisfied that the terms of the agreement were intended to assist the person over time in gaining employment or undertaking study or training; and
 - (b) has made reasonable attempts to contact the person in relation to the requirement to comply with the terms of the agreement (and has documented each attempt to contact); and
 - (c) if contact was able to be made, has had regard to the reasons, if any, provided by the person for not complying with the terms of the agreement; and
 - (d) has confirmed the adequacy of the support that the Secretary agreed to provide under the agreement.

501A Parenting payment participation agreements—requirement

Requirement to enter into agreement

- (1) Subject to this section, if:
 - (a) a person is claiming or receiving parenting payment; and
 - (b) the PP child or, if more than one, the youngest PP child, of the person has turned 13 years; and
 - (c) the person is not an exempt person within the meaning of subsection (2) or (2A);

the Secretary may require the person to enter into a participation agreement.

Exempt persons

- (2) For the purposes of subsection (1), a person is an exempt person if the person has:
- (a) a PP child who is a profoundly disabled child within the meaning of section 197; or
 - (b) two or more PP children;
 - (i) who are disabled children; and
 - (ii) who, in the Secretary's opinion, require a level of care at least equivalent to the level of care required by a profoundly disabled child; or
 - (c) a PP child who suffers from a physical, intellectual or psychiatric disability that is specified in a determination made under subsection 38D(3) to be a recognised disability for the purposes of section 953.

Exempt persons-periodic exemptions

- (2A) For the purposes of subsection (1), a person is an exempt person for a particular period determined by the Secretary under this subsection if:
- (a) the person has one or more PP children:
 - (i) who suffer from a physical, intellectual or psychiatric disability or illness; and
 - (ii) whose care needs are such that the person could not be reasonably expected at that time to comply with the terms of a participation agreement; or
 - (b) a critical event occurs that was not within the person's control (eg family or personal crisis, the Secretary is satisfied the person has separated from his or her partner on a permanent or indefinite basis in the past 26 weeks, person's house burning down, evidence of domestic violence, serious illness of PP children or an accumulation of stressful personal circumstances which the Secretary is satisfied would, in combination, require full-time effort to address) and, as a result, the person is temporarily unable to comply with the terms of a participation agreement.

- (2B) At any one time the maximum period for which the Secretary may determine that a person is an exempt person under subsection (2A) is:
- (a) if paragraph (2A)(a) applies to the person—12 months;
 - (b) if paragraph (2A)(b) applies to the person—26 weeks.
- (2C) The Secretary may make more than one determination under subsection (2A) in respect of a person.

Requirement to enter into another agreement

- (3) The Secretary may require a person who is a party to a participation agreement that is in force to enter into another such agreement instead of the existing one.

Reasons for revocation or revocation and replacement

- (4) Without limiting the generality of the grounds on which the Secretary may take action under subsection (3), those grounds include:
- (a) the Secretary's satisfaction that the person has breached the requirements of the agreement that is in force; or
 - (b) the Secretary's satisfaction that a term or terms of the agreement that is in force are inappropriate, having regard to the person's circumstances and needs at the time it was entered into; or
 - (c) the Secretary's satisfaction that the person's circumstances or needs have so changed that the agreement that is in force should no longer continue in force.

Notice of requirement

- (5) The Secretary is to give a person who is required to enter into a participation agreement notice in writing of:
- (a) the requirement; and
 - (b) the places and times, being places and times which are reasonable in all the circumstances, at which the agreement is to be negotiated; and
 - (c) the effect of failure by the person to comply with the requirement set out in the notice.

501B Participation agreement—nature and terms

Form of agreement

- (1) A participation agreement is a written agreement between the Secretary and another person, in a form approved by the Secretary, under which the person agrees to undertake, during each period of 26 weeks that the agreement is in force, approved activities anticipated to take 150 hours or such lesser number of hours as are agreed between them. Participation agreements will set out the support that the Secretary undertakes to provide to assist the person to meet his or her participation requirements in the negotiated agreement.

Approved activities

- (2) For the purposes of a particular participation agreement, approved activities constitute such particular activities, comprising one or more of the following activities, as are approved by the Secretary:
 - (a) job search;
 - (b) a vocational or pre-vocational training course;
 - (c) training that would help in searching for work;
 - (d) paid work;
 - (e) measures designed to eliminate or reduce any disadvantage the person has in relation to obtaining work;
 - (f) subject to subsection (7)—voluntary participation in an approved program of work for income support payment;
 - (g) participation in a labour market program;
 - (h) participation in the PSP;
 - (i) participation in a rehabilitation program as defined in section 23 of the *Social Security Act 1991*;
 - (j) a course of education;
 - (k) another activity that the Secretary regards as suitable for the person, including voluntary work, and that is agreed to between the person and the Secretary.

Secretary's considerations concerning approval of terms

- (3) In considering what terms of a participation agreement with a person to approve, the Secretary is to have regard to the person's

capacity to comply with the terms of the proposed agreement and to the person's needs.

Capacity to comply with agreement, and person's needs

- (4) In having regard to a person's capacity to comply with the terms of a participation agreement and to the person's needs, the Secretary is to take into account, but is not limited to, the following matters:
- (a) the person's education, experience, skills, age, disability, illness, mental and physical condition; and
 - (b) the state of the local labour market and the transport options available to the person in accessing that market; and
 - (c) the participation opportunities available to the person; and
 - (d) the family and caring responsibilities of the person, (including those arising from any significant adverse effect on a PP child of a person that would result from the person's compliance with the terms of the agreement); and
 - (e) current court proceedings in the Family Court or criminal courts or current child welfare concerns such as drugs or school truanting; and
 - (f) the length of travel time required for compliance with the agreement; and
 - (g) the financial costs of compliance with the agreement, such as travel costs, and the capacity to pay for such compliance; and
 - (h) any other matters that the Secretary or the person considers relevant in the circumstances.

Variation, suspension, cancellation and review

- (5) A participation agreement with a person:
- (a) may be varied (in negotiation with the person) or suspended by the Secretary; and
 - (b) if another participation agreement is made with the person—may be cancelled by the Secretary; and
 - (c) may be reviewed from time to time by the Secretary at the request of either party to the agreement; and
 - (d) may be cancelled by the Secretary after a review under paragraph (c).

Cooling-off period

- (5A) Within 14 days of the terms of the participation agreement being approved, those terms may be varied by the person with the approval of the Secretary.

Requirement to notify

- (5B) The Secretary must advise the person of the effect of subsection (5A).

Avoidance of doubt

- (5C) To avoid doubt, subsection (5A) does not prevent the person at any time from requesting a review of an agreement under paragraph (5)(c).

Circumstances preventing or affecting compliance

- (6) The party to a participation agreement other than the Secretary must tell the Secretary of any circumstances preventing or affecting the party's compliance with the agreement.

Situations in which participation in an approved program of work for income support payment cannot be required

- (7) A participation agreement with a person must not provide for participation in an approved program of work for income support payment if:
- (a) in the Secretary's opinion:
 - (i) it has been established that there is medical evidence that the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed; or
 - (ii) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety or would contravene a law of the Commonwealth, a State or Territory relating to occupational health and safety; or
 - (b) the program of work requires the person to move from a home in one place to a home in another place.

Effect of participation in an approved program of work for income support payment

- (8) A person is not to be taken, merely by participating in an approved program of work for income support payment in accordance with the terms of a participation agreement under this section, to be:
- (a) an employee within the meaning of section 9 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*; or
 - (b) an employee within the meaning of section 5 of the *Safety, Rehabilitation and Compensation Act 1988*; or
 - (c) an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*; or
 - (d) an employee for the purposes of the *Workplace Relations Act 1996*.

501C Participation agreements—failure to negotiate

Failure to enter agreement

- (1) If:
- (a) a person has been given notice under subsection 501A(5) of a requirement to enter into a participation agreement; and
 - (b) the Secretary is satisfied, because of the person's failure to:
 - (i) attend the negotiation of the agreement; or
 - (ii) respond to correspondence about the agreement; or
 - (iii) agree to the reasonable terms of the agreement proposed by the Secretary;or for any other reason, that the person is unreasonably delaying entering into the agreement;
- then:
- (c) the Secretary may give the person notice that the person is taken to have failed to enter the agreement; and
 - (d) if the notice is given—the person is taken to have so failed.

Form of notice

- (2) A notice under paragraph (1)(c) must:
- (a) be in writing; and

- (b) set out the reasons for the decision to give the notice; and
- (c) include a statement describing the rights of the person to apply for the review of the decision.

13 After the heading to Division 4 of Part 2.10

Insert:

Subdivision A—Rate of parenting payment

14 After section 503

Insert:

503A Approved program of work supplement

If a person:

- (a) is receiving a parenting payment; and
- (b) is participating in an approved program of work for income support payment;

the rate of the person's parenting payment is increased by an amount of \$20.80, to be known as the approved program of work supplement, for each fortnight during which the person participates in the program.

503AA Approved program of work supplement not payable in certain circumstances

An approved program of work supplement is not payable to a person in respect of a fortnight if pensioner education supplement under Part 2.24A or under ABSTUDY is payable to the person in respect of a day in the fortnight.

Subdivision B—Rate reductions relating to participation agreement breaches

503B Participation agreement breach rate reduction period

- (1) A participation agreement breach rate reduction period applies to a person if:

- (a) the person fails to take reasonable steps to comply with the terms of the person's participation agreement (*latest breach*); and
 - (b) the latest breach is only the first or second breach committed by the person within the 2 years immediately before the day after the latest breach.
- (2) In this section, *breach* means a failure to take reasonable steps to comply with the terms of a participation agreement.

503C Length of participation agreement breach rate reduction period

Length of breach rate reduction period

- (1) Subject to subsections (2) and (3), the length of a participation agreement breach rate reduction period is 26 weeks.

Pre-existing breach rate reduction period

- (2) If, at the time of the commencement of a participation agreement breach rate reduction period under this Part (the *current breach period*), the person is already subject to a participation agreement breach rate reduction period (*pre-existing rate reduction period*), the pre-existing rate reduction period is taken to end immediately before the commencement of the current breach period.

Effect on breach rate reduction period of complying with the terms of an agreement within 13 weeks

- (3) If:
- (a) a participation agreement breach rate reduction period applies to a person (or would apply to a person apart from this subsection); and
 - (b) not more than 13 weeks after the start of the period, the person takes reasonable steps to comply, or to resume compliance, with the terms of a participation agreement that is in force in respect of the person;
- this Act has effect, for the purpose only of working out the rate of parenting payment payable to the person:
- (c) as if the period had never started; and

- (d) if a prior breach penalty period had started not more than 13 weeks before the person took those reasonable steps—as if that prior breach penalty period had also never started.

Effect on breach rate reduction period of complying with the terms of agreement after 13 weeks

- (4) If:
- (a) a participation agreement breach rate reduction period applies to a person (or would apply to a person apart from this subsection); and
 - (b) more than 13 weeks after the start of the period, the person takes reasonable steps to comply, or to resume compliance, with the terms of a participation agreement that is in force in respect of the person;

the breach rate reduction period applicable to the person ceases with effect from the day on which the person took those reasonable steps.

- (5) In this section:

breach penalty period means a participation agreement breach rate reduction period or a participation agreement breach non-payment period.

503D Start of participation agreement breach rate reduction period

Notice of start of period

- (1) If a participation agreement breach rate reduction period applies to a person under this Part, the Secretary must give to the person a written notice telling the person of the start of the period.

Notice to contain reasons

- (1A) A notice under subsection (1) must contain reasons why the participation agreement breach rate reduction period applies to the person.

General rule

- (2) Subject to subsection (3), the participation agreement breach rate reduction period starts on the 14th day after the day on which the notice is given to the person.

Parenting payment ceasing to be payable

- (3) If, on or before the day on which the person's participation agreement breach rate reduction period would (apart from this subsection) have started, parenting payment ceases to be payable to the person, the period starts on the day on which parenting payment ceases to be payable to the person.

503E Rate of parenting payment where participation agreement breach rate reduction period applies

Participation agreement breach reduced rate

- (1) If a participation agreement breach rate reduction period applies to a person under this Part, the person's rate of parenting payment for the reduction period is worked out as follows:

Method statement

Step 1. Work out the person's **maximum payment rate** as follows:

- (a) if the person is not a member of a couple, the person's maximum payment rate will be the sum of the person's maximum basic rate of parenting payment as determined under Module B of the Parenting Payment Rate Calculator in section 1068A and the person's pension supplement as determined under Module BA of the Parenting Payment Rate Calculator in section 1068A;
- (b) if the person is a member of a couple, the person's maximum payment rate is the rate worked out

using Module C of the Parenting Payment Rate Calculator in section 1068B.

Step 2. Work out the rate reduction amount as follows:

- (a) if the participation agreement breach is the person's first breach in the 2 year period:

Maximum payment rate \times 0.18

- (b) if the participation agreement breach is the person's second breach in the 2 year period:

Maximum payment rate \times 0.24

Step 3. Take the rate reduction amount away from the rate of parenting payment worked out in accordance with the Parenting Payment Rate Calculator in section 1068A or 1068B, as the case may be. The result is the ***participation agreement breach reduced rate***.

Meaning of 2 year period

(2) In this section:

2 year period means the 2 years immediately before the day after the participation agreement breach.

Subdivision C—Accumulation of parenting payments by CDEP Scheme participants

15 Paragraph 541(2)(b)

Omit “for unemployment payment”, substitute “for income support payment”.

16 Subsection 541(2) (note)

Repeal the note.

17 Paragraph 541A(e)

Omit “for unemployment payment”, substitute “for income support payment”.

18 Subsection 541E(1)

Omit “for unemployment payment”, substitute “for income support payment”.

Note: The heading to subsection 541E(1) is altered by omitting “*for unemployment payment*” and substituting “*for income support payment*”.

19 Subsection 541E(2)

Omit “for unemployment payment”, substitute “for income support payment”.

20 Subsection 541E(3)

Omit “for unemployment payment”, substitute “for income support payment”.

Note 1: The heading to subsection 541E(3) is altered by omitting “*for unemployment payment*” and substituting “*for income support payment*”.

Note 2: The heading to section 541E is altered by omitting “**for unemployment payment**” and substituting “**for income support payment**”.

20A After subsection 544(2)

Insert:

Secretary must contact person before determining failure to comply with terms

- (3) The Secretary must not determine that a person has failed to take reasonable steps to comply with the terms of a youth allowance activity agreement unless the Secretary:
 - (a) is satisfied that the terms of the agreement were intended to assist the person over time in gaining employment or undertaking study or training; and
 - (b) has made reasonable attempts to contact the person in relation to the requirement to comply with the terms of the agreement (and has documented each attempt to contact); and

- (c) if contact was able to be made, has had regard to the reasons, if any, provided by the person for not complying with the terms of the agreement; and
- (d) has confirmed the adequacy of the support that the Secretary agreed to provide under the agreement.

21 Paragraph 544B(1)(f)

Omit “for unemployment payment”, substitute “for income support payment”.

21A Subsection 544B(4)

Repeal the subsection, substitute:

- (4) In having regard to a person’s capacity to comply with an agreement, the Secretary is to take into account, but is not limited to the following matters:
 - (a) the person’s education, experience, skills, age, disability, illness, mental and physical condition; and
 - (b) the state of the local labour market and the transport options available to the person in accessing that market; and
 - (c) the participation opportunities available to the person; and
 - (d) the family and caring responsibilities of the person; and
 - (e) the length of travel time required for compliance with the agreement, by reference to what constitutes unreasonably difficult commuting for the purposes of paragraph 541D(1)(g); and
 - (f) the financial costs of compliance with the agreement, such as travel costs, and the capacity to pay for such compliance; and
 - (g) any other matters that the Secretary or the person considers relevant in the circumstances.

21B Paragraph 544B(5)(a)

After “varied”, insert “(in negotiation with the person)”.

21C After subsection 544B(5)

Insert:

Cooling off period

- (5A) Within 14 days of the terms of the agreement being approved, those terms may be varied by the person with the approval of the Secretary.

Requirement to notify

- (5B) The Secretary must advise the person in writing of the effect of subsection (5A).

Avoidance of doubt

- (5C) To avoid doubt, subsection (5A) does not prevent the person at any time from requesting a review of an agreement under paragraph (5)(c).

22 Subsection 544B(7)

Omit “for unemployment payment”, substitute “for income support payment”.

Note: The heading to subsection 544B(7) is altered by omitting “*for unemployment payment*” and substituting “*for income support payment*”.

23 Subsection 544B(7) (note)

Repeal the note.

24 Subsection 544B(8)

Omit “for unemployment payment”, substitute “for income support payment”.

Note: The heading to subsection 544B(8) is altered by omitting “*for unemployment payment*” and substituting “*for income support payment*”.

24A Subparagraph 544C(1)(b)(iii)

After “agree to”, insert “the reasonable”.

24B Subsection 550C(2)

Repeal the subsection, substitute:

General rule

- (2) Subject to subsection (3) and to sections 550D and 550E, the activity test non-payment period starts on the 14th day after the day on which the notice is given to the person.

25 Paragraph 556A(b)

Omit “for unemployment payment”, substitute “for income support payment”.

26 Section 556A (note)

Repeal the note.

26A Subsection 557B(2)

Repeal the subsection, substitute:

General rule

- (2) Subject to subsection (3) and to section 557C, the activity test breach rate reduction period starts on the 14th day after the day on which the notice is given to the person.

26B Subsection 558B(2)

Repeal the subsection, substitute:

General rule

- (2) Subject to subsection (3), the administrative breach rate reduction period starts on the 14th day after the day on which the notice is given to the person.

26C After subsection 593(2A)

Insert:

- (2B) The Secretary must not determine that a person has failed to take reasonable steps to comply with the terms of a Newstart Activity Agreement unless the Secretary:
- (a) is satisfied that the terms of the agreement were intended to assist the person over time in gaining employment or undertaking study or training; and

- (b) has made reasonable attempts to contact the person in relation to the requirement to comply with the terms of the agreement (and has documented each attempt to contact); and
- (c) if contact was able to be made, has had regard to the reasons, if any, provided by the person for not complying with the terms of the agreement; and
- (d) has confirmed the adequacy of the support that the Secretary agreed to provide under the agreement.

27 Subparagraph 601(2)(a)(ia)

Omit “for unemployment payment”, substitute “for income support payment”.

28 Subsections 601(2E) and (2F)

Omit “for unemployment payment”, substitute “for income support payment”.

29 Paragraph 601A(3)(a)

Omit “for unemployment payment”, substitute “for income support payment”.

30 Paragraph 606(1)(ec)

Omit “for unemployment payment”, substitute “for income support payment”.

30A Subsection 630B(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (3) and (6) and to sections 630BA and 630BB, the activity test non-payment period starts on the 14th day after the day on which the notice is given to the person.

31 Subdivision GA of Division 1 of Part 2.12 (heading)

Repeal the heading, substitute:

Subdivision GA—Participation in an approved program of work for income support payment

32 Paragraph 631B(1)(b)

Omit “for unemployment payment”, substitute “for income support payment”.

Note: The heading to section 631B is altered by omitting “**for unemployment payment**” and substituting “**for income support payment**”.

33 Section 631C

Omit “for unemployment payment”, substitute “for income support payment”.

Note: The heading to section 631C is altered by omitting “**for unemployment payment**” and substituting “**for income support payment**”.

34 Paragraph 644AAA(b)

Omit “for unemployment payment”, substitute “for income support payment”.

34A Subsection 644AB(2)

Repeal the subsection, substitute:

- (2) Subject to section 644AC, the activity test breach rate reduction period starts on the 14th day after the day on which the notice is given to the person.

34B Subsection 644C(2)

Repeal the subsection, substitute:

- (2) Subject to subsections (3) and (6), the administrative breach rate reduction period starts on the 14th day after the day on which the notice is given to the person.

35 After paragraph 729(2)(bb)

Insert:

- (bc) the person is not disqualified from parenting payment for the period solely because of a failure to meet the requirement of paragraph 500(1)(c) (requirement to enter into a participation agreement); and

- (bd) if the person is qualified for parenting payment but the payment is not payable to the person for the period—that result is not produced because of the operation of section 500ZA (person failing to comply with a participation agreement); and

36 Subparagraph 1223(7)(b)(iv)

Repeal the subparagraph, substitute:

- (iv) if the person was receiving parenting payment, youth allowance or newstart allowance—the rate of the person’s parenting payment, youth allowance or new start allowance was increased by an approved program of work supplement when that rate should not have been so increased;

37 Subsection 1223(7) (note)

Repeal the note.

Part 2—Amendment of the Social Security (Administration) Act 1999

Social Security (Administration) Act 1999

38 After subsection 37(1)

Insert:

- (1A) The Secretary must determine that a claim for parenting payment is to be granted if the Secretary is satisfied that:
- (a) the claimant is qualified, or is expected to be qualified, for the payment; and
 - (b) the payment would be payable apart from:
 - (i) the application of a participation agreement breach non-payment period; or
 - (ii) the application of a participation agreement breach rate reduction period where the rate reduction reduces the claimant’s rate of parenting payment to nil.

39 Paragraph 127(2)(b)

Omit “for unemployment payment”, substitute “for income support payment”.

40 After subparagraph 131(1)(b)(i)

Insert:

- (ia) would result in the application of a participation agreement breach non-payment period; or

41 Subsection 131(7)

Insert:

participation agreement breach non-payment period, in relation to a person who is the subject of an adverse decision, means a period that is determined under section 500ZA of the 1991 Act to be a participation agreement breach non-payment period applicable to that person.

42 Paragraph 132(1)(a)

After “persons who are subject to”, insert “a participation agreement breach non-payment period or to”.

43 After section 132

Insert:

132A Automatic payment if review of section 501C terms decision sought

- (1) This section applies to a decision to give a notice under section 501C of the 1991 Act because of a person’s failure to agree to terms of a participation agreement proposed by the Secretary.
- (2) If:
 - (a) a person applies under section 129 for review of a decision to which this section applies; and
 - (b) the person makes the application within 14 days after being notified of the decision;the following provisions have effect:
 - (c) payment of parenting payment is to be made, pending the determination of the review, as if the participation agreement had not been required;
 - (d) if payment of the parenting payment had ceased for a period before the person applied for the review—arrears of parenting payment are payable to the person for the period in spite of section 118;
 - (e) the social security law (other than this Division) applies as if the participation agreement had not been required.
- (3) Subsection (2) ceases to have effect if the application for review is withdrawn.
- (4) Subsection (2) ceases to have effect when the review of the decision is determined.

44 After paragraph 140(1)(a)

Insert:

- (aa) a decision under section 501B of the 1991 Act to the extent to which it relates to the terms of a participation agreement that is in force; and

45 Before subsection 143(1)

Insert:

- (1A) The SSAT may only review a decision under section 501B of the 1991 Act (to the extent to which it relates to the terms of a participation agreement that is in force) if the application is expressed to be an application for review of that decision.

46 After subparagraph 145(1)(b)(i)

Insert:

- (ia) would result in the application of a participation agreement breach non-payment period; or

47 Paragraph 146(1)(a)

Repeal the paragraph, substitute:

- (a) is to set guidelines for the exercise of the Secretary's power to make a declaration under subsection 145(1):
- (i) affecting payments to persons who are subject to a participation agreement breach non-payment period; or
 - (ii) affecting payments to persons who are subject to an activity test non-payment period; and

48 After section 146

Insert:

146A Automatic payment if review of decision under section 501C of the 1991 Act sought

- (1) If:
- (a) a decision has been made to give a notice under section 501C of the 1991 Act because of a person's failure to agree to terms of a participation agreement proposed by the Secretary; and
 - (b) the person applies to the Social Security Appeals Tribunal under section 142 for review of the decision; and

- (c) the person makes the application within 14 days after being notified of the decision;

the following provisions have effect:

- (d) payment of parenting payment is to be made, pending the determination of the review, as if the participation agreement had not been required;
- (e) if payment of parenting payment had ceased for a period before the person applied for the review—arrearages of parenting payment are payable to the person for the period, in spite of section 118;
- (f) the social security law (other than this Division) has effect as if the participation agreement had not been required.

(2) Subsection (1) ceases to have effect if:

- (a) the application for review is withdrawn; or
- (b) the review of the decision is determined.

49 Before paragraph 149(5)(a)

Insert:

- (aa) a decision under section 501B of the 1991 Act to the extent to which it relates to the terms of a participation agreement that is in force; or

50 Before paragraph 150(a)

Insert:

- (aa) a decision under section 501B of the 1991 Act to the extent to which it relates to the terms of a participation agreement that is in force; or

51 Before paragraph 151(4)(a)

Insert:

- (aa) a decision under section 501B of the 1991 Act to the extent to which it relates to the terms of a participation agreement that is in force; or

52 Before paragraph 152(6)(a)

Insert:

- (aa) a decision under section 501B of the 1991 Act to the extent to which it relates to the terms of a participation agreement that is in force; or

53 Before paragraph 153(1)(a)

Insert:

- (aa) a decision under section 501B of the 1991 Act to the extent to which it relates to the terms of a participation agreement that is in force; and

Schedule 1A—Amendments in relation to administrative penalties

Social Security Act 1991

1 Subsection 557A(1)

Omit “subsections (2) and (3)”, substitute “subsections (2), (3), (4) and (7)”.

2 At the end of section 557A

Add:

- (4) Subject to subsection (3), if:
 - (a) an activity test breach rate reduction period is applicable to a person because of an activity test breach other than:
 - (i) a breach for failing to take reasonable steps to comply with a requirement of the Secretary to undertake particular paid work as set out in a notice under subsection 541(2); or
 - (ii) a breach of paragraph 541A(c) or 550A(c), (e), (f) or (g); or
 - (iii) a breach of paragraph 550A(d) where the Secretary is satisfied that the person has acted with an intention of obtaining a social security advantage; or
 - (iv) a breach because of a failure to take reasonable steps to comply with a job search requirement of a Youth Allowance Activity Agreement as described in subsection (6); and
 - (b) the activity test breach is the first activity test breach of any kind that is applicable to the person in the period of 2 years ending immediately before the day after the activity test breach; and
 - (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the activity test breach rate

reduction period should be modified in accordance with this subsection; and

- (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the activity test breach rate reduction period, the person undertakes the activity or each of the activities;

the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.

- (5) For the purposes of subparagraph (4)(a)(iii), a person has an intention of obtaining a social security advantage if the person has an intention of:
 - (a) obtaining, or enabling the person to obtain, a social security payment that the person would not otherwise obtain; or
 - (b) obtaining, or enabling the person to obtain, a social security payment at a higher rate than that which would otherwise be payable; or
 - (c) ensuring that the person would be qualified for fringe benefits for the purposes of this Act or the Veterans' Entitlements Act.
- (6) For the purposes of subparagraph (4)(a)(iv), a job search requirement of a Youth Allowance Activity Agreement is a requirement that the person to whom the agreement relates:
 - (a) undertake a certain number of job searches per fortnight; and
 - (b) keep a record of the person's job searches in a document referred to in the agreement as a job seeker diary; and
 - (c) return the job seeker diary to the Department at the end of the period specified in the agreement.
- (7) If:
 - (a) under paragraph (4)(c), the Secretary has notified a person of an activity or activities; and
 - (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or

activities)—undertaken that other activity or any one or more of those other activities;

before the end of 8 weeks after the start of the activity test breach rate reduction period applicable to the person; and

- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;

the Secretary may determine that the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.

3 Subsection 558A(1)

Omit “subsections (2) and (3)”, substitute “subsections (2), (3), (4) and (5)”.

4 At the end of section 558A

Add:

- (4) Subject to subsection (3), if:

- (a) an administrative breach rate reduction period is applicable to a person because the person has refused or failed to comply with a requirement made of the person under section 63, 64, 67, 68, 75 or 192 of the Administration Act; and
- (b) the refusal or failure is the first refusal or failure in the period of 2 years ending immediately before the day after the refusal or failure; and
- (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the administrative breach rate reduction period should be modified in accordance with this subsection; and
- (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the administrative breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities;

the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

- (5) If:
-

- (a) under paragraph (4)(c), the Secretary has notified a person of an activity or activities; and
- (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;
- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;

the Secretary may determine that the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

5 At the end of section 644AA

Add:

(1A) If:

- (a) an activity test breach rate reduction period is applicable to a person because of an activity test breach other than:
 - (i) a breach for failing to take reasonable steps to comply with a requirement of the Secretary to undertake particular paid work as set out in a notice under subsection 601(2); or
 - (ii) a breach of subsection 601A(1), of section 628, 629 or 630 or of paragraph 630AA(1)(b); or
 - (iii) a breach of paragraph 630AA(1)(a) where the Secretary is satisfied that the person has acted with an intention of obtaining a social security advantage; or
 - (iv) a breach because of a failure to take reasonable steps to comply with a job search requirement of a Newstart Allowance Activity Agreement as described in subsection (1C); and

- (b) the activity test breach is the first activity test breach of any kind that is applicable to the person in the period of 2 years ending immediately before the day after the activity test breach; and
 - (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the activity test breach rate reduction period should be modified in accordance with this subsection; and
 - (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the activity test breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities; the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.
- (1B) For the purposes of subparagraph (1A)(a)(iii), a person has an intention of obtaining a social security advantage if the person has an intention of:
- (a) obtaining, or enabling the person to obtain, a social security payment that the person would not otherwise obtain; or
 - (b) obtaining, or enabling the person to obtain, a social security payment at a higher rate than that which would otherwise be payable; or
 - (c) ensuring that the person would be qualified for fringe benefits for the purposes of this Act or the Veterans' Entitlements Act.
- (1C) For the purposes of subparagraph (1A)(a)(iv), a job search requirement of a Newstart Allowance Activity Agreement is a requirement that the person to whom the Agreement relates:
- (a) undertake a certain number of job searches per fortnight; and
 - (b) keep a record of the person's job searches in a document referred to in the agreement as a job seeker diary; and
 - (c) return the job seeker diary to the Department at the end of the period specified in the Agreement.
- (1D) If:
- (a) under paragraph (1A)(c), the Secretary has notified a person of an activity or activities; and
-

- (b) the person has not:
- (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;
- before the end of 8 weeks after the start of the activity test breach rate reduction period applicable to the person; and
- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;
- the Secretary may determine that the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.

6 At the end of section 644B

Add:

(1A) If:

- (a) an administrative breach rate reduction period is applicable to a person because the person has refused or failed, without reasonable excuse, to comply with a requirement made of the person under section 63, 64, 67, 68, 75 or 192 of the Administration Act; and
- (b) the refusal or failure is the first refusal or failure in the period of 2 years ending immediately before the day after the refusal or failure; and
- (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the administrative breach rate reduction period should be modified in accordance with this subsection; and
- (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the administrative breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities;

the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

(1B) If:

- (a) under paragraph (1A)(c), the Secretary has notified a person of an activity or activities; and
 - (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;
- before the end of 8 weeks after the start of the administrative breach rate reduction period applicable to the person; and
- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;

the Secretary may determine that the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

7 After subsection 729(2C)

Insert:

(2CA) The Secretary must not determine that a person has failed to take reasonable steps to comply with the terms of a Special Benefit Activity Agreement unless the Secretary:

- (a) is satisfied that the terms of the agreement were intended to assist the person over time in gaining employment or undertaking study or training; and
- (b) has made reasonable attempts to contact the person in relation to the requirement to comply with the terms of the agreement (and has documented each attempt to contact); and
- (c) if contact was able to be made, has had regard to the reasons, if any, provided by the person for not complying with the terms of the agreement; and

- (d) has confirmed the adequacy of the support that the Secretary agreed to provide under the agreement.

8 After subsection 731M(1)

Insert:

- (1AA) If the person is at least 50 years of age but less than 60 years of age, the particular number of job vacancies shall not exceed 24 per 12 weeks in the period specified in the notice.
- (1AB) If the person is at least 60 years of age, the particular number of job vacancies shall not exceed 12 per 12 weeks in the period specified in the notice.
- (1AC) Subsection (1AA) does not apply unless the person has been receiving an income support payment for a continuous period of at least 9 months and the person satisfies the Secretary that the person has no recent workforce experience.

9 Subsection 731M(5)

Repeal the subsection, substitute:

- (5) In having regard to a person's capacity to comply with an agreement, the Secretary is to take into account, but is not limited to, the following matters:
- (a) the person's education, experience, skills, age, disability, illness, and mental and physical condition;
 - (b) the state of the local labour market and the transport options available to the person in accessing that market;
 - (c) the participation opportunities available to the person;
 - (d) the family and caring responsibilities of the person;
 - (e) the length of travel time required for compliance with the agreement, by reference to what constitutes unreasonably difficult commuting for the purposes of paragraph 731B(1)(g);
 - (f) the financial costs of compliance with the agreement, such as travel costs, and the capacity to pay for such compliance;
 - (g) any other matters that the Secretary or the person considers relevant in the circumstances.

10 Paragraph 731M(6)(a)

After “varied”, insert “(in negotiation with the person)”.

11 After subsection 731M(6)

Insert:

- (6A) Within 14 days of the day of the agreement being approved, those terms may be varied by the person with the approval of the Secretary.
- (6B) The Secretary must advise the person in writing of the effect of subsection (6A).
- (6C) To avoid doubt, subsection (6A) does not prevent the person at any time from requesting a review of an agreement under paragraph (6)(c).

12 Subparagraph 731N(1)(b)(iii)

After “agree to”, insert “the reasonable”.

13 Subsection 745C(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (4) of this section and to section 745D, the activity test non-payment period starts on the 14th day after the day on which the notice is given to the person.

14 At the end of section 748

Add:

- (1A) If:
 - (a) an activity test breach rate reduction period is applicable to a person because of an activity test breach other than:
 - (i) a breach for failing to take reasonable steps to comply with a requirement of the Secretary to undertake particular paid work as set out in a notice under subsection 731A(7); or
 - (ii) a breach of subsection 731C(1), of section 743, 744 or 745 or of paragraph 745A(1)(a); or

- (iii) a breach of paragraph 745A(1)(b) where the Secretary is satisfied that the person has acted with an intention of obtaining a social security advantage; or
 - (iv) a breach because of a failure to take reasonable steps to comply with a job search requirement of a Special Benefit Activity Agreement as described in subsection (1C); and
- (b) the activity test breach is the first activity test breach of any kind that is applicable to the person in the period of 2 years ending immediately before the day after the activity test breach; and
- (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the activity test breach rate reduction period should be modified in accordance with this subsection; and
- (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the activity test breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities; the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.
- (1B) For the purposes of subparagraph (1A)(a)(iii), a person has an intention of obtaining a social security advantage if the person has an intention of:
- (a) obtaining, or enabling the person to obtain, a social security payment that the person would not otherwise obtain; or
 - (b) obtaining, or enabling the person to obtain, a social security payment at a higher rate than that which would otherwise be payable; or
 - (c) ensuring that the person would be qualified for fringe benefits for the purposes of this Act or the Veterans' Entitlements Act.
- (1C) For the purposes of subparagraph (1A)(a)(iv), a job search requirement of a Special Benefit Activity Agreement is a requirement that the person to whom the Agreement relates:
- (a) undertake a certain number of job searches per fortnight; and

- (b) keep a record of the person's job searches in a document referred to in the agreement as a job seeker diary; and
- (c) return the job seeker diary to the Department at the end of the period specified in the Agreement.

(1D) If:

- (a) under paragraph (1A)(c), the Secretary has notified a person of an activity or activities; and
- (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;

before the end of 8 weeks after the start of the activity test breach rate reduction period applicable to the person; and

- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;

the Secretary may determine that the activity test breach rate reduction period applicable to the person is 8 weeks rather than 26 weeks.

15 Subsection 749(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (4) of this section and to section 750, the activity test breach rate reduction period starts on the 14th day after the day on which the notice is given to the person.

16 At the end of section 752

Add:

(1A) If:

- (a) an administrative breach rate reduction period is applicable to a person because the person has refused or failed, without reasonable excuse, to comply with a requirement made of the

person under section 63, 64, 67, 68, 75 or 192 of the Administration Act; and

- (b) the refusal or failure is the first refusal or failure in the period of 2 years ending immediately before the day after the refusal or failure; and
- (c) the Secretary notifies the person, either orally or in writing, of an activity or activities that, if undertaken by the person, would satisfy the Secretary that the administrative breach rate reduction period should be modified in accordance with this subsection; and
- (d) at the earliest opportunity available to the person but in no case later than 8 weeks after the start of the administrative breach rate reduction period applicable to the person, the person undertakes the activity or each of the activities;

the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

(1B) If:

- (a) under paragraph (1A)(c), the Secretary has notified a person of an activity or activities; and
- (b) the person has not:
 - (i) undertaken the activity or any one or more of the activities referred to in paragraph (a); or
 - (ii) if another activity or other activities is notified to the person in substitution for the activity or activities so referred to (or for any previously substituted activity or activities)—undertaken that other activity or any one or more of those other activities;before the end of 8 weeks after the start of the administrative breach rate reduction period applicable to the person; and
- (c) the Secretary is satisfied that the failure to undertake the activity or any one or more of the activities referred to in paragraph (a) and any substituted activity or activities was for reasons outside the person's control;

the Secretary may determine that the administrative breach rate reduction period applicable to the person is 8 weeks rather than 13 weeks.

17 Subsection 753(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (4), the administrative breach rate reduction period starts on the 14th day after the day on which the notice is given to the person.

Schedule 2—Language, literacy and numeracy supplement

Part 1A—Amendment of the A New Tax System (Family Assistance) Act 1999

A New Tax System (Family Assistance) Act 1999

1A Paragraph 7(j) of Schedule 3

After “rent assistance”, insert “, language, literacy and numeracy supplement”.

Part 1—Amendment of the Social Security Act 1991

Social Security Act 1991

1 After Part 2.21

Insert:

Part 2.21A—Language, literacy and numeracy supplement

Division 1—Preliminary

1047 Definition

In this Part:

designated social security payment means:

- (a) disability support pension; or
- (b) mature age allowance payable under Part 2.12B; or
- (c) newstart allowance; or
- (d) parenting payment; or
- (e) partner allowance; or
- (f) widow allowance; or
- (g) youth allowance.

Division 2—Qualification for language, literacy and numeracy supplement

1048 General statement of qualification

A person is qualified to receive a language, literacy and numeracy supplement in respect of a fortnight if:

- (a) the person is receiving a designated social security payment in respect of that fortnight; and

- (b) the Secretary is satisfied that, on a day during that fortnight, the person was attending a course included in the language, literacy and numeracy program administered by the Department of State responsible for education and training.

Division 3—Circumstances where language, literacy and numeracy supplement not payable

1049 Language, literacy and numeracy supplement not payable in certain circumstances

- (1) Language, literacy and numeracy supplement is not payable to a person in respect of a fortnight if pensioner education supplement under Part 2.24A or under ABSTUDY is payable to the person in respect of a day in the fortnight.
- (2) Language, literacy and numeracy supplement is not payable to a person in respect of a fortnight if an approved program of work supplement or a CDEP Scheme Participant Supplement is payable to the person in respect of that fortnight.
- (3) Language, literacy and numeracy supplement is not payable to a person in respect of a fortnight in relation to attendance at a second or subsequent language, literacy or numeracy course in that fortnight.
- (4) For the avoidance of doubt, language, literacy and numeracy supplement is payable in respect of a person's attendance at a language, literacy or numeracy course whether that attendance is voluntary or is required under the provisions of, or of an agreement made under, any other provision of this Act.

Division 4—Rate increase relating to language, literacy and numeracy supplement

1050 Rate increase attributable to language, literacy and numeracy supplement

If a person:

- (a) is qualified to receive language, literacy and numeracy supplement in respect of a fortnight; and
- (b) nothing in section 1049 precludes the payability of that supplement to that person in respect of that fortnight; the rate of the person's designated social security payment in respect of that fortnight, worked out under Chapter 3 and taking account of any rate reduction provided for in this Act, is increased by \$20.80, being the fortnightly rate of the supplement.

2 After subparagraph 1223(7)(b)(i)

Insert:

- (ia) the rate of the person's social security benefit payment was increased by an amount of language, literacy and numeracy supplement when that rate should not have been so increased; or

3 After paragraph 1223(7)(c)

Insert:

- (ca) the amount of language, literacy and numeracy supplement;

Part 2—Amendment of the Social Security (Administration) Act 1999

Social Security (Administration) Act 1999

4 After section 12A

Insert:

12B Language, literacy and numeracy supplement

A claim is not required for language, literacy and numeracy supplement.

Part 3—Amendment of the Income Tax Assessment Act 1997

Income Tax Assessment Act 1997

5 Section 52-15 (table)

Repeal the table, substitute:

Supplementary amount of a social security payment		
Item	For this category of social security payment:	the supplementary amount is the total of:
1	Age pension Bereavement allowance Carer payment Disability wage supplement Mature age allowance (paid under Part 2.12A) Mature age partner allowance Sickness allowance Special benefit Special needs age pension Special needs disability support pension Special needs widow B pension Special needs wife pension Widow B pension Wife pension	(a) so much of the payment as is included by way of rental assistance; and (b) so much of the payment as is included by way of remote area allowance; and (c) so much of the payment as is included by way of pharmaceutical allowance

Supplementary amount of a social security payment

Item	For this category of social security payment:	the supplementary amount is the total of:
2	Disability support pension	(a) so much of the payment as is included by way of rental assistance; and (b) so much of the payment as is included by way of remote area allowance; and (c) so much of the payment as is included by way of pharmaceutical allowance; and (d) so much of the payment as is included by way of incentive allowance; and (e) so much of the payment as is included by way of language, literacy and numeracy supplement
3	Mature age allowance (paid under Part 2.12B) Newstart allowance Parenting payment (benefit (PP partnered)) Parenting payment (pension (PP single)) Partner allowance Widow allowance Youth allowance	(a) so much of the payment as is included by way of rental assistance; and (b) so much of the payment as is included by way of remote area allowance; and (c) so much of the payment as is included by way of pharmaceutical allowance; and (d) so much of the payment as is included by way of language, literacy and numeracy supplement
4	Austudy payment	(a) so much of the payment as is included by way of remote area allowance; and (b) so much of the payment as is included by way of pharmaceutical allowance

6 Section 52-40 (table item 22A, cell relating to ordinary payment)

Omit “Part 2.27”, substitute “Part 2.24A”.

7 Application provision

The amendments made by items 5 and 6 of this Schedule apply in relation to assessments in respect of income of the first year of income ending after the commencement of this Schedule and of all later years of income.

Schedule 3—Personal Support Programme

Part 1—Amendment of the Social Security Act 1991

Social Security Act 1991

1 Subsection 23(1) (definition of CSP)

Omit “Employment Department”, substitute “Department”.

2 Subsection 23(1)

Insert:

PSP means the program known as the Personal Support Programme administered by the Department.

3 After subsection 541(1)

Insert:

(1A) A person also satisfies the activity test in respect of the period if, throughout the period, the person participates in the CSP.

4 Subparagraph 541(2)(c)(v)

Repeal the subparagraph.

5 After paragraph 541(2)(c)

Insert:

(ca) participate in the PSP;

6 Paragraph 544B(1)(ia)

Repeal the paragraph, substitute:

(ia) participation in the PSP;

7 Subparagraph 549A(5)(a)(ia)

Repeal the subparagraph, substitute:

(ia) participation in the PSP; or

8 Subparagraph 553B(2)(a)(ia)

Repeal the subparagraph, substitute:

- (ia) participation in the PSP; or

9 After subparagraph 553C(4)(a)(i)

Insert:

- (ia) participation in the PSP; or

Note: The heading to subsection 553C(4) is altered by inserting “, *the PSP*” after “*labour market*”.

10 Paragraphs 598(8)(a) and (b)

Repeal the paragraphs, substitute:

- (a) is undertaking:

- (i) formal vocational training in a labour market program approved by the Employment Secretary; or

- (ii) a rehabilitation program approved by the Employment Secretary; or

- (b) is participating in the CSP or the PSP;

and the person has been exempted from the application of that subsection by the Secretary.

11 Subparagraph 601(2)(a)(iv)

Repeal the subparagraph, substitute:

- (iv) should participate in the PSP; and

12 After subsection 601(6)

Insert:

- (6A) A person also satisfies the activity test in respect of the period if, throughout the period, the person participates in the CSP.

13 Paragraph 606(1)(fb)

Repeal the paragraph, substitute:

- (fb) participation in the PSP;

14 Paragraphs 620(2)(a) and (b)

Repeal the paragraphs, substitute:

- (a) is undertaking:
-

- (i) formal vocational training in a labour market program approved by the Employment Secretary; or
 - (ii) a rehabilitation program approved by the Employment Secretary; or
- (b) is participating in the CSP or the PSP;
and the person has been exempted from the application of that subsection by the Secretary.

15 Subparagraph 624(2)(a)(ia)

Repeal the subparagraph, substitute:

- (ia) participation in the CSP; or

16 At the end of section 624

Add:

- (3) If:
 - (a) an activity test penalty period applies to a person under subsection (1) (or would apply to the person apart from this subsection); and
 - (b) the person starts to participate in the PSP;
the activity test penalty period stops applying to the person from and including the day on which the person starts to participate in the PSP (whether or not the person completes the program).

17 Subparagraph 625(2)(a)(ia)

Repeal the subparagraph, substitute:

- (ia) participation in the CSP; or

18 At the end of section 625

Add:

- (3) If:
 - (a) an activity test penalty period applies to a person under subsection (1) (or would apply to the person apart from this subsection); and
 - (b) the person starts to participate in the PSP;
the activity test penalty period stops applying to the person from and including the day on which the person starts to participate in the PSP (whether or not the person completes the program).

19 Subparagraph 626(2)(a)(ia)

Repeal the subparagraph, substitute:

- (ia) participation in the CSP; or

20 At the end of section 626

Add:

(3) If:

- (a) an activity test penalty period applies to a person under subsection (1) (or would apply to the person apart from this subsection); and
- (b) the person starts to participate in the PSP;
the activity test penalty period stops applying to the person from and including the day on which the person starts to participate in the PSP (whether or not the person completes the program).

21 After subparagraph 633(4)(a)(i)

Insert:

- (ia) participation in the PSP; or

22 Paragraphs 634(2)(a) and (b)

Repeal the paragraphs, substitute:

- (a) is undertaking:
 - (i) formal vocational training in a labour market program approved by the Employment Secretary; or
 - (ii) a rehabilitation program approved by the Employment Secretary; or
- (b) is participating in the CSP or the PSP;
and the person has been exempted from the application of that subsection by the Secretary.

Part 2—Amendment of the Social Security (Administration) Act 1999

Social Security (Administration) Act 1999

23 Paragraph 63(4)(e)

Repeal the paragraph, substitute:

- (e) if the person is receiving a youth allowance and is neither:
 - (i) subject to a requirement by the Secretary to participate in the PSP; nor
 - (ii) a party to a youth allowance activity agreement under which the person is required to participate in the PSP; the allowance is not payable and if, at a later time, a youth allowance becomes payable to the person, an administrative breach rate reduction period applies to the person;

24 Subsection 63(5)

Omit all the words after paragraph (d), substitute:

the following paragraphs have effect:

- (e) if the person is receiving newstart allowance and is neither:
 - (i) subject to a requirement by the Secretary to participate in the PSP; nor
 - (ii) a party to a Newstart Activity Agreement under which the person is required to participate in the PSP; the allowance is not payable and if, at a later time, newstart allowance becomes payable to the person, an administrative breach rate reduction period applies to the person;
- (f) in any other case, the payment that the person has received or has claimed is not payable.

25 Paragraph 127(2)(a)

Repeal the paragraph.

Schedule 4—Closure of access to mature age allowance and partner allowance

Part 1—Closure of access to mature age allowance

Social Security Act 1991

1 Division 1 of Part 2.12B (heading)

Repeal the heading, substitute:

Division 1—Application of Part

2 After section 660YAA

Insert:

660YAB Time limits on claims for mature age allowance

- (1) In spite of any other provisions of this Act or of the Administration Act, a person is not to be granted a mature age allowance under this Part unless:
 - (a) the person's claim for the allowance:
 - (i) was lodged before 1 July 2003; or
 - (ii) is taken, because of the operation of section 12, 13 or 15 of the Administration Act, to have been made before 1 July 2003; and
 - (b) the person was qualified for the allowance:
 - (i) in a case to which subparagraph (a)(i) applies—on the date of lodgment of the claim; and
 - (ii) in a case to which subparagraph (a)(ii) applies—on the date the person is taken to have made the claim.
- (2) Subsection (1) does not imply that a person making a claim in the circumstances referred to in subsection 35(1) of the Administration Act before 1 July 2003 will be granted a mature age allowance if the date from which the allowance would be payable to that person

under subsection 37(7) of that Act would be 1 July 2003 or a later date.

- (3) Nothing in this section affects the operation of section 85 of the Administration Act.

Part 2—Closure of access to partner allowance

Social Security Act 1991

3 Before Division 1 of Part 2.15A

Insert:

Division 1A—Application of Part

771 Time limits on claims for partner allowance

- (1) In spite of any other provisions of this Act or of the Administration Act, a person is not to be granted a partner allowance under this Part unless:
 - (a) the person's claim for the allowance:
 - (i) was lodged before 1 July 2003; or
 - (ii) is taken, because of the operation of section 12, 13 or 15 of the Administration Act, to have been made before 1 July 2003; and
 - (b) the person was qualified for the allowance:
 - (i) in a case to which subparagraph (a)(i) applies—on the date of lodgment of the claim; and
 - (ii) in a case to which subparagraph (a)(ii) applies—on the date the person is taken to have made the claim.
- (2) Subsection (1) does not imply that a person making a claim in the circumstances referred to in subsection 35(1) of the Administration Act before 1 July 2003 will be granted a partner allowance if the date from which the allowance would be payable to that person under subsection 37(7) of that Act would be 1 July 2003 or a later date.
- (3) Nothing in this section affects the operation of section 85 of the Administration Act.

Schedule 5—Flexible participation requirements for mature age newstart allowees

Social Security Act 1991

1 After subsection 595(1)

Insert:

(1A) If a person:

(a) is at least 50 years old; and

(b) either:

(i) has not been required to enter into a Newstart Activity Agreement; or

(ii) having been required to enter into a Newstart Activity Agreement, is not, to the satisfaction of the Secretary, unreasonably delaying entering into that agreement;

the Secretary may, if the Secretary is satisfied that it is appropriate to do so, treat the person as being unemployed.

(1B) Subsection (1A) does not apply to a person who is undertaking remunerative work.

2 Subparagraph 598(1)(a)(i)

Repeal the subparagraph, substitute:

(i) the day following the day on which the person ceased work or ceased to be enrolled in a full time course of education or of vocational training; or

3 Subsection 598(3)

Omit “on which the person became unemployed”, substitute “following the day on which the person ceased work or ceased to be enrolled in a full time course of education or of vocational training”.

4 Paragraphs 598(3A)(a) and (b)

Repeal the paragraphs, substitute:

- (a) the day following the day on which the person ceased work or ceased to be enrolled in a full time course of education or of vocational training;
- (b) if, when the claim is made, the person's partner has ceased work—the day following the day on which the person's partner ceased work;
- (ba) if, when the claim is made, the person's partner has ceased to be enrolled in a full time course of education or of vocational training—the day following the day on which the person's partner so ceased;

5 Paragraph 598(3B)(d)

Repeal the paragraph, substitute:

- (d) if, when the claim is made, the person's partner has ceased work—the day following the day on which the person's partner ceased work;
- (da) if, when the claim is made, the person's partner has ceased to be enrolled in a full time course of education or of vocational training—the day following the day on which the person's partner so ceased;

6 Paragraph 598(4A)(a)

Repeal the paragraph, substitute:

- (a) the day following the day on which the person ceased work or ceased to be enrolled in a full time course of education or of vocational training; or

7 At the end of section 598

Add:

- (9) A reference in this section to the day on which a person ceased work (whether the person ceases work permanently, temporarily or by reason of being on unpaid leave) is a reference:
 - (a) except where the person is on paid leave immediately after last performing work—to the day on which the person last performed work before so ceasing; and
 - (b) if the person is on paid leave—to the last day on which the person is on that paid leave.

8 Paragraph 600(6)(a)

Repeal the paragraph.

9 At the end of subsection 601(2E)

Add:

; or (c) the person is at least 50 years of age.

10 After subsection 603(1)

Insert:

(1A) If a person:

(a) is at least 50 years of age; and

(b) either:

(i) has not been required to enter into a Newstart Activity Agreement; or

(ii) having been required to enter into a Newstart Activity Agreement, is not, to the satisfaction of the Secretary, unreasonably delaying entering into that agreement;

the person is taken to have satisfied the activity test during the period starting when the person claimed, or is to be taken to have claimed, a newstart allowance and ending:

(c) if the person has been required to enter into a Newstart Activity Agreement but has failed, or is taken to have failed, to enter that agreement—when the person so failed or is taken to have so failed; or

(d) in any other case—when the person has entered into such an agreement.

11 Paragraph 606(1)(g)

Repeal the paragraph, substitute:

(g) another activity that the Secretary regards as suitable for the person and that is agreed to between the person and the Secretary.

11A After subsection 606(1)

Insert:

- (1A) If the person is at least 50 years of age but less than 60 years of age, the particular number of job vacancies shall not exceed 24 per 12 weeks in the period specified in the notice.
- (1AB) If the person is at least 60 years of age, the particular number of job vacancies shall not exceed 12 per 12 weeks in the period specified in the notice.
- (1AC) Subsection (1A) does not apply unless the person has been receiving an income support payment for a continuous period of at least 9 months and the person satisfies the Secretary that the person has no recent workforce experience.

11B Subsection 606(4)

Repeal the subsection, substitute:

- (4) In having regard to a person's capacity to comply with an agreement, the Secretary is to take into account, but is not limited to the following matters:
- (a) the person's education, experience, skills, age, disability, illness, mental and physical condition; and
 - (b) the state of the local labour market and the transport options available to the person in accessing that market; and
 - (c) the participation opportunities available to the person; and
 - (d) the family and caring responsibilities of the person; and
 - (e) the length of travel time required for compliance with the agreement, by reference to what constitutes unreasonably difficult commuting for the purposes of paragraph 601(2A)(g); and
 - (f) the financial costs of compliance with the agreement, such as travel costs, and the capacity to pay for such compliance; and
 - (g) any other matters that the Secretary or the person considers relevant in the circumstances.

11C Paragraph 606(5)(a)

After "varied", insert "(in negotiation with the person)".

11D After subsection 606(5)

Insert:

- (5A) Within 14 days of the terms of the agreement being approved, those terms may be varied by the person with the approval of the Secretary.
- (5B) The Secretary must advise the person in writing of the effect of subsection (5A).
- (5C) To avoid doubt, subsection (5A) does not prevent the person at any time from requesting a review of an agreement under paragraph (5)(c).

11E Subparagraph 607(1)(b)(iii)

After “agree to”, insert “the reasonable”.

12 At the end of section 630A

Add:

- (2) If:
 - (a) a newstart allowance becomes not payable to a person because of:
 - (i) a failure to enter into a Newstart Activity Agreement; or
 - (ii) an unreasonable delay in entering into a Newstart Activity Agreement; or
 - (iii) a failure to take reasonable steps to comply with the terms of a Newstart Activity Agreement; and
 - (b) the person is at least 50 years of age at the time of the activity test breach referred to in paragraph (a); and
 - (c) the Secretary is satisfied that, not more than 8 weeks after the start of the activity test non-payment period applicable to the person by reason of the breach referred to in paragraph (a), the person:
 - (i) has entered into such a Newstart Activity Agreement; or
 - (ii) is no longer unreasonably delaying entry into such a Newstart Activity Agreement; or
 - (iii) is taking reasonable steps to comply, or to resume compliance, with the terms of a Newstart Activity Agreement that is in force in respect of the person or, if there is no Newstart Activity Agreement in force in respect of the person, with the terms of the Newstart Activity Agreement that was in force in respect of the

person immediately before the commencement of the non-payment period;

as the case requires;

this Act has effect, for the purpose only of determining the payability of newstart allowance during the balance of the non-payment period, as if the non-payment period had never applied.

- (3) A determination that a person has commenced to take reasonable steps as referred to in paragraph (2)(c) may be expressed to have effect from the day on which those reasonable steps are taken, whether or not the determination is made on that day or a later day.

13 At the end of section 644AA

Add:

(2) If:

- (a) a newstart allowance becomes not payable to a person because of:
- (i) a failure to enter into a Newstart Activity Agreement; or
 - (ii) an unreasonable delay in entering into a Newstart Activity Agreement; or
 - (iii) a failure to take reasonable steps to comply with the terms of a Newstart Activity Agreement; and
- (b) the person is at least 50 years of age at the time of the activity test breach referred to in paragraph (a); and
- (c) the Secretary is satisfied that, not more than 26 weeks after the start of the activity test rate reduction period applicable to the person by reason of the breach referred to in paragraph (a), the person:
- (i) has entered into such a Newstart Activity Agreement; or
 - (ii) is no longer unreasonably delaying entry into such a Newstart Activity Agreement; or
 - (iii) is taking reasonable steps to comply, or to resume compliance, with the terms of a Newstart Activity Agreement that is in force in respect of the person or, if there is no Newstart Activity Agreement in force in respect of the person, with the terms of the Newstart Activity Agreement that was in force in respect of the

person immediately before the commencement of the rate reduction period;

as the case requires;

this Act has effect, for the purpose only of determining the rate of newstart allowance during the balance of the rate reduction period, as if the rate reduction period had never applied.

- (3) A determination that a person has commenced to take reasonable steps as referred to in paragraph (2)(c) may be expressed to have effect from the day on which those reasonable steps are taken, whether or not the determination is made on that day or a later day.

14 At the end of section 644B

Add:

(2) If:

- (a) a newstart allowance becomes not payable to a person because of a failure to comply with a requirement to attend at a particular place for a particular purpose in accordance with a notice issued under paragraph 63(3)(c); and
- (b) the person is at least 50 years of age at the time of the administrative breach referred to in paragraph (a); and
- (c) not more than 13 weeks after the start of the administrative breach rate reduction period applicable to the person by reason of the breach referred to in paragraph (a):
 - (i) the person attends that place for that purpose; or
 - (ii) the person complies with an alternative requirement that the Secretary notifies to the person (whether orally or in writing);

this Act has effect, for the purpose only of determining the rate of newstart allowance during the balance of the rate reduction period, as if the rate reduction period had never applied.

15 Subsection 1217 (after table item 15)

Insert:

TSchedule 5T Flexible participation requirements for mature age newstart alloweesT
T T T T

15A	Newstart allowance	Persons of at least 50 years of age who are subject to a Newstart Activity Agreement other than an agreement requiring the person to undertake an activity referred to in paragraph 606(1)(a)	Any temporary absence	26 weeks
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Schedule 6—Working credit

Part 2—Amendment of the Social Security Act 1991

Social Security Act 1991

2 Subsection 8(1)

Insert:

employment income, in relation to a person, means ordinary income of the person that comprises employment income under subsection (1A) and includes ordinary income that is characterised as employment income of the person because of the operation of subsection (1B).

3 Subsection 8(1)

Insert:

student income bank means the student income bank set out:
(a) in Module J of the Youth Allowance Rate Calculator; or
(b) in Module E of the Austudy Payment Rate Calculator.

4 Subsection 8(1)

Insert:

working credit participant means a person who is a working credit participant within the meaning of section 1073D.

5 After subsection 8(1)

Insert:

- (1A) A reference in this Act to *employment income*, in relation to a person, is a reference to ordinary income of the person:
- (a) that is earned, derived or received, or that is taken to have been earned, derived or received, by the person from remunerative work undertaken by the person as an employee in an employer/employee relationship; and

- (b) that includes, but is not limited to, salary, wages, commissions and employment-related fringe benefits that are so earned, derived or received or taken to have been so earned, derived or received;

but does not include:

- (c) a superannuation payment to the person; or
- (d) a payment of compensation, or a payment to the person under an insurance scheme, in relation to the person's inability to earn, derive or receive income from that remunerative work; or
- (e) a leave payment to the person; or
- (f) a payment to the person by a former employer of the person in relation to the termination of the person's employment; or
- (g) a comparable foreign payment.

(1B) For the avoidance of doubt, if:

- (a) a person is treated, for the purposes of working out the person's ordinary income, as having earned, derived or received any ordinary income that was in fact earned, derived or received, or taken to have been earned, derived or received, by the partner of the person; and
- (b) that ordinary income would be characterised as employment income in the hands of the partner if the partner were not a member of a couple;

then, for the purposes of this Act, that ordinary income is to be similarly characterised in the hands of the person.

(1C) For the purposes of paragraph (1A)(e), a leave payment:

- (a) includes a payment in respect of sick leave, annual leave, maternity leave or long service leave; and
- (b) may be made as a lump sum payment, a payment that is one of a series of regular payments or otherwise; and
- (c) is taken to be made to the person if it is made to another person:
 - (i) at the direction of the first-mentioned person or of a court; or
 - (ii) on behalf of the first-mentioned person; or
 - (iii) for the benefit of the first-mentioned person; or

- (iv) if the first-mentioned person waives or assigns his or her right to the payment.

6 Subsection 23(1)

Insert:

instalment period, in relation to a person, means a period that is determined by the Secretary under section 43 of the *Social Security (Administration) Act 1999* to be an instalment period of the person.

7 After subsection 23(4)

Insert:

(4A) Despite subsection (4), if:

- (a) a person is receiving a social security pension or social security benefit; and
- (b) the person's rate of payment of the pension or benefit is worked out with regard to the income test module of a rate calculator in Chapter 3; and
- (c) the person has not reached pension age; and
- (d) the person or the person's partner earns, derives or receives, or is taken to earn, derive or receive, employment income; and
- (e) the person would, but for this subsection, cease to be receiving the pension or benefit on and from a day (the *cessation day*):
 - (i) if paragraph (d) applies to the person—because of the employment income of the person (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the person) (and after any working credit balance or student income bank balance of the person is reduced to nil); or
 - (ii) if paragraph (d) applies to the partner—because of the employment income of the partner (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the partner) (and after any working credit balance or student income bank balance of the partner is reduced to nil); and

- (f) but for the employment income, or the combined income, referred to in paragraph (e), the pension or benefit would continue to be payable to the person on and from the cessation day; and
- (g) the person:
 - (i) in the case of a woman who would, but for this subsection, cease to be receiving wife pension because of the employment income, or the combined income, referred to in subparagraph (e)(ii)—continues, but for that employment income or combined income, to be qualified for wife pension on and from the cessation day; and
 - (ii) in any other case—continues to be qualified for the pension or benefit on and from the cessation day;

then, for the purposes only of the provisions of this Act that are specified in subsection (4AA), the person is taken to be receiving the pension or benefit until:

- (h) 12 weeks after the end of the instalment period in which the cessation day occurs; or
- (i) the day the person reaches pension age; or
- (j) the day the pension or benefit would cease to be payable to the person for a reason other than the employment income, or the combined income, referred to in paragraph (e); or
- (k) the day the person ceases to be qualified as mentioned in paragraph (g);

whichever happens first.

(4AA) For the purposes of subsection (4A), the following are the specified provisions of this Act:

- (a) provisions in Chapter 2 that provide for an increase in a person's rate of payment by an amount to be known as the approved program of work supplement;
- (b) section 1048;
- (c) section 1061PJ;
- (d) section 1061Q;
- (e) point 1067G-F3;
- (f) provisions within the rent assistance module of a rate calculator in Chapter 3 describing a partner with a rent increased pension;

- (g) provisions within the rent assistance module of a rate calculator in Chapter 3 describing a partner with a rent increased benefit;
- (h) provisions within the income test module of a rate calculator in Chapter 3 prescribing the partner income free area or the partner income excess for a person.

8 At the end of Part 2.13 of Chapter 2

Add:

665AA Existence of working credit does not prevent payments under this Part

(1) If:

- (a) a person is a working credit participant qualified for newstart allowance; and
- (b) either:
 - (i) the participant commences to earn, derive or receive, or to be taken to earn, derive or receive, employment income; or
 - (ii) there is an increase in the employment income that is earned, derived or received, or taken to be earned, derived or received, by the participant; and
- (c) the participant has a working credit balance greater than nil at the start of the instalment period of the participant in which the commencement or increase occurs;

then, for the purpose of determining the participant's qualification for employment entry payment, the participant ceases to be qualified for newstart allowance at the time when the participant would have so ceased if the participant had not had a working credit balance greater than nil.

(2) If:

- (a) a person is a working credit participant to whom widow allowance or a mature age allowance under Part 2.12B is payable; and
- (b) either:

- (i) the participant commences to earn, derive or receive, or to be taken to earn, derive or receive, employment income; or
- (ii) there is an increase in the employment income that is earned, derived or received, or taken to be earned, derived or received, by the participant; and
- (c) the participant has a working credit balance greater than nil at the start of the instalment period of the participant in which the commencement or increase occurs;

then, for the purpose of determining the participant's qualification for employment entry payment, the allowance referred to in paragraph (a) ceases to be payable to the participant at the time when it would have so ceased if the participant had not had a working credit balance greater than nil.

(3) If:

- (a) a person is a working credit participant to whom a partner allowance is payable; and
- (b) either:
 - (i) the participant commences to earn, derive or receive, or to be taken to earn, derive or receive, employment income; or
 - (ii) there is an increase in the employment income that is earned, derived or received, or taken to be earned, derived or received, by the participant; and
- (c) the participant has a working credit balance greater than nil at the start of the instalment period of the participant in which the commencement or increase occurs;

then, for the purpose of determining the participant's qualification for employment entry payment, newstart allowance ceases to be payable to the participant's partner at the time when it would have so ceased if the participant had not had a working credit balance greater than nil.

8A Subsection 1061ZB(1)

Omit all the words after paragraph (c), substitute:

the person is qualified for a pensioner concession card:

- (d) if the person is qualified for such a card under section 1061ZEA until a particular day—for the period of 26 weeks after that day; and
- (e) in any other case—for the period of 26 weeks after the commencement or increase, as the case may be.

9 After subsection 1061ZB(1)

Insert:

(1A) If:

- (a) either:
 - (i) the person first referred to in subsection (1) commences employment; or
 - (ii) there is an increase in the ordinary income from employment of the person so referred to; and
- (b) at the start of the instalment period of the person in which the commencement or increase occurs, the person's working credit balance is greater than nil; and
- (c) the balance is subsequently reduced to nil because of the commencement or increase; and
- (d) the person is not qualified for a pensioner concession card under section 1061ZEA;

paragraph (1)(e) has effect as if the reference to 26 weeks after the commencement or increase were a reference to 26 weeks after the day on which the balance is reduced to nil.

(1B) If:

- (a) either:
 - (i) the partner of the person first referred to in subsection (1) commences employment; or
 - (ii) there is an increase in the ordinary income from employment of the partner of the person so referred to; and
- (b) at the start of the instalment period of the partner in which the commencement or increase occurs:
 - (i) the partner is a working credit participant or a person to whom the student income bank applies; and
 - (ii) the partner's working credit balance or student income bank balance is greater than nil; and

- (c) the balance is subsequently reduced to nil because of the commencement or increase; and
 - (d) the person is not qualified for a pensioner concession card under section 1061ZEA;
- paragraph (1)(e) has effect as if the reference to 26 weeks after the commencement or increase were a reference to 26 weeks after the day on which the balance is reduced to nil.

10 Section 1061ZB(2)

After “Subsection (1)”, insert “(including that subsection as modified by subsection (1A) or (1B))”.

11 Subsection 1061ZB(3)

After “subsection (1)”, insert “(including that subsection as modified by subsection (1A) or (1B))”.

11A Subsection 1061ZC(1)

Omit all the words after paragraph (c), substitute:

the person is qualified for a pensioner concession card:

- (d) if the person is qualified for a pensioner concession card under section 1061ZEA until a particular day—for the period of 26 weeks after that day; and
- (e) in any other case—for the period of 26 weeks after the commencement or increase, as the case may be.

12 After subsection 1061ZC(1)

Insert:

(1A) If:

- (a) either:
 - (i) the person first referred to in subsection (1) commences employment; or
 - (ii) there is an increase in the ordinary income from employment of the person so referred to; and
- (b) at the start of the instalment period of the person in which the commencement or increase occurs:
 - (i) the person is a working credit participant; and

- (ii) the person's working credit balance is greater than nil;
and
 - (c) the balance is subsequently reduced to nil because of the commencement or increase; and
 - (d) the person is not qualified for a pensioner concession card under section 1061ZEA;
- paragraph (1)(e) has effect as if the reference to 26 weeks after the commencement or increase were a reference to 26 weeks after the day on which the balance is reduced to nil.

(1B) If:

- (a) either:
 - (i) the partner of the person first referred to in subsection (1) commences employment; or
 - (ii) there is an increase in the ordinary income from employment of the partner of the person so referred to;
and
 - (b) at the start of the instalment period of the partner in which the commencement or increase occurs:
 - (i) the partner is a working credit participant or a person to whom the student income bank applies; and
 - (ii) the partner's working credit balance or student income bank balance is greater than nil; and
 - (c) the balance is subsequently reduced to nil because of the commencement or increase; and
 - (d) the person is not qualified for a pensioner concession card under section 1061ZEA;
- paragraph (1)(e) has effect as if the reference to 26 weeks after the commencement or increase were a reference to 26 weeks after the day on which the balance is reduced to nil.

(1C) If the person:

- (a) is qualified for a pensioner concession card under section 1061ZEA until a particular day; and
- (b) has, immediately before becoming so qualified, been receiving a social security benefit referred to in paragraph 1061ZA(2)(b) for a continuous period of less than 39 weeks;

the person is taken, for the purpose of the reference in paragraph (1)(a) to a continuous period of not less than 39 weeks, to be receiving the benefit until the particular day.

13 Subsection 1061ZC(2)

After “subsection (1)”, insert “(including that subsection as modified by subsection (1A), (1B) or (1C))”.

13A Subsection 1061ZC(3)

After “subsection (1)”, insert “(including that subsection as modified by subsection (1A) or (1B))”.

13B Subsection 1061ZC(4)

After “subsection (1)”, insert “(including that subsection as modified by subsection (1A), (1B) or (1C))”.

14 Paragraph 1061ZD(2)(c)

Repeal the paragraph, substitute:

- (c) because of the commencement of that employment, the person ceases (having regard, where appropriate, to the operation of section 1073J) to be qualified for the disability support pension.

15 Paragraph 1061ZD(3)(b)

Repeal the paragraph, substitute:

- (b) because there is an increase in the person’s ordinary income from employment (and after any working credit balance of the person is reduced to nil), the disability support pension ceases to be payable to the person.

16 Paragraph 1061ZE(2)(d)

Repeal the paragraph, substitute:

- (d) the person ceases to be qualified for wife pension because the partner of the person:
 - (i) commences that employment; and
 - (ii) as a result, ceases (having regard, where appropriate, to the operation of section 1073J) to be qualified for the disability support pension.

17 Paragraph 1061ZE(3)(c)

Repeal the paragraph, substitute:

- (c) the wife pension ceases to be payable to the person because there is an increase in the ordinary income of the person's partner from employment (and after any working credit balance of the partner is reduced to nil).

18 After section 1061ZE

Insert:

1061ZEA Further extended qualification rule: loss of payment because of employment income

- (1) This section does not apply in any case where a person is qualified for a pensioner concession card under section 1061ZD or 1061ZE.
- (2) If:
 - (a) a person is receiving a social security pension or a social security benefit; and
 - (b) the person's rate of payment of the pension or benefit is worked out with regard to the income test module of a rate calculator in Chapter 3; and
 - (c) the person has not reached pension age; and
 - (d) the person is qualified for a pensioner concession card; and
 - (e) the person or the person's partner earns, derives or receives, or is taken to earn, derive or receive, employment income; and
 - (f) a payment mentioned in subsection 1061ZA(1) ceases to be payable to the person or the person ceases to receive a payment mentioned in subsection 1061ZA(2):
 - (i) if paragraph (e) applies to the person—because of the employment income of the person (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the person) (and after any working credit balance of the person is reduced to nil); or
 - (ii) if paragraph (e) applies to the partner—because of the employment income of the partner (either alone or in

combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the partner) (and after any working credit balance or student income bank balance of the partner is reduced to nil); and

- (g) but for the employment income, or the combined income, referred to in paragraph (f), the person would have been, or would have continued to be, qualified for a pensioner concession card:
 - (i) under subsection 1061ZA(1)—because the payment referred to in that subsection would have continued to be payable to the person; or
 - (ii) under subsection 1061ZA(2)—because the person would have continued to receive the payment referred to in that subsection; and

(ga) the person:

- (i) in the case of a woman to whom wife pension ceases to be payable because of the employment income, or the combined income, referred to in subparagraph (f)(ii)—continues, but for that employment income or combined income, to be qualified for wife pension; and
- (ii) in the case of a person to whom pension PP (single) ceases to be payable, or who ceases to receive benefit PP (partnered)—continues, but for the requirement to have at least one PP child, to be qualified for that pension or benefit; and
- (iii) in any other case—continues to be qualified for the payment referred to in section 1061ZA;

the person is qualified for a pensioner concession card until:

- (h) 12 weeks after the end of the instalment period in which the payment ceases to be payable to the person or the person ceases to receive the payment, as the case requires; or
 - (i) the day the person reaches pension age; or
 - (j) the day the person would cease to be qualified for a pensioner concession card as mentioned in paragraph (g) for a reason other than the employment income, or the combined income, referred to in paragraph (f); or
 - (k) the day the person ceases to be qualified as mentioned in paragraph (ga);
-

whichever happens first.

- (3) Subject to subsection (5), subsection (2) only applies to a person while the person is in Australia and is an Australian resident.
- (4) If, during the period of 12 weeks referred to in subsection (2), a person receives an instalment of social security pension or a mature age allowance under Part 2.12B that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or the days in relation to which the person receives the instalment.
- (5) In spite of subsection (3), subsection (2) applies to a person when:
 - (a) the person is in Australia; and
 - (b) the social security pension or the social security benefit that the person had been receiving was received solely because of the operation of the scheduled international agreement between Australia and New Zealand.

19 Paragraphs 1061ZM(1)(b) and (c)

Repeal the paragraphs, substitute:

- (b) because either:
 - (i) the person or the partner commences employment; or
 - (ii) there is an increase in the ordinary income of the person or the partner from employment;
- the person ceases to be an employment-affected person; and
- (c) the person has been a qualified recipient for a continuous period of 52 weeks immediately before so ceasing;

19A After subsection 1061ZM(1)

Insert:

- (1A) If the person is qualified for a health care card under section 1061ZMA until a day (the *particular day*), subsection (1) has effect as if the reference to 26 weeks starting on the day on which the person ceases to be an employment-affected person were a reference to 26 weeks starting on the particular day.
- (1B) If the person:
 - (a) was an employment-affected person because of receiving pension PP (single); and

(b) is qualified for a pensioner concession card under section 1061ZEA until a day (the *particular day*); subsection (1) has effect as if the reference to the period of 26 weeks starting on the day on which the person ceases to be an employment-affected person were a reference to the period starting on the particular day and ending 26 weeks after the person ceases to be an employment-affected person.

(1C) If the person:

- (a) is qualified for a health care card under section 1061ZMA until a particular day; and
- (b) has, immediately before the commencement or increase mentioned in subsection (1), been a qualified recipient because of receiving newstart allowance, sickness allowance, widow allowance, partner allowance or youth allowance, other than while undertaking full-time study, for a continuous period of less than 52 weeks;

the person is taken, for the purpose of the reference in paragraph (1)(c) to a continuous period of 52 weeks, to be receiving the allowance until the particular day.

19B Subsection 1061ZM(2)

After “referred to in subsection (1)”, insert “(including that subsection as modified by subsection (1A)) or the period provided by subsection (1B)”.

20 After section 1061ZM

Insert:

1061ZMA Further extended qualification rule: loss of payment because of employment income

- (2) If:
 - (a) a person is receiving a social security pension or a social security benefit; and
 - (b) the person’s rate of payment of the pension or benefit is worked out with regard to the income test module of a rate calculator in Chapter 3; and
 - (c) the person has not reached pension age; and

- (d) the person is qualified for a health care card; and
 - (e) the person or the person's partner earns, derives or receives, or is taken to earn, derive or receive, employment income; and
 - (f) the person ceases to receive a payment mentioned in subsection 1061ZK(5):
 - (i) if paragraph (e) applies to the person—because of the employment income of the person (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the person) (and after any working credit balance of the person is reduced to nil); or
 - (ii) if paragraph (e) applies to the partner—because of the employment income of the partner (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the partner) (and after any working credit balance or student income bank balance of the partner is reduced to nil); and
 - (g) but for the employment income, or the combined income, referred to in paragraph (f), the person would have been, or would have continued to be, qualified for a health care card under section 1061ZK because the person would have continued to receive the payment mentioned in subsection 1061ZK(5); and
 - (ga) the person:
 - (i) in the case of a person who ceases to receive benefit PP (partnered)—continues, but for the requirement to have at least one PP child, to be qualified for that benefit; and
 - (ii) in any other case—continues to be qualified for the payment referred to in subsection 1061ZK(5);
- the person is qualified for a health care card until:
- (h) 12 weeks after the end of the instalment period in which the person ceases to receive the pension or benefit; or
 - (i) the day the person reaches pension age; or
 - (j) the day the person would cease to be qualified for a health care card as mentioned in paragraph (g) for a reason other

than the employment income, or the combined income, referred to in paragraph (f); or
(k) the day the person ceases to be qualified as mentioned in paragraph (ga);
whichever happens first.

- (3) If, during the period of 12 weeks referred to in subsection (2), a person receives a payment of a social security pension or benefit specified in the definition of *employment-affected person* in subsection (4) that relates to one or more days within that period, the person ceases to be qualified under this section for a health care card on the day on which the person receives the payment.
- (4) In this section:
employment-affected person has the same meaning as it has for the purposes of section 1061ZM.
- (5) This section has effect subject to section 1061ZN.

20A Subsection 1061ZN(1)

Omit “and 1061ZM”, substitute “, 1061ZM and 1061ZMA”.

21 Point 1067G-H1 (step 1 of the method statement, note)

Repeal the note.

22 Section 1067G (at the end of Module J)

Add:

Opening balance following cancellation of another social security pension or benefit

1067G-J7 If:

- (a) a person ceases to be a working credit participant because of a determination to cancel, or an automatic cancellation of, the person’s social security pension or social security benefit;
and
(b) the person had a working credit balance greater than nil immediately before the date of effect of the determination or cancellation; and

- (c) the person makes a claim, or is taken to have made a claim, for a youth allowance; and
- (d) the Secretary determines that the claim is to be granted with effect from a day within 12 months after the date of effect mentioned in paragraph (b); and
- (e) the person becomes a person to whom this Module applies on a day (the *module application day*), being either the day with effect from which the claim is granted or a day following that day;

the working credit balance mentioned in paragraph (b) becomes the opening balance of the income bank credit applicable to the person on the module application day.

Opening balance following suspension of youth allowance

1067G-J8 If:

- (a) a person ceases to be a working credit participant because of a determination to suspend the person's youth allowance; and
- (b) the person had a working credit balance greater than nil immediately before the date of effect of the determination; and
- (c) within 12 months after the date of effect of the determination:
 - (i) the person commences to undertake full-time study; and
 - (ii) the payment of the person's youth allowance is resumed; and
- (d) the person becomes a person to whom this module applies on the day with effect from which the person's youth allowance is resumed;

the working credit balance mentioned in paragraph (b) becomes the opening balance of the income bank credit applicable to the person on the day mentioned in paragraph (d).

Opening balance following suspension and subsequent cancellation of another social security pension or benefit

1067G-J9 If:

- (a) a person ceases to be a working credit participant because of a determination to suspend the person's social security pension or social security benefit; and

- (b) while the person's pension or benefit is suspended, there is a determination to cancel the person's pension or benefit; and
- (c) the person had a working credit balance greater than nil immediately before the date of effect of the suspension determination; and
- (d) the person makes a claim, or is taken to have made a claim, for a youth allowance; and
- (e) the Secretary determines that the claim is to be granted with effect from a day within 12 months after the date of effect mentioned in paragraph (c); and
- (f) the person becomes a person to whom this Module applies on a day (the *module application day*), being either the day with effect from which the claim is granted or a day following that day;

the working credit balance mentioned in paragraph (c) becomes the opening balance of the income bank credit applicable to the person on the module application day.

Opening balance following commencement of full-time study by youth allowance recipient

1067G-J10 If:

- (a) a person is receiving youth allowance and is not undertaking full-time study; and
- (b) the person commences to undertake full-time study; and
- (c) either because of a determination made as a result of the commencement or, if no determination is necessary, because of the commencement itself, the person, on a day (the *module application day*):
 - (i) ceases to be a working credit participant; and
 - (ii) becomes a person to whom this Module applies; and
- (d) the person had a working credit balance greater than nil immediately before the module application day;

the working credit balance mentioned in paragraph (d) becomes the opening balance of the income bank credit applicable to the person on the module application day.

23 Point 1067L-D1 (note to step 1 of the method statement)

Repeal the note.

24 Section 1067L (at the end of Module E)

Add:

Opening balance following cancellation of another social security pension or benefit

1067L-E6 If:

- (a) a person ceases to be a working credit participant because of a determination to cancel, or an automatic cancellation of, the person's social security pension or social security benefit; and
- (b) the person had a working credit balance greater than nil immediately before the date of effect of the determination or cancellation; and
- (c) the person makes a claim, or is taken to have made a claim, for an austudy payment; and
- (d) the Secretary determines that the claim is to be granted with effect from a day within 12 months after the date of effect mentioned in paragraph (b); and
- (e) the person becomes a person to whom this Module applies on a day (the *module application day*), being either the day with effect from which the claim is granted or a day following that day; and
- (f) the person has not reached pension age before the module application day;

the working credit balance mentioned in paragraph (b) becomes the opening balance of the income bank credit applicable to the person on the module application day.

Opening balance following suspension and subsequent cancellation of another social security pension or benefit

1067L-E7 If:

- (a) a person ceases to be a working credit participant because of a determination to suspend the person's social security pension or social security benefit; and
- (b) while the person's pension or benefit is suspended, there is a determination to cancel the person's pension or benefit; and

- (c) the person had a working credit balance greater than nil immediately before the date of effect of the suspension determination; and
- (d) the person makes a claim, or is taken to have made a claim, for an austudy payment; and
- (e) the Secretary determines that the claim is to be granted with effect from a day within 12 months after the date of effect mentioned in paragraph (c); and
- (f) the person becomes a person to whom this Module applies on a day (the *module application day*), being either the day with effect from which the claim is granted or a day following that day; and
- (g) the person has not reached pension age before the module application day;

the working credit balance mentioned in paragraph (c) becomes the opening balance of the income bank credit applicable to the person on the module application day.

25 Point 1068B-D19 (examples 1 and 2)

Repeal the examples.

26 After Division 1 of Part 3.10

Insert:

Division 1AA—Employment income attribution rules

1073A Employment income attribution over a period for social security pensioners

- (1) Employment income:
 - (a) that is a lump sum amount either:
 - (i) in respect of a period greater than a fortnight; or
 - (ii) resulting from remunerative work although not in respect of any particular period; and
 - (b) that is earned, derived or received, or is taken to have been earned, derived or received, by a person:
 - (i) who is receiving a social security pension; and

- (ii) whose rate of payment of that pension is worked out with regard to the income test module of a rate calculator in this Chapter; and
 - (iii) who has not reached pension age;
- is to be taken to have been earned, derived or received over such period, not exceeding 52 weeks, as the Secretary determines.
- (2) The person's employment income for the period determined by the Secretary is to be reduced to a fortnightly rate rounded to the nearest cent (rounding 0.5 cents downwards).

1073B Daily attribution of employment income

If:

- (a) a person is receiving a social security pension or a social security benefit; and
- (b) the person's rate of payment of the pension or benefit is worked out with regard to the income test module of a rate calculator in this Chapter; and
- (c) the person has not reached pension age; and
- (d) the person earns, derives or receives, or is taken, either by virtue of the operation of section 1073A or any other provision of this Act, to earn, derive or receive, employment income during the whole or a part of a particular instalment period of the person;

the person is taken to earn, derive or receive, on each day in that instalment period, an amount of employment income worked out by dividing the total amount of the employment income referred to in paragraph (d) by the number of days in the period.

1073C Fortnightly or yearly expression of attributed employment income

If, in accordance with the operation of section 1073B, a person is taken to earn, derive or receive a particular amount of employment income on each day in an instalment period:

- (a) the rate of the person's employment income on a fortnightly basis for that day may be worked out by multiplying that amount by 14; and

- (b) the rate of the person's employment income on a yearly basis for that day may be worked out by multiplying that amount by 364.

Division 1AB—Working credit accrual and depletion rules and their consequences

1073D To whom do working credit accrual and depletion rules apply?

The rules in this Division apply to a person (a *working credit participant*):

- (a) who is receiving a social security pension or a social security benefit; and
- (b) whose rate of payment of the pension or benefit is worked out with regard to the income test module of a rate calculator in this Chapter; and
- (c) who has not reached pension age; and
- (d) to whom the student income bank does not apply.

1073E Opening balance

Basic opening balance rule

- (1) Subject to this section, each working credit participant has, on becoming a working credit participant, a working credit opening balance of nil.

Opening balance following cancellation of social security pension or benefit

- (2) If:
 - (a) a person ceases to be a working credit participant or a person to whom the student income bank applies because of a determination to cancel, or an automatic cancellation of, the person's social security pension or social security benefit; and

- (b) the person had a working credit balance or a student income bank balance greater than nil immediately before the date of effect of the determination or cancellation; and
 - (c) the person makes, or is taken to have made, a new claim for a social security pension or social security benefit; and
 - (d) the Secretary determines that the new claim is to be granted with effect from a day within 12 months after the date of effect mentioned in paragraph (b); and
 - (e) the person becomes a working credit participant on a day (the *participation day*), being either the day with effect from which the new claim is granted or a day following that day;
- the working credit balance mentioned in paragraph (b), or the student income bank balance mentioned in that paragraph to the extent that it does not exceed \$1,000, becomes the opening balance of the working credit applicable to the person on the participation day.

Opening balance following suspension of social security pension or benefit

(3) If:

- (a) a person ceases to be a working credit participant because of a determination to suspend the person's social security pension or social security benefit; and
- (b) the person had a working credit balance greater than nil immediately before the date of effect of the determination; and
- (c) within 12 months after the date of effect of the determination, the payment of the person's pension or benefit is resumed; and
- (d) the person becomes a working credit participant on the day with effect from which the person's pension or benefit is resumed;

the working credit balance mentioned in paragraph (b) becomes the opening balance of the working credit applicable to the person on the day mentioned in paragraph (d).

*Opening balance following suspension and subsequent
cancellation of social security pension or benefit*

- (4) If:
- (a) a person ceases to be a working credit participant or a person to whom the student income bank applies because of a determination to suspend the person's social security pension or social security benefit; and
 - (b) while the person's pension or benefit is suspended there is a determination to cancel the person's pension or benefit; and
 - (c) the person had a working credit balance or a student income bank balance greater than nil immediately before the date of effect of the suspension determination; and
 - (d) the person makes, or is taken to have made, a new claim for a social security pension or social security benefit; and
 - (e) the Secretary determines that the new claim is to be granted with effect from a day within 12 months after the date of effect mentioned in paragraph (c); and
 - (f) the person becomes a working credit participant on a day (the *participation day*), being either the day with effect from which the new claim is granted or a day following that day;
- the working credit balance mentioned in paragraph (c), or the student income bank balance mentioned in that paragraph to the extent that it does not exceed \$1,000, becomes the opening balance of the working credit applicable to the person on the participation day.

*Opening balance following cessation of full-time study by youth
allowance recipient*

- (5) If:
- (a) a person is receiving youth allowance and is undertaking full-time study; and
 - (b) the person ceases to undertake full-time study; and
 - (c) either because of a determination made as a result of that cessation or, if no determination is necessary, because of the cessation itself, the person, on a day (the *participation day*):
 - (i) ceases to be a person to whom the student income bank set out in Module J of the Youth Allowance Rate Calculator applies; and
-

(ii) becomes a working credit participant; and
(d) the person had a student income bank balance greater than nil immediately before the participation day;
the student income bank balance mentioned in paragraph (d), to the extent that it does not exceed \$1,000, becomes the opening balance of the working credit applicable to the person on the participation day.

Opening balance following cessation of ABSTUDY payment

- (6) If:
- (a) a person to whom the income bank under the ABSTUDY scheme applies stops being such a person; and
 - (b) the person becomes a working credit participant within 12 months after so stopping; and
 - (c) immediately before so stopping, the person had a credit balance greater than nil under the scheme;
- the credit balance, to the extent that it does not exceed \$1,000, becomes the opening balance of the working credit applicable to the person on the day on which the person becomes a working credit participant.

1073F Working out accruals and depletions of working credit for social security beneficiaries

This section determines, in respect of each working credit participant who is receiving a social security benefit, whether, for each day in an instalment period:

- (a) there is an accrual to the participant's working credit balance;
or
 - (b) the participant's working credit balance is unaffected; or
 - (c) the participant's working credit balance is depleted;
- and, if there is an accrual to, or a depletion from, the participant's working credit balance, the amount of that accrual or depletion.

Method statement

Step 1. Work out the amount of the participant's employment income earned, derived or received on the day. This

could be a nil amount or it could be an amount that is taken, under section 1073B, to have been earned, derived or received on the day.

Step 2. Multiply the amount determined under step 1 by 14. This is the participant's rate of employment income on a fortnightly basis for the day.

Step 3. Add to the participant's rate of employment income on a fortnightly basis for the day the participant's rate of any other ordinary income on a fortnightly basis for the day. This is the participant's fortnightly rate of total ordinary income on a fortnightly basis for the day.

Step 4. If the participant's rate of total ordinary income on a fortnightly basis for the day is less than \$48, there is an accrual to the participant's working credit balance for the day of an amount equal to one fourteenth of the amount by which \$48 exceeds that rate. The maximum working credit balance is \$1,000.

Step 5. If the participant's rate of total ordinary income on a fortnightly basis for the day is at least \$48 but does not exceed the ordinary income free area applicable to the participant for the day under the income test module of the appropriate rate calculator, the participant's working credit balance for the day is neither increased nor reduced.

Step 6. If the participant's rate of total ordinary income on a fortnightly basis for the day is at least \$48 and exceeds the participant's applicable ordinary income free area for the day, the participant's working credit balance, if it is greater than nil on the day, is depleted on that day by the least of:

- (a) the amount of employment income determined under step 1; or
- (b) one fourteenth of the amount by which the participant's rate of total ordinary income on a

fortnightly basis exceeds the participant's applicable ordinary income free area; or

(c) the participant's available working credit balance.

1073G Working out the effect of a working credit depletion on the fortnightly rate of ordinary income for a social security beneficiary

If, under section 1073F, the working credit balance of a working credit participant is depleted on a particular day, the participant's rate of ordinary income on a fortnightly basis for that day is reduced by the working credit depletion amount applicable to that day, determined under step 6 of the method statement, multiplied by 14.

1073H Working out accruals and depletions of working credit for social security pensioners

This section determines, in respect of each working credit participant who is receiving a social security pension, whether, for each day in an instalment period:

- (a) there is an accrual to the participant's working credit balance; or
- (b) the participant's working credit balance is unaffected; or
- (c) the participant's working credit balance is depleted;

and, if there is an accrual to, or a depletion from, the participant's working credit balance, the amount of that accrual or depletion.

Method statement

Step 1. Work out the amount of the participant's employment income earned, derived or received on the day. This could be a nil amount or it could be an amount that is taken, under section 1073B, to have been earned, derived or received on the day.

Step 2. Multiply the amount determined under step 1 by 364. This is the participant's rate of employment income on a yearly basis for the day.

- Step 3.* Add to the participant's rate of employment income on a yearly basis for the day the participant's rate of any other ordinary income on a yearly basis for the day. This is the participant's rate of total ordinary income on a yearly basis for the day.
- Step 4.* Divide the participant's rate of total ordinary income on a yearly basis for the day by 26. This is the participant's rate of total ordinary income, expressed on a fortnightly basis, for the day.
- Step 5.* Divide the yearly ordinary income free area applicable to the participant for the day under the ordinary income test module of the appropriate rate calculator by 26. This is the participant's applicable ordinary income free area, expressed on a fortnightly basis, for the day.
- Step 6.* If the participant's rate of total ordinary income, expressed on a fortnightly basis, for the day, is less than \$48, there is an accrual to the participant's working credit balance, for the day, of an amount equal to one fourteenth of the amount by which \$48 exceeds that rate. The maximum working credit balance is \$1,000.
- Step 7.* If the participant's rate of total ordinary income, expressed on a fortnightly basis, for the day, is at least \$48 but does not exceed the participant's applicable ordinary income free area, expressed on a fortnightly basis for the day in accordance with step 5, the participant's working credit balance for the day is neither increased nor reduced.
- Step 8.* If the participant's rate of total ordinary income, expressed on a fortnightly basis, for the day, is at least \$48 and exceeds the participant's applicable ordinary income free area, expressed on a fortnightly basis for the day in accordance with step 5, the participant's working credit balance, if it is greater than nil on the day, is depleted on that day by the least of:

- | |
|--|
| <ul style="list-style-type: none">(a) the amount of employment income determined under step 1; or(b) one fourteenth of the amount by which the participant's rate of total ordinary income, expressed on a fortnightly basis, exceeds the participant's applicable ordinary income free area, expressed on that basis; or(c) the participant's available working credit balance. |
|--|

1073I Working out the effect of a working credit depletion on the yearly rate of ordinary income for a social security pensioner

If, under section 1073H, the working credit balance of a working credit participant is depleted on a particular day, the participant's rate of ordinary income on a yearly basis for that day is reduced by the working credit depletion amount applicable to that day, determined under step 8 of the method statement, multiplied by 364.

1073J Working credit balance prevents loss of qualification in certain cases

- (1) If:
- (a) a person receiving disability support pension, carer payment, youth allowance, newstart allowance or sickness allowance is a working credit participant; and
 - (b) either:
 - (i) the participant commences to earn, derive or receive, or to be taken to earn, derive or receive, employment income; or
 - (ii) there is an increase in the employment income that is earned, derived or received, or taken to be earned, derived or received, by the participant; and
 - (c) the participant has a working credit balance greater than nil at the start of the instalment period of the participant in which the commencement or increase occurs; and

(d) but for the commencement or increase, the participant would have continued to be qualified for the payment mentioned in paragraph (a) until the earlier of:

- (i) a day determined under Division 8 or 9 of Part 3 of the Administration Act; or
- (ii) the day on which the participant's working credit balance is reduced to nil;

the participant is to be treated as if he or she had continued to be so qualified until the earlier of the days determined as referred to in subparagraphs (d)(i) and (ii).

(2) If:

- (a) a woman receiving wife pension is a working credit participant; and
- (b) the partner of the participant ceases to receive age pension or disability support pension on and from a day (the ***cessation day***); and
- (c) the partner ceases to receive that pension:
 - (i) because of the employment income of the partner (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the partner); and
 - (ii) after any working credit balance of the partner is reduced to nil; and
- (d) as a result of the partner's so ceasing to receive that pension, the participant ceases to be qualified for wife pension on and from the cessation day; and
- (e) the participant has a working credit balance greater than nil at the start of the instalment period of the participant in which the cessation day occurs; and
- (f) but for the employment income, or combined income, referred to in paragraph (c), the participant would have continued to be qualified for wife pension until the earlier of:
 - (i) a day determined under Division 8 or 9 of Part 3 of the Administration Act; or
 - (ii) the day on which the participant's working credit balance is reduced to nil;

the participant is to be treated as if she had continued to be so qualified until the earlier of the days referred to in subparagraphs (f)(i) and (ii).

Part 3—Amendment of the Social Security (Administration) Act 1999

Social Security (Administration) Act 1999

27 Paragraph 68(2)(b)

Omit “a statement”, substitute “one or more statements”.

28 Paragraph 72(1)(d)

Repeal the paragraph, substitute:

(d) must specify:

- (i) in the case of a notice under section 68 that requires the giving of more than one statement, each relating to the payment of the social security payment in respect of a period—the date by which the person is to give each statement to the Department; or
- (ii) in any other case—the period within which the person is to give the information or statement to the Department; and

29 After subsection 72(2)

Insert:

(2A) A date specified for the purposes of subparagraph (1)(d)(i) must be no earlier than 7 days after:

- (i) the day on which the notice under section 68 is given; or
- (ii) the day on which the period specified in the notice in relation to that first mentioned date begins;

whichever is the later.

30 Subsection 72(3)

Omit “subsections (4), (5), (6) and (7), the period specified for the purpose of paragraph (1)(d)”, substitute “subsections (4), (6) and (7), the period specified for the purpose of subparagraph (1)(d)(ii)”.

31 Subsections 72(4) and (6)

Omit “paragraph (1)(d)”, substitute “subparagraph (1)(d)(ii)”.

32 Paragraph 85(1)(a)

Repeal the paragraph, substitute:

- (a) a person's social security payment is cancelled by force of section 93 or 94 or the Secretary cancels or suspends a person's social security payment under section 80, 81 or 82; and

33 Section 93

Omit "If:", substitute "Subject to subsection (2), if:".

34 Paragraphs 93(g) and (h)

Omit "by force of this section", substitute "by force of this subsection".

35 At the end of section 93

Add:

(2) If:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstances occurs; and
- (d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the event or change of circumstances, the person's working credit balance or student income bank balance is reduced to nil in an instalment period (the *nil instalment period*) of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs (the *event instalment period*); and
- (f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the social security payment would, but for this subsection, cease to be payable to the person; and
- (g) the social security payment is not cancelled before the end of the nil instalment period;

the social security payment continues to be payable to the person until a day determined in accordance with subsection (3) and is then cancelled by force of this subsection.

- (3) For the purposes of subsection (2), the day until which the social security payment continues to be payable to the person is:
- (a) if the cancellation is attributable to the reduction of the balance referred to in paragraph (2)(e) to nil and the payment is so cancelled during the instalment period (the *next instalment period*) following the nil instalment period—the later of:
 - (i) the day before the day on which the balance was reduced to nil; or
 - (ii) the end of the event instalment period; and
 - (b) if the cancellation is attributable to the balance having already been reduced to nil and the payment is so cancelled during the next instalment period—the later of:
 - (i) the day before the first day on which the opening balance was nil; or
 - (ii) the end of the event instalment period; and
 - (c) if the cancellation is attributable to the reduction of the balance to nil but the payment is not so cancelled during the next instalment period—the later of:
 - (i) the day before the day on which the balance was reduced to nil; or
 - (ii) the end of the notification period; and
 - (d) if the cancellation is attributable to the balance having already been reduced to nil but the payment is not so cancelled during the next instalment period—the later of:
 - (i) the day before the first day on which the opening balance was nil; or
 - (ii) the end of the notification period.

36 Section 94

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

37 Section 94

Omit “the social security payment ceases to be payable to the person”, substitute “the social security payment is cancelled, by force of this subsection,”.

38 At the end of section 94

Add:

(2) If:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstance occurs; and
- (d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the event or change of circumstances, the person’s working credit balance or student income bank balance is reduced to nil in an instalment period of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs; and
- (f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the social security payment ceases to be payable to the person;

the social security payment is cancelled, by force of this subsection, on:

- (g) if the cancellation is attributable to the reduction of the balance to nil—the day on which the balance was so reduced; and
- (h) if the cancellation is attributable to the balance having already been reduced to nil—the first day on which the opening balance was nil.

39 Subsection 95(1)

Repeal the subsection, substitute:

(1) If:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2) requiring the person to give the Department a statement or a number of statements; and
- (b) the notice relates to the payment of the social security payment in respect of a period or a number of periods specified in the notice; and
- (c) the person does not comply with the notice so far as it relates to a particular period;

then, subject to subsection (2), the social security payment is cancelled, by force of this section, on the first day in that period.

40 Section 98

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

41 At the end of section 98

Add:

(2) If:

- (a) a person is receiving a social security payment; and
- (b) the person’s partner starts to receive:
 - (i) a social security pension or benefit; or
 - (ii) a service pension; and
- (c) because the partner starts to receive that pension or benefit, the person’s working credit balance or student income bank balance is reduced to nil; and
- (d) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the person’s social security payment rate is to be reduced;

the social security payment becomes payable to the person at the reduced rate on:

- (e) if the rate reduction is attributable to the reduction of the balance to nil—the day on which the balance was so reduced; and
- (f) if the rate reduction is attributable to the balance having already been reduced to nil—the first day on which the opening balance was nil.

42 Section 99

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

43 At the end of section 99

Add:

(2) If:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstances occurs; and
- (d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the event or change of circumstances, the person’s working credit balance or student income bank balance is reduced to nil in an instalment period (the *nil instalment period*) of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs (the *event instalment period*); and
- (f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the rate of the person’s social security payment is to be reduced; and
- (g) the person’s rate of payment is not so reduced before the end of the nil instalment period;

the social security payment becomes payable to the person at the reduced rate from the day immediately after the day determined in accordance with subsection (3).

- (3) For the purposes of subsection (2), the day immediately after which the social security payment becomes payable to the person at the reduced rate is:
 - (a) if the rate reduction is attributable to the reduction of the balance referred to in paragraph (2)(e) to nil and the rate is so reduced during the instalment period (the *next instalment period*) following the nil instalment period—the later of:

- (i) the day before the day on which the balance was reduced to nil; or
 - (ii) the end of the event instalment period; and
- (b) if the rate reduction is attributable to the balance having already been reduced to nil and the rate is so reduced during the next instalment period—the later of:
 - (i) the day before the first day on which the opening balance was nil; or
 - (ii) the end of the event instalment period; and
- (c) if the rate reduction is attributable to the reduction of the balance to nil but the rate is not so reduced during the next instalment period—the later of:
 - (i) the day on which the balance was reduced to nil; or
 - (ii) the end of the notification period; and
- (d) if the rate reduction is attributable to the balance having already been reduced to nil but the rate is not so reduced during the next instalment period—the later of:
 - (i) the day before the first day on which the opening balance is nil; or
 - (ii) the end of the notification period.

44 Section 100

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

45 Paragraph 100(1)(e)

Omit “and”.

46 Paragraph 100(1)(f)

Repeal the paragraph.

47 At the end of section 100

Add:

(2) If:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and

- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstances occurs; and
- (d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the event or change of circumstances, the person's working credit balance or student income bank balance is reduced to nil in an instalment period of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs; and
- (f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the rate of the person's social security payment is to be reduced;

the social security payment becomes payable to the person at the reduced rate on:

- (g) if the rate reduction is attributable to the reduction of the balance to nil—the day on which the balance was so reduced; and
- (h) if the rate reduction is attributable to the balance having already been reduced to nil—the first day on which the opening balance was nil.

48 Subsection 110(1)

Omit “Subject to subsections (2) to (11)”, substitute “Subject to subsections (1A) to (11)”.

49 After subsection 110(1)

Insert:

- (1A) If a favourable determination is made in relation to a person who has not reached pension age:
 - (a) following the person's having informed the Department of the occurrence of an event or change of circumstances; and
 - (b) because, in an instalment period of the person:

- (i) there is a decrease in the amount of employment income that is earned, derived or received, or that is taken to have been earned, derived or received, by the person; or
 - (ii) the person has ceased to earn, derive or receive, or to be taken to earn, derive or receive, employment income;
- the determination takes effect on the first day of the instalment period, or on the first day of the instalment period in which the person so informs the Department, whichever is the later.

50 Subsection 110(2)

Omit “If a favourable determination”, substitute “Subject to subsection (2A), if a favourable determination”.

51 After subsection 110(2)

Insert:

- (2A) If a favourable determination is made in relation to a person who has not reached pension age:
- (a) following the person’s having given the Department a statement about a matter in accordance with a notice under section 68 that relates to the payment of the social security payment in respect of an instalment period specified in the notice; and
 - (b) because, in the instalment period:
 - (i) there is a decrease in the amount of employment income that is earned, derived or received, or that is taken to have been earned, derived or received, by the person; or
 - (ii) the person has ceased to earn, derive or receive, or to be taken to earn, derive or receive, employment income;
- the determination takes effect on the first day of the instalment period.

52 Subsection 110(3)

Omit “If:”, substitute “Subject to subsection (3A), if:”.

53 After subsection 110(3)

Insert:

- (3A) If:
-

- (a) a person and his or her partner (the *partner*) are each receiving a social security payment; and
- (b) the partner has not reached pension age; and
- (c) the partner has been given a notice under section 68 that requires the partner to give the Department a statement; and
- (d) the notice relates to the payment of the partner's social security payment in respect of an instalment period specified in the notice; and
- (e) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the instalment period; and
- (f) following the giving of the statement, a favourable determination is made in relation to the person's social security payment; and
- (g) the determination is made because, in the instalment period:
 - (i) there is a decrease in the amount of employment income that is earned, derived or received, or that is taken to have been earned, derived or received, by the partner; or
 - (ii) the partner has ceased to earn, derive or receive, or to be taken to earn, derive or receive, employment income;the determination takes effect on the first day of the instalment period.

54 Section 112

Repeal the section.

55 Subsection 118(2)

Omit "If:", substitute "Subject to subsections (2A) and (2B), if:".

56 After subsection 118(2)

Insert:

- (2A) If an adverse determination is made in relation to a person who has not reached pension age:
 - (a) following the person's having informed the Department of the occurrence of an event or change of circumstances; and
 - (b) because the person earns, derives or receives, or is taken to earn, derive or receive, employment income in an instalment period of the person;
-

the determination takes effect on:

- (c) if the determination is attributable to the reduction, during the instalment period, of the person's working credit balance or student income bank balance to nil—the day on which the balance was so reduced; and
 - (d) if the determination is attributable to the person's having a working credit balance or a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person's opening balance was nil; and
 - (e) in any other case—the first day of the instalment period;
- so long as the person is not paid an instalment of the social security payment after the day worked out under paragraph (c), (d) or (e) and before the determination is made.

(2B) If:

- (a) an adverse determination is made in relation to a person following the person's having informed the Department of the occurrence of an event or change of circumstances; and
- (b) the determination is made because, in an instalment period of the person, either:
 - (i) the person earns, derives or receives, or is taken to earn, derive or receive, ordinary income other than employment income; or
 - (ii) the person has reached pension age and earns, derives or receives, or is taken to earn, derive or receive, employment income; and
- (c) the person's student income bank balance is reduced to nil during the instalment period;

the determination takes effect on:

- (d) if the determination is attributable to the reduction of the student income bank balance to nil—the day on which the balance was so reduced; and
- (e) if the determination is attributable to the person's having a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person's opening balance was nil;

so long as the person is not paid an instalment of the social security payment after the day worked out under paragraph (d) or (e) and before the determination is made.

57 Subsection 118(5)

Omit “If the adverse determination”, substitute “Subject to subsections (5A) and (5B), if the adverse determination”.

58 After subsection 118(5)

Insert:

(5A) If an adverse determination is made in relation to a person who has not reached pension age:

- (a) following the person’s having given the Department a statement about a matter in accordance with a notice under section 68 that relates to the payment of the social security payment in respect of an instalment period specified in the notice; and
- (b) because the person earns, derives or receives, or is taken to earn, derive or receive, employment income in the instalment period;

the determination takes effect on:

- (c) if the determination is attributable to the reduction, during the instalment period, of the person’s working credit balance or student income bank balance to nil—the day on which the balance was so reduced; and
- (d) if the determination is attributable to the person’s having a working credit balance or a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person’s opening balance was nil; and
- (e) in any other case—the first day of the instalment period.

(5B) If:

- (a) an adverse determination is made in relation to a person following the person’s having given the Department a statement about a matter in accordance with a notice under section 68 that relates to the payment of the social security payment in respect of an instalment period specified in the notice; and

- (b) the determination is made because, in the instalment period, either:
 - (i) the person earns, derives or receives, or is taken to earn, derive or receive, ordinary income other than employment income; or
 - (ii) the person has reached pension age and earns, derives or receives, or is taken to earn, derive or receive, employment income; and
 - (c) the person's student income bank balance is reduced to nil during the instalment period;
- the determination takes effect on:
- (d) if the determination is attributable to the reduction of the student income bank balance to nil—the day on which the balance was so reduced; and
 - (e) if the determination is attributable to the person's having a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person's opening balance was nil.

59 Subsection 118(6)

Omit "If:", substitute "subject to subsections (6A) and (6B), if:".

60 After subsection 118(6)

Insert:

(6A) If:

- (a) a person and his or her partner (the *partner*) are each receiving a social security payment; and
- (b) the partner has not reached pension age; and
- (c) the partner is given a notice under section 68 requiring the partner to give the Department a statement; and
- (d) the notice relates to the payment of the partner's social security payment in respect of an instalment period specified in the notice; and
- (e) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the instalment period; and

- (f) following the giving of the statement, an adverse determination is made in relation to the person's social security payment; and
- (g) the determination is made because the partner earns, derives or receives, or is taken to earn, derive or receive, employment income in the instalment period;

the determination takes effect on:

- (h) if the adverse determination is attributable to the reduction, during the instalment period, of the partner's working credit balance or student income bank balance to nil—the day on which the balance was so reduced; and
- (i) if the determination is attributable to the partner's having a working credit balance or a student income bank balance that has already been reduced to nil during the instalment period—the first day of the instalment period on which the opening balance was nil; and
- (j) in any other case—the first day of the instalment period.

(6B) If:

- (a) a person and his or her partner (the *partner*) are each receiving a social security payment; and
- (b) the partner is given a notice under section 68 requiring the partner to give the Department a statement; and
- (c) the notice relates to the payment of the partner's social security payment in respect of an instalment period specified in the notice; and
- (d) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the instalment period; and
- (e) the partner's student income bank balance is reduced to nil during the instalment period; and
- (f) following the giving of the statement, an adverse determination is made in relation to the person's social security payment; and
- (g) the determination is made because, in the instalment period, either:
 - (i) the partner earns, derives or receives, or is taken to earn, derive or receive, ordinary income other than employment income; or

- (ii) the partner has reached pension age and earns, derives or receives, or is taken to earn, derive or receive, employment income;

the determination takes effect on:

- (h) if the determination is attributable to the reduction of the partner's student income bank balance to nil—the day on which the balance was so reduced; and
- (i) if the determination is attributable to the partner's having a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the partner's opening balance was nil.

Schedule 7—Miscellaneous amendments

Part 1—Amendment of the Social Security (Administration) Act 1999

Social Security (Administration) Act 1999

1 At the end of subsection 202(1)

Add “or the Family Homelessness Prevention and Early Intervention Pilot”.

2 After paragraph 202(2)(d)

Insert:

(da) for the purposes of the Family Homelessness Prevention and Early Intervention Pilot; or

3 At the end of section 202

Add:

- (3) The Minister may, by instrument in writing, specify additional purposes relating to other programs administered by the Department for which protected information may be obtained under subsection (1), or recorded, disclosed or otherwise used under subsection (2).
- (4) An instrument under subsection (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (5) For the purposes of the application of section 48 of the *Acts Interpretation Act 1901*, an instrument does not take effect until the end of the period in which it could be disallowed in either House of the Parliament.

**Part 2—Amendment of the A New Tax System
(Family Assistance) (Administration) Act
1999**

*A New Tax System (Family Assistance) (Administration) Act
1999*

4 At the end of subsection 162(1)

Add “or of the Family Homelessness Prevention and Early Intervention Pilot”.

5 After paragraph 162(2)(d)

Insert:

(da) for the purpose of the Family Homelessness Prevention and Early Intervention Pilot; or

6 At the end of section 162

Add:

- (3) The Minister may, by instrument in writing, specify additional purposes relating to other programs administered by the Department for which protected information may be obtained under subsection (1), or recorded, disclosed or otherwise used under subsection (2).
- (4) An instrument under subsection (3) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (5) For the purposes of the application of section 48 of the *Acts Interpretation Act 1901*, an instrument does not take effect until the end of the period in which it could be disallowed in either House of the Parliament.

*[Minister's second reading speech made in—
House of Representatives on 16 May 2002
Senate on 19 June 2002]*

(112/02)

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