



Family and Community Services Legislation Amendment Act 2003

No. 30, 2003

**An Act to amend the social security law and the
family assistance law, to amend certain other Acts,
and to repeal the *First Home Owners Act 1983*, and
for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

Contents

1	Short title	2
2	Commencement	2
3	Schedule(s)	5
4	Transitional provisions relating to child care benefit for foster children	5
Schedule 1—Amendments of the social security law		8
Part 1—Amendments commencing on Royal Assent		8
<i>Social Security Act 1991</i>		8
<i>Social Security (Administration) Act 1999</i>		29
Part 2—Other amendments		Error! Bookmark not defined.
<i>Social Security Act 1991</i>		36
<i>Social Security (Administration) Act 1999</i>		38
<i>Social Security (International Agreements) Act 1999</i>		41
Schedule 2—Amendments of the family assistance law and certain related Acts		42
Part 1—Amendments commencing on Royal Assent		Error! Bookmark not defined.
<i>A New Tax System (Family Assistance) Act 1999</i>		42
<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>		51
Part 2—Amendments related to the A New Tax System (Family Assistance and Related Measures) Act 2000		Error! Bookmark not defined.
<i>A New Tax System (Family Assistance) Act 1999</i>		65
<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>		67
Part 3—Other amendments of the family assistance law		Error! Bookmark not defined.
<i>A New Tax System (Family Assistance) Act 1999</i>		68
<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>		69
Part 4—Amendment of related Acts		Error! Bookmark not defined.

<i>A New Tax System (Family Assistance and Related Measures) Act 2000</i>	71
<i>A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999</i>	71
<i>A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999</i>	71
<i>A New Tax System (Tax Administration) Act 1999</i>	71
Schedule 2A—Amendments of the family assistance law relating to child care benefits for foster children	72
<i>A New Tax System (Family Assistance) Act 1999</i>	72
Schedule 3—Amendment of other Acts	73
<i>Commonwealth Services Delivery Agency Act 1997</i>	73
<i>Family and Community Services Legislation Amendment (1999 Budget and Other Measures) Act 1999</i>	73
<i>Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999</i>	73
<i>Social Security Legislation Amendment (Concession Cards) Act 2001</i>	74
<i>Veterans' Entitlements Act 1986</i>	75
<i>Youth Allowance Consolidation Act 2000</i>	75
Schedule 4—Formal amendments of the social security law	77
<i>Social Security Act 1991</i>	77
<i>Social Security (Administration) Act 1999</i>	87
Schedule 5—Repeal	89
<i>First Home Owners Act 1983</i>	89



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No. 30, 2003

An Act to amend the social security law and the family assistance law, to amend certain other Acts, and to repeal the *First Home Owners Act 1983*, and for related purposes

[Assented to 15 April 2003]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family and Community Services Legislation Amendment 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	15 April 2003
2. Schedule 1, items 1 to 112	The day on which this Act receives the Royal Assent	15 April 2003
3. Schedule 1, item 113	Immediately after the commencement of the provisions of the <i>Youth Allowance Consolidation Act 2000</i> that commenced in accordance with subsection 2(1) of that Act	6 July 2000
4. Schedule 1, items 114 to 116	1 July 2000	1 July 2000

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
5. Schedule 1, items 117 to 123	Immediately after the commencement of those provisions of the <i>Social Security (Administration) Act 1999</i> that commenced in accordance with subsection 2(1) of that Act	20 March 2000
6. Schedule 1, item 124	1 July 2000	1 July 2000
7. Schedule 2, items 1 to 51	The day on which this Act receives the Royal Assent	15 April 2003
8. Schedule 2, items 52 to 72	Immediately after the commencement of the provisions of the <i>A New Tax System (Family Assistance and Related Measures) Act 2000</i> referred to in subsection 2(2) of that Act	1 July 2000
9. Schedule 2, items 73 to 83	1 July 2000	1 July 2000
10. Schedule 2, items 84 to 86	Immediately after the commencement of Schedule 2 to the <i>A New Tax System (Family Assistance and Related Measures) Act 2000</i>	1 July 2000
11. Schedule 2, item 87	Immediately after the commencement of section 2 of the <i>A New Tax System (Family Assistance and Related Measures) Act 2000</i>	3 May 2000
12. Schedule 2, item 88	Immediately after the commencement of Schedule 7 to the <i>A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999</i>	1 July 2000
13. Schedule 2, item 89	Immediately after the commencement of section 2 of the <i>Youth Allowance Consolidation Act 2000</i>	6 July 2000
14. Schedule 2, item 90	Immediately after the commencement of the provisions of Schedule 5 to the <i>A New Tax System (Tax Administration) Act 1999</i> that commenced in accordance with subsection 2(9) of that Act	1 July 2000
14A. Schedule 2A	1 July 2000	1 July 2000
15. Schedule 3, item 1	The day on which this Act receives the Royal Assent	15 April 2003

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
16. Schedule 3, item 2	Immediately after the commencement of section 2 of the <i>Youth Allowance Consolidation Act 2000</i>	6 July 2000
17. Schedule 3, items 3 and 4	Immediately after the commencement of Schedule 1 to the <i>Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999</i>	20 March 2000
18. Schedule 3, item 5	The day on which this Act receives the Royal Assent	15 April 2003
19. Schedule 3, item 6	Immediately after the commencement of Schedule 1 to the <i>Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999</i>	20 March 2000
20. Schedule 3, item 7	The day on which this Act receives the Royal Assent	15 April 2003
21. Schedule 3, item 8	Immediately after the commencement of the <i>Social Security Legislation Amendment (Concession Cards) Act 2001</i>	1 July 2001
22. Schedule 3, items 9 to 14	The day on which this Act receives the Royal Assent	15 April 2003
23. Schedule 3, item 15	Immediately after the commencement of Part 2 of Schedule 2 to the <i>Youth Allowance Consolidation Act 2000</i>	1 July 1999
24. Schedule 3, item 16	Immediately after the commencement of item 2 of Schedule 4 to the <i>Youth Allowance Consolidation Act 2000</i>	6 July 2000
25. Schedule 4, items 1 to 22	The day on which this Act receives the Royal Assent	15 April 2003
26. Schedule 4, item 23	1 July 2000	1 July 2000
27. Schedule 4, items 24 to 99	The day on which this Act receives the Royal Assent	15 April 2003

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
28. Schedule 4, item 100	Immediately after the commencement of Part 1 of Schedule 1 to the <i>Social Security Legislation Amendment (Parenting and Other Measures) Act 1997</i>	20 March 1998
29. Schedule 4, items 101 to 117	The day on which this Act receives the Royal Assent	15 April 2003
30. Schedule 5	The day on which this Act receives the Royal Assent	15 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.

- (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 Transitional provisions relating to child care benefit for foster children

Claim refused before commencement: past period care by approved child care service or registered carer; substitution claim

- (1) If:
- (a) a claim for child care benefit under paragraph 49B(b), (c) or (d) of the Administration Act was refused before the commencing time; and
 - (b) at any time during the claim period, the child was an eligible foster child;
- then:

-
- (c) the refusal may be reviewed by the Secretary, on his or her own initiative, under section 105 of the Administration Act; and
 - (d) an application for review of the refusal may be made under section 109A of the Administration Act at any time before the transitional deadline.

This subsection applies whether or not the refusal has already been reviewed before the commencing time.

Extension of claim period: past period care by approved child care service

- (2) Paragraph 49J(2)(b) of the Administration Act does not prevent the making of a claim if:
 - (a) the claim is made before the transitional deadline and after the end of the income year in which the claim period occurs; and
 - (b) the claim is for a period that is wholly before the commencing time; and
 - (c) at any time during the claim period, the child was an eligible foster child.

Extension of claim period: past period care by registered carer

- (3) Subsection 49K(2) of the Administration Act does not prevent the making of a claim if:
 - (a) the claim is made before the transitional deadline; and
 - (b) the claim is for a period that is wholly before the commencing time; and
 - (c) at any time during the claim period, the child was an eligible foster child.

Extension of claim period: substitution claim

- (4) Subsection 49L(2) of the Administration Act does not prevent the making of a claim if:
 - (a) the claim is made before the transitional deadline; and
 - (b) the claim is for a period that is wholly before the commencing time; and

-
- (c) at any time during the claim period, the child was an eligible foster child.

Variation of conditional eligibility determination for fee reduction

- (5) If a conditional eligibility determination under section 50F of the Administration Act was varied before the commencing time on the ground that paragraph 49(1)(a) of the Family Assistance Act prevented eligibility, then that variation is taken never to have had any effect.

Definitions

- (6) In this section:

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

commencing time means the beginning of the day on which this Act received the Royal Assent.

eligible foster child means a child who is in the care of a foster parent under a law referred to in paragraph 49(1)(a) of the Family Assistance Act.

Family Assistance Act means the *A New Tax System (Family Assistance) Act 1999*.

refused means refused by means of a no entitlement determination under section 52G or 53E of the Administration Act.

transitional deadline means the end of the first financial year after the financial year in which this Act received the Royal Assent.

Schedule 1—Amendments of the social security law

Part 1—Amendments commencing on Royal Assent

Social Security Act 1991

1 Subsection 9(1D)

Move to immediately after subsection (1C).

2 Subparagraph 9B(2)(a)(i)

Repeal the subparagraph, substitute:

- (i) if the person's life expectancy is less than 15 years—
throughout a period that is equal to the person's life expectancy or, if the person's life expectancy does not consist of a number of whole years, throughout any period not less than the person's life expectancy and not greater than the person's life expectancy, rounded up, in either case, to the next whole number of years; or

3 Subparagraph 9B(2)(h)(iii)

Repeal the subparagraph, substitute:

- (iii) if the legal or equitable interest in the payment resulting from the commutation is transferred:
 - (A) on the death of a person, to the benefit of a reversionary beneficiary or, if there is no reversionary beneficiary, to the person's estate;
or
 - (B) on the death of a reversionary beneficiary (the *deceased reversionary beneficiary*), to the benefit of another reversionary beneficiary or, if there is no other reversionary beneficiary, to the estate of the deceased reversionary beneficiary;
or

4 Section 10

Repeal the section, substitute:

10 Maintenance income definitions

In this Act, unless the contrary intention appears, the expressions *disability expenses maintenance*, *maintenance* and *maintenance income* have the same respective meanings as in the Family Assistance Act.

6 Subsection 23(12)

Repeal the subsection, substitute:

(12) If:

(a) section 237 of the Administration Act applies to a notice of a decision under this Act; or

(b) sections 28A and 29 of the *Acts Interpretation Act 1901* (the *Interpretation Act*) apply to a notice under this Act;

section 237 of the Administration Act, or sections 28A and 29 of the Interpretation Act, as the case may be, apply to the notice even if the Secretary is satisfied that the person did not actually receive the notice.

7 At the end of section 23

Add:

(19) In this Act, the expressions *transfer day* and *transferee*, in relation to a person or a social security pension or benefit, have the same meaning as they have in the Administration Act.

8 Paragraph 198(2)(a)

Repeal the paragraph, substitute:

(a) either:

(i) if the person is the only person providing the constant care—a disabled adult (the *care receiver*) who has been assessed and rated under the Adult Disability Assessment Tool and given a score under that assessment tool of at least 25, being a score calculated

on the basis of a total professional questionnaire score of at least 10; or

- (ii) if not—a disabled adult (the *care receiver*) who has been assessed and rated under the Adult Disability Assessment Tool and given a score under that assessment tool of at least 80, being a score calculated on the basis of a total professional questionnaire score of at least 32; or

9 Subparagraph 198(2)(d)(i)

Repeal the subparagraph, substitute:

- (i) the disabled adult has been assessed and rated under the Adult Disability Assessment Tool and given a score under that assessment tool of at least 20, being a score calculated on the basis of a total professional questionnaire score of at least 8; and

10 Subsection 550B(1)

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

11 At the end of section 550B

Add:

- (4) If:
 - (a) an activity test non-payment period under this Part applies to a person (or would apply to a person apart from this subsection); and
 - (b) the person becomes a CDEP Scheme participant;
the period stops applying to the person from and including the day on which the person becomes a CDEP Scheme participant.
- (5) Subsection (4) has effect regardless of how long the person continues to be a CDEP Scheme participant.

12 Paragraphs 552(2)(c) and (d)

Repeal the paragraphs, substitute:

- (c) an assurance of support applies to the person.

13 Subsection 557A(1)

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

14 At the end of section 557A

Add:

(4) If:

(a) an activity test breach rate reduction period under this Part applies to a person (or would apply to a person apart from this subsection); and

(b) the person becomes a CDEP Scheme participant;
the period stops applying to the person from and including the day on which the person becomes a CDEP Scheme participant.

(5) Subsection (4) has effect regardless of how long the person continues to be a CDEP Scheme participant.

15 Subsection 558(1)

Repeal the subsection, substitute:

(1) Subject to subsection (2), an administrative breach rate reduction period applies to a person if the person refuses or fails, without reasonable excuse, to comply with a requirement made of the person under section 64, 67, 68, 75 or 192 of the Administration Act.

16 Subsection 558A(1)

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

17 At the end of section 558A

Add:

(4) If:

(a) an administrative breach rate reduction period under this Part applies to a person (or would apply to a person apart from this subsection); and

(b) the person becomes a CDEP Scheme participant;
the period stops applying to the person from and including the day on which the person becomes a CDEP Scheme participant.

- (5) Subsection (4) has effect regardless of how long the person continues to be a CDEP Scheme participant.

19 Section 569B

Omit “that the Employment Minister has”.

20 Subsection 569G(5)

Repeal the subsection, substitute:

Meaning of secondary course

- (5) For the purposes of this section, a course is a secondary course if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act.

21 Subsection 569H(13)

Repeal the subsection, substitute:

Meaning of tertiary course

- (13) For the purposes of this section, a course is a tertiary course if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a tertiary course for the purposes of that Act.

22 Subsection 575A(1) (note 2)

Repeal the note.

23 Paragraphs 578(2)(c) and (d)

Repeal the paragraphs, substitute:

- (c) an assurance of support applies to the person.

24 At the end of section 578

Add:

- (3) An austudy payment is not payable to a person in respect of a period if the person is a CDEP Scheme participant in respect of the whole or any part of the period.

25 Subsection 583(1)

Repeal the subsection, substitute:

General rule

- (1) Subject to subsection (2), an administrative breach rate reduction period applies to a person if the person refuses or fails, without reasonable excuse, to comply with a requirement made of the person under section 63, 67, 68, 75 or 192 of the Administration Act.

26 Section 631

Omit “63, 64, 67,”, substitute “64, 67, 68,”.

27 Subsection 631B(1)

Omit “provisions in this Act”, substitute “provision of the social security law”.

28 After Subdivision GA of Division 1 of Part 2.12

Insert:

Subdivision GB—Participation in a CDEP project

631D Definitions

For the purposes of this Subdivision:

activity test penalty period, in relation to a person, means a period during which a newstart allowance that would otherwise be payable to the person is payable at a reduced rate, or is not payable, because of the operation of section 624, 625, 626, 628, 629, 630 or 630AA in relation to an act or omission of the person.

administrative penalty period, in relation to a person, means a period during which a newstart allowance that would otherwise be payable to the person is payable at a reduced rate because of the operation of section 631 of this Act or section 63 of the Administration Act in relation to an act or omission of the person.

penalty period means:

- (a) activity test penalty period; or
- (b) administrative penalty period.

631E Penalty periods cease to apply when person becomes CDEP Scheme participant

- (1) In spite of any provision of the social security law, if:
 - (a) a penalty period or a number of penalty periods apply to a person (or would apply to a person apart from this subsection); and
 - (b) the person becomes a CDEP Scheme participant;
the penalty period or periods stop applying to the person from and including the day on which the person becomes a CDEP Scheme participant.
- (2) Subsection (1) has effect regardless of how long the person continues to be a CDEP Scheme participant.

29 Division 1 of Part 2.13A (heading)

Repeal the heading, substitute:

Division 1—Recipients of pension PP (single)

Note: The heading to section 665A is replaced by the heading “**Payment to recipient of pension PP (single)**”.

30 Division 6 of Part 2.13A (heading)

Repeal the heading, substitute:

Division 6—Newstart allowance recipients

31 Subparagraph 665U(1)(a)(i)

After “scheme”, insert “or an approved course of education or study for the purposes of paragraph 541B(1)(c) or 569A(b)”.

32 Subparagraphs 665U(1)(c)(ii) and (iii)

Repeal the subparagraphs, substitute:

- (ii) is not qualified for youth allowance as a full-time student, austudy payment or payments under the ABSTUDY scheme because the person takes part in the course to satisfy the activity test under section 601 or to comply with a Newstart Activity Agreement; and

33 Division 12 of Part 2.13A (heading)

Repeal the heading, substitute:

Division 12—Recipients of PP (partnered)

Note: The heading to section 665ZU is replaced by the heading “**Payment to recipient of PP (partnered)**”.

34 Paragraph 729B(2)(b)

Omit “provisional commencement”, substitute “start”.

35 Subsection 771HA(1B)

Repeal the subsection, substitute:

(1B) For the purposes of paragraph (1)(c), if the person’s partner would be receiving newstart allowance except for the imposition of a period of non-payment under:

- (a) Subdivision D of Division 2 of Part 2.11; or
- (b) Subdivision E of Division 2 of Part 2.11A; or
- (c) Subdivision F of Division 1 of Part 2.12; or
- (d) section 634;

the partner is taken to be receiving newstart allowance.

36 Paragraph 771HA(3)(b)

Repeal the paragraph, substitute:

- (b) a period of non-payment applies to the person under:
 - (i) Subdivision D of Division 2 of Part 2.11; or
 - (ii) Subdivision E of Division 2 of Part 2.11A; or
 - (iii) Subdivision F of Division 1 of Part 2.12; or
 - (iv) section 634; or

37 Subparagraph 953(1)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) the care receiver has been assessed and rated under the Child Disability Assessment Tool and given a positive score under that assessment tool not less than 1, being a score calculated on the basis of a professional questionnaire score greater than 0; and

38 Paragraph 953(2)(c)

Repeal the paragraph, substitute:

- (c) each care receiver has been assessed and rated under the Child Disability Assessment Tool and given a positive score under that assessment tool less than 1, being a score calculated on the basis of a professional questionnaire score greater than 0; and
- (ca) the sum of the scores of the care receivers under the Child Disability Assessment Tool is positive and not less than 1; and

39 Paragraph 954(1)(c)

Repeal the paragraph, substitute:

- (c) the care receiver has been assessed and rated under the Adult Disability Assessment Tool and given a score under that assessment tool of at least 30, being a score calculated on the basis of a professional questionnaire score of at least 12; and

40 Subsections 999(1) and (1A)

Repeal the subsections, substitute:

Persons other than approved care organisations

- (1) A person is qualified for a double orphan pension for a young person if:
 - (a) the young person is an FTB child of the person, or would be an FTB child of the person except that the young person, or someone on behalf of the young person, is receiving payments under a prescribed educational scheme; and
 - (b) the person is eligible for family tax benefit, or would be so eligible except that:
 - (i) the young person is not an FTB child of the person, but only because of the receipt of the payments referred to in paragraph (a); or
 - (ii) the person's rate of family tax benefit, worked out under Division 1 of Part 4 of the Family Assistance Act, is nil; and
 - (c) on the day on which the person claims the double orphan pension, the young person is a double orphan; and

(d) either:

- (i) the young person continues to be a double orphan; or
- (ii) if the young person is no longer a double orphan, the person has not become aware that the young person is no longer a double orphan.

41 Section 1003

Omit “a family allowance instalment period”, substitute “an instalment period for family tax benefit”.

42 At the end of section 1003

Add:

(2) In subsection (1):

instalment period for family tax benefit means a period that is an instalment period for the purposes of section 23 of the Family Assistance Administration Act.

43 Section 1035

Repeal the section, substitute:

1035 Qualification for mobility allowance

- (1) A person is qualified for a mobility allowance if the person satisfies the travel test set out in subsection (2) and:
 - (a) all of the following apply:
 - (i) the person is a handicapped person;
 - (ii) the person is engaged in gainful employment;
 - (iii) the Secretary is of the opinion that:
 - (A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and
 - (B) the person’s inability to use public transport without substantial assistance is due to the person’s physical or mental disability; and
 - (C) the person is engaged in the gainful employment for at least 32 hours in every 4 weeks on a continuing basis;

- (iv) the person is an Australian resident; or
- (b) all of the following apply:
 - (i) the person is a handicapped person;
 - (ii) the person is undertaking vocational training;
 - (iii) the Secretary is of the opinion that:
 - (A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and
 - (B) the person's inability to use public transport without substantial assistance is due to the person's physical or mental disability; and
 - (C) the person is undertaking the vocational training for at least 32 hours in every 4 weeks on a continuing basis;
 - (iv) the person is an Australian resident; or
- (c) all of the following apply:
 - (i) the person is a handicapped person;
 - (ii) the person is receiving newstart allowance, youth allowance or austudy payment;
 - (iii) the Secretary is of the opinion that:
 - (A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and
 - (B) the person's inability to use public transport without substantial assistance is due to the person's physical or mental disability; and
 - (iv) the person is required to satisfy the activity test;
 - (v) the person is an Australian resident; or
- (d) all of the following apply:
 - (i) the person is a handicapped person;
 - (ii) the Secretary is of the opinion that:
 - (A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and
 - (B) the person's inability to use public transport without substantial assistance is due to the person's physical or mental disability; and

- (C) the person is undertaking job search activities under an agreement between the Secretary and a service provider nominated by the Secretary of the Employment Department;
- (iii) the person is an Australian resident; or
- (e) all of the following apply:
 - (i) the person is a handicapped person;
 - (ii) the Secretary is of the opinion that:
 - (A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and
 - (B) the person's inability to use public transport without substantial assistance is due to the person's physical or mental disability; and
 - (C) the person is undertaking job search activities under the Competitive Employment Placement and Training Program administered by the Department;
 - (iii) the person is an Australian resident; or
- (f) all of the following apply:
 - (i) the person is a handicapped person;
 - (ii) the Secretary is of the opinion that:
 - (A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and
 - (B) the person's inability to use public transport without substantial assistance is due to the person's physical or mental disability; and
 - (C) the person is engaged in voluntary work for at least 32 hours in every 4 weeks on a continuing basis;
 - (iii) the person is an Australian resident; or
- (g) all of the following apply:
 - (i) the person is a handicapped person;
 - (ii) the Secretary is of the opinion that:
 - (A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and

- (B) the person's inability to use public transport without substantial assistance is due to the person's physical or mental disability;
 - (iii) the Secretary is of the opinion that the person is undertaking a combination of any 2 or more of the following:
 - (A) gainful employment;
 - (B) vocational training;
 - (C) voluntary work;for at least 32 hours in every 4 weeks on a continuing basis;
 - (iv) the person is an Australian resident.
- (2) A person satisfies the travel test mentioned in subsection (1) if the person is required to travel to and from the person's home for the purpose of undertaking:
- (a) gainful employment; or
 - (b) vocational training; or
 - (c) job search activities; or
 - (d) voluntary work.

- (3) In this section:

vocational training means vocational training within the meaning of section 19 (other than training provided as part of a rehabilitation program or follow-up program under Part III of the *Disability Services Act 1986*).

voluntary work means work approved by the Secretary undertaken in a voluntary capacity for charitable, welfare or community organisations.

44 Subsections 1045(1) and (2)

Repeal the subsections, substitute:

- (1) A person is qualified for a mobility allowance advance if:
- (a) the person is receiving mobility allowance; and
 - (b) the person has requested the advance; and

- (c) the Secretary is satisfied that the person will continue to be qualified for mobility allowance for at least 26 weeks from the day on which the person receives the advance; and
 - (d) if the person has previously received a mobility allowance advance, a period of not less than 12 months has elapsed since the person last received a mobility allowance advance.
- (2) If a person has previously received a mobility allowance advance, a request is not effective for the purpose of paragraph (1)(b) if it was made within 11 months after the person received a mobility allowance advance.

45 Paragraph 1046(1)(b)

Repeal the paragraph, substitute:

- (b) the person would, apart from this section, cease to be qualified for the mobility allowance because he or she ceases, in the Secretary's opinion:
 - (i) to undertake gainful employment, vocational training or voluntary work; or
 - (ii) to undertake a combination of any 2 or more of the following:
 - (A) gainful employment;
 - (B) vocational training;
 - (C) voluntary work;
- for at least 32 hours in every 4 weeks on a continuing basis.

46 Paragraph 1046(2)(b)

Repeal the paragraph, substitute:

- (b) the person would, apart from this section, cease to be qualified for the mobility allowance because he or she ceases, in the Secretary's opinion:
 - (i) to receive newstart allowance for a reason other than the application of section 601 or 605 of this Act or section 81 of the Administration Act; or
 - (ii) to receive youth allowance for a reason other than the application of section 541A, 544A, 544C, 550 or 553B of this Act or section 81 of the Administration Act; or

- (iii) to receive an austudy payment for a reason other than the application of section 569 or 576 of this Act or section 81 of the Administration Act; or
- (iv) to undertake job search activities under an agreement between the Secretary and a service provider nominated by the Secretary of the Employment Department; or
- (v) to undertake job search activities under the Competitive Employment Placement and Training Program administered by the Department.

47 At the end of section 1046

Add:

- (6) In this section:

vocational training means vocational training within the meaning of section 19 (other than vocational training provided as part of a rehabilitation program or follow-up program under Part III of the *Disability Services Act 1986*).

voluntary work means work approved by the Secretary undertaken in a voluntary capacity for charitable, welfare or community organisations.

48 Section 1061PC

Omit “that the Employment Minister has”.

49 Subsection 1061PH(5)

Repeal the subsection, substitute:

Meaning of secondary course

- (5) For the purposes of this section, a course is a secondary course if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act.

50 Subsection 1061PI(13)

Repeal the subsection, substitute:

Meaning of tertiary course

- (13) For the purposes of this section, a course is a tertiary course if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a tertiary course for the purposes of that Act.

56 Paragraph 1067G-F24(b)

Omit “that the Employment Minister has”.

59 Point 1068A-F2

Omit “FA child”, substitute “FTB child”.

61 Part 3.11

Repeal the Part.

62 Section 1158

After “parenting payment”, insert “, a mobility allowance”.

63 After subparagraph 1188C(3)(a)(vi)

Insert:

(vii) special benefit;

64 At the end of subsection 1188C(3)

Add:

; (e) if a payment of a social security benefit referred to in paragraph (a) is payable to the person’s partner in respect of the payment period, the ordinary income of the partner includes an amount equal to the CDEP payment.

65 At the end of section 1188C

Add:

- (6) In items 26 and 27 of Table A in subsection (5), a reference to the maximum basic rate that would apply to a person is a reference to the amount that would be the person’s maximum basic rate if the person were receiving the appropriate payment.
- (7) For the purpose of subsection (6), the appropriate payment is the social security payment, other than special benefit, that, in the opinion of the Secretary, is the social security payment that it is

equitable to take into account for the purposes of subsection (6),
having regard to the circumstances of the person concerned.

66 Subsection 1217(2)

Repeal the subsection, substitute:

Meaning of allowable absence

- (2) The person's absence is an allowable absence in relation to the payment at a particular time if, at that time:
- (a) it is an absence specified in column 4 of the item in the table at the end of this section that is applicable to the payment and the person; and
 - (b) except where an unlimited absence is specified in column 5 of the item or a provision of Subdivision B of Division 2 of Part 4.2 applies, the absence does not exceed the period specified in column 5 of that item.

68 Subsection 1223(7A)

Repeal the subsection.

69 Subsection 1223A(3)

Repeal the subsection, substitute:

- (3) The period for the purposes of subsection (2) is the period that:
- (a) began on:
 - (i) the day 5 years before the income stream was commuted; or
 - (ii) the commencement day of the income stream; or
 - (iii) 20 September 2001;whichever is the latest; and
 - (b) ended when the income stream was commuted.

70 At the end of section 1223A

Add:

- (6) Subject to subsection (7), if:
- (a) an asset-test exempt income stream (the *old income stream*) is commuted, in whole or in part; and

- (b) part, but not the whole, of the payment resulting from the commutation of the old income stream (the **commutation payment**) is transferred directly to the purchase of another asset-test exempt income stream (the **new income stream**); the following paragraphs have effect for the purposes of this section:
- (c) the new income stream is taken to have the same commencement day as:
 - (i) the old income stream; or
 - (ii) if the old income stream was one of a succession of asset-test exempt income streams—the first income stream in that succession;
 - (d) if the old income stream was not one of a succession of asset-test exempt income streams, income stream payments made under the old income stream are taken to have been made under the new income stream;
 - (e) if the old income stream was one of a succession of asset-test exempt income streams, income stream payments made under any of the income streams in that succession are taken to have been, at the time when they were made, payments under the new income stream.
- (7) Subsection (6) does not apply if the amount used in the purchase of the new income stream represents the whole of the commutation payment remaining after the use of part of the commutation payment in the payment of:
- (a) a hardship amount; or
 - (b) superannuation contributions surcharge that the person is liable to pay in his or her capacity as purchaser of the old income stream.
- (8) Subject to subsection (9), if:
- (a) the whole of an asset-test exempt income stream is commuted; and
 - (b) no part of the payment resulting from the commutation of the income stream is transferred directly to the purchase of another asset-test exempt income stream; and
 - (c) the commuted income stream was one of a succession of asset-test exempt income streams;

the following paragraphs have effect for the purposes of this section:

- (d) the commuted income stream is taken to have had the same commencement day as the first income stream in that succession;
 - (e) income stream payments made under any of the income streams in that succession (other than the commuted income stream) are taken to have been, at the time when they were made, payments under the commuted income stream.
- (9) Subsection (8) does not apply if the whole of the payment resulting from the commutation of the income stream referred to in paragraph (8)(a) is used in the payment of:
- (a) a hardship amount; or
 - (b) superannuation contributions surcharge that the person is liable to pay in his or her capacity as purchaser of that income stream.
- (10) For the purposes of this section:
- (a) 2 or more asset-test exempt income streams constitute a succession of asset-test exempt income streams if each income stream (other than the first of those income streams to be provided) has been funded by means of the payment, or part of the payment, resulting from the commutation of another of those income streams; and
 - (b) an income stream is the first income stream in a succession of income streams if it is the first of those income streams to be provided.
- (11) In this section:

hardship amount has the same meaning as in section 9A.

71 Paragraph 1223AA(1BA)(b)

Omit “a” (third occurring).

72 After subsection 1227A(1)

Insert:

- (1A) A debt that is recoverable under section 56 of the *Farm Household Support Act 1992* in respect of an amount of re-establishment grant

is also a debt that is due to, and recoverable by, the Commonwealth under this Act.

73 Subsection 1227A(2)

Omit “The debt”, substitute “A debt in respect of an amount of exceptional circumstances relief payment or farm help income support”.

74 At the end of section 1227A

Add:

- (3) A debt in respect of an amount of re-establishment grant may be recovered by the Commonwealth by any of the means referred to in paragraphs (2)(b) to (e).

Note: The heading to section 1227A is altered by inserting “**re-establishment grant,**” after “**in respect of**”.

75 Subparagraph 1231(2)(b)(ii)

Repeal the subparagraph, substitute:

- (ii) Part 4 of the *A New Tax System (Family Assistance) (Administration) Act 1999*.

76 After clause 128 of Schedule 1A

Insert:

128A Saving of certain pensions payable under 1986 Agreement between Australia and Italy

- (1) In this clause:

1986 Agreement means the agreement made between the Government of Australia and the Government of the Republic of Italy on 23 April 1986.

- (2) This subclause applies to a person if:

- (a) the person has become qualified to receive:

- (i) a disability support pension; or
- (ii) a widow B pension;

by virtue of the 1986 Agreement; and

- (b) the person became qualified to receive the pension because:

- (i) in the case of a disability support pension, he or she became unable to work or became permanently blind, as the case may be, while he or she was in Australia or was temporarily absent from Australia; or
 - (ii) in the case of a widow B pension, the person's spouse died while the person and the person's spouse were Australian residents or, being such residents, were temporarily absent from Australia.
- (3) Subject to subclause (4), this subclause applies to a person if:
 - (a) on 8 May 1985, the person was either:
 - (i) an Australian resident; or
 - (ii) an absent resident within the meaning of the 1986 Agreement; and
 - (b) the person left Australia before 1 January 1996; and
 - (c) while absent from Australia, the person became eligible to receive a social security payment by virtue of the 1986 Agreement; and
 - (d) the person commenced to receive that social security payment before 1 January 1996; and
 - (e) immediately before 1 October 2000, the rate at which that social security payment was payable was worked out under subparagraph 1(b) of Article 8 of the 1986 Agreement; and
 - (f) the person has not returned to Australia on or after 1 October 2000 for a continuous period of 26 weeks.
- (4) Subclause (3) ceases to apply to a person if the rate at which the social security payment would be payable to the person apart from this clause exceeds the rate at which the social security payment is payable to the person as a person to whom subclause (3) applies.
- (5) In spite of any other provision of the social security law relating to the rate at which a disability support pension or widow B pension is payable, the rate at which such a pension is payable to a person to whom subclause (2) applies is the rate at which the pension would be payable to the person if:
 - (a) the person were an Australian resident; and
 - (b) the person were not entitled to have included in the rate of the pension:
 - (i) any amount representing:

- (A) pharmaceutical allowance; or
 - (B) remote area allowance; or
 - (C) rent assistance; or
- (ii) any amount similar to the amounts referred to in subparagraph (i).
- (6) In spite of any other provision of the social security law relating to the rate at which a social security payment is payable, the rate at which such a payment is payable to a person to whom subclause (3) applies is the rate worked out according to subparagraph 1(b) of Article 8 of the 1986 Agreement.

Social Security (Administration) Act 1999

77 Subdivision F of Division 1 of Part 3 (heading)

Repeal the heading, substitute:

Subdivision F—Time limit for claims for fares allowance

27 Time limit for claim

- (1) Subject to this section, a claim for fares allowance must be lodged in the study year to which the claim relates or before 1 April next following the end of that year (the *final date*).
- (2) A claim for fares allowance may be lodged on or after the final date if the Secretary is satisfied that:
 - (a) the claimant took reasonable steps to lodge the claim, or have the claim lodged, before the final date; and
 - (b) circumstances beyond the claimant's control prevented the claim being lodged before the final date.
- (3) A claim for fares allowance may be lodged on or after the final date if the Secretary is satisfied that:
 - (a) circumstances beyond the claimant's control prevented the claimant taking reasonable steps to lodge the claim, or have the claim lodged, before the final date; and
 - (b) the claimant has sought to lodge the claim as soon as practicable after those circumstances ceased to exist.

78 Subsection 31(1)

Repeal the subsection.

79 Subsection 31(3)

Omit “made by an approved care organisation”, substitute “for double orphan pension”.

80 Subdivision J of Division 1 of Part 3 (heading)

Repeal the heading, substitute:

Subdivision J—Special provision for certain claims

Note: The heading to section 35 is replaced by the heading “**Claims by persons in gaol etc.**”.

81 At the end of Subdivision J of Division 1 of Part 3

Add:

35A Claims for advance pharmaceutical allowance

- (1) A person may only make a claim for advance pharmaceutical allowance if the claim is made in accordance with subsection (2), (3) or (4).
- (2) A person may make a claim for advance pharmaceutical allowance to be paid in a calendar year if:
 - (a) the person has received an instalment of a social security pension in relation to an instalment period that included 31 December in the previous calendar year; and
 - (b) the claim is lodged within 14 days after the end of that instalment period.
- (3) A person may make a claim for advance pharmaceutical allowance to be paid in a calendar year if:
 - (a) the person claims a social security pension in that year; and
 - (b) the claim for advance pharmaceutical allowance is lodged:
 - (i) when the claim for the pension is lodged; or
 - (ii) after the claim for the pension is lodged but before that claim is determined.

- (4) A person may make a claim for advance pharmaceutical allowance to be paid in a calendar year if:
- (a) the person has been qualified for pharmaceutical allowance for a period (the *qualification period*) during the calendar year; and
 - (b) the amount spent by the person during the qualification period on the purchase of pharmaceutical benefits is equal to or greater than the total amount that has been paid to the person in the calendar year by way of:
 - (i) pharmaceutical allowance; and
 - (ii) advance pharmaceutical allowance.

82 At the end of section 39

Add:

- (5) If:
- (a) a person makes a claim (the *actual claim*); and
 - (b) apart from this subsection, the person would, by virtue of section 13 or 14, be taken to have made the claim on a particular day;
- then, in spite of section 13 or 14, as the case may be, a reference in subsection (1) of this section to the day on which the claim was made is a reference to the day on which the actual claim was made.

83 Subsection 55(2)

Omit “subsection (4)”, substitute “subsections (4) and (4A)”.

84 After subsection 55(4)

Insert:

- (4A) Fares allowance is to be paid to a person as follows:
- (a) fares allowance is to be paid to the credit of the bank account to the credit of which payments of youth allowance, austudy payment or pensioner education supplement payable to the person are or were made;
 - (b) if, because of a direction under subsection (4), youth allowance, austudy payment or pensioner education supplement is not paid to the credit of a bank account, fares allowance is to be paid in the same way as the youth

allowance, a study payment or pensioner education supplement, as the case may be.

85 Division 6 of Part 3 (heading)

Repeal the heading, substitute:

Division 6—Requirement to provide information, undergo medical examination etc.

86 Paragraph 64(1)(a)

Omit “and the claim has not been determined”.

87 At the end of subsection 64(1)

Add:

- ; or (i) the person has made a claim for mobility allowance; or
- (j) the person is receiving mobility allowance.

88 At the end of subsection 64(4)

Add:

- ; (i) if the person is a person referred to in paragraph (1)(i), mobility allowance is not payable to the person;
- (j) if the person is a person referred to in paragraph (1)(j), mobility allowance ceases to be payable to the person.

89 At the end of subsection 76(1)

Add:

- ; or (c) the Secretary exempts the person from the need to satisfy the request.

90 Subparagraph 81(1)(a)(i)

After “section”, insert “67 or”.

91 Subparagraph 81(2)(b)(i)

After “section”, insert “67 or”.

92 Section 92

Repeal the section.

93 Section 102

Repeal the section.

94 Subsection 107(1)

Omit “and (4)”, substitute “, (4) and (5)”.

95 Paragraph 107(5)(d)

Repeal the paragraph, substitute:

(d) a decision that the claim be granted is made as a result of the review;

96 Subsection 110(2)

Omit “section 68 that relates to the payment of a social security payment in respect of a period specified in the notice”, substitute “section 67 or 68”.

Note: The heading to section 110 is altered by omitting all the words after “**determination**”.

97 Subsection 114(1)

Omit “, section 110 nor section 113”, substitute “nor section 110”.

99 Subsection 118(5)

Omit “section 68 that relates to the payment of the social security payment in respect of a period specified in the notice”, substitute “section 67 or 68”.

101 Paragraph 123(1)(d)

Omit “92, 93 or 94”, substitute “93, 94 or 95”.

102 Subsections 128(1) and (2)

Omit “126(4)” (wherever occurring), substitute “126(3)”.

103 Paragraph 129(3)(a)

Omit “Part 3”, substitute “the social security law”.

104 At the end of subsection 175(2)

Add “or the *Farm Household Support Act 1992*”.

105 After paragraph 192(d)

Insert:

- (da) the question whether a person who has made a claim under the Social Security (Fares Allowance) Rules 1998 was eligible for fares allowance;

106 Paragraph 204(1)(b)

After “the social security law”, insert “, the family assistance law”.

107 Subparagraph 209(1)(a)(ii)

Omit “subparagraph 208(1)(b)(ii)”, substitute “subsection 208(1) to disclose information to a person referred to in subparagraph 208(1)(b)(i)”.

108 Subsections 234(3) and (4)

Omit “under paragraph 1314(1)(b) of the 1991 Act”, substitute “under subsection 208(1) to disclose information to a person referred to in subparagraph 208(1)(b)(i)”.

109 At the end of section 240

Add:

- (3) A certificate given by the Secretary stating:
 - (a) that a specified amount was the principal sum at a particular time under a specified financial supplement contract; or
 - (b) that a specified amount was the sum of the amounts repaid, or the sum of the amounts notionally repaid, before a particular time or during a particular period in respect of a specified financial supplement contract; or
 - (c) that a specified amount was the amount, or the total of the amounts, of subsidy paid by the Commonwealth to a specified participating corporation in respect of a specified financial supplement contract in lieu of interest on the principal sum or in lieu of interest on the principal sum in relation to a specified period; or
 - (d) that a specified amount was, at a particular time, the amount outstanding under a specified financial supplement contract; or

- (e) that a specified amount was, at a particular time, the indexation amount in relation to a specified financial supplement contract; or
- (f) that the rights, or specified rights, of a specified participating corporation in respect of a specified person under a specified financial supplement contract were transferred by the corporation to the Commonwealth on a specified date; or
- (g) that, on a specified day, a person had an FS debt or FS debts to the Commonwealth of a specified amount or specified amounts; or
- (h) that, on a specified day, a notice, to a specified effect, under a provision of Chapter 2B was given to a specified person by the Secretary;

is to be received in all courts as prima facie evidence of the matters stated in the certificate.

- (4) In any proceeding, a document purporting to be a certificate by the Secretary under subsection (3) is to be taken, unless the contrary is established, to be such a certificate and to have been duly given.

110 Section 242

Omit “of social security payments”.

111 Paragraph 15(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) either:
 - (i) the person is subject to an administrative exclusion under subsection 63(4); or
 - (ii) an administrative breach rate reduction period applies to the person and the person’s administrative breach reduced rate is nil; and

Part 2—Other amendments

Social Security Act 1991

113 After section 19

Insert:

19A Fares allowance definitions

- (1) This section has effect for the purposes of Part 2.26.
- (2) Unless the contrary intention appears:

activity test means the test set out in section 541.

approved course has the meaning given by subsection 1061ZAAA(1).

approved tertiary course means a course of education or study that is determined, under section 5D of the *Student Assistance Act 1973*, to be a tertiary course for the purposes of that Act.

external student, in relation to an approved course at a relevant educational institution, means a student enrolled for the course who is subject to a requirement, being a requirement that is a compulsory component of the course, to attend the institution for a period of time.

independent has the same meaning as in Parts 2.11 and 3.5 (see section 1067A).

permanent home has the meaning given by subsections (3) to (6).

public transport does not include a taxi.

relevant educational institution has the meaning given by subsection 1061ZAAA(1).

required to live away from his or her permanent home has the meaning given by subsection (7).

study year means the period in which one complete year of an approved tertiary course (as defined by this subsection) starts and finishes.

- (3) Subject to subsection (5), if a person is receiving youth allowance and is not independent, the person's *permanent home* is the home of the parent whose income components are assessed under Submodule 4 of Module F of the Youth Allowance Rate Calculator in section 1067G.
- (4) Subject to subsection (5), if subsection 1061ZAAA(5) applies to a person, the person's *permanent home* is the home of the parent whose income components were assessed, immediately before the person became independent, under Submodule 4 of Module F of the Youth Allowance Rate Calculator in section 1067G.
- (5) If the parent uses more than one home, the person's *permanent home* is:
 - (a) the home that the parent uses most frequently; or
 - (b) if the parent uses more than one home for equal periods, the home that the person nominates.
- (6) The *permanent home* of a person to whom none of the preceding subsections applies is the person's usual place of residence.
- (7) A person is taken to be *required to live away from his or her permanent home* in order to undertake an approved tertiary course of education or study if:
 - (a) the person is not independent; and
 - (b) the person does not live at the person's permanent home; and
 - (c) the Secretary determines that the person needs to live away from the person's permanent home in order to undertake the course.

114 Subsection 236A(3)

Repeal the subsection, substitute:

- (3) The amount under this subsection is:
$$\frac{\text{Partnered MBR} + \text{Pension supplement}}{26} \times 7$$

where:

partnered MBR is the maximum basic rate applicable, on the day that the person dies, to a person covered by item 2 of the Maximum Basic Rate Table in point 1064-B1 of Pension Rate Calculator A in section 1064.

pension supplement is the person's pension supplement worked out under point 1064-BA2.

115 Section 1190 (cell at table item 4, column 2)

Omit "notional agreement pension rate", substitute "international agreement portability rate".

116 Section 1190 (cell at table item 4, column 4)

Repeal the cell, substitute:

Section 14A of the
Social Security
(International
Agreements) Act 1999

Social Security (Administration) Act 1999

117 After subsection 13(3)

Insert:

- (3A) For the purposes of the social security law, if:
- (a) the Department is contacted by or on behalf of a person in relation to a claim for a social security payment; and
 - (b) the person is, on the day on which the Department is contacted, qualified for the social security payment; and
 - (c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
 - (d) the person lodges a claim for the social security payment more than 14 days, but not more than 13 weeks, after the Department is contacted; and
 - (e) the Secretary is satisfied that, in the special circumstances of the case, it was not reasonably practicable for the person to lodge the claim earlier;

the person is taken to have made a claim for the social security payment on the day on which the Department was contacted.

118 After subsection 14(3)

Insert:

(3A) For the purposes of the social security law, if:

- (a) the Department is contacted by or on behalf of a person in relation to a claim for a concession card; and
- (b) the person is, on the day on which the Department is contacted, qualified for the concession card; and
- (c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
- (d) the person lodges a claim for the concession card more than 14 days, but not more than 13 weeks, after the Department is contacted; and
- (e) the Secretary is satisfied that, in the special circumstances of the case, it was not reasonably practicable for the person to lodge the claim earlier;

the person is taken to have made a claim for the concession card on the day on which the Department was contacted.

119 Subsection 15(1)

Repeal the subsection, substitute:

(1) For the purposes of the social security law, if:

- (a) a person makes an incorrect claim; and
- (b) the person subsequently makes a claim for a social security payment for which the person is qualified; and
- (c) the Secretary is satisfied that it is reasonable that this subsection be applied;

the person is taken to have made a claim for that social security payment on the day on which he or she made the incorrect claim.

120 Subsection 15(4)

Repeal the subsection, substitute:

(4) For the purposes of the social security law, if:

- (a) a person makes a claim for a pension, allowance, benefit or other payment under a law of the Commonwealth, other than this Act or the 1991 Act, or under a program administered by the Commonwealth, that is similar in character to a social security payment, other than a supplementary payment (the *initial claim*); and
- (b) when the claim was made, the person was qualified for a social security payment, other than a supplementary payment; and
- (c) the person subsequently makes a claim for the social security payment referred to in paragraph (b) (the *later claim*); and
- (d) the Secretary is satisfied that it is reasonable that this subsection be applied;

the person is taken to have made the later claim on the day on which the initial claim was made.

(4A) For the purposes of the social security law, if:

- (a) a person makes a claim for an income support payment (the *initial claim*); and
- (b) on the day on which the initial claim is made, the person is qualified for another income support payment (the *other income support payment*); and
- (c) the person subsequently makes a claim for the other income support payment (the *later claim*); and
- (d) the Secretary is satisfied that it is reasonable that this subsection be applied;

the person is taken to have made the later claim on the day on which the initial claim was made.

(4B) For the purposes of the social security law, if:

- (a) a person makes a claim for a supplementary payment (the *initial claim*); and
- (b) on the day on which the initial claim is made, the person is qualified for another supplementary payment (the *other supplementary payment*); and
- (c) the person subsequently makes a claim for the other supplementary payment (the *later claim*); and
- (d) the Secretary is satisfied that it is reasonable that this subsection be applied;

the person is taken to have made the later claim on the day on which the initial claim was made.

Note: The heading to section 15 is altered by omitting “**incorrect claim**” and substituting “**incorrect or inappropriate claims**”.

121 Subclause 1(1) of Schedule 1 (at the end of the definition of transfer day)

Add “or (3), as the case requires”.

122 Subclause 1(1) of Schedule 1 (at the end of the definition of transferee)

Add “or (3), as the case requires”.

123 At the end of clause 1 of Schedule 1

Add:

(3) If:

- (a) a person becomes qualified for a social security pension or benefit (the *new payment*); and
 - (b) immediately before becoming qualified for the new payment:
 - (i) the person is a member of a couple; and
 - (ii) the person’s partner is receiving a social security benefit; and
 - (c) the person makes a claim for the new payment;
- the person is a transferee to the new payment and the person’s transfer day is the day on which the person becomes qualified for the new payment.

Social Security (International Agreements) Act 1999

124 Subsection 14A(1)

Omit “paragraph 13(e)”, substitute “paragraph 13(1)(e)”.

Schedule 2—Amendments of the family assistance law and certain related Acts

Part 1—Amendments commencing on Royal Assent

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1) (definition of non-standard hours family day care)

Repeal the definition, substitute:

non-standard hours family day care means hours of care provided by an approved family day care service at times that are identified by the service in accordance with eligibility rules applicable to the service under paragraph 205(1)(b) of the Family Assistance Administration Act as the service's non-standard hours of care.

2 Subsection 3(1) (definition of non-standard hours in-home care)

Repeal the definition, substitute:

non-standard hours in-home care means hours of care provided by an approved in-home care service at times that are identified by the service in accordance with eligibility rules applicable to the service under paragraph 205(1)(b) of the Family Assistance Administration Act as the service's non-standard hours of care.

3 Subsection 3(1) (definition of standard hours family day care)

Repeal the definition, substitute:

standard hours family day care means hours of care provided by an approved family day care service at times that are identified by the service in accordance with eligibility rules applicable to the service under paragraph 205(1)(b) of the Family Assistance Administration Act as the service's standard hours of care.

4 Subsection 3(1) (definition of standard hours in-home care)

Repeal the definition, substitute:

standard hours in-home care means hours of care provided by an approved in-home care service at times that are identified by the service in accordance with eligibility rules applicable to the service under paragraph 205(1)(b) of the Family Assistance Administration Act as the service's standard hours of care.

5 Subsection 22A(1) (paragraph (b) in the third column of table item 1)

Repeal the paragraph, substitute:

(b) the adult is the individual's partner, or would be if the individual was over the age of consent applicable in the State or Territory in which the individual lives.

6 Paragraph 38(d)

Omit "a person", substitute "the first-mentioned individual".

7 After paragraph 38(d)

Insert:

(da) the claim is made:

- (i) within 26 weeks after the death; or
- (ii) within a further period allowed by the Secretary in special circumstances; and

8 Paragraph 40(d)

Omit "a person", substitute "the first-mentioned individual".

9 After paragraph 40(d)

Insert:

(da) the claim is made:

- (i) within 26 weeks after the death; or
- (ii) within a further period allowed by the Secretary in special circumstances; and

Note: The heading to subclause 24(3) of Schedule 1 is altered by omitting all the words after “*court order or*” and substituting “*agreement*”.

10 At the end of Part 5 of Schedule 1

Add:

Division 3—Certain recipients of pensions under the Veterans’ Entitlements Act

39 Rate of benefit for certain recipients of pensions under the Veterans’ Entitlements Act

(1) In this clause:

30 June 2000 rate, in relation to an individual, means the amount worked out according to subclause (6).

dependant has the same meaning as in Division 5 of Part II of the *Income Tax Rates Act 1986* as that Act applied to the income year that commenced on 1 July 1999.

family tax assistance person means:

- (a) if the Secretary is satisfied in relation to an individual as described in subparagraph (2)(a)(iii)—the individual; or
- (b) if the Secretary is not so satisfied—the individual’s partner.

partner, in relation to an individual, means the person who:

- (a) was the partner of that individual immediately before 1 July 2000; and
- (b) has continued, at all times on and after that day, to be the partner of the individual.

special Part A rate, in relation to an individual, means the amount worked out according to subclause (7).

(2) Subject to subclause (3), this clause applies to an individual if:

- (a) one or more of the following subparagraphs are satisfied:
 - (i) immediately before 1 July 2000, the individual or the individual’s partner was receiving family allowance under Part 2.17 of the *Social Security Act 1991*;

- (ii) immediately before 1 July 2000, the individual or the individual's partner was receiving family tax payment under Part 2.17AA of that Act;
 - (iii) the Secretary is satisfied that Schedule 7 to the *Income Tax Rates Act 1986* applied to the individual or the individual's partner, in respect of the income year that commenced on 1 July 1999, in accordance with subsection 20C(2) of that Act or would have so applied if sections 20E, 20F and 20H of that Act had not been enacted; and
- (b) the individual or the individual's partner was receiving, immediately before 1 July 2000, and has continued, at all times on and after that day, to receive:
- (i) a pension under Part II of the *Veterans' Entitlements Act 1986* payable to the individual or partner as a veteran; or
 - (ii) a pension under Part II of that Act payable to the individual or partner as the widow or widower of a deceased veteran; or
 - (iii) a pension under Part IV of that Act payable to the individual or partner as a member of the Forces or as a member of a Peacekeeping Force; or
 - (iv) a pension under Part IV of that Act payable to the individual or partner as the widow or widower of a deceased member of the Forces or as the widow or widower of a deceased member of a Peacekeeping Force; and
- (c) neither the individual nor the individual's partner was receiving, immediately before 1 July 2000, or has received at any time on or after that day:
- (i) a social security pension; or
 - (ii) a social security benefit; or
 - (iii) a service pension; or
 - (iv) income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*; and
- (d) at all times on and after 1 July 2000:
- (i) the individual or the individual's partner has been eligible for family tax benefit or would have been so eligible if the individual or partner had not been receiving a pension referred to in paragraph (b); and

- (ii) the individual's or partner's Part A rate of family tax benefit has been, or would have been, greater than nil; and
 - (e) the individual's adjusted taxable income for the purposes of this Act (other than Part 4 of this Schedule) for the income year that commenced on 1 July 2000 and every succeeding income year has exceeded the individual's income free area under clause 19 of this Schedule; and
 - (f) the individual's Part A rate worked out according to Part 2 or 3 of this Schedule is not, and never has been, equal to, or greater than, the individual's 30 June 2000 rate.
- (3) Subparagraph (2)(a)(iii) cannot be satisfied in relation to an individual unless the individual or the individual's partner had, immediately before 1 July 2000, at least one dependant.
- (4) In spite of any other provision of this Schedule, the Part A rate of an individual to whom this clause applies is the individual's saved Part A rate.
- (5) An individual's saved Part A rate is the lower of:
- (a) the individual's 30 June 2000 rate; and
 - (b) the individual's special Part A rate.
- (6) The 30 June 2000 rate for an individual is worked out using the following method statement.

Method statement

- Step 1.* If the individual or the individual's partner was receiving family allowance, but not family tax payment, immediately before 1 July 2000, the fortnightly rate of that family allowance is the individual's **fortnightly rate**.
- Step 2.* If the individual or the individual's partner was receiving family tax payment, but not family allowance, immediately before 1 July 2000, the individual's or partner's fortnightly Part A rate of family tax payment immediately before 1 July 2000 is the individual's **fortnightly rate**.

Step 3. If the individual or the individual's partner was receiving family allowance and family tax payment immediately before 1 July 2000, add the following amounts:

- (a) the individual's or partner's fortnightly rate of family allowance immediately before 1 July 2000;
- (b) the individual's or partner's fortnightly Part A rate of family tax payment immediately before 1 July 2000.

The result is the individual's *fortnightly rate*.

Step 4. From the individual's fortnightly rate subtract any amount of guardian allowance included in the individual's or the individual's partner's family allowance by virtue of Module F of the Family Allowance Rate Calculator in section 1069 of the *Social Security Act 1991*, as in force immediately before 1 July 2000: the result is the individual's *net fortnightly rate*.

Step 5. Divide the individual's net fortnightly rate by 14. If the result is not a whole number of cents or dollars or a whole number of dollars and a whole number of cents, round the result upwards to the nearest cent and multiply the rounded amount by 365: the result of the multiplication is the individual's *annual rate*.

Step 6. If neither the individual nor the individual's partner was receiving family allowance or family tax payment immediately before 1 July 2000, the individual's *annual rate* is nil.

Step 7. If either or both of subparagraphs (2)(a)(i) and (ii) are satisfied but subparagraph (2)(a)(iii) is not satisfied, the individual's annual rate is his or her **30 June 2000 rate**.

Step 8. If subparagraph (2)(a)(iii) is satisfied but subparagraph (2)(a)(ii) is not satisfied, add the following amounts:

- | |
|---|
| <p>(a) the individual's annual rate;</p> <p>(b) the individual's 1999-2000 family tax assistance component.</p> |
|---|

The result is the individual's **30 June 2000 rate**.

- (7) An individual's special Part A rate is the individual's Part A rate of family tax benefit worked out:
- (a) in accordance with Part 2 or 3 of this Schedule; and
 - (b) as if neither the individual nor the individual's partner was receiving a pension referred to in paragraph (2)(b).
- (8) An individual's 1999-2000 family tax assistance component is the amount worked out according to the formula:

$\$200 \times \text{Number of dependants}$

where:

number of dependants is the total number of dependants the family tax assistance person had on 30 June 2000.

11 After clause 8 of Schedule 2

Insert:

8A Special provision for certain recipients of pensions under the Veterans' Entitlements Act

- (1) In this clause:

Childcare Assistance (Fee Relief) Guidelines means the Childcare Assistance (Fee Relief) Guidelines in force under subsection 12A(1) of the *Child Care Act 1972* immediately before 1 July 2000.

ordinary taxable income % means taxable income % worked out in accordance with this Schedule (apart from this clause).

partner, in relation to an individual, means the person who:

- (a) was the partner of that individual immediately before 1 July 2000; and

- (b) has continued, at all times on and after that day, to be the partner of the individual.
- (2) This clause applies to an individual in relation to an income year (the *relevant income year*) if all of the following paragraphs are satisfied in relation to the individual:
- (a) immediately before 1 July 2000, there was in force, under the Childcare Assistance (Fee Relief) Guidelines, an assessment that the individual or the individual's partner was eligible for child care assistance within the meaning of those guidelines;
 - (b) the individual or the individual's partner was receiving, immediately before 1 July 2000, and has continued, at all times on and after that day, to receive:
 - (i) a pension under Part II of the *Veterans' Entitlements Act 1986* payable to the individual or partner as a veteran; or
 - (ii) a pension under Part II of that Act payable to the individual or partner as the widow or widower of a deceased veteran; or
 - (iii) a pension under Part IV of that Act payable to the individual or partner as a member of the Forces or as a member of a Peacekeeping Force; or
 - (iv) a pension under Part IV of that Act payable to the individual or partner as the widow or widower of a deceased member of the Forces or as the widow or widower of a deceased member of a peacekeeping Force;
 - (c) neither the individual nor the individual's partner was receiving, immediately before 1 July 2000, or has received at any time on or after that day:
 - (i) a social security pension; or
 - (ii) a social security benefit; or
 - (iii) a service pension; or
 - (iv) income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*;
 - (d) a determination was in force under the *A New Tax System (Family Assistance) (Administration) Act 1999* during the income year that commenced on 1 July 2000 and every succeeding income year before the relevant income year, that

- the individual or the individual's partner was entitled to be paid child care benefit;
- (e) the individual's adjusted taxable income for the purposes of this Act for the income year that commenced on 1 July 2000 and every succeeding income year has exceeded the lower income threshold in respect of that income year;
 - (f) the individual's ordinary taxable income % for a session of care provided to a child in an income year that commenced on or after 1 July 2000 (including the relevant income year) has never been equal to, or higher than, the individual's saved taxable income % for the session of care.
- (3) In spite of any other provision of this Schedule, the taxable income % of an individual to whom this clause applies for a session of care provided to a child in the relevant income year is the individual's saved taxable income % for that session.
- (4) The saved taxable income % of an individual for a session of care provided to a child is the lower of:
- (a) the individual's taxable income % for that session worked out in accordance with subclause (5); and
 - (b) the individual's taxable income % for that session calculated in accordance with subclause (6).
- (5) An individual's taxable income % for a session of care for the purposes of paragraph (4)(a) is the percentage worked out:
- (a) in accordance with this Schedule (apart from this clause); and
 - (b) as if neither the individual nor the individual's partner was receiving, in relation to any part of the income year in which the session of care is provided, a pension referred to in paragraph (2)(b).
- (6) An individual's taxable income % for a session of care for the purposes of paragraph (4)(b) is the percentage worked out:
- (a) in accordance with this Schedule (apart from this clause); and
 - (b) as if the amount of the individual's adjusted taxable income for the income year in which the session of care is provided equalled the amount of the income of the individual last taken into account for the purposes of the assessment referred to in paragraph (2)(a).

12 Clause 1 of Schedule 3

Omit “the rate of”, substitute “eligibility for, and the rate of”.

13 Subclause 5(4) of Schedule 3

Repeal the subclause, substitute:

- (4) For the purposes of this clause, the appropriate market exchange rate on a particular day for a foreign currency is:
- (a) if there is an on-demand airmail buying rate for the currency available at the Commonwealth Bank of Australia at the start of business in Sydney on that day and the Secretary determines that it is appropriate to use that rate—that rate; or
 - (b) in any other case:
 - (i) if there is another rate of exchange for the currency, or there are other rates of exchange for the currency, available at the Commonwealth Bank of Australia at the start of business in Sydney on that day and the Secretary determines that it is appropriate to use the other rate or one of the other rates—the rate so determined; or
 - (ii) otherwise—a rate of exchange for the currency available from another source at the start of business in Sydney on that day that the Secretary determines it is appropriate to use.

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

14 Subsection 3(1) (at the end of the definition of TFN claim person)

Add:

- ; or (c) in relation to a claim for maternity allowance or maternity immunisation allowance in normal circumstances under Division 3 of Part 3, means:
- (i) the claimant; and
 - (ii) the claimant’s partner (if any) at the time of the claim.

15 Subsection 3(1) (after paragraph (b) of the definition of TFN substitution person)

Insert:

- or (c) by an individual for payment of maternity allowance or maternity immunisation allowance in substitution because of the death of another individual;

16 Subsections 20(1) and (2)

Repeal the subsections, substitute:

(1) If:

- (a) an individual's eligibility for, or rate of, family tax benefit is required to be determined for the purposes of this Division or Division 3; and
- (b) information about the amount of adjusted taxable income needed for the determination of the eligibility or rate is not available (for example, because the taxable income of the individual or another individual cannot be known until after the end of the relevant income year); and
- (c) the individual or, if the individual has died, another individual making a claim under this Division or Division 3 gives the Secretary an estimate of the amount needed; and
- (d) the Secretary considers the estimate to be reasonable;

the Secretary may determine the individual's eligibility for, or rate of, family tax benefit on the basis of the estimate.

(2) If:

- (a) an estimate is given to the Secretary for the purposes of subsection (1); and
- (b) the Secretary does not consider the estimate reasonable;

the following paragraphs apply:

- (c) the eligibility or rate cannot be determined; and
- (d) if the determination of the eligibility or rate is required for the purposes of this Division, section 19 applies.

17 Subsection 26(1)

Omit "statement", substitute "written statement".

18 Paragraph 28A(1)(b)

Omit “calculate the claimant’s rate of”, substitute “determine the claimant’s eligibility for, or rate of,”.

19 Subparagraph 28A(3)(b)(ii)

Omit “calculate the claimant’s rate of”, substitute “determine the claimant’s eligibility for, or rate of,”.

20 Paragraph 38(1)(b)

Omit “person”, substitute “individual”.

21 Subsection 38(2)

Repeal the subsection, substitute:

(2) A claim is not effective unless:

(a) the claim:

- (i) is made in a form and manner; and
- (ii) contains any information; and
- (iii) is accompanied by any documents;
required by the Secretary; and

(b) in the case of a claim for maternity allowance or maternity immunisation allowance in normal circumstances—the tax file number requirement in section 38A has been satisfied in relation to the claim; and

(c) in the case of a claim by an individual for maternity allowance or maternity immunisation allowance because of the death of another individual—the tax file number requirement in section 38B has been satisfied in relation to the claim.

22 After section 38

Insert:

**38A Tax file number requirement to be satisfied for claims for
maternity allowance or maternity immunisation
allowance in normal circumstances to be effective**

(1) This section sets out the tax file number requirement that must be satisfied in relation to a claim for the purposes of paragraph

38(2)(b) (which states what is required for certain claims to be effective).

- (2) The requirement is that a statement of one of the kinds set out in subsection (3), (4) or (5) must be made in relation to each TFN claim person. However, the requirement does not apply in relation to a TFN claim person if a determination is in force under subsection (7) in relation to the person.

Statement of tax file number

- (3) The first kind of statement that can be made is a statement of the TFN claim person's tax file number. Regardless of who the TFN claim person is, this kind of statement can be made by the claimant only.

Statement that TFN claim person does not know what his or her tax file number is etc.

- (4) The second kind of statement that can be made is a statement by the TFN claim person that the person:
- (a) has a tax file number but does not know what it is; and
 - (b) has asked the Commissioner of Taxation to inform the person of his or her tax file number; and
 - (c) authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—that number.

Statement that an application for a tax file number is pending

- (5) The third kind of statement that can be made is a statement by the TFN claim person that the person:
- (a) has an application for a tax file number pending; and
 - (b) authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—that number; or
 - (ii) if the application is refused—that the application has been refused; or

- (iii) if the application is withdrawn—that the application has been withdrawn.

How statement to be given

- (6) A statement made by the claimant must be in the claim. A statement made by any other TFN claim person must be in a document, in a form approved by the Secretary, that the claimant gives the Secretary together with the claim.

Exemption from tax file number requirement

- (7) The Secretary may determine that the requirement in subsection (2) does not apply to a TFN claim person if:
 - (a) the person is, or was, the claimant's partner; and
 - (b) the claimant cannot obtain from the person:
 - (i) the person's tax file number; or
 - (ii) a statement by the person under subsection (4) or (5).

38B Tax file number requirement to be satisfied for claims for maternity allowance or maternity immunisation allowance because of the death of another individual to be effective

- (1) This section sets out the tax file number requirement that must be satisfied in relation to a claim for the purposes of paragraph 38(2)(c) (which states what is required for claims in substitution because of the death of another individual to be effective).
- (2) The requirement is that a statement of one of the kinds set out in subsection (3), (4) or (5) must be made in relation to each TFN substitution person. However, the requirement does not apply in relation to a TFN substitution person if a determination is in force under subsection (7) or (8) in relation to the person.

Statement of tax file number

- (3) The first kind of statement that can be made is a statement of a TFN substitution person's tax file number. Regardless of who the TFN substitution person is, this kind of statement can be made by the claimant only.

Statement that TFN substitution person does not know what his or her tax file number is

- (4) The second kind of statement that can be made is a statement by a TFN substitution person who was the deceased individual's partner during the period in respect of which the payment is claimed to the effect that the TFN substitution person:
- (a) has a tax file number but does not know what it is; and
 - (b) has asked the Commissioner of Taxation to inform the person of his or her tax file number; and
 - (c) authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if the person has a tax file number—that number.

Statement that an application for a tax file number is pending

- (5) The third kind of statement that can be made is a statement by the TFN substitution person who was the deceased individual's partner during the period in respect of which the payment is claimed to the effect that the TFN substitution person:
- (a) has an application for a tax file number pending; and
 - (b) authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the person—that number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn.

How statement to be given

- (6) A statement made by the claimant must be made in the claim. A statement made by a TFN substitution person must be in a document, in a form approved by the Secretary, that the claimant gives the Secretary together with the claim.

Exemption from tax file number requirement

- (7) The Secretary may determine that the requirement in subsection (2) does not apply in relation to a TFN substitution person if the claimant does not know the person's tax file number.
- (8) The Secretary may determine that the requirement in subsection (2) does not apply in relation to a TFN substitution person if the claimant cannot obtain a statement by the person under subsection (4) or (5).

23 Subsection 39(5)

Omit "person" (wherever occurring), substitute "individual".

24 After section 41

Insert:

41A Restriction on determining claim where tax file number not provided etc.

Statement that TFN claim person or TFN substitution person does not know what his or her tax file number is etc.

- (1) If:
 - (a) a TFN claim person makes a statement of the kind set out in subsection 38A(4); or
 - (b) a TFN substitution person makes a statement of the kind set out in subsection 38B(4);the Secretary can only determine the claim concerned if:
 - (c) within 28 days after the claim is made, the Commissioner of Taxation tells the Secretary the person's tax file number; or
 - (d) 28 days pass after the claim is made without the Commissioner of Taxation telling the Secretary that the person has no tax file number.

Statement that an application for a tax file number is pending

- (2) If:
 - (a) a TFN claim person makes a statement of the kind set out in subsection 38A(5); or

- (b) a TFN substitution person makes a statement of the kind set out in subsection 38B(5);
the Secretary can only determine the claim concerned if:
 - (c) within 28 days after the claim is made, the Commissioner of Taxation tells the Secretary the person's tax file number; or
 - (d) 28 days pass after the claim is made without the Commissioner of Taxation telling the Secretary that:
 - (i) the person has not applied for a tax file number; or
 - (ii) an application by the person for a tax file number has been refused; or
 - (iii) the person has withdrawn an application for a tax file number.
- (3) If, after the 28 days mentioned in subsection (1) or (2) have passed, the Secretary cannot, because of that subsection, determine the claim, the claim is taken never to have been made.

25 Paragraph 43(a)

Omit "person", substitute "individual".

26 At the end of Division 3 of Part 3

Add:

47A Variation of determination where certain statements under section 38A made

- (1) If:
 - (a) a TFN claim person has made a statement of the kind set out in subsection 38A(4); and
 - (b) a determination is in force under which the claimant is entitled to be paid maternity allowance or maternity immunisation allowance in normal circumstances; and
 - (c) the Commissioner of Taxation subsequently tells the Secretary that the TFN claim person has no tax file number;the consequence in subsection (3) applies.
- (2) If:
 - (a) a TFN claim person has made a statement of the kind set out in subsection 38A(5); and

- (b) a determination is in force under which the claimant is entitled to be paid maternity allowance or maternity immunisation allowance in normal circumstances; and
 - (c) the Commissioner of Taxation subsequently tells the Secretary that the TFN claim person has not applied for a tax file number, that an application by the person for a tax file number has been refused or that the person has withdrawn an application for a tax file number;
- the consequence in subsection (3) applies.
- (3) For the purposes of subsection (1) or (2), the consequence is that the Secretary may vary the determination so that it has the effect that the claimant is not entitled to be paid maternity allowance or maternity immunisation allowance, as the case may be.
- (4) If:
- (a) under subsection (3), the Secretary varies the determination; and
 - (b) the Secretary finds out the tax file number of the TFN claim person at any time after the variation took place;
- the Secretary must vary the determination to undo the effect mentioned in subsection (3).

27 At the end of section 71B

Add:

- (2) If:
- (a) a payment representing one or more amounts by way of advance determined under section 219Q is made to a financial institution for the credit of an account kept with the institution (the *incorrect account*); and
 - (b) the Secretary is satisfied that the amount paid to the institution was intended to be paid for the credit of an account kept in the name of someone who was not the person or one of the persons in whose name the incorrect account was kept;
- an amount equal to the amount of the payment made to the institution is, subject to subsection 93A(5), a debt due to the Commonwealth by the person, or jointly and severally by the

persons, as the case requires, in whose name the incorrect account was kept.

Note: The heading to section 71B is replaced by the heading “**Debts where no entitlement or where advance paid to wrong account**”.

28 Subsections 71F(1) and (2)

Omit “section 71B or 71C” (wherever occurring), substitute “subsection 71B(1) or section 71C”.

29 After paragraph 82(2)(a)

Insert:

- (ab) repayment by instalments under an arrangement entered into under section 91;

30 Paragraph 84(1)(b)

Repeal the paragraph, substitute:

- (b) the debt is a debt due by the person to the Commonwealth under the *Social Security Act 1991*, the *Data-matching Program (Assistance and Tax) Act 1990*, the *Farm Household Support Act 1992*, the *Social Security Act 1947*, the *Student Assistance Act 1973* or the *Veterans’ Entitlements Act 1986*; or
- (c) the debt was incurred under Part 8 of the *Student and Youth Assistance Act 1973* as in force before 1 July 1998.

31 Paragraph 84(2)(b)

Omit “the *Social Security Act 1991*”, substitute “an Act referred to in paragraph (1)(b)”.

32 Subparagraph 84A(1)(b)(ii)

Repeal the subparagraph, substitute:

- (ii) the debt is a debt due by the person to the Commonwealth under the *Social Security Act 1991*, the *Data-matching Program (Assistance and Tax) Act 1990*, the *Farm Household Support Act 1992*, the *Social Security Act 1947*, the *Student Assistance Act 1973* or the *Veterans’ Entitlements Act 1986*; or

- (iii) the debt was incurred under Part 8 of the *Student and Youth Assistance Act 1973* as in force before 1 July 1998.

33 Subsection 91(1)

Repeal the subsection, substitute:

- (1) The Secretary may, on behalf of the Commonwealth, enter into an arrangement with a person, other than an approved child care service, who owes a debt under which the person is to pay the debt, or the outstanding amount of the debt, by instalments in accordance with the terms of the arrangement.
- (1A) The Secretary may, on behalf of the Commonwealth, enter into an arrangement with an approved child care service that owes a debt under which the service is to pay the debt, or the outstanding amount of the debt, by instalments in accordance with the terms of the arrangement.

34 Subsections 91(2) and (3)

Omit “subsection (1)”, substitute “subsection (1) or (1A)”.

35 Subsection 91(4)

Repeal the subsection, substitute:

- (4) The Secretary may terminate or alter an arrangement entered into under subsection (1) or (1A):
- (a) at the debtor’s request; or
 - (b) after giving 28 days’ notice to the debtor of the proposed termination or alteration; or
 - (c) without notice, if the Secretary is satisfied that the debtor has failed to disclose material information about the debtor’s true capacity to repay the debt.

36 Subsection 91(5)

Omit “subsection (1)”, substitute “this section”.

Note: The heading to section 91 is altered by adding at the end “**by instalments**”.

37 Subparagraph 92(1)(a)(i)

Omit “or the *Student Assistance Act 1973*”, substitute “, the *Student Assistance Act 1973* or the *Veterans’ Entitlements Act 1986*”.

38 Subparagraph 92A(1)(a)(i)

Omit “or the *Student Assistance Act 1973*”, substitute “, the *Student Assistance Act 1973* or the *Veterans’ Entitlements Act 1986*”.

39 At the end of section 93A

Add:

(6) In this section:

family assistance payment means:

- (a) a payment of a benefit, allowance or advance that constitutes family assistance within the meaning of the Family Assistance Act; or
- (b) a payment of an advance determined under section 219Q.

40 Paragraphs 106(2)(a) and (3)(a)

Omit “section 50K”, substitute “section 105”.

41 Paragraph 144(1)(p)

Omit “53(3)”, substitute “57(1)”.

42 Subsections 154(1), (2), (3) and (4)

Omit “an officer”, substitute “a specified agency”.

43 At the end of section 154

Add:

- (5) The Secretary may require a person to give information, or produce a document that is in the person’s custody or under the person’s control, to a specified agency if the Secretary considers that the information or document may be relevant to:
 - (a) an application by the person, or any other person, for approval of a child care service for the purposes of the family assistance law; or

- (b) the question whether an approved child care service operated by the person, or by any other person, should continue to be approved; or
 - (c) an application by the person, or any other person, for approval as a registered carer; or
 - (d) the question whether the person, or any other person, should continue to be approved as a registered carer.
- (6) The Secretary may require a person to give information, or produce a document that is in the person's custody or under the person's control, to a specified agency if the Secretary considers that the information or document may be relevant to the question whether, for the purposes of an application for a determination under subsection 57(1) of the Family Assistance Act, the service is the sole provider in an area of the kind of care the service provides.

44 Paragraphs 155(a), (b) and (c)

Omit "an officer", substitute "a specified agency".

45 Section 156

Omit "an officer", substitute "a specified agency".

46 Subsection 157(1)

Omit "an officer", substitute "a specified agency".

47 Subparagraph 158(2)(b)(ii)

Omit "to an officer".

48 Subparagraph 158(2)(b)(iii)

After "officer", insert "(if any)".

49 Section 160

Omit "an officer", substitute "an agency".

50 Subsection 195(1)

Omit "The Secretary", substitute "Subject to subsection (2), the Secretary".

51 After subsection 202(4)

Insert:

- (4A) The Secretary must cancel an approved child care service's approval if the service ceases to be operated by the person on whose application the approval was granted.

Part 2—Amendments related to the A New Tax System (Family Assistance and Related Measures) Act 2000

A New Tax System (Family Assistance) Act 1999

52 Subsection 3(1) (definition of CPC rate)

Omit “subsection (3)”, substitute “subsection (7)”.

53 At the end of section 3

Add:

(7) For the purposes of this Act, the *CPC rate* at a particular time is:

$2(\text{Maximum basic rate} + \text{Pension supplement})$

where:

maximum basic rate is the maximum basic rate of age pension payable to a person in accordance with item 2 of Table B in point 1064-B1 of Pension Rate Calculator A in section 1064 of the *Social Security Act 1991*.

pension supplement is the amount of the person’s pension supplement worked out in accordance with Module BA of Pension Rate Calculator A in section 1064 of the *Social Security Act 1991*, using the maximum basic rate in item 2 of Table B in point 1064-B1 in that section.

54 Section 12

Omit “Subdivision D”, substitute “Subdivision C”.

55 Section 12

Omit “Subdivision B”, substitute “Subdivision D”.

56 Subsection 52(3)

Omit “If”, substitute “For”.

57 Subsection 52(5)

Omit “If”, substitute “For”.

58 Subsection 52(6)

Omit “If”, substitute “For”.

59 Subsection 57(3)

Omit “revocation”, substitute “variation”.

60 Subsection 76(1)

Omit “while the certificate is in force”, substitute “and the period for which the rate applies”.

61 Subsection 76(2)

Omit “while the certificate is in force”, substitute “and the period for which the rate applies”.

62 Paragraph 76(3)(a)

Repeal the paragraph.

63 Subsection 76(4)

Omit “referred to in paragraph (3)(a)”, substitute “specified in the certificate under subsection (1) or (2)”.

64 Subsection 80(1)

Omit “while the determination is in force”, substitute “during the period for which the determination applies”.

65 Paragraph 80(2)(a)

Omit “remains in force”, substitute “applies”.

66 Paragraph 81(1)(a)

After “Assistance”, insert “Administration”.

67 Subsection 81(2)

Omit “while the determination is in force”, substitute “and the period for which the rate applies”.

68 Subsection 81(3)

Omit “while the determination is in force”, substitute “and the period for which the rate applies”.

69 Subsection 81(4)

Omit “while the determination is in force”, substitute “and the period for which the rate applies”.

70 Subsection 81(6)

Repeal the subsection.

71 Subclause 2(2) of Schedule 2 (subparagraphs (a)(iii), (b)(iii), (c)(iii), (d)(iii) and (e)(iii) of the definition of part-time %)

Omit “child care”, substitute “centre based long day care”.

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

72 Subsection 3(3)

Repeal the subsection.

Part 3—Other amendments of the family assistance law

A New Tax System (Family Assistance) Act 1999

73 Subsection 22A(1) (paragraph (a) in the third column of table item 1)

Repeal the paragraph, substitute:

- (a) the individual is not undertaking full-time study or primary education and the individual has adjusted taxable income, for the income year in which the particular time occurs, that equals or exceeds the cut-out amount (see subsection (2)); or

74 After subsection 22A(1)

Insert:

- (1A) For the purposes of subsection (1), an individual is taken to be undertaking primary education if the individual is:
 - (a) participating in a course of primary education; or
 - (b) enrolled to participate in such a course.

75 Subsection 35(1) (paragraph (a) in the third column of table item 1)

After “study”, insert “or primary education”.

76 After subsection 35(2)

Insert:

- (2A) For the purposes of subsection (1), an individual is taken to be undertaking primary education if the individual is:
 - (a) participating in a course of primary education; or
 - (b) enrolled to participate in such a course.

77 Clause 22 of Schedule 1 (column 1 of table items 2 and 3)

Before “maintenance income”, insert “an annualised amount of”.

78 After paragraph 7(d) of Schedule 3

Insert:

- (da) a pension under Part IV of the *Veterans’ Entitlements Act 1986* payable to a member of the Forces or a member of a Peacekeeping Force;

79 After paragraph 7(g) of Schedule 3

Insert:

- (ga) a pension under Part IV of the *Veterans’ Entitlements Act 1986* payable to the widow or widower of a deceased member of the Forces or the widow or widower of a deceased member of a Peacekeeping Force;

80 Paragraph 8(2)(a) of Schedule 3

Omit “, or if the payer is a member of a couple—the payer’s partner,”.

81 Paragraph 8(2)(b) of Schedule 3

Omit “, or the partner’s (if any),”.

82 Paragraph 8(2)(c) of Schedule 3

Omit “the payer, or the partner (if any),”, substitute “the payer’s partner (if any)”.

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

83 Paragraph 33(1)(a)

Repeal the paragraph, substitute:

- (a) on the advance assessment day, the individual is entitled to be paid family tax benefit by instalment; and
- (aa) on that day, the individual’s Part A rate is equal to or exceeds the amount that would, under clause 26 of Schedule 1 to the Family Assistance Act, be the FTB child rate for an FTB child who had not turned 18 if:

- (i) the individual's Part A rate were required to be worked out using Part 3 of that Schedule; and
- (ii) clause 27 of that Schedule did not apply; and

84 Subsection 107(2)

Omit "date of", substitute "date of effect of".

85 Paragraph 108(2)(f)

Omit "or (4)".

86 Subsection 109(3)

Repeal the subsection.

Part 4—Amendment of related Acts

A New Tax System (Family Assistance and Related Measures) Act 2000

87 Subsection 2(11)

Omit “(other than item 63)”, substitute “(other than items 22, 63, 66 and 67A)”.

A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999

88 Item 78 of Schedule 7

Repeal the item, substitute:

78 Paragraphs 1123(2)(a) and (b)

Omit “, non-benefit PP (partnered)” (wherever occurring).

A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999

89 Paragraph 2(4)(a)

Omit “1999”, substitute “2000”.

A New Tax System (Tax Administration) Act 1999

90 Items 67 and 68 of Schedule 5

Repeal the items, substitute:

67 Paragraph 76(2)(a)

Omit “an employment declaration”, substitute “a TFN declaration”.

68 Paragraph 76(3)(a)

Omit “an employment declaration”, substitute “a TFN declaration”.

Schedule 2A Amendments of the family assistance law relating to child care benefits for foster children

Part 1 Amendments commencing on Royal Assent

Schedule 2A—Amendments of the family assistance law relating to child care benefits for foster children

A New Tax System (Family Assistance) Act 1999

1 Paragraph 49(1)(a)

After “person”, insert “(other than a foster parent)”.

Schedule 3—Amendment of other Acts

Commonwealth Services Delivery Agency Act 1997

1 Section 3 (definition of employee)

Omit “or employed under subsection 35(3)”.

Family and Community Services Legislation Amendment (1999 Budget and Other Measures) Act 1999

2 Paragraph 2(3)(b)

Omit “1999”, substitute “2000”.

Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999

3 Item 67 of Schedule 1

Omit “Part 2.11”, substitute “Part 2.11A”.

4 Item 77 of Schedule 1

Omit “, 9”.

5 Items 168, 169, 178 and 179 of Schedule 1

Repeal the items.

6 Item 188 of Schedule 1

Repeal the item, substitute:

188 Section 1222A

Omit “under this Act or the 1947 Act”.

7 Savings

- (1) In spite of the repeal effected by item 67 of Schedule 1 to the *Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999* (the **amending Act**), Subdivision F of Division 2 of Part 2.11 of the *Social Security Act 1991*, as in force immediately before 20 March 2000, continues in force, and is taken always to have continued in force, as if item 67 of Schedule 1 to the amending Act had not been enacted.
- (2) In spite of the repeal effected by item 77 of Schedule 1 to the *Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999* (the **amending Act**), Division 9 of Part 2.12 of the *Social Security Act 1991*, as in force immediately before 20 March 2000, continues in force, and is taken always to have continued in force, as if item 77 of Schedule 1 to the amending Act had not been enacted.

Social Security Legislation Amendment (Concession Cards) Act 2001

8 Item 9 of Schedule 1

Repeal the item, substitute:

9 At the end of Part 3.19

Add:

1210A Effect of nil rate of pension etc.

- (1) If, in relation to a day:
 - (a) a person is qualified for a social security pension or benefit; and
 - (b) the pension or benefit rate in relation to that day would be nil;then, for the purposes of Part 2A.1, the person is not to be taken to be receiving the pension or benefit on that day.
- (2) The circumstance that a person is qualified for a social security pension or benefit in relation to a day is not to be taken into account for the purpose of determining the qualification of the

person for a concession card if the pension or benefit is not payable to the person in relation to that day.

Veterans' Entitlements Act 1986

9 After paragraph 205(1)(c)

Insert:

(ca) an amount has been paid by way of family assistance under the family assistance law that was not lawfully so payable; or

10 Paragraph 205(2)(a)

After "(c)", insert ", (ca)".

11 Subsection 205(8) (after paragraph (b) of the definition of excluded amount)

Insert:

(ba) a recoverable amount arising by virtue of the payment of an amount as mentioned in paragraph (1)(ca); or

12 Subsection 205(8)

Insert:

family assistance has the same meaning as in the *A New Tax System (Family Assistance) Act 1999*.

13 Subsection 205(8)

Insert:

family assistance law has the same meaning as in the *A New Tax System (Family Assistance) (Administration) Act 1999*.

14 Subsection 205(8) (paragraph (a) of the definition of recoverable amount)

Omit "or (c)", substitute ", (c) or (ca)".

Youth Allowance Consolidation Act 2000

15 Item 11 of Schedule 2

Omit “1061ZZAO(2)”, substitute “1061ZZAO(1)”.

16 Item 2 of Schedule 4

Omit “552(b)”, substitute “552(2)(b)”.

Schedule 4—Formal amendments of the social security law

Social Security Act 1991

1 Subsection 5(6) (note)

Repeal the note.

Note: The heading to subsection 5(6) is altered by omitting “, *allowance*”.

2 Paragraph 8(8)(ja) (note)

Repeal the note.

3 Subsection 11(10A)

Omit “provisional commencement”, substitute “start”.

4 Subsection 20(1) (definition of CPC rate)

Repeal the definition.

5 Subsection 23(1) (definition of Employment Minister)

Repeal the definition.

6 Subsection 23(1) (definition of officer)

Omit “1312 to 1321 of this Act”, substitute “202 to 210 of the Administration Act”.

7 Subsection 23(1) (definition of youth allowance payment period)

Omit “section 559A”, substitute “section 43 of the Administration Act”.

8 Subsection 23(14) (second occurring)

Re-number as subsection (16).

9 Subsection 23(15) (second occurring)

Re-number as subsection (17).

10 Subsection 23(16)

Renumber as subsection (18).

11 Subsection 47(2) (note 3)

Repeal the note.

12 Subsection 103(2) (note 3)

Repeal the note.

13 Section 146K (Lump Sum Calculator, step 4)

Omit “section 140”, substitute “section 97 of the Administration Act”.

14 Subsection 146Q(2) (note 1)

Repeal the note.

15 Division 11 of Part 2.3

Repeal the Division.

16 Subsection 146V(1)

Omit “of this Part, other than section 183”, substitute “of the social security law, other than section 85 of the Administration Act”.

17 Subsections 146V(2) and (3)

Repeal the subsections, substitute:

- (2) For the purposes of paragraph (1)(a), if a provision of section 15 of the Administration Act applies, the woman is taken to have lodged her claim for a wife pension on the day on which she lodged her incorrect claim or her initial claim, as the case may be.

- (3) For the purposes of subsection (2):

incorrect claim or *initial claim* has the same meaning as in the provision of section 15 of the Administration Act that applies as referred to in subsection (2).

18 Subsection 151(2) (note 3)

Repeal the note.

19 Subparagraph 198D(1A)(b)(iii)

Omit “FA children” (wherever occurring), substitute “FTB children”.

20 Subsection 198H(3) (paragraph (a) of the definition of pre-pension year)

Omit “provisional commencement”, substitute “start”.

21 Subsection 198HA(3) (paragraph (a) of the definition of pre-pension year)

Omit “provisional commencement”, substitute “start”.

22 Subsection 198K(5) (paragraph (a) of the definition of pre-pension year)

Omit “provisional commencement”, substitute “start”.

23 Subsection 198N(6) (formula)

Repeal the formula, substitute:

$$\frac{WBR \times 2.4 + \$39.60 \times FPC}{12}$$

24 Subsection 198N(6) (paragraphs (a) and (b) of the definition of FPC)

Omit “FA children”, substitute “FTB children”.

25 Paragraph 198P(3)(c)

Omit “section 1240”, substitute “section 129 of the Administration Act”.

26 Subsection 202(2) (note 3)

Repeal the note.

27 Subsection 321(2) (note 3)

Repeal the note.

28 Subsection 362A(2)

Repeal the subsection, substitute:

- (2) For the purposes of subsection (1), if a provision of section 15 of the Administration Act applies, the woman is taken to have lodged her claim for a widow B pension on the day on which she lodged her incorrect claim or her initial claim, as the case may be.

29 Subsection 362A(3)

Omit “section 401”, substitute “section 85 of the Administration Act”.

30 Subsection 362A(4)

Repeal the subsection, substitute:

- (4) For the purposes of subsection (2):

incorrect claim or *initial claim* has the same meaning as in the provision of section 15 of the Administration Act that applies as referred to in subsection (2).

31 Subsection 368(2) (note 3)

Repeal the note.

32 Subsection 408CF(2) (note 2)

Repeal the note.

33 Section 500P

Repeal the section.

34 Subsection 500S(2) (note 3)

Repeal the note.

35 Section 500X

Repeal the section.

36 Paragraph 500Y(2)(a)

Omit “paragraph 608(1)(j)”, substitute “Subdivision F of Division 1 of Part 2.12 or under section 634”.

37 Subsection 513(2) (note 1)

Repeal the note.

38 Subsection 541B(5)

Omit “that the Employment Minister has”.

39 Subsection 546(3)

Omit all the words after “not to give the person”, substitute “, at intervals of a fortnight or less, notices under section 68 of the Administration Act requiring the person to give the Department a statement”.

40 Paragraph 552A(1)(da)

Repeal the paragraph, substitute:
; and (e) the scheme known as the Ready Reserve Education Assistance Scheme.

41 Paragraph 578A(1)(da)

Repeal the paragraph, substitute:
; and (e) the scheme known as the Ready Reserve Education Assistance Scheme.

42 Paragraph 593(2)(g) (note)

Repeal the note.

43 Subparagraph 600(1)(b)(i)

Omit “to 599”, substitute “to 598”.

44 Subsection 600(3)

Omit “recipient statement notices under section 658”, substitute “notices under section 68 of the Administration Act”.

45 Subparagraph 601(2)(a)(iii)

Omit “and” (last occurring), substitute “or”.

46 Section 614B

Repeal the section.

47 Paragraph 620(1)(a)

Omit “provisional commencement”, substitute “start”.

48 Subsection 620(2) (note 1)

Repeal the note.

49 Subsection 621(1)

Omit “provisional commencement”, substitute “start”.

50 Subsection 621(1) (note 1)

Repeal the note.

51 Subparagraph 621(7)(b)(i)

Omit “provisional commencement”, substitute “start”.

52 Paragraph 630AA(1)(a)

Omit “a person’s”, substitute “the person’s”.

53 Subsection 630AA(1)

Omit “this Act”, substitute “the social security law”.

54 Subsection 660XAB(2)

Omit “of this Part, other than section 660XJO”, substitute “of this Part or any provision of the Administration Act, other than section 85”.

55 Subsections 660XAB(3) and (4)

Omit “subsection 660XCK(2)”, substitute “section 15 of the Administration Act”.

56 Subsection 660XCF(2) (note 2)

Repeal the note.

57 Subsection 660XKG(2) (note 1)

Repeal the note.

58 Subsection 660YBA(5) (note)

Repeal the note.

59 Subsection 660YCF(2) (note 2)

Repeal the note.

60 Section 660YCI (note 2)

Omit “paragraph 608(1)(j)”, substitute “Subdivision F of Division 1 of Part 2.12 and section 634”.

61 Sections 664FA and 664FB

Repeal the sections.

62 Subsection 665(2)

Omit “, 663”.

63 Subsection 665(4)

Omit “section 1061EP”, substitute “section 11 of the Administration Act”.

64 Paragraph 665A(b)

Omit “pension”, substitute “pensioner”.

65 Paragraph 665E(b)

Omit “pension”, substitute “pensioner”.

66 Paragraph 665I(b)

Omit “pension”, substitute “pensioner”.

67 Subsection 665ZY(2) (note)

Repeal the note.

68 Subsection 669(4) (note)

Omit “section 715”, substitute “section 41 of the Administration Act”.

69 Subsection 676(2) (note)

Repeal the note.

70 Subsection 686(2) (note 3)

Repeal the note.

71 Paragraph 693(a)

Omit “provisional commencement”, substitute “start”.

72 Section 693 (note 1)

Repeal the note.

73 Subsection 694(1)

Omit “provisional commencement”, substitute “start”.

74 Subsection 694(1) (note 1)

Repeal the note.

75 Subparagraph 694(6)(b)(i)

Omit “provisional commencement”, substitute “start”.

76 Paragraph 729(2)(c)

Repeal the paragraph, substitute:

- (c) the person is not disqualified for a newstart allowance for the period because of the operation of section 596; and

77 Subparagraph 729(2)(dc)(iii)

Repeal the subparagraph, substitute:

- (iii) section 81 of the Administration Act; and

78 Subparagraph 729(2)(dd)(ii)

Repeal the subparagraph, substitute:

- (ii) section 81 of the Administration Act; and

79 Subsection 729B(2) (note)

Repeal the note.

80 Section 730

Omit “provisional commencement”, substitute “start”.

81 Subsection 735(2) (note 3)

Repeal the note.

82 Subsection 771HA(1A)

Omit “section 771JA”, substitute “section 36 of the Administration Act”.

83 Subsection 771HA(3) (notes 3 and 4)

Repeal the notes.

84 Subsection 771HI(2) (note 2)

Repeal the note.

85 Subsection 771P(1)

Omit “other provision of this Part, other than section 819”, substitute “other provision of this Part or any provision of the Administration Act, other than section 85”.

86 Subsections 771P(2) and (3)

Omit “subsection 784(2)”, substitute “section 15 of the Administration Act”.

87 Subsection 778A(2)

Omit “subsection 784(2)”, substitute “section 15 of the Administration Act”.

88 Subsection 778A(3)

Omit “section 819”, substitute “section 85 of the Administration Act”.

89 Subsection 778A(4)

Omit “subsection 784(2)”, substitute “section 15 of the Administration Act”.

90 Subsection 787(2) (note 3)

Repeal the note.

91 Subsection 830(2) (note 1)

Repeal the note.

92 Subsection 993(2) (note 6)

Repeal the note.

93 Paragraph 1044(2)(a)

Omit “section 1047A”, substitute “section 1045”.

94 Subsection 1044(2) (note 1)

Repeal the note.

95 Divisions 2, 4 and 5 of Part 2.26

Repeal the Divisions.

96 Subsection 1061ZO(6)

Repeal the subsection.

97 Point 1068-J3 (heading to table column 4)

Omit “FA child”, substitute “FTB child”.

98 Point 1068B-G2 (heading to table column 4)

Omit “FA child”, substitute “FTB child”.

99 Subparagraph 1084A(b)(iv)

Omit “recipient notification notice”, substitute “notice given under section 68 of the Administration Act”.

100 Paragraph 1100(3)(aa)

Repeal the paragraph.

101 Subsection 1157TD(1)

Omit “1157I(4)”, substitute “1157I(5)”.

102 Subsection 1157TD(2)

Omit “1157I(4)”, substitute “1157I(5)”.

103 Subsection 1157TD(3)

Omit “1157I(4)” (wherever occurring), substitute “1157I(5)”.

104 Subsection 1157TE(1)

Omit “1157I(4)”, substitute “1157I(5)”.

105 Subsection 1157TE(2)

Omit “1157I(4)”, substitute “1157I(5)”.

106 Subsection 1157TF(1)

Omit “1157I(4)”, substitute “1157I(5)”.

107 Subsection 1157TF(2)

Omit “1157I(4)”, substitute “1157I(5)”.

108 Section 1185E

Repeal the section.

109 Section 1186 (note 1)

Repeal the note.

110 Subparagraph 1188C(1)(a)(viii)

Repeal the subparagraph.

111 Section 1194A

Repeal the section.

112 Subparagraph 1217(4)(b)(ii)

After “that is”, insert “the”.

113 Section 1217 (note)

Repeal the note.

114 Schedule 1

Repeal the Schedule.

115 Paragraph 101(c) of Schedule 1A (second occurring)

Renumber as paragraph (d).

116 Schedules 2 to 12

Repeal the Schedules.

Social Security (Administration) Act 1999

117 Subsection 135(3)

Omit “section 1285A of the 1991 Act”, substitute “section 182 of this Act”.

Schedule 5—Repeal

First Home Owners Act 1983

1 The whole of the Act

Repeal the Act.

*[Minister's second reading speech made in—
House of Representatives on 4 December 2002
Senate on 20 March 2003]*

(251/02)
