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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SOCIAL SECURITY (REWRITE) AMENDMENT BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Social Security,
Senator the Hon Graham Richardson)



SOCIAL SECURITY (REWRITE) AMENDMENT BILL 1991

OUTLINE AND FINANCIAL IMPACT STATEMENT

This Bill makes a number of amendments to the Social Security Act 1991 (the 1991 Act) before it commences operation on 1 July 1991.

The Bill for the 1991 Act was introduced into Parliament during the Budget Sittings 1990. It constituted a clear English rewrite of the Social Security Act 1947 (the 1947 Act) as it stood at the end of the Autumn Sittings 1990. This Bill incorporates into the 1991 Act most of those amendments made to the 1947 Act during the Budget Sittings 1990 and hence is a straight translation of existing policy.

Further amendments to the 1991 Act to incorporate Budget 1990 changes are contained in the Social Security (Job Search and Newstart) Amendment Bill 1991. Those changes affected unemployment benefit and job search allowance under the 1947 Act. Since those payment types are being replaced with job search and newstart allowances, the Budget 1990 changes have been incorporated into the new payment provisions under the Bill that makes that replacement.

This Bill provides for amendments made to the 1947 Act by the Social Welfare (Pharmaceutical Benefits) Amendment Act 1990, the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990 and the Social Security Legislation Amendment Act 1990 to be incorporated into the 1991 Act. This covers initiatives such as:

- . tax file numbers;
- . deeming (loans and deposits);

- . liquid assets test for sickness beneficiaries;
- . debt recovery;
- . employment entry payment for sole parent pensioners;
- . disaster relief payments;
- . extension of qualification criteria for remote area allowance;
- . extension of qualification criteria for carer pension;
- . pharmaceutical supplement and allowance; and
- . the international social security agreements with the United Kingdom and Malta.

This Bill also provides for some minor technical refinements to be made to the 1991 Act to make sure that it correctly reflects current legislation and policy.

As there are no policy changes in this Bill, there is no financial impact.

SOCIAL SECURITY (REWRITE) AMENDMENT BILL 1991

Clause 1: Short title etc.

This clause provides that the amending Act arising from this Bill may be referred to as the Social Security (Rewrite) Amendment Act 1991. It also makes it clear that the "Principal Act" referred to in the Bill is the Social Security Act 1991.

Clause 2: Commencement

This clause specifies that the Bill when enacted will commence immediately after the Social Security (Rewrite) Transition Act 1991 and the Social Security (Job Search and Newstart) Amendment Act 1991 commence. This will ensure that any overlapping amendments will be made in the correct order.

Clause 3: Incorporation of amendments made in the Budget Sittings 1990

This clause provides that the Principal Act is amended as set out in Schedule 1. Those amendments are to incorporate into the Principal Act the amendments made to the Social Security Act 1947, the forerunner of the Principal Act, during the Budget Sittings 1990. This exercise will update the Principal Act to reflect existing social security policy prior to its commencement on 1 July 1991.

Clause 4: Schedule of minor amendments of the Principal Act

This clause provides that the Principal Act is amended as set out in Schedule 2. Those amendments are to make minor technical refinements to the Principal Act to make sure that it

correctly reflects current social security legislation and policy.

Clause 5: Replacement of International Agreement
with the United Kingdom

This clause replaces the existing Schedule 2 to the Principal Act with a new Schedule 2. This consists of the revised international agreement between the United Kingdom and Australia which was inserted as a Schedule to the 1947 Act by section 82 of the Social Security Legislation Amendment Act 1990.

Clause 6: Replacement of International Agreement
with New Zealand

This clause replaces the existing Schedule 4 to the Principal Act with a new Schedule 4. This ensures that the current version of the international agreement between New Zealand and Australia appears as a Schedule to the Principal Act.

Clause 7: New International Agreement with Malta

This clause adds a new Schedule 5 to the Principal Act. This consists of a new international agreement between Malta and Australia which was inserted as a Schedule to the 1947 Act by section 83 of the Social Security Legislation Amendment Act 1990.

Clause 8: Consequential amendments

This clause provides for consequential amendments to other Acts as set out in Schedule 6 to the Bill.

SCHEDULE 1

As provided by clause 3, this Schedule makes amendments to the Principal Act to incorporate amendments made to the 1947 Act in the Budget Sitings 1990.

Section 3 - new entries in the index of definitions

The various new or changed definitions being inserted into the Principal Act by this Schedule are listed in the index of definitions in section 3.

Subsection 8(1) - new definitions

New definitions are to be inserted into subsection 8(1). These definitions will be relevant to the provisions to be inserted in Division 1A of Part 3.10 of the Principal Act that will deal with the attribution of interest on moneys not invested or earning a low rate of interest.

"Available money" is to mean money held by or on behalf of a person. It is not to include a person's "deposit money" (as defined) or money taken to have been received from loans under Division 1B of Part 3.10.

"Deposit money" is to be defined to mean a person's money that is deposited in an account with a financial institution.

"Account" and "financial institution" are new definitions to be inserted into subsection 23(1).

The new definitions of "available money" and "deposit money" are to be inserted as a consequence of section 9 of the Social Security Legislation Amendment Act 1990.

After paragraph 8(8)(h) - insert new paragraph 8(8)(ha)

A new paragraph 8(8)(ha) is to be inserted.

New paragraph 8(8)(ha) provides that a payment made by a State or Territory for the purpose of assisting a person to purchase or build his or her home (eg a payment under a State mortgage relief scheme) is disregarded when calculating the person's rate of an income-tested payment under the Principal Act.

New paragraph 8(8)(ha) is to be inserted as a consequence of paragraph 5(f) of the Social Security Legislation Amendment Act 1990.

After paragraph 8(8)(k) - insert new paragraph 8(8)(ka)

A new paragraph 8(8)(ka) is to be inserted.

New paragraph 8(8)(ka) provides that insurance payments to cover debt repayments are exempt from the definition of income.

New paragraph 8(8)(ka) is to be inserted as a consequence of paragraph 5(g) of the Social Security Legislation Amendment Act 1990.

Paragraph 8(8)(s) - omit and insert new paragraph 8(8)(s)

Current paragraph 8(8)(s) is to be replaced by a new one.

New paragraph 8(8)(s) provides that where a trainee in part-time training receives a payment under a Labour Force Program as well as a social security or service pension, the Labour Force Program payment is disregarded when assessing his or her social security pension rate for the purposes of the ordinary income test.

New paragraph 8(8)(s) is to be inserted as a consequence of paragraph 5(h) of the Social Security Legislation Amendment Act 1990.

Subsection 8(8) - insert new paragraphs 8(8)(zg) to (zi)

Three new paragraphs are inserted after paragraph 8(8)(zf).
New paragraphs 8(8)(zg) and (zh) provide that remuneration of jury fees and allowances paid to non-expert witnesses at proceedings before a court, tribunal or commission are disregarded for the purposes of the ordinary income test.
New paragraph 8(8)(zi) provides that a payment towards the cost of personal care support services for a person, being a payment under a scheme approved by the Minister for Social Security under new section 35A, is disregarded when working out a person's rate under the ordinary income test.

New paragraphs 8(8)(zg), (zh) and (zi) are to be inserted as a consequence of paragraphs 5(j) and (k) of the Social Security Legislation Amendment Act 1990.

Subparagraph 11(4)(a)(ii) - omit and substitute new subparagraph 11(4)(a)(ii)

Subparagraph 11(4)(a)(ii) is to be replaced by a new one. Currently, this provision would prevent a person with a granny flat interest (defined in subsection 11(9) of the Principal Act as a right to accommodation for life that has been acquired for valuable consideration, or retained, in a private residence that is the person's principal home) from being a homeowner for the purposes of the assets test. People having certain granny flat interests (see changes to Division 5 of Part 3.12 of the Principal Act included in this Bill) will be homeowners for assets testing purposes. New subparagraph 11(4)(a)(ii) provides that a person who is not a member of a couple can be a homeowner if subsection 1150(2) applies to him or her.

New subparagraph 11(4)(a)(ii) is to be inserted as a consequence of section 5 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Subparagraph 11(4)(b)(ii) - omit and substitute new
subparagraph 11(4)(b)(ii)

Subparagraph 11(4)(b)(ii) is to be replaced by a new one.
New subparagraph 11(4)(b)(ii) provides that a person who is a member of a couple can be a homeowner if one of subsections 1151(2), 1152(2), 1152(5), 1153(2), 1154(2), 1155(2), 1156(2) or 1157(2) applies to him or her. See also the explanation for new subparagraph 11(4)(a)(ii) above.

New subparagraph 11(4)(b)(ii) is to be inserted as a consequence of section 5 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Paragraph 11(7)(b) - omit and substitute
new paragraphs 11(7)(b) to (e)

Without the amendment to paragraph 11(7)(b), a person who has moved into a nursing home but who still owns a principal home (see subsection 11(5) of the Principal Act) would continue to have that home disregarded for the purposes of the assets test for two years after moving into the nursing home. After that it would be assessable. This would work to the disadvantage of couples where one partner continues to live in the principal home while the other is in a nursing home. In those cases, the two year exemption would not apply.

New paragraphs 11(7)(b) to (e) ensure that so long as one of the couple remains in the principal home the two year exemption period will apply until two years after the living person was admitted to the nursing home or two years after his or her partner dies whichever occurs first.

A note to subsection 11(7) refers to the provision that explains the term "residing in a nursing home".

New paragraph 11(7)(b) is to be inserted as a consequence of paragraph 7(b) of the Social Security Legislation Amendment Act 1990.

After paragraph 14(1)(a) - insert new paragraphs 14(1)(aa) and (ab)

New paragraphs 14(1)(aa) and 14(1)(ab) are to be inserted. These new paragraphs will extend the area within which a remote area allowance is payable to social security pensioners and beneficiaries.

This extension is allied to changes in the Income Tax Assessment Act 1936 which sets the boundaries of the areas in which people are eligible for a zone rebate on their taxable income.

Those people within a designated "Special Zone B" are now qualified for a Remote Area Allowance under the same terms and conditions as those resident in "Zone A". In addition, people resident just outside those areas can be designated by the Commissioner for Taxation to be inside them for the purposes of allowing the taxation rebate. Where the Commissioner has exercised that discretion, the area is deemed, for social security purposes, to lie inside the zone too.

New paragraphs 14(1)(aa) and 14(1)(ab) are to be inserted as a consequence of section 21 of the Social Security Legislation Amendment Act 1990 which amended the Social Security Act 1947.

After section 19 - insert new section 19A

This new section provides for the definitions relevant to pharmaceutical allowance and advance pharmaceutical supplement. The general provisions relating to pharmaceutical allowance and advance pharmaceutical supplement are in new Parts 2.22 and 2.23 which are inserted into the Principal

Act by this Schedule as a consequence of the Social Welfare Legislation (Pharmaceutical Benefits) Amendment Act 1990 and the Social Security Legislation Amendment Act 1990.

New subsection 19A(1) provides the following definitions:

- . "liquid assets" means, in relation to a person, any cash held by or on behalf of the person, or any amount deposited with or lent to a bank, building society, credit union or other financial institution, whether or not the amount can be withdrawn by, or repaid to, the person immediately;
- . "pharmaceutical benefit" means a drug or medicinal preparation in relation to which, because of section 85 of the National Health Act 1953, Part VII of that Act applies.

New subsection 19A(2) provides that a person is an "advance pensioner A" if the person was an "eligible 1947 Act pensioner" on 8 November 1990 (as defined in new subsection 19A(5)) and the person is an "eligible 1991 Act pensioner" (as defined in new subsection 19A(6)).

Notes signpost the definitions of "eligible 1947 Act pensioner" and "eligible 1991 Act pensioner".

New subsection 19A(3) provides that a person is a "continuing advance pensioner A" if:

- . the person was an "eligible 1947 Act pensioner" on 8 November 1990 (as defined in new subsection 19A(5)); and
- . the person is an "eligible 1991 Act pensioner" (as defined in new subsection 19A(6)); and
- . the person, in the opinion of the Secretary to the Department of Social Security, does not have "liquid assets" (as defined in new subsection 19A(1)) of more than \$1,000 and does not have any non-pension income of more than \$10 per week apart from any payments received under

the Principal Act or the Veterans' Entitlements Act 1986, payments of any benefit to which the person is entitled under the law of a foreign country and which reduces the person's social security pension rate by an equivalent amount or periodic payments received by way of compensation if Part 3.14 applies to those payments.

Notes signpost the definitions of "eligible 1947 Act pensioner", "eligible 1991 Act pensioner" and "liquid assets".

New subsection 19A(4) provides that a person is an "advance pensioner B" if:

- . the person either became an "eligible 1947 Act pensioner" (as defined in new subsection 19A(5)) after 8 November 1990 and before 1 July 1991 or becomes an "eligible 1991 Act pensioner" (as defined in new subsection 19A(6)) after 30 June 1991 and before 1 January 1992; and
- . the person is an "eligible 1991 Act pensioner" (as defined in new subsection 19A(6)); and
- . the person, in the opinion of the Secretary to the Department of Social Security, does not have "liquid assets" (as defined in new subsection 19A(1)) of more than \$1,000 and does not have any non-pension income of more than \$10 per week apart from any payments received under the Principal Act or the Veterans' Entitlements Act 1986, payments of any benefit to which the person is entitled under the law of a foreign country and which reduces the person's social security pension rate by an equivalent amount or periodic payments received by way of compensation if Part 3.14 applies to those payments.

Notes signpost the definitions of "eligible 1947 Act pensioner", "eligible 1991 Act pensioner" and "liquid assets".

New subsection 19A(5) provides that a person is an "eligible 1947 Act pensioner" if under the 1947 Act the person receives

an age, invalid, wife's, carer's, sole parent's or class B widow's pension or a widowed person's, sheltered employment or rehabilitation allowance and the rate of the pension or allowance is not reduced under the 1947 Act because of the operation of any income, maintenance income or assets test applicable under the 1947 Act or reduced only because Part XVII of the 1947 Act applies to any periodic payments by way of compensation that the person receives or reduced only by an amount equivalent to the amount of benefit to which that person is entitled under the law of a foreign country.

New subsection 19A(6) provides that a person is an "eligible 1991 Act pensioner" if the person is receiving a "social security pension" (as defined in section 23) and the person's social security pension rate is not reduced under the Principal Act because of the operation of any ordinary income, maintenance income or assets test applicable under the Principal Act or reduced only under Part 3.14 because of the receipt of any periodic payments by way of compensation or reduced only by an amount equivalent to the amount of benefit to which that person is entitled under the law of a foreign country.

New subsection 19A(7) would provide that, for the purposes of the Principal Act, a person has a "pharmaceutical benefit purchase for a member of the person's family" if the person or the person's partner buys a pharmaceutical benefit for the person, his or her partner or a dependant of the person or of his or her partner.

Subsection 23(1) - omit definitions and substitute new ones

In two cases, new definitions replace old ones.

- . A new definition of "assurance of support debt" replaces the old one. The new definition makes it clear that a person's debt under Migration Regulation 165(1) in respect of a payment to another person can apply in respect of job

search and newstart allowances as well as special benefit.

This is a consequence of paragraph 5(p) of the Social Security Legislation Amendment Act 1990. Job search and newstart allowances are inserted in the Principal Act by the Social Security (Job Search and Newstart) Amendment Bill 1991 which is to commence before this Bill.

The new definition also clarifies the transitional effect between the 1947 Act and the Principal Act as is provided in Schedule 2 of the Social Security (Rewrite) Transition Bill 1991.

- . The definition of "major disaster" is also amended. At present, the definition refers to the 1989 Newcastle earthquake or another disaster declared by the Minister under section 36 of the Principal Act. It is no longer necessary to refer to the Newcastle earthquake and so the definition is now solely based on the Minister's declaration. This amendment is a consequence of section 68 of the Social Security Legislation Amendment Act 1990.

Subsection 23(1) - insert new definitions

Several new definitions are inserted into subsection 23(1) of the Principal Act.

- . A definition of "Aboriginal study assistance scheme" is to be inserted. This definition is relevant to the provisions to be inserted in points 1064-E8 and 1066-E6 which exempt a payment under this definition from reducing the additional free area in respect of a dependent child.

The definition of "Aboriginal study assistance scheme" is to be inserted as a consequence of section 24 of the Social Security Legislation Amendment Act 1990.

. New definitions of "account" and "financial institution" are to be inserted. The new definitions will be relevant to the provisions to be inserted in Division 1A of Part 3.10 of the Principal Act that will deal with the attribution of interest on moneys invested at a low rate of interest.

"Account", in relation to a "financial institution" (as defined), is to mean an account maintained by a person with a financial institution to which is credited money received on deposit by the institution from the person.

"Financial institution" is to mean a bank, building society, credit union or other institution that receives money on deposit.

The new definitions of "account" and "financial institution" are to be inserted as a consequence of paragraphs 5(n) and (r) of the Social Security Legislation Amendment Act 1990.

. A definition of "inhabitant of Australia" is to be inserted into subsection 23(1). This definition provides for the extension of residence qualifications for family payments and special benefit to include holders of People's Republic of China PRC (temporary) entry permits or refugee (temporary) entry permits under regulations made under the Migration Act 1958.

The definition of "inhabitant of Australia" is inserted as a consequence of sections 36 and 53 of the Social Security Legislation Amendment Act 1990.

Subsection 23(10A) - omissions and substitutions

Subsection 23(10B) - insertion

Subsections 23(10A) and (10B) in the Principal Act (inserted by

the Social Security (Job Search and Newstart) Amendment Bill 1991 which is to commence before this Bill) concern when a person is taken to have served a liquid assets test "disqualification" period.

These amendments will ensure that the sickness benefit liquid assets test in new section 668A (inserted by this Schedule) will work correctly. Every reference to "liquid assets test disqualification period" contained in subsection 23(10A) of the Principal Act is to be changed to "liquid assets test waiting period" in line with the wording of the provision itself and subsection 23(10B) is being extended to cover sickness benefit.

The amendments are a consequence of section 44 of the Social Security Legislation Amendment Act 1990.

After section 35 - insert new section 35A

A new section 35A is to be inserted after section 35. New section 35A provides that the Minister for Social Security may determine that a scheme for the provision of personal care support services is an approved scheme for purposes of the Principal Act.

New paragraph 8(8)(zi) provides that a payment towards the cost of personal care services for a person under such a scheme is to be disregarded when working out a person's rate under the ordinary income test.

New section 35A is to be inserted as a consequence of section 13 of the Social Security Legislation Amendment Act 1990.

Section 36 - amendments

The provision in the Principal Act under which the Minister may declare a disaster to be a "major disaster" for the purposes of

the Act is to be amended. It is being made clear that, for a disaster to be so declared, property damage must be "severe and widespread" and the disaster may occur other than naturally. The Minister may delegate the power to declare a major disaster to the Secretary.

These amendments are as a consequence of section 68 of the Social Security Legislation Amendment Act 1990.

After paragraph 44(1)(a) - insert new paragraph 44(1)(aa)

A new paragraph 44(1)(aa) is to be inserted. This will add to the existing list of situations where an age pension may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her partner - see new sections 46A and 46B, inserted by this Schedule.

New paragraph 44(1)(aa) is as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

After section 46 - insert new sections 46A and 46B

New sections 46A and 46B are to be inserted in the Subdivision dealing with payability of age pension. New section 46A deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 46B makes similar provisions where the person is required to provide his or her partner's tax file number.

New subsection 46A(1) specifies that an age pension is not payable to a person if he or she is required under either new section 51A (as a claimant) or new section 67A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an

approved form AND satisfy either new subsection 46A(2) or (3).

New subsection 46A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and age pension will not be payable.

New subsection 46A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and age pension will not be payable.

New section 46B provides similar rules to new section 46A where the person is a member of a couple and is required under either new section 51B (as a claimant) or new section 67B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 46B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 46A(2) and (3) do

for the person's number.

However, new subsection 46B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 46A and 46B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 47 - repeal and substitute new section 47

A new section 47 replaces the old one. The new multiple entitlement exclusion rule for age pension makes it clear that, if a person is already receiving a service pension, an age pension is not payable to the person. However, if the person is already receiving an age pension and another social security pension or a service pension becomes payable to the person, it is the age pension that is not payable and not the second payment.

New section 71A, inserted by this Schedule, provides an automatic termination rule for the age pension where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New section 47 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 51 - insert new sections 51A and 51B

New sections 51A and 51B are to be inserted in Division 2 which deals with a claim for an age pension.

New section 51A allows the Secretary to require a claimant for an age pension to provide a written statement of his or her tax file number. The Secretary may only do this if the claimant is in Australia. If a requirement is made under this section, then new section 46A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for age pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 46A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 51B allows the Secretary to require a claimant for an age pension who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 46B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for age pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 46B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 46B(4).

New sections 51A and 51B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 61 - repeal and substitute new section 61

A new section 61 is to be inserted to replace current section 61. New section 61 provides that, except where nominee payment arrangements are approved by the Secretary under section 62, a person's age pension is to be paid to the person. Section 61 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 63 below.

New section 61 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 63 - repeal and substitute new section 63

A new section 63 is to be inserted to replace current section 63. In broad terms, new section 63 would provide that a person's age pension payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 63 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 68 - insert new sections 67A and 67B

New sections 67A and 67B are to be inserted in the recipient obligations Division for age pension.

These new sections provide exactly the same rules for a recipient of an age pension as new sections 51A and 51B do for a claimant of an age pension with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 67A and 67B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Paragraph 71(1)(c) - insertion

Paragraph 71(1)(c) of the Principal Act lists the provisions that cause a person's age pension to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

A reference to new section 71A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic termination where an age pension recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Paragraph 71(2)(a) - insertion

Paragraph 71(2)(a) of the Principal Act lists the provisions that cause a person's age pension rate to be automatically reduced and therefore bring the effect of the subsisting rate determination to a close.

A reference to new section 73A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic rate reduction where an age pension recipient's partner starts to receive an income support payment which causes the person's age pension rate to be reduced.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 72 - insert new section 71A

A new section 71A is inserted in the Subdivision in the Principal Act dealing with automatic termination of an age pension.

Following on from the multiple entitlement exclusion rule in new section 47 which is inserted by this Schedule, new section 71A specifies that a person's age pension ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to the person. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 71A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 74 - insert new section 73A

A new section 73A is inserted in the Subdivision in the Principal Act dealing with automatic rate reduction of an age pension.

If a person who is receiving an age pension and is a member of a couple suffers a rate reduction because his or her partner starts to receive a social security or service income support payment, then the age pension becomes payable at the lower rate on the day on which the partner starts to receive that payment. This could happen, for example, because a lower maximum basic rate applies (under Pension Rate Calculator A or B of the Principal Act) if a person's partner is receiving an income support payment than applies if the partner is not receiving such a payment. The new section makes sure that the person's age pension rate is automatically correct for such a situation. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223B which is also inserted by this Schedule.

New section 73A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 91 - insert new subsections 91(3) and (4)

New subsections 91(3) and (4) are to be inserted in the bereavement payments Subdivision dealing with the death of a recipient of an age pension.

New subsection 91(3) concerns the death of a recipient of an age pension who was or would have been qualified for a bereavement payment under Subdivision B on the death of a dependent child. This situation might arise where, for example, the age pension recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead.

At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the age pension recipient.

New subsection 91(3) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 91(4) concerns a deceased age pension recipient where the circumstances are exactly the same as in new subsection 91(3) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the age pension recipient.

New subsection 91(4) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 92 - insert new note

A note is to be inserted to indicate to the reader that, if a person qualifies for fringe benefits in accordance with Division 10 of Part 2.2 (Age Pension), the person would also qualify for pharmaceutical allowance under new Part 2.22.

After paragraph 95(1)(c) - insert new paragraph 95(1)(ca)

A new paragraph 95(1)(ca) is to be inserted. This will add to the existing list of situations where an invalid pension may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her

partner - see new sections 97A and 97B, inserted by this Schedule.

New paragraph 95(1)(ca) is inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 97 - insert new subsection 97(4)

A new modification to the provisional commencement day rule is being made for a person who claims invalid pension as a result of a major disaster. If the person claims invalid pension within 14 days of claiming a disaster relief payment for which he or she is qualified (under new Part 2.24, inserted by this Schedule), then the provisional commencement day is the day the person was affected by the disaster.

New subsection 97(4) is inserted as a consequence of paragraph 70(e) of the Social Security Legislation Amendment Act 1990.

After section 97 - insert new sections 97A and 97B

New sections 97A and 97B are to be inserted in the Subdivision dealing with payability of invalid pension. New section 97A deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 97B makes similar provisions where the person is required to provide his or her partner's tax file number.

New subsection 97A(1) specifies that an invalid pension is not payable to a person if he or she is required under either new section 103A (as a claimant) or new section 120A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an

approved form AND satisfy either new subsection 97A(2) or (3).

New subsection 97A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and invalid pension will not be payable.

New subsection 97A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and invalid pension will not be payable.

New section 97B provides similar rules to new section 97A where the person is a member of a couple and is required under either new section 103B (as a claimant) or new section 120B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 97B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 97A(2) and (3) do

for the person's number.

However, new subsection 97B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 97A and 97B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 98 - repeal and substitute new section 98

A new section 98 replaces the old one. The new multiple entitlement exclusion rule for invalid pension makes it clear that, if a person is already receiving a service pension, an invalid pension is not payable to the person. However, if the person is already receiving an invalid pension and another social security pension, a social security benefit or a service pension becomes payable to the person, it is the invalid pension that is not payable and not the second payment.

New section 124A, inserted by this Schedule, provides an automatic termination rule for the invalid pension where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies whether certain allowances are treated as pensions or benefits. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New section 98 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 103 - new sections 103A and 103B

New sections 103A and 103B are to be inserted in Division 2 which deals with a claim for an invalid pension.

New section 103A allows the Secretary to require a claimant for an invalid pension to provide a written statement of his or her tax file number. The Secretary may only do this if the claimant is in Australia. If a requirement is made under this section, then new section 97A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for invalid pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 97A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 103B allows the Secretary to require a claimant for an invalid pension who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 46B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for invalid pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 97B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 97B(4).

New sections 103A and 103B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 114 - repeal and substitute new section 114

A new section 114 is to be inserted to replace current section 114. New section 114 provides that, except where nominee payment arrangements are approved by the Secretary under section 115, a person's invalid pension is to be paid to the person. Section 114 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 116 below.

New section 114 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 116 - repeal and substitute new section 116

A new section 116 is to be inserted to replace current section 116. In broad terms, new section 116 would provide that a person's invalid pension payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg, by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 116 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 121 - insert new sections 120A and 120B

New sections 120A and 120B are to be inserted in the recipient obligations Division for invalid pension.

These new sections provide exactly the same rules for a recipient of an invalid pension as new sections 103A and 103B do for a claimant of an invalid pension with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 120A and 120B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Paragraph 124(1)(c) - insertion

Paragraph 124(1)(c) of the Principal Act lists the provisions that cause a person's invalid pension to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

A reference to new section 124A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic termination where an invalid pension recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Paragraph 124(2)(a) - insertion

Paragraph 124(2)(a) of the Principal Act lists the provisions that cause a person's invalid pension rate to be automatically reduced and therefore bring the effect of the subsisting rate determination to a close.

A reference to new section 126A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic rate reduction where an invalid pension recipient's partner starts to receive an income support payment which causes the person's invalid pension rate to be reduced.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 125 - insert new section 124A

A new section 124A is inserted in the Subdivision in the Principal Act dealing with automatic termination of an invalid pension.

Following on from the multiple entitlement exclusion rule in new section 98 which is inserted by this Schedule, new section 124A specifies that a person's invalid pension ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to the person. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the

Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 124A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 127 - insert new section 126A

A new section 126A is inserted in the Subdivision in the Principal Act dealing with automatic rate reduction of an invalid pension.

If a person who is receiving an invalid pension and is a member of a couple suffers a rate reduction because his or her partner starts to receive a social security or service income support payment, then the invalid pension becomes payable at the lower rate on the day on which the partner starts to receive that payment. This could happen, for example, because a lower maximum basic rate applies (under Pension Rate Calculator A or B of the Principal Act) if a person's partner is receiving an income support payment than applies if the partner is not receiving such a payment. The new section makes sure that the person's invalid pension rate is automatically correct for such a situation. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223B which is also inserted by this Schedule.

New section 126A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 144 - insert new subsections 144(3) and (4)

New subsections 144(3) and (4) are to be inserted in the bereavement payments Subdivision dealing with the death of a recipient of an invalid pension.

New subsection 144(3) concerns the death of a recipient of an invalid pension who was or would have been qualified for a bereavement payment under Subdivision B on the death of a dependent child. This situation might arise where, for example, the invalid pension recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the invalid pension recipient.

New subsection 144(3) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 144(4) concerns a deceased invalid pension recipient where the circumstances are exactly the same as in new subsection 144(3) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the invalid pension recipient.

New subsection 144(4) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 145 - insert new note

A note is to be inserted to indicate to the reader that, if a person qualifies for fringe benefits in accordance with

Division 10 of Part 2.3 (Invalid Pension), the person would also qualify for pharmaceutical allowance under new Part 2.22.

After paragraph 148(1)(b) - insert new paragraph 148(1)(ba)

A new paragraph 148(1)(ba) is to be inserted. This will add to the existing list of situations where a wife pension may not be payable to a woman even though she is qualified for it. The new situation is where the woman has not provided a tax file number for herself or for her partner - see new sections 150A and 150B, inserted by this Schedule.

New paragraph 148(1)(ba) is inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 150 - insert new subsection 150(4)

A new modification to the provisional commencement day rule is being made for a woman who claims wife pension as a result of a major disaster. If the woman claims wife pension within 14 days of claiming a disaster relief payment for which she is qualified (under new Part 2.24, inserted by this Schedule), then the provisional commencement day is the day the woman was affected by the disaster.

New subsection 150(4) is inserted as a consequence of paragraph 70(e) of the Social Security Legislation Amendment Act 1990.

After section 150 - insert new sections 150A and 150B

New sections 150A and 150B are to be inserted in the Subdivision dealing with payability of wife pension.

New section 150A deals with the consequences of a woman being required to provide her tax file number to the Secretary.

New section 150B makes similar provisions where the woman is required to provide her partner's tax file number.

New subsection 150A(1) specifies that a wife pension is not payable to a woman if she is required under either new section 155A (as a claimant) or new section 171A (as a recipient) to provide a written statement of her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the woman may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 46A(2) or (3).

New subsection 150A(2) sets down one of the means by which the woman can satisfy the requirement to provide her tax file number. If the woman has a tax file number but does not know what it is, her declaration must state this fact and that she is trying to find out the number from the Commissioner of Taxation. The woman must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the woman has no tax file number - if the following subsection does not apply instead, the woman will fail to satisfy the requirement to provide her tax file number and wife pension will not be payable.

New subsection 150A(3) provides an alternative means of satisfying the requirement. The woman's Declaration must state that she has an application for a tax file number pending. The woman must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the

preceding subsection does not apply instead, the woman will fail to satisfy the requirement to provide her tax file number and wife pension will not be payable.

New section 150B provides similar rules to new section 150A where the woman is required under either new section 155B (as a claimant) or new section 171B (as a recipient) to provide a written statement of her PARTNER'S tax file number. The requirement will be satisfied if the woman provides a written statement of the partner's tax file number within 28 days. Alternatively, the woman may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 150B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 150A(2) and (3) do for the woman's number.

However, new subsection 150B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the woman does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 150A and 150B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 151 - repeal and substitute new section 151

A new section 151 replaces the old one. The new multiple entitlement exclusion rule for wife pension makes it clear that, if a woman is already receiving a service pension, a wife pension is not payable to her. However, if the woman is already receiving a wife pension and another social security pension, a social security benefit or a service pension becomes payable to her, it is the wife pension that is not payable and

not the second payment.

New section 175A, inserted by this Schedule, provides an automatic termination rule for the wife pension where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions or benefits. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New section 151 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 155 - insert new sections 155A and 155B

New sections 155A and 155B are to be inserted in Division 2 which deals with a claim for a wife pension.

New section 155A allows the Secretary to require a claimant for a wife pension to provide a written statement of her tax file number. The Secretary may only do this if the claimant is in Australia. If a requirement is made under this section, then new section 150A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for wife pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 150A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 155B allows the Secretary to require a claimant for a wife pension to provide a written statement of her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 150B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for wife pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 150B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 150B(4).

New sections 155A and 155B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 165 - repeal and substitute new section 165

A new section 165 is to be inserted to replace current section 165. New section 165 provides that, except where nominee payment arrangements are approved by the Secretary under section 166, a woman's wife pension is to be paid to her. Section 165 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 167 below.

New section 165 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 167 - repeal and substitute new section 167

A new section 167 is to be inserted to replace current section 167. In broad terms, new section 167 would provide that a person's wife pension payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule. This would include a person acting as an agent for a wife pensioner under section 166.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 167 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 172 - insert new sections 171A and 171B

New sections 171A and 171B are to be inserted in the recipient obligations Division for wife pension.

These new sections provide exactly the same rules for a recipient of a wife pension as new sections 155A and 155B do for a claimant of a wife pension with regard to the requirement to provide her tax file number or that of her partner.

New sections 171A and 171B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Paragraph 175(1)(c) - insertion

Paragraph 175(1)(c) of the Principal Act lists the provisions that cause a woman's wife pension to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

References to new sections 175A and 175B are added to the list of those provisions. Both new sections are inserted by this Schedule. They provide for automatic termination where a wife pension recipient transfers to a new payment type or where the wife pension ceases to be payable to her because her partner transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 176 - insert new sections 175A and 175B

New sections 175A and 175B are inserted in the Subdivision in the Principal Act dealing with automatic termination of a wife pension.

Following on from the multiple entitlement exclusion rule in new section 151 which is inserted by this Schedule, new section 175A specifies that a woman's wife pension ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to her. This makes sure that a woman can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 175B states that, if a wife pension recipient's partner transfers to another income support payment type so that he is no longer receiving one of the payments which qualify his wife for wife pension, then the wife pension ceases to be payable to her on the day on which her partner's new payment becomes payable. This makes sure that, in these circumstances, a woman cannot continue to be paid a payment for which she is not qualified and any excess payment of it can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New sections 175A and 175B are inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 195 - insert new Subdivision D and section 195A

New section 195A is to be inserted in a new bereavement payments Subdivision dealing with the death of a recipient of a wife pension.

Under new section 195A, if a recipient of a wife pension dies who was or would have been qualified for a bereavement payment under Subdivision C on the death of a dependent child, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the wife pension recipient.

New section 195A is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

Section 196 - insert new note

A note is to be inserted to indicate to the reader that, if a person qualifies for fringe benefits in accordance with Division 10 of Part 2.4 (Wife Pension), the person would also qualify for pharmaceutical allowance under new Part 2.22.

Paragraphs 198(1)(a) and (2)(a) and
subsection 198(3) - amendments

As the Principal Act stands, carer pension is to be paid to a person who is providing constant care to a severely handicapped person who is an age or invalid pensioner or a rehabilitation allowee who, immediately before becoming qualified for that allowance, was receiving an invalid pension. These amendments replace the word "pensioner" in paragraphs 198(1)(a) and (2)(a) and subsection 198(3) with the word "person". Together with the amendment to the new definition of "severely handicapped person" in subsection 198(3) (see below), these amendments enables a carer pension to be extended to people who are caring for other social security pensioners and beneficiaries as well as service pensioners.

These amendments are to be inserted as a consequence of paragraph 26(b) of the Social Security Legislation Amendment Act 1990.

Paragraph 198(1)(b) - omit and substitute
new paragraph 198(1)(b)

New paragraph 198(1)(b) extends carer pension to a carer who is providing constant care (including attention and supervision) to a severely handicapped person and who is living in an adjacent home.

New paragraph 198(1)(b) is to be inserted as a consequence of paragraphs 26(a) and (c) of the Social Security Legislation Amendment Act 1990.

Subsection 198(3) (paragraph (c) of definition of "severely handicapped person") - omit and substitute new paragraph (c) of definition

Together with the amendments to paragraphs 198(1)(a) and (2)(a) and subsection 198(3) (see above), this amendment enables a carer pension to be extended to people who are caring for other social security pensioners and beneficiaries as well as service pensioners. The Principal Act currently restricts access to carer pension to people caring for age or invalid pensioners.

This amendment is to be inserted as a consequence of paragraph 26(b) of the Social Security Legislation Amendment Act 1990.

After paragraph 199(1)(b) - insert new paragraph 199(1)(ba)

A new paragraph 199(1)(ba) is to be inserted. This will add to the existing list of situations where a carer pension may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her partner - see new sections 201A and 201B, inserted by this Schedule.

New paragraph 199(1)(ba) is inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 201 - insert new subsection 201(4)

A new modification to the provisional commencement day rule is being made for a person who claims carer pension as a result of a major disaster. If the person claims carer pension within 14 days of claiming a disaster relief payment for which he or she is qualified (under new Part 2.24, inserted by this Schedule), then the provisional commencement day is the day the person was affected by the disaster.

New subsection 201(4) is inserted as a consequence of paragraph 70(e) of the Social Security Legislation Amendment Act 1990.

After section 201 - insert new sections 201A and 201B

New sections 201A and 201B are to be inserted in the Subdivision dealing with payability of carer pension. New section 201A deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 201B makes similar provisions where the person is required to provide his or her partner's tax file number.

New subsection 201A(1) specifies that a carer pension is not payable to a person if he or she is required under either new section 206A (as a claimant) or new section 221A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 46A(2) or (3).

New subsection 201A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and carer pension will not be payable.

New subsection 201A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and carer pension will not be payable.

New section 201B provides similar rules to new section 201A where the person is required under either new section 206B (as a claimant) or new section 221B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 201B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 201A(2) and (3) do for the person's number.

However, new subsection 201B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 201A and 201B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 202 - repeal and substitute new section 202

A new section 202 replaces the old one. The new multiple entitlement exclusion rule for carer pension makes it clear that, if a person is already receiving a service pension, a carer pension is not payable to him or her. However, if the person is already receiving a carer pension and another social security pension, a social security benefit or a service pension becomes payable to him or her, it is the carer pension that is not payable and not the second payment.

New section 225A, inserted by this Schedule, provides an automatic termination rule for the carer pension where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions or benefits. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New section 202 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 206 - insert new sections 206A and 206B

New sections 206A and 206B are to be inserted in Division 2 which deals with a claim for a carer pension.

New section 206A allows the Secretary to require a claimant for a carer pension to provide a written statement of his or her tax file number. If a requirement is made under this section, then new section 201A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for carer pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 201A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 206B allows the Secretary to require a claimant for a carer pension to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 201B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for carer pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 201B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 201B(4).

New sections 206A and 206B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Section 215 - repeal and substitute new section 215

A new section 215 is to be inserted to replace current section 215. New section 215 provides that, except where nominee payment arrangements are approved by the Secretary under section 216, a person's carer pension is to be paid to the person. Section 215 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 217 below.,

New section 215 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 217 - repeal and substitute new section 217

A new section 217 is to be inserted to replace current section 217. In broad terms, new section 217 would provide that a person's carer pension payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 217 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 222 - insert new sections 221A and 221B

New sections 221A and 221B are to be inserted in the recipient obligations Division for carer pension.

These new sections provide exactly the same rules for a recipient of a carer pension as new sections 206A and 206B do for a claimant of a carer pension with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 221A and 221B are inserted as a consequence of section 27 of the Social Security Legislation Amendment Act 1990.

Paragraph 225(1)(c) - insertion

Paragraph 225(1)(c) of the Principal Act lists the provisions that cause a person's carer pension to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

References to new sections 225A and 225B are added to the list of those provisions. Both new sections are inserted by this Schedule. They provide for automatic termination where a carer pension recipient transfers to a new payment type or where the carer pension ceases to be payable to the person because his or her partner (being the person being cared for) transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Paragraph 225(2)(a) - insertion

Paragraph 225(2)(a) of the Principal Act lists the provisions that cause a person's carer pension rate to be automatically reduced and therefore bring the effect of the subsisting rate determination to a close.

A reference to new section 227A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic rate reduction where a carer pension recipient's partner starts to receive an income support payment which causes the person's carer pension rate to be reduced.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 226 - insert new sections 225A and 225B

New sections 225A and 225B are inserted in the Subdivision in the Principal Act dealing with automatic termination of a carer pension.

Following on from the multiple entitlement exclusion rule in new section 202 which is inserted by this Schedule, new section 225A specifies that a person's carer pension ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to him or her. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 225B applies where a carer pension recipient's partner is the person being cared for. If the partner transfers to another income support payment type so that the partner is no longer receiving one of the payments which qualify the person for carer pension, then the carer pension ceases to be payable to the person on the day on which his or her partner's new payment becomes payable. This makes sure that, in these circumstances, a person cannot continue to be paid a payment for which he or she is not qualified and any excess payment of it can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New sections 225A and 225B are inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 228 - insert new section 227A

A new section 227A is inserted in the Subdivision in the Principal Act dealing with automatic rate reduction of a carer pension.

If a person who is receiving a carer pension and is a member of a couple suffers a rate reduction because his or her partner starts to receive a social security or service income support payment, then the carer pension becomes payable at the lower rate on the day on which the partner starts to receive that payment. This could happen, for example, because a lower maximum basic rate applies (under Pension Rate Calculator A of the Principal Act) if a person's partner is receiving an income support payment than applies if the partner is not receiving such a payment. The new section makes sure that the person's carer pension rate is automatically correct for such a situation. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223B which is also inserted by this Schedule.

New section 227A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 246 - insert new subsections 246(3) and (4)

New subsections 246(3) and (4) are to be inserted in the bereavement payments Subdivision dealing with the death of a recipient of a carer pension.

New subsection 246(3) concerns the death of a recipient of a carer pension who was or would have been qualified for a bereavement payment under Subdivision C on the death of a dependent child. This situation might arise where, for example, the carer pension recipient and a dependent child both

died as a result of a motor vehicle accident. This situation might arise where, for example, the carer pension recipient and a dependent child both died as a result of a motor vehicle accident.. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the carer pension recipient.

New subsection 246(3) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 246(4) concerns a deceased carer pension recipient where the circumstances are exactly the same as in new subsection 246(3) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the carer pension recipient.

New subsection 246(4) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 247 - insert new note

A note is to be inserted to indicate to the reader that, if a person qualifies for fringe benefits in accordance with Division 10 of Part 2.5 (Carer Pension), the person would also qualify for pharmaceutical allowance under new Part 2.22.

After paragraph 253(1)(a) - insert new paragraph 253(1)(aa)

A new paragraph 253(1)(aa) is to be inserted. This will add to the existing list of situations where a sole parent pension may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her partner - see new sections 257A and 257B, inserted by this Schedule.

New paragraph 253(1)(aa) is inserted as a consequence of section 9 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Section 255 - insert new subsection 255(4)

A new modification to the provisional commencement day rule is being made for a person who claims sole parent pension as a result of a major disaster. If the person claims sole parent pension within 14 days of claiming a disaster relief payment for which he or she is qualified (under new Part 2.24, inserted by this Schedule), then the provisional commencement day is the day the person was affected by the disaster.

New subsection 255(4) is inserted as a consequence of paragraph 70(e) of the Social Security Legislation Amendment Act 1990.

After section 257 - insert new sections 257A and 257B

New sections 257A and 257B are to be inserted in the Subdivision dealing with payability of sole parent pension. New section 257A deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 257B makes similar provisions where the person is required to provide his or her partner's tax file

number. It should be noted that there are circumstances where a sole parent pensioner could have a partner - where the partner is in gaol for at least 14 days, where the couple is living separately and apart on other than a permanent basis and where the couple is separated by illness - see subsection 249(1) of the Principal Act.

New subsection 257A(1) specifies that a sole parent pension is not payable to a person if he or she is required under either new section 265A (as a claimant) or new section 283A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 257A(2) or (3).

New subsection 257A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and sole parent pension will not be payable.

New subsection 257A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly

from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and sole parent pension will not be payable.

New section 257B provides similar rules to new section 257A where the person is a member of a couple and is required under either new section 265B (as a claimant) or new section 283B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 257B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 257A(2) and (3) do for the person's number.

However, new subsection 257B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 257A and 257B are inserted as a consequence of section 9 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Section 258 - repeal and substitute new section 258

A new section 258 replaces the old one. The new multiple entitlement exclusion rule for sole parent pension makes it clear that, if a person is already receiving a service pension, a sole parent pension is not payable to the person. However, if the person is already receiving a sole parent pension and another social security pension, a social security benefit or a service pension becomes payable to the person, it is the sole parent pension that is not payable and not the second payment.

New section 287A, inserted by this Schedule, provides an automatic termination rule for the sole parent pension where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions or benefits. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New subsection 258(3) is simply a restatement in subsection form of existing paragraph 258(b) in the Principal Act and there is no change in effect.

New section 258 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 265 - insert new sections 265A and 265B

New sections 265A and 265B are to be inserted in Division 2 which deals with a claim for a sole parent pension.

New section 265A allows the Secretary to require a claimant for a sole parent pension to provide a written statement of his or her tax file number. The Secretary may only do this if the claimant is in Australia. If a requirement is made under this

section, then new section 257A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for sole parent pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 257A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 265B allows the Secretary to require a claimant for a sole parent pension who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 257B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for sole parent pension not to be payable if the claimant fails to satisfy the requirement. See subsection 249(1) of the Principal Act for the circumstances in which a person with a partner might be a sole parent pensioner.

Notes 1 and 2 signpost new section 257B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 257B(4).

New sections 265A and 265B are inserted as a consequence of section 9 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Section 275 - repeal and substitute new section 275

A new section 275 is to be inserted to replace current section 275. New section 275 provides that, except where nominee payment arrangements are approved by the Secretary under section 276, a person's sole parent pension is to be paid to the person. Section 275 is to be repealed as part of the

amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 277 below.

New section 275 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 277 - repeal and substitute new section 277

A new section 277 is to be inserted to replace current section 277. In broad terms, new section 277 would provide that a person's sole parent pension payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg, by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 277 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

After section 283 - insert new sections 283A and 283B

New sections 283A and 283B are to be inserted in the recipient obligations Division for sole parent pension.

These new sections provide exactly the same rules for a recipient of a sole parent pension as new sections 265A and 265B do for a claimant of a sole parent pension with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 283A and 283B are inserted as a consequence of section 9 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Paragraph 287(1)(c) - insertion

Paragraph 287(1)(c) of the Principal Act lists the provisions that cause a person's sole parent pension to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

A reference to new section 287A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic termination where a sole parent pension recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Paragraph 287(2)(a) - insertion

Paragraph 287(2)(a) of the Principal Act lists the provisions that cause a person's sole parent pension rate to be automatically reduced and therefore bring the effect of the subsisting rate determination to a close.

A reference to new section 290A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic rate reduction where a sole parent pension recipient's partner starts to receive an income support payment which causes the person's sole parent pension rate to be reduced.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 288 - insert new section 287A

A new section 287A is inserted in the Subdivision in the Principal Act dealing with automatic termination of a sole parent pension.

Following on from the multiple entitlement exclusion rule in new section 258 which is inserted by this Schedule, new section 287A specifies that a person's sole parent pension ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to the person. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 287A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 291 - insert new section 290A

A new section 290A is inserted in the Subdivision in the Principal Act dealing with automatic rate reduction of a sole parent pension.

If a person who is receiving a sole parent pension and is a member of a couple suffers a rate reduction because his or her partner starts to receive a social security or service income support payment, then the sole parent pension becomes payable at the lower rate on the day on which the partner starts to receive that payment. As the note points out, this could apply where the partner's starting to receive the payment had some effect on the person's rate because of the ordinary income, maintenance income or assets test. The new section makes sure that the person's sole parent pension rate is automatically correct for such a situation. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223B which is also inserted by this Schedule. See subsection 249(1) of the Principal Act for the circumstances in which a person with a partner might be a sole parent pensioner.

New section 290A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 312 - insert new subsections 312(3) and (4)

New subsections 312(3) and (4) are to be inserted in the bereavement payments Subdivision dealing with the death of a recipient of a sole parent pension.

New subsection 312(3) concerns the death of a recipient of a sole parent pension who was or would have been qualified for a bereavement payment under Subdivision C on the death of a dependent child. This situation might arise where, for example, the sole parent pension recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months

after the child's death. The new provision applies whether the child died before or after the sole parent pension recipient. See paragraph 249(1)(a) of the Principal Act for the circumstances in which a person with a partner might be a sole parent pensioner.

New subsection 312(3) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 312(4) concerns a deceased sole parent pension recipient where the circumstances are exactly the same as in new subsection 312(3) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the sole parent pension recipient.

New subsection 312(4) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 313 - insert new note

A note is to be inserted to indicate to the reader that, if a person qualifies for fringe benefits in accordance with Division 10 of Part 2.6 (Sole Parent Pension), the person would also qualify for pharmaceutical allowance under new Part 2.22.

After paragraph 316(1)(a) - insert new paragraph 316(1)(aa)

A new paragraph 316(1)(aa) is to be inserted. This will add to the existing list of situations where a widowed person allowance may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself - see new section 320A, inserted by this Schedule.

New paragraph 316(1)(aa) is inserted as a consequence of

section 30 of the Social Security Legislation Amendment Act 1990.

Section 318 - insert new subsection 318(4)

A new modification to the provisional commencement day rule is being made for a person who claims widowed person allowance as a result of a major disaster. If the person claims widowed person allowance within 14 days of claiming a disaster relief payment for which he or she is qualified (under new Part 2.24, inserted by this Schedule), then the provisional commencement day is the day the person was affected by the disaster.

New subsection 318(4) is inserted as a consequence of paragraph 70(e) of the Social Security Legislation Amendment Act 1990.

After section 320 - insert new section 320A

New section 320A is to be inserted in the Subdivision dealing with payability of widowed person allowance.

New subsection 320A(1) specifies that a widowed person allowance is not payable to a person if he or she is required under either new section 325A (as a claimant) or new section 340A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 320A(2) or (3).

New subsection 320A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the

Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and widowed person allowance will not be payable.

New subsection 320A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and widowed person allowance will not be payable.

New section 320A is inserted as a consequence of section 30 of the Social Security Legislation Amendment Act 1990.

Section 321 - repeal and substitute new section 321

A new section 321 replaces the old one. The new multiple entitlement exclusion rule for widowed person allowance makes it clear that, if a person is already receiving a service pension, a widowed person allowance is not payable to the person. However, if the person is already receiving a widowed person allowance and another social security pension, a social security benefit or a service pension becomes payable to the person, it is the widowed person allowance that is not payable and not the second payment.

New section 344A, inserted by this Schedule, provides an automatic termination rule for the widowed person allowance

where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions or benefits. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New subsection 321(3) is simply a restatement in subsection form of existing paragraph 321(b) in the Principal Act and there is no change in effect.

New section 321 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 325 - insert new section 325A

New section 325A is to be inserted in Division 2 which deals with a claim for a widowed person allowance.

New section 325A allows the Secretary to require a claimant for a widowed person allowance to provide a written statement of his or her tax file number. The Secretary may only do this if the claimant is in Australia. If a requirement is made under this section, then new section 320A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for widowed person allowance not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 320A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 325A is inserted as a consequence of section 30 of the Social Security Legislation Amendment Act 1990.

Section 334 - repeal and substitute new section 334

A new section 334 is to be inserted to replace current section 334. New section 334 provides that, except where nominee payment arrangements are approved by the Secretary under section 335, a person's widowed person allowance is to be paid to the person. Section 334 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 336 below.

New section 334 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 336 - repeal and substitute new section 336

A new section 336 is to be inserted to replace current section 336. In broad terms, new section 336 would provide that a person's widowed person allowance payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg, by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 336 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 341 - insert new section 340A

New section 340A is to be inserted in the recipient obligations Division for widowed person allowance.

This new section provides exactly the same rules for a recipient of a widowed person allowance as new section 325A does for a claimant of a widowed person allowance with regard to the requirement to provide his or her tax file number.

New section 340A is inserted as a consequence of section 30 of the Social Security Legislation Amendment Act 1990.

Subparagraph 344(1)(d)(i) - insertion

Subparagraph 344(1)(d)(i) of the Principal Act lists the provisions that cause a person's widowed person allowance to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

A reference to new section 344A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic termination where a widowed person allowance recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 345 - insert new section 344A

A new section 344A is inserted in the Subdivision in the Principal Act dealing with automatic termination of a widowed

person allowance.

Following on from the multiple entitlement exclusion rule in new section 321 which is inserted by this Schedule, new section 344A specifies that a person's widowed person allowance ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to the person. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 344A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 359 - insert new subsection 359(3)

New subsection 359(3) is to be inserted in the bereavement payments Subdivision dealing with the death of a recipient of a widowed person allowance.

The new subsection concerns the death of a recipient of a widowed person allowance who was or would have been qualified for a bereavement payment under Subdivision A on the death of a dependent child. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the widowed person allowance recipient.

New subsection 359(3) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 360 - insert new note

A note is to be inserted to indicate to the reader that, if a person qualifies for fringe benefits in accordance with Division 10 of Part 2.7 (Widowed Person Allowance), the person would also qualify for pharmaceutical allowance under new Part 2.22.

After paragraph 364(1)(a) - insert new paragraph 364(1)(aa)

A new paragraph 364(1)(aa) is to be inserted. This will add to the existing list of situations where a widow B pension may not be payable to a woman even though she is qualified for it. The new situation is where the woman has not provided her tax file number - see new section 367A, inserted by this Schedule.

New paragraph 364(1)(aa) is inserted as a consequence of section 81 of the Social Security Legislation Amendment Act 1990.

Section 366 - insert new subsection 366(4)

A new modification to the provisional commencement day rule is being made for a woman who claims widow B pension as a result of a major disaster. If the woman claims widow B pension within 14 days of claiming a disaster relief payment for which she is qualified (under new Part 2.24, inserted by this Schedule), then the provisional commencement day is the day the woman was affected by the disaster.

New subsection 366(4) is inserted as a consequence of paragraph 70(e) of the Social Security Legislation Amendment Act 1990.

After section 367 - insert new section 367A

New section 367A is to be inserted in the Subdivision dealing with payability of widow B pension.

New subsection 367A(1) specifies that a widow B pension is not payable to a woman if she is required under either new section 372A (as a claimant) or new section 388A (as a recipient) to provide a written statement of her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the woman may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 367A(2) or (3).

New subsection 367A(2) sets down one of the means by which the woman can satisfy the requirement to provide her tax file number. If the woman has a tax file number but does not know what it is, her declaration must state this fact and that she is trying to find out the number from the Commissioner of Taxation. The woman must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the woman has no tax file number - if the following subsection does not apply instead, the woman will fail to satisfy the requirement to provide her tax file number and widow B pension will not be payable.

New subsection 367A(3) provides an alternative means of satisfying the requirement. The woman's declaration must state that she has an application for a tax file number pending. The woman must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the woman will fail to satisfy the requirement to provide her tax file number

and widow B pension will not be payable.

New section 367A is inserted as a consequence of section 81 of the Social Security Legislation Amendment Act 1990.

Section 368 - repeal and substitute new section 368

A new section 368 replaces the old one. The new multiple entitlement exclusion rule for widow B pension makes it clear that, if a woman is already receiving a service pension, a widow B pension is not payable to her. However, if the woman is already receiving a widow B pension and another social security pension, a social security benefit or a service pension becomes payable to her, it is the widow B pension that is not payable and not the second payment.

New section 392A, inserted by this Schedule, provides an automatic termination rule for the widow B pension where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions or benefits. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New subsection 368(3) is simply a restatement in subsection form of existing paragraph 368(b) in the Principal Act and there is no change in effect.

New section 368 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 372 - insert new section 372A

New section 372A is to be inserted in Division 2 which deals with a claim for a widow B pension.

New section 372A allows the Secretary to require a claimant for a widow B pension to provide a written statement of her tax file number. The Secretary may only do this if the claimant is in Australia. If a requirement is made under this section, then new section 367A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for widow B pension not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 367A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 372A is inserted as a consequence of section 81 of the Social Security Legislation Amendment Act 1990.

Section 382 - repeal and substitute new section 382

A new section 382 is to be inserted to replace current section 382. New section 382 provides that, except where nominee payment arrangements are approved by the Secretary under section 383, a woman's widow B pension is to be paid to her. Section 382 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 384 below.

New section 382 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 384 - repeal and substitute new section 384

A new section 384 is to be inserted to replace current section 384. In broad terms, new section 384 would provide that a person's widow B pension payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule. This would include a person acting as an agent for a widow B pensioner under section 166.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 384 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 389 - insert new section 388A

New section 388A is to be inserted in the recipient obligations Division for widow B pension.

This new section provides exactly the same rules for a recipient of a widow B pension as new section 372A does for a claimant of a widow B pension with regard to the requirement to provide her tax file number.

New section 388A is inserted as a consequence of section 81 of the Social Security Legislation Amendment Act 1990.

Paragraph 392(1)(c) - insertion

Paragraph 392(1)(c) of the Principal Act lists the provisions that cause a woman's widow B pension to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

A reference to new section 392A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic termination where a widow B pension recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 393 - insert new section 392A

A new section 392A is inserted in the Subdivision in the Principal Act dealing with automatic termination of a widow B pension.

Following on from the multiple entitlement exclusion rule in new section 368 which is inserted by this Schedule, new section 392A specifies that a woman's widow B pension

ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to her. This makes sure that a woman can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 392A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 407 - insert new subsection 407(3)

New subsection 407(3) is to be inserted in the bereavement payments Subdivision dealing with the death of a recipient of a widow B pension.

The new subsection concerns the death of a recipient of a widow B pension who was or would have been qualified for a bereavement payment under Subdivision A on the death of a dependent child. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the widow B pension recipient.

New subsection 407(3) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 408 - insert new note

A note is to be inserted to indicate to the reader that, if a person qualifies for fringe benefits in accordance with Division 10 of Part 2.8 (Widow B Pension), the person would also qualify for pharmaceutical allowance under new Part 2.22.

After paragraph 411(1)(b) - insert new paragraph 411(1)(ba)

A new paragraph 411(1)(ba) is to be inserted. This will add to the existing list of situations where a sheltered employment allowance may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her partner - see new sections 412A and 412B, inserted by this Schedule.

New paragraph 411(1)(ba) is inserted as a consequence of section 57 of the Social Security Legislation Amendment Act 1990.

After section 412 - insert new sections 412A and 412B

New sections 412A and 412B are to be inserted in the Subdivision dealing with payability of sheltered employment allowance. New section 412A deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 412B makes similar provisions where the person is required to provide his or her partner's tax file number.

New subsection 412A(1) specifies that a sheltered employment allowance is not payable to a person if he or she is required under either new section 418A (as a claimant) or new section 434A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 412A(2) or (3).

New subsection 412A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact

and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and sheltered employment allowance will not be payable.

New subsection 412A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and sheltered employment allowance will not be payable.

New section 412B provides similar rules to new section 412A where the person is a member of a couple and is required under either new section 418B (as a claimant) or new section 434B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 412B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 412A(2) and (3) do for the person's number.

However, new subsection 412B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if

satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 412A and 412B are inserted as a consequence of section 57 of the Social Security Legislation Amendment Act 1990.

Section 413 - repeal and substitute new section 413

A new section 413 replaces the old one. The new multiple entitlement exclusion rule for sheltered employment allowance makes it clear that, if a person is already receiving a service pension, a sheltered employment allowance is not payable to the person. However, if the person is already receiving a sheltered employment allowance and another social security pension, a social security benefit or a service pension becomes payable to the person, it is the sheltered employment allowance that is not payable and not the second payment.

New section 438A, inserted by this Schedule, provides an automatic termination rule for the sheltered employment allowance where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions or benefits. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New section 413 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 418 - insert new sections 418A and 418B

New sections 418A and 418B are to be inserted in Division 2 which deals with a claim for a sheltered employment allowance.

New section 418A allows the Secretary to require a claimant for a sheltered employment allowance to provide a written statement of his or her tax file number. If a requirement is made under this section, then new section 412A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for sheltered employment allowance not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 412A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 418B allows the Secretary to require a claimant for a sheltered employment allowance who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 412B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for sheltered employment allowance not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 412B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 412B(4).

New sections 418A and 418B are inserted as a consequence of section 57 of the Social Security Legislation Amendment Act 1990.

Section 428 - repeal and substitute new section 428

A new section 428 is to be inserted to replace current

section 428. New section 428 provides that, except where nominee payment arrangements are approved by the Secretary under section 429, a person's sheltered employment allowance is to be paid to the person. Section 428 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 430 below.

New section 428 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 430 - repeal and substitute new section 430

A new section 430 is to be inserted to replace current section 430. In broad terms, new section 430 would provide that a person's sheltered employment allowance payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 430 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 435 - insert new sections 434A and 434B

New sections 434A and 434B are to be inserted in the recipient obligations Division for sheltered employment allowance.

These new sections provide exactly the same rules for a recipient of a sheltered employment allowance as new sections 418A and 418B do for a claimant of a sheltered employment allowance with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 434A and 434B are inserted as a consequence of section 57 of the Social Security Legislation Amendment Act 1990.

Paragraph 438(1)(c) - insertion

Paragraph 438(1)(c) of the Principal Act lists the provisions that cause a person's sheltered employment allowance to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

A reference to new section 438A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic termination where a sheltered employment allowance recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Paragraph 438(2)(a) - insertion

Paragraph 438(2)(a) of the Principal Act lists the provisions that cause a person's sheltered employment allowance rate to be automatically reduced and therefore bring the effect of the subsisting rate determination to a close.

A reference to new section 440A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic rate reduction where a sheltered employment allowance recipient's partner starts to receive an income support payment which causes the person's sheltered employment allowance rate to be reduced.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 439 - insert new section 438A

A new section 438A is inserted in the Subdivision in the Principal Act dealing with automatic termination of a sheltered employment allowance.

Following on from the multiple entitlement exclusion rule in new section 413 which is inserted by this Schedule, new section 438A specifies that a person's sheltered employment allowance ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to the person. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 438A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 441 - insert new section 440A

A new section 440A is inserted in the Subdivision in the Principal Act dealing with automatic rate reduction of a sheltered employment allowance.

If a person who is receiving a sheltered employment allowance and is a member of a couple suffers a rate reduction because his or her partner starts to receive a social security or service income support payment, then the sheltered employment allowance becomes payable at the lower rate on the day on which the partner starts to receive that payment. This could happen, for example, because a lower maximum basic rate applies (under Pension Rate Calculator A or B of the Principal Act) if a person's partner is receiving an income support payment than applies if the partner is not receiving such a payment. It could also happen if part of the person's rate had been in lieu of wife or carer pension for his or her partner under paragraph 422(1)(b) of the Principal Act and the partner then starts to receive a payment in his or her own right. The new section makes sure that the person's sheltered employment allowance rate is automatically correct for such a situation. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223B which is also inserted by this Schedule.

New section 440A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 458 - insert new subsections 458(3) and (4)

New subsections 458(3) and (4) are to be inserted in the bereavement payments Subdivision dealing with the death of a recipient of a sheltered employment allowance.

New subsection 458(3) concerns the death of a recipient of a sheltered employment allowance who was or would have been qualified for a bereavement payment under Subdivision B on the death of a dependent child. This situation might arise where, for example, the sheltered employment allowance recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the

Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the sheltered employment allowance recipient.

New subsection 458(3) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 458(4) concerns a deceased sheltered employment allowance recipient where the circumstances are exactly the same as in new subsection 458(3) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the sheltered employment allowance recipient.

New subsection 458(4) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 459 - insert new note

A note is to be inserted to indicate to the reader that, if a person qualifies for fringe benefits in accordance with Division 10 of Part 2.9 (Sheltered Employment Allowance), the person would also qualify for pharmaceutical allowance under new Part 2.22.

After paragraph 462(1)(b) - insert new paragraph 462(1)(ba)

A new paragraph 462(1)(ba) is to be inserted. This will add to the existing list of situations where a rehabilitation allowance may not be payable to a person even though he or she

is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her partner - see new sections 463A and 463B, inserted by this Schedule.

New paragraph 462(1)(ba) is inserted as a consequence of section 59 of the Social Security Legislation Amendment Act 1990.

After section 463 - insert new sections 463A and 463B

New sections 463A and 463B are to be inserted in the Subdivision dealing with payability of rehabilitation allowance. New section 463A deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 463B makes similar provisions where the person is required to provide his or her partner's tax file number.

New subsection 463A(1) specifies that a rehabilitation allowance is not payable to a person if he or she is required under either new section 467A (as a claimant) or new section 484A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 463A(2) or (3).

New subsection 463A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the

person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and rehabilitation allowance will not be payable.

New subsection 463A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and rehabilitation allowance will not be payable.

New section 463B provides similar rules to new section 463A where the person is a member of a couple and is required under either new section 467B (as a claimant) or new section 486B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 463B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 463A(2) and (3) do for the person's number.

However, new subsection 463B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 463A and 463B are inserted as a consequence of

section 59 of the Social Security Legislation Amendment Act 1990.

Section 464 - repeal and substitute new section 464

A new section 464 replaces the old one. The new multiple entitlement exclusion rule for rehabilitation allowance makes it clear that, if a person is already receiving a service pension, a rehabilitation allowance is not payable to the person. However, if the person is already receiving a rehabilitation allowance and another social security pension, a social security benefit or a service pension becomes payable to the person, it is the rehabilitation allowance that is not payable and not the second payment.

New section 490A, inserted by this Schedule, provides an automatic termination rule for the rehabilitation allowance where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions or benefits. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New section 464 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 467 - insert new sections 467A and 467B

New sections 467A and 467B are to be inserted in Division 2 which deals with a claim for a rehabilitation allowance.

New section 467A allows the Secretary to require a claimant for a rehabilitation allowance to provide a written statement of his or her tax file number. If a requirement is made under this section, then new section 463A, inserted by this Schedule,

will govern how the claimant may satisfy the requirement and will provide for rehabilitation allowance not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 463A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 467B allows the Secretary to require a claimant for a rehabilitation allowance who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 463B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for rehabilitation allowance not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 463B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 463B(4).

New sections 467A and 467B are inserted as a consequence of section 59 of the Social Security Legislation Amendment Act 1990.

Section 480 - repeal and substitute new section 480

A new section 480 is to be inserted to replace current section 480. New section 480 provides that, except where nominee payment arrangements are approved by the Secretary under section 481, a person's rehabilitation allowance is to be paid to the person. Section 480 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 482 below.

New section 480 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 482 - repeal and substitute new section 482

A new section 482 is to be inserted to replace current section 482. In broad terms, new section 482 would provide that a person's rehabilitation allowance payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 482 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 487 - insert new sections 486A and 486B

New sections 486A and 486B are to be inserted in the recipient obligations Division for rehabilitation allowance.

These new sections provide exactly the same rules for a

recipient of a rehabilitation allowance as new sections 467A and 467B do for a claimant of a rehabilitation allowance with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 486A and 486B are inserted as a consequence of section 59 of the Social Security Legislation Amendment Act 1990.

Paragraph 490(1)(c) - insertion

Paragraph 490(1)(c) of the Principal Act lists the provisions that cause a person's rehabilitation allowance to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

A reference to new section 490A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic termination where a rehabilitation allowance recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Paragraph 490(2)(a) - insertion

Paragraph 490(2)(a) of the Principal Act lists the provisions that cause a person's rehabilitation allowance rate to be automatically reduced and therefore bring the effect of the subsisting rate determination to a close.

A reference to new section 492A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic rate reduction where a rehabilitation allowance recipient's partner starts to receive an income support payment which causes the person's rehabilitation allowance rate to be reduced.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 491 - insert new section 490A

A new section 490A is inserted in the Subdivision in the Principal Act dealing with automatic termination of a rehabilitation allowance.

Following on from the multiple entitlement exclusion rule in new section 464 which is inserted by this Schedule, new section 490A specifies that a person's rehabilitation allowance ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to the person. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 490A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 493 - insert new section 492A

A new section 492A is inserted in the Subdivision in the Principal Act dealing with automatic rate reduction of a rehabilitation allowance.

If a person who is receiving a rehabilitation allowance and is a member of a couple suffers a rate reduction because his or her partner starts to receive a social security or service income support payment, then the rehabilitation allowance becomes payable at the lower rate on the day on which the partner starts to receive that payment. This could happen, for example, if a Rate Calculator of the Principal Act provides for a lower maximum basic rate to apply if the person's partner is

receiving an income support payment than if the partner is not receiving such a payment, or if an additional amount for the dependent partner is not payable if the partner is receiving such a payment. It could also happen if part of the person's rate had been in lieu of wife or carer pension for his or her partner under subparagraph 474(1)(b)(ii) of the Principal Act and the partner then starts to receive a payment in his or her own right. The new section makes sure that the person's rehabilitation allowance rate is automatically correct for such a situation. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223B which is also inserted by this Schedule.

New section 492A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 510 - insert new subsections 510(3) and (4)

New subsections 510(3) and (4) are to be inserted in the bereavement payments Subdivision dealing with the death of a recipient of a rehabilitation allowance.

New subsection 510(3) concerns the death of a recipient of a rehabilitation allowance who was or would have been qualified for a bereavement payment under Subdivision B on the death of a dependent child. This situation might arise where, for example, the rehabilitation allowance recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the rehabilitation allowance recipient.

New subsection 510(3) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 510(4) concerns a deceased rehabilitation allowance recipient where the circumstances are exactly the same as in new subsection 510(3) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the rehabilitation allowance recipient.

New subsection 510(4) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 511 - insert new note

A note is to be inserted to indicate to the reader that, if a person qualifies for fringe benefits in accordance with Division 10 of Part 2.10 (Rehabilitation Allowance), the person would also qualify for pharmaceutical allowance under new Part 2.22.

Section 533 - insert new subsection 533(6)

A new modification to the provisional commencement day rule is being made for a person who claims job search allowance as a result of a major disaster. If the person claims job search allowance within 14 days of claiming a disaster relief payment for which he or she is qualified (under new Part 2.24, inserted by this Schedule), then the provisional commencement day is the day the person was affected by the disaster.

New subsection 533(6) is inserted as a consequence of paragraph 70(e) of the Social Security Legislation Amendment Act 1990.

Before section 590 - insert Subdivision heading

The bereavement payment provisions for job search allowance are now split into two Subdivisions as a result of the insertion of new Subdivision B and section 592A by this Schedule.

After section 592 - insert new Subdivision B and section 592A

New subsections 592A(1) and (2) are to be inserted in a new bereavement payments Subdivision dealing with the death of a recipient of job search allowance.

New subsection 592A(1) concerns the death of a recipient of job search allowance who was or would have been qualified for a bereavement payment under Subdivision A on the death of a dependent child. This situation might arise where, for example, the job search allowance recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the job search allowance recipient.

New subsection 592A(1) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 592A(2) concerns a deceased job search allowance recipient where the circumstances are exactly the same as in new subsection 592A(1) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the

child died before or after the job search allowance recipient.

New subsection 592A(2) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

The job search allowance provisions amended here are inserted in the Principal Act by the Social Security (Job Search and Newstart) Amendment Bill 1991 which is to commence before this Bill.

Before section 660M - insert Subdivision heading

The bereavement payment provisions for newstart allowance are now split into two Subdivisions as a result of the insertion of new Subdivision B and section 660P by this Schedule.

After section 660O - insert new Subdivision B and section 660P

New subsections 660P(1) and (2) are to be inserted in a new bereavement payments Subdivision dealing with the death of a recipient of newstart allowance.

New subsection 660P(1) concerns the death of a recipient of newstart allowance who was or would have been qualified for a bereavement payment under Subdivision A on the death of a dependent child. This situation might arise where, for example, the newstart allowance recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the newstart allowance recipient.

New subsection 660P(1) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 660P(2) concerns a deceased newstart allowance recipient where the circumstances are exactly the same as in new subsection 660P(1) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the newstart allowance recipient.

New subsection 660P(2) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

The newstart allowance provisions amended here are inserted in the Principal Act by the Social Security (Job Search and Newstart) Amendment Bill 1991 which is to commence before this Bill.

After section 664 - insert new sections 664A and 664B

New sections 664A and 664B are to be inserted.

New section 664A provides for an employment entry payment to assist sole parent pensioners re-entering the workforce. This payment is designed to help sole parent pensioners meet the initial costs of commencing employment, such as essential clothing, transport to work and union fees.

New subsection 664A(1) lists the following criteria a sole parent pensioner must meet to qualify for an employment entry payment:

- . the person's income from employment rises (including where a person commences employment); and

- . immediately before this rise in income the person was receiving a sole parent pension; and
- . because of the rise in the person's income from employment, the person's ordinary income equals or exceeds the threshold amount under new subsection 664A(4) and is likely to do so for more than four weeks; and
- . the person has not received an employment entry payment within the last 12 months.

New subsections 664A(2) and 664A(3) will allow the Secretary to make an employment entry payment before either the person commences employment or the person's income from employment is to rise. This will be done where the person has an employment agreement in place and that employment will qualify him or her for the payment. The Secretary must remain satisfied as to these matters up to the time the payment is made. In setting the time for payment, the Secretary may not pay it any earlier than 14 days before the employment is to commence or the income from employment is to rise.

New subsection 664A(4) establishes the "threshold amount" referred to in new subsection 664A(1). It is the amount of ordinary income that a person could earn, derive or receive without newstart allowance ceasing to be payable so long as the person:

- . was not a member of a couple; and
- . had one child who had not turned 13; and
- . was not sharing his or her dependent child add-on with any other person; and
- . was not receiving rent assistance; and
- . was not receiving maintenance income.
- . was not receiving remote area allowance.

The reference to the newstart allowance and ordinary income test in this definition will ensure recipients of the sole parent pension employment entry payment are treated equitably with recipients of the newstart allowance employment entry payment.

New section 664B provides that the amount of employment entry payment under new section 664A is \$100.

New sections 664A (other than subsection (3)) and 664B are inserted as a consequence of section 75 of the Social Security Legislation Amendment Act 1990.

New subsection 664A(3) is inserted as a consequence of clause 20 of the Social Security Legislation Amendment Bill 1991 which seeks amendment of the Social Security Act 1947.

Subsection 665(1) - omission and substitution

Subsection 665(1) of the Principal Act is amended. This amendment makes it mandatory for a sole parent pension recipient to make a claim for an employment entry payment in order to to qualify for that payment.

Subsection 665(1) is amended as a consequence of clause 20 of the Social Security Legislation Amendment Bill 1991 which seeks amendment of the Social Security Act 1947.

After subsection 665(2) - insert new subsection 665(3)

New subsection 665(3) is to be inserted into the Principal Act.

This provides that a sole parent pensioner is not qualified for an employment entry payment (under new section 664A) if the claim for payment is made more than 28 days after the rise in the income from employment.

New subsection 665(3) is inserted as a consequence of clause 20 of the Social Security Legislation Amendment Bill 1991 which seeks amendment of the Social Security Act 1947.

After section 668 - insert new section 668A

New section 668A generally provides for a person's disqualification from sickness benefit where the person has "liquid assets" above a certain level.

New subsection 668A(1) provides that a person claiming sickness benefit who has "liquid assets" exceeding the person's "maximum reserve" (\$5,000 in the case of a person who is not a member of a couple and does not have a dependent child and \$10,000 in any other case) on the day on which the person either becomes incapacitated for work or claims sickness benefit, is not qualified for sickness benefit unless the person has already served a liquid assets test waiting period in relation to that claim.

The liquid assets waiting period does not apply where the person is a "transferee to sickness benefit".

Notes 1 and 2 signpost the provisions which define what is meant by "liquid assets" and "maximum reserve". Note 3 directs the reader to the provision relating to "transferee to a sickness benefit". Note 4 signposts the provision outlining the situations in which a person is taken to have served the liquid assets test waiting period.

New subsection 668A(2) states that the liquid assets test waiting period is 4 weeks.

Under new subsection 668A(3), a person's liquid assets test waiting period in relation to a claim starts on the day on which the person becomes incapacitated for work.

New subsection 668A(4) deals with the situation where a person initially becomes unemployed and, because of the operation of the job search or newstart allowance liquid assets test waiting period, is not qualified for job search or newstart allowance for the 4 weeks after he or she becomes unemployed. Where such a person becomes incapacitated for work within the 4 week liquid assets test waiting period and applies for sickness benefit, then the sickness benefit liquid assets test waiting period starts on the day on which the person becomes unemployed.

This provision would ensure that a person is not disqualified from payment for two liquid assets test waiting periods where the person is initially unemployed but, within the 4 week job search or newstart allowance liquid assets test waiting period, becomes incapacitated.

New section 668A is inserted as a consequence of section 44 of the Social Security Legislation Amendment Act 1990.

Paragraph 669(1)(a) - omit and substitute
new paragraph 669(1)(a)

New paragraph 669(1)(a) replaces the old one. This is one of the list of situations where a sickness benefit may not be payable to a person even though he or she is qualified for it. The paragraph previously only covered the situation where the person has not provided his or her tax file number. The new paragraph is expanded to take in the situation where the person has not provided a tax file number for his or her partner - see new section 670A, inserted by this Schedule.

New paragraph 669(1)(a) is inserted as a consequence of section 50 of the Social Security Legislation Amendment Act 1990.

After section 670 - insert new section 670A

New section 670A is to be inserted in the Subdivision dealing with payability of sickness benefit. It extends the current requirement contained in section 670 of the Principal Act for a sickness benefit recipient to supply his or her own tax file number to the Secretary so that the person's partner's tax file number may also be required.

New section 670A provides for a person who is a member of a couple to be required under either new section 692A (as a claimant) or new section 712A (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 670A(2) or (3).

New subsection 670A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her partner's tax file number. If the partner has a tax file number but does not know what it is, the partner's declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The partner must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the partner has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her partner's tax file number and sickness benefit will not be payable (subject to subsection (4)).

New subsection 670A(3) provides an alternative means of satisfying the requirement. The partner's declaration must state that he or she has an application for a tax file number pending. The partner must also give authority to the Secretary to find out about the application and tax file number directly

from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her partner's tax file number and sickness benefit will not be payable (subject to subsection (4)).

New subsection 670A(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New section 670A is inserted as a consequence of section 50 of the Social Security Legislation Amendment Act 1990.

Subsection 674(1) - omit and substitute new subsection 674(1)

A new subsection 674(1) replaces the old one. This is to clarify three points on the rule governing non-payability of sickness benefit to full-time students.

Firstly, sickness benefit payability will depend upon whether a person is "enrolled" rather than "engaged" in a full-time course. Secondly, the non-payability rule is extended to full-time vocational training as well as full-time courses of education. Thirdly, it is being made clear that the period for which sickness benefit is not payable finishes when the person either completes or abandons the course or formally withdraws from it, either totally or to the extent that it would no longer be a full-time course.

New subsection 674(1) is inserted as a consequence of section 55 of the Social Security Legislation Amendment Act 1990.

Paragraph 674(2)(a) - omission and substitution

The term "engaged in a course" in paragraph 674(2)(a) of the Principal Act is changed to "enrolled in a course" to reflect one of the changes effected in new subsection 674(1), inserted by this Schedule.

This omission and substitution is a consequence of section 55 of the Social Security Legislation Amendment Act 1990.

Section 675 - repeal and substitute new section 675

A new section 675 replaces the old one. The new multiple entitlement exclusion rule for sickness benefit makes it clear that, if a person is already receiving a service pension, sickness benefit is not payable to the person. However, if the person is already receiving sickness benefit and a social security pension, another social security benefit or a service pension becomes payable to the person, it is the sickness benefit that is not payable and not the second payment.

New section 716A, inserted by this Schedule, provides an automatic termination rule for the sickness benefit where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions or benefits. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New subsections 675(3) and (4) are simply restatements in subsection form of existing paragraphs 675(b) and (c) in the Principal Act and there is no change in effect.

New subsection 675(5) is the existing subsection 675(2) in the Principal Act.

New section 675 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 676 - insert new subsection 676(3)

A new modification to the provisional commencement day rule is being made for a person who claims sickness benefit as a result of a major disaster. If the person claims sickness benefit within 14 days of claiming a disaster relief payment for which he or she is qualified (under new Part 2.24, inserted by this Schedule), then the provisional commencement day is the day the person was affected by the disaster.

New subsection 676(3) is inserted as a consequence of paragraph 70(e) of the Social Security Legislation Amendment Act 1990.

After paragraph 683(1)(b) - insert new paragraph 683(1)(c)

After paragraph 683(2)(b) - new paragraph 683(2)(c)

At the end of section 683 - insert new subsections 683(3) and (4)

These three amendments all work together to supplement the liquid assets test provisions for sickness benefit in new section 668A, inserted by this Schedule.

These three amendments make it clear how the timing of the waiting period under the liquid assets test meshes in with the ordinary and unused annual leave waiting periods. Basically, the liquid assets test waiting period of four weeks is served concurrently with the unused annual leave waiting period but is in addition to the ordinary waiting period.

The liquid assets test waiting period will also be concurrent with the education leavers waiting period under sections 684

and 685 of the Principal Act and in addition to any non-payment period imposed for recipient non-compliance under section 686. However, it is not necessary to spell this out in the legislation as the provisions automatically achieve this effect.

These three amendments are inserted as a consequence of section 44 and paragraph 49(c) of the Social Security Legislation Amendment Act 1990.

Paragraph 684(1)(a) - omission and substitution

A minor amendment is being made to paragraph 684(1)(a) of the Principal Act to pick up the words used in the related new subsection 674(1), inserted by this Schedule ("full-time course of education of at least 6 months duration"). There is no change in the effect of the paragraph.

This amendment is a consequence of section 55 of the Social Security Legislation Amendment Act 1990.

Subsection 687(2) - insertion

Subsection 687(2) of the Principal Act provides a rule for a sickness benefit claim to be taken not to have been made if it cannot be granted when made because the person is not qualified. This amendment makes it clear that the rule does not apply where the person is disqualified from sickness benefit because of the liquid assets test waiting period provision in new section 668A, inserted by this Schedule.

This amendment is a consequence of paragraph 69(c) of the Social Security Legislation Amendment Act 1990.

After section 692 - insert new section 692A

New section 692A is to be inserted in Division 2 which deals with a claim for a rehabilitation allowance. It complements the current requirement contained in section 670 of the Principal Act for a sickness benefit recipient to supply his or her own tax file number to the Secretary so that the person's partner's tax file number may also be required.

New section 692A allows the Secretary to require a claimant for sickness benefit who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 670A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for sickness benefit not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 670A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 670A(4).

New section 692A is inserted as a consequence of section 50 of the Social Security Legislation Amendment Act 1990.

Section 697 - repeal

This section is repealed because the provision is now encompassed within the new Part 2.24 on disaster relief payments, inserted by this Schedule.

The repeal is a consequence of section 68 of the Social Security Legislation Amendment Act 1990.

Section 706 - repeal and substitute new section 706

A new section 706 is to be inserted to replace current section 706. New section 706 provides that, except where nominee payment arrangements are approved by the Secretary under section 707, a person's sickness benefit is to be paid to the person. Section 706 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 706 below.

New section 706 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 708 - repeal and substitute new section 708

A new section 708 is to be inserted to replace current section 708. In broad terms, new section 708 would provide that a person's sickness benefit payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 708 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 713 - insert new section 712A

New section 712A is to be inserted in the recipient obligations Division for sickness benefit.

This new section provides exactly the same rules for a recipient of sickness benefit as new section 692A does for a claimant of sickness benefit with regard to the requirement to provide his or her partner's tax file number.

New section 712A is inserted as a consequence of section 50 of the Social Security Legislation Amendment Act 1990.

Paragraph 716(1)(c) - insertion

Paragraph 716(1)(c) of the Principal Act lists the provisions that cause a person's sickness benefit to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

A reference to new section 716A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic termination where a sickness benefit recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Paragraph 716(2)(a) - insertion

Paragraph 716(2)(a) of the Principal Act lists the provisions that cause a person's sickness benefit rate to be automatically reduced and therefore bring the effect of the subsisting rate determination to a close.

A reference to new section 718A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic rate reduction where a sickness benefit recipient's partner starts to receive an income support payment which causes the person's sickness benefit rate to be reduced.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 717 - insert new section 716A

A new section 716A is inserted in the Subdivision in the Principal Act dealing with automatic termination of sickness benefit.

Following on from the multiple entitlement exclusion rule in new section 675 which is inserted by this Schedule, new section 716A specifies that a person's sickness benefit ceases to be payable immediately before a social security pension, another social security benefit or a service pension becomes payable to the person. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to

the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 716A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 719 - insert new section 718A

A new section 718A is inserted in the Subdivision in the Principal Act dealing with automatic rate reduction of sickness benefit.

If a person who is receiving sickness benefit and is a member of a couple suffers a rate reduction because his or her partner starts to receive a social security or service income support payment, then the sickness benefit becomes payable at the lower rate on the day on which the partner starts to receive that payment. This could happen, for example, if Benefit Rate Calculator A or B of the Principal Act provides that an additional amount for a dependent partner is not payable if the partner is receiving an income support payment. The new section makes sure that the person's sickness benefit rate is automatically correct for such a situation. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223B which is also inserted by this Schedule.

New section 718A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 726 - insert Subdivision heading

The bereavement payment provisions for sickness benefit are now split into two Subdivisions as a result of the insertion of new Subdivision B and section 728A by this Schedule.

After section 728 - insert new Subdivision B and section 728A

New subsections 728A(1) and (2) are to be inserted in a new bereavement payments Subdivision dealing with the death of a recipient of sickness benefit.

New subsection 728A(1) concerns the death of a recipient of sickness benefit who was or would have been qualified for a bereavement payment under Subdivision A on the death of a dependent child. This situation might arise where, for example, the sickness benefit recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the sickness benefit recipient.

New subsection 728A(1) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 728A(2) concerns a deceased sickness benefit recipient where the circumstances are exactly the same as in new subsection 728A(1) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the sickness benefit recipient.

New subsection 728A(2) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Paragraph 729(2)(f) - omit and substitute
new paragraphs 729(2)(f) and 729(2)(fa)

New paragraphs 729(2)(f) and 729(2)(fa) are to replace old paragraph 729(2)(f). Section 729 of the Principal Act sets out the qualification provisions for special benefit.

New paragraph 729(2)(f) provides the residence criteria for qualification for special benefit. A person would meet the residence criteria if the person is:

- . an Australian resident; or
- . a New Zealand citizen who is exempted under section 106 of the Migration Act 1958 from the requirement for entry permits; or
- . the holder of a refugee (temporary) entry permit under Migration Act 1958 regulations; or
- . an applicant for a refugee (temporary) entry permit who the Department of Immigration Local Government and Ethnic Affairs advise has a substantial claim for the permit; or
- . the holder of a PRC (temporary) entry permit under those regulations; or
- . an applicant for a PRC (temporary) entry permit who the Department of Immigration Local Government and Ethnic Affairs advise has a substantial claim for the permit.

PRC (temporary) entry permits are granted to Nationals from the People's Republic of China who were in Australia as at 20 June 1989. The permit is guaranteed to last for four years.

New paragraph 729(2)(fa) provides that a person must be in Australia throughout the period in which special benefit is to be granted.

New paragraphs 729(2)(f) and 729(2)(fa) are inserted as a consequence of section 53 of the Social Security Legislation Amendment Act 1990.

Section 731 - insert new subsection 731(3)

A new modification to the provisional commencement day rule is being made for a person who claims special benefit as a result of a major disaster. If the person claims special benefit within 14 days of claiming a disaster relief payment for which he or she is qualified (under new Part 2.24, inserted by this Schedule), then the provisional commencement day is the day the person was affected by the disaster.

New subsection 731(3) is inserted as a consequence of paragraph 70(e) of the Social Security Legislation Amendment Act 1990.

After Paragraph 732(1)(a) - insert new paragraph 732(1)(aa)

A new paragraph 732(1)(aa) is to be inserted. This will add to the existing list of situations where a special benefit may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her partner - see new sections 734A and 734B, inserted by this Schedule.

New paragraph 732(1)(aa) is inserted as a consequence of section 51 of the Social Security Legislation Amendment Act 1990.

After section 734 - insert new sections 734A and 734B

New sections 734A and 734B are to be inserted in the Subdivision dealing with payability of special benefit.

New section 734A deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 734B makes similar provisions where the person is required to provide his or her partner's tax file number.

New subsection 734A(1) specifies that special benefit is not payable to a person if he or she is required under either new section 742A (as a claimant) or new section 758A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 734A(2) or (3).

New subsection 734A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and special benefit will not be payable.

New subsection 734A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax

file number and special benefit will not be payable.

New section 734B provides similar rules to new section 734A where the person is a member of a couple and is required under either new section 742B (as a claimant) or new section 758B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 734B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 734A(2) and (3) do for the person's number.

However, new subsection 734B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 734A and 734B are inserted as a consequence of section 51 of the Social Security Legislation Amendment Act 1990.

Section 735 - repeal and substitute new section 735

A new section 735 replaces the old one. The new multiple entitlement exclusion rule for special benefit makes it clear that, if a person is already receiving a service pension, special benefit is not payable to the person. However, if the person is already receiving special benefit and a social security pension, another social security benefit or a service pension becomes payable to the person, it is the special benefit that is not payable and not the second payment.

New section 762A, inserted by this Schedule, provides an automatic termination rule for the special benefit where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions. Note 3 signposts the provision governing the date of effect of the cessation of payability.

New subsection 735(3) is simply a restatement in subsection form of existing paragraph 735(b) in the Principal Act and there is no change in effect.

New section 735 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Subsection 737(1) - omission and substitution

A minor amendment is being made to subsection 737(1) of the Principal Act to pick up the words used in the related new subsection 737(2), inserted by this Schedule ("enrolled in a full-time course of education or vocational training"). There is no change in the effect of the paragraph.

This amendment is a consequence of section 55 of the Social Security Legislation Amendment Act 1990.

Subsection 737(2) - omit and substitute new subsection 737(2)

A new subsection 737(2) replaces the old one. This is to clarify three points on the rule governing non-payability of special benefit to full-time students.

Firstly, special benefit payability will depend upon whether a person is "enrolled" rather than "engaged" in a full-time

course. Secondly, the non-payability rule is extended to full-time vocational training as well as full-time courses of education. Thirdly, it is being made clear that the period for which sickness benefit is not payable finishes when the person either completes or abandons the course or formally withdraws from it, either totally or to the extent that it would no longer be a full-time course.

New subsection 737(2) is inserted as a consequence of section 55 of the Social Security Legislation Amendment Act 1990.

Paragraph 737(3)(a) - omission and substitution

This amendment flows from new subsection 737(2), inserted by this Schedule. The term "engaged" in a course is replaced with "enrolled" in a course. The amendment is a consequence of section 55 of the Social Security Legislation Amendment Act 1990.

After section 742 - new sections 742A and 742B

New sections 742A and 742B are to be inserted in Division 2 which deals with a claim for special benefit.

New section 742A allows the Secretary to require a claimant for special benefit to provide a written statement of his or her tax file number. If a requirement is made under this section, then new section 734A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for special benefit not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 734A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 742B allows the Secretary to require a claimant for special benefit who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 734B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for special benefit not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 734B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 734B(4).

New sections 742A and 742B are inserted as a consequence of section 51 of the Social Security Legislation Amendment Act 1990.

Section 747 - repeal

This section is repealed because the provision is now encompassed within the new Part 2.24 on disaster relief payments, inserted by this Schedule.

The repeal is a consequence of section 68 of the Social Security Legislation Amendment Act 1990.

Section 752 - repeal and substitute new section 752

A new section 752 is to be inserted to replace current section 752. New section 752 provides that, except where nominee payment arrangements are approved by the Secretary under section 753, a person's special benefit is to be paid to the person. Section 752 is to be repealed as part of the amendment dealing with general move to have all social security

payments made by direct credit except in special circumstances
- see new section 754 below.

New section 752 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 754 - repeal and substitute new section 754

A new section 754 is to be inserted to replace current section 754. In broad terms, new section 754 would provide that a person's special benefit payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 754 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 759 - insert new sections 758A and 758B

New sections 758A and 758B are to be inserted in the recipient obligations Division for special benefit.

These new sections provide exactly the same rules for a recipient of special benefit as new sections 742A and 742B do for a claimant of special benefit with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 758A and 758B are inserted as a consequence of section 51 of the Social Security Legislation Amendment Act 1990.

After paragraph 762(1)(c) - insert new paragraph 762(1)(ca)

Subsection 762(1) of the Principal Act governs the continuing effect of a person's special benefit entitlement determination. Such a determination continues in effect until either the period for which benefit was granted ends or the benefit is cancelled or suspended under section 765.

In new paragraph 762(1)(ca), a reference is introduced to a new provision which will cause the special benefit to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close. This is new section 762A which is inserted by this Schedule and provides for an automatic termination where a special benefit recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 762 - insert new Subdivision AA and section 762A

New Subdivision AA, consisting of new section 762A, is inserted in the Principal Act to deal with automatic termination of special benefit.

Following on from the multiple entitlement exclusion rule in new section 735 which is inserted by this Schedule,

new section 762A specifies that a person's special benefit ceases to be payable immediately before a social security pension, another social security benefit or a service pension becomes payable to the person. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 762A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 769 - insert Subdivision heading

The bereavement payment provisions for special benefit are now split into two Subdivisions as a result of the insertion of new Subdivision B and section 771A by this Schedule.

After section 771 - insert new Subdivision B and section 771A

New subsections 771A(1) and (2) are to be inserted in a new bereavement payments Subdivision dealing with the death of a recipient of special benefit.

New subsection 771A(1) concerns the death of a recipient of special benefit who was or would have been qualified for a bereavement payment under Subdivision A on the death of a dependent child. This situation might arise where, for example, the special benefit recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months

after the child's death. The new provision applies whether the child died before or after the special benefit recipient.

New subsection 771A(1) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 771A(2) concerns a deceased special benefit recipient where the circumstances are exactly the same as in new subsection 771A(1) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the special benefit recipient.

New subsection 771A(2) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 787 - repeal and substitute new section 787

A new section 787 replaces the old one. The new multiple entitlement exclusion rule for special needs pension makes it clear that, if a person is already receiving a service pension, a special needs pension is not payable to the person. However, if the person is already receiving a special needs pension and another social security pension, a social security benefit or a service pension becomes payable to the person, it is the special needs pension that is not payable and not the second payment.

New section 811A, inserted by this Schedule, provides an automatic termination rule for the special needs pension where another payment becomes payable.

Note 1 reminds the reader that, for a payment to become payable, the person generally has to claim it. This implies a wish to move onto a different payment type. Note 2 clarifies that certain allowances are treated as pensions. Note 3

signposts the provision governing the date of effect of the cessation of payability.

New subsection 787(3) is simply a restatement in subsection form of existing paragraph 787(b) in the Principal Act and there is no change in effect.

New section 787 is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 801 - repeal and substitute new section 801

A new section 801 is to be inserted to replace current section 801. New section 801 provides that, except where nominee payment arrangements are approved by the Secretary under section 802, a person's special needs pension is to be paid to the person. Section 801 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 803 below.

New section 801 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 803 - repeal and substitute new section 803

A new section 803 is to be inserted to replace current section 803. In broad terms, new section 803 would provide that a person's special needs pension payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 803 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Paragraphs 811(c) and (d) - insertions

Paragraphs 811(1)(c) and (d) of the Principal Act list the provisions that cause a person's special needs pension to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

References to new section 811A are added to those listed provisions. The new section is inserted by this Schedule and provides for an automatic termination where a special needs pension recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 812 - insert new section 811A

A new section 811A is inserted in the Subdivision in the Principal Act dealing with automatic termination of a special needs pension.

Following on from the multiple entitlement exclusion rule in new section 787 which is inserted by this Schedule, new section 811A specifies that a person's special needs pension ceases to be payable immediately before another social security pension, a social security benefit or a service pension becomes payable to the person. This makes sure that a person can only be paid one income support payment at a time. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule.

New section 811A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Section 830 - insert new subsections 830(3) and (4)

New subsections 830(3) and (4) are to be inserted in the bereavement payments Subdivision dealing with the death of a recipient of a special needs pension.

New subsection 830(3) concerns the death of a recipient of a special needs pension who was or would have been qualified for a bereavement payment under Subdivision B on the death of a dependent child. This situation might arise where, for example, the special needs pension recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the special needs pension recipient.

New subsection 830(3) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 830(4) concerns a deceased special needs pension recipient where the circumstances are exactly the same as in new subsection 830(3) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the special needs pension recipient.

New subsection 830(4) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Section 832 - insert new subsection 832(2)

Section 832 of the Principal Act excludes a "prescribed student child" from the status of a "family allowance child". "Family allowance child" is relevant to a person's qualification for family allowance.

The meaning of "prescribed student child" can be found at subsections 5(11) and (1). A young person who is qualified to receive payments under the Assistance for Isolated Children Scheme (AICS) cannot be a prescribed student child and therefore cannot attract family allowance.

New subsection 832(2) modifies the definition of prescribed student child for the purposes of section 832 with the effect that a young person who is qualified to receive AICS payments can be a family allowance child and therefore attract family allowance for a person. A note signposts the definition of prescribed student child.

New subsection 839(5), inserted by this Schedule, makes a complementary amendment for approved care organisation family allowance.

New subsection 832(2) is inserted as a consequence of paragraph 5(q) of the Social Security Legislation Amendment Act 1990.

Subsection 833(3) - omit and substitute
new subsection 833(3)

Section 833 provides that a dependent child who is over 18 cannot usually be a family allowance child except in certain circumstances. One of the circumstances under which a dependent child who is over 18 can be a family allowance child of a person occurs where the person is receiving a social security or service pension or a social security benefit that is increased by reference to the child. New subsection 833(3) does not necessitate the pension or benefit having to be increased by reference to the child. That reference was superfluous as family allowance is paid to any pensioner or beneficiary with a student child who is aged from 18 to 20 and who is not a prescribed student child (prescribed student child is defined in subsection 5(11) of the Principal Act).

New subsection 833(3) is to be inserted as a consequence of paragraph 38(a) of the Social Security Legislation Amendment Act 1990.

Subsection 833(4) - insert new paragraph 833(4)(d)

Another of the circumstances under which a dependent child who is over 18 can be a family allowance child of a person occurs where the person's income is so low that the person, or his or her partner, could apply for family allowance supplement (FAS) and not be rejected because of the FAS taxable income test. New paragraph 833(4)(d) extends this to allow family allowance to be payable to a person who has a dependent child over 18 if the value of the person's assets would not disqualify him or

her from family allowance supplement (see new paragraph 838(b) and new section 840A in this Schedule).

New paragraph 833(4)(d) is to be inserted as a consequence of paragraph 38(b) of the Social Security Legislation Amendment Act 1990.

Section 835 - repeal and substitute new section 835

New section 835 of the Principal Act will replace the old one. This section deals with the residence requirements for a dependent child to qualify as a family allowance child.

New section 835 is amended by removing all references to 'Australian resident' and substituting references to 'inhabitant of Australia'.

These references to 'inhabitant of Australia' (new definition inserted into subsection 23(1) in this Schedule) will provide that dependent children of holders of a PRC (temporary) entry permit or a refugee (temporary) entry permit under Migration Act 1958 regulations are residentially qualified to be a family allowance child.

PRC (temporary) entry permits are granted to Nationals from the Peoples' Republic of China who were in Australia as at 20 June 1989. The permit is guaranteed to last for four years.

A note signposts to subsection 23(1) for the definition of 'inhabitant of Australia'.

New section 835 is amended as a consequence of section 36 of the Social Security Legislation Amendment Act 1990.

Section 836 - repeal and substitute new section 836

New section 836 is to replace the old one.

New subsection 836(1) provides that a person cannot get family allowance in respect of a dependent child if either the child leaves Australia, or is born outside Australia, and is absent for more than 3 years. If so, the child ceases to be a family allowance child after the first 3 years of absence.

The old subsection 836(1) only restricted payment of family allowance (FA) where a person was in receipt of FA in respect of a child before leaving Australia. This meant that the three-year limitation provisions did not apply to a child born overseas.

New subsection 836(2) provides for the situation where the child has been absent from Australia for less than 3 years and comes to Australia. If the child leaves Australia less than 3 months later, the child is taken to have been continuously absent from Australia for the purposes of new subsection 836(1).

New subsection 836(3) provides that, if a child ceases to be a FA child under new subsection 836(1) before coming to Australia and leaves less than 3 months later, the child ceases to be a FA child from the day he or she left. This will stop a person from coming to Australia with their child for a short period so as to overcome the three-year limitation provisions.

New section 836 is inserted as a consequence of section 37 of the Social Security Legislation Amendment Act 1990.

Paragraph 838(b) - omit and substitute new
paragraphs 838(b) and 838(c)

New paragraph 838(b) of the Principal Act is amended to omit reference to 'Australian resident' and substitute reference to 'inhabitant of Australia' in the family allowance qualification provision.

This new reference to 'inhabitant of Australia' (new definition inserted into subsection 23(1) in this Schedule) will allow holders of a PRC (temporary) entry permit or a refugee (temporary) entry permit under Migration Act 1958 regulations to be residentially qualified for family allowance.

PRC (temporary) entry permits are granted to Nationals from the Peoples' Republic of China who were in Australia as at 20 June 1989. The permit is guaranteed to last for four years.

New paragraph 838(b) is amended as a consequence of section 36 of the Social Security Legislation Amendment Act 1990.

New paragraph 838(c) provides that a person must also satisfy the FA taxable income test to be qualified for family allowance.

New paragraph 838(c) is inserted as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

Section 838 (Note) - omit and substitute new notes

Note 1 signposts the reader to subsection 23(1) for the definition of 'inhabitant of Australia'. Note 2 signposts new section 840A which is the provision dealing with the FA taxable income test.

Section 839 - insert new subsection 839(5)

This new subsection makes a complementary amendment to new subsection 832(2), inserted by this Schedule.

New subsection 839(5) provides that a young person who is qualified to receive payments under the Assistance for Isolated Children Scheme (AICS) is not a "prescribed student child" for the purposes of subsection 839(3) of the Principal Act. The effect of this is that the young person may now attract family allowance for an approved care organisation. A note signposts the definition of "prescribed student child".

New subsection 839(5) is inserted as a consequence of paragraph 5(q) of the Social Security Legislation Amendment Act 1990.

Section 840 - repeal and insert new section 840

New section 840 will replace the old one.

New subsection 840(1) provides that a person is not qualified for family allowance after the first 3 years of absence from Australia while the person remains absent.

The old subsection 840(1) only restricted payment of family allowance (FA) where a person was in receipt of FA before leaving Australia. This meant that the three-year limitation provisions did not apply where family allowance payments are commenced while the person is absent from Australia (ie where a child is born overseas).

New subsection 840(2) provides for the situation where the person has been absent from Australia for less than 3 years and returns to Australia. If the person leaves Australia again less than 3 months later, the person is taken to have been continuously absent from Australia for the purposes of new subsection 840(1).

New subsection 840(3) provides that, if a person is not qualified for family allowance under new subsection 840(1) before returning to Australia and leaves again less than 3 months later, the person would qualify whilst in Australia but cannot qualify after departure from Australia. This will stop a person from making a short trip back to Australia for the purposes of initiating the recommencement of the three-year payment period.

New section 840 is inserted as a consequence of section 37 of the Social Security Legislation Amendment Act 1990 which amended the Social Security Act 1947.

After section 840 - insert new sections 840A, 840B,
840C and 840D

New sections 840A, 840B, 840C and 840D are to be inserted.

New subsection 840A(1) reflects the decision to remove the taper on the rate of family allowance payable to a person whose income exceeds the person's taxable income free area. Family allowance is not payable at all where the person's income exceeds his or her free area.

New paragraph 840A(1)(a) provides that a person satisfies the FA taxable income test if the person's taxable income for the appropriate tax year is less than or equal to the person's taxable income free area.

New subsection 840A(2) provides that, subject to new subsections 840A(4), 840A(5), and 840A(6), the appropriate tax year for a family allowance payday is the base tax year for that payday.

New subsection 840A(3) provides that the base tax year for a family payment payday is the tax year that ended on 30 June in the previous calendar year. For example, as family payment payday 18 April 1991 occurs in 1991 and the previous calendar

year is 1990, the base tax year is the tax year that ended on 30 June 1990. New subsection 840A(3) is followed by a similar example for the convenience of the reader.

New subsection 840A(4) provides that, where an assumed notifiable event occurs in respect of a person after the end of the base tax year and before the beginning of the FA period such that his or her taxable income for the subsequent tax year:

- . is more than 125% of his or her taxable income for the base tax year; and
- . exceeds his or her taxable income free area (see new subsection 840A(8)),

the appropriate tax year is the tax year in which the assumed notifiable event occurs.

A note signposts new section 840B which explains "assumed notifiable event".

New subsection 840A(5) provides that, where a notifiable event occurs in respect of a person such that his or her taxable income for the tax year in which the change occurs:

- . is more than 125% of his or her taxable income for the base tax year; and
- . exceeds his or her taxable income free area (see new subsection 840A(8)),

the appropriate tax year is the tax year in which the assumed notifiable event occurs.

A note signposts new section 840C which explains "notifiable event".

New subsection 840A(6) provides that, if:

- . a person requests the Secretary to make a determination under new section 840D to re-examine his or her taxable income; and
 - . the Secretary does make a determination under that section,
- then the appropriate tax year is the tax year in which the request is made.

New subsection 840A(7) provides that, if a person is a member of a couple, the person's taxable income for a tax year includes his or her partner's taxable income for that year.

New subsection 840A(8) explains how to work out a person's taxable income free area using amounts detailed in a table provided.

A note reminds the reader that amounts included in the table are indexed annually in line with CPI increases and signposts the relevant indexation provisions - see sections 1191 to 1194 of the Principal Act.

New section 840B allows the Secretary to determine that an event is an FA assumed notifiable event for the purposes of new subsection 840A(4).

New section 840C allows the Secretary to specify in a notice given under subsection 873(1) that an event described in the notice is a notifiable event for the purposes of new subsection 840A(5).

New subsection 840D(1) allows a person, who is not receiving family allowance under new section 840A (FA taxable income test), to request the Secretary to reassess his or her qualification for family allowance. The FA taxable income test is normally applied having regard to the taxable income for the year that ended on 30 June in the previous calendar year (ie the base tax year - see new subsection 840A(3) inserted by this Schedule).

New subsection 840D(1) provides that a person can make such a request if his or her taxable income in the tax year in which the request is made is likely to be 75% or less than 75% of his or her taxable income for the "appropriate tax year" immediately before the request is made. (See new subsection 840A(2) as inserted by this Schedule for an explanation of "appropriate tax year".) Where such a request is made, the Secretary must determine that the appropriate tax year is the tax year in which the request is made.

New subsection 840D(2) provides that a request made under new paragraph 840D(1)(b) must be in writing, in accordance with a form approved by the Secretary.

New sections 840A, 840B, 840C and 840D are inserted as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

After paragraph 841(1)(a) - insert new paragraph 841(1)(aa)

A new paragraph 841(1)(aa) is to be inserted. This will add to the existing list of situations where family allowance may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her partner - see new sections 846A and 846B, inserted by this Schedule.

New paragraph 841(1)(aa) is inserted as a consequence of section 11 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Section 842 - omission and substitution

This amendment is to include references to new sections 845A and 845B, inserted by this Schedule, along with the other provisions which modify the provisional commencement day rule

for family allowance. This is a consequence of paragraphs 70(1)(a) and (d) of the Social Security Legislation Amendment Act 1990.

After subsection 843(2) - insert new subsection 843(3)

This new subsection provides an early claim rule for family allowance similar to those that exist for social security pensions. If a person becomes qualified for family allowance sometime during the 3 months following the person's claim for family allowance, then his or her provisional commencement day is the first day of qualification.

New subsection 843(3) is inserted as a consequence of paragraph 70(1)(a) of the Social Security Legislation Amendment Act 1990.

After section 845 - insert new sections 845A and 845B

New sections 845A and 845B are to be inserted.

New section 845A provides that family allowance can become payable before the family allowance provisional commencement day where arrears of child disability allowance (CDA) are payable under sections 959 and 960. As a general rule, the family allowance provisional commencement day is the day on which the person or organisation claims family allowance.

Sections 959 and 960 allow for the payment of arrears of child disability allowance of up to 12 months. Section 959 enables arrears to be paid where the claim for CDA is made within 12 months of a person being qualified for the allowance. Section 960 enables up to 12 months arrears to be paid where a claim is made more than 12 months after the person became qualified.

New section 845A provides that, where a person is qualified for and claims family allowance, has a family allowance child who

is also a CDA child and the payment of his or her child disability allowance is from a day determined in accordance with section 959 or 960, family allowance can become payable from a day up to 12 months before the person's family allowance provisional commencement day.

New paragraph 845A(e) provides that family allowance cannot become payable before the first day in the period on which the person is qualified, where this day is within 12 months of the person's provisional commencement day. New paragraph 845A(f) provides that where a person became qualified for family allowance more than 12 months before the person's provisional commencement day, family allowance cannot become payable before the day occurring 12 months before that provisional commencement day.

Note 1 refers the reader to section 843 for an explanation of "provisional commencement day". Note 2 points out that family allowance may not necessarily be backdated to the day referred to in paragraph (e) or (f) as some other factor may make the allowance not payable at that time.

This provision will bring consistency to the treatment of child disability allowance and family allowance claims.

New section 845A is inserted as a consequence of section 70(1)(d) of the Social Security Legislation Amendment Act 1990.

New section 845B provides a special backdating rule where a person claims family allowance for a particular child within 3 months of the death of another person who was formerly receiving family allowance for the same child. In this event, the new recipient's provisional commencement day is the date of the former recipient's death.

This makes sure that there is no break in payment for a particular child on the death of the former recipient as long as the other person, typically the child's other parent or new

guardian, is qualified and claims within the requisite period.

New section 845B is inserted as a consequence of paragraph 70(1)(b) of the Social Security Legislation Amendment Act 1990.

After section 846 - insert new sections 846A and 846B

New sections 846A and 846B are to be inserted in the Subdivision dealing with payability of family allowance.

New section 846A deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 846B makes similar provisions where the person is required to provide his or her partner's tax file number.

New subsection 846A(1) specifies that family allowance is not payable to a person if he or she is required under either new section 850A (as a claimant) or new section 872A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 846A(2) or (3).

New subsection 846A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and family

allowance will not be payable.

New subsection 846A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and family allowance will not be payable.

New section 846B provides similar rules to new section 846A where the person is a member of a couple and is required under either new section 850B (as a claimant) or new section 872B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 846B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 846A(2) and (3) do for the person's number.

However, new subsection 846B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 846A and 846B are inserted as a consequence of section 11 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Subsection 847(3) - insertion

This amendment makes it clear that the general rule in subsection 847(3) of the Principal Act that a claim is taken not to have been made if the person was not qualified at the time of making the claim is subject to the new early claim rule contained in new subsection 843(3), inserted by this Schedule.

The amendment is a consequence of paragraph 70(1)(a) of the Social Security Legislation Amendment Act 1990.

Section 850 - repeal and substitute new section 850

New section 850 will replace the old one.

This section provides that a family allowance claim is not a proper claim unless the claimant is an 'inhabitant of Australia' on the day the claim is lodged.

The reference to 'inhabitant of Australia' (new definition inserted into subsection 23(1) in this Schedule) will allow holders of a PRC (temporary) entry permit or a refugee (temporary) entry permit under Migration Act 1958 regulations to claim for family allowance.

PRC (temporary) entry permits are granted to Nationals from the Peoples' Republic of China who were in Australia as at 20 June 1989. The permit is guaranteed to last for four years.

A note signposts subsection 23(1) for the definition of 'inhabitant of Australia'.

New section 850 is amended as a consequence of section 36 of the Social Security Legislation Amendment Act 1990.

After section 850 - insert new sections 850A and 850B

New sections 850A and 850B are to be inserted in Division 2 which deals with a claim for family allowance.

New section 850A allows the Secretary to require a claimant for family allowance to provide a written statement of his or her tax file number. If a requirement is made under this section, then new section 846A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for family allowance not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 846A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 850B allows the Secretary to require a claimant for family allowance who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 846B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for family allowance not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 846B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 846B(4).

New sections 850A and 850B are inserted as a consequence of section 11 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Section 854 - omission and substitution

Section 854 of the Principal Act is amended to reflect the decision to remove the taper on the rate of family allowance (FA) payable to a person whose income exceeds the person's taxable income free.

This amendment will remove from section 854, reference to repealed provision (section 859) which provided that a person receiving a reduced rate of family allowance under the FA taxable income test, could request the Secretary to change the appropriate tax year. With the removal of the taper provisions a reduced rate of family allowance is not possible as the allowance is not payable at all where the person's income exceeds his or her free area.

Amended section 854 provides that the rate of family allowance payable to a person only has to be worked out again if the person notifies that a notifiable event has occurred.

Section 854 is amended as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

Sections 857, 858 and 859 - repeal

Sections 857, 858 and 859 are repealed from the Division dealing with rate of family allowance.

The repeal of these sections has resulted from the decision to remove the taper on the rate of family allowance (FA) payable to a person whose income exceeds the person's taxable income free area. As new paragraph 838(c) provides that a person must also satisfy the FA taxable income test to be qualified for family allowance, all sections relating to this test have been suitably amended and relocated with other qualification provisions.

Provisions similar to repealed sections 857, 858 and 859 have been inserted as new sections 840B, 840C and 840D.

Sections 857, 858 and 859 are repealed as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

Section 863 - repeal and substitute new section 863

A new section 863 is to be inserted to replace current section 863. New section 863 provides that, except where nominee payment arrangements are approved by the Secretary under section 864, a person's family allowance is to be paid to the person. Section 863 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 865 below.

New section 863 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 865 - repeal and substitute new section 865

A new section 865 is to be inserted to replace current section 865. In broad terms, new section 865 would provide that a person's family allowance payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 865 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 872 - insertion

Section 872 is amended by inserting the word "education" after "maintenance". Section 872 specifies the purpose to which family allowance payments are to be applied. The amendment will make explicit mention of education rather than requiring the word "training" to be interpreted as including education.

The amendment to section 872 is to be made as a consequence of section 38 of the Social Security Legislation Amendment Act 1990.

After section 872 - insert new sections 872A and 872B

New sections 872A and 872B are to be inserted in the recipient obligations Division for family allowance.

These new sections provide exactly the same rules for a recipient of family allowance as new sections 850A and 850B do for a claimant of family allowance with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 872A and 872B are inserted as a consequence of section 11 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Before section 886 - insert Subdivision heading

The bereavement payment provisions for family allowance are now split into two Subdivisions as a result of the insertion of new Subdivision B and section 890A by this Schedule.

After section 890 - insert new Subdivision B and section 890A

New subsections 890A(1) and (2) are to be inserted in a new bereavement payments Subdivision dealing with the death of a recipient of family allowance.

New subsection 890A(1) concerns the death of a recipient of family allowance who was or would have been qualified for a bereavement payment under Subdivision A on the death of a dependent child. This situation might arise where, for example, the family allowance recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the family allowance recipient.

New subsection 890A(1) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 890A(2) concerns a deceased family allowance recipient where the circumstances are exactly the same as in new subsection 890A(1) except that the recipient was not a member of a couple. In this case, the child bereavement

payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the family allowance recipient.

New subsection 890A(2) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

After paragraph 896(1)(a) - insert new paragraph 896(1)(aa)

A new paragraph 896(1)(aa) is to be inserted. This will add to the existing list of situations where family allowance supplement may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her partner - see new sections 900B and 900C, inserted by this Schedule.

New paragraph 896(1)(aa) is inserted as a consequence of section 10 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Subsection 898(1) - omission and substitution

This amendment is to include references to new sections 900A and 900B, inserted by this Schedule, along with the other provisions which modify the provisional commencement day rule for family allowance. This is a consequence of paragraph 70(1)(a) of the Social Security Legislation Amendment Act 1990.

After subsection 898(2) - insert new subsection 898(3)

This new subsection provides an early claim rule for family allowance supplement similar to those that exist for social security pensions. If a person becomes qualified for family

allowance supplement sometime during the 3 months following the person's claim for family allowance supplement, then his or her provisional commencement day is the first day of qualification.

New subsection 898(3) is inserted as a consequence of paragraph 70(1)(a) of the Social Security Legislation Amendment Act 1990.

After section 900 - insert new sections 900A to 900D

New sections 900A, 900B, 900C and 900D are to be inserted in the Subdivision dealing with payability of family allowance supplement.

New section 900A will provide that family allowance supplement can become payable before the family allowance supplement provisional commencement day where arrears of child disability allowance (CDA) are payable under sections 959 and 960. As a general rule, the family allowance supplement provisional commencement day is the day on which the person claims family allowance supplement.

Sections 959 and 960 allow for the payment of arrears of child disability allowance of up to 12 months. Section 959 enables arrears to be paid where the claim for CDA is made within 12 months of a person being qualified for the allowance. Section 960 enables up to 12 months arrears to be paid where a claim is made more than 12 months after the person became qualified.

New section 900A provides that where a person, is qualified for and claims family allowance supplement, has a family allowance supplement child who is also a CDA child and the payment of his or her child disability allowance is from a day determined in accordance with section 959 or 960, family allowance supplement can become payable from a day up to 12 months before the person's family allowance supplement provisional commencement day.

New paragraph 900A(e) provides that family allowance supplement cannot become payable before the first day in the period on which the person is qualified, where this day is within 12 months of the person's provisional commencement day. New paragraph 900A(f) provides that where a person became qualified for family allowance supplement more than 12 months before the person's provisional commencement day, family allowance supplement cannot become payable before the day occurring 12 months before that provisional commencement day.

Note 1 refers the reader to section 898 for an explanation of "provisional commencement day". Note 2 points out that family allowance supplement may not necessarily be backdated to the day referred to in paragraph (e) or (f) as some other factor may make the supplement not payable at that time.

This provision will bring consistency to the treatment of child disability allowance and family allowance supplement claims.

New section 900A is inserted as a consequence of section 70(1)(d) of the Social Security Legislation Amendment Act 1990 which amended the Social Security Act 1947.

New section 900B provides a special backdating rule where a person claims family allowance supplement for a particular child within 3 months of the death of another person who was formerly receiving family allowance supplement for the same child. In this event, the new recipient's provisional commencement day is the date of the former recipient's death.

This makes sure that there is no break in payment for a particular child on the death of the former recipient as long as the other person, typically the child's other parent or new guardian, is qualified and claims within the requisite period.

New section 900B is inserted as a consequence of

paragraph 70(1)(b) of the Social Security Legislation Amendment Act 1990.

New section 900C deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 900D makes similar provisions where the person is required to provide his or her partner's tax file number.

New subsection 900C(1) specifies that family allowance supplement is not payable to a person if he or she is required under either new section 906A (as a claimant) or new section 929A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 900C(2) or (3).

New subsection 900C(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and family allowance supplement will not be payable.

New subsection 900C(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out

from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and family allowance supplement will not be payable.

New section 900D provides similar rules to new section 900C where the person is a member of a couple and is required under either new section 906B (as a claimant) or new section 929B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 900D(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 900C(2) and (3) do for the person's number.

However, new subsection 900D(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 900C and 900D are inserted as a consequence of section 10 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Subsection 902(3) - insertion

This amendment makes it clear that the general rule in subsection 902(3) of the Principal Act that a claim is taken not to have been made if the person was not qualified at the time of making the claim is subject to the new early claim rule contained in new subsection 898(3), inserted by this Schedule.

The amendment is a consequence of paragraph 70(1)(a) of the Social Security Legislation Amendment Act 1990.

Section 905 - repeal and substitute new section 905

New section 905 will replace the old one.

This section provides that a family allowance supplement claim is not a proper claim unless the claimant is an 'inhabitant of Australia' and in Australia on the day the claim is lodged.

The reference to 'inhabitant of Australia' (new definition inserted into subsection 23(1) in this Schedule) will allow holders of a PRC (temporary) entry permit or a refugee (temporary) entry permit under Migration Act 1958 regulations to claim for family allowance supplement.

PRC (temporary) entry permits are granted to Nationals from the Peoples' Republic of China who were in Australia as at 20 June 1989. The permit is guaranteed to last for four years.

A Note signposts to subsection 23(1) for the definition of 'inhabitant of Australia'.

New section 905 is amended as a consequence of section 36 of the Social Security Legislation Amendment Act 1990.

After section 906 - insert new sections 906A and 906B

New sections 906A and 906B are to be inserted in Division 3 which deals with a claim for family allowance supplement.

New section 906A allows the Secretary to require a claimant for family allowance supplement to provide a written statement of his or her tax file number. If a requirement is made under this section, then new section 900B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and

will provide for family allowance supplement not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 900B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 906B allows the Secretary to require a claimant for family allowance supplement who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 900C, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for family allowance supplement not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 900C and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 900C(4).

New sections 906A and 906B are inserted as a consequence of section 10 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Section 922 - repeal and substitute new section 922

A new section 922 is to be inserted to replace current section 922. New section 922 provides that, except where nominee payment arrangements are approved by the Secretary under section 923, a person's family allowance supplement is to be paid to the person. Section 922 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 924 below.

New section 922 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 924 - repeal and substitute new section 924

A new section 924 is to be inserted to replace current section 924. In broad terms, new section 924 would provide that a person's family allowance supplement payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 924 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 930 - insert new sections 929A and 929B

New sections 929A and 929B are to be inserted in the recipient obligations Division for family allowance supplement.

These new sections provide exactly the same rules for a recipient of family allowance supplement as new sections 906A and 906B do for a claimant of family allowance with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 929A and 929B are inserted as a consequence of section 10 of the Social Security and Veterans' Affairs Legislation Amendment Act (No 2) 1990.

Paragraph 933(1)(c) - insertion

Paragraph 933(1)(c) of the Principal Act lists the provisions that cause a person's family allowance supplement to automatically cease to be payable and therefore bring the effect of the subsisting entitlement determination to a close.

A reference to new section 933A is added to the list of those provisions. The new section is inserted by this Schedule and provides for an automatic termination where a family allowance supplement recipient transfers to a new payment type.

This insertion is a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

Before section 934 - insert new section 933A

A new section 933A is inserted in the Subdivision in the Principal Act dealing with automatic termination of family allowance supplement.

New section 933A specifies that a person's family allowance supplement ceases to be payable immediately before a social security pension or a social security benefit becomes payable to either the person or the person's partner. Since paragraph 895(1)(b) of the Principal Act provides that a person is not qualified for family allowance supplement if the person

or the partner is receiving a pension or benefit, the effect of this new section is to make sure that a person's family allowance supplement is automatically terminated if a disqualifying payment starts to be payable. Any excess payment of this nature can be recovered as a debt due to the Commonwealth under new section 1223A which is also inserted by this Schedule. A note explains the effect of paragraph 895(1)(b).

New section 933A is inserted as a consequence of section 76 of the Social Security Legislation Amendment Act 1990.

After section 951 - insert new Subdivision B and section 951A

New subsections 951A(1) and (2) are to be inserted in a new bereavement payments Subdivision dealing with the death of a recipient of family allowance supplement.

New subsection 951A(1) concerns the death of a recipient of family allowance supplement who was or would have been qualified for a bereavement payment under Subdivision A on the death of a dependent child. This situation might arise where, for example, the family allowance supplement recipient and a dependent child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the family allowance supplement recipient.

New subsection 951A(1) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 951A(2) concerns a deceased family allowance supplement recipient where the circumstances are exactly the same as in new subsection 951A(1) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the family allowance supplement recipient.

New subsection 951A(2) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Subparagraph 953(b)(iii) - omit and substitute new subparagraph 953(b)(iii)

A new subparagraph 953(b)(iii) will be inserted to replace the old one. This amendment will correctly reference new section 840A as the location of the family allowance taxable income test provisions.

New subparagraph 953(b)(iii) is inserted as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

Section 971 - repeal and substitute new section 971

A new section 971 is to be inserted to replace current section 971. New section 971 provides that, except where nominee payment arrangements are approved by the Secretary under section 972, a person's child disability allowance is to be paid to the person. Section 971 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 973 below.

New section 971 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 973 - repeal and substitute new section 973

A new section 973 is to be inserted to replace current section 973. In broad terms, new section 973 would provide that a person's child disability allowance payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 973 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 991 - insert Subdivision heading

The bereavement payment provisions for child disability allowance are now split into two Subdivisions as a result of the insertion of new Subdivision B and section 992A by this Schedule.

After section 992 - insert new Subdivision B and section 992A

New subsections 992A(1) and (2) are to be inserted in a new bereavement payments Subdivision dealing with the death of a recipient of child disability allowance.

New subsection 992A(1) concerns the death of a recipient of child disability allowance who was or would have been qualified for a bereavement payment under Subdivision A on the death of a CDA child. This situation might arise where, for example, the child disability allowance recipient and a CDA child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the child disability allowance recipient.

New subsection 992A(1) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 992A(2) concerns a deceased child disability allowance recipient where the circumstances are exactly the same as in new subsection 992A(1) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the child disability allowance recipient.

New subsection 992A(2) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

Subparagraph 999(1)(a)(iii) - omit and substitute new
subparagraph 999(1)(a)(iii)

A new subparagraph 999(1)(a)(iii) will be inserted to replace the old one. This insertion will correctly reference new section 840A as the location of the family allowance taxable income test provisions.

New subparagraph 999(1)(a)(iii) is inserted as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

Section 1014 - repeal and substitute new section 1014

A new section 1014 is to be inserted to replace current section 1014. New section 1014 provides that, except where nominee payment arrangements are approved by the Secretary under section 1015, a person's double orphan pension is to be paid to the person. Section 1014 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 1016 below.

New section 1014 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 1016 - repeal and substitute new section 1016

A new section 1016 is to be inserted to replace current section 1016. In broad terms, new section 1016 would provide that a person's double orphan pension payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 1016 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 1033 - insert Subdivision heading

The bereavement payment provisions for double orphan pension are now split into two Subdivisions as a result of the insertion of new Subdivision B and section 1034A by this Schedule.

After section 1034 - insert new Subdivision B
and section 1034A

New subsections 1034A(1) and (2) are to be inserted in a new bereavement payments Subdivision dealing with the death of a recipient of double orphan pension.

New subsection 1034A(1) concerns the death of a recipient of double orphan pension who was or would have been qualified for a bereavement payment under Subdivision A on the death of a DOP child. This situation might arise where, for example, the double orphan pension recipient and a DOP child both died as a result of a motor vehicle accident. If the recipient was a member of a couple, the surviving partner of the recipient can

be paid the child bereavement payment instead. At present under the Principal Act this is not possible because the surviving partner cannot be qualified for the child bereavement payment at the critical time of the child's death. For the bereavement payment to be transferrable in this way, the partner must claim the payment within 3 months after the child's death. The new provision applies whether the child died before or after the double orphan pension recipient.

New subsection 1034A(1) is inserted as a consequence of section 31 of the Social Security Legislation Amendment Act 1990.

New subsection 1034A(2) concerns a deceased double orphan pension recipient where the circumstances are exactly the same as in new subsection 1034A(1) except that the recipient was not a member of a couple. In this case, the child bereavement payment can be paid to such person as the Secretary thinks appropriate. There is no need for the payment to be claimed by any particular time. The new provision applies whether the child died before or after the double orphan pension recipient.

New subsection 1034A(2) is inserted as a consequence of section 32 of the Social Security Legislation Amendment Act 1990.

After paragraph 1036(a) - insert new paragraph 1036(aa)

A new paragraph 1036(aa) is to be inserted. This will add to the existing list of situations where mobility allowance may not be payable to a person even though he or she is qualified for it. The new situation is where the person has not provided a tax file number for himself or herself or for his or her partner - see new sections 1039A and 1039B, inserted by this Schedule.

New paragraph 1036(aa) is inserted as a consequence of section 58 of the Social Security Legislation Amendment Act 1990.

After section 1039 - insert new sections 1039A and 1039B

New sections 1039A and 1039B are to be inserted in the Subdivision dealing with payability of mobility allowance. New section 1039A deals with the consequences of a person being required to provide his or her tax file number to the Secretary. New section 1039B makes similar provisions where the person is required to provide his or her partner's tax file number.

New subsection 1039A(1) specifies that a mobility allowance is not payable to a person if he or she is required under either new section 1042A (as a claimant) or new section 1053A (as a recipient) to provide a written statement of his or her tax file number and fails to do so within 28 days. Instead of providing a written statement of the number, the person may, within that same 28 day period, provide a declaration in an approved form AND satisfy either new subsection 1039A(2) or (3).

New subsection 1039A(2) sets down one of the means by which the person can satisfy the requirement to provide his or her tax file number. If the person has a tax file number but does not know what it is, his or her declaration must state this fact and that he or she is trying to find out the number from the Commissioner of Taxation. The person must also give authority to the Secretary to find out about the tax file number directly from the Commissioner of Taxation. The subsection cannot apply if the Secretary finds out from the Commissioner that the person has no tax file number - if the following subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and mobility allowance will not be payable.

New subsection 1039A(3) provides an alternative means of satisfying the requirement. The person's declaration must state that he or she has an application for a tax file number pending. The person must also give authority to the Secretary to find out about the application and tax file number directly

from the Commissioner of Taxation. The subsection cannot apply if the application is withdrawn or if the Secretary finds out from the Commissioner that the application has been refused - if the preceding subsection does not apply instead, the person will fail to satisfy the requirement to provide his or her tax file number and mobility allowance will not be payable.

New section 1039B provides similar rules to new section 1039A where the person is a member of a couple and is required under either new section 1042B (as a claimant) or new section 1053B (as a recipient) to provide a written statement of his or her PARTNER'S tax file number. The requirement will be satisfied if the person provides a written statement of the partner's tax file number within 28 days. Alternatively, the person may provide, within the same period, a declaration by the partner in an approved form AND satisfy either new subsection 1039B(2) or (3), which provide the same means of finding out about the partner's tax file number as new subsections 1039A(2) and (3) do for the person's number.

However, new subsection 1039B(4) overrides the other provisions in the section by allowing the Secretary to waive the requirement for the partner's tax file number to be supplied if satisfied that the person does not know the partner's number and can obtain neither the number, a statement nor a declaration from the partner.

New sections 1039A and 1039B are inserted as a consequence of section 58 of the Social Security Legislation Amendment Act 1990.

After section 1042 - insert new sections 1042A and 1042B

New sections 1042A and 1042B are to be inserted in Division 2 which deals with a claim for a mobility allowance.

New section 1042A allows the Secretary to require a claimant for a mobility allowance to provide a written statement of his or her tax file number. If a requirement is made under this section, then new section 1039A, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for mobility allowance not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 1039A and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number.

New section 1042B allows the Secretary to require a claimant for a mobility allowance who is a member of a couple to provide a written statement of his or her partner's tax file number. The Secretary may only do this if the partner is in Australia. If a requirement is made under this section, then new section 1039B, inserted by this Schedule, will govern how the claimant may satisfy the requirement and will provide for mobility allowance not to be payable if the claimant fails to satisfy the requirement.

Notes 1 and 2 signpost new section 1039B and explain that the requirement may be satisfied under that provision other than by actually providing the tax file number. Note 3 points out that the Secretary may sometimes waive the requirement to provide the partner's tax file number - see new subsection 1039B(4).

New sections 1042A and 1042B are inserted as a consequence of section 58 of the Social Security Legislation Amendment Act 1990.

Section 1048 - repeal and substitute new section 1048

A new section 1048 is to be inserted to replace current section 1048. New section 1048 provides that, except where nominee payment arrangements are approved by the Secretary under section 1049, a person's mobility allowance is to be paid

to the person. Section 1048 is to be repealed as part of the amendment dealing with general move to have all social security payments made by direct credit except in special circumstances - see new section 1050 below.

New section 1048 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Section 1050 - repeal and substitute new section 1050

A new section 1050 is to be inserted to replace current section 1050. In broad terms, new section 1050 would provide that a person's mobility allowance payments will generally be made by direct deposit to an account with a bank, credit union or building society, nominated by the person, unless the Secretary directed that some other manner of payment was appropriate. People with no reasonable access to banking or like facilities would be exceptions to the general rule.

Where a person has not nominated an account, then he or she will not be paid until, either:

- . the Secretary directs that the person should be paid in some other manner (eg by cheque); or
- . the person subsequently nominates an account;

in which case any amounts that would have been paid had the person originally nominated an account would be paid to him or her.

New section 1050 is to be inserted as a consequence of section 71 of the Social Security Legislation Amendment Act 1990.

Before section 1054 - insert new sections 1053A and 1053B

New sections 1053A and 1053B are to be inserted in the recipient obligations Division for mobility allowance.

These new sections provide exactly the same rules for a recipient of a mobility allowance as new sections 1042A and 1042B do for a claimant of a mobility allowance with regard to the requirement to provide his or her tax file number or that of his or her partner.

New sections 1053A and 1053B are inserted as a consequence of section 58 of the Social Security Legislation Amendment Act 1990.

After Part 2.21 - new Parts 2.22, 2.23 and 2.24

New Part 2.22 - Pharmaceutical Allowance

New Part 2.22 is to be inserted into the Principal Act as a consequence of the Social Welfare Legislation (Pharmaceutical Benefits) Amendment Act 1990 and the Social Security Legislation Amendment Act 1990.

New Division 1 - Qualification for and payability of pharmaceutical allowance

New section 1061A: Qualification for pharmaceutical allowance

New section 1061A(1) provides that a person is qualified for a pharmaceutical allowance if the person is receiving a social security pension, a job search allowance or a sickness benefit.

New section 1061A(2) provides that a person is also qualified for a pharmaceutical allowance if the person is receiving

unemployment benefit or special benefit and has turned 60 and has been receiving a social security pension or benefit or a service pension continuously for at least 6 months.

New section 1061B: Pharmaceutical allowance not payable in some circumstances

New section 1061B provides that, even though a person is qualified for a pharmaceutical allowance on a payday, it will not be payable to the person on that payday in some circumstances. Those circumstances are where:

- . the person is not an Australian resident (new paragraph 1061B(1)(a)); or
- . the person is absent from Australia (new paragraph 1061B(1)(b)); or
- . the person is an "advance pensioner A" and the person has received at least one advance pharmaceutical supplement under section 151G of the 1947 Act or subsection 1061F(1) of the Principal Act, and the person's "advance payment period" (as defined in new section 1061B(2)) has not ended (new paragraph 1061B(1)(c)); or
- . the person is an "advance pensioner B" and the person has received at least one advance pharmaceutical supplement under section 151H of the 1947 Act or subsection 1061F(2), (3), (4) or (5) of the Principal Act, and the person's "advance payment period" (see new section 1061B(2)) has not ended (new paragraph 1061B(1)(d)).

New section 1061B(2) provides that, for the purposes of new section 1061B(1), a person's "advance payment period" is the period that starts on 20 March 1991 and lasts for the number of fortnights worked out using the Advance Payment Period Table.

New section 1061B(3) provides that, in the Advance Payment Period Table in new section 1061B(2), "advance pharmaceutical supplement" means the number of dollars received by the person by way of advance pharmaceutical supplement.

New Division 2 - Rate of pharmaceutical allowance

New section 1061C: Rate of pharmaceutical allowance

New section 1061C provides that the rate of pharmaceutical allowance is worked out using the Pharmaceutical Allowance Rate Table.

New section 1061D: Limitation on amount of
pharmaceutical allowance

New section 1061D imposes a maximum limit on the total amount that can be paid to a person who is qualified to receive both pharmaceutical allowance and advance pharmaceutical supplement.

New subsection 1061D(1) provides that the total amount that can be paid to such a person by way of pharmaceutical supplement under section 151B of the 1947 Act, advance pharmaceutical supplements under sections 151F, 151G or 151H of the 1947 Act and new section 1061F of the Principal Act and pharmaceutical allowance under section 151HA of the 1947 Act and new section 1061A of the Principal Act, before 1 January 1992 must not exceed the person's "pharmaceutical payments limit".

A person's "pharmaceutical payments limit" is worked out using the Pharmaceutical Payment Limit Table set out in new section 1061D(2).

New section 1061D(3) provides that, for the purposes of the Pharmaceutical Payment Limit Table set out in new section 1061D(2):

- . column 3 ("advance pensioner A") applies to the person if the person receives an advance pharmaceutical supplement under section 151F or 151G of the 1947 Act or new subsection 1061F(1) of the Principal Act;
- . column 4 ("advance pensioner B") applies to the person if the person receives an advance pharmaceutical supplement under section 151H of the 1947 Act or new subsection 1061F(2), (3), (4) or (5) of the Principal Act;
- . "paydays" in column 4 is the number of pension paydays in the period that starts on the day on which the person becomes an eligible 1947 Act pensioner or an eligible 1991 Act pensioner and ends on 31 December 1991.

New Division 3 - Payment of pharmaceutical allowance

New section 1061E: Payment of pharmaceutical allowance

New section 1061E provides for the payment of pharmaceutical allowance. The allowance is payable on the date the person would normally get his or her social security pension or benefit paid.

New Part 2.23 - Advance Pharmaceutical Supplement

New Part 2.23 would be inserted into the Principal Act as a consequence of the Social Welfare Legislation (Pharmaceutical Benefits) Amendment Act 1990 and the Social Security Legislation Amendment Act 1990.

New Division 1 - Qualification for and payability of
advance pharmaceutical supplement

New section 1061F: Qualification for advance
pharmaceutical supplement

New section 1061F(1) provides that a person is qualified for an advance pharmaceutical supplement if the person is a "continuing advance pensioner A" (as defined in new section 19A) and the Secretary to the Department of Social Security is satisfied that the person has received a payment under subsection 151G(2) of the 1947 Act and the person has had at least 14 pharmaceutical benefit purchases for members of the person's family within 3 months immediately after receiving the payment under subsection 151G(2) of the 1947 Act. The person, however, must not have received a payment under subsection 151G(3) of the 1947 Act.

New section 1061F(2) provides that a person is qualified for an advance pharmaceutical supplement if the person is an "advance pensioner B" (as defined in new section 19A) and the Secretary to the Department of Social Security is satisfied that the person has had at least 14 pharmaceutical benefit purchases for members of the person's family within 3 months immediately before the day on which the person became an "eligible 1947 Act pensioner" (as defined in new section 19A) or an "eligible 1991 Act pensioner" (as defined in new section 19A). The person, however, must not have received a payment under subsection 151H(1) of the 1947 Act.

New section 1061F(3) provides that a person is qualified for an advance pharmaceutical supplement if the person is an "advance pensioner B" (as defined in new section 19A) and the Secretary to the Department of Social Security is satisfied that the person has received a payment under subsection 151H(1) of the 1947 Act or new subsection 1061F(2) of the Principal Act and the person has had at least 14 pharmaceutical benefit purchases for members of the person's family within 3 months immediately

after the day on which the person received the payment under subsection 151H(1) of the 1947 Act or new subsection 1061F(2) of the Principal Act. The person, however, must not have received a payment under subsection 151H(2) of the 1947 Act.

New section 1061F(4) provides that a person is qualified for an advance pharmaceutical supplement if the person is an "advance pensioner B" (as defined in new section 19A) and the Secretary to the Department of Social Security is satisfied that the person has received a payment under subsection 151H(2) of the 1947 Act or new subsection 1061F(3) of the Principal Act and the person has had at least 14 pharmaceutical benefit purchases for members of the person's family within 3 months immediately after the day on which the person received the payment under subsection 151H(2) of the 1947 Act or new subsection 1061F(3) of the Principal Act. The person, however, must not have received a payment under subsection 151H(3) of the 1947 Act.

New section 1061F(5) would provide that a person is qualified for an advance pharmaceutical supplement if the person is an "advance pensioner B" (as defined in new section 19A) and the Secretary to the Department of Social Security is satisfied that the person has received a payment under subsection 151H(3) of the 1947 Act or new subsection 1061F(4) of the Principal Act and the person has had at least 14 pharmaceutical benefit purchases for members of the person's family within 3 months immediately after the day on which the person received the payment under subsection 151H(3) of the 1947 Act or new subsection 1061F(4) of the Principal Act. The person, however, must not have received a payment under subsection 151H(4) of the 1947 Act.

New section 1061G: Advance pharmaceutical supplement
not payable in some circumstances

New section 1061G provides that, even though a person is qualified for an advance pharmaceutical supplement on a payday, it will not be payable to the person on that payday in some circumstances. Where:

- . the person is not an Australian resident
(new paragraph 1061G(1)(a)); or
- . the person is absent from Australia
(new paragraph 1061G(1)(b)),

an advance pharmaceutical supplement will not be payable.

New section 1061G(2) provides that an advance pharmaceutical supplement is not payable to a person if the person was not qualified, because of section 151AB(1) of the 1947 Act, to receive an advance pharmaceutical supplement under section 151F of the 1947 Act. That is, the person was not qualified to receive an advance pharmaceutical supplement on 8 November 1990 because either the person was not an Australian resident or was absent from Australia.

New section 1061G(3) provides that, if a person is qualified for an advance pharmaceutical supplement and the amount of the supplement would exceed the amount remaining to be charged for supplies of pharmaceutical benefits before the person could become eligible to be issued with an entitlement card under subsection 84C(1A) of the National Health Act 1953 (that is, the person has reached the "safety net"), and the amount of the advance pharmaceutical supplement is reduced under section 151M of the 1947 Act or new section 1061J of the Principal Act then no further advance pharmaceutical supplements are payable to the person.

New Division 2 - Amount of advance pharmaceutical supplement

New section 1061H: Amount of advance pharmaceutical supplement

New section 1061H provides that the amount of the advance pharmaceutical supplement would be worked out using the Advance Pharmaceutical Supplement Table.

New section 1061J: Reduction in amount of advance pharmaceutical supplement where entitlement card available

New section 1061J provides that, if a person is qualified for an advance pharmaceutical supplement and the amount of the supplement would exceed the amount remaining to be charged for supplies of pharmaceutical benefits before the person could become eligible to be issued with an entitlement card under subsection 84C(1A) of the National Health Act 1953 (that is, the person has reached the "safety net"), then the amount of the advance pharmaceutical supplement is to be reduced by the excess.

New Part 2.24 - Disaster Relief Payment

The new disaster relief provisions replace the individual comparable provisions which previously appeared in the social security benefit Parts of the Principal Act (for example, section 747 for special benefit). Those former provisions are being repealed by this Schedule. The new disaster relief provisions provide a broader entitlement for people affected by a major disaster. The term "major disaster" is defined in section 36 of the Principal Act.

New section 1061K provides the rules for qualification for a disaster relief payment. A person will be qualified if the person's home is severely damaged or livelihood significantly

interrupted because of a major disaster. The person can only be qualified if he or she was a resident of Australia and not an illegal entrant at the time of being affected by the disaster. A note signposts the definition of "major disaster".

New sections 1061L, 1061M and 1061N provide the rules for a claim for a disaster relief payment along the same lines as apply to most other payments under the Principal Act. A person must make a claim, in writing, in accordance with an approved form and lodged with the Department or as otherwise approved.

New section 1061P specifies how much a person will be paid as a disaster relief payment. The standard rate of payment will be one fortnight's worth of maximum basic rate of pension, plus add-ons and guardian allowance for dependent children if there are any, plus the maximum rate of rent assistance. The amount of the payment will vary between members of a couple and unpartnered people and between those with more or fewer children. Otherwise, the various components of the payment are not assessed on the basis of circumstances at all (eg, there is no means test applied, rent assistance is paid regardless of whether the person is a rent payer, and the rates that apply to pensions are assumed in all cases).

As Note 1 points out, a person does not have to be a client to be paid a disaster relief payment but, if he or she is, the payment will be in addition to the normal payment and so he or she will receive, loosely, a double payment for one fortnight. Non-clients will receive the same disaster relief payment, but as a single payment for one fortnight since they are not already receiving another payment.

Note 2 points out the new rule inserted by this Schedule (eg, see new subsection 97(4) for invalid pension) which allows a person who was not a client at the time of the disaster, who claims and is qualified for a disaster relief payment and who claims a social security pension or benefit as a result of the disaster to be paid the claimed pension or benefit (if the

person is qualified and the pension or benefit is payable) from the date of being affected by the disaster. This is as long as he or she claims within 14 days of claiming the disaster relief payment. The effect of this is that new clients will also receive a cumulative "double" payment for the fortnight after being affected by the disaster.

New Part 2.24 is inserted as a consequence of section 68 and paragraphs 69(b) and 70(1)(e) of the Social Security Legislation Amendment Act 1990.

Section 1064 (Pension Rate Calculator A - point 1064-A1) -
new note

A new Note 5 is to be inserted to indicate to the reader that, in some circumstances, a person may also be qualified for a pharmaceutical allowance under new Part 2.22.

Section 1064 (Pension Rate Calculator A - point 1064-C7) -
omission

Point 1064-C7 of the Principal Act is to be amended. This will remove reference to the omitted point 1064-C9 and ensure that payment of guardian allowance will not be subject to a requirement to pursue a reasonable maintenance claim.

Point 1064-C7 is amended as a consequence of section 22 of the Social Security Legislation Amendment Act 1990.

Section 1064 (Pension Rate Calculator A - point 1064-C9) -
omission

Point 1064-C9 is omitted from the Principal Act. This will ensure that payment of guardian allowance will not be subject to a requirement to pursue a reasonable maintenance claim.

Point 1064-C9 is omitted as a consequence of section 22 of the Social Security Legislation Amendment Act 1990.

Section 1064 (Pension Rate Calculator A - Point 1064-D1(d)) -
omission and substitution

Point 1064-D1(d) of the Principal Act is to be amended. Point 1064-D1 sets out the qualification criteria to be satisfied for an age or invalid pensioner (who is not permanently blind), wife or carer pensioner (and, in some cases sole parent pensioner) to be paid an additional amount for rent assistance.

In broad terms the rate of rent assistance to be added to a pensioner's payment is half of the difference between the amount of rent paid and a prescribed threshold amount, up to a specified maximum.

The amendment to point 1064-D1(d) will provide for an increase in the prescribed threshold amount from \$1,040 to \$1,300 per year (ie from \$40 to \$50 per fortnight).

Point 1064-D1(d) is amended as a consequence of section 25 of the Social Security Legislation Amendment Act 1990.

Section 1064 (Pension Rate Calculator A - point 1064-E8) -
insertion

Point 1064-E8 of the Principal Act is to be amended. A pensioner's ordinary free area (ie the amount of ordinary income he or she can get before pension is reduced) is increased by an additional free area in respect of each dependent child. The amount of the "additional free area" depends on the pensioner's family situation and is reduced by payments, other than certain exempt payments, received by the person or the person's partner in respect of the child.

Point 1064-E8 will be amended to exempt an Aboriginal study assistance scheme payment from reducing the additional free area for the child. This is consistent with the treatment afforded to AUSTUDY payments.

Point 1064-E8 is amended as a consequence of section 24 of the Social Security Legislation Amendment Act 1990.

Section 1065 (Pension Rate Calculator B - point 1065-A1) -
insert new note

A note is to be inserted to indicate to the reader that the person will also be qualified for a pharmaceutical allowance under new Part 2.22.

Section 1065 (Pension Rate Calculator B - point 1065-C4) -
omission and substitution

Point 1065-C4 of the Principal Act will be amended. This will ensure that payment of guardian allowance will not be subject to a requirement to pursue a reasonable maintenance claim.

Point 1065-C4 is amended as a consequence of section 22 of the Social Security Legislation Amendment Act 1990.

Section 1065 (Pension Rate Calculator B - Point 1065-D1(d)) -
omission and substitution

Point 1065-D1(d) of the Principal Act is to be amended. Point 1065-D1 sets out the qualification criteria to be satisfied for an age or invalid pensioner who is permanently blind to be paid an additional amount for rent assistance.

In broad terms, the rate of rent assistance to be added to a pensioner's payment is half of the difference between the amount of rent paid and a prescribed threshold amount, up to a specified maximum.

Point 1065-D1(d) will provide for an increase in the prescribed threshold amount from \$1,040 to \$1,300 per year (ie from \$40 to \$50 per fortnight).

Point 1065-D1(d) is amended as a consequence of section 25 of the Social Security Legislation Amendment Act 1990.

Section 1066 (Pension Rate Calculator C - point 1066-A1) -
insert new note

A new Note 4 is to be inserted to indicate to the reader that, in some circumstances, a person may also be qualified for a pharmaceutical allowance under new Part 2.22.

Section 1066 (Pension Rate Calculator C - Point 1066-D1(c)) -
omission and substitution

Point 1066-D1(c) of the Principal Act is to be amended. Point 1066-D1 sets out the qualification criteria to be satisfied for a recipient of a sole parent pension, widow B pension or widowed person allowance to be paid an additional amount for rent assistance.

In broad terms, the rate of rent assistance to be added to a pensioner's payment is half of the difference between the amount of rent paid and a prescribed threshold amount, up to a specified maximum.

Point 1066-D1(c) will provide for an increase in the prescribed threshold amount from \$1,040 to \$1,300 per year (ie from \$40 to \$50 per fortnight).

Point 1066-D1(c) is amended as a consequence of sections 25 and 28 of the Social Security Legislation Amendment Act 1990.

Section 1066 (Pension Rate Calculator C - point 1066-E6) -
insertion

Point 1066-E6 of section 1066 is to be amended. A pensioner's ordinary free area (ie the amount of ordinary income he or she can get before pension is reduced) is increased by an additional free area in respect of each dependent child. The amount of the "additional free area" is reduced by payments, other than certain exempt payments, received by the person in respect of the child.

Point 1066-E6 will be amended to exempt an Aboriginal study assistance scheme payment from reducing the additional free area for the child. This is consistent with the treatment afforded to AUSTUDY payments.

Point 1066-E6 is amended as a consequence of section 24 of the Social Security Legislation Amendment Act 1990.

Section 1067 (Benefit Rate Calculator A - point 1067-A1) -
insert new note

A note is to be inserted to indicate to the reader that, in some circumstances, a person may also be qualified for a pharmaceutical allowance under new Part 2.22.

Section 1067 (Benefit Rate Calculator A - Point 1067-F1(e)) -
omission and substitution

Point 1067-F1(e) of the Principal Act is to be amended. Point 1067-F1 sets out the qualification criteria to be satisfied for a recipient of job search allowance or sickness benefit, who has not turned 18, to be paid an additional amount for rent assistance.

In broad terms, the rate of rent assistance to be added to a person's payment is half of the difference between the amount of rent paid and a prescribed threshold amount, up to a specified maximum.

Point 1067-F1(e) will provide for an increase in the prescribed threshold amount from \$40 to \$50 per fortnight.

Point 1067-F1(e) is amended as a consequence of section 47 of the Social Security Legislation Amendment Act 1990.

Section 1068 (Benefit Rate Calculator B - point 1068-A1) -
insert new note

A new Note 2 is to be inserted to indicate to the reader that in some circumstances a person may also be qualified for a pharmaceutical allowance under new Part 2.22.

Section 1068 (Benefit Rate Calculator B - Point 1068-F1(c)) -
omission and substitution

Point 1068-F1(c) of the Principal Act is to be amended. Point 1068-F1 sets out the qualification criteria to be satisfied for a recipient of job search allowance or sickness benefit, who has turned 18, or a recipient of newstart allowance to be paid an additional amount for rent assistance.

In broad terms, the rate of rent assistance to be added to a person's payment is half of the difference between the amount of rent paid and a prescribed threshold amount, up to a specified maximum.

Point 1068-F1(c) will provide for an increase in the prescribed threshold amount from \$40 to \$50 per fortnight.

Point 1068-F1(c) is amended as a consequence of section 47 of the Social Security Legislation Amendment Act 1990.

Section 1069 (Family Allowance Rate Calculator -
point 1069-A1 - Method statement) - omit and substitute
new Method statement

The new method statement at point 1069-A1 of section 1069 will replace the old one. This method statement explains how to calculate the fortnightly rate of family allowance (FA) of a person with an FA child or children.

The method statement is amended by deleting those steps which relate to the reduction in rate due to the FA taxable income test. The decision to remove the taper on the rate of family allowance payable to a person whose income exceeds the person's taxable income free area means that these steps are no longer appropriate.

Section 1069 is amended as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

Section 1069 (Family Allowance Rate Calculator) -
insert new point 1069-B2A

New point 1069-B2A is inserted after point 1069-B2. This point provides that where a person's taxable income is greater than his or her taxable income free area and the person has an exempt FA child, the person's maximum basic rate (under point 1069-B1) is worked out by disregarding the non-exempt FA child or children.

New point 1069-B2A is inserted as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

Section 1069 (Family Allowance Rate Calculator - Module D) -
omit

Module D of section 1069 is omitted from the Principal Act. In light of the decision to remove the taper on the rate of family allowance (FA) payable to a person whose income exceeds the person's taxable income free area, the location of the FA taxable income test provisions in this Rate Calculator module is no longer appropriate.

As new paragraph 838(c) provides that a person must also satisfy the FA taxable income test to be qualified for family allowance, all relevant provisions relating to this test have been suitably amended and relocated with other family allowance qualification provisions.

Module D of section 1069 is repealed as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

Section 1070 (Family Allowance Supplement Rate Calculator
- Point 1070-C1) - omission and substitution

Point 1070-C1 of the Principal Act is to be amended. Point 1070-C1 sets out the qualification criteria to be satisfied for a recipient of family allowance supplement to be paid an additional amount for rent assistance.

In broad terms, the rate of rent assistance to be added to a person's payment is half of the difference between the amount of rent paid and a prescribed threshold amount, up to a specified maximum.

Point 1070-C1(c) will provide for an increase in the prescribed threshold amount from \$40 to \$50 per fortnight.

Point 1070-C1(c) is amended as a consequence of section 33 of the Social Security Legislation Amendment Act 1990.

Before Division 1 of Part 3.10 - insert new Division 1AA

A new Division 1AA is to be inserted before Division 1 of Part 3.10 of the Principal Act. This will deal with the concept of ordinary income for income assessment purposes. It will make it clear that ordinary income for social security purposes generally means gross income but that certain expenses incurred in deriving income from a business, including adjustments for decreases in the value of stock on hand, can be allowed as ordinary income deductions but only from ordinary income derived from the business concerned and not from any other sources.

New section 1072M will provide that, subject to certain exceptions, ordinary income is generally total gross ordinary income from all sources.

New subsection 1072M(1) provides that the ordinary income of a person is to be worked out by summing the person's ordinary income from all sources.

A note signposts the definition of ordinary income.

New subsection 1072M(2) provides that a person's ordinary income includes amounts for trading stock adjustments (see new section 1072N below), investment income (see Division 1 of Part 3.10 of the Principal Act), deemed income from moneys not invested or invested at low interest rates (see new Division 1A of Part 3.10 in this Schedule), deemed income from moneys on loan (see new Division 1B of Part 3.10 in this Schedule) and deemed income attributed to deprived assets (see new Division 1C of Part 3.10 in this Schedule).

New subsection 1072M(3) specifies that a person's ordinary income is usually the person's gross ordinary income without any reduction. Exceptions to this general rule will arise

where:

- . deductions are allowable for trading stock adjustments under new subsection 1072N(2); or
- . business deductions are allowable under new section 1072P; or
- . investment income deductions are allowable under new section 1072Q.

New section 1072N will cover the treatment of changes in the value of trading stock of a business during a tax year for the purpose of working out a person's ordinary income. If the value of the trading stock of a person's business on hand at the end of the tax year is different from the value of stock on hand at the start of that year, the person's ordinary income in the form of profits from the business for that year must include the difference in those values.

New section 1072P provides that the ordinary income derived from a business by a person can usually be reduced by certain expenses of that business that are allowable deductions under the Income Tax Assessment Act 1936 (see new subsection 1072P(1)). However, where:

- . a person is deemed to receive ordinary income or additional ordinary income from money because of new Division 1A of Part 3.10 (new subsection 1072P(2)); or
- . a person is deemed to receive ordinary income or additional ordinary income from a loan because of new Division 1B of Part 3.10 (new subsection 1072P(3));

no expenses are to be allowed to reduce the person's deemed income. Also, where a person is taken to receive a return on an investment because of Division 1 of Part 3.10, then only those reasonable investment expenses covered by sections 1080 or 1095 are to be allowable deductions from a person's ordinary

income (new section 1072Q).

New Division 1AA of Part 3.10 is to be inserted as a consequence of section 6 of the Social Security Legislation Amendment Act 1990 and clause 5 of the Social Security Legislation Amendment Bill 1991 which seeks amendment of the 1947 Act.

Sections 1073-1077, 1080-1084, 1094 and 1096 -
omissions and substitutions

The amendments to sections 1073-1077, 1080-1084, 1094 and 1096 do three things. Firstly, they reverse the decision of the Administrative Appeals Tribunal (AAT) in Cowling. In Cowling, the AAT decided that the provisions of subsection 12C(5) of the 1947 Act (now section 1075 of the Principal Act) were attracted where a bonus was credited to the account of an investor, whether or not the investor withdraws the bonus. This was not intended. The amended provisions will only apply where the investor actually receives the bonus. The concept of "entitlement" is abandoned in favour of one of "receipt".

Secondly, the amendments are designed to stop avoidance by making sure that the provisions are attracted only where an investor "realises" an investment. This is to stop people from giving away investments rather than cashing them in, so as to avoid the ambit of the provisions. This measure is achieved by making it clear in the legislation that the provisions only apply (ie when investment income is to be treated as income for the purposes of the ordinary income test) where an investment is 'realised' and then by defining realisation to include:

- . withdrawing the investment (either in whole or in part); or
- . paying an investment over to another; or
- . assigning an investment; or

- . disposing of an investment; or
- . where an investment matures.

Finally, the provisions are amended to ensure that they apply where a person 'acquires' an investment. This prevents a person from seeking to be exempted from the ambit of the provisions on the basis that they have not 'made' an investment but rather that the investment has been assigned to them.

The amendments to sections 1073-1077, 1080-1084, 1094 and 1096 are made as a consequence of sections 14 to 19 inclusive of the Social Security Legislation Amendment Act 1990.

After Division 1 of Part 3.10 - new Divisions 1A, 1B and 1C

New Division 1A - Interest attributed to money not invested or invested at a low rate of interest

A new Division 1A is to be inserted after Division 1 of Part 3.10 of the Principal Act. New Division 1A will generally enable moneys held by a person or deposited with financial institutions in accounts that return less than 10% a year to be attributed a return of 10% a year. This attributed interest is then assessed as income of the person.

New section 1099A specifies that, where new Division 1A applies to a person's available money or deposit money, Division 1 of Part 3.10 (investment income) does not apply to the return on that money. New definitions of "available money" and "deposit money" have been inserted in subsection 8(1) of the Principal Act. "Available money" is to mean money held by or on behalf of a person. It is not to include a person's "deposit money" (as defined) or money taken to have been received from loans under new Division 1B of Part 3.10. "Deposit money" is to be defined to mean a person's money that is deposited in an account with a financial institution.

New section 1099B introduces the concept of "income money", specifies how to work out what part of the total of a person's available money plus deposit money is income money and how to take into account deposit money that is received at intervals greater than the anniversary of its deposit.

New subsection 1099B(1) provides that a person has income money for the purposes of new Division 1A if the person has available money and deposit money that adds up to more than \$2,000. New subsections 1099B(2) and (3) show how to work out which money of a person is the person's income money. Basically, it is to be worked out by firstly deducting any available money of the person from \$2,000, then any deposit money not earning any interest from the balance (if any), then any deposit money earning interest from the balance (if any). If there is a balance of available money and or deposit money after those 3 steps, then that balance is income money of the person. New subsection 1099B(4) deals with the situation where a return on an investment is deferred for more than a year. It provides that interest on such investment money is to be taken to be received annually.

New section 1099C provides that generally, where a person's income money does not attract interest, the person is to be taken to receive interest on that income money at the assumed rate of interest (see new section 1099F). If the income money is specified income money of the person or of a class of persons that the Minister has decided, in writing, to disregard under new section 1099E, then new section 1099C has no effect.

A note signposts the provision explaining "assumed rate of interest".

New section 1099D provides that generally, where a person's income money attracts interest at a rate lower than the assumed rate of interest (see new section 1099F), the person is to be taken to receive interest on that income money at the assumed rate.

If the income money is specified income money of the person or of a class of persons that the Minister has decided, in writing, to disregard under new section 1099E, then new section 1099D has no effect.

A note signposts the provision explaining "assumed rate of interest".

New section 1099E provides that the Minister may, by written notice, determine that the attribution of interest to income money which is attracting either no interest or a low rate of interest does not apply to specified income money of a person or of a class of persons.

New section 1099F explains the term "assumed rate of interest" as used in new sections 1099C and 1099D. It is to be 10% a year or such other lower rate as determined by the Minister in a written notice under new subsection 1099F(2). A notice under new subsection 1099F(2) is to be a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901. A disallowable instrument is one which must be gazetted and laid before both Houses of Parliament within 15 sitting days after the determination date.

New Division 1A is to be inserted as a consequence of subsection 9(1) of the Social Security Legislation Amendment Act 1990.

New Division 1B - Interest attributed to money on loan

A new Division 1B is to be inserted after new Division 1A of Part 3.10. New Division 1B will generally enable interest at a rate of 10% a year or at a lower rate to be attributed to a loan made by a person that is returning less than that rate of interest a year. This attributed interest is then assessed as income of the person.

New section 1099G sets out the parameters within which new Division 1B will operate. New subsection 1099G(1) provides that new Division 1B will only apply to loans made after 21 August 1990. New subsection 1099G(2) specifies that, where new Division 1B applies to a person's loan, Division 1 of Part 3.10 (investment income) does not apply to the return on that loan.

New section 1099H explains what constitutes both a loan and interest on a loan for the purposes of new Division 1B. New paragraph 1099H(a) provides that a "loan" can include debentures, bonds and other securities as well as those transactions that would normally be identified as loans. However, according to new paragraph 1099H(b) there is no "loan" where a person has deposited money in an account with a financial institution or where a pensioner has made an entry contribution in order to gain either a right to reside in a retirement village or a granny flat interest (see section 1147 of the Principal Act as amended in this Bill).

New paragraph 1099H(c) explains that, for the purposes of new Division 1B, "interest" on a loan is to include any payment for the use of the money that is lent. This is broad so as to include the situation where payment of interest has been deferred. How to deal with situations where payment of interest is deferred is covered with by new paragraph 1099H(d). Where interest has accrued on a loan that was made over 12 months ago but that interest has not been paid, or accounted for, to the lender at least as frequently as the anniversary of the making of the loan, then the interest on the loan (ie either the actual rate or the assumed rate - see new section 1099M) is to be taken to have been received on each anniversary of the making of the loan.

Note 1 would explain that money excluded from the operation of new Division 1B by new paragraph 1099H(b) is dealt with in new Division 1A. Note 2 would signpost the definition of "financial institution". Note 3 signpost the provision explaining "entry contribution".

New section 1099J provides that generally, where a person has made a loan that does not attract interest, the person is to be taken to receive interest on that loan at the assumed loan rate (see new section 1099M). If the loan is a specified loan or in a class of specified loans that the Minister has decided, in writing, to disregard under new section 1099L, then new section 1099J has no effect.

A note signposts the provision explaining "assumed loan rate".

New section 1099K provides that generally, where a person has made a loan that attracts interest at a rate lower than the assumed loan rate (see new section 1099M), the person is to be taken to receive interest on that loan at the assumed rate. If the loan is a specified loan or in a class of specified loans that the Minister has decided, in writing, to disregard under new section 1099L, then new section 1099K has no effect.

A note signposts the provision explaining "assumed loan rate".

New section 1099L provides that the Minister may, by written notice, determine that the attribution of interest to a loan which is attracting either no interest or a low rate of interest does not apply to specified loans or a specified class of loans.

New section 1099M explains the term "assumed loan rate" as used in new sections 1099J and 1099K. It is to be 10% a year or such other lower rate as determined by the Minister in a written notice under new subsection 1099M(2). A notice under new subsection 1099M(2) is to be a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901. A disallowable instrument is one which must be gazetted and laid before both Houses of Parliament within 15 sitting days after the determination date.

New Division 1B is to be inserted as a consequence of section 6 of the Social Security and Veterans' Affairs Legislation Amendment Act (No. 2) 1990 and section 8 of the Social Security Legislation Amendment Act 1990.

New Division 1C - Income attributed to deprived assets

A new Division 1C is to be inserted after new Division 1B of Part 3.10. New Division 1C will enable income to be attributed to certain assets that are disposed of by a person. The attributed income is then taken into account for income testing purposes.

New section 1099N provides that new Division 1C will only apply to dispositions of assets that occur after 21 August 1990 (the date of the Budget announcement).

New section 1099P provides that where a person disposes of an asset and the value of the asset is included in the value of the person's assets for the purposes of section 1125 or 1126, the person is to be taken to receive income from the asset at whichever is the higher of:

- . the assumed property rate (see new section 1099Q); or
- . the actual rate of return from the asset prior to its disposal, ie the amount calculated under subsection 1110(3).

A note signposts the provision explaining "assumed property rate".

New section 1099Q explains the term "assumed property rate". It is to be 10% a year or such lower rate as may be determined by the Minister from time to time in a written notice. Such a notice is to be a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901. A disallowable instrument is one which must be gazetted and laid before both Houses of Parliament within 15 sitting days after the determination date.

New Division 1C is to be inserted as a consequence of section 8 of the Social Security and Veterans' Affairs Legislation Amendment Act (No. 2) 1990.

Sections 1106 and 1107 - repeal and substitute
new sections 1106 and 1107

New sections 1106 and 1107 are to replace the old ones. The intended effects of new sections 1106 and 1107 are identical to those of the sections that are to be repealed. The amendments are made to make it clearer just what those intended effects are.

The intended effect of new section 1106 is that, where a person engages in conduct that reduces his or her income by either destroying or disposing of the income source, or disposing of or diminishing the actual income, and the person receives either no or inadequate consideration in money or in money's worth for the diminution (eg, giving away a profitable business to a relative or giving away the interest earned on an interest bearing account), then that person will be taken to have "disposed" of his or her ordinary income. A person will also be taken to have "disposed" of his or her ordinary income if the Secretary is satisfied that the person's purpose, or the person's dominant purpose, in engaging in that conduct was to:

- . enable the person or the person's partner to obtain a social security or service pension or a social security benefit; or
- . enable the person or his or her partner to obtain a pension or benefit at a higher rate than that which would otherwise be payable; or
- . ensure that the person or the partner would be qualified for fringe benefits.

Note 1 signposts the provision explaining "amount of disposition". Note 2 indicates the provision that deals with a disposition that constitutes both a disposal of an asset as well as a disposal of income.

New section 1107 specifies what constitutes the actual "amount of the disposition" that is to be taken into account as ordinary income. If a person receives no consideration, it is the amount that the Secretary decides is the annual rate of the decrease in income because of either the destruction or disposal of an income source or the disposal or diminution of actual income. If the person receives consideration, it is the amount that the Secretary decides is the annual rate of the decrease less the consideration (if any) that is fair and reasonable in the circumstances of the case.

New sections 1106 and 1107 are to be inserted as a consequence of paragraphs 10(c) and (d) of the Social Security Legislation Amendment Act 1990.

Section 1114 - repeal and substitute new section 1114

A new section 1114 will replace the old one. New section 1114 deals with the concepts of individual and joint earnings credit accounts. The existing section 1114 is cast on a single person basis. It does not allow one of a pensioner couple to access any balance in the earnings credit account of his or her pensioner partner if the he or she has earnings from remunerative work above the allowable level and has no balance in his or her own earnings credit account. The new section 1114 will allow each of a pensioner couple to access any earnings credit "earnt" by his or her partner.

New subsection 1114(1) provides that a person will have an individual earnings credit account if:

- . the person is receiving a social security pension (see definition in subsection 23(1)) other than a carer pension; and
- . either the person is not a member of a couple or the person is a member of a couple where the partner is not getting a social security pension (except a carer pension) or a service pension (except a service carer pension).

New subsection 1114(2) provides that a person and his or her partner will have a joint earnings credit account if:

- . the person is receiving a social security pension (see definition in subsection 23(1)) other than a carer pension; and
- . the person's partner is getting a social security pension (except a carer pension) or a service pension (except a service carer pension).

New subsection 1114(3) specifies that, where new subsection 1114(1) stops applying to 2 individuals and new subsection 1114(2) applies to create a joint earnings credit account for them, (eg, where 2 pensioners, who are not members of a couple, become members of the same couple), then the opening balance of the joint account is the sum of the closing balances of their individual accounts.

New subsection 1114(4) specifies that, where new subsection 1114(2) stops applying to a pensioner couple, and new subsection 1114(1) applies to create an individual earnings credit account for either or both of them, (eg, where a pensioner couple get divorced and do not become members of other couples), then the opening balance of the individual account or accounts is 50% of the closing balance of their joint account.

New section 1114 is to be inserted as a consequence of section 12 of the Social Security Legislation Amendment Act 1990.

Section 1115 (Earnings Credit Account Balance Calculator)
- amendments

Section 1115 sets out how to work out a person's earnings credit account balance. The amendments will enable:

- . calculation of earnings credits on a fortnightly basis (consistent with the basis for payment of pensions) instead of weekly; and
- . each of a pensioner couple to access a joint earnings credit balance instead of just individual balances, thus enabling access to a combined credit of up to \$2,000.

Amended point 1115-A1 sets out a 3-step method statement for working out the balance of an individual credit account and new point 1115-A2 limits the balance of an individual account to \$1,000. New point 1115-A3 sets out a 3-step method statement for working out the balance of a joint credit account and new point 1115-A4 limits the balance of a joint account to \$2,000. Under new point 1115-A5, the balance of an individual or joint credit account will be prevented from falling below nil. New point 1115-A6 specifies that the earnings credit accounting periods are the fortnights that start on each pension payday (usually a Thursday) on or after 1 July 1991.

Point 1115-B1 sets out the general rule for establishing the opening balance of a person's earnings credit account if he or she starts to receive a pension on or after 1 July 1991. The amendment to point 1115-B1 will provide that generally, the opening balance of an individual or joint earnings credit account will be nil. The exception would be where the person is a member of a couple and the person's partner is a pensioner who has been receiving a pension since before 1 July 1991. In that case, the opening balance of the joint account is to be the balance of the partner's individual earnings credit account immediately before the person started receiving the pension.

Point 1115-B2 deals with establishing a person's opening credit account balance where he or she had been receiving a pension continuously since before 1 July 1991. The amendment to point 1115-B2 will establish the opening balance of an individual or joint earnings credit account of a person or of a couple respectively where the person or the couple were receiving pension continuously since before 1 July 1991. This will preserve earnings credit entitlements derived under the 1947 Act.

The amendments to point 1115-C1 and 1115-C2 are minor changes associated with the introduction of joint earnings credit accounts for pensioner couples.

The amendments to section 1115 are to be made as a consequence of section 12 of the Social Security Legislation Amendment Act 1990.

After subparagraph 1118(1)(g)(ii) - insert
new subparagraph 1118(1)(g)(iii)

In general, subsection 1118(1) sets out those assets of a person that can be disregarded for the purposes of calculating the value of the person's assets (eg, in assessing a person's rate of pension under the assets test). Paragraph 1118(1)(g) provides that the value of a granny flat interest in a person's principal home that gives reasonable security of tenure is to be disregarded. Under subsection 11(9), a person's granny flat interest is a right to accommodation for life, or a life interest, that has been acquired for valuable consideration, or retained, in a private residence that is the person's principal home.

The amendment to paragraph 1118(1)(g) will limit the exemption of granny flat interests to those that were acquired or retained before 22 August 1990, the date of the Budget announcement.

The amendment to paragraph 1118(1)(g) is to be made as a consequence of paragraph 4(c) of the Social Security and Veterans' Affairs Legislation Amendment Act (No.2) 1990.

After subsection 1118(1) - insert new paragraph 1118(1)(s)

New paragraph 1118(1)(s) is to be inserted.

Subsection 1118(1) sets out certain exempt assets which are to be disregarded in calculating the value of a person's assets under the assets test.

The insertion of new paragraph 1118(1)(s) will provide that the amount of any insurance or compensation payments received by a person because of the loss of, or damage to, buildings, plant or personal effects will be disregarded under the assets test for 12 months or such longer period as the Secretary, for any special reason for a particular payment, determines.

New paragraph 1118(1)(s) is inserted as a consequence of section 7(a) of the Social Security Legislation Amendment Act 1990 which amended the Social Security Act 1947.

Sections 1123 and 1124 - repeal and substitute
new sections 1123 and 1124

New sections 1123 and 1124 are to replace the old ones in Division 2 of Part 3.12 of the Principal Act. Division 1 provides special rules designed to limit the avoidance of the assets test by the disposal of assets. Under these rules, a person who disposes of assets valued above certain limits is treated for assets testing purposes as if he or she still has those assets. The intended effects of new sections 1123 and 1124 are identical to those of the sections that are to be repealed. The amendments are made to make it clearer just what those intended effects are.

The intended effect of new section 1123 is that, where a person engages in conduct that reduces the value of his or her assets by either:

- . destroying or disposing of the assets:
- . or diminishing their value;

and the person receives either no or inadequate consideration in money or in money's worth for the diminution (eg, giving away a second car to a relative), then that person will be taken to have "disposed" of his or her assets. Under new subparagraph 1123(1)(b)(iii) and new subsection 1123(2), a person will also be taken to have "disposed" of his or her assets if the Secretary is satisfied that the person's purpose, or the person's dominant purpose, in engaging in that conduct was to:

- . enable the person or the person's partner to obtain a social security or service pension or a social security benefit; or
- . enable the person or his or her partner to obtain a pension or benefit at a higher rate than that which would otherwise be payable; or
- . ensure that the person or the partner would be qualified for fringe benefits.

New subsection 1123(3) provides that, for the purposes of deciding whether a person receives any or adequate consideration in connection with the disposal of an asset, the value of a person's granny flat interest is not to be treated as consideration received by the person if it was acquired or retained before 22 August 1991.

A note signposts the provision explaining "granny flat interest".

New subsection 1123(4) provides that, where any amount paid or agreed to be paid in respect of a granny flat interest is more than the value of the interest, then the excess is not to be treated as consideration received by the person.

A note signposts the provision explaining "granny flat interest".

Where a person disposes of assets, new section 1124 specifies the actual amount of the disposition that is to be taken into account as part of the person's total assets. If the person receives no consideration, it is the value of the assets destroyed or disposed of or the amount of the diminution in value of the assets. If the person receives consideration, it is the value of the assets destroyed or disposed of or the amount of the diminution in value of the assets less the amount of the consideration received by the person in respect of the disposal.

New sections 1123 and 1124 are to be inserted as a consequence of paragraphs 4(a), 4(b) and 7(g) of the Social Security and Veterans' Affairs Legislation Amendment Act (No.2) 1990 and paragraphs 10(a) and (b) of the Social Security Legislation Amendment Act 1990.

Section 1125 (Disposal of assets-individuals) - amendments

Section 1125 deals with dispositions of assets by a person who is not a member of a couple. Generally, it provides for the value of a person's dispositions (above a certain limit) during a pension year to be added to the value of the person's total assets for assets testing purposes. (The term "pension year" is explained in subsection 11(10) of the Principal Act.) Section 1125 also provides for the discounting of the value of dispositions of assets.

The amendments to section 1125:

- . increased (from 1 March 1991) the limit that a person who is not a member of a couple can dispose of during a pension year without affecting his or her rate of pension from \$2,000 to \$10,000; and
- . reduced (from 1 March 1991) from ten to five years the period for discounting dispositions. This means that, where the amount of a person's disposition (that takes place on or after 1 March 1986) is above the limit, the amount of the disposition is reduced by 10% a year on each anniversary of the day on which the disposition took place for five years.

The amendments to section 1125 are to be made as a consequence of paragraphs 7(a) to (f) inclusive of the Social Security and Veterans' Affairs Legislation Amendment Act (No.2) 1990.

Section 1126 (Disposal of assets - members
of couples) - omissions and substitutions

Section 1126 deals with dispositions of assets by a person who is a member of a couple. Generally, it provides for the value of the dispositions of a person or his or her partner or both of them (above a certain limit) during a pension year to be added to the value of their assets for assets testing purposes. (The term "pension year" is explained in subsection 11(10) in the Principal Act.) Section 1126 also provides for the discounting of the value of dispositions of assets.

The amendments to section 1126:

- . increased (from 1 March 1991) the disposition limit applicable to a person who is a member of a couple or his or her partner or both of them without affecting their rate of pension from \$2,000 to \$10,000; and
- . reduced (from 1 March 1991) from ten to five years the period for discounting dispositions. This means that, where the amount of a disposition (that takes place on or after 1 March 1986) is above the limit, the amount of the disposition is reduced by 10% a year on each anniversary of the day on which the disposition took place for five years.

The amendments to section 1126 are to be made as a consequence of paragraphs 7(a) to (f) inclusive of the Social Security and Veterans' Affairs Legislation Amendment Act (No.2) 1990.

Heading to Division 5 of Part 3.12 - insertion

The heading to Division 5 of Part 3.12 is to be amended by adding "and granny flats" to reflect the widening of the effect of the Division that will be brought about by the ensuing amendments to its provisions.

The provisions contained in that Division are to be amended to enable persons who have certain granny flat interests to be assessed as homeowners for the purposes of the assets test. A person has a "granny flat interest" if the person's principal residence is a private home and the person has either acquired for valuable consideration, or retained a right, to live in that residence for the rest of his or her life.

Currently, Division 5 of Part 3.12 contains special provisions relating to residents of retirement villages. Broadly speaking, the size of a person's "entry contribution" (which is, as set out in section 1147 of the Principal Act, the amount

paid or agreed to be paid by a person for the right to live in a retirement village) will determine whether the person is to be taken to be a homeowner for the purposes of the assets test. The significance of this is twofold. First, by virtue of paragraphs 1118(1)(a) and (b) of the Principal Act, the value of a homeowner's principal home is disregarded for the purposes of the assets test. Second, by virtue of points 1064-G3 or 1066-G3 of Pension Rate Calculators A or C respectively, a non-homeowner may own assets of a greater total value than a homeowner without affecting the rate of his or her pension. The difference between the non-homeowner and homeowner thresholds is the "extra allowable amount" as set out in section 1148. A comparison between a person's entry contribution and his or her extra allowable amount will usually determine whether a retirement village resident is a homeowner or not.

In broad terms, the amendments to Division 5 of Part 3.12 will determine whether a person who has a granny flat interest is a homeowner or not. This will be achieved by comparing the value of that granny flat interest (as if it were equivalent to an entry contribution) with the relevant extra allowable amount for the person. The value of the granny flat interest is to be either the amount paid or agreed to be paid for the interest or such other amount as may be determined by the Secretary for any special reason in any particular case.

Section 1145 - repeal and substitute
new sections 1145 and 1145A

New section 1145 sets out what constitutes a retirement village resident and a granny flat resident for the purposes of Division 5 of Part 3.12. A retirement village resident is someone who has his or her principal home in a retirement village. A granny flat resident is someone who has a granny flat interest in his or her principal home.

New section 1145A provides that Division 5 of Part 3.12 applies to granny flat residents only if the granny flat interest is acquired or retained on or after 22 August 1990.

Section 1146 and subsection 1147(1) - amendments

The amendments to section 1146 and subsection 1147(1) will mean that those provisions will apply to granny flat residents as well as retirement village residents.

Section 1146 will now explain that the operation of the Division (in determining whether a retirement village or granny flat resident is a homeowner or not) will depend upon whether a retirement village or granny flat resident is a member of a couple or not and if so, whether he or she is a member of an "illness separated couple" or an "ordinary couple with different principal homes". (Those terms are defined in sections 4 and 12 of the Principal Act.) Operation of the Division will also depend upon the resident's "entry contribution" (explained in section 1147) and "extra allowable amount" (explained in section 1148 of the Principal Act).

Subsection 1147(1) will now establish that a retirement village or granny flat resident's entry contribution is to be worked out as follows:

. For a resident who:

- is not a member of a couple; or
- is a member of an illness separated couple; or
- is a member of an ordinary couple with different principal homes and whose partner is not a retirement village or granny flat resident;

the entry contribution is the total amount paid or agreed to be paid for either the retirement village resident's

current right to live in the retirement village or the granny flat resident's current granny flat interest.

. For a resident who:

- is a member of a couple (but not a member of an illness separated couple) sharing his or her principal home with his or her partner; or
- is a member of an ordinary couple with different principal homes and whose partner is also a retirement village or granny flat resident;

the entry contribution is half of the total amount paid or agreed to be paid for either the retirement village resident's and partner's current rights to live in the retirement village or the granny flat resident's and partner's current granny flat interest.

. For a resident who is no longer a member of a couple but who was when he or she moved into the retirement village or acquired or retained the granny flat interest, the entry contribution is the total amount paid, or agreed to be paid, for either:

- the retirement village resident's current right to live in the village and the current right (if any) to share that home with a partner (despite the partner no longer living with the resident); or
- the granny flat resident's granny flat interest as if the former partner was still living there unless that interest was renegotiated after the resident stopped being a member of a couple.

After subsection 1147(1) - insert new subsection 1147(1A)

New subsection 1147(1A) provides that, for the purposes of determining the amount of a granny flat resident's entry contribution under subsection 1147(1), it would be the value of the granny flat interest. The value of the granny flat interest is to be either:

- . the amount paid or agreed to be paid for that interest; or
- . such other amount as decided by the Secretary for any special reason in any particular case.

After subsection 1148(2) - insert new subsection 1148(2A)

New subsection 1148(2) establishes a granny flat resident's "extra allowable amount" which is basically a threshold amount for comparing with the resident's entry contribution to determine whether the resident is to be taken to be a homeowner or not. It is to be:

- . if the resident is not a member of a couple or is a member of an illness separated couple - the difference between the pension "single" homeowner AVL and the pension "single" non-homeowner AVL as at the time when the resident becomes entitled to the granny flat interest; and
- . in any other case - the difference between the pension "partnered" homeowner AVL and the pension "partnered" non-homeowner AVL as at the time when the resident becomes entitled to the granny flat interest.

The terms 'pension "single" homeowner AVL', 'pension "single" non-homeowner AVL', 'pension "partnered" homeowner AVL' and 'pension "partnered" non-homeowner AVL' have the same meaning as applies in the indexation provisions in Part 3.16 (subsection 1148(4)).

Sections 1150 to 1157 inclusive - amendments

The amendments to sections 1150 to 1157 inclusive will establish whether a granny flat resident is to be taken to be a homeowner or not. That decision will depend on whether;

- . the resident is not a member of a couple (section 1150); or
- . the resident is a member of a couple and shares his or her granny flat interest with his or her partner (section 1151); or
- . the resident is a member of an illness separated couple (sections 1152 to 1154); or
- . the resident is a member of an ordinary couple with different principal homes (sections 1155 to 1157);

and a comparison of the resident's entry contribution and his or her extra allowable amount (see sections 1147 and 1148).

The amendments to Division 5 of Part 3.12 are to be made as a consequence of section 5 of the Social Security and Veterans' Affairs Legislation Amendment Act (No.2) 1990.

Section 1190 (Indexed and Adjusted Amounts Table - item 21) - omission and substitution

Section 1190 of the Principal Act will be amended. This section contains a table which sets out all the amounts that are indexed under Part 3.16 and the provisions in which these amounts are to be found. The table also sets out the abbreviations that are used in the tables and provisions located in this Part.

The amendment to item 21 of the section 1190 table provides the new provision reference (subsection 840A(8)) for the family allowance free area (of taxable income) following the omission of module D of section 1069.

Section 1190 is amended as a consequence of section 39 of the Social Security Legislation Amendment Act 1990.

Section 1222 - repeal and substitute new section 1222

A new section 1222 will replace the old one to describe the general effect of the Chapter in the Principal Act on overpayments and debt recovery. It will clarify the circumstances under which amounts incorrectly paid will be recoverable.

The new section omits the previous reference to overpayments under the Principal Act - ie, "amounts that should not have been paid". Subsequent provisions now clarify that a payment under the Principal Act that was incorrect is only recoverable if the amount is specifically created as a debt under the Act - the notion of an "overpayment" under the Act no longer exists; however, there are still overpayments under other Acts and schemes which need to be referred to in these provisions.

New section 1222 refers to the full range of debts addressed in the Principal Act, including some new ones created by subsequent new sections, in the Recovery Methods Table which summarises how each type of debt is recoverable.

New subsection 1222(3) discusses recovery of overpayments under other Acts or schemes by means of deductions from payments under the Principal Act.

New section 1222 is inserted as a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

Before section 1223 - insert new section 1222A

This new section in the Part dealing with amounts that are recoverable under the Principal Act lays down the important new rule that an amount paid under the Act cannot be a debt unless a specific provision of the Act (or the 1947 Act) expressly provides that it is. Because there is no provision to allow recovery of an amount paid under the Principal Act that is not a debt under the Act, it follows that any other amount incorrectly paid for whatever reason (for example, administrative error) may not be recovered. A note signposts all the provisions in the Act that create debts.

New section 1222A is inserted as a consequence of section 77 of the Social Security Legislation Amendment Act 1990.

Subsection 1223(1) - omit and substitute new subsection 1223(1)

The previous provision in the Principal Act which allowed an amount paid that "should not have been paid" to be treated as an overpayment and recovered by deductions is omitted. In its place, this new subsection creates a debt due to the Commonwealth where a payment under the Act (or the 1947 Act):

- . was one for which the person was not qualified;
- . was at a rate greater than the maximum payment rate;
- . was one which the person knew, or could reasonably be expected to have known, was incorrect; or
- . is a family allowance supplement payment that should have been less (or nil) because of specified provisions to do with an incorrect estimate of, or change to, the person's taxable income.

Such a debt is recoverable by deductions, legal proceedings or garnishee notice (provisions for which are signposted by three notes).

New subsection 1223(1) is inserted in consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990. The other types of debt mentioned in section 77 are dealt with in other provisions of Chapter 5 of the Principal Act.

Subsection 1223(3) - omit note

The note to this subsection is omitted because it now appears more appropriately at the end of new subsection 1223(1) which is inserted as a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

After section 1223 - insert new sections 1223A and 1223B

These two new sections create two new types of debt due to the Commonwealth.

New section 1223A works alongside the new multiple entitlement exclusion and automatic termination provisions inserted in the various payment Parts by this Schedule (eg, new sections 47 and 71A for age pension). Where one of those provisions automatically terminates a person's payment because he or she transfers to another payment type and where a payment is physically made after that automatic termination, this new section makes the excess payment a debt which is recoverable through the usual means (as signposted by three notes).

New subsection 1223A(1) provides this rule for all of the social security pensions and benefits, using the term "multiple entitlement exclusion date of effect provision". This is defined in new subsection 1223A(3) by listing all of the relevant automatic termination provisions. In the case of wife and carer pensions, there is an extra reference each because an extra provision for each (new sections 175B and 225B) automatically terminates a person's wife or carer pension if

his or her partner transfers to a new payment type which disqualifies the person for wife or carer pension.

New subsection 1223A(2) provides a rule of the same effect for family allowance supplement (FAS) as new subsection 1223A(1) does for pensions and benefits. It cannot be grouped with the other "multiple entitlement exclusion date of effect" provisions because the provision which automatically terminates a person's FAS (new section 933A) operates because a person simply cannot be qualified for FAS if he or she or his or her partner starts to receive a pension or benefit - there is no concept of "multiple entitlement" which needs to be excluded.

New section 1223B provides a similar rule where an excess payment is made to a person after his or her rate is automatically reduced under a "partner automatic rate adjustment provision" because the partner has started receiving a payment which has resulted in the person's rate being reduced. The term "partner automatic rate adjustment provision" is defined in the same way (eg, new section 73A for age pension). The excess payment is a debt due to the Commonwealth and is recoverable through the usual means (as signposted by three notes).

New sections 1223A and 1223B are inserted as a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

After section 1224 - insert new section 1224A

This new section makes it clear that a debt that arises under section 1135 of the Principal Act (in the pension loans scheme provisions) is grouped with the other debts under the Act and is therefore recoverable through the usual means. However, a note points out that sections 1139 and 1140 should be consulted about the circumstances in which the debt may be recovered. Other notes signpost the provisions which discuss the means of recovery.

New section 1224A is inserted as a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

Subsection 1231(1) - omission and substitution

This amendment to the section dealing with recovery by deductions is to remove the previous reference to overpayments under the Principal Act since now only debts under the Act may be recovered. It also clarifies the transitional effect of the provision between the 1947 Act and the Principal Act.

This amendment is a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

Subsection 1231(1) (Method statement - Step 2) - omission and substitution

This amendment to the method statement for recovery by deductions is to remove the previous reference to overpayments under the Principal Act since now only debts under the Act may be recovered. It is a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

Subsection 1231(2) - omission and substitution

This amendment makes it clear that the recovery of a debt by deductions is subject to the following new provisions concerning limitation of recovery action. It is a consequence of section 80 of the Social Security Legislation Amendment Act 1990.

After subsection 1231(2) - insert
new subsections 1231(2A) to (2E)

These new provisions are to extend the six year limitation period that applies in the Principal Act for debt recovery by legal proceedings to recovery by deductions from a person's pension, benefit or allowance.

New subsection 1231(2A) sets the basic rule that action to recover a debt or overpayment under another Act or scheme by way of deductions may not be commenced later than six years after the debt or overpayment arose. The following provisions then modify that rule.

New subsection 1231(2B) provides that, in the case of a debt which arose under either the Principal Act or the 1947 Act because of a contravention of the Act, the six year limitation on action runs from when an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt. This is an extension to cover deductions of current subsection 1232(3) for legal proceedings.

New subsections 1231(2C) and (2D) make it clear that the limitation period for action to recover by deductions ceases to run where part of a debt is paid or where there is an acknowledgement of the debt. The limitation period starts again on the day of payment or acknowledgement.

New subsection 1231(2E) makes it clear that the limitation period for action to recover by deductions ceases to run where the Department takes action relating to the recovery of the debt or overpayment. The action envisaged is either legal proceedings, garnishee notice, file review or any other internal Departmental activity relating to the recovery. The limitation period starts again after the activity or action concerned.

New subsections 1231(2A) to (2E) are inserted as a consequence of section 80 of the Social Security Legislation Amendment Act 1990.

Subsection 1232(2) - insertion

This amendment makes it clear that the recovery of a debt by legal proceedings is subject to the following new provisions concerning limitation of recovery action. It is a consequence of section 80 of the Social Security Legislation Amendment Act 1990.

Subsection 1232(3) - omission and substitution

This amendment to the legal proceedings limitation of action provision is to remove the previous reference to overpayments under the Principal Act since now only debts under the Act may be recovered (see new section 1222, inserted by this Schedule). The amendment is a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

Subsection 1232(3) (Note) - omit and substitute
new subsections 1232(4) and (5)

New subsections 1232(4) and (5) make it clear that the limitation period for action to recover a debt by legal proceedings ceases to run where part of a debt is paid or where there is an acknowledgement of the debt. The limitation period starts again on the day of payment or acknowledgement.

New subsections 1232(4) and (5) are inserted as a consequence of section 80 of the Social Security Legislation Amendment Act 1990.

Subsection 1233(1) - omission and substitution

This amendment to the provision concerning recovery of debts by way of garnishee notice is to show the full range of debts that are now created under the Principal Act. The new debt provisions are in new subsection 1223(1) and new sections 1223A, 1223B and 1224A, all inserted by this Schedule.

The amendment is a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

After subsection 1233(7) - insert
new subsections 1233(7A) to (7E)

These new subsections create exactly the same framework for a six year limitation of action for recovery of debts under the garnishee notice provisions as new subsections 1232(2A) to (2E) do for recovery by deductions.

New subsections 1233(7A) to (7E) are inserted as a consequence of section 80 of the Social Security Legislation Amendment Act 1990.

Subsection 1236(1) - omission

This amendment to the provision dealing with write off of debts is to remove the previous reference to overpayments under the Principal Act since now only debts under the Act may be recovered (see new section 1222, inserted by this Schedule). The amendment is a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

Subsection 1236(2) (Note) - omissions

These amendments to the note to the provision dealing with date of effect of write off of debts is to remove the previous reference to overpayments under the Principal Act since now only debts under the Act may be recovered (see new section 1222, inserted by this Schedule). The amendment is a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

Subsection 1237(1) - omission

This amendment to the provision dealing with waiver of debt recovery is to remove the previous reference to overpayments under the Principal Act since now only debts under the Act may be recovered (see new section 1222, inserted by this Schedule). The amendment is a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

Subsection 1237(5) (Note) - omissions

These amendments to the note to the provision dealing with date of effect of waiver of debt recovery is to remove the previous reference to overpayments under the Principal Act since now only debts under the Act may be recovered (see new section 1222, inserted by this Schedule). The amendment is a consequence of sections 77 and 78 of the Social Security Legislation Amendment Act 1990.

Section 1308 - repeal

This section is repealed because the authority for the Secretary to collect tax file number information is now contained in the Tax legislation. The repeal is a consequence of sections 29, 35, 41 and 56 of the Social Security Legislation Amendment Act 1990.

Subsection 1312(1) - insertion

Subsection 1312(1) of the Principal Act is to be amended. The insertion of the words "whether dead or alive" in this subsection will make it clear that the protection of personal information provisions apply to information concerning persons who are now deceased.

Subsection 1312(1) is amended as a consequence of section 20(a) of the Social Security Legislation Amendment Act 1990.

Subsection 1314(3) - omit

Subsection 1314(3) of the Principal Act will be omitted. This will allow information to be released where appropriate, despite the fact that the information relates to someone who is not a current or recent client.

Subsection 1314(3) is omitted as a consequence of section 20(b) of the Social Security Legislation Amendment Act 1990.

After section 1316 - insert new section 1316A

New section 1316A is to be inserted into the Principal Act. New subsection 1316A(1) will make it an offence for a person to solicit the disclosure of protected information from an officer on the basis of representations which the person knows, or ought reasonably know, are untrue.

A note will signpost the definition of "protected information" in subsection 23(1).

New subsection 1316A(2) provides that if a person, convicted of soliciting information under new subsection 1316A(1), acted as an employee or agent of another person in soliciting the information concerned, the other person is also guilty of an offence.

New subsection 1316A(3) provides that it is a defence to a prosecution under new subsection 1316A(2) if it is established that the employee or agent was acting outside the scope of his or her authority in making the untrue representations concerned.

New section 1316A is inserted as a consequence of section 20(b) of the Social Security Legislation Amendment Act 1990.

Section 1319 - insertion

Section 1319 of the Principal Act will be amended by the insertion of a reference to new section 1316A. This will mean that the penalty for an offence under new section 1316A will be:

- . in the case of a natural person - \$12,000 or 2 years imprisonment, or both; or
- . in the case of a body corporate - \$60,000.

Section 1319 is amended as a consequence of section 20(b) of the Social Security Legislation Amendment Act 1990.

After section 1325 - insert new section 1325A

New section 1325A is to be inserted. New section 1325A provides for the terms and conditions of the holder of the office of the National Convenor and the senior members of the Social Security Appeals Tribunal to be determined by the Governor-General and for the terms and conditions of other members to be determined by the Minister.

New section 1325A is inserted as a consequence of section 73 of the Social Security Legislation Amendment Act 1990.

Subsection 1326(3) - omit and substitute new subsection 1326(3)
New subsection 1326(3) of the Principal Act will replace the old one. This will provide for the appointment of acting full-time senior members of the Social Security Appeals Tribunal by the Minister.

New subsection 1326(3) is inserted as a consequence of section 74 of the Social Security Legislation Amendment Act 1990.

Subsection 1326(4) - omit and substitute new subsection 1326(4)
New subsection 1326(4) will replace the old one. This will provide for the appointment of acting part-time senior members of the Social Security Appeals Tribunal by the Minister.

New subsection 1326(4) is inserted as a consequence of section 74 of the Social Security Legislation Amendment Act 1990.

Section 1331 - repeal and substitute new section 1331

New section 1331 will replace the old one. New subsection 1331(1) will provide that, subject to section 87E of the Public Service Act 1922, recreation leave entitlements of members of the Social Security Appeals Tribunal (SSAT) will be determined by the Remuneration Tribunal.

New subsection 1331(2) provides that the Minister may grant leave of absence, other than recreation leave, to the National Convener on such terms and conditions as determined by the Minister.

New subsection 1331(3) provides that all other full-time members' leave of absence, other than recreation leave, may be granted by the National Convener on such terms and conditions as determined by the Minister.

New subsection 1331(4) specifies that a determination under new subsections 1331(2) or 1331(3) must be in writing.

New section 1331 is inserted as a consequence of section 29 of the Industrial Relations Legislation Amendment Act 1991 which made consequential amendments to the Social Security Act 1947.

Subparagraph 1334(8)(e)(ii) - omission

Subparagraph 1334(8)(e)(ii) of the Principal Act will be amended to omit reference to section 1331. This reference is no longer appropriate given that recreation leave entitlements of members of the Social Security Appeals Tribunal are determined by the Remuneration Tribunal (see new section 1331).

Subparagraph 1334(8)(e)(ii) is amended as a consequence of section 29 of the Industrial Relations Legislation Amendment Act 1991 which made consequential amendments to the Social Security Act 1947.

At the end of Schedule 1A - add new clause 32

New clause 32: Fringe benefits test - interest attributed to money not invested or invested at a low rate of interest (changes introduced on 1 March 1991)

New clause 32 enables a person who would have lost qualification to a health benefit card as a result of the interest attribution provisions of new Division 1A of Part 3.10 to retain the card. Those provisions took effect on 1 March 1991 by virtue of section 4D of the 1947 Act. Therefore, those people who were qualified for a health benefit card on 28 February 1991 were saved from the effects of the changes to income assessment brought about by section 4D of the 1947 Act.

New clause 32 is to be inserted as a consequence of subsection 9(2) of the Social Security Legislation Amendment Act 1990.

SCHEDULE 2

As provided by clause 4, this Schedule amends the Principal Act to make minor technical refinements to the Principal Act to make sure that it correctly reflects current social security legislation and policy.

Also included in this Schedule are amendments to all rent assistance Tables in the Pension, Benefit and Family Allowance Supplement Rate Calculators. As well as changes to rates resulting from indexation since the 1991 Act was first introduced into Parliament late last year, the rent threshold figures in the tables have been amended to reflect the increase in the prescribed rent threshold amount from \$1,040 to \$1,300 per year for pensions and from \$40 to \$50 per fortnight for benefits and FAS.

The rent threshold amendments are as a consequence of sections 25, 28, 33 and 47 of the Social Security Legislation Amendment Act 1990.

SCHEDULE 3

As provided by clause 5, this Schedule is to replace the existing Schedule 2 to the Principal Act with a new Schedule 2. This consists of the revised international agreement between the United Kingdom and Australia which was inserted as a Schedule to the 1947 Act by section 82 of the Social Security Legislation Amendment Act 1990. Full discussion of that agreement was contained in the Explanatory Memorandum for that Bill.

SCHEDULE 4

As provided by clause 6, this Schedule is to replace the existing Schedule 4 to the Principal Act with a new Schedule 4. This ensures that the current version of the international agreement between New Zealand and Australia appears as a Schedule to the Principal Act.

SCHEDULE 5

As provided by clause 7, this Schedule adds a new Schedule 7 to the Principal Act. This consists of a new international agreement between Malta and Australia which was inserted as a Schedule to the 1947 Act by section 83 of the Social Security Legislation Amendment Act 1990. Full discussion of that agreement was contained in the Explanatory Memorandum for that Bill.

SCHEDULE 6

This Schedule makes minor consequential amendments to two other Commonwealth Acts. These are the Health Insurance Act 1973 and the National Health Act 1953.

These Acts were amended by sections 90 and 92 of the Social Security Legislation Amendment Act 1990 to provide health benefit concessions for certain social security clients. The term used in the operative provisions was "income support payment". However, that term is not recognised by the Social Security Act 1991 which commences operation on 1 July 1991 and which uses instead "social security pension" and "social security benefit". The references in the Health legislation are being amended accordingly.

