

1990

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1990

EXPLANATORY MEMORANDUM

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



SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1990

OUTLINE AND FINANCIAL IMPACT STATEMENT

This Bill would give effect to a number of measures announced in the 1990 February Economic Statement and the 1990-91 Budget and provide for other minor and technical amendments.

The legislation involved is the Social Security Act 1947, the Social Security and Veterans' Entitlements (Maintenance Income Test) Amendment Act 1988, the First Home Owners Act 1983, the Health Insurance Act 1973, the National Health Act 1953, the Income Tax Assessment Act 1936 and the Taxation Administration Act 1953.

SOCIAL SECURITY ACT 1947

Benefits

From 1 December 1990, claimants for unemployment or sickness benefit who have liquid assets (eg cash and deposits with financial institutions but excluding amounts such as superannuations rollovers) of more than \$5,000 would be required to serve an additional waiting period of 4 weeks before payment could be made. Liquid assets held by or on behalf of spouses and dependent children will also be taken into account.

Estimated program savings from this measure are \$23.4m in 1990-91 and \$33.0m in 1991-92.

Recovery of overpayments

Recovery of overpayments would be simplified by specifying that where there has been no misrepresentation or failure to comply with a provision of the Act excess payments made would not be overpayments unless:

- the Secretary is satisfied that the person knew, or should reasonably have known, that the payment was incorrect; or
- the excess payment involved a lack of qualification for the payment; or
- the person has received more than the maximum rate for the particular payment type as specified in the legislation; or
- an amount is deemed recoverable under either subsections 74B(5) or (6) (certain excess payments of family allowance supplement) or new section 245A (certain dual payments).

Overpayments made as a result of a misrepresentation or failure to comply with a provision of the Principal Act would remain overpayments and therefore recoverable.

The 6 year limitation period for civil debt recovery would be extended to administrative remedies (garnishee and deduction from social security payments) where the Department of Social Security has taken no action in relation to the overpayment.

These measures have no financial implications.

Family Payments

From 1 January 1991 -

- . an assets test of \$300,000 would be imposed on recipients of family allowance, and
- . the assets test applicable to recipients of family allowance supplement would be reduced from the current \$322,750 to \$200,000, and
- . the family allowance income test would be altered so that no family allowance will be paid to a person whose income exceeds the applicable threshold.

Estimated program savings from these measures are \$52.7m in 1990-91 and \$110.3m in 1991-92.

With effect from 1 January 1991, persons receiving payments under the Assistance for Isolated Children Scheme would be not disqualified from attracting payment of family allowance because of those payments.

Estimated program costs of this measure are \$0.7m in 1990-91 and \$1.4m in 1991-92.

Income

From 1 March 1991, a minimum interest rate would be deemed on cash-on-hand and money deposited with a bank, building society, credit union or other organisation accepting money on deposit for the purposes of pensions and benefits income tests. No rate would be deemed on the first \$2,000 in cash or deposits.

Such amounts would continue to be assessed at the actual rate of return. For amounts over \$2,000, the deemed rate of interest would be the higher of the actual rate or 10% per annum. Thereafter the Minister for Social Security would be entitled, from time to time, to set a lower minimum interest rate.

This deeming rule would not affect entitlement to the fringe benefits available to holders of the health benefits card who are entitled to those benefits prior to 1 March 1991.

Estimated program savings from this measure are \$8.7m in 1990-91 and \$50.2m in 1991-92.

Special arrangements for 4 year temporary entry permit holders

From 1 August 1990, persons granted or considered prima facie eligible for a 4 year temporary entry permit (being Chinese nationals and certain refugees) would be taken to have been eligible for special benefit, family allowance, family allowance supplement and additional benefit in respect of children.

Estimated program costs of this measure are \$5.97m in 1990-91 and \$26.70m in 1991-92.

Secrecy

From the day of Royal Assent, a new offence of obtaining information by making a false representation would be introduced into the Act.

This measure has no financial implications.

Disaster Relief Payment

From 22 August 1990, a new payment called the Disaster Relief Payment would be taken to have been introduced to assist persons who have been affected by a major disaster.

Where, as a result of the occurrence of a major disaster, the home of a person has been significantly damaged or a person has suffered an interruption to his or her normal source of livelihood and the person was a resident of Australia and not an illegal immigrant when the person was affected by the disaster, the person would be entitled to -

- . where the person is receiving pension or benefit, a supplementary payment equivalent to 2 weeks of maximum rate pension, or
- . where the person is not currently receiving pension or benefit, a one-off payment equivalent to 2 weeks of maximum rate pension.

This measure has no predictable financial implications.

Employment Entry Payment for Sole Parents

From 1 January 1991, sole parent pensioners who take up employment above the rate of allowable income applicable to a single beneficiary with 1 child would be entitled to an employment entry payment of \$100.

Estimated program costs of this measure are \$0.75m in 1990-91 and \$1.50m in 1991-92.

Remote Area Allowance

With effect from 1 January 1991, the eligibility criteria for remote area allowance would be extended to include persons living in special zone B as defined in the Income Tax Assessment Act 1936.

Estimated program costs for this measure are \$0.7m in 1990-91 and \$1.4m in 1991-92.

Carer's Pension

From 1 January 1991, carer's pension would be extended to persons who would have been eligible for special benefit because they are caring for a severely handicapped person who is not an age or invalid pensioner.

Estimated program costs of this measure are \$0.1m in 1990-91 and \$0.2m in 1991-92.

From January 1991, the requirement that carers live in the same house as the cared for person would be extended to carers who live in adjacent houses.

Estimated program costs of this measure are \$0.2m in 1990-91 and \$0.3m in 1991-92.

Tax File Numbers

From 1 January 1991, the Secretary may require persons who claim or are in receipt of -

- age pension, or

- invalid pension, or
- wife's pension, or
- carer's pension, or
- widowed person's allowance, or
- special benefit, or
- family allowance, or
- sheltered employment allowance, or
- rehabilitation allowance, or
- widows pension class B, or
- mobility allowance

to supply their tax file number and that of their spouse, if applicable, as a precondition to receiving or continuing to receive payment.

Also, from 1 January 1991, unemployment and sickness beneficiaries would also be required to supply the tax file number of their spouse as a precondition to receiving or continuing to receive payment.

This is part of a broader package involving data comparison which will generate estimated program savings in total of \$65m in 1990-91 and \$290m in 1991-92.

Rent Assistance

From 20 March 1991, the prescribed rent assistance threshold would be increased by \$5, from \$20 per week to \$25 per week.

Estimated program savings from this measure are \$16.0m in 1990-91 and \$61.0m in 1991-92.

Others

Also included are minor and technical amendments which have nil or negligible financial impact.

SOCIAL SECURITY AND VETERANS' ENTITLEMENTS (MAINTENANCE
INCOME TEST) AMENDMENT ACT 1988

Clarification of maintenance income test savings provision

The Social Security and Veterans' Entitlements (Maintenance Income Test) Amendment Act 1988 would be amended so that a savings provision, which protects a pensioner's total income situation, ceases to have effect once a higher rate of pension is available under the Social Security Act.

This measure has negligible financial impact.

FIRST HOME OWNERS ACT 1983

Tax File Numbers

From 1 January 1991, the Secretary may require persons who are eligible for payments under the First Home Owners Scheme to supply a tax file number as a precondition to payment.

This is part of a broader package involving data comparison which will generate estimated program savings in total of \$ in \$65m in 1990-91 and \$290m in 1991-92.

HEALTH INSURANCE ACT 1973

Health Care Cards for beneficiaries and sole parents on return to work

- . Under the Health Insurance Act, sole parent pensioners and unemployment beneficiaries are entitled to retain their Health Care Cards (HCC) for 6 months after commencing full-time employment provided the person was in receipt of specified social security payments for 12 months prior to commencing full-time employment.
- . These provisions would be extended, with effect from 1 June 1990, to allow special beneficiaries to retain a HCC where the abovementioned conditions are met and modified to allow sole parent pensioners, unemployment or special beneficiaries to retain a HCC if the person commences employment or increases his or her income from employment to such an extent that entitlement to pension or benefit is lost, provided the person has been in receipt of any pension or benefit for a period of 12 months prior to commencement of full time employment or the increase in income.

These measures have negligible financial impact.

NATIONAL HEALTH ACT 1953

Health Benefit Cards for 60-64 year olds

- . A Health Benefit Card (HBC) is currently available to sickness beneficiaries and certain recipients of rehabilitation allowance.
- . From 1 June 1990, sickness beneficiaries would be entitled to retain the HBC for 6 months after ceasing to be qualified for benefit as a result of an increase in income from employment by the person or the person's spouse and where the beneficiary has been in receipt of an income support payment for a continuous period of at least 12 months.
- . Also from 1 June 1990, an unemployment beneficiary aged over 60 years who has been receiving income support payments for a continuous period of at least 12 months would be entitled to retain the HBC for 6 months after the person or the person's spouse increases his or her income from employment to such an extent that the person is no longer entitled to receive unemployment benefit.

These measures have negligible financial impact.

INCOME TAX ASSESSMENT ACT 1936 and
TAXATION ADMINISTRATION ACT 1953

Both the Income Tax Assessment Act 1936 and the Taxation Administration Act 1953 would be amended to facilitate the tax file number changes outlined above.

This is part of a broader package involving data comparison which will generate estimated program savings in total of \$65m in 1990-91 and \$290m in 1991-92.

SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1990

PART 1 - PRELIMINARY

Clause 1 : Short Title

This clause would provide that the amending Act is referred to as the Social Security Legislation Amendment Act 1990.

Clause 1 would commence on the day of Royal Assent.

Clause 2 : Commencement

This clause would provide that the dates of commencement of the clauses would be shown by the note in italics at the foot of each clause.

The date on which each clause would come into operation is indicated in this memorandum at the foot of the notes on the relevant clause.

Clause 2 would commence on the day of Royal Assent.

PART 2 - AMENDMENTS OF THE SOCIAL SECURITY ACT 1947

Clause 3 : Principal Act

This clause would provide that, in this Part of the amending Act, the Social Security Act 1947 is referred to as the Principal Act.

Clause 3 would commence on the day of Royal Assent.

Clause 4 : Application

This clause would provide for the application of the various clauses in the Bill. The effect of each clause is referred to in the notes on each relevant clause in this memorandum.

Clause 5 : Interpretation

This clause would amend section 3 of the Principal Act which defines the meaning of certain terms used throughout the Act.

Clause 5(a) would amend the definition of "income" in subsection 3(1) of the Principal Act by adding the words "being income calculated having regard to section 3AA" after the word "Australia".

This amendment complements new section 3AA, inserted by clause 6, which would clarify which business expenses may be taken into account when calculating a person's income.

Clause 5(a) would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 5(b) would insert after the word "section" first occurring in the definition of income in subsection 3(1) of the Principal Act "4C, 6A".

The effect of this amendment would be to bring within the definition of income amounts which have been deemed under sections 4C (income from loans) and 6A (income from deprived property) to have been received by a person.

Sections 4C and 6A would be inserted into the Principal Act by clauses 6 and 8 of the Social Security and Veterans' Affairs Legislation Amendment Bill (No 2) 1990, with effect from 22 August 1990.

Clause 5(b) would be taken to have commenced on 22 August 1990.

Clause 5(c) would insert after the reference to "4C" in the definition of "income" a reference to "4D".

The effect of this amendment would be to bring within the definition of income amounts which have been deemed under new sections 4D (income from bank deposits etc - inserted by clause 8) to have been received by a person.

Clause 5(c) would commence on 1 March 1991.

Clause 5(d) would insert after the word "section" in paragraph (aa) in the definition of "income" a reference to "4C, 6A".

Paragraph (aa) provides that any return actually received by a person which has already been deemed to have been received under section 12C or 12D and assessed as income of the person is not again counted as income.

The effect of clause 5(d) would be to ensure that any return

actually received by a person which has already been deemed to have been received under section 4C or section 6A and assessed as income of the person is not again counted as income.

Sections 4C and 6A would be inserted into the Principal Act by clauses 6 and 8 of the Social Security and Veterans' Affairs Legislation Amendment Bill (No 2) 1990, with effect from 22 August 1990.

Accordingly, clause 5(d) would be taken to have commenced on 22 August 1990.

Clause 5(e) would insert after the reference to "4C" in paragraph (aa) of the definition of "income" a reference to "4D".

The effect of clause 5(e) would be to ensure that any return actually received by a person which has already been deemed to have been received under section 4D (income from bank deposits etc - inserted by clause 8) and assessed as income of the person is not again counted as income.

Clause 5(e) would commence on 1 March 1991.

Clause 5(f) would amend subsection 3(1) of the Principal Act by inserting paragraph (ga) after paragraph (g) of the definition of "income" in that subsection. The amendment would provide 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) would be disregarded when calculating the person's entitlement to an income-tested payment under the Act.

Clause 5(f) would commence on the day of the Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 5(g) would amend subsection 3(1) of the Principal Act by inserting paragraph (ja) after paragraph (j) of the definition of "income" in that subsection. The amendment would provide that insurance payments to cover debt repayments are exempt from the definition of income in subsection 3(1).

Clause 5(g) would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that date.

Clause 5(h) would amend subsection 3(1) of the Principal Act by omitting subparagraphs (na)(i) and (ii) of the definition of "income" in that subsection and substituting new subparagraphs (na)(i), (ii) and (iii). Paragraph (na) provides that where a trainee in part-time training receives a payment under a Labour Force Program (eg a Formal Training Allowance) as well as a specified pension or allowance under the Principal Act or the Veterans' Entitlements Act 1986, the Labour Force Program payment would be disregarded when calculating his or her entitlement to an income-tested payment under the Principal Act. The proposed amendment would align this provision with the corresponding provision in the Veterans' Entitlements Act 1986, viz paragraph 35(1)(ma) of that Act.

Clause 5(h) would commence on the day of the Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 5(j) would amend subsection 3(1) of the Principal Act by inserting paragraph (qa) after paragraph (q) of the definition of "income" in that subsection. The amendment would provide that remuneration or allowances paid to jurors and non-expert witnesses in relation to proceedings before a court, tribunal or commission would be exempt from the definition of income in subsection 3(1).

Clause 5(j) would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that date.

Clause 5(k) would amend subsection 3(1) of the Principal Act by inserting paragraph (va) after paragraph (v) of the definition of "income" in that subsection. The amendment would provide 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 12AAA (to be inserted by clause 13), would be disregarded when calculating the person's entitlement to an income-tested payment under the Act.

Clause 5(k) would commence on the day of the Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 5(m) would omit the numbers "22" from the definition of "assurance of support debt" in subsection 3(1) of the Principal Act.

This amendment would reflect a renumbering of the Migration Regulations which occurred in December 1989 by which subregulation 22(1) of the Migration Regulations was repealed and substituted by subregulation 165(1). The substance of the subregulation has not changed.

Clause 5(m) would be taken to have commenced on 19 December 1989 (the date on which the Migration Regulations were changed).

Clause 5(n) would insert a definition of "account" which would be relevant for the purposes of new section 4D (inserted by clause 9).

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

Clause 5(n) would commence on 1 March 1991 (the date new section 4D would come into operation).

Clause 5(p) would omit the definition of "assurance of support debt" in subsection 3(1) of the Principal Act and substitute a new definition.

An "assurance of support debt" would be defined as a debt due and payable by a person to the Commonwealth because of the operation of subregulation 165(1) of the Migration Regulations (was subregulation 22(1) of the Migration Regulations) in respect of payment of special or unemployment benefit to another person.

Under an assurance of support, a person (assuror) undertakes to provide for the support of another person (assuree) who comes to Australia. The support of the assuree includes unemployment and special benefit paid by the Commonwealth for that person's support. Therefore, where an assuree is paid unemployment or special benefit, the amount paid to the person is a debt owed to the Commonwealth by the assuror.

Clause 5(p) would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that date.

Clause 5(q) would omit the definition of "prescribed student child" from subsection 3(1) of the Principal Act and substitute a new definition.

"Prescribed student child" would generally continue to mean a dependent child who is over 16 years of age and who is qualified to receive payments under a prescribed educational scheme.

For the purposes of section 82 of the Principal Act however, a "prescribed student child" would mean a dependent child over 16 years of age who is qualified to receive payments under a prescribed educational scheme excepting payments under the Assistance for Isolated Children Scheme. Section 82 deals with qualification for family allowance.

Clause 5(q) would commence on 1 January 1991 and would apply in relation to payments that fall due on or after that date.

Clause 5(r) would insert a definition of "financial institution" which would mean a bank, building society, credit union or other institution that receives money on deposit.

The definition is relevant for the purposes of the new section 4D which deals with income from certain money (inserted by clause 9), changes to the Health Insurance Act 1973 and the National Health Act 1953 (see Parts 5 and 6 of this Bill) and section 4C of the Principal Act which deals with income from loans.

Clause 5(r) would be taken to have commenced on 22 August 1990 (the date that section 4C came into effect).

Clause 5(s) would insert into subsection 3(1) of the Principal Act in its appropriate alphabetical order a definition of "income support payment".

"Income support payment" would mean an invalid pension, sole parent's pension, wife's pension, class B widow's pension, widowed person's allowance, carer's pension, sheltered employment allowance, rehabilitation allowance, unemployment benefit, sickness benefit or special benefit.

This definition would be of relevance to new Part XVIIIA (inserted by clause 68), which would introduce the new Disaster Relief Payment and to the amendments to the National Health Act 1953 and Health Insurance Act 1973.

Clause 5(s) would be taken to have commenced on 1 June 1990.

Clause 5(t) would amend subsection 3(5) of the Principal Act by substituting references to property of the person, the person's spouse or both. The provision is designed to make clear that notwithstanding the fact that one party to a marriage may not have legal title to property, then that party would be deemed to have 50% of property which their partner has legal title to.

Clause 5(t) would commence on the day of Royal Assent.

Clause 6 : Insertion of new section
New section 3AA : Calculation of income

Clause 6 would insert new section 3AA into the Principal Act.

Clause 6 would clarify which business expenses may be taken into account when calculating a person's income for the purposes of the Principal Act other than income of the person because of Division 2 of Part 1 (Investment Income).

Where a person carries on any business, then:

- . if the value of all trading stock on hand at the end of the year exceeds that on hand at the beginning of the year, the excess is added to the person's income for that year by way of profits (subsection 3AA(2));
- . if the value of all trading stock on hand at the beginning of the year exceeds that on hand at the end of the year, the excess is reduced from the person's income for that year by way of profits (subsection 3AA(3)).

Clause 6(4) would respectively provide that the income of a person is the gross income of the person reduced only by:

- . losses and outgoings that are allowable deductions for the purposes of section 51;
- . depreciation that is an allowable deduction for the purposes of subsection 54(1);
- . amounts that are allowable deductions under subsection 82AAC(1),

of the Income Tax Assessment Act 1936.

Clause 6 would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 7 : Calculation of value of property

Clause 7 would amend section 4 of the Principal Act. Section 4 contains the rules for the calculation of the value of property of a person for the purposes of the assets test.

Clause 7(a) would amend subsection 4(1) of the Principal Act by inserting a new subparagraph 4(1)(a)(xia). The new subparagraph would provide that insurance or compensation payments made to a person because of the loss of, or damage to, buildings, plant or personal effects would be disregarded in calculating the value of the persons property for the purposes of the assets test for a period of up to 12 months or such longer time as the Secretary allows.

Clause 7(a) would be taken to have commenced on 22 August 1990.

Clause 7(b) would make specific provisions for the assets test treatment of the principal home in certain circumstances.

Currently, the value of a person's principal residence continues to be exempt in terms of the assets test for two years after the person commences residing in a 'nursing home' as specified in paragraph 4(8)(b). After that the principal home becomes assessable.

This works to the disadvantage of couples where one partner continues to reside in the principal home while the other is in a nursing home. In such circumstances the two year exemption doesn't apply.

These provisions would ensure that so long as one of the couple remains in the principal home the two year exemption period would apply until two years after the living person was admitted to the nursing home or two years after their partner dies whichever occurs first.

Clause 7(b) would commence from the day of Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 8 : Income from loans

Clause 8 would omit from subsection 4C(3) the reference to "bank, building society or credit union" and substitute "financial institution". "Financial institution" would be defined in subsection 3(1) of the Principal Act, as amended by clause 5(r).

This amendment would ensure that all money on deposit, whether with a bank, building society, credit union or other institution which accepts money on deposit, would be exempt from the operation of section 4C. Such money on deposit would properly fall within new section 4D, inserted by clause 9.

This clause would be taken to have commenced on 22 August 1990 (the date section 4C came into effect).

Clause 9 : Insertion of new section

New section 4D : Income from certain money

Clause 9 would insert new section 4D into the Principal Act.

Clause 9(1) would generally enable amounts of money held by a person and money deposited in certain financial and other institutions which return less than 10% per annum to be deemed to return 10% per annum. That deemed return could then be assessed as income of the person.

New subsection 4D(1) would provide definitions of terms which would be used in new section 4D.

"Available money" would be defined as money held by, or on behalf of a person. "Available money" would not be a person's "deposit money" (as defined) or money to which section 4C is applicable. Section 4C relates to money on loan.

"Deposit money" would be defined to mean a person's money that is deposited in an account with a bank, building society or credit union or other organisation that accepts money on deposit.

"Income money" would be defined to mean so much of a person's deposit money and available money as exceeds \$2,000.

"Assumed rate" would mean 10% or such other lower rate as determined by the Minister under new subsection 4D(7).

New subsection 4D(2) would provide that \$2,000 of a person's deposit money on which a lower or no interest is paid and the person's available money are not subject to the deeming rules set out in new section 4D. This \$2,000 would be assessed according to the actual rate of return on that money.

In practice, this subsection would operate as follows -

"A" has 3 accounts - \$4,000 earning 11% per annum in interest
 \$1,500 earning 9% per annum in interest
 \$1,000 earning 6% per annum in interest
and available money \$500 earning no interest

The \$2,000 free area would be taken from A's available money and/or deposit money which earns nil or the lower interest.

In the given example therefore, A's \$2,000 would comprise \$500 available money + \$1,000 which is deposited at 6% return + \$500 of the deposit money which earns 9% per annum in interest. Those amounts which form the \$2,000 free area would be assessed at actual rate of return.

New subsection 4D(3) would provide that where interest is not paid on a person's income money, the person would be taken to receive interest on that money at the rate per year of the assumed rate.

The effect of this provision would enable the "assumed rate" to be deemed on "income money" which would otherwise earn no interest.

New subsection 4D(4) would provide that where the annual rate of interest paid on a person's income money is less than the assumed rate, then the person would be taken to receive the rate per year of the assumed rate on that money.

It should be noted that new subsection 4D(4) refers to "income money of a person" as opposed to "the income money of the person". This is an important drafting distinction because the reference to "income money of a person" enables the Department to look at each of the accounts of a person or part of accounts which vary in interest return (tiered accounts) individually for the purposes of new subsection 4D(4). This would ensure that accounts or parts of accounts returning over 10% (or such other rate determined by the Minister under new subsection 4D(7)) would not be caught under new section 4D. If the words "the income money of the person" were used, the Department would have been required to aggregate all of the person's accounts and calculate whether or not the accounts averaged out to return less than the assumed rate, before new section 4D could apply.

In the abovementioned example therefore, A's \$4,000 account which returns 11% would not be caught under new section 4D. Instead, the money would be assessed under normal rules and the actual rate of return on the person's deposited money would be assessed as part of the person's income. However, the \$1,000 which returns 9% which was not part of the \$2,000 excluded under new subsection 4D(2) would be assessed at the assumed rate.

New subsection 4D(5) would provide that the Minister may, by notice in writing, determine that new section 4D does not apply to specified income money of a person or class of persons.

Where such a determination is made, the income money or part of the income money of the person would remain subject to the normal rules relating to income assessment and would be assessed on the basis of actual rate of return on the excluded money.

New subsection 4D(6) deals with the situation where return on investment money is deferred for more than a year. The new subsection would provide that interest on investment money is to be taken to have been received by the person annually.

New subsection 4D(7) would enable the Minister to change the investment rate of 10% to a lower rate by notice in writing. By new subsection 4D(8), a determination by the Minister to lower the investment rate is 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 a prescribed period.

New subsection 4D(9) would provide that, where new section 4D applies, Division 2 or Part 1 (Investment income) does not apply.

Clause 9(2) would enable persons who would lose entitlement to a health benefit card as a result of the application of new section 4D to retain their health benefit cards. Therefore, those persons who are eligible for health benefit cards on 28 February 1991 are saved from the effects of the changes to income assessment effected by new section 4D on 1 March 1991.

Clause 9 would commence on 1 March 1991.

Clause 10 : Disposal of income or property

Clause 10 would amend section 6 of the Principal Act. Section 6 contains special rules designed to limit the avoidance of the income and assets tests.

Specifically, the intended effect of subsection 6(10) is that where a person engages in a course of conduct that diminishes the total value of the property of the person, in the circumstances where either paragraph 6(10)(a) or (b) applies (eg where the person gives away some or all of his or her property), then:

- . he or she is to be taken, for the purposes of section 6, to have "disposed" of his or her property; and
- . the amount of that "disposition" is to be taken to be an amount equal to the value of the particular item or items of property that the person has disposed of, less the amount of any consideration received by the person in respect of that "disposition".

Similarly, the intended effect of subsection 6(11) is that where a person engages in a course of conduct that reduces the person's income, in the circumstances where either paragraph 6(11)(a) or (b) applies (eg where the person sells an income producing asset such as a house let to a tenant and gives away the proceeds or where the person withdraws money from an interest bearing account and gives it away), then:

- . he or she is to be taken, for the purposes of section 6, to have "disposed" of his or her income; and
- . the amount of that "disposition" is to be taken to be the amount that, in the opinion of the Secretary, is the annual rate of the reduction of the person's income because of

what the person had done, less such percentage of any consideration received by the person in respect of that "disposition" as the Secretary decides to be fair and reasonable in all the circumstances of the case.

The amendments of subsections 6(10) and (11) which would be made by clause 10 are made for the avoidance of doubt as to their intended effect.

Clause 10 would be taken to have commenced on 22 August 1990 and apply to disposals of property made on or after that date.

Clause 11 : Pension reduction amounts

This clause follows on from the changes made in clause 5(t) and will amend the existing provisions to make clear that where one of a couple has property, this will be taken into account when applying the assets test.

This clause would commence on the day of Royal Assent.

Clause 12 : Earnings credit

Clause 12 would make a number of changes to section 12A of the Principal Act which currently provides for the accrual and use of earnings credits.

At present, the earnings credit system is based on a weekly period. Only pensioners can take advantage of the provisions. Pensioners are paid on a two weekly basis. Accordingly, for administrative reasons, it would be more appropriate to have credits calculated according to a two weekly cycle. This clause would make a number of changes to achieve this.

Further, the current provisions are cast on a single person basis, this means that a number of pensioner couples cannot take advantage of the accrued credit of their partner where they have remuneration above the allowable level and have exhausted their own accrued credits.

This clause would allow a couple to take advantage of a combined credit of up to \$2,000. This would be achieved by three rules, which commence by combining the accrued credit of a pensioner couple then dividing that combined amount equally between each partner. The second rule would ensure that credits are accrued equally.

The third rule would treat any remuneration earned by either partner to be earned by both, on an equal basis. In this way the couple can effectively utilise a combined earnings credit of up to \$2,000.

The provisions also cater for the fact that earnings credits accrued under the Veterans' Entitlements Act 1986 can be used when a person transfers to a pension paid under the Principal Act.

Clause 12 would commence on the day of Royal Assent.

Clause 13 : Insertion of new section

New section 12AAA : Personal care support schemes

Clause 13 would insert new section 12AAA into the Principal Act. The new section would provide that the Minister for Social Security may declare that a scheme for the provision of personal care support services is an approved scheme for the purposes of the Principal Act. New paragraph (va) of the definition of "income" in subsection 3(1) of the Principal Act, to be inserted by clause 5(k), would provide that a payment towards the cost of personal care support services for a person under such a scheme would be disregarded when calculating the person's entitlement to an income-tested payment under the Act.

Clause 13 would commence on the day of Royal Assent.

Clause 14 : Accruing return investments

This clause would make a number of changes to refine the existing provisions about accruing return investments. Similar provision would be made for market linked investments.

Basically the provisions are intended to do three things. They are intended to reverse the decision of the Administrative Appeals Tribunal in Cowling. In Cowling, the AAT decided that the provisions of 12C(3) were attracted where a bonus was credited to the account of an investor, whether or not the investor actually withdraws the bonus. This was not intended. The new provisions would only be attracted where the person actually receives the bonus. The concept of 'entitlement' would be abandoned.

Secondly, the provisions are designed to stop avoidance by making sure that the provisions are attracted only where the person 'realises' an investment. This is to stop people from giving investments away rather than cashing them in, so as to avoid the provisions. This would be done by making clear that the provisions only apply where an investment is 'realised' and then defining realisation to include:

- . withdrawing (either in whole or part); or
- . paying over to another; or
- . assigning an investment; or
- . disposing of an investment; or
- . where the investment matures.

Finally, the provisions would be amended to make sure that they apply where the person 'acquires' an investment. This would

prevent a person seeking to exempt themselves from the operation of the provisions on the basis that they have not 'made' an investment but rather the investment has been assigned to them.

Clause 14(k) would effect a minor technical change to correct a reference in section 12C(4) to section 12B. The correct reference should be to subsection 3(1) of the Principal Act.

This clause (except clause 14(k)) would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that day. Clause 14(k) would be taken to have commenced on 19 December 1989.

Clause 15 : Market - linked investments

Clause 15 would amend the current provisions relating to market linked investments to make the same changes as are outlined above in respect to clause 14.

This clause would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 16 : Special provisions about certain investments made or acquired before 9 September 1988

Clause 16 would amend the current provisions relating to investments made before 9 September 1988 to make the same changes as are outlined above in respect to clause 14.

This clause would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 17 : Determinations of entitlement of persons
holding market - linked investments

Clause 17 would amend section 12J of the Principal Act to make the same changes as are outlined above in respect to clause 14

This clause would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 18 : Treatment of costs of investments

Clause 18 would amend section 12K to make the same changes as are outlined above in respect to clause 14.

This clause would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 19 : Certain capital amounts taken to be
received over 12 months

Clause 19 would amend section 12L to make the same changes as are outlined above in respect to clause 14.

Additionally, this clause would delete the reference to 'amounts of a capital nature' and insert a reference to 'income by way of periodic payments'. This would make sure that the provisions would not apply to the capital component or corpus of an investment, rather than growth on such.

This clause would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 20 : Secrecy

Clause 20(a) would amend section 19 of the Principal Act by inserting the words 'whether alive or dead' in subsection 19(2). This would make clear that the provisions apply to protect information concerning persons who are now deceased.

Clause 20(b) would omit subsection 19(4E). This would allow information to be released where appropriate, notwithstanding that the information relates to someone who is not a current or recent client.

Clause 20(c) would insert a new subsection 19(5B) so that where a person:

- . solicits the disclosure of protected information from an officer; and
- . in doing so makes a representation that the person knows is false, or makes a false representation where the person is reckless as to the truth of the representation,

then the person would be guilty of an offence.

The penalty would be 2 years' imprisonment.

Clause 20 would commence on the Day of Royal Assent.

Clause 21 : Interpretation

Clause 21 would amend section 20 of the Principal Act to 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" would now be eligible 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 shall be deemed for social security purposes also to lie inside the zone.

Clause 21 would be taken to have commenced on 1 January 1990.

Clause 22 : Rate of pension

Clause 22 would omit subsection 33(4A). This would ensure that guardian's allowance would not be subject to a requirement to take reasonable maintenance action.

Clause 22 would be taken to have commenced on 20 September 1990.

Clause 23 : Calculation of income in respect of children

A pensioner's assessable income for income test purposes is reduced by an annual amount in respect of each dependent child. The amount of that income deduction depends on the

pensioner's marital status and, if married, whether or not the spouse is also in receipt of a certain type of pension or allowance. The income deduction is reduced by payments, other than certain exempt payments, that the person and or his or her spouse may be receiving in respect of the child.

Clause 23 would exempt ABSTUDY payments from affecting the dependent child income deduction. This is consistent with the treatment afforded to AUSTUDY payments.

This clause would commence on the day of Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 24 : Rent assistance

Clause 24 would amend section 36 of the Principal Act which contains provisions relating to the payment of rent assistance to persons qualified to receive a pension under Part IV of that Act, ie an age, invalid, wife's or carer's pension. In broad terms, the annual amount of rent assistance payable to a person qualified to receive a pension under Part IV of the Principal Act is an amount equal to whichever is the lesser of:

- . one-half of the amount by which the amount of the annual rent paid by the person to a private landlord exceeds the prescribed threshold, ie the prescribed minimum amount of rent; or
- . the prescribed maximum amount of rent assistance.

Clause 24 would provide for an increase in the prescribed threshold from \$1,040 to \$1,300 per year (in broad terms, from \$20 to \$25 per week).

Clause 24 would commence on 20 March 1991 and would apply in relation to payments that fall due on or after that date.

Clause 25 : Carer's pension

Clause 25 would amend section 39 of the Principal Act to allow payment of carer's pension to a person who is providing constant care and attention to a severely handicapped person living in an adjacent house.

It would also allow for the cared-for person to be receiving any prescribed pension from the Department of Social Security or similar payment from Veterans' Affairs, rather than an age or invalid pension only, as is the case at the moment.

Clause 25 would commence on 1 January 1991.

Clause 26 : Insertion of new section

New section 42A : Provision of tax file numbers

Clause 26 would insert new section 42A into the Principal Act.

New subsection 42A(1) would require a person who is qualified to receive an age pension, an invalid pension, a wife's pension or a carer's pension to provide a statement of his or her tax file number and that of his or her spouse in order to receive or to continue to receive pension. At present there is no similar requirement.

A person who is qualified to receive one of those pensions would not be paid where the Secretary to the Department of Social Security requires the person to give the Secretary, in writing, a statement of the person's tax file number and that of his or her spouse, and the person does not comply within 28 days.

The provision of tax file numbers would not be required where the person or his or her spouse cannot obtain a tax file number because he or she is absent from Australia.

New subsection 42A(2) would demonstrate how a person is to satisfy new subsection 42A(1). Where the relevant tax file number or numbers are known this would be by provision of a declaration of the person's tax file number in a form approved by the Secretary.

Where the relevant tax file number is not known new paragraphs 42A(2)(b) to (f) would provide a mechanism whereby the person could authorise the Commissioner of Taxation to pass to the Secretary the number as soon as possible, if one already exists, or following issue if a number does not already exist. Provision would also be made for the Commissioner of Taxation to inform the Secretary where the Commissioner refuses to issue a number or a person withdraws an application for a tax file number.

New subsection 42A(3) would qualify the operation of new section 42A so that a person would not be required to provide the tax file number of the person's spouse where the Secretary is satisfied that the person does not know the number or the person cannot obtain the number from the person's spouse or a statement or declaration by the spouse of that number.

Clause 26 would commence on 1 January 1991.

Clause 27 : Rent assistance

Clause 27 would amend section 50 of the Principal Act which contains provisions relating to the payment of rent assistance to persons qualified to receive a sole parent's pension.

In broad terms, the annual amount of rent assistance payable to a person qualified to receive a sole parent's pension is an amount equal to whichever is the lesser of:

- . one-half of the amount by which the amount of the annual rent paid by the person to a private landlord exceeds the prescribed threshold, ie the prescribed minimum amount of rent; or
- . the prescribed maximum amount of rent assistance.

Clause 27 would provide for an increase in the prescribed threshold from \$1,040 to \$1,300 per year (in broad terms, from \$20 to \$25 per week).

Clause 27 would commence on 20 March 1991 and would apply in relation to payments that fall due on or after that date.

Clause 28: Tax file numbers

Clause 28 would repeal section 52B of the Principal Act. Section 52B would be made unnecessary by the amendments made by Parts 7 and 8.

Clause 28 would commence on the day of Royal Assent.

Clause 29 : Insertion of new sections

New section 58C : Provision of tax file numbers

Clause 29 would insert new section 58C into the Principal Act.

New subsection 58C(1) would require a person who is qualified to receive a widowed person's allowance to provide a statement of his or her tax file number in order to receive or to continue to receive the allowance. At present there is no similar requirement.

A person who is qualified to receive widowed person's allowance would not be paid where the Secretary to the Department of Social Security requires the person to give the Secretary, in writing, a statement of the person's tax file number and the person does not comply within 28 days.

New subsection 58C(2) would demonstrate how a person is to satisfy new subsection 58C(1).

Where the relevant tax file number is known this would be by provision of a declaration of the person's tax file number in a form approved by the Secretary.

Where the relevant tax file number is not known new paragraphs 58C(2)(b) to (f) would provide a mechanism whereby the person could authorise the Commissioner of Taxation to pass to the Secretary the number as soon as possible, if one already exists, or following issue if a number does not already exist. Provision would also be made for the Commissioner of Taxation to inform the Secretary where the Commissioner refuses to issue a number or a person withdraws an application for a tax file number.

Clause 29 would commence on 1 January 1991.

Clause 30 : Entitlement of parent or guardian on
death of dependent child

Section 69 of the Principal Act generally enables the parent or guardian of a deceased dependent child who was receiving a qualifying child-related payment as defined in subsection 69(6) in respect of the deceased child to continue to receive child-related payments (as defined in subsection 69(6)) for up to 14 weeks after the child's death. If the Secretary becomes aware of the child's death before the expiration of 14 weeks and the parent or guardian was in receipt of family allowance

in respect of the deceased child, a lump sum payment equivalent to the amount the parent or guardian would have received during the 14 weeks after the child's death is payable to the parent or guardian.

Clause 30 would amend section 69 by inserting subsection (5A). The new subsection would provide that where a person dies, the person would have been entitled to payment under section 69 of the Principal Act (child-related bereavement payment) had the person not died, the person's spouse lodges a claim for payment under section 69 within 3 months of the person's death, then the child-related bereavement payment is payable to the person's spouse. Where the person died before the child, new subsection (5A) would only apply to enable payment to be made to the person's spouse if the amount is not payable to another person.

Clause 30 would commence on 1 December 1990 and would apply in relation to claims lodged on or after that date.

Clause 31 : Entitlement of estate of deceased pensioner

Section 70 of the Principal Act enables a single bereavement payment to be made to the estate of the deceased "prescribed pensioner" (defined in subsection 70(3)) where the pensioner is not a member of a couple.

Clause 31 would amend section 70 of the Principal Act by inserting a new subsection 70(2A) and a new definition into subsection 70(3) of the Principal Act.

New subsection 70(2A) would provide that where a "family pensioner" who is not a member of a couple dies and, but for that death, the pensioner would have been entitled to payment under section 69 of the Principal Act, then that amount is payable to such person as the Secretary considers appropriate.

"Family pensioner" would be defined in subsection 70(3) to mean a person who is in receipt of a pension or allowance referred to in paragraph (a), (b), (c) or (d) of the definition of "prescribed pension" in subsection 3(1) of the Principal Act (that is, age, invalid, wives', carers', sole parent's and class B widows pensions, unemployment, sickness or special benefits, widowed person's allowance, sheltered employment allowance or rehabilitation allowance) or family allowance supplement under Part IX.

Clause 31 would commence on 1 December 1990 and would apply in relation to claims made on or after that date.

Clause 32 : Rate of allowance

Clause 32 would amend section 74 of the Principal Act which contains, among other things, provisions relating to the payment of rent assistance to persons qualified to receive family allowance supplement (FAS). In broad terms, the weekly amount of rent assistance payable to a person qualified to receive FAS is an amount equal to whichever is the lesser of:

- . one-half of the amount by which the amount of the weekly rent paid by the person to a private landlord exceeds the prescribed threshold, ie the prescribed minimum amount of rent; or
- . the prescribed maximum amount of rent assistance.

Clause 32 would provide for an increase in the prescribed threshold from \$20 to \$25 per week.

Clause 32 would commence on 20 March 1991 and would apply in relation to payments that fall due on or after that date.

Clause 33 : Assets test

Section 74A of the Principal Act provides for the assets test applicable to family allowance supplement. This is at present an asset value of \$322,750.

Clause 33 would amend section 74A in that it would reduce the allowable asset limit to \$200,000. Family allowance supplement would not be payable to a person if the value of the person's property exceeds \$200,000. This amount would be indexed as of 1 January 1992.

Clause 33 would commence on 1 January 1991 and would apply to all payments of family allowance supplement that fall due on or after that date.

Clause 34 : Reduction of rate by reference to taxable income

This clause would effect technical amendments to subsections 74B(5) and (6) of the Principal Act consequential to amendments to paragraph 246(2)(a) inserted by clause 78 (recovery of overpayments).

Clause 34 would commence on 1 January 1991.

Clause 35 : Indexation of income thresholds

Section 74D of the Principal Act provides for the indexation of asset and income limits for family allowance supplement. At present these are indexed on 1 January each year in response to annual movements in the consumer price index.

Clause 35 would amend section 74D by deleting references to indexation of the assets test limit for family allowance supplement. This is necessitated by amendments to section 74A of the Principal Act (clause 33) providing for an assets limit of \$200,000 to apply in the year 1991. Provision for indexation of this limit in 1992 and subsequent years will be made in legislation to be introduced in Autumn 1991.

Clause 35 would commence on 1 January 1991.

Clause 36 : Tax file numbers

Clause 36 would repeal section 77A of the Principal Act. Section 77A would be made unnecessary by the amendments made by Parts 7 and 8.

Clause 36 would commence on the day of Royal Assent.

Clause 37 : Qualification for family allowance

This clause would amend subsection 82(3) of the Principal Act to omit references to 'resident' and substitute references to 'Australian inhabitant'.

'Australian inhabitant' would mean:

- . an Australian resident; or
- . the holder of a Peoples' Republic of China (temporary) entry permit under Migration Act 1958 regulations; or
- . a holder of a refugee (temporary) entry permit under those regulations.

Clause 37 would be taken to have commenced on 1 August 1990 and would apply in relation to payments under the Act that fall due on or after that date.

Clause 38 : Entitlement to receive family allowance ceases
after 3 years absence of recipient or child

Clause 38 would omit subsections 83(1) and (2) of the Principal Act and substitute two new subsections.

New subsection 83(1) would provide that where a person:

- . left or leaves Australia; and
- . continues to be absent from Australia for more than 3 years;

the person is not qualified to receive family allowance in respect of the child after 3 years whilst the person continues to remain absent.

Subsection 83(2) would provide that where a child either:

- . left, or leaves, Australia; and
- . was, or is, born outside Australia; and
- . continues to be absent from Australia for more than 3 years;

a person is not qualified to receive family allowance in respect of that child at any time after the first 3 years of the absence while the child remains absent from Australia.

Section 83 does not currently restrict payment of family allowance (FA) where a person is not in receipt of FA in respect of a child before leaving Australia.

This means that when a child is born overseas, there is no restriction.

The provisions would ensure that when a child is born overseas, payments would continue for 3 years from when the parent left Australia or the child was born, whichever is earlier. After that, payments would cease.

Clause 38 would commence on the day of the Royal Assent and would apply in relation to payments that fall due on or after that day.

Clause 39 : Family allowance not payable in respect of
certain student children

Section 84 of the Principal Act regulates the payment of family allowance in respect of student children aged over 18 years.

The assumption in subsection 84(1) is that family allowance is not payable in respect of such children.

However, family allowance can be paid in respect of such a child where:

- a person would, but for subsection 84(1), be eligible to receive:
 - . family allowance supplement; or
 - . child disability allowance; or
 - . double orphan's pension in respect of the child;or

- a person is receiving a prescribed pension at a rate which is increased by reference to the child; or
- the person's income is so low that that person, or his or her spouse, could apply for family allowance supplement and not be rejected because of his or her level of income.

Clause 39(a) would amend paragraph 84(2)(b) by deleting the words, "the rate of which is increased by reference to the child". This would eliminate surplus words from the paragraph. Family allowance would be paid to any recipient of a prescribed pension in respect of a student child aged from 18 to 24 years.

Clause 39(b) would insert a reference to section 74A of the Principal Act. This would confine subsection 84(2) so that family allowance would also be payable in respect of the student child of a person whose assets, in addition to income, are below the family allowance supplement limit.

Clause 39 would commence on the day of Royal Assent.

Clause 40 : Insertion of new section

New section 84A : Assets test for family allowances

Clause 40 would introduce an assets test on family allowances. There has been an income test on family allowances since 1987.

Clause 40 would provide for new section 84A. New subsection 84A(1) would provide for the assets test limit of \$300,000. Any person with assets valued above \$300,000 would not qualify for payment of family allowance. This limit will be indexed in 1992 and annually thereafter.

New subsection 84A(2) of the Principal Act would ameliorate the impact of new subsection 84A(1) by providing for payment of family allowance in respect of a child who attracts payment of double orphan's pension, child disability allowance, or a prescribed pension, or where the person's income is below the relevant family allowance supplement threshold.

New subsection 84A(3) would provide that, for a married person, the value of his or her assets includes the value of the assets of his or her spouse.

Clause 40 would commence on 1 January 1991 and would apply to payments of family allowance that fall due on or after that date.

Clause 41 : Income test for family allowances

Section 85 provides for the income test applicable to recipients of family allowance. Clause 41 would make appropriate amendments to section 85 to implement the 1990 Budget decision to remove the taper on the rate of family allowance payable to a person whose income exceeds the person's income threshold. Family allowance would not be payable at all where the person's income exceeds the threshold.

Subsection 85(3) provides the fundamental rule for assessment of rate of family allowance and currently it contemplates a 25% taper in reduction of amount payable where the person's income exceeds his or her income threshold.

Clauses 41(a) and (d) would effect minor technical amendments to subsections 85(3) and (3A).

Clause 41(c) would remove the words providing for the taper and make clear that a nil amount is payable to a person with income above his or her threshold.

Subsections 85(3AA) and (3A) of the Principal Act provide for payment of reduced amounts of family allowance where a person is subject to a notifiable or notional notifiable event which increases his or her taxable income in the event year or current year. These provisions allow a tapered reduction of rate of family allowance. Clauses 41(e) and (f) would amend subsections 85(3AA) and (3A) to remove the tapered reduction. Family allowance would not be payable to a person whose income following the occurrence of a notifiable, or notional notifiable, event exceeds his or her income threshold.

Clause 41(f) would repeal subsection 85(4) which currently provides for rounding of inconvenient rate amounts resulting from tapered reduction where a person's income exceeds his or her income threshold. Clauses 41(c), (e) and (f) would remove the tapered reduction and provide for payment at a nil rate. No provision for rounding would therefore be needed.

Clause 41(f) would also provide for repeal of subsection 85(5) of the Principal Act and for its replacement by a clearer similar provision. Subsection 85(5) provides an exemption from the family allowance income test for a person who has a child who attracts payment of double orphan's pension or child disability allowance, or where the person receives a prescribed pension at a rate which includes an amount in respect of the child. The exemption applies to affect the family allowance payable only in relation to that particular child.

Subsection 85(4) as amended would exempt from the income test a person's entitlement to family allowance in respect of a child where because of the child there is a payment to the person of double orphan's pension, or child disability allowance or where the person receives a prescribed pension the rate of which is increased because of the particular child.

Clause 41 would commence on 1 January 1991 and would apply to all payments of family allowance that fall due on or after that date.

Clause 42 : Provision of tax file numbers

Section 91A of the Principal Act, inserted by the Social Security and Veterans' Affairs Legislation Amendment Bill (No 2) 1990, provides that a person who is qualified to receive family allowance, where the claim for that allowance was lodged after the commencement of section 91A, to provide a statement of his or her tax file number and that of his or her spouse in order to receive or to continue to receive family allowance.

Clause 42 would amend section 91A of the Principal Act to provide that this requirement would apply to all recipients of family allowance.

Clause 42 would commence on 1 January 1991.

Clause 43 : Tax file numbers

Clause 43 would repeal section 91B of the Principal Act. Section 91B would be made unnecessary by the amendments made by Parts 7 and 8.

Clause 43 would commence on the day of Royal Assent.

Clause 44 : Application of family allowance

Section 93 of the Principal Act specifies the purposes to which family allowance payments are to be applied. These are for the maintenance, training and advancement of the child in respect of whom allowance is granted.

Clause 44 would amend section 93 by adding to the listed purposes that family allowance may be applied for the education of the child in respect of whom it is granted. This amendment would update section 93 by making explicit provision for education rather than requiring the current mention of training to be interpreted include education also.

Clause 44 would commence on 1 January 1991.

Clause 45 : Insertion of new section
New section 116C : Persons with certain assets
not qualified for unemployment benefit

Clause 45 would insert new section 116C into the Principal Act. In broad terms, the new section would provide that a person claiming unemployment benefit who had more than \$5,000 in "liquid assets" (as defined in new subsection 116C(10)):

- . on the day on which the person became unemployed; or
- . on the day on which the person lodged his or her claim;

would be required to serve a waiting period of 4 weeks, commencing on the day on which the person became unemployed, before receiving payment (new subsections 116C(2) and (3) refer).

New subsection 116C(1) would provide that this new rule would not apply to a person who transferred, without loss of continuity, from a "prescribed pension" (as defined in subsection 3(1) of the Principal Act), under subsection 125(1)(c), or from sickness benefit, under subsection 128(2), to unemployment benefit or whose spouse had a prior entitlement to a prescribed pension (subsection 125(1)(d) refers).

The 4 week waiting period would be in addition to the waiting periods provided for in subsection 125(1), excepting the annual

leave deferment period referred to in paragraph 125(1)(f) (new subsection 116C(4) refers). The 4 week waiting period would also be in addition to any non-payment period resulting from a work test failure under section 126. On the other hand, the 4 week waiting period would be concurrent with education leaver deferment periods provided for in section 127 and, as already mentioned, with the annual leave deferment period referred to in paragraph 125(1)(f).

New subsection 116C(5) would provide that where a person claimed sickness benefit, was taken not to be qualified for that benefit because of new section 117AA (viz the "liquid assets" test provision for sickness benefit, to be inserted by clause 46) and consequently had to serve a 4 week waiting period before payment, that person would not have to serve a further 4 week waiting period if he or she, during those 4 weeks, ceased to be incapacitated for work and registered with the Commonwealth Employment Service and, within 14 days after registration, applied for unemployment benefit.

The effect of new subsection 116C(6) would be that a person subject to the abovementioned 4 week waiting period would need to continue to maintain his or her eligibility for unemployment benefit during that period. In other words, he or she should continue taking reasonable steps to obtain suitable paid work (the "work test" provision in section 116 refers).

For the purposes of new section 116C, the "liquid assets" of a person's spouse would be taken to be liquid assets of the person (new subsection 116C(7) refers).

The effect of new subsection 116C(8) would be that a person would not be able to avoid the effect of this measure by transferring assets to his or her children. Where such a transfer occurs during the 4 weeks immediately before the person lodges a claim for unemployment benefit and receives

either insufficient or no financial consideration in return, then, for the purposes of new section 116C, the transfer would be deemed not to have taken place.

"Liquid assets" would be defined in new subsection 116C(9) as meaning cash and other readily realisable property of a person, including:

- . shares and debentures;
- . deposits with banks and other financial institutions;
- . amounts owing by the person's former employer where such amounts are able to be paid (eg the former employer's assets are not "frozen" because of bankruptcy or liquidation);

but excluding amounts defined as "qualifying eligible termination payments" in the Income Tax Assessment Act 1936 (eg superannuation "rollovers").

Clause 45 would commence on 1 December 1990 and would apply to claims for unemployment benefit lodged on or after that date.

Clause 46 : Insertion of new section

New section 117AA : Persons with certain assets
not qualified for sickness benefit

Clause 46 would insert new section 117AA into the Principal Act. In broad terms, the new section would provide that a person claiming sickness benefit who had more than \$5,000 in "liquid assets" (by virtue of new subsection 117AA(10), this term would have the same meaning as in new section 116C, to be inserted by clause 45):

- . on the day on which the person became incapacitated for work; or
- . on the day on which the person lodged his or her claim;

would be required to serve a waiting period of 4 weeks, commencing on the day on which the person became incapacitated for work, before receiving payment (new subsections 117AA(2) and (3) refer).

New subsection 117AA(1) would provide that this new rule would not apply to a person who transferred, without loss of continuity, from a "prescribed pension" (as defined in subsection 3(1) of the Principal Act), under paragraph 125(5)(a), or from unemployment benefit, under subsection 128(1), to sickness benefit or whose spouse had a prior entitlement to a prescribed pension (paragraph 125(5)(b) refers).

The 4 week waiting period would be in addition to the waiting periods provided for in paragraphs 125(3)(a) and (b) of the Principal Act (new subsection 117AA(4) refers). On the other hand, the 4 week waiting period would be concurrent with education leaver deferment periods provided for in section 127 and with the annual leave deferment period referred to in paragraph 125(3)(c).

New subsection 117AA(5) would provide that where a person claimed unemployment benefit, was taken not to be qualified for that benefit because of new section 116C (viz the "liquid assets" test provision for unemployment benefit, to be inserted by clause 45) and consequently had to serve a 4 week waiting period before payment, that person would not have to serve a further 4 week waiting period if he or she, during those 4 weeks, became incapacitated for work and applied for sickness benefit.

The effect of new subsection 117AA(6) would be that a person subject to the abovementioned 4 week waiting period would need to continue to maintain his or her eligibility for sickness benefit during those 4 weeks. In other words, if a person

ceased to be incapacitated for work during those 4 weeks, that person may have to serve another 4 week waiting period, commencing on the day on which he or she again became incapacitated for work, before receiving payment.

For the purposes of new section 117AA, the "liquid assets" of a person's spouse would be taken to be liquid assets of the person (new subsection 117AA(7) refers).

The effect of new subsection 117AA(8) would be that a person would not be able to avoid the effect of this measure by transferring assets to his or her children. Where such a transfer occurs during the 4 weeks immediately before the person lodges a claim for sickness benefit and receives either insufficient or no financial consideration in return, then, for the purposes of new section 117AA, the transfer would be deemed not to have taken place.

By virtue of new subsection 117AA(9), "liquid assets" would have the same meaning in new section 117AA as in new section 116C. In other words, as defined in new subsection 116C(9), to be inserted by clause 45, "liquid assets" would mean cash and other readily realisable property of a person, including:

- . shares and debentures;
- . deposits with banks and other financial institutions;
- . amounts owing by the person's former employer where such amounts are able to be paid (eg the former employer's assets are not "frozen" because of bankruptcy or liquidation);

but excluding amounts defined as "qualifying eligible termination payments" in the Income Tax Assessment Act 1936 (eg superannuation "rollovers").

Clause 46 would commence on 1 December 1990 and would apply to claims for sickness benefit lodged on or after that date.

Clause 47 : Rate of unemployment and sickness benefit

Section 118 of the Principal Act sets out the rates payable to persons qualified for unemployment and sickness benefit and, by virtue of subsection 117A(1) of that Act, job search allowance.

Clauses 47(a), (b), (c) and (d) would amend subsections 118(2A) and (3) by inserting references to subsection 118(2AA). This is a technical amendment designed to correct an oversight in the Social Security and Veterans' Affairs Legislation Amendment Act 1990.

Section 9(1)(c) of that Act omitted subsection 118(2) of the Principal Act, substituted a new subsection 118(2) and inserted a new subsection 118(2AA). These amendments were designed to provide that a married beneficiary would receive the same rate of benefit irrespective of whether, on the one hand, his or her spouse was in receipt of an AUSTUDY allowance or of a "prescribed pension" (as defined in subsection 3(1) of the Principal Act), or would, on the other hand, apart from section 153 of that Act (ie because of a compensation payment), be eligible to receive a prescribed pension. Subsection 118(2) applies specifically to a married beneficiary who is aged 21 years or more and has no dependent children. Subsection 118(2AA) applies specifically to a married beneficiary or job search allowance recipient regardless of his or her age who has a dependent child.

When these amendments were drafted, the need for consequential amendments to subsections 118(2A) and (3) of the Principal Act was overlooked. While these subsections already contained references to subsection 118(2), there was no reference to new subsection 118(2AA). The omission created an unintended distinction between the two categories of beneficiaries referred to in the preceding paragraph. This would be corrected by clauses 47(a), (b), (c) and (d).

Clauses 47(a), (b), (c) and (d) would be taken to have commenced on 20 September 1990 and would apply in relation to payments that fall due on or after that date.

Clause 47(e) would omit subsection 118(5A). There would no requirement for a beneficiary to take reasonable maintenance action to qualify for guardian's allowance.

Clause 47(e) would be taken to have commenced on 20 September 1990 and would apply in relation to payments that fall due on or after that date.

Clause 48 : Entitlement to unemployment and
sickness benefits etc.

This clause would correct drafting errors made in the Social Welfare (Pharmaceutical Benefits) Amendment Act 1990.

Subsections 119(5G) and (5H) of the Principal Act provide for the general rate increase to be paid to the older long-term unemployed. This clause would ensure that the rate increase is also paid to persons aged over 60 who are in receipt of special benefit. The single rate would be \$2.50 per person per week, the married rate, \$1.25. Illness separated couples in the above category would get the higher rate.

Further, the increase would be paid to anyone who is:

- . over 60; and
- . has been in receipt of a DSS pension or benefit, or a service pension paid by the Department of Veterans' Affairs, for in excess of 6 months.

Clause 48 would commence on 20 March 1991.

Clause 49 : Rent assistance

Clause 49 would amend section 120 of the Principal Act which contains provisions relating to the payment of rent assistance to persons qualified to receive a payment under Part XIII of that Act, ie an unemployment, sickness or special benefit or a job search allowance. In broad terms, the weekly amount of rent assistance payable to a person qualified to receive a payment under Part XIII of the Principal Act is an amount equal to whichever is the lesser of:

- . one-half of the amount by which the amount of the weekly rent paid by the person to a private landlord exceeds the prescribed threshold, ie the prescribed minimum amount of rent; or
- . the prescribed maximum amount of rent assistance.

Clause 49 would provide for an increase in the prescribed threshold from \$20 to \$25 per week.

Clause 49 would commence on 20 March 1991 and would apply in relation to payments that fall due on or after that date.

Clause 50 : Special arrangement for victims of major disasters

This clause would repeal section 122BA of the Principal Act which provides for "double" payment of benefit to be made to certain persons adversely affected by the occurrence of a major disaster.

Section 122BA would be replaced by a new payment called the Disaster Relief Payment which would be inserted by clause 68 of this Bill.

Clause 50 would be taken to have commenced on 22 August 1990.

Clause 51 : When benefits payable

Clause 51 would amend section 125 of the Principal Act. In broad terms, section 125 contains the rules with respect to the date from which an unemployment or sickness benefit becomes payable to a person.

As a general rule, under paragraph 125(1)(a), unemployment benefit is subject to a 7 day waiting period before payment commences but persons affected by this rule can also apply for special benefit in respect of that period. Special benefit is a discretionary payment (sections 129 to 131 of the Principal Act refer). Again as a general rule, its payment is subject to a non-statutory test on short-term available funds. Under that test, where a person's short-term available funds are equal to or less than the equivalent of two weeks benefit at the appropriate maximum rate, special benefit would be payable. Where available funds exceed two weeks benefit, special benefit would not be payable.

Clause 51(a) would insert new paragraph 125(1)(aa) into section 125. The effect of the new paragraph would be that where the Secretary was satisfied that a person would suffer severe financial hardship if he or she were paid subject to the waiting period under paragraph 125(1)(a), unemployment benefit would be payable to the person from and including:

- . the day on which the person became unemployed; or
- . the day on which the person made a claim for benefit;

whichever was the later. Effectively, unemployment benefit would be payable without a waiting period to persons who would otherwise have qualified for special benefit.

Clause 51(b) would amend subsection 125(2AA) to provide that new paragraph 125(1)(aa), to be inserted by clause 51(a), would not apply to a person serving a period of non-payment imposed under section 126 of the Principal Act because of his or her failing the unemployment benefit "work test".

Clause 51(c) would insert a reference to new section 117AA (ie the sickness benefit "liquid assets test", to be inserted by Clause 46) into subsection 125(4) of the Principal Act. Consequently, subsection 125(4) which provides for the backdating of sickness benefit in certain circumstances would be subject to new section 117AA. In other words, a claim would not be able to be backdated under subsection 125(4) so as to result in a person being paid sickness benefit during any part of the 4 weeks when the person was not qualified, under new section 117AA, to receive that benefit.

Clause 51 would commence on 1 December 1990 and would apply in relation to claims lodged on or after that date.

Clause 52 : Provision of tax file numbers

Subsection 125A(1) of the Principal Act provides that unemployment benefit or sickness benefit is not to be paid to a person unless that person has given the Secretary to the Department of Social Security, in writing, a statement of his or her tax file number.

Clause 52 would amend subsection 125A of the Principal Act by inserting new subsection 125A(1A) to provide that a married person who is qualified to receive unemployment benefit or a sickness benefit would also be required to provide a statement of the tax file number of his or her spouse in order to receive or to continue to receive benefit.

A person who is qualified to receive unemployment benefit or sickness benefit would also not be paid where the Secretary to the Department of Social Security requires the person to give the Secretary, in writing, a statement of the tax file number of his or her spouse and the person does not comply within 28 days.

The provision of tax file numbers would not be required where the person's spouse cannot obtain a tax file number because he or she is absent from Australia.

Clause 52 would amend subsection 125A(2) to provide how a person is to satisfy subsection 125A(1A) in relation to the person's spouse. Where the relevant tax file number is known this would be by provision of a declaration of the person's tax file number in a form approved by the Secretary.

Where the relevant tax file number is not known existing paragraphs 125A(2)(b) to (f) would provide a mechanism whereby the person could authorise the Commissioner of Taxation to pass to the Secretary the number as soon as possible, if one already exists, or following issue if a number does not already exist. Provision would also be made for the Commissioner of Taxation to inform the Secretary where the Commissioner refuses to issue a number or a person withdraws an application for a tax file number.

Clause 52 would also insert new subsection 125A(3) to qualify the operation of amended section 125A so that a person would not be required to provide the tax file number of the person's spouse where the Secretary is satisfied that the person does not know the number or the person cannot obtain the number from the person's spouse or a statement or declaration by the spouse of that number.

Clause 52 would commence on 1 January 1991.

Clause 53 : Insertion of new section
New section 125B : Provision of tax file numbers -
special benefit

Clause 53 would insert new section 125B into the Principal Act.

New subsection 125B(1) would require a person who is qualified to receive a special benefit to provide a statement of his or her tax file number and that of his or her spouse in order to receive or to continue to receive special benefit. At present there is no similar requirement.

A person who is qualified to receive a special benefit would not be paid where the Secretary to the Department of Social Security requires the person to give the Secretary, in writing, a statement of the person's tax file number and that of his or her spouse, and the person does not comply within 28 days.

The provision of tax file numbers would not be required where the person's spouse cannot obtain a tax file number because he or she is absent from Australia.

New subsection 125B(2) would demonstrate how a person is to satisfy new subsection 125B(1). Where the relevant tax file number or numbers are known this could be by provision of a declaration of the person's tax file number in a form approved by the Secretary.

Where the relevant tax file number is not known new paragraphs 125B(2)(b) to (f) would provide a mechanism whereby the person could authorise the Commissioner of Taxation to pass to the Secretary the number as soon as possible, if one already exists, or following issue if a number does not already exist. Provision would also be made for the Commissioner of Taxation to inform the Secretary where the Commissioner refuses to issue a number or a person withdraws an application for a tax file number.

New subsection 125B(3) would qualify the operation of new section 125B so that a person would not be required to provide the tax file number of the person's spouse where the Secretary is satisfied that the person does not know the number or the person cannot obtain the number from the person's spouse or a statement or declaration by the spouse of that number.

Clause 53 would commence on 1 January 1991.

Clause 54 : Education leavers

Clause 54 would amend subsection 127(1) of the Principal Act. Under section 127, education leavers who have ceased studies since 1 September 1987 and claim an unemployment, sickness or special benefit or a job search allowance are required to serve a period of non-payment. In other words, their payment is deferred for a period.

Consistent with changes to section 136 of the Principal Act, to be inserted by clause 57, subsection 127(1) would be amended by clause 54 to make it clear that, in this context, "education" refers to a "full-time course of education of at least 6 months' duration" only.

Clause 54 would commence on the day of Royal Assent and would apply in relation to payments in respect of periods all or part of which occur on or after that day.

Clause 55 : Special benefit

Clause 55 would amend section 129 of the Principal Act by substituting a new paragraph 129(3)(a). This would provide the residence criteria for eligibility for special benefit. A person would meet the residence criteria if the person is:

- . an Australian resident; or
- . a citizen of New Zealand who is exempted under section 106 of the Migration Act 1958 from the requirement for entry permits; or
- . a person to whom refugee status within the meaning of that Act has been granted; or
- . the holder of a Peoples' Republic of China (PRC) (temporary) entry permit under regulations made under that Act; or
- . an applicant for a PRC temporary entry permit who the Department of Immigration, Local Government and Ethnic Affairs advise is eligible for that permit; or
- . an applicant for refugee status who the Department of Immigration, Local Government and Ethnic Affairs advise has a substantial claim to be granted refugee status.

Clause 55 would be taken to have commenced on 1 August 1990 and would apply in relation to payments that fall due on or after that date.

Clause 56 : Rate of special benefit

This clause would omit subsection 130(2A) of the Principal Act and the definition of "major disaster" in subsection 130(3).

Subsection 130(2A) enables twice the amount of benefit which would have been payable to a person qualified to receive special benefit to be paid to the person where the person has been adversely affected by the occurrence of a major disaster. Subsection 130(3) defines the term "major disaster".

Both provisions would be superseded by new Part XVIIIA (inserted by clause 68) which would introduce the new Disaster Relief Payment.

Clause 56 would be taken to have commenced on 22 August 1990.

Clause 57 : Benefit not payable to full-time students

Clause 57 would amend section 136 of the Principal Act. As suggested by its title, section 136 provides that a benefit under Part XIII of that Act, ie an unemployment, sickness or special benefit or a job search allowance, is not payable to a person who is a full-time student.

Having regard to the decisions in Harradine v Secretary to the Department of Social Security (1989) 17 ALD 336 and Kerry Ann O'Brien and the Secretary to the Department of Social Security (AAT Q88/265 of 4 July 1990), it has become necessary to clarify that:

- . subject to section 170 of the Principal Act which includes a provision that the Secretary may require a person to undertake a course, the intention behind section 136 of that Act was that it should apply not only to persons "engaged" in a course of education "on a full-time basis" but to all persons enrolled in a full-time course of education;
- . for this purpose, there was no intention to distinguish between a full-time course of education and a full-time course of vocational training, ie persons enrolled in a full-time course of vocational training were also to be treated as "full-time students";

a person was to be taken to be "enrolled" in such a course from the day on which the person commenced it until he or she completed it, abandoned it or formally withdrew from it, either totally or to the extent that it would no longer be a full-time course.

Clauses 57(a), (b) and (c) would amend subsections 136(1), (2) and (2A), respectively, to achieve that effect. A consequential amendment would also be made to section 127 of the Principal Act, to be inserted by clause 54.

Clause 57 would commence on the day of the Royal Assent and would apply in relation to payments in respect of periods all or part of which occur on or after that day.

Clause 58 : Tax file numbers

Clause 58 would repeal section 138A of the Principal Act. Section 138A would be made unnecessary by the amendments made by Parts 7 and 8.

Clause 58 would commence on 1 January 1991.

Clause 59 : Insertion of new section

New section 143A : Provision of tax file numbers

Clause 59 would insert new section 143A into the Principal Act.

New subsection 143A(1) would require a person who is qualified to receive a sheltered employment allowance to provide a statement of his or her tax file number and that of his or her spouse in order to receive or to continue to receive the allowance. At present there is no similar requirement.

A person who is qualified to receive a sheltered employment allowance would not be paid where the Secretary to the Department of Social Security requires the person to give the Secretary, in writing, a statement of the person's tax file number and that of his or her spouse, and the person does not comply within 28 days.

The provision of tax file numbers would not be required where the person's spouse cannot obtain a tax file number because he or she is absent from Australia.

New subsection 143A(2) would demonstrate how a person is to satisfy new subsection 143A(1). Where the relevant tax file number or numbers are known this would be by provision of a declaration of the person's tax file number in a form approved by the Secretary.

Where the relevant tax file number is not known new paragraphs 143A(2)(b) to (f) would provide a mechanism whereby the person could authorise the Commissioner of Taxation to pass to the Secretary the number as soon as possible, if one already exists, or following issue if a number does not already exist. Provision would also be made for the Commissioner of Taxation to inform the Secretary where the Commissioner refuses to issue a number or a person withdraws an application for a tax file number.

New subsection 143A(3) would qualify the operation of new section 143A so that a person would not be required to provide the tax file number of the person's spouse where the Secretary is satisfied that the person does not know the number or the person cannot obtain the number from the person's spouse or a statement or declaration by the spouse of that number.

Clause 59 would commence on 1 January 1991.

Clause 60 : Insertion of new section
New section 148A : Provision of tax file numbers

Clause 60 would insert new section 148A into the Principal Act.

New subsection 148A(1) would require a person who is qualified to receive a mobility allowance to provide a statement of his or her tax file number and that of his or her spouse in order to receive or to continue to receive the allowance. At present there is no similar requirement.

A person who is qualified to receive a mobility allowance would not be paid where the Secretary to the Department of Social Security requires the person to give the Secretary, in writing, a statement of the person's tax file number and that of his or her spouse, and the person does not comply within 28 days.

The provision of tax file numbers would not be required where the person's spouse cannot obtain a tax file number because he or she is absent from Australia.

New subsection 148A(2) would demonstrate how a person is to satisfy new subsection 148A(1). Where the relevant tax file number or numbers are known this would be by provision of a declaration of the person's tax file number in a form approved by the Secretary.

Where the relevant tax file number is not known new paragraphs 148A(2)(b) to (f) would provide a mechanism whereby the person could authorise the Commissioner of Taxation to pass to the Secretary the number as soon as possible, if one already exists, or following issue if a number does not already exist. Provision would also be made for the Commissioner of Taxation to inform the Secretary where the Commissioner refuses to issue a number or a person withdraws an application for a tax file number.

New subsection 148A(3) would qualify the operation of new section 148A so that a person would not be required to provide the tax file number of the person's spouse where the Secretary is satisfied that the person does not know the number or the person cannot obtain the number from the person's spouse or a statement or declaration by the spouse of that number.

Clause 60 would commence on 1 January 1991.

Clause 61 : Insertion of new section
New section 151A : Provision of tax file numbers

Clause 61 would insert new section 150A into the Principal Act.

New subsection 151AA(1) would require a person who is qualified to receive a rehabilitation allowance to provide a statement of his or her tax file number and that of his or her spouse in order to receive or to continue to receive the allowance. At present there is no similar requirement.

A person who is qualified to receive a mobility allowance would not be paid where the Secretary to the Department of Social Security requires the person to give the Secretary, in writing, a statement of the person's tax file number and that of his or her spouse, and the person does not comply within 28 days.

The provision of tax file numbers would not be required where the person's spouse cannot obtain a tax file number because he or she is absent from Australia.

New subsection 151AA(2) would demonstrate how a person is to satisfy new subsection 151AA(1). Where the relevant tax file number or numbers are known this would be by provision of a declaration of the person's tax file number in a form approved by the Secretary.

Where the relevant tax file number is not known new paragraphs 151AA(2)(b) to (f) would provide a mechanism whereby the person could authorise the Commissioner of Taxation to pass to the Secretary the number as soon as possible, if one already exists, or following issue if a number does not already exist. Provision would also be made for the Commissioner of Taxation to inform the Secretary where the Commissioner refuses to issue a number or a person withdraws an application for a tax file number.

New subsection 151AA(3) would qualify the operation of new section 151AA so that a person would not be required to provide the tax file number of the person's spouse where the Secretary is satisfied that the person does not know the number or the person cannot obtain the number from the person's spouse or a statement or declaration by the spouse of that number.

Clause 61 would commence on 1 January 1991.

Clause 62 : Interpretation

The Social Welfare Legislation (Pharmaceutical Benefits) Amendment Bill 1990 (the 'Pharmaceutical Benefits Bill') would insert a new Part XVIA into the Principal Act to provide for the payment of pharmaceutical supplements and advance pharmaceutical supplements.

Clause 62 would amend the definition of 'advance pensioner A' and 'continuing pensioner B' in section 151A which will be inserted by the Pharmaceutical Benefits Bill to ensure that periodic payments by way of compensation to which Part XVII of the Principal Act applies and payments of any benefit that a person is entitled to receive under the law of a foreign

country the amount of which reduces by an equivalent amount pension or allowance payable under the Act, would be disregarded.

Clause 62 would also amend the definition of 'eligible pensioner' in section 151A to ensure that a person whose rate of pension is reduced from the maximum rate only because Part XVII of the Principal Act applies to any periodic payments by way of compensation that they receive or whose rate of pension is reduced solely by an amount equivalent to the amount of benefit to which that person is entitled under the law of foreign country, would still be an 'eligible pensioner'.

Clause 62 would omit the definition of 'disqualified pensioner' in section 151A as the definition is not required to provide for the intended operation of Part XVIA.

Clause 62 would commence on 1 November 1990.

Clause 63 : Entitlements under Part limited to
residents of Australia

Clause 63 would insert a new section 151AB to ensure that pharmaceutical supplements and advance pharmaceutical supplements will only be paid to those persons who are in Australia.

New subsection 151AB(1) would provide that a person is not qualified to receive a pharmaceutical supplement or an advance pharmaceutical supplement on a payday during the supplement period (1 November 1990 and ending on 19 March 1991) when he or she is not an Australian resident or if he or she is absent from Australia.

New subsection 151AB(2) would provide that where an advance pensioner A is not qualified to receive an advance pharmaceutical supplement payable under section 151F then the pensioner would not be qualified to receive an advance pharmaceutical supplement under section 151G.

However, where an advance pensioner A is disqualified to receive a payment under section 151F because of the operation of subsection 151AB(1) then that person would be entitled to receive payment of pharmaceutical supplement (under section 151B) on a payday during the supplement period provided that they were an Australian resident and not absent from Australia on that payday notwithstanding that subsection 151J(1) provides that an advance pensioner A is not qualified to receive a pharmaceutical supplement under section 151B.

Clause 63 would commence on 1 November 1990.

Clause 64 : Pharmaceutical supplements in addition
to advance pharmaceutical supplements

Clause 64 would amend subsection 151J(2) by omitting the date '9 March 1991' and inserting '19 March 1991'. This would correct a drafting error.

Clause 64 would commence on 1 November 1990.

Clause 65 : Rate increases not to apply to advance
pensioners A during advance payment period

Clause 65 would make a minor technical amendment to subsection 151K(1) by omitting the reference to a 'disqualified advance pensioner'.

Clause 65 would also correct a drafting error by omitting the reference to the date '8 November 1990' in subsection 151K(2) and inserting '20 March 1991'.

Clause 65 would commence on 1 November 1990.

Clause 66 : Rate increases not to apply to pensioners B
during advance payment period

Clause 66 would make a minor technical amendment to subsection 151L(1) by omitting the reference to a 'disqualified advance pensioner'.

Clause 66 would commence on 1 November 1990.

Clause 67 : Maximum benefit

Clause 67 would make a minor drafting amendment to paragraph 151N(2)(e) to omit the reference to '2-1/2' and insert '2.5'.

Clause 67 would commence on 1 November 1990.

Clause 68 : Insertion of new Part XVIIIA -
Disaster Relief Payment

Clause 68 would insert a new Part XVIIIA into the Principal Act. New Part XVIIIA would provide for the payment of a Disaster Relief Payment which would generally be available to persons adversely affected by the occurrence of a major disaster.

New section 157A would define "major disaster" to mean a disaster to which a declaration under new section 157B applies.

New subsection 157B(1) would provide that the Minister may, by notice in the Gazette, declare that a disaster is a "major disaster" for the purposes of Part XVIIIA if the disaster has caused a significant number of deaths, serious illnesses or other serious injuries and has caused severe and widespread damage to property.

New subsection 157B(2) would enable the Minister to delegate his power to determine that an occurrence is a "major disaster" under subsection 157B(1) to the Secretary.

New section 157C would provide the qualification criteria for the disaster relief payment.

To be qualified for the new payment, a person's principal residence must be severely damaged or a person must suffer significant interruption to his or her source of livelihood. The person would also be required to be a resident of Australia at the time the person was affected by the disaster and should not be an illegal entrant within the meaning of the Migration Act 1958 at that time.

Where these qualification conditions have been met by a person, the person would be entitled to -

- . where the person is not in receipt of an income support payment - a disaster relief payment for one fortnight; or
- . where the person is in receipt of an income support payment - a supplementary payment by way of a disaster relief payment for one fortnight.

"Income support payment" is defined in clause 5(s) to mean invalid pension, sole parent's pension, wife's pension, class B widow's pension, widowed person's allowance, carer's pension, sheltered employment allowance, rehabilitation allowance, unemployment benefit, sickness benefit or special benefit.

New section 157D would provide that the fortnightly rate of disaster relief payment would be calculated by adding together the following amounts - single or married rate of pension including additional pension component if applicable + maximum rate of rent assistance (irrespective of whether the qualification criteria in section 36 of the Principal Act have been met) + mothers/guardians allowance if applicable.

New Part XVIIIA would be taken to have commenced on 22 August 1990.

Clause 69 : Claims

Subsection 158(1) of the Principal Act provides that the grant or payment of specified social security payments shall not be made except upon the making of a claim for the relevant pension, benefit or allowance.

Clause 69(a) is a minor drafting amendment which would insert a reference to "or" after each paragraph of subsection 158(1) except paragraphs (e) and (f). These paragraphs would already contain such a reference.

Clause 69(b) would add another payment to the list of payments which require a claim. The new payment would be the disaster relief payment provided for by new Part XVIIIA (inserted by clause 68).

Clauses 69(a) and (b) would be taken to have commenced on 22 August 1990.

Clause 69(c) would amend subsection 158(2) to provide that, as an exception, where a person is taken not to be qualified to receive unemployment or sickness benefit by virtue of new

section 116C or 117AA (the "liquid assets test" provisions), to be inserted by clauses 44 and 45 respectively, the person's claim would not be taken not to have been made. Consequently, he or she would not be required to lodge a fresh claim in order to receive payment after the end of the 4 week waiting period imposed under the "liquid assets test".

Clause 69(c) would commence on 1 December 1990 and would apply in relation to claims lodged on or after that date.

Clause 70 : Making and lodgement of claims etc.

Generally, if a person lodges a claim for a social security payment and is not qualified for payment when the claim is made, the claim lapses. If the person subsequently becomes qualified for payment, lodgement of another claim is required before payment can be made. Subsection 159(2) provides specific exceptions to this general rule.

Clause 70(a) would insert into paragraph 159(2)(a) of the Principal Act a reference to Parts IX and X which provide for qualification and payment of family allowance supplement (FAS) and family allowance (FA) respectively.

The effect of this amendment would be that a person could lodge a claim for FAS or FA up to 3 months before qualification arises. If qualification arises within 3 months of lodgement of a claim for FAS or FA, the claim would be taken to have been made on the day that qualification arises.

Clause 70(a) would commence on 1 December 1990.

Clause 70(b) would insert a new subsection 159(4AA) into the Principal Act. New subsection 159(4AA) would provide that where a person who is receiving FAS or FA in respect of the

child dies and a person lodges a claim for FAS or FA in respect of the child within 3 months of the death of the firstmentioned person, then the claim is taken to have been lodged on the day of the death.

This amendment would ensure that there is no break in entitlement to FAS or FA where a person who is receiving FAS or FA in respect of a child dies, as long as another person (typically the deceased person's spouse or new guardian of the child) who is qualified to receive those payments in respect of the child claims FAS or FA within 3 months of the day of the person's death.

Clause 70(b) would commence on 1 December 1990 and would apply in relation to claims lodged on or after that date.

Clause 70(c) would insert a new subsection 159(4BA) into the Principal Act.

New subsection 159(4BA) would enable a person or institution who claims FAS or FA in respect of a child who is over 16 years and qualified to receive payments under the Assistance for Isolated Children Scheme from 1 January 1991 to 31 March 1991 to claim FAS or FA. If the person or institution claims within that 3 month period, the claim would be taken to have been lodged on 1 January. Therefore the person or institution would be qualified to receive FAS or FA in respect of the child from 1 January. If the child turns 16 during the period 1 January and 31 March, the claim would be taken to have been lodged on the last day the person or institution was qualified to receive family allowance, that is, the child's 16th birthday.

This amendment would complement changes affected by clause 5(q) to the definition of "prescribed student child" in subsection 3(1) of the Principal Act. From 1 January 1991, a child who is qualified to receive payments under the Assistance for Isolated

Children Scheme would no longer be a "prescribed student child" for the purposes of qualification for family allowance (section 82 of the Principal Act refers). A child who is a prescribed student child does not attract payment of FA by operation of paragraphs 82(1)(aa) and 82(2)(c) of the Principal Act.

Clause 70(c) would commence on 1 January 1991.

Clause 70(d) would insert a new subsection 159(4CA) into the Principal Act. New subsection 159(4CA) would provide that where a person lodges a claim for child disability allowance (CDA) and subsection 159(4C) of the Principal Act applies in relation to that claim and also lodges a claim for FAS or FA after becoming qualified to receive the allowances, then the claim would be taken to have been lodged 12 months before the day of actual lodgement if the person was qualified to receive FAS or FA for more than 12 months before actual lodgement of the claim. In any other case, the claim would be taken to have been lodged when the person became qualified to receive FA.

Subsection 159(4C) of the Principal Act (referred to in new subsection 159(4CA)) enables a claim for CDA to be backdated for 12 months where the person claiming CDA becomes qualified to receive the allowance more than 12 months after the date of actual lodgement of the claim or, in any other case, the day on which the person became qualified to receive CDA.

This amendment would align the treatment of claims for CDA with those for FAS and FA.

Clause 70(d) would be taken to have commenced on 29 December 1988 (the date of commencement of subsection 159(4C) of the Principal Act) and would be taken to have applied to claims lodged on or after that date.

Clause 70(e) would insert after subsection 159(4D) new subsections (4E) and (4F).

New subsection (4E) would provide that a person is required to lodge a claim for disaster relief payment (see new Part XVIIIA inserted by clause 68) within 2 weeks after the day on which the person lodging the claim was affected by the disaster or such longer period as decided by the Secretary.

New subsection (4F) would provide that a person is required to lodge a claim for an income support payment (inserted by clause 5(s)) within 2 weeks of lodging the claim for disaster relief payment to have that claim for an income support payment taken to have been lodged on the date on which the person was affected by the major disaster.

The effect of this provision would be that if a person claims a disaster relief payment and an income support payment within time limits prescribed by new subsections 159(4E) and (4F), then the person would be entitled to income support payments from the date the person was affected by the major disaster, together with the disaster relief payment.

Clause 70(e) would be taken to have commenced on 22 August 1990.

As new subsections 159(4E) and (4F) come into force on 20 August 1990 (retrospectively) provision would be made in clause 70(f) for payments under the new subsections to be made from the day of Royal Assent if a major disaster occurs between 20 August and the day of Royal Assent of this Act.

Clause 70(f) would commence on the day of Royal Assent.

Clause 71 : Manner of payment etc.

Clause 71 would amend section 161 of the Principal Act. Section 161 provides, among other things, that a pension, benefit or allowance under that Act shall be paid in such manner as the Secretary to the Department of Social Security directs.

Clause 71(a) would amend subsection 161(1) to provide, in broad terms, that payments under the Principal Act would generally be made by direct deposit to an account with a bank, credit union or building society, nominated from time to time by the payee, unless the Secretary decided in the circumstances of a particular case that some other manner of payment was appropriate - this would normally be done in the case of persons with no reasonable access to banking or like facilities.

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

- . the Secretary directed that he or she should be paid in some other manner (eg by cheque); or
- . the payee subsequently nominated an account;

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

Clauses 71(b) and (c) would make consequential technical amendments to subsections 161(2), (3) and (5).

Clause 71(d) would insert new subsection 161(6) to provide the definitions of "account", "payee", "pension" and "pensioner" for the purposes of the section.

Clause 71 would commence on the day of the Royal Assent and would apply in relation to payments that fall due on or after that date.

Clause 72 : Some decisions are not reviewable by the
Social Security Appeals Tribunal

Section 178 of the Principal Act outlines those decisions in the Act which are not reviewable by the Social Security Appeals Tribunal (SSAT). Presently, section 178 contains two paragraphs (aa).

Clause 72(a) would omit the second reference to paragraph (aa) and substitute the letters (ac). This amendment would remedy a drafting error.

Clause 72(a) would commence on 28 December 1988 (the date from which paragraph (aa), second occurring, was inserted into the Principal Act).

Clause 72(b) would omit paragraph 178(ac) and substitute a new paragraph (ac).

Paragraph (ac), currently the second mentioned paragraph (aa), provides that a decision by the Minister that a disaster is a "major disaster" for the purposes of section 122BA of the Principal Act is not a decision which can be reviewed by the SSAT. Section 122BA, which provides special arrangements for victims of major disasters would be repealed by clause 50.

Section 122BA would effectively be replaced by new section 157B inserted by clause 68. New section 157B would provide for a new disaster relief payment. A decision by the Minister that a disaster is a "major disaster" for the purposes of new section

157B would not be a decision which can be reviewed by the SSAT. What was section 122BA would be replaced by new section 157B in paragraph 178(ca).

Clause 72(b) would be taken to have commenced on 22 August 1990.

Clause 73 : Insertion of new section
New section 219A : Conditions of members

Clause 73 would insert new section 219A into the Principal Act.

Clause 73 would provide 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 the other members to be determined by the Minister.

Clause 73 would commence on the day of Royal Assent.

Clause 74 : Acting appointments

Clause 74 would provide for the appointment of acting full-time or part-time senior members of the Social Security Appeals Tribunal by the Minister.

Clause 74 would commence on the day of Royal Assent.

Clause 75 : Insertion of new section
New section 237C : Employment entry payment -
sole parent's pension recipients

Clause 75 would insert new section 237C into the Principal Act.

Clause 75 would provide for an employment entry payment of \$100 to assist sole parent pensioners with the initial costs of commencing employment.

This payment is designed to help sole parent pensioners who are re-entering the workforce to meet the costs of entering employment, such as essential clothing, transport to work and union fees.

Clause 75 would commence on 1 January 1991.

Clause 76 : Insertion of new section

New section 245A : Restrictions on dual pensions

In broad terms, the effect of new section 245A would be that, in order to prevent "double dipping", a person would not be able to receive more than one income support pension or benefit, under either the Principal Act or the Veterans' Entitlements Act 1986, in respect of the same period. Where a person receives more than one income support payment in respect of the same period, one of those payments would be recoverable from the person.

For example, in the following situation where:

- . a person is in receipt of payment A;
- . the person claims payment B on, say, 1 March;
- . until the approval of the person's claim for payment B, payment A continues;
- . payment B is granted on 22 March with effect from 4 March, ie from the first payday following the lodgment of the claim for that payment (sections 159 and 160 of the Principal Act refer);
- . because of the time needed for processing of payments, payment A is not stopped until after the payment due on 22 March;

. consequently, the person receives both payment A and payment B between 4 and 26 March;

the effect of new subsections 245A(1), (2), (3), (6), (7) and (8) would be that the amount of payment A paid between 4 and 26 March would be recoverable from the person (unless payment B were payable at a rate lower than payment A, eg where a person transferred from sole parent's pension to unemployment benefit, in which case the amount of payment B paid between 4 and 26 March would be recoverable from the person). This rule would not apply where the Principal Act specifically provides that a person may be entitled to receive both payment A and payment B in respect of the same period - usually where one of these payments is not an "income support" payment but a supplement to such payments, eg a person may receive both age pension and family allowance in respect of the same period.

New subsection 245A(4) would provide that where, in the above example, payment B is granted to the person's spouse rather than to the person, the amount of payment A paid to the person between 4 and 26 March would be recoverable from the person's spouse (unless the person and the person's spouse each had an entitlement to their respective payment, eg while family allowance supplement (FAS) is not payable to a person where the person or the person's spouse is receiving a pension or benefit, a person may receive invalid pension while his or her spouse receives unemployment benefit).

New subsection 245A(5) would provide that where a person's entitlement to an income support payment is reduced because his or her spouse becomes entitled to another such payment, the reduction would take place when the person's spouse became entitled to his or her payment.

In this context, the phrase "becomes entitled" in new section 245A refers to the earliest day on which a person becomes entitled to be paid a particular payment (ie its date of commencement), notwithstanding that the first instalment of that payment may not in fact be paid until a later day.

New section 245A would commence on the day of the Royal Assent and would apply to payments that fall due on or after that day.

Clause 77 : Recoverable payments

Clause 77 would insert new section 245B into the Principal Act. This amendment would clarify the circumstances under which amounts incorrectly paid would be recoverable.

New section 245B would provide that for the purposes of the Principal Act, an amount that has been paid by way of pension, benefit or allowance would become a debt due to the Commonwealth only in specific circumstances. A debt would arise where:

- (a) section 5 applies (pension loans scheme debts); or
- (b) subsection 74B(5) or (6) applies (particular overpayments of family allowance supplement based on an incorrect estimate of, or change to, a person's taxable income); or
- (c) subsection 245A(7) (see clause 76) applies (restriction on dual pensions); or
- (d) subsection 246(1) applies (overpayment due to a person failing to comply with the Act or making a false statement); or

- (e) the person to whom an amount was paid knew, or could reasonably be expected to have known, that its payment was incorrect; or
- (f) the person in respect of whom an amount was paid was not qualified for it and it was not payable to that person; or
- (g) an amount formed part of a payment made at a rate that exceeded the maximum rate for such a payment payable to the person.

Where an excess payment was made to a person and that amount did not come within any of the above categories, the amount would not be recoverable by any means. This would mean that overpayments made as a result of administrative error, where none of the above categories applies, would not be a debt and would therefore not be recoverable.

New paragraph 245B(1)(e) would basically transform the "good faith" test currently used in deciding whether to waive a debt into a mechanism for determining whether a debt has arisen.

New paragraph 245B(1)(f) would provide for the creation of a debt where a person satisfied two requirements:

- . that he or she was not qualified for a pension, benefit or allowance; and
- . that pension, benefit or allowance was not payable to the person.

This formulation would preserve existing entitlements such as those arising under subsection 169(1) of the Principal Act.

New paragraph 245B(1)(g) would provide for the creation of a debt where a person is paid a pension, benefit or allowance at a rate that was greater than the maximum statutory rate for

that payment. The maximum rate would be the one payable to the person, before the application of the income or assets tests, and would be worked out according to the person's situation, eg, in the case of age pension - whether the person is single or married.

New section 245B would not affect compensation debts or assurance of support debts. These would remain distinct debts recoverable under the Principal Act.

New subsection 245B(2) would provide for the application of new subsection 245B(1). The new rules would apply to all payments of pension, benefit or allowance that give rise to periods of overpayment starting on or after the commencement date (1 January 1991). Where a person receives a pension, benefit or allowance for a continuous period, beginning before the commencement date, and ending on or after the commencement date, and a continuous period of overpayment occurs, stretching from before the commencement date to on or after the commencement date, subsection (1) would apply in relation to the entire period of overpayment.

New clause 245B would commence on 1 January 1991.

Clause 78 : Recovery of overpayments

Clause 78 would make a consequential amendment to paragraph 246(2)(a) of the Principal Act to bring it into line with the amendments introduced by clause 77.

Clause 78 would commence on 1 January 1991.

Clause 79 : Pension, benefit or allowance
may be paid to bank etc.

Clause 79 would repeal section 248A of the Principal Act. This is a technical amendment, consequential to amendments to section 161, to be inserted by clause 71.

Clause 79 would commence on the day of the Royal Assent and would apply to payments that fall due on or after that day.

Clause 80 : Write off, waiver etc.

Clause 80 would amend section 251 of the Principal Act so that the 6 year limitation period for civil debt recovery applies to the administrative remedies of garnishee (section 162) and withholdings (subsection 246(2)) where the Department has taken no action in relation to the overpayment. Where the Department has been inactive for 6 years with respect to an overpayment, the Department would not be able to seek recovery using the administrative remedies. Currently, the administrative remedies are not subject to a limitation period. This provision would encourage the Department to take action to recover overpayments within 6 years.

Clause 80(d) would insert new subsections 251(3A) and (3B) into the Principal Act.

New subsection 251(3A) would clarify subsection 251(2) of the Principal Act and would provide that the limitation period for legal proceedings, garnishee action and withholding action would cease to run where part of a debt is paid or where there is an acknowledgement of debt. The limitation period would start again from the day after such action.

New subsection 251(3B) would provide that the limitation period for the administrative remedies would cease to run where the Department takes action relating to either of the administrative remedies. The limitation period would start again from the day after such action. This provision would be necessary in situations where the Department is unable to locate a previous client who has received an overpayment and the Department is making an effort to find him or her in order to affect recovery.

Clause 80 would commence on 1 January 1991 and would apply to all overpayments, whether arising before or after the day of commencement.

Clause 81 : Insertion of new clause

Clause 7A : Provision of tax file numbers

Clause 81 would insert new clause 7A into Schedule 1B of the Principal Act.

New clause 7A(1) would require a person who is qualified to receive a class B widow's pension to provide a statement of her tax file number in order to receive or to continue to receive the allowance. At present there is no similar requirement.

A person who is qualified to receive a class B widow's pension would not be paid where the Secretary to the Department of Social Security requires the person to give the Secretary, in writing, a statement of the person's tax file number and the person does not comply within 28 days.

New clause 7A(2) would demonstrate how a person is to satisfy new clause 7A(1).

Where the relevant tax file number is known this would be by provision of a declaration of the person's tax file number in a form approved by the Secretary.

Where the relevant tax file number is not known new paragraphs 7A(2)(b) to (f) would provide a mechanism whereby the person could authorise the Commissioner of Taxation to pass to the Secretary the number as soon as possible, if one already exists, or following issue if a number does not already exist. Provision would also be made for the Commissioner of Taxation to inform the Secretary where the Commissioner refuses to issue a number or a person withdraws an application for a tax file number.

Clause 81 would commence on 1 January 1991.

PART 3 - AMENDMENTS OF THE SOCIAL SECURITY AND
VETERANS' ENTITLEMENTS (MAINTENANCE INCOME TEST)
AMENDMENT ACT 1988

Clause 82 : Principal Act

This clause would provide that, in this Part of the amending Act, the Social Security and Veterans' Entitlements (Maintenance Income Test) Amendment Act 1988 is referred to as the Principal Act.

Clause 82 would commence on the day of Royal Assent.

Clause 83 : Application

This clause would provide that the amendment made by this Part of the amending Act would apply on and after the first pay day on or after the day on which this Act receives Royal Assent.

Clause 84 would provide that "pay day" would have a special meaning. "Pay day" would mean a pension pay day within the meaning of the Social Security Act 1947 or the Veterans' Entitlements Act 1986.

This clause would commence on the day of Royal Assent.

Clause 84 : Saving for certain existing pensions

The Principal Act provided for an income test on maintenance income applicable to pensions, benefits and certain allowances paid under the Social Security Act 1947 and the Veterans' Entitlements Act 1986. Section 21 of the Principal Act is a savings provision aimed at protecting the

total income situation of a qualifying pensioner, beneficiary or allowee (hereafter qualifying pensioner) so that the application of the maintenance income test would not reduce the total income of a qualifying pensioner.

Clause 84(b) would amend subsection 21(2) of the Principal Act by clarifying the circumstances under which the savings provision will cease to apply. Currently, the savings provision continues to apply until the person ceases to be eligible to receive a qualifying pension (whether or not of the same kind) or subsection 21(4) of the Principal Act does not apply in relation to the person, whichever occurs first. Since subsection 21(2) stipulates when the savings provision will cease to apply, a person can be disadvantaged where he or she has not ceased to be eligible to receive a qualifying pension and subsection 21(4) continues to apply and the rate of saved pension, benefit or allowance is lower than the rate that would be payable under the maintenance income test.

Clause 84(b) would overcome this disadvantage by amending paragraph 21(2)(d) of the Principal Act so that the savings provision would cease to apply from the first payday a qualifying pensioner is eligible to receive qualifying pension under the maintenance income test at a greater rate than the rate he or she would have received under the savings provision.

Clause 84(a) would amend subsection 21(1) of the Principal Act by inserting definitions for the terms "pay-day" and "threshold fortnight". These terms would be necessary to give effect to clause 84(b), which is the substantive provision.

Clause 84 would commence on the day of Royal Assent.

PART 4 - AMENDMENTS OF THE FIRST HOME OWNERS ACT 1983

Clause 85 : Principal Act

This clause would provide that, in this Part of the amending Act, the First Home Owners Act 1983 is referred to as the Principal Act.

Clause 85 would commence on 1 January 1991.

Clause 86 : Insertion of new section

Insertion of new section 17B: Provision of tax file numbers

Clause 86 would insert new section 17B into the Principal Act.

New subsection 17B(1) would provide that an applicant or applicants for assistance would be required to provide a statement of their tax file number in order to receive payment of assistance. At present there is no similar requirement.

An applicant or joint applicants would not be paid where the Secretary to the Department of Community Services and Health requires the person to give the Secretary, in writing, a statement of the applicant's tax file number and that of his or her joint applicants, and the applicant does not comply within 28 days.

New subsection 17B(2) would demonstrate how a person is to satisfy new subsection 17B(1). Where the relevant tax file number or numbers are known this could be by provision of a declaration of the person's tax file number in a form approved by the Secretary.

Where the relevant tax file number is not known new paragraphs 17B(2)(b) to (f) would provide a mechanism whereby the person could authorise the Commissioner of Taxation to pass to the Secretary the number as soon as possible, if one already exists, or following issue if a number does not already exist. Provision would also be made for the Commissioner of Taxation to inform the Secretary where the Commissioner refuses to issue a number or a person withdraws an application for a tax file number.

New subsection 17B(3) would qualify the operation of new section 17B so that a person would not be required to provide the tax file number of a joint applicant where the Secretary is satisfied that the person does not know the number or the person cannot obtain the number from the other joint applicant or joint applicants or a statement or declaration by the other joint applicant or joint applicants of that number.

Clause 86 would commence on 1 January 1991.

PART 5 - AMENDMENTS OF THE HEALTH INSURANCE ACT 1973

Clause 87 : Principal Act

This clause would provide that, in this Part of the amending Act, the Health Insurance Act 1973 is referred to as the Principal Act.

Clause 87 would commence on the day of Royal Assent.

Clause 88 : Certain disadvantaged persons

With effect from 1 June 1990, the Principal Act was amended to insert a new section 4D. Section 4D currently enables health care cards to be issued free of the income test to unemployment beneficiaries who commence full-time employment, who have been in receipt of unemployment benefit or job search allowance for the preceding 12 months and who cease to receive unemployment benefit as a result of that employment or resulting increase in the person's income. Similarly, sole parent pensioners who commence full-time employment, who were in receipt of specified pensions for 12 months preceding commencement of that employment and who cease to be in receipt of sole parent's pension as a result of that employment or because of the resulting increase in the person's income, are entitled to be issued with a health care card valid for 6 months after commencement of the full-time employment.

Clause 88 would repeal section 4D and replace it with a new section 4D. The new provision would modify and extend the operation of the old.

New subsection 4D(1) would provide that new section 4D applies to a person who was in receipt of sole parent's pension, unemployment benefit, job search allowance or special benefit (note the addition of special benefit as a payment that would invoke the operation of new section 4D).

New subsection 4D(2) would provide that -

- . either where a person or a person's spouse commences employment (new employment where the person was previously unemployed) or there is an increase in the income of the person or the person's spouse (a better paid job than that previously held); and
- . the person had been a qualified recipient for a continuous period of 12 months immediately preceding the new employment or increase in income; and
- . because of the new employment or increase in income, the person stops being a person in receipt of sole parent's pension, unemployment benefit, job search allowance or special benefit,

then the person remains a disadvantaged person for a period of 6 months after qualification stops.

A disadvantaged person for the purposes of new section 4D is a person who is entitled to the benefits available under a health care card.

New subsection 4D(3) would define "Commonwealth allowance" and "qualified recipient" for the purposes of new section 4D.

"Qualified recipient" would mean a person who was in receipt of an income support payment (defined in subsection 3(1) of the

Social Security Act 1947 - inserted by clause 5(s)) or a Commonwealth allowance. "Commonwealth allowance" is defined to mean formal training allowance, adult migrant education allowance or English as a second language allowance.

(The words in bold print denote the substantive changes affected by new section 4D.)

Clause 88 would be taken to have commenced on 1 June 1990.

PART 6 - AMENDMENTS OF THE NATIONAL HEALTH ACT 1953

Clause 89 : Principal Act

This clause would provide that, in this Part of the amending Act, the National Health Act 1953 is referred to as the Principal Act.

Clause 89 would be taken to have commenced on 1 June 1990.

Clause 90 : Interpretation

From 1 June 1990, an unemployment or special beneficiary aged 60 or over became eligible for a health benefit card provided the person was a social security beneficiary for a continuous period of at least 12 months. "Social security beneficiary" is defined in subsection 4(1) of the Act to mean a person in receipt of unemployment, sickness or special benefit or rehabilitation allowance in certain circumstances.

Subparagraphs (aa)(i) and (ii) of the definition of "pensioner" in subsection 4(1) of the Act also enable a health benefit to be issued to a person to whom or in respect of whom is being paid a sickness benefit under the Social Security Act 1947 or a rehabilitation allowance in certain circumstances.

The issuing of a health benefit card is an administrative method of providing certain health concessions under the Principal Act and is available to persons who fall within the definition of "pensioner" in subsection 4(1) of the Principal Act.

Clauses 90 and 91 would modify and extend the operation of the current provisions outlined above.

Clause 90(a) would amend the definition of "pensioner" in subsection 4(1) of the Principal Act by including a person who is a pensioner because of new section 4AAA as part of that definition.

Clause 90(b) would omit paragraph (a) of the definition of "social security beneficiary" in subsection 4(1) of the Principal Act and substitute a new paragraph (a). A "social security beneficiary" would mean -

- (a) a person who is in receipt of an income support payment (definition of "income support payment" would be inserted by clause 5(s)) or in receipt of a Commonwealth allowance; or
- (b) a person in receipt of rehabilitation allowance under the Social Security Act 1947 in certain circumstances (this provision is already in force).

Clause 90(c) would define "Commonwealth allowance" to mean a formal training allowance, adult migrant allowance and English as a second language allowance.

The changes to the definition of "social security beneficiary" would impact on subparagraph (aa)(iii) of the definition of "pensioner" in subsection 4(1) of the Principal Act with the effect that that unemployment or special beneficiaries aged over 60 years would be required to have been in continuous receipt of an "income support payment" (the definition would be inserted by clause 5(s) of this Bill) for a period of 12 months to be entitled to a health benefit card.

This requirement is less stringent than the former paragraph (a) of the definition of "social security beneficiary" which required a person to have been in continuous receipt of unemployment, sickness or special benefit for 12 months.

Clause 90 would be taken to have commenced on 1 June 1990.

Clause 91 : Insertion of new section
New section 4AAA : Certain pensioners

This clause would insert a new section 4AAA into the Principal Act.

New section 4AAA would outline the situations in which a person with a health benefit card is able to retain that card after the person or the person's spouse commences employment or increases income from employment.

New subsection 4AAA(1) would provide that new section 4AAA applies to a person to whom paragraph (aa) of the definition of "pensioner" in subsection 4(1) of the Principal Act applies.

New subsection 4AAA(2) would provide that -

- . either where a person or a person's spouse commences employment (new employment where the person was previously unemployed) or there is an increase in the income of the person or the person's spouse (a better paid job than that previously held); and
- . the person had been in receipt of a pension, benefit or allowance described in paragraph (a) of the definition of "social security beneficiary" (amended by clause 90(b) of this Bill) for a continuous period of 12 months immediately preceding the new employment or increase in income; and
- . because of the new employment or increase in income, the person stops being a person to whom section 4AAA applies,

then the person remains a pensioner for the purposes of the Principal Act for a period of 6 month after qualification stops.

Clause 91 would be taken to have commenced on 1 June 1990.

PART 7 - AMENDMENTS OF THE INCOME TAX ASSESSMENT ACT 1936

Clause 92 : Principal Act

This clause would provide that, in this Part of the amending Act, the Income Tax Assessment Act 1936 is referred to as the Principal Act.

Clause 92 would commence on 1 January 1991.

Clause 93 : Objects of this Part

Section 202 of the Principal Act sets out the objects of Part VA of the Principal Act which deals with tax file numbers. The objects of Part VA under the existing law are, by the establishment of a system of tax file numbers:

- . to increase the effectiveness and efficiency of the matching of information contained in reports given to the Commissioner of Taxation under the Principal Act or the Income Tax Regulations with information disclosed in income tax returns by taxpayers; and
- . to prevent evasion of liability to income tax; and
- . to assist in the administration of the Higher Education Contribution Scheme and the Training Guarantee legislation.

Part VA makes provision for, among other things, the issue of tax file numbers. Under new arrangements outlined in this Bill and the Social Security and Veterans' Affairs Legislation Amendment Bill (No.2) 1990, tax file numbers will be required to be issued to persons who receive certain non-taxable income maintenance payments from the Commonwealth. Accordingly, a new

objects clause is to be inserted into section 202 of the Principal Act so that tax file numbers may appropriately be issued to those persons.

Clause 93 would add a new object (paragraph (e)) to section 202 which will provide that an object of Part VA of the Principal Act is to facilitate the administration of any Commonwealth legislation under which pensions, allowances, benefits or other payments are provided.

Clause 93 would commence on 1 January 1991.

PART 8 - AMENDMENTS OF THE TAXATION ADMINISTRATION ACT 1953

Clause 94 : Principal Act

This clause would provide that, in this Part of the amending Act, the Taxation Administration Act 1953 is referred to as the Principal Act.

Clause 94 would commence on 1 January 1991.

Clause 95 : Unauthorised requirement etc that tax file
number be quoted

Section 8WA of the Principal Act creates an offence, punishable on conviction by a fine of \$10,000 and/or 2 years imprisonment, for a person to require or request the quotation of another person's tax file number for the purposes of establishing that person's identity or for any other purpose, unless the requirement or request is made under authorised circumstances.

Broadly, those authorised circumstances are where a taxation law makes provision for a request of a tax file number in specified circumstances, such as for employment or investment, where a law relating to the Higher Education Contribution Scheme or Training Guarantee Scheme authorises such a request, or where the person requesting or requiring the quotation is acting on that person's behalf in the conduction of that person's affairs, such as tax agents and legal representatives.

The addition of a new object to section 202 of the Income Tax Assessment Act 1936 (see the earlier notes on clause 82) would extend the circumstances in which a tax file number may be required to be quoted. The new object would provide that the system of tax file numbers exists to, among other things,

facilitate the administration of any Commonwealth legislation under which pensions, allowances, benefits or other payments are provided by the Commonwealth.

Paragraph 95(a) would amend paragraph 8WA(1)(a) of the Principal Act to make it an authorised circumstance for a person to request another person to quote the other person's tax file number where that is specifically authorised by a provision in a Commonwealth Act under which pensions, allowances, benefits or other payments are provided.

Paragraph 95(b) would make a drafting change in paragraph 8WA(1)(a) by removing the reference to "the first mentioned person".

The amendment of paragraph 8WA(1)(a) would, in conjunction with amendments made by clause 96 of this Bill, render as redundant section 138A of the Social Security Act 1947 and sections 52B, 77A and 91B proposed to be inserted into that Act by the Social Security and Veterans' Affairs Legislation Amendment Bill (No 2) 1990. Accordingly, clauses 28, 36, 43 and 58 of this Bill propose that these provisions be repealed.

Paragraph 95(c) would omit subsection 8WA(5) of the Principal Act and the subsection 8WA(6) proposed to be inserted into the Principal Act by the Social Security and Veterans' Affairs Legislation Amendment Bill (No 2) 1990. The amendment made by paragraph 95(a) would make these provisions unnecessary.

Clause 95 would commence on 1 January 1991.

Clause 96 : Unauthorised recording etc of tax
file number

Section 8WB of the Principal Act creates an offence, punishable on conviction by a fine of \$10,000 or 2 years imprisonment, or both, for the unauthorised recording, use or divulging of a person's tax file number except under authorised circumstances.

The authorised circumstances are where a taxation law makes provision for a request of a tax file number in specified circumstances, such as for employment or investment, where a law relating to the Higher Education Contribution Scheme or Training Guarantee Scheme authorises such a request, or where the person requesting or requiring the quotation is acting on behalf of the person in the conduct of the person's affairs, such as tax agents and legal representatives.

The addition of a new object to section 202 of the Income Tax Assessment Act 1936 (see the earlier notes on clause 93) would extend the circumstances in which a tax file number may be recorded, used in a manner connecting it with a person's identity or disclosed to another person. The new object would provide that the system of tax file numbers exists to, among other things, facilitate the administration of any Commonwealth legislation under which pensions, allowances, benefits or other payments are provided.

Paragraph 96(a) would amend paragraph 8WB(1)(d) of the Principal Act to make it an authorised circumstance for a person to record, use or disclose a tax file number to another person to the extent required or reasonably necessary in order to comply with a Commonwealth law under which pensions, allowances, benefits or other payments are provided.

Paragraph 96(b) would authorise the same conduct for a person performing functions or exercising powers under a Commonwealth law under which pensions, allowances, benefits or other payments are provided.

These amendments would, in conjunction with the amendments made by clause 95 of this Bill, render as redundant section 138A of the Social Security Act 1947 and sections 52B, 77A and 91B proposed to be inserted into that Act by the Social Security and Veterans' Affairs Legislation Amendment Bill (No 2) 1990. Accordingly, clauses 28, 36, 43 and 58 of this Bill propose that these provisions be repealed.

Paragraph 96(c) would omit subsection 8WB(3) of the Principal Act and the subsection 8WB(4) proposed to be inserted into the Principal Act by the Social Security and Veterans' Affairs Legislation Amendment Bill (No 2) 1990. The amendments made by paragraphs 96(a) and (b) would make these provisions unnecessary.

Clause 96 would commence on 1 January 1991.