Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Act 2004

No. 132, 2004

An Act to amend the law relating to social security, veterans' entitlements and family assistance, and for related purposes

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

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Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Act 2004

No. 132, 2004

An Act to amend the law relating to social security, veterans' entitlements and family assistance, and for related purposes

[*Assented to 8 December 2004*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Act 2004*.

2 Commencement

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

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	8 December 2004
2. Schedule 1	The earlier of: (a) the day on which this Act receives the Royal Assent; and (b) 1 December 2004.	
3. Schedule 2, items 1 to 21	The earlier of: (a) the day on which this Act receives the Royal Assent; and (b) 1 December 2004.	
4. Schedule 2, items 22 and 23	Immediately after the commencement of item 25 of Schedule 1 to this Act.	
5. Schedule 2, item 24	The earlier of: (a) the day on which this Act receives the Royal Assent; and (b) 1 December 2004.	
6. Schedule 3	1 April 2005.	1 April 2005
7. Schedule 4	1 January 2005.	1 January 2005
8. Schedule 5	1 January 2005.	1 January 2005

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Utilities allowance

Part 1—Amendments relating to Family and Community Services' payment of utilities allowance

Income Tax Assessment Act 1997

1 Section 52-10 (after table item 31.1)

Insert:

31A.1	**Utilities allowance**	Exempt	Exempt	Not applicable	Not applicable

2 Section 52-40 (after table item 31)

Insert:

31A	Utilities allowance	Part 2.25A	Not applicable	Not applicable

Social Security Act 1991

3 Subsection 23(1)

Insert:

utilities allowance means utilities allowance under Part 2.25A.

4 After Part 2.25 of Chapter 2

Insert:

Part 2.25A—Utilities allowance

Division 1—Qualification for and payability of utilities allowance

1061T Qualification for utilities allowance

A person is qualified for utilities allowance if the person:

(a) has reached pension age; and

(b) is receiving an income support payment; and
(c) either:
(i) is in Australia; or
(ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

1061TA When utilities allowance is payable

(1) Utilities allowance is payable to a person in relation to each utilities allowance test day on which the person is qualified for the allowance.

(2) However, utilities allowance is not payable to the person in relation to that day if:
(a) a service pension or an income support supplement is payable to the person on that day; or
(b) before that day, 2 instalments of any, or any combination, of the following allowances were payable to the person in the financial year in which that day occurs:
(i) utilities allowance under this Act;
(ii) utilities allowance under the Veterans' Entitlements Act;
(iii) seniors concession allowance under this Act;
(iv) seniors concession allowance under the Veterans' Entitlements Act; or
(c) before that day:
(i) the person had elected not to be covered by this Part; and
(ii) that election had not been withdrawn.

(3) In this section:

utilities allowance test day means:
(a) 20 March; and
(b) 20 September.

Division 2—Rate of utilities allowance

1061TB Rate of utilities allowance

A person's annual rate of utilities allowance is worked out using the following table:

Utilities allowance rate table		
Column 1	**Column 2**	**Column 3**
Item	**Person's situation**	**Annual rate**
1	not a member of a couple	$100
2	member of an illness separated couple	$100
3	member of a respite care couple	$100
4	member of a temporarily separated couple	$100
5	member of a couple (other than an illness separated couple, respite care couple or temporarily separated couple)	half the rate specified in column 3 of item 1

Note: The annual rates of utilities allowance are indexed twice a year in line with CPI increases (see sections 1191 to 1194).

5 Section 1190 (after table item 56)

Insert:

56A.	Rate of utilities allowance for a person who is not a member of a couple	UA "single" rate	[section 1061TB—Table—column 3—item 1]
56B.	Rate of utilities allowance for a member of an illness separated couple	UA "partnered" (item 2) rate	[section 1061TB—Table—column 3—item 2]
56C.	Rate of utilities allowance for a member of a respite care couple	UA "partnered" (item 3) rate	[section 1061TB—Table—column 3—item 3]

56D.	Rate of utilities allowance for a member of a temporarily separated couple	UA "partnered" (item 4) rate	[section 1061TB—Table—column 3—item 4]

6 Subsection 1191(1) (after table item 33)

Insert:

33AA	UA "single" rate	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1991)	$0.40
33AB	UA "partnered" (item 2) rate	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1991)	$0.40
33AC	UA "partnered" (item 3) rate	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1991)	$0.40

33AD	UA "partnered" (item 4) rate	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1991)	$0.40

7 After subsection 1192(5)

Insert:

(6) The first indexation of amounts under items 33AA, 33AB, 33AC and 33AD of the CPI Indexation Table in subsection 1191(1) is to take place on 20 September 2005.

Social Security (Administration) Act 1999

8 After section 12B

Insert:

12C Utilities allowance

A claim is not required for utilities allowance.

9 After section 48

Insert:

48A Payment of utilities allowance

(1) Utilities allowance is to be paid by instalments.

(2) If utilities allowance is payable to a person in relation to a utilities allowance test day, then an instalment of the allowance is to be paid to the person on the person's first payday on or after that test day.

(3) The amount of an instalment of utilities allowance is worked out by dividing the amount of the annual rate of utilities allowance by 2.

(4) In this section:

utilities allowance test day means:

(a) 20 March; and

(b) 20 September.

10 Subsection 55(1)

After "48", insert ", 48A".

11 Subsection 68(1)

After "payment", insert "(other than utilities allowance or seniors concession allowance)".

12 Subsection 69(1)

After "payment" (last occurring), insert "(other than utilities allowance or seniors concession allowance)".

13 Paragraph 75(1)(b)

After "payment", insert "(other than utilities allowance or seniors concession allowance)".

14 Before section 78

Insert:

78A When this Subdivision does not apply

This Subdivision does not apply in relation to utilities allowance and seniors concession allowance.

15 Before section 90

Insert:

90A When this Subdivision does not apply

This Subdivision does not apply in relation to utilities allowance and seniors concession allowance.

16 Section 123A (at the end of the definition of *relevant payment*)

Add:

; or (d) instalments of utilities allowance; or

(e) instalments of seniors concession allowance.

Part 2—Amendments relating to Veterans' Affairs' payment of utilities allowance

Income Tax Assessment Act 1997

17 Section 52-65 (after table item 20.1)

Insert:

20A.1	**Utilities allowance**	Exempt	Not applicable

18 Section 52-75 (after table item 20)

Insert:

20A	Utilities allowance	Part VIIAC	Not applicable

Social Security Act 1991

19 After subparagraph 8(8)(y)(vii)

Insert:

(viia) utilities allowance under Part VIIAC of that Act; or

Veterans' Entitlements Act 1986

20 After paragraph 5H(8)(g)

Insert:

(ga) a payment under Part VIIAC (utilities allowance);

21 Subsection 5Q(1)

Insert:

utilities allowance means utilities allowance under Part VIIAC.

22 After Part VIIAB

Insert:

Part VIIAC—Utilities allowance

Division 1—Eligibility for and payability of utilities allowance

118O Definition

In this Part:

utilities allowance test day means:
(a) 20 March; and
(b) 20 September.

118OA Eligibility for utilities allowance

(1) A person is eligible for utilities allowance if:
(a) the person has reached qualifying age (see subsection (2); and
(b) a service pension or an income support supplement is payable to the person; and
(c) the person:
(i) is in Australia; or
(ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 13 weeks.

(2) For the purposes of paragraph (1)(a), the qualifying age for a person is:
(a) if the person is a veteran—the pension age for that person; or
(b) if the person is not a veteran—the age that would be the pension age for that person if he or she were a veteran.

Note: For ***pension age*** see section 5QA.

118OB When utilities allowance is payable

(1) Utilities allowance is payable to a person in relation to each utilities allowance test day on which the person is eligible for the allowance.

(2) However, utilities allowance is not payable to the person in relation to that day if:

(a) before that day, 2 instalments of any, or any combination, of the following allowances were payable to the person in the financial year in which that day occurs:
  (i) utilities allowance under this Act;
  (ii) utilities allowance under the Social Security Act;
  (iii) seniors concession allowance under this Act;
  (iv) seniors concession allowance under the Social Security Act; or
(b) before that day:
  (i) the person had elected not to be covered by this Part; and
  (ii) that election had not been withdrawn.

(3) An election, or a withdrawal of an election, under paragraph (2)(b):
(a) must be by document lodged at an office of the Department in Australia in accordance with section 5T; and
(b) is taken to have been made on a day determined under that section.

Division 2—Rate of utilities allowance

118OC Rate of utilities allowance

A person's annual rate of utilities allowance is worked out using the following table:

Utilities allowance rate table

Column 1	Column 2	Column 3
Item	**Person's situation**	**Annual rate**
1	not a member of a couple	$100
2	member of an illness separated couple	$100
3	member of a respite care couple	$100
4	member of a couple (other than an illness separated couple or a respite care couple)	half the rate specified in column 3 of item 1

Note: The annual rates of utilities allowance are indexed twice a year in line with CPI increases (see section 198E).

Division 3—Payment of utilities allowance

118OD Payment of utilities allowance by instalments

(1) Utilities allowance is to be paid by instalments.

(2) If utilities allowance is payable to a person in relation to a utilities allowance test day, then an instalment of the allowance is to be paid to the person on the person's first pension payday on or after that test day.

(3) The amount of an instalment of utilities allowance is worked out by dividing the amount of the annual rate of utilities allowance by 2.

(4) If the amount of the instalment is not a multiple of 10 cents, the amount is to be increased to the nearest multiple of 10 cents.

23 Subsection 121(7) (definition of *pension*)

Omit "or loss of earnings allowance under section 108", substitute ", loss of earnings allowance under section 108, utilities allowance under Part VIIAC or seniors concession allowance under Part VIIAD".

24 Subsection 128A(1) (paragraph (d) of the definition of *income payment*)

After "allowance", insert "(other than utilities allowance or seniors concession allowance)".

25 After section 198D

Insert:

198E Indexation of utilities allowance

Rates in table to be indexed under this section

(1) A rate referred to in the following table is to be indexed under this section on each indexation day for the rate, using the reference quarter and base quarter for the rate and indexation day and rounding off to the nearest multiple of the rounding base:

Indexation table

Column 1 **Item**	**Column 2** **Rate**	**Column 3** **Indexation days**	**Column 4** **Reference quarter (most recent before indexation day)**	**Column 5** **Base quarter**	**Column 6** **Rounding base**
1	Rate of utilities allowance under item 1, column 3 of the table in section 11 8OC (single)	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1991)	$0.40
2	Rate of utilities allowance under item 2, column 3 of the table in section 11 8OC (illness separated couple)	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1991)	$0.40

Indexation table					
Column 1	**Column 2**	**Column 3**	**Column 4**	**Column 5**	**Column 6**
Item	**Rate**	**Indexation days**	**Reference quarter (most recent before indexation day)**	**Base quarter**	**Rounding base**
3	Rate of utilities allowance under item 3, column 3 of the table in section 11 8OC (respite care couple)	(a) 20 March (b) 20 September	(a) December (b) June	highest June or December quarter before reference quarter (but not earlier than June quarter 1991)	$0.40

Indexed rate substituted for the previous rate

(2) If a rate is to be indexed under this section on an indexation day, this Act has effect as if the indexed rate were substituted for that rate on that day.

How to work out the indexed rate

(3) This is how to work out the indexed rate for a rate that is to be indexed under this section on an indexation day:

Method statement

Step 1. Use subsections (4), (5) and (6) to work out the indexation factor for the rate on the indexation day.

Step 2. Work out the current figure for the rate immediately before the indexation day.

Step 3.	Multiply the current figure by the indexation factor: the result is the ***provisional indexed rate***.
Step 4.	Use subsections (7), (8) and (9) to round off the provisional indexed rate: the result is the ***indexed rate***.

Note: For ***current figure*** see subsection (12).

Indexation factor

(4) Subject to subsections (5) and (6), the indexation factor for a rate that is to be indexed under this section on an indexation day is:

$$\frac{\text{Index number for most recent reference quarter}}{\text{Index number for base quarter}}$$

worked out to 3 decimal places.

Note 1: For ***index number*** see subsection (12).

Note 2: For ***reference quarter*** and ***base quarter*** see the table in subsection (1).

(5) If an indexation factor worked out under subsection (4) would, if it were worked out to 4 decimal places, end in a number that is greater than 4, the indexation factor is to be increased by 0.001.

(6) If an indexation factor worked out under subsections (4) and (5) would be less than 1, the indexation factor is to be increased to 1.

Rounding

(7) If a provisional indexed rate is a multiple of the rounding base, the provisional indexed rate becomes the indexed rate.

Note: For ***provisional indexed rate*** see step 3 in subsection (3).

(8) Subject to subsection (9), if a provisional indexed rate is not a multiple of the rounding base, the indexed rate is the provisional indexed rate rounded up or down to the nearest multiple of the rounding base.

(9) If a provisional indexed rate is not a multiple of the rounding base but is a multiple of half the rounding base, the indexed rate is the provisional indexed rate rounded up to the nearest multiple of the rounding base.

When first indexation is to take place

(10) The first indexation of the rates specified in items 1, 2 and 3 of the table in subsection (1) is to take place on 20 September 2005.

(11) Subsections 198D(2) and (3) also apply for the purposes of this section.

Definitions

(12) In this section:

current figure, as at a particular time and in relation to a rate that is to be indexed under this section, means:

(a) if the rate has not yet been indexed under this section before that time—the rate; and

(b) if the rate has been indexed under this section before that time—the rate most recently substituted for the rate under this section before that time.

highest of a group of quarters, in relation to a group of quarters, means the quarter in that group that has the highest index number.

index number, in relation to a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician in respect of that quarter.

Schedule 2—Seniors concession allowance

Part 1—Amendments relating to Family and Community Services' payment of seniors concession allowance

Division 1—Amendments

Income Tax Assessment Act 1997

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

Insert:

22B.1	**Seniors concession allowance**	Exempt	Exempt	Not applicable	Not applicable

2 Section 52-40 (after table item 22A)

Insert:

22B	Seniors concession allowance	Part 2.25B	Not applicable	Not applicable

Social Security Act 1991

3 Subsection 23(1)

Insert:

seniors concession allowance means seniors concession allowance under Part 2.25B.

4 Before Part 2.26 of Chapter 2

Insert:

Part 2.25B—Seniors concession allowance

Division 1—Qualification for and payability of seniors concession allowance

1061U Qualification for seniors concession allowance

A person is qualified for seniors concession allowance if:

(a) the person is the holder of a seniors health card and is in Australia; or

(b) all of the following apply to the person:

(i) the person is temporarily absent from Australia;

(ii) the person has been so for a continuous period not exceeding 13 weeks;

(iii) the person was the holder of a seniors health card immediately before leaving Australia.

1061UA When seniors concession allowance is payable

(1) Seniors concession allowance is payable to a person in relation to each seniors concession allowance test day on which the person is qualified for the allowance.

(2) However, seniors concession allowance is not payable to the person in relation to that day if:

(a) before that day, 2 instalments of any, or any combination, of the following allowances were payable to the person in the financial year in which that day occurs:

(i) seniors concession allowance under this Act;

(ii) seniors concession allowance under the Veterans' Entitlements Act;

(iii) utilities allowance under this Act;

(iv) utilities allowance under the Veterans' Entitlements Act; or

(b) before that day:

(i) the person had elected not to be covered by this Part; and

(ii) that election had not been withdrawn; or

(c) subsection 55(5) (failing to nominate a bank account) of the Administration Act applies to the person.

(3) In this section:

seniors concession allowance test day means:

(a) 1 June; and

(b) 1 December.

Division 2—Rate of seniors concession allowance

1061UB Rate of seniors concession allowance

A person's annual rate of seniors concession allowance is $200.

Note: The annual rate of seniors concession allowance is indexed twice a year in line with CPI increases (see sections 1191 to 1194).

5 Paragraph 1061ZG(1)(f)

After "pension", insert "or an income support supplement".

6 After paragraph 1061ZG(2)(a)

Insert:

(aa) on that day the person is the holder of a seniors health card under the Veterans' Entitlements Act; or

7 Section 1190 (before table item 57)

Insert:

56E.	Rate of seniors concession allowance	SCA	[section 1061UB]

8 Subsection 1191(1) (before table item 34)

Insert:

33AE	SCA	(a) 1 June (b) 1 December	(a) March (b) September	highest March or September quarter before reference quarter (but not earlier than September quarter 1991)	$0.40

9 Before subsection 1192(7)

Insert:

(6A) The first indexation of an amount under item 33AE of the CPI Indexation Table in subsection 1191(1) is to take place on 1 June 2005.

Social Security (Administration) Act 1999

10 Before section 13

Insert:

12D Seniors concession allowance

A claim is not required for seniors concession allowance.

11 Before section 49

Insert:

48B Payment of seniors concession allowance

(1) Seniors concession allowance is to be paid by instalments.

(2) An instalment of seniors concession allowance is to be paid to a person as soon as is reasonably practicable on or after the seniors concession allowance test day in relation to which the allowance is payable to the person.

(3) The amount of an instalment of seniors concession allowance is worked out by dividing the amount of the annual rate of seniors concession allowance by 2.

(4) In this section:

seniors concession allowance test day means:

(a) 1 June; and

(b) 1 December.

12 Subsection 55(1)

Before "or 50", insert ", 48B".

Division 2—Transitional provision

13 Special payment of seniors concession allowance in December 2004

(1) In this item:

1 December test day means the seniors concession allowance test day that occurs on 1 December 2004.

Administration Act means the *Social Security (Administration) Act 1999* as amended by this Schedule and Schedule 1 to this Act.

seniors concession allowance means seniors concession allowance under Part 2.25B of the Act.

seniors concession allowance test day has the meaning given by subsection 1061UA(3) of the Act.

social security law means the social security law (within the meaning of subsection 23(17) of the Act) as amended by this Schedule and Schedule 1 to this Act.

the Act means the *Social Security Act 1991* as amended by this Schedule and Schedule 1 to this Act.

transitional day means a day in December 2004 (other than 1 December 2004).

Veterans' Entitlements Act means the *Veterans' Entitlements Act 1986* as amended by this Schedule and Schedule 1 to this Act.

(2) Transitional seniors concession allowance is payable under this item to a person in relation to the transitional day if:

(a) seniors concession allowance would be payable to the person under section 1061UA of the Act in relation to the transitional day if that day were a seniors concession allowance test day; and

(b) seniors concession allowance was not payable to the person under section 1061UA of the Act in relation to the 1 December test day.

(3) Transitional seniors concession allowance is payable only once in relation to December 2004.

(4) If transitional seniors concession allowance is payable to a person in relation to the transitional day, the person is to be paid an instalment of the allowance as soon as is reasonably practicable on or after the transitional day. The amount of the instalment is $100.

(5) For the purposes of the social security law, the Veterans' Entitlements Act and the *Income Tax Assessment Act 1997*:

(a) transitional seniors concession allowance payable under this item in relation to the transitional day is to be treated as if it were seniors concession allowance payable under Part 2.25B of the Act in relation to the 1 December test day; and

(b) an instalment of transitional seniors concession allowance paid under this item in relation to the transitional day is to be treated as if it were a payment of an instalment of seniors concession allowance under section 49B of the Administration Act in relation to the 1 December test day.

(6) The Consolidated Revenue Fund is appropriated for the purposes of this item.

Part 2—Amendments relating to Veterans' Affairs' payment of seniors concession allowance

Division 1—Amendments

Income Tax Assessment Act 1997

14 Section 52-65 (after table item 16.1)

Insert:

16A.1	**Seniors concession allowance**	Exempt	Not applicable

15 Section 52-75 (after table item 16)

Insert:

16A	Seniors concession allowance	Part VIIAD	Not applicable

Social Security Act 1991

16 Before subparagraph 8(8)(y)(viii)

Insert:

(viib) seniors concession allowance under Part VIIAD of that Act; or

Veterans' Entitlements Act 1986

17 Before paragraph 5H(8)(ha)

Insert:

(gb) a payment under Part VIIAD (seniors concession allowance);

18 Subsection 5Q(1)

Insert:

seniors concession allowance means seniors concession allowance under Part VIIAD.

19 Before Part VIIB

Insert:

Part VIIAD—Seniors concession allowance

Division 1—Eligibility for and payability of seniors concession allowance

118P Definition

In this Part:

seniors concession allowance test day means:

(a) 1 June; and

(b) 1 December.

118PA Eligibility for seniors concession allowance

A person is eligible for seniors concession allowance if:

(a) the person is the holder of a seniors health card and is in Australia; or

(b) all of the following apply to the person:

(i) the person is temporarily absent from Australia;

(ii) the person has been so for a continuous period not exceeding 13 weeks;

(iii) the person was the holder of a seniors health card immediately before leaving Australia.

118PB When seniors concession allowance is payable

(1) Seniors concession allowance is payable to a person in relation to each seniors concession allowance test day on which the person is eligible for the allowance.

(2) However, seniors concession allowance is not payable to the person in relation to that day if:

(a) before that day, 2 instalments of any, or any combination, of the following allowances were payable to the person in the financial year in which that day occurs:

(i) seniors concession allowance under this Act;

(ii) seniors concession allowance under the Social Security Act;

(iii) utilities allowance under this Act;

(iv) utilities allowance under the Social Security Act; or

(b) before that day:

(i) the person had elected not to be covered by this Part; and

(ii) that election had not been withdrawn; or

(c) subsection 122A(1C) (failing to nominate a bank account) applies to the person.

(3) An election, or a withdrawal of an election, under paragraph (2)(b):

(a) must be by document lodged at an office of the Department in Australia in accordance with section 5T; and

(b) is taken to have been made on a day determined under that section.

Division 2—Rate of seniors concession allowance

118PC Rate of seniors concession allowance

A person's annual rate of seniors concession allowance is $200.

Note: The annual rate of seniors concession allowance is indexed twice a year in line with CPI increases (see section 198E).

Division 3—Payment of seniors concession allowance

118PD Payment of seniors concession allowance by instalments

(1) Seniors concession allowance is to be paid by instalments.

(2) An instalment of seniors concession allowance is to be paid to a person as soon as is reasonably practicable on or after the seniors concession allowance test day in relation to which the allowance is payable to the person.

(3) The amount of an instalment of seniors concession allowance is worked out by dividing the amount of the annual rate of seniors concession allowance by 2.

(4) If the amount of the instalment is not a multiple of 10 cents, the amount is to be increased to the nearest multiple of 10 cents.

20 Subsection 122A(1A)

After "If", insert "the payment is of an amount of pension that is not seniors concession allowance and".

21 After subsection 122A(1B)

Insert:

(1C) If the payment is of an amount of seniors concession allowance and the person has not nominated an account for the purposes of subsection (1) by the end of the period of 28 days (or such longer period determined by the Commission) starting on the day on which the Commission requested the person to do so, the allowance ceases to be payable to the person.

(1D) However, if the person referred to in subsection (1C) nominates an account for the purposes of subsection (1) after the end of the 28 day or other period, then subsection (1C) ceases to apply to the person on the day the person does so.

22 Subsection 198E(1) (at the end of the table)

Add:

4	Rate of seniors concession allowance under section 118PC	(a) 1 June (b) 1 December	(a) March (b) September	highest March or September quarter before reference quarter (but not earlier than September quarter 1991)	$0.40

23 After subsection 198E(10)

Insert:

(10A) The first indexation of the rates specified in item 4 of the table in subsection (1) is to take place on 1 June 2005.

Note: The heading to section 198E is altered by inserting "**and seniors concession allowance**" after "**utilities allowance**".

Division 2—Transitional provision

24 Special payment of seniors concession allowance in December 2004

(1) In this item:

1 December test day means the seniors concession allowance test day that occurs on 1 December 2004.

seniors concession allowance means seniors concession allowance under Part VIIAD of the Act.

seniors concession allowance test day has the meaning given by section 118P of the Act.

Social Security Act means the *Social Security Act 1991* as amended by this Schedule and Schedule 1 to this Act.

social security law means the social security law (within the meaning of subsection 23(17) of the Social Security Act) as amended by this Schedule and Schedule 1 to this Act.

the Act means the *Veterans' Entitlements Act 1986* as amended by this Schedule and Schedule 1 to this Act.

transitional day means a day in December 2004 (other than 1 December 2004).

(2) Transitional seniors concession allowance is payable under this item to a person in relation to the transitional day if:

(a) seniors concession allowance would be payable to the person under section 118PB of the Act in relation to the transitional day if that day had been a seniors concession allowance test day; and

(b) seniors concession allowance was not payable to the person under section 118PB of the Act in relation to the 1 December test day.

(3) Transitional seniors concession allowance is payable only once in relation to December 2004.

(4) If transitional seniors concession allowance is payable to a person in relation to the transitional day, the person is to be paid an instalment of the allowance as soon as is reasonably practicable on or after the transitional day. The amount of the instalment is $100.

(5) For the purposes of the Act, the social security law and the *Income Tax Assessment Act 1997*:

(a) transitional seniors concession allowance payable under this item in relation to the transitional day is to be treated as if it were seniors concession allowance payable under Part VIIAD of the Act in relation to the 1 December test day; and

(b) an instalment of transitional seniors concession allowance paid under this item in relation to the transitional day is to be treated as if it were a payment of an instalment of seniors concession allowance under Part VIIAD of the Act in relation to the 1 December test day.

(6) The Consolidated Revenue Fund is appropriated for the purposes of this item.

Schedule 3—Carer payment

Social Security Act 1991

1 Paragraphs 198AC(4)(c) and (5)(c)

Omit “20”, substitute “25”.

2 Application

The amendments made by item 1 apply to training, education, unpaid voluntary work or paid employment undertaken in a week commencing on or after the commencement of that item.

Schedule 4—Special child care benefit rate for grandparents on income support

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1) (paragraph (b) of the definition of *receiving*)

After "social security benefit in", insert "sections 50S and 50T of the Family Assistance Administration Act and".

2 Subsection 3(1) (paragraph (c) of the definition of *receiving*)

After "social security benefit in", insert "sections 50S and 50T of the Family Assistance Administration Act and".

3 Subsection 69(1)

Omit "and C", substitute ", C and CA".

4 Subsection 69(2)

After "Subdivision C", insert "or CA".

5 After subsection 69(4)

Insert:

(4A) Subdivision CA deals with the rate of fee reduction, and child care benefit by fee reduction, applicable in respect of a session of care provided by an approved child care service to a child if:

(a) a determination of conditional eligibility is in force in respect of an individual with the effect that the individual is conditionally eligible for child care benefit by fee reduction in respect of the child; and

(b) a determination is in force under subsection 50T(1) of the Family Assistance Administration Act with the effect that the individual is eligible for the special grandparent rate for the child.

6 Paragraph 73(1)(a)

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

7 Paragraph 73(1)(a)

After “hardship”, insert “and special grandparent rate does not apply”.

8 At the end of subsection 73(1)

Add:

; or (d) if a determination under subsection 50T(1) of the Family Assistance Administration Act with the effect that the individual is eligible for the special grandparent rate for the child is in force when the session of care is provided to the child—worked out under Subdivision CA.

9 Paragraph 73(2)(a)

Omit “or (c)”, substitute “, (c) or (d)”.

10 Paragraph 73(2)(a)

After “hardship”, insert “and special grandparent rate does not apply”.

11 At the end of subsection 73(2)

Add:

; or (d) if a determination under subsection 50T(1) of the Family Assistance Administration Act with the effect that the individual is eligible for the special grandparent rate for the child is in force when the session of care is provided to the child—worked out under Subdivision CA.

12 Subsection 73(3)

Omit “or (c)”, substitute “, (c) or (d)”.

13 After Subdivision C of Division 4 of Part 4

Insert:

Subdivision CA—Special grandparent rate

82A Special grandparent rate

If a determination is in force under subsection 50T(1) of the Family Assistance Administration Act with the effect that an individual is eligible for the special grandparent rate for the child in respect of a session of care provided to the child by an approved child care service, the individual’s hourly rate of fee reductions,

and of child care benefit by fee reduction, for the session is equal to 100% of the hourly rate charged by the service for the session.

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

14 After paragraph 49C(2)(c)

Insert:

(ca) information needed by the Secretary to determine the claimant's eligibility for the special grandparent rate in respect of the child;

15 At the end of section 50C

Add:

Note: Section 50T also requires the Secretary to determine, in certain circumstances, whether or not the claimant is eligible for the special grandparent rate.

16 After Subdivision C of Division 4 of Part 3

Insert:

Subdivision CA—Determination of eligibility for special grandparent rate if individual determined to be conditionally eligible for child care benefit by fee reduction

50Q Determination of eligibility for special grandparent rate

This Subdivision deals with the determination of eligibility for the special grandparent rate that the Secretary must make in certain circumstances if an individual (the ***claimant***) is determined to be conditionally eligible for child care benefit by fee reduction in respect of a child.

Note: Section 50T tells you when the Secretary must determine the claimant's eligibility for the special rate. Section 50S tells you the criteria that must be satisfied for the claimant to be eligible for that rate. Section 50R explains who counts as a grandparent or great-grandparent for the purposes of this Subdivision.

50R Grandparents and great-grandparents

(1) In determining, for the purposes of this Subdivision, whether an individual is a ***grandparent*** or ***great-grandparent*** of another person, treat the following relationships as if they were biological child-parent relationships:

(a) the relationship between an adopted child and his or her adoptive parent;

(b) the relationship between a step-child and his or her step-parent.

(2) In subsection (1):

adoptive parent, of a person (the ***child***), means the person who adopted the child under a law of any place (whether in Australia or not) relating to the adoption of children.

step-parent, of a person (the ***child***), means the person who:

(a) is the current or former partner of the biological or adoptive parent of the child; and

(b) is not the biological or adoptive parent of the child.

50S Eligibility for special grandparent rate

(1) An individual is eligible for the special grandparent rate for a child if:

(a) the individual, or the individual's partner, is receiving:

(i) a social security pension; or

(ii) a social security benefit; or

(iii) a service pension; or

(iv) an income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*; and

(b) the individual, or the individual's partner, is the grandparent or great-grandparent of the child; and

(c) the individual, or the individual's partner, is the principal carer of the child.

(2) For the purposes of subsection (1), a person is the ***principal carer*** of another person (the ***child***) if the person:

(a) is the sole or major provider of ongoing daily care for the child; and

(b) has substantial autonomy for the day-to-day decisions about the child's care, welfare and development.

(3) An individual is also eligible for the special grandparent rate for a child if the individual, or the individual's partner, is eligible under subsection (1) for the special grandparent rate for another child.

50T Secretary must determine claimant's eligibility for special grandparent rate in certain circumstances

When Secretary must determine whether claimant eligible for special grandparent rate

(1) If subsection (2), (3) or (4) is satisfied, the Secretary must determine whether or not the claimant is eligible for the special grandparent rate for a child.

Request for special grandparent rate determination made in claim for determination of conditional eligibility

(2) This subsection is satisfied if:

(a) the claimant:

(i) makes a claim (whether before or after 1 January 2005) for payment of child care benefit by fee reduction for care provided by an approved child care service to the child; and

(ii) informs the Secretary, in the form and manner (if any) required by the Secretary, in or in connection with the claim that the claimant wants the Secretary to make a determination under this section in relation to the claimant and the child; and

(b) in response to the claim, the Secretary makes, on or after 1 January 2005, a determination under section 50F with the effect that the claimant is conditionally eligible for child care benefit by fee reduction in respect of the child.

Application for special grandparent rate determination after determination of conditional eligibility made

(3) This subsection is satisfied if:

(a) a determination under section 50F (whether made before or after 1 January 2005) is in force with the effect that the

claimant is conditionally eligible for child care benefit by fee reduction in respect of the child; and

(b) the claimant applies, in the form and manner (if any) required by the Secretary, for a determination under this section in relation to the child.

Transitional situation

(4) This subsection is satisfied if, immediately before 1 January 2005:

(a) a determination is in force under section 50F that the claimant is conditionally eligible for child care benefit by fee reduction in respect of the child; and

(b) the determination in force under section 50H of the weekly limit of hours applicable to the claimant and the child is based on the claimant, or the claimant's partner, being taken to satisfy the work/training/study test because of the determination that was made under subsection 14(2) of the Family Assistance Act on 28 October 2004; and

(c) the claimant, or the claimant's partner, is receiving:

(i) a social security pension; or

(ii) a social security benefit; or

(iii) a service pension; or

(iv) an income support supplement under Part IIIA of the *Veterans' Entitlements Act 1986*.

Determinations not legislative instruments

(5) A determination made under subsection (1), or a variation of such a determination, is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

50U Criteria for making determination

The Secretary must determine under subsection 50T(1) that the claimant is eligible for the special grandparent rate for a child if:

(a) a determination under section 50F with the effect that the claimant is conditionally eligible for child care benefit by fee reduction in respect of the child is in force; and

(b) the Secretary is satisfied that the claimant is eligible for the special grandparent rate for the child (see section 50S).

Otherwise the Secretary must determine that the claimant is not eligible for the special grandparent rate for the child.

50V Notice of determination that claimant eligible for special grandparent rate

(1) The Secretary must give notice of a determination under subsection 50T(1) that the claimant is eligible for the special grandparent rate for a child to:

(a) the claimant; and

(b) the approved child care service, or services, that are, or will be, providing care to the child.

(2) The notice must state:

(a) the names of the claimant and the child; and

(b) that the claimant is eligible for the special grandparent rate for the child; and

(c) the date from which the determination comes into force; and

(d) that the claimant may apply for review of the determination in the manner set out in Part 5.

(3) The determination is not ineffective by reason only that any, or all, of the requirements of subsections (1) and (2) are not complied with.

50W Notice of determination that claimant not eligible for special grandparent rate

(1) The Secretary must give notice of a determination under subsection 50T(1) that the claimant is not eligible for the special grandparent rate for a child to the claimant.

(2) The notice must state:

(a) that the claimant is not eligible for the special grandparent rate for the child; and

(b) that the claimant may apply for review of the determination in the manner set out in Part 5.

(3) The determination is not ineffective by reason only that any, or all, of the requirements of subsections (1) and (2) are not complied with.

50X When determination that claimant is eligible for special grandparent rate is in force

(1) Subject to subsection (4), a determination under subsection 50T(1) that the claimant is eligible for the special grandparent rate for the child comes into force:

(a) if no day is specified in the notice of determination—on the day the determination is made; or

(b) on the day specified in the notice of determination.

(2) The Secretary may specify a day, not more than 4 weeks before the day on which the claimant made the claim or application in response to which the determination was made by the Secretary, as the day the determination is to come into force.

(3) The Secretary may only specify a day under subsection (2) if:

(a) the Secretary is satisfied that the claimant was eligible for the special grandparent rate for the child on and since that specified earlier day; and

(b) the day does not occur before 1 January 2005.

(4) A determination under subsection 50T(1) that the claimant is eligible for the special grandparent rate for the child comes into force on 1 January 2005 if the Secretary makes the determination because of subsection 50T(4).

(5) A determination under subsection 50T(1) that the claimant is eligible for the special grandparent rate for the child may be varied in accordance with this Division.

(6) A determination under subsection 50T(1) that the claimant is eligible for the special grandparent rate for a child remains in force, as varied from time to time, while the determination under section 50F of the claimant's conditional eligibility in respect of the child is in force.

50Y When determination that claimant is not eligible for special grandparent rate is in force

A determination under subsection 50T(1) that the claimant is not eligible for the special grandparent rate for the child:

(a) comes into force when it is made; and

(b) cannot be varied under this Division; and

(c) subject to paragraph (d), remains in force while the determination under section 50F of the claimant's conditional eligibility in respect of the child is in force; and

(d) ceases to have effect if a subsequent determination under subsection 50T(1) that the claimant is, or is not, eligible for the special grandparent rate for the child comes into force.

Note: Paragraph (d)—a determination under subsection 50T(1) that the claimant is eligible for the special grandparent rate can be made if the claimant makes a fresh application for a determination of the claimant's eligibility for that rate.

17 At the end of section 56C

Add:

Individual eligible for special grandparent rate and something happens to cause a loss of eligibility for that rate

(7) If:

(a) a determination is in force under subsection 50T(1) with the effect that a claimant who is an individual is eligible for the special grandparent rate for a child; and

(b) either:

(i) anything happens that causes the claimant to cease to be eligible for that rate for the child; or

(ii) the claimant becomes aware that anything is likely to happen that will have that effect;

the claimant must, in the manner set out in a written notice given to the claimant under section 57, as soon as practicable after the claimant becomes aware that the thing has happened or is likely to happen, notify the Secretary that it has happened or is likely to happen.

Penalty: Imprisonment for 6 months.

(8) Strict liability applies to the following elements of an offence against subsection (7):

(a) the element that a determination is a determination under subsection 50T(1);

(b) the element that a notice is a notice given under section 57.

18 At the end of Subdivision N of Division 4 of Part 3

Add:

59G Variation for failure to provide information in the data verification form relating to special grandparent rate

(1) If:

(a) a determination is in force under section 50F with the effect that a claimant who is an individual is conditionally eligible for child care benefit by fee reduction in respect of a child; and

(b) a determination is in force under subsection 50T(1) with the effect that the claimant is eligible for the special grandparent rate for the child; and

(c) the Secretary makes a request under section 57F in respect of a data verification form referred to in that section; and

(d) the form is returned within the time specified in the request; and

(e) any information requested in the form relevant to the claimant's eligibility for the special grandparent rate for the child is not provided;

the Secretary may vary the determination under subsection 50T(1) with the effect that the claimant is, from 1 July in the income year following the one in which the request was made, not eligible for the special grandparent rate for the child.

Consequence of Secretary later becoming aware of information

(2) If:

(a) under subsection (1), the Secretary varies the determination under subsection 50T(1); and

(b) before the end of the income year following the one in which the variation took effect, the claimant gives the information mentioned in subsection (1) or the Secretary finds out the information;

the Secretary must vary the determination under subsection 50T(1) to undo the effect mentioned in subsection (1).

19 At the end of Subdivision R of Division 4 of Part 3

Add:

62CA Variation where failure to provide information relevant to eligibility for special grandparent rate

(1) If:

(a) a determination is in force under subsection 50T(1) with the effect that a claimant who is an individual is eligible for the special grandparent rate for a child; and

(b) the Secretary, in order to make a decision about whether the claimant is eligible for that rate for the child at any time, requires the claimant, or the claimant's partner, under Division 1 of Part 6, to give information or produce documents; and

(c) the claimant or the claimant's partner refuses or fails to comply with the requirements;

the Secretary may vary the determination with the effect that the individual is not eligible for that rate for the child.

(2) The variation has effect from the Monday after the day the variation is made.

Consequence of later provision of information or documents

(3) If:

(a) under subsection (1), the Secretary varies the determination; and

(b) the claimant, or the claimant's partner, gives the information or produces the documents mentioned in paragraph (1)(b) by the end of the income year following the one in which the variation took effect;

the Secretary must vary the determination to undo the effect mentioned in subsection (1).

20 Paragraph 62D(a)

After "59F", insert ", 59G".

21 Paragraph 62D(a)

Omit "and 62C", substitute ", 62C and 62CA".

22 After subsection 63(2)

Insert:

(2A) If a determination under subsection 50T(1) whether a claimant is eligible for the special grandparent rate for a child is varied, the Secretary must also give notice of the variation to the approved child care service providing care to the child.

23 Subsection 63(3)

Omit "or (2)", substitute ", (2) or (2A)".

24 After section 65D

Insert:

65DA Variation of determination of eligibility for special grandparent rate

Variation with effect that individual is not eligible for special grandparent rate

(1) If:

(a) a determination of conditional eligibility under section 50F is made in respect of a claimant who is an individual and in respect of a child; and

(b) a determination is in force under subsection 50T(1) with the effect that the claimant is eligible for the special grandparent rate for the child; and

(c) after the determinations are made, an event occurs; and

(d) the determination of conditional eligibility has, at some time after the occurrence, the effect that the claimant is conditionally eligible; and

(e) when the Secretary becomes aware of the occurrence, the Secretary considers that, if he or she were making the determination under subsection 50T(1) immediately after the occurrence, the claimant would not be eligible for the special grandparent rate for the child;

the Secretary must vary the determination under subsection 50T(1) with effect that the claimant is not eligible for that rate for the child.

(2) The variation under subsection (1) has effect from the date of the occurrence.

Variation with effect that individual is again eligible for special grandparent rate

(3) If:

(a) a determination of conditional eligibility under section 50F is made in respect of a claimant who is an individual and in respect of a child; and

(b) a determination is made under subsection 50T(1) with the effect that the claimant is eligible for the special grandparent rate for the child; and

(c) the determination referred to in paragraph (b) is varied with the effect that the claimant is not eligible for the special grandparent rate for the child; and

(d) an event occurs while the variation referred to in paragraph (c) is in force; and

(e) the determination of conditional eligibility has, at some time after the occurrence, the effect that the claimant is conditionally eligible; and

(f) when the Secretary becomes aware of the occurrence, the Secretary considers that, if he or she were making the determination under subsection 50T(1) immediately after the occurrence, the claimant would be eligible for the special grandparent rate for the child;

the Secretary must vary the determination under subsection 50T(1) with effect that the claimant is eligible for that rate for the child.

(4) The variation under subsection (3) has effect from:

(a) if no day is specified in the notice of determination—the day the variation is made; or

(b) on the day specified in the notice of variation.

(5) The Secretary may specify a day, not more than 4 weeks before:

(a) if the Secretary becomes aware of the occurrence because the claimant notifies the Secretary of the occurrence—the day on which the claimant notifies the Secretary of the occurrence; or

(b) in any other case—the day on which the Secretary makes the variation;

as the day from which the variation is to have effect.

(6) The Secretary may only specify a day under subsection (5) if the Secretary is satisfied that, the individual was eligible for the special grandparent rate for the child on and since that specified earlier day.

Section 59G and 62CA variations prevail

(7) If:

(a) when a variation under this section takes place, a variation is in force under section 59G or 62CA; and

(b) the variation under section 59G or 62CA has effect for any period when the variation under this section would have effect;

the variation under section 59G or 62CA prevails over the variation under this section.

25 After subparagraph 106(1)(c)(iv)

Insert:

(iva) a determination decision in respect of eligibility for the special grandparent rate (a determination of this eligibility is made under subsection 50T(1));

26 Subparagraph 107(2)(a)(iv)

Omit “and”.

27 At the end of paragraph 107(2)(a)

Add:

(v) a determination decision in respect of eligibility for the special grandparent rate (a determination of this eligibility is made under subsection 50T(1)); and

28 After subparagraph 109B(2)(c)(iv)

Insert:

(iva) a determination decision in respect of eligibility for the special grandparent rate (a determination of this eligibility is made under subsection 50T(1));

29 After paragraph 109D(3)(e)

Insert:

(ea) a determination decision that a person was, or was not, eligible for the special grandparent rate for a child (these determinations are made under subsection 50T(1)) if the decision took effect in the income year in which the application was made or in the previous income year;

30 Paragraph 109G(2)(a)

Omit "or (d)", substitute ", (d) or (e)".

31 At the end of subsection 109G(2)

Add:

; (f) in the case of an adverse family assistance decision referred to in paragraph (e) of the definition—that the eligibility for the special grandparent rate to which the decision relates is to continue as if the adverse decision had not been made.

32 Subsection 109G(5) (at the end of the definition of *adverse family assistance decision*)

Add:

; or (e) the person ceases to be eligible for the special grandparent rate for a child.

33 Paragraph 111(2)(a)

After "paragraph 50L(7)(b),", insert "or subparagraph 50T(2)(a)(ii), or paragraph 50T(3)(b),".

34 Paragraph 112(1A)(a)

Omit "or (d)", substitute ", (d) or (e)".

35 At the end of subsection 112(1A)

Add:

; and (f) in the case of an adverse family assistance decision referred to in paragraph (e) of the definition in subsection (4)—that the eligibility for the special grandparent rate to which the decision relates is to continue as if the adverse decision had not been made.

36 Subsection 112(4) (at the end of the definition of *adverse family assistance decision*)

Add:

; or (e) the person ceases to be eligible for the special grandparent rate for a child.

37 After subparagraph 141A(b)(ii)

Insert:

(iia) a determination whether the individual is eligible for the special grandparent rate for the child;

38 Paragraph 154(3)(d)

Repeal the paragraph, substitute:

(d) if a determination were to be, or has been, made that the individual is so conditionally eligible:

(i) what weekly limit of hours, CCB % or schooling % would be, or is, applicable to the individual; or

(ii) whether the individual would be, or is, eligible for the special grandparent rate for a child.

39 At the end of paragraph 173(1)(d)

Add:

; or (v) affects, or might affect, a person's eligibility for the special grandparent rate for a child.

40 Subsection 219A(2) (after table item 3)

Insert:

3A	Notice under section 50V that the individual is eligible for the special grandparent rate for the child (given together with a notice under section 50M that the individual has been determined to be conditionally eligible)	The service must take the following action: (a) calculate the amount of the fee reductions in respect of the individual and a session of care provided by the service to the child using: (i) the rate applicable to the individual, the child and the session; and (ii) the weekly limit of hours applicable to the individual and the child under a determination made under section 50H; (b) reduce the fees to be paid for the session by the amount of the fee reductions; (c) charge only the reduced fees (if any) for the session; (d) reimburse the individual the amount of the fee reductions worked out in respect of the individual and the sessions provided by the service to the child during the period: (i) commencing on the day the determination under subsection 50T(1) comes into force; and (ii) ending on the day the service starts reducing fees as a result of the notice. The service must also ensure that the fees set for a session for which the service reduces fees under this item do not exceed the amount of the fees that the service would charge an individual who was not eligible for the special grandparent rate for the same session for the same child.

3B	Notice under section 50V that the individual is eligible for the special grandparent rate for the child (given otherwise than together with a notice under section 50M that the individual has been determined to be conditionally eligible)	If the service provides a session of care to the child on any day: (a) for which the service has not already charged the individual as at the day the service receives the notice; and (b) which occurs after the day the determination takes effect; the service must take the following action in respect of the session: (c) calculate the amount of the fee reductions in respect of the individual, the child and the session using: (i) the rate applicable to the individual, the child and the session; and (ii) the weekly limit of hours applicable to the individual and the child under a determination made under section 50H; (d) reduce the fees to be paid for the session by the amount of the fee reductions; (e) charge only the reduced fees (if any) for the session. The service must also ensure that the fees set for a session for which the service reduces fees under this item do not exceed the amount of the fees that the service would charge an individual who was not eligible for the special grandparent rate for the same session for the same child.

41 Subsection 219A(2) (after table item 9)

Insert:

9A	Notice of a variation of a determination of whether the individual is eligible for the special grandparent rate for the child made under section 59G, 62CA or 65DA	If the service provides a session of care to the child on any day: (a) for which the service has not already charged the individual as at the day the service receives the notice; and (b) which occurs after the day the variation takes effect; the service must take the following action in respect of the session: (c) calculate the individual's rate of fee reductions for the session on the basis of the determination as varied; (d) using that rate, calculate the amount of the fee reductions in respect of the individual, the child and the sessions; (e) reduce the fees to be paid for the session by the amount of the fee reductions; (f) charge only the reduced fees (if any) for the session. If the effect of the variation of the determination is that the individual is eligible for the special grandparent rate for the child, the service has an additional obligation in relation to the level of fees set for a session for which the service reduces fees under this item. That obligation is to ensure that those fees do not exceed the amount of the fees that the service would charge an individual who was not eligible for the special grandparent rate for the same session for the same child.

42 Subsection 219A(2) (table item 10, at the end of column 2)

Add:

; (f) if the review decision affects eligibility for the special grandparent rate for a child:

(i) calculate the amount of the fee reductions in respect of the individual, the child and the session on the basis of the varied or substituted decision; and

(ii) reduce the fees to be paid for the session by the amount; and

(iii) charge only the reduced fees (if any) for the session.

If paragraph (f) applies and the effect of the varied or substituted decision is that the individual is eligible for the special grandparent rate for the child, the service has an additional obligation in relation to the level of fees set for a session for which the service reduces fees under that paragraph. That obligation is to ensure that those fees do not exceed the amount of the fees that the service would charge an individual who was not eligible for the special grandparent rate for the same session for the same child.

43 Paragraph 224(1)(c)

After “schooling %”, insert “, eligibility for the special grandparent rate”.

44 Application of amendments

The amendments made by this Schedule apply to sessions of care provided in a week that commences after 1 January 2005.

Schedule 5—Increase in bereavement payments in respect of above general rate disability pensioners

Veterans' Entitlements Act 1986

1 Subsection 98A(2)

Repeal the subsection, substitute:

(2) The widow or widower of the deceased veteran is entitled, in respect of the period of 12 weeks after the deceased veteran's death, to payments at:

(a) if the deceased veteran was, immediately before his or her death, in receipt of the disability pension at a rate under subsection 22(4), 23(4), (5) or (6) or 24(4), (5) or (6)—the rate at which the disability pension would have been payable to him or her, if he or she had not died, on the first available pension pay day after the Commission becomes aware of the death; or

(b) in any other case—the lower of the following:

(i) the rate at which the disability pension would have been payable to the deceased veteran, if he or she had not died, on the first available pension pay day after the Commission becomes aware of the death;

(ii) the general rate in force on that pension pay day.

2 Subsection 98A(3) (definition of *Deceased veteran's amount*)

Repeal the definition.

3 Subsection 98A(3)

Insert:

deceased veteran's amount means:

(a) if the deceased veteran was, immediately before his or her death, in receipt of the disability pension at a rate under subsection 22(4), 23(4), (5) or (6) or 24(4), (5) or (6)—the amount of the disability pension that would have been

payable to him or her, if he or she had not died, on the first available pension pay day after the death of the widow or the widower; or

(b) in any other case—the lower of the following:

(i) the amount of the disability pension that would have been payable to the deceased veteran, if he or she had not died, on the first available pension pay day after the death of the widow or the widower;

(ii) the amount that would have been payable to the deceased veteran, if he or she had not died, on the first available pension pay day after the death of the widow or widower, at the general rate in force on that pension pay day.

4 Application

The amendments made by this Schedule apply in relation to the deaths of veterans occurring on or after the commencement of this Schedule.

[*Minister's second reading speech made in—*
House of Representatives on 18 November 2004
Senate on 1 December 2004]

(197/04)