THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

1998 BUDGET MEASURES LEGISLATION AMENDMENT
(SOCIAL SECURITY AND VETERANS’ ENTITLEMENTS) BILL 1998

EXPLANATORY MEMORANDUM

(Circulated by the authority of Minister for Family and Community Services,
Senator the Hon Jocelyn Newman)
This Bill gives effect to a number of initiatives announced in the Government’s 1998-99 Budget.


Schedule 1—Amendment relating to the Seniors Health Card

Amendments will be made to the Social Security Act 1991 to change the income test for the seniors health card to one based on taxable income and extend income limits to $40,000 (single) and $67,000 (couple).

Date of Effect: 1 January 1999

Financial Impact:

<table>
<thead>
<tr>
<th>Year</th>
<th>Outlay</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998-1999</td>
<td>$13.188m.</td>
</tr>
<tr>
<td>2000-2001</td>
<td>$30.231m.</td>
</tr>
<tr>
<td>2001-2002</td>
<td>$31.273m.</td>
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</table>

Schedule 2—Amendments relating to single people sharing accommodation

Amendments will be made to the Social Security Act 1991 to extend an exemption from the “sharers rule” to recipients of rent assistance who are lodging in commercial board and lodging type accommodation. The “sharers rule” was introduced to take account of those sharers who derived economies of scale from shared accommodation eg group houses.)

Date of Effect: 1 January 1999

Financial Impact:

<table>
<thead>
<tr>
<th>Year</th>
<th>Outlay</th>
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</thead>
<tbody>
<tr>
<td>1998-1999</td>
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<tr>
<td>1999-2000</td>
<td>$6.515m.</td>
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<td>2000-2001</td>
<td>$6.013m.</td>
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<td>2001-2002</td>
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Schedule 3—Amendments relating to foster carers

Amendments relating to parenting payment to single people

Amendments will be made to the *Social Security Act 1991* to remove the 12-month waiting period for parenting payment for single foster carers.

**Date of Effect:** 1 September 1999

**Financial Impact:**

| Year      | Amount  
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>1999-2000</td>
<td>$2.266m.</td>
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<tr>
<td>2000-2001</td>
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<td>2001-2002</td>
<td>$2.492m.</td>
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</table>

Amendments relating to health care cards for fostered children

Amendments will be made to the *National Health Act 1953* to enable the issue of a health care card to the fostered child of carers who receive family allowance at less than the maximum rate in respect of the child, provided that the foster child was eligible for a health care card or a pensioner concession card while with their original family.

**Date of Effect:** 1 July 1999

**Financial Impact:**

| Year      | Amount  
<table>
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<tbody>
<tr>
<td>1998-1999</td>
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<tr>
<td>1999-2000</td>
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<td>2000-2001</td>
<td>$2.217m.</td>
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<td>$2.372m.</td>
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NOTES ON CLAUSES

Clause 1—Short Title

Clause 1 of the 1998 Budget Measures Legislation Amendment (Social Security and Veterans’ Entitlements) Bill 1998 sets out how the amending Act is to cited.

Clause 2—Commencement

Clause 2 specifies when the various clauses and Schedules of the amending Act are to commence.

Clause 3—Schedule(s)

Clause 3 says that each Act that is specified in a Schedule to the 1998 Budget Measures Legislation Amendment (Social Security and Veterans’ Entitlements) Bill 1998 (the Amending Act) is amended or repealed as set out in the Schedules.

- Acts amended by this Bill are:

  Social Security Act 1991

  National Health Act 1953

  Veterans’ Entitlements Act 1986
1. **Summary of proposed changes**

These amendments change the basis for the income test which applies to the seniors health card, which will in future be based on taxable income. In addition, the present income levels will be almost doubled, from $21,320 to $40,000 for a single person, and from $35,620 to $67,000 for a couple.

2. **Background**

The seniors health card is available to those senior citizens whose assets disqualify them from a social security pension under the Act (and who therefore do not have access to a health care card).

At present, qualification for the seniors health card is based on **ordinary income**. Customers complain that this is a cumbersome and intrusive process and consequently many customers do not take up the option to apply for the card.

The purpose of these amendments is to address the problem by shifting the qualification criterion to **taxable income**. By enabling customers to rely upon the previous tax assessment notice supplied by the Australian Taxation Office, it is hoped to simplify applying for a seniors health card.

3. **Explanation of the changes**

Part 1 of Schedule 1 amends the **Social Security Act 1991** (the Social Security Act) to give effect to the proposal, while Part 2 of the Schedule amends the **Veterans’ Entitlements Act 1986** (the Veterans’ Entitlements Act) to the same effect in relation to that legislation.

**Part 1—Amendment of the Social Security Act 1991**

Part 1 (**Items 1 to 11**) amends the Social Security Act to apply taxable income as the criterion for qualification for the seniors health card under the Social Security Act, and for the purpose of increasing the income thresholds, which are almost doubled by force of this provision.

The income threshold sets the level above which the entitlement to the seniors health card ceases; increasing the income threshold means that more people will become entitled to the card.

**Items 1-5** give effect to amendments which reflects the change to the income test from an **ordinary income** test to one based on **taxable income**.

**Item 6** inserts **new subsections (5) and (6)** into section 1061ZA.
New subsection 1061ZA(5) provides that a person is not eligible for a seniors health card if:

- they fail to comply with new section 1061ZLA; or

- they had their entitlement to a seniors health card assessed on an estimate of their taxable income and they fail to forward to the Department of Social Security (the Department) within 12 months after the end of the tax year, a copy of the notice of assessment or amended assessment of their taxable income for that tax year.

New subsection 1061ZA(6) provides that the terms taxable income, test time and reference tax year have the same meaning as they do in new Part 3.9—Seniors Health Card Income Test Calculator.

Item 7 inserts new section 1061ZLA at the end of Division 4 of Part 2A.1.

New subsection 1061ZLA provides that a person who is a holder of a seniors health card and who has received a notice of assessment or amended assessment of their taxable income, can be requested by the Secretary of the Department of Family and Community Services (the Secretary) to forward to the Department a copy of their assessment or amended assessment, within 3 months after the day they received the notice. This will allow the Department to undertake compliance checks on a person’s continued qualification for a seniors health card.

Item 8 repeals Part 3.9 of the Act and substitutes a new Part 3.9.

Part 3.9—Seniors Health Card Income Test Calculator

New section 1071 introduces the Seniors Health Card Income Test Calculator.

Point 1071-1 provides the method statement for ascertaining whether or not a person satisfies the Seniors Health Card Income Test.

Step 1 of the method statement requires that the person’s adjusted taxable income for a reference tax year be worked out.

Step 2 of the method statement requires that the person’s seniors health card income limit be ascertained using the Table at point 1071-11.

Step 3 ascertains whether a person’s adjusted taxable income exceeds the person’s seniors health card income limit.

Step 4 applies if the person’s adjusted taxable income for the reference tax year is less than the person’s seniors health card income limit. If this is the case, the person satisfies the seniors health card income test.

Step 5 applies if the person’s adjusted taxable income for the reference tax year exceeds the person’s seniors health card income limit. If this is the case, then the person does not satisfy the seniors health card income test.
Reference tax year

Point 1071-2 defines a person’s reference tax year for the purposes of new Part 3.9—Seniors Health Card Income Test Calculator.

Subsection (1) defines reference tax year as it will usually apply. That is:

paragraph (a) provides that, where a person has received from the Australian Taxation Office, a notice of assessment of their taxable income for that last completed tax year before their claim for a seniors health card, then the person’s reference tax year is that last completed tax year.

For example, if a person lodges a claim for seniors health card on 15 November 1998, and they have received a notice of assessment for the tax year ending 30 June 1998, then the tax year ending 30 June 1998 is the person’s reference tax year.

paragraph (b) provides that where a person has not yet received a notice of assessment for the last completed tax year before their claim for a seniors health card, then the person’s reference tax year, is the year before the last completed tax year.

For example, if a person lodges a claim for seniors health card in July 1998 and they have not yet received their notice of assessment for the tax year ending 30 June 1998, then the person’s reference tax year is the tax year ending 30 June 1997.

Subsection (2) provides for the exception to the scenarios in subsection (1). That is a person’s reference tax year may be the current tax year, before the end of that current tax year.

For example, if a person lodges a claim for seniors health card on 15 November 1998, they may choose to have the tax year ending 30 June 1999 as their reference tax year.

The person must inform the Secretary in writing that they wish to avail themselves of this option.

This alternative is provided for a situation where a person’s income from the last completed tax year could exclude them from receiving a seniors health card for up to 12 months even though their current retirement income is within the limit for the Seniors Health Card Income Test.

For example, if a person retired on 1 September 1998 and lodged a claim for seniors health card on 15 November 1998, then ordinarily, the person’s reference tax year would be the tax year ending 30 June 1998. However, as the person had been gainfully employed during that tax year, their income may well be above the new limit although their retirement income may well be below the new limit. Thus a person may wish to use the current tax year ending 30 June 1999 as their reference tax year. Otherwise they could be unfairly excluded from obtaining a seniors health card until the next tax year.
Adjusted taxable income

Point 1071–3 defines *adjusted taxable income*, for the purposes of new Part 3.9—Seniors Health Card Income Test Calculator. The income test is now to be based on, but not solely on, taxable income. Thus the use of the term *adjusted taxable income*. To calculate a person’s *adjusted taxable income* for a particular tax year the following income components or amounts must be added together:

- the person’s taxable income for that tax year; plus
- the person’s fringe benefits value for that tax year; plus
- the person’s target foreign income for that tax year; plus
- the person’s net rental property loss for that year.

Notes 1–4 below this point direct the reader to the new points in the Act that define the relevant income components.

**Taxable Income**

Point 1071–4 defines *taxable income* for the purposes of this Part.

Paragraph (a) provides that taxable income means the person’s assessed taxable income for that year.

Paragraph (b) provides that if a person does not have an assessed taxable income for that year, taxable income means the person’s accepted estimate of taxable income for that year.

Point 1071–5 defines *assessed taxable income* for the purposes of this Part. A person’s *assessed taxable income* for a particular tax year is the most recent assessment made by the Commissioner for Taxation, a tribunal or a Court.

**Fringe benefits value**

Point 1071–6 defines *fringe benefits value* for the purposes of Part 3.9—Seniors Health Card Income Test Calculator.

*fringe benefits value* for a particular tax year is the person’s accepted estimate of the total amount, in excess of $1,000, of the assessable fringe benefits that they have or will have received for that particular tax year.

*That is, the first $1,000 of assessable fringe benefits are exempt. So if a person receives $2,300 worth of assessable fringe benefits, in total, in a year, then their fringe benefits value is $1,300.*
Target foreign income

Point 1071-7 provides that *target foreign income* is the person’s accepted estimate of that amount for a particular tax year.

- *Target foreign income* is one of the income components that makes up a person’s *adjusted taxable income* for the purposes of the Seniors Health Card Income Test Calculator.

Net Rental Property Loss

Point 1071-8 provides that *net rental property* is the person’s accepted estimate of that amount for a particular tax year.

*Net rental property loss* is one of the income components used to determine a person’s *adjusted taxable income*.

Accepted estimate

Point 1071-9 provides that an *accepted estimate* is the most recent estimated amount of an income component that a person has submitted to the Secretary, and that was accepted by the Secretary for that purpose.

Notice estimating income component

Point 1071-10 explains the notices that provide an accepted estimate of an income component. The amount of each of the income components that make up the person’s *adjusted taxable income* will be based on an estimate given by the person and accepted by the Secretary.

Subsection 1071-10(1) provides that a person must use a form approved by the Secretary when notifying the Secretary of an estimate of an income component for a tax year.

Subsection 1071-10(2) provides that the notice to the Secretary of a person’s estimate of an income component must be:

- complete and contain all the information stipulated in the form; and
- accompanied by such information or documents stipulated in the form.

Subsection 1071-10(3) provides that the Secretary must be satisfied that the estimate is reasonable before accepting the estimate.

Adjusted taxable income of members of couples

Point 1071-11 provides that to determine the adjusted taxable income, for the reference tax year, of a person who is a member of a couple, the adjusted taxable incomes of the couple should be added together and then divided by two.
Seniors health card income limit

**Point 1071-12** contains a Table that is to be used to determine a person’s senior health card income limit. To determine a person’s income limit, the person’s family situation is matched to the corresponding family situation in the table. The amount in column 3 is the income limit for that person in that family situation. If the person has dependent children, the amount in column 4 should be added to the amount in column 3 for every dependent child of the person.

**Items 9-11** are consequential amendments as a result of the taxable income test.
Part 2—Amendment of the Veterans’ Entitlements Act 1986

2. Summary of proposed changes

Part 2 of Schedule 1 amends the Veterans’ Entitlements Act by inserting provisions that change the eligibility criteria for a seniors health card. These amendments largely mirror the amendments to the Social Security Act also contained in this Schedule, as the criteria for obtaining a seniors health card applies equally to both the veteran community and the general community.

3. Explanation of the changes

These provisions amend the eligibility criteria for a seniors health card. One of the criteria for a seniors health card is to satisfy the seniors health card income test. It is this income test for a seniors health card that is changing from an ordinary income test to one based on taxable income. The amendments also change the income limits that will apply to the income test, increasing them from $21,320 to $40,000 for a single person and from $35,620 to $67,000 for couples ($33,500 each).

4. Explanation of the items

Part 2 of Schedule 1

Veterans’ Entitlements Act 1986

Items 1 to 6 omit the word ‘ordinary’ from the eligibility criteria and associated notes in section 118V.

This reflects the change to the income test from an ordinary income test to one based on taxable income.

Item 7 inserts new subsections (4) and (5) into section 118V. New subsection 118V(4) provides that a person is not eligible for a seniors health card if:

- they fail to comply with new section 118ZJA; or

- they had their entitlement to a seniors health card assessed on an estimate of their taxable income and they fail to forward to the Department of Veterans’ Affairs (the Department) within 12 months after the end of the tax year, a copy of the notice of assessment or amended assessment of their taxable income for that tax year.

New subsection 118V(5) provides that the terms taxable income, test time and reference tax year have the same meaning as they do in new Division 8—Seniors Health Card Income Test Calculator.
Item 8 inserts new section 118ZJA at the end of Division 5 of Part VIIC. New subsection 118ZJA(1) provides that a person who is a holder of a seniors health card and who has received a notice of assessment or amended assessment of their taxable income, can be requested by the Secretary of the Department of Veterans’ Affairs (the Secretary) to forward to the Department a copy of their assessment or amended assessment, within 3 months after the day they received the notice. This will allow the Department to undertake compliance checks on a person’s continued eligibility for a seniors health card.

Item 9 repeals Divisions 8 and 9 of Part VIIC and substitutes a new Division 8.

**Division 8—Seniors Health Card Income Test Calculator**

1.1 Satisfying the seniors health card income test

New section 118ZAA introduces the Seniors Health Card Income Test Calculator.

Point 118ZAA-1 provides the method statement for ascertaining whether or not a person satisfies the Seniors Health Card Income Test.

Step 1 of the method statement requires that the person’s *adjusted taxable income* for a *reference tax year* be worked out.

Step 2 of the method statement requires that the person’s seniors health card income limit be ascertained using the Table at point 118ZAA-11.

Step 3 ascertains whether a person’s adjusted taxable income exceeds the person’s seniors health card income limit.

Step 4 applies if the person’s adjusted taxable income for the reference tax year is less than the person’s seniors health card income limit. If this is the case, the person satisfies the seniors health card income test.

Step 5 applies if the person’s adjusted taxable income for the reference tax year exceeds the person’s seniors health card income limit. If this is the case, then the person does not satisfy the seniors health card income test.

1.2 Reference tax year

Point 118ZAA-2 defines a person’s *reference tax year* for the purposes of new Division 8—Seniors Health Card Income Test Calculator.

Subsection (1) defines *reference tax year* as it will usually apply. That is:

- paragraph (a) provides that, where a person has received from the Australian Taxation Office, a notice of assessment of their taxable income for that last completed tax year before their claim for a seniors health card, then the person’s *reference tax year* is that last completed tax year.
For example, if a person lodges a claim for seniors health card on 15 November 1998, and they have received a notice of assessment for the tax year ending 30 June 1998, then the tax year ending 30 June 1998 is the person’s *reference tax year*.

- paragraph (b) provides that where a person has not yet received a notice of assessment for the last completed tax year before their claim for a seniors health card, then the person’s *reference tax year*, is the year before the last completed tax year.

For example, if a person lodges a claim for seniors health card in July 1998 and they have not yet received their notice of assessment for the tax year ending 30 June 1998, then the person’s *reference tax year* is the tax year ending 30 June 1997.

Subsection 2 provides for the exception to the scenarios in subsection (1). That is a person’s *reference tax year* may be the current tax year, before the end of that current tax year.

For example, if a person lodges a claim for seniors health card on 15 November 1998, they may choose to have the tax year ending 30 June 1999 as their *reference tax year*.

The person must inform the Secretary in writing that they wish to avail themselves of this option.

This alternative is provided for a situation where a person’s income from the last completed tax year could exclude them from receiving a seniors health card for up to 12 months even though their current retirement income is within the limit for the Seniors Health Card Income Test.

*For example, if a person retired on 1 September 1998 and lodged a claim for seniors health card on 15 November 1998, then ordinarily, the person’s *reference tax year* would be the tax year ending 30 June 1998. However, as the person had been gainfully employed during that tax year, their income may well be above the new limit although their retirement income may well be below the new limit. Thus a person may wish to use the current tax year ending 30 June 1999 as their *reference tax year*. Otherwise they could be unfairly excluded from obtaining a seniors health card until the next tax year.*

### 1.3 Adjusted taxable income

Point 118ZAA—3 defines *adjusted taxable income*, for the purposes of new Division 8—Seniors Health Card Income Test Calculator. The income test is now to be based on, but not solely on, taxable income. Thus the use of the term *adjusted taxable income*. To calculate a person’s *adjusted taxable income* for a particular tax year the following income components or amounts must be added together:

- the person’s taxable income for that tax year; plus
- the person’s fringe benefits value for that tax year; plus
- the person’s target foreign income for that tax year; plus
• the person’s net rental property loss for that year.

Notes 1-4 below this point direct the reader to the new points in the Act that define the relevant income components.

1.3.1.1 Taxable Income

Point 118ZAA-(4) defines *taxable income* for the purposes of new Division 8—Seniors Health Card Income Test Calculator.

New subsection 118ZAA-4(1) defines *taxable income*. It has the same meaning as in the *Income Tax Assessment Act 1997*. That is, as per subsection 4-15(1) of the *Income Tax Assessment Act 1997*, taxable income is your assessable income minus your deductions.

New subsection 118ZAA-4(2) explains how to ascertain a person’s *taxable income* for a particular tax year. Paragraph (a) provides that a person’s *taxable income* is the person’s *assessed taxable income*. Paragraph (b) provides that if a person does not have an *assessed taxable income* for that year, then the person’s *taxable income* is the person’s accepted estimate of their *taxable income* for that year.

New subsection 118ZAA-4(3) defines *assessed taxable income* for the purposes of Division 8 of Part VIIIC. A person’s *assessed taxable income* for a particular tax year is the amount of taxable income according to the person’s most recent assessment or amended assessment. As provided by new paragraphs 118ZAA-4(3)(a), (b) and (c), this assessment or amended assessment may be from the Commissioner for Taxation, a tribunal or a court.

1.4 Fringe benefits value

New point 118ZAA-5 defines *fringe benefits value* for the purposes of new Division 8—Seniors Health Card Income Test Calculator.

New subsection 118ZAA-5(1) provides that a person’s *fringe benefits value* for a particular tax year is the person’s accepted estimate of the total amount, in excess of $1,000, of the assessable fringe benefits that they have or will have received for that particular tax year. That is the first $1,000 of assessable fringe benefits are exempt. So if a person receives $2,300 worth of assessable fringe benefits, in total, in a year, then their *fringe benefits value* is $1,300.

The Note after new subsection 118ZAA-5(1) explains that the $1,000 fringe benefits value free area is the same as and corresponds with the fringe benefits value free area in the Family allowance Rate Calculator at point 1069-H24 of the Social Security Act.

New subsection 118ZAA-5(2) provides that *assessable fringe benefit* has the same meaning as it does in subsection 10A(2) of the Social Security Act.
New subsection 118ZAA-5(3) provides that the value of any *assessable fringe benefit* is to be worked out in accordance with Part 3.12A of the Social Security Act—General Provisions Relating to the Family allowance Income Test and the Parental Means Test. This Part describes the kinds of benefits that are assessable fringe benefits and how to work out the value of such assessable fringe benefits.

- It also provides that references to the Minister and the Secretary in Part 3.12A of the Social Security Act, will for the purposes of this Division, be taken to be a reference to the Minister for Veterans’ Affairs or the Secretary of the Department of Veterans’ Affairs, whichever is the case, and not a reference to the Minister for Family and Community Services or the Secretary of the Department of Family and Community Services.

### 1.5 Target foreign income

New point 118ZAA-6 defines the new terms *target foreign income* and *foreign income* for the purposes of new Division 8—Seniors Health Card Income Test Calculator.

*Target foreign income* is one of the income components that makes up a person’s *adjusted taxable income* for the purposes of the Seniors Health Card Income Test Calculator.

New subsection 118ZAA-6(1) provides that *target foreign income* means foreign income that is not:

- already regarded as taxable income in accordance with the *Income Tax Assessment Act 1997*; or
- received as a fringe benefit.

*Foreign income* is also defined so it can be excluded when determining what is *target foreign income* as required by the Seniors Health Card Income Test.

New subsection 118ZAA-6(2) provides that for the purposes of the Seniors Health Card Income Test a person’s *target foreign income* is the person’s accepted estimate of the amount of *target foreign income* the person received for the relevant tax year.

### 1.6 Net Rental Property Loss

New point 118ZAA-7 defines the term *net rental property loss* for the purposes of new Division 8—Seniors Health Card Income Test Calculator. *Net rental property loss* is one of the income components used to determine a person’s *adjusted taxable income*.

New subsection 118ZAA-7(1) provides that a person’s *net rental property loss* for a tax year is the amount by which their expenses for the rental property exceeded the income they made on the rental property. If the person made money on the rental property, then the *net rental property loss* is nil.
New subsection 118ZAA-7(2) provides that for the purposes of the Seniors Health Card Income Test a person’s net rental property loss is the person’s accepted estimate of the amount of the net rental property loss the person made in the relevant tax year.

When ascertaining a person’s adjusted taxable income, the net rental property loss is added to the person’s assessed taxable income. This is the opposite to how it is treated for the purposes of the *Income Tax Assessment Act 1997*, the net rental property loss is deducted from a person’s taxable income. For example:

*If a person’s income is $35,000 and their net rental property loss was $5,000, their taxable income would be assessed as $30,000. For the purposes of the Seniors Health Card Income Test Calculator when calculating a person’s adjusted taxable income, the $5,000 net rental property loss will be added back onto the assessed taxable income. So the person’s adjusted taxable income will be the sum of:*

- $30,000 assessed taxable income; plus
- $5,000 net rental property loss; plus
- whatever amounts they may have for target foreign income and fringe benefits value.

### 1.7 Accepted estimate

New point 118ZAA-8 defines the term *accepted estimate* for the purposes of new Division 8—Seniors Health Card Income Test Calculator. An *accepted estimate* is the most recent estimated amount of an income component that a person has submitted to the Secretary, and that was accepted by the Commission.

### 1.8 Notice estimating income component

New point 118ZAA-9 explains the notices that provide an accepted estimate of an income component. The amount of each of the income components that make up the person’s adjusted taxable income will be based on an estimate given by the person and accepted by the Commission, except for taxable income. This income component may be determined by either an assessment or amended assessment or an estimate provided by the person and accepted by the Commission.

New subsection 118ZAA-9(1) provides that a person must use a form approved by the Commission when notifying the Secretary of an estimate of an income component for a tax year.

New subsection 118ZAA-9(2) provides that the notice to the Secretary of a person’s estimate of an income component must be:

- complete and contain all the information stipulated in the form; and
- accompanied by such information or documents stipulated in the form.
New subsection 118ZAA-9(3) provides that the Commission must be satisfied that the estimate is reasonable before accepting the estimate.

**1.9 Adjusted taxable income of members of couples**

New point 118ZAA-10 provides that to determine the adjusted taxable income, for the reference tax year, of a person who is a member of a couple, the adjusted taxable incomes of the couple should be added together and then divided by two.

**1.10 Seniors health card income limit**

New point 118ZAA-11 contains a Table that is to be used to determine a person’s senior health card income limit. To determine a person’s income limit, the person’s family situation is matched to the corresponding family situation in the table. The amount in column 3 is the income limit for that person in that family situation. If the person has dependent children, the amount in column 4 should be added to the amount in column 3 for every dependent child of the person.

Division 9 is repealed because the income limits in the seniors health card income limit table in new point 118ZAA-11 will not be automatically adjusted.

**2. Commencement**

Subclause 2(2) provides that this Schedule is taken to have commenced on 1 January 1999.
SCHEDULE 2—AMENDMENTS RELATING TO SINGLE PEOPLE SHARING ACCOMMODATION

1. Summary of proposed changes

Schedule 2 amends the Social Security Act to exclude persons living in exempt accommodation from the lower maximum rate of rent assistance payable to single people sharing accommodation.

2. Background

The sharers’ measure, introduced by Schedule 2 of the Social Security Legislation Amendment (Further Budget and Other Measures) Act 1996, reduced the maximum rate of rent assistance for single people (without dependent children) who share accommodation to two thirds of that payable to non-sharing single persons.

The amendments made by this Schedule will widen the exemption from the sharers’ rate of rent assistance to include people whose accommodation characteristics are similar to those of boarders and lodgers (who are already exempted).

The measure will exempt from the sharers’ rate those people who live in boarding houses, hostels, rooming houses, private hotels and similar accommodation. The exemption recognises that people living in this type of accommodation are in a different situation from those who share accommodation in private residential group houses. Boarding-type accommodation more closely resembles a discrete dwelling unit than a shared living arrangement.

3. Explanation of the changes

Item 1 inserts new paragraph 5A(2)(ab) in subsection 5A(2), which provides that a person is not to be treated as a single person sharing accommodation in certain circumstances. The new paragraph deals with the situation where the person is residing in “exempt accommodation”, the meaning of which is elaborated in new subsections 5A(5A), (5B) and (5C).

Item 2 inserts new subsections 5A(5A), (5B) and (5C), which explain the circumstances in which a person is residing in exempt accommodation. The new subsections are based on a distinction between the person’s accommodation (ie that part of the premises which the person is entitled to use, such as the person’s room and communal areas) and the premises (ie the overall building of which the person’s accommodation forms a part).

New subsection 5A(5A) provides that accommodation is exempt accommodation if it is in premises that are, in the Secretary’s opinion, a boarding house, guest house, hostel, hotel, private hotel, rooming house, lodging house or similar premises. The new provision is intended to list the range of premises sought to be covered by the exemption.
New subsection 5A(5B) provides that, in forming an opinion about a person’s accommodation for the purposes of new subsection 5A(5A), the Secretary is to have regard to the characteristics of the accommodation, including the particular characteristics referred to in the paragraphs which follow. As explained in new subsection 5A(5C), each of those characteristics points towards the accommodation in question being exempt accommodation.

New subsection 5A(5B) is in similar terms to subsection 4(3) of the Social Security Act, which enables the Secretary, in forming an opinion about whether a marriage-like relationship exists between 2 people, to have regard to the circumstances of the relationship including, in particular, the specified matters listed in that provision.

It is intended that, in forming an opinion about a person’s accommodation, the Secretary must have regard to each of the specified characteristics and any other characteristic(s) that might be relevant. The specified characteristics are as follows:

(a) the premises are known as a boarding house, guest house, hostel, hotel, private hotel, rooming house, lodging house or similar premises;

- This paragraph is intended to refer to the basis on which the premises are known to members of the public (for example, whether the premises are advertised as, or commonly referred to as, a boarding house (etc.)). It is not intended that a person living in residential group accommodation would be covered by the paragraph merely by taking simple steps (such as placing a sign on the premises) which would not accurately reflect the true nature of the accommodation.

(a) a manager or administrator (other than a real estate agent) is retained to manage the premises or administer the accommodation on a daily or other frequent regular basis;

- A common feature of exempt accommodation is the retention of a manager or administrator (ie someone who is paid, or paid-in-kind) to manage the premises on a daily or other frequent regular basis. This paragraph is intended to cover “live-in” managers or administrators, or those who work in the premises on a daily or similar basis (for example, people who work in the premises on weekdays). It is not intended to cover situations where the manager or administrator has only a limited managerial role in relation to the premises (either in terms of the amount of time spent at the premises, or the frequency of visits). Real estate agents have been expressly exempted from the paragraph because the level of management provided by them in relation to a property could not be sufficient for the purposes of this paragraph.

(a) staff are retained by the proprietor or manager of the premises to work in the premises on a daily or other frequent regular basis;
It is a common feature of exempt accommodation that staff (such as cleaners or receptionists) are retained to regularly work in the premises. This paragraph is not intended to refer to situations such as the engagement, by members of private residential group accommodation, of a cleaner on a sporadic, or regular but infrequent, basis.

(a) a resident’s lack control over the day-to-day management of the premises;

(b) there are house rules, imposed by the proprietor or manager, that result in residents having rights that are more limited than those normally enjoyed by a lessee of private residential accommodation (for example, rules limiting the hours of residents’ access to their accommodation or limiting residents’ access to cooking facilities in the premises);

The existence of “house rules” is another common feature of exempt accommodation. This paragraph is intended to refer to the imposition of bona fide rules which result in the person having rights that are more limited than those normally enjoyed by a lessee of private residential accommodation. The provision has effect only in relation to house rules imposed by the proprietor or manager of the premises: it is not intended to refer to situations where house rules are imposed by, for example, the principal tenant in residential private group accommodation.

(a) the person does not have obligations to pay for his or her costs of gas, water or electricity separately from the cost of the accommodation;

Generally, residents in private residential accommodation pay the costs of gas, water and electricity separately from any payment for accommodation. By contrast, any accommodation payment made by a resident of exempt accommodation will usually encompass those costs.

(b) the accommodation is not private residential accommodation, having regard to:

(i) the number and nature of bedrooms in the premises;
(ii) the number of people who are not related to one another living at the premises;
(iii) the number and nature of bathrooms in the premises;

The factors listed may indicate that the accommodation is not private residential accommodation (and, hence, that it points towards the accommodation being exempt accommodation). For example, the existence of many bedrooms, or the presence of dormitory-style accommodation (see paragraph (i)), or the existence of many bathrooms, or the presence of a bathroom capable of use by several people at a time (see paragraph (iii)) will not usually be consistent with private residential accommodation.

(i) the person’s accommodation has not been offered to the person on a leasehold basis;
Exempt accommodation is generally offered to people on a short-term basis, where their legal status is less than that of a lessee. (ie. their legal status is usually that of a licensee.)

(j) there is no requirement that the person pay a bond as security for either the payment of rent or the cost of any damage caused by the person, or for both;

• The payment of such a bond is inconsistent with the short-term nature of most exempt accommodation.

(k) the person’s accommodation is available on a daily or other short-term basis.

• Exempt accommodation is normally available on a daily or other short-term (for example, weekly or fortnightly) basis. In private residential accommodation, a resident will normally have a lease for a substantial period (commonly a period of at least 6 months). Even if, for example, a lease reverted to a tenancy from month to month (ie. at the expiration of the initial lease), it is not intended that a tenant’s accommodation in such circumstances could be regarded as “available on a daily or other short term basis”.

New subsection 5A(5C) provides that each of the characteristics set out in subsection 5A(5B) points towards the accommodation in question being exempt accommodation. This provision clarifies the operation of new subsection 5A(5B). It may be contrasted with subsection 4(3), where the matters relevant to the existence (or otherwise) of a marriage-like relationship are expressed in neutral terms.

Item 3 (Application) provides that the amendments made by Schedule 2 apply to instalments of social security payments that fall due on or after the first payday after 31 December 1998. In relation to period-based social security payments, it is intended that a person’s entitlement to a higher rate should arise from the commencement of the amendments (1 January 1999) ie the first payday may include a pro rata payment in respect of entitlements arising on and from 1 January 1999.

1. **Commencement**

Subclause 2(2) provides that this Schedule commences on 1 January 1999.
SCHEDULE 3—AMENDMENTS RELATING TO FOSTER CARERS

PART 1—AMENDMENTS RELATING TO PARENTING PAYMENTS TO SINGLE PEOPLE

1. Summary of proposed changes

Align the single and partnered foster carers’ qualification for parenting payment.

2. Background

Under the current provisions, single foster carers must wait 12 months before becoming qualified for assistance.

3. Explanation of the changes

The current 12-month restriction is contained in paragraph 500D(2)(c) of the Social Security Act.

Items 1–3 repeal paragraph 500D(2)(c), and effects consequential amendments in that regard.

4. Commencement

Subclause 2(5) provides that Part 1 of this Schedule commences on 1 September 1999.
PART 2—AMENDMENTS RELATING TO HEALTH CARE CARDS FOR FOSTERED CHILDREN

1. **Summary of proposed changes**

   This proposal will issue a health care card to a fostered child whose carers do not receive more than the minimum rate of family allowance and do not qualify for a health care card, provided the foster child was eligible for a health care card or a pensioner concession card as a member of their original family.

2. **Background**

   This amendment is intended to encourage middle income families to foster children by financially assisting them with the health care costs of a fostered child. Fostered children are listed on the concession cards of low income families if that family is receiving the full rate of family allowance in respect of that child. Families who are receiving less than the full rate of family allowance in respect of a fostered child do not currently have access to a concession card for that child. Fostered children, in respect of whom family allowance is being paid at less than the maximum rate, will now be issued with a health care card, if they were included on a health care card or pensioner concession card held by their original family. The inclusion of these children in the list of concessional beneficiaries in the *National Health Act 1953*, will enable them to access health care concessions.

3. **Explanation of the changes**

   **Item 1** amends the *National Health Act 1953*, to add a category of people to the definition of concessional beneficiary. The people in this group are:

   (i) in foster care

   (ii) people in respect of whom family allowance is being paid, and

   (iii) holders of health care cards.

4. **Commencement**

   **Subclause 2(6)** provides that Part 2 of this Schedule commences on 1 July 1999.