THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

A NEW TAX SYSTEM (BONUSES FOR OLDER AUSTRALIANS) BILL 1998

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer, the Hon Peter Costello, MP, Senator the Hon Jocelyn Newman, Minister for Family and Community Services and the Hon Bruce Scott, MP, Minister for Veterans’ Affairs)
A NEW TAX SYSTEM (BONUSES FOR OLDER AUSTRALIANS) BILL 1998

OUTLINE AND FINANCIAL IMPACT STATEMENT

This Bill forms part of the Government’s tax reform package, and gives effect to the Government’s commitment to protect the interests of older Australians under the new taxation system. The Bill provides for a special one-off payment (“bonus”) - to be made to pensioners and self-funded retirees to protect the value of their savings and retirement income after the tax reform package is implemented.

The components of the bonus provided in the Bill are as follows:

- A one-off untaxed lump sum Aged Persons Savings component of up to $1000 per person (available to Australian residents aged 60 years or more and subject to an income test); and

- An additional one-off untaxed lump sum Self-Funded Retirees Supplementary component of up to $2000 (making a total of $3000) for retirees of age pension age and not in receipt of government benefits and subject to an income test.

Both components of the bonus are targeted to lower income groups with income of less than $20,000 in the 1998-1999 or 1999-2000 income years. The amount of the bonus will be phased out where the person’s income is between $20,000 and $30,000 a year.

Financial Impact

The financial impact of this Act is $1.3 billion in the 2000-2001 financial year.
A NEW TAX SYSTEM (BONUSES FOR OLDER AUSTRALIANS) BILL 1998

NOTES ON CLAUSES

Part 1 – Preliminary

This Part contains machinery provisions on the Act, its commencement date and provides for an overview of its provisions.

Section 1 – Short Title

Section 1 of the A New Tax System (Bonuses for Older Australians) Bill 1998 sets out how the amending Act is to be cited.

Section 2 – Commencement

Section 2 provides for the Act to commence on the day after the last day on which all of the following Acts in the Government’s tax package receive the Royal Assent:

- the A New Tax System (Goods and Services Tax) Act 1998
- the A New Tax System (Goods and Services Tax Imposition - Customs) Act 1998
- the A New Tax System (Goods and Services Tax Imposition - General) Act 1998

Section 3 - Overview of Act

Section 3 provides an overview of the Act for ease of reference.

The Act provides for payment of the bonuses to be authorised by 3 Commonwealth agencies - the Department of Family and Community Services (DFACS); the Repatriation Commission (RC), the Australian Taxation Office (ATO), according to whose “customer” is the recipient of the bonus (for example, a person who is liable to lodge an income tax return for the 1999-2000 year is an “ATO client”). It is intended that the bonuses will be paid by Centrelink as paying agent for those 3 agencies.

The Act is structured to reflect the above role of those 3 Commonwealth agencies. Part 2 of the Act deals with Family and Community Services customers, Part 3 deals with Veterans’ Affairs customers and Part 4 deals with ATO clients. Major purposes served by this division of responsibility are to minimise intrusiveness upon the aged section of the community to which these measures relate by avoiding a full data collection from them, and to allow those aged Australians to deal with the Commonwealth agency with which they are most familiar and accustomed to dealing with.

- Thus, for example, ATO clients will have their entitlement to bonus assessed and authorised by the ATO. Should a review of any decision arise in that regard it will be dealt with under the procedures contained in the taxation law.
Part 2 – Family and Community Services customers who qualify for a bonus payment

Division 1 – Interpretation

Section 4 - Definitions

Section 4 defines various phrases and terms for the purposes of this Part, which relates to Family and Community Services customers. Generally speaking, most of the phrases and terms are defined as bearing the same meaning as in the 3 major Commonwealth Acts administered by the 3 Commonwealth agencies who have functions under the Act. These Acts are: the Income Tax Assessment Act 1997, the Veterans’ Entitlements Act 1986 and the Social Security Act 1991.

In particular, the following terms are defined:

“deprived asset” is given the same meaning as defined in subsection 9(4) of the Social Security Act 1991, namely an asset which the person has disposed of, and the value of which is taken into account in relation to the person’s ordinary income.

• Ordinarily, such an asset would be subject to the “deeming” rules (Part 3.10, Division 1B of the Social Security Act 1991) which provide for income to be imputed to a person in respect of any deprived asset.

• For the purposes of paying the bonus under this Act, the “deeming rules” are altered beneficially in relation to the customer in an important respect: any additional ordinary income which might be imputed to the person in relation to a deprived asset is disregarded; – thus, that person will not suffer any “tapering” on that account (ie, no reduction in bonus, on that account, for ordinary income of the person between $20,000 and $30,000).

“disqualifying payment” is defined as

a) a social security pension (other than a bereavement allowance);
b) a social security benefit;
c) a service pension;
d) a carer service pension; and
e) an income support supplement.

• A person who receives a disqualifying payment between 1 April 2000 and 1 July 2000 (inclusive) will in most cases be precluded from receiving the second component of the bonus ie the self-funded retirees supplementary bonus.
Section 5 - Annual retirement income and annual savings and investment income –
customers with previous calculation of ordinary income on a yearly basis

This section applies where the Secretary DFaCS has had to work out the **ordinary income** of a *Family and Community Services* customer during the qualifying period for the bonus, ie during the 1998-1999 or the 1999-2000 income years.

Where the Secretary worked out the person’s **ordinary income** on one occasion during that period, then that amount may be used in accordance with this section for the purposes of working out the person’s **annual retirement income** and **annual savings and investment income** for the purposes of calculating the person’s bonus entitlement subsection 5(1):

- A person with an **annual retirement income** of $20,000 or under may become entitled to a maximum bonus. Between $20,000 and $30,000 the person’s potential entitlement “tapers” down to zero;

- The person’s **annual savings and investment income** determines the person’s actual bonus entitlement, at the rate of “dollar-for-dollar” for each of the components of the bonus;

- **Ordinary income** is comprehensively defined in the *Social Security Act 1991*.

Subsection 5(3) modifies the meaning of **ordinary income** for the purposes of calculating and paying the bonus. These modifications are for the most part **beneficial** to the customer, as follows:

- A disability pension or disability payment payable to the customer under the Veteran’s Entitlement Act 1986 is **disregarded** – ie by disregarding such payments, the customer cannot suffer any “tapering” on this account paragraph 5(3)(a):
  - “tapering” is the process by which the customer’s potential entitlement reduces to zero as his or her **annual retirement income** for a qualifying year increases from $20,000 to $30,000;

- Periodic compensation payment which, for the purposes of determining ordinary income are disregarded under some circumstances (because they are direct deductions) are included as annual retirement income paragraph 5(3)(b);

- Any social security or veteran's payment which is not exempt from income tax is included in the customer’s **ordinary income** for the purposes of calculating the bonus paragraph 5(3)(c).

This approach treats the customer on the same basis as ATO clients, who have their bonus entitlement assessed on the basis of their taxable income;

Any amount of ordinary income that is attributed to a **deprived asset** is **disregarded**, and once again the customer cannot suffer any “tapering” on that account paragraph 5(3)(d).
• **Deprived asset** is given the same meaning as defined in subsection 9(4) of the Social Security Act 1991, namely an asset which the person has disposed of, and the value of which is taken into account in relation to the person’s **ordinary income**;

• Ordinarily, such an asset would be subject to the “deeming” rules (Part 3.10, Division 1B of the Social Security Act 1991) which provide for income to be imputed to a person in respect of any **deprived asset**;

• For the purposes of paying the bonus under this Act, the “deeming rules” in relation to a **deprived asset** are by force of this provision altered **beneficially** so that the customer will not suffer any “tapering” on that account.

The customer’s entitlements will be worked out at the more beneficial “single person” rates rather than “partnered rates” paragraph 5(3)(e).

Subsections 5(4) and 5(5) set out a method statement for working out a customer’s **annual savings and investment income** and **annual retirement income**.

Subsection 5(4) provides that the customer’s **annual savings and investment income** is worked out having regard to the same rules that apply to the calculation of the customer’s **annual retirement income** (ie subsection 5(3) above) with the exception that any increase in the customers **annual savings and investment income** in respect of “deemed income” from **financial investments** is deemed at the higher deeming rate (currently 5%). This has the effect of increasing the customer’s bonus “dollar-for-each-deemed-dollar” in relation to each bonus component for which the customer is qualified.

Where the Secretary worked out the person’s **ordinary income** on more than one occasion during that period, then the amount which gives the best result for the customer may be used in accordance with this section for the purposes of working out the person’s **annual retirement income** and **annual savings and investment income** for the purposes of calculating the person’s bonus entitlement subsection 5(5):

• For this purpose, the same rules apply as are set out in subsection 5(3).

Section 6 - Annual retirement income and annual savings and investment income – customers with no previous calculation of ordinary income on a yearly basis

This section applies where the Secretary DFaCS has not had to work out the **ordinary income** of a Family and Community Services customer during the qualifying period for the bonus, ie during the 1998-1999 or the 1999-2000 income years subsection 6(1).

Where the Secretary has not had occasion to work out the customer’s **ordinary income** during the qualifying period for the bonus, this section provides that the Secretary may work out the person’s **ordinary income** at the time the Secretary determines the customer’s claim subsection 6(2):

• Again, the **ordinary income** rules set out in the previous section apply for this purpose, by application of paragraphs 5(3)(a) to (e) inclusive - see subsections 6(2) and 6(3).
Division 2 – Claim for a bonus payment

Division 2 provides for the making of a claim by Family and Community Services customers for the payment of the bonus.

Section 7 - Making a proper claim

This section provides for the making of a claim for bonus by a Family and Community Services customer subsection 7(1).

Subsection 7(2) sets out those matters which determine whether or not a person is a Family and Community Services customer, as follows:

A Family and Community Services customer is a person who

- Is not required to lodge a tax return for the 1999-2000 income year paragraph 7(2)(a); and
- At the time of making the claim has not lodged an income tax return for that year paragraph 7(2)(b); and
- In the claim, states that he or she does not intend to lodge an income tax return for that year; paragraph 7(2)(c); and
- On 1 July 2000, he or she is not receiving a service pension, a carer service pension or and income support supplement paragraph 7(2)(d); and
- Makes the claim after 30 June 2000 and before 1 July 2001 paragraph 7(2)(e); and
- Gives the claim to the Secretary in a form and in a manner approved by the Secretary paragraph 7(2)(f).

Subsection 7(3) provides that a person who makes a proper claim in accordance with subsection 7(2) is a Family and Community Services customer.

Section 8 – Proper claim can be withdrawn

Section 8 allows a person to withdraw a claim for a bonus, either orally or in writing. This will allow a person to withdraw a claim before it is processed if the person discovers an error. A new claim can then be made.

If a person discovers an error after a claim has been determined by the Secretary, the error can be rectified under the rules for review of determinations in Division 6 (see notes on that Division).

Section 9 – No further proper claim can be made

Section 9 provides that a Family and Community Services customer cannot make more than one proper claim for a bonus payment under this Part.
Division 3 – Qualification for bonus payment

Section 10 – Qualification for bonus payment

Section 10 explains that a bonus payment can have 2 components. One component is the aged persons savings bonus component (of up to $1,000). The other is the self-funded retirees supplementary bonus component (up to an additional $2,000).

- The different components reflect the Government’s initial announcement in the tax reform document Tax Reform – not a new tax, a new tax system. The first component will help maintain the value of the savings of older Australians generally. The second represents an income supplement to help maintain the value of retirement incomes for people who have self-funded their retirement.

Section 11 - Qualification for components of bonus payment

Aged persons savings bonus component (up to $1,000)

Subsection 11(1) sets out the qualifying criteria for payment of the first component of a bonus. A person can qualify for this component if he or she has savings or investment income for either the 1998-1999 or 1999-2000 income year and has a annual retirement income of less than $30,000 in the relevant year.

As well as that, the person must be 60 years or older on 1 July 2000 and be a resident of Australia within the meaning of the Social Security Act 1991.

- Subsection 7(2) of the Social Security Act 1991 defines Australian resident:

7.(2) An Australian resident is a person who:

(a) resides in Australia; and
(b) is one of the following:

(i) an Australian citizen;
(ii) the holder of a permanent visa;
(iii) the holder of a special category visa who is likely to remain permanently in Australia;
(iv) the holder of a special purpose visa who is likely to remain permanently in Australia.

- These rules are different than the rules used to determine whether someone is a resident of Australia for tax purposes. These rules ensure a person receiving a bonus has a significant long term attachment to Australia.
**Self-funded retirees supplementary bonus (up to an additional $2,000)**

Subsection 11(2) sets out the qualifying criteria for the second component of a bonus. This component is only available to self-funded retirees. These are people who have attained age pension age (65 years for a man and 61½ years for a woman) on 1 July 2000, but, as a general rule, have not received a social security pension or benefit during the 3 months leading up to and including 1 July 2000 paragraph 11(2)(c).

The types of social security pension and benefits that can disqualify a person from the second component of a bonus are listed in the definition of *disqualifying payment* in section 4.

These are:

“*disqualifying payment*” is defined as

a) a social security pension (other than a bereavement allowance);
b) a social security benefit;
c) a service pension;
d) a carer service pension; and
e) an income support supplement.

There are two exceptions to the general rule on *disqualifying payments*.

Subparagraph 11(2)(c)(ii) provides an exception for someone who received a *disqualifying payment* following the death of the person’s partner, so long as the person is not receiving a pension or benefit on 1 July 2000.

Subparagraph 11(2) (c)(iii) provides for other exceptions to be prescribed in Regulations. This will allow exceptions, if necessary, to avoid hardship should such cases come to light.

Having qualified as a self-funded retiree, a person will qualify for the second component of the bonus if he or she is entitled to the first component of the bonus for either, or both, the 1998/99 or 1999/00 tax years and has savings and investment income for the relevant year, or years, of more than $1,000.

**Division 4 – Determination of proper claim**

This Division requires the Secretary to determine whether or not a person is entitled to a bonus and to provide notice of his determination to the *Family and Community Services customer*.

A notice must contain certain information, including how a bonus was worked out or, where a person’s claim is not granted, the reasons for not granting the claim. This information will allow a claimant to seek a review of the Secretary’s determination where the claimant disagrees with the Secretary’s decision.
Section 12 - Secretary to determine proper claim

This section provides for the Secretary to determine a claim received from an *Family and Community Services customer*.

Section 13 - Grant of proper claim

This section provides that the Secretary must grant the claim if he or she is satisfied that the *Family and Community Services customer* is qualified for a bonus payment subsection 13(1) and must provide a written notice to the *Family and Community Services customer* of that determination, including how the bonus payment was worked out subsection 13(2).

Section 14 - Refusal of proper claim

This section provides that if the Secretary determines that a *Family and Community Services customer*’s claim is not to be granted the Secretary must give written notice of the determination to the *Family and Community Services customer*, stating reasons and advise the *Family and Community Services customer* of the right to apply for review of the determination.

Division 5 – Amount of bonus payment etc.

Section 15 - Amount of bonus payment

This section provides for the amount of the bonus that is payable to a *Family and Community Services customer*, which is calculated by adding together the persons entitlement to the *aged person savings bonus* and any entitlement to an amount of the *self-funded retirees supplementary bonus* subsection 15(1).

- Division 3 of this Part (see section 11) provides that to qualify, a person must be aged 60 or more on 1 July 2000, be an Australian resident on that day, and have a annual retirement income of less than $30000 in a qualifying year.

Aged persons savings bonus component

Subsection 15(2) contains a table setting out how to work out a person’s entitlement to the *aged persons savings bonus*, and contains an example by way of illustration.

A qualified person is entitled to a “dollar-for-dollar” bonus in respect of that person’s savings and investment income for 1 of the qualifying years, up to a maximum of $1000. The amount of bonus reduces on a tapering scale as the person’s income for that qualifying year exceeds $20000, reducing to a zero bonus at $30000.

- the reduction is arrived at as follows: the amount by which the person’s annual retirement income exceeds $20000 is taken as a fraction of $10000. The resulting fraction is used to reduce the person’s bonus entitlement subsection 15(5):
Self-funded retirees supplementary bonus component

Subsection 15(3) contains a table setting out how to work out a person’s entitlement to the self-funded retirees supplementary bonus, and contains an example by way of illustration.

Put briefly, a person who is qualified is entitled to a “dollar-for-dollar” bonus in respect of the amount by which that person’s savings and investment income for 1 of the qualifying years exceeds $1000, up to a maximum of $2000. The amount of bonus reduces on a tapering scale as the person’s income for that qualifying year exceeds $20000, reducing to a zero bonus at $30000.

- the reduction is arrived at as follows: the amount by which the person’s annual retirement income exceeds $20000 is taken as a fraction of $10000. The resulting fraction is used to reduce the person’s bonus entitlement subsection 15(5);

If the amount of a person’s bonus is worked out as being greater than zero but less than $1, then the person’s entitlement is rounded to $1 subsection 15(4).

Section 16 - Making of bonus payment

This section provides that the Secretary must, on behalf of the Commonwealth, pay a Family and Community Services customer’s bonus payment at such time, and in such manner, as the Secretary determines.

Division 6 – Miscellaneous

Section 17 - General administration of Part

The Secretary, Department of Family and Community Services has the general administration of this Part.

Section 18 - Application of Social Security Act

This section provides that the provisions of the Social Security Act 1991 apply to any determination made for the purposes of this Part.

This means that the provisions of the Social Security Act 1991 will apply to determinations made under this Part for the purposes of (for example)

- Review of determinations;
- Recovery of overpayments;
- Delegation;
- Offences relating to false statements;
- Evidentiary matters.
• This is an important feature of the structure of the Act, in terms of delivering the bonus to older Australians who are Family and Community Services customers without undue intrusion into their lives and routine. It will enable those Family and Community Services customers to be dealt with at the same office, and under the same rules and conditions that normally apply when they deal with that Commonwealth agency.

Subsection 18(2) enables regulations to be made to modify the application of the Social Security Act 1991 in its application to this Part, should that become necessary.
Part 3 – Veterans’ Affairs customers who qualify for bonus payment

Division 1 – Interpretation

Section 19 - Definitions

Section 19 defines various phrases and terms for the purposes of this Part, which relate to Veterans’ Affairs customers. Generally speaking, most of the phrases and terms are defined as bearing the same meaning as in the 3 major Commonwealth Acts administered by the 3 Commonwealth agencies who have functions under the Act. These Acts are: the Income Tax Assessment Act 1997, the Veterans’ Entitlements Act 1986 and the Social Security Act 1991.

The following terms are defined for the purposes of this Act:

“annual retirement income” is defined as having the same meaning as that given by sections 20 and 21.

“annual savings and investment income” is defined as having the same meaning as that given by sections 20 and 21.

“proper claim” is defined as having the same meaning as that given by section 22.

“qualifying year” is either the year commencing on 1 July 1998 or the year commencing on 1 July 1999. Section 29 will determine the aged persons savings bonus of a Veterans’ Affairs customer from that person’s ordinary income worked out during a qualifying year.

“relevant income tax law” identifies income tax legislation under which certain payments under the Veterans’ Entitlements Act 1986 are exempt from income tax. A pension that is exempt from income tax is not included in a person’s “annual retirement income”.

“savings and investments” are defined as including financial investments which is a term used in the Veterans’ Entitlements Act 1986 to describe part of a person’s financial assets to which a deemed rate of income is applied for the purposes of working out a person’s ordinary income. For the purposes of working out a person’s annual savings and investment income, but not the person’s annual retirement income, the deemed income from savings and investments will be worked out using only the higher (above threshold) rate (see subsections 20(4) and 21(3)). The other part of a person’s financial assets, as defined in the Veterans’ Entitlements Act 1986, is a deprived asset. Any amount attributed to a deprived asset will be disregarded from the amount of the person’s ordinary income for the purposes of the person’s annual savings and investment income and annual retirement income (see paragraph 20(3)(b)).

“Veterans Affairs customer” is defined as having the same meaning as that given by section 22.
Section 20 - Annual retirement income and annual savings and investment income – customers with previous calculation of ordinary income on a yearly basis

Section 20 sets out how a Veterans’ Affairs customer’s **annual retirement income** and **annual savings and investment income** will be worked out where the Repatriation Commission (the Commission) has worked out the annual ordinary income of a Veterans’ Affairs customer at least once during the qualifying years. A person’s ordinary income is defined in the *Veterans’ Entitlements Act 1986* and is worked out and used by the Commission to calculate the rate of service pension, carer service pension or income support supplement payable under that Act.

**Annual ordinary income worked out once during the qualifying years**

Where the Commission has worked out the Veterans’ Affairs customer’s annual ordinary income on only one occasion during the qualifying years, then that amount of ordinary income is used, in accordance with this section, to work out the person’s annual retirement income and annual savings and investment income.

Subsection 20(3) sets out how to calculate the annual retirement income of a Veterans’ Affairs customer. A person with an annual retirement income of $20,000 or under may become entitled to a maximum aged persons savings bonus. Between $20,000 and $30,000 the person’s potential entitlement “tapers” down to zero. Annual retirement income is based on a person’s ordinary income with the following modifications:

Paragraph 20(3)(a) provides for the annual rate of any pension paid under the *Veterans’ Entitlements Act 1986* that was not tax exempt to be added to the person’s ordinary income. As a result, the annual rate of (taxable) pension calculated when the ordinary income was worked out is added to that annual ordinary income. The only payments under the *Veterans’ Entitlements Act 1986* that are not tax exempt are the basic income support pensions and supplement paid to those over age pension age. Disability pensions, war widow pensions and associated allowances paid under the *Veterans’ Entitlements Act 1986* are tax exempt. This addition reflects the annual income available to the person and mirrors the inclusion of any pension that is not exempt from income tax in a person’s taxable income.

If the Veterans’ Affairs customer’s ordinary income includes an amount in respect of a deprived asset, then that amount is disregarded from the person’s ordinary income (paragraph 20(3)(b)). A deprived asset is given the same meaning as in the *Veterans’ Entitlements Act 1986*, namely an asset that the person has disposed of (subsection 5J(2B) of that Act). Ordinarily the value of a deprived asset is included as a person’s financial asset from which an amount of income is deemed (Division 3, Part IIIB of that Act) and included as the person’s ordinary income.

The amendment of the “deeming rules” in this regard is beneficial to the Veterans’ Affairs customer in working out the annual retirement income under this Act.

A Veterans’ Affairs customer’s aged persons savings bonus will be worked out on the basis of his or her own annual retirement income and annual savings and investment income. The *Veterans’ Entitlements Act 1986* provides that the ordinary income of a person who is a member of a couple (as defined in that Act) is half of the combined income of the couple. Paragraph 20(3)(c) provides for the effect of the combination and splitting of the ordinary
income to be removed and so allow the person’s annual retirement income to be determined on his or her income alone.

The Method Statement in subsection 20(4) sets out how to calculate the annual savings and investment income of a Veterans’ Affairs customer.

Where a Veterans’ Affairs customer’s annual retirement income includes income that has been deemed from the person’s financial investments, Step 1 provides that, for the purpose of calculating annual savings and investment income, the deemed income will be worked out using only the higher (above threshold) rate. This provision will operate only where part or all of the person’s deemed income has been assessed at the lower, below threshold, rate.

Step 2 provides that the Veterans’ Affairs customer’s annual savings and investment income is to be determined from the savings and investments (see section 19) within the person’s annual retirement income as calculated in Step 1.

**Annual ordinary income worked out more than once during the qualifying years**

The Method Statement in subsection 20(5) explains how to work out a Veterans’ Affairs customer’s annual retirement income and annual savings and investment income where the customer’s annual ordinary income had been worked out by the Commission on more than one occasion during the qualifying years.

In Step 1, the annual retirement income and annual savings and investment income for each occasion are determined by the same rules as are set out in subsections 20(3) and (4).

On the basis of the 2 amounts calculated in Step 1, Step 2 provides for the calculation of the amount of aged persons savings bonus to which the customer would be entitled on each occasion.

Step 3 provides that if any occasion gives a better aged persons savings bonus result for the customer, then the two amounts calculated for that occasion are the customer’s annual retirement income and annual savings and investment income.

**Section 21 - Annual retirement income and annual savings and investment income – customers with no previous calculation of ordinary income on a yearly basis**

Section 21 applies where the Commission has not worked out the ordinary income of a Veterans’ Affairs customer during the qualifying period for the aged persons savings bonus, ie during the 1998-1999 or the 1999-2000 income years.

In these cases the annual retirement income is based on the person’s annual ordinary income that the Commission last worked out before it determined the customer’s entitlement to an aged persons savings bonus. This calculation of ordinary income is subject to the same modifications as those that apply to the calculation of a Veterans’ Affairs customer’s annual retirement income in subsection 20(3). The Method Statement in subsection 21(3) explains how to calculate the customer’s annual savings and investment income. This calculation is identical to that used to work out a person’s annual savings and investment income in subsection 20(4).
Division 2 – Claim for bonus payment

Section 22 - Making a proper claim

Section 22 defines the terms *proper claim* and *Veterans’ Affairs customer*.

Subsection 22(1) provides for a claim for a bonus to be made.

Under subsection 22(2), a claim for an aged persons savings bonus made under Part 3 is a proper claim if it is made after 30 June 2000 and before 1 July 2001, it is made in a form and in a manner approved by the Commission and if the individual making the claim:

- is not required to lodge an income tax return for the 1999-2000 income year;
- has not, at the time of making the claim, lodged an income tax return for 1999-2000;
- states in the claim that he or she does not intend lodging such a return; and
- on 1 July 2000 is receiving a service pension, carer service pension or income support supplement.

Subsection 22(3) then provides that an individual who makes a proper claim is a Veterans’ Affairs customer.

Section 23 - Proper claim can be withdrawn

Section 23 provides that if a claim has not been determined by the Commission, it may be withdrawn by the Veterans’ Affairs customer either orally or in writing. In such a case the claim is taken not to have been made.

Section 24 - No further proper claim can be made

Section 24 prevents a Veterans’ Affairs customer from making more than one proper claim for an aged persons savings bonus under this Part.

Division 3 – Qualification for bonus payment

Section 25 - Qualification for aged persons savings bonus payment

Section 25 sets out the qualifying criteria for payment of the aged persons savings bonus. A Veterans’ Affairs customer can qualify for this bonus if he or she has savings or investment income for either qualifying year and has an annual retirement income of less than $30,000.

The person must also be 60 years or older on 1 July 2000, be an Australian resident within the meaning of the *Social Security Act 1991* and the amount of the person’s bonus as worked out under section 29 must be greater than nil.
Subsection 7(2) of the *Social Security Act 1991* defines Australian resident:

An **Australian resident** is a person who:

(a) resides in Australia; and
(b) is one of the following:
   (i) an Australian citizen;
   (ii) the holder of a permanent visa;
   (iii) the holder of a special category visa who is likely to remain permanently in Australia;
   (iv) the holder of a special purpose visa who is likely to remain permanently in Australia.

These rules are different from the rules used to determine whether someone is a resident of Australia for tax purposes.

The note to paragraph 25(c) refers the reader to the definitions of annual retirement income and annual savings and investment income in sections 20 and 21.

**Division 4 – Determination of proper claim**

**Section 26 - Commission to determine proper claim**

Under section 26 the Commission must determine whether or not a proper claim is to be granted. This determination is to be made in accordance with this Part.

**Section 27 - Grant of proper claim**

Subsection 27(1) provides that if the Commission is satisfied that a Veterans’ Affairs customer is qualified for an aged persons savings bonus (see section 25), it must determine that a proper claim by that person is to be granted.

Subsection 27(2) provides that the Commission must provide written notice of that determination to the Veterans’ Affairs customer. This notice needs to state that the Veterans’ Affairs customer is qualified for an aged persons savings bonus, to specify the amount of the bonus and how it was worked out, and include a statement of his or her review rights.

**Section 28 - Refusal of proper claim**

Section 28 provides that, where the Commission determines that a proper claim is not to be granted, the Commission must provide written notice of that determination to the Veterans’ Affairs customer. This notice needs to state the reasons for the Commission’s determination that the person is not qualified for a bonus, and include a statement of his or her review rights.

The notes to sections 27 and 28 refer to section 32 which, unless alternative provision is made in the Bill, extends the provisions of the *Veterans Entitlements’ Act 1986* to matters relating to the aged persons savings bonus as if that bonus were a pension bonus under that Act.
Division 5 – Amount of bonus payment etc

Section 29 - Amount of bonus payment

Subsection 29(1) contains a table setting out how to calculate the amount of aged persons savings bonus for a Veterans’ Affairs customer, and an example to illustrate how the provisions will work.

Annual retirement income of $20,000

A Veterans’ Affairs customer with an annual retirement income of $20,000 or less is entitled to a ‘dollar-for-dollar’ bonus that matches the person’s savings and investment income, up to a maximum of $1000.

Annual retirement income more than $20,000, but less than $30,000

If the Veterans’ Affairs customer has an annual retirement income between $20,000 and $30,000 a lower amount of bonus is payable. To calculate the bonus, first work out the annual savings and investment income (up to a maximum of $1000). From this, subtract the phasing out fraction (as defined in subsection 29(3)) of this amount. This will result in any bonus cutting out when a person’s annual retirement income reaches $30,000.

Subsection (2) provides that if the amount of a person’s aged persons savings bonus is worked out as being greater than nil but less than $1, then the person’s entitlement is rounded up to $1.

Subsection (3) gives the formula applied to determining the phasing out fraction when calculating the amount of the aged persons savings bonus.

Section 30 – Making of bonus payment

Section 30 provides that if the Commission determines that a Veterans’ Affairs customer’s claim for an aged persons savings bonus is to be granted, the Commission must, on behalf of the Commonwealth, pay the bonus to the customer at such time, and in such manner, as the Commission determines.

It is intended that Centrelink will pay all bonuses granted under this Act, as paying agent.

Division 6 – Miscellaneous

Section 31 - General administration of Part

Section 31 provides the Commission has the general administration of this Part.
Section 32 - Application of the Veterans’ Entitlements Act

Subsection 32(1) provides that the provisions of the Veterans’ Entitlements Act 1986 apply to any determination or payment of an aged person’s savings bonus, or to any other related matter, as if the bonus were a pension bonus under that Act, unless there are alternative provisions in this Bill. This is not intended to suggest the pension bonus under the Veterans’ Entitlements Act 1986 is similar in nature or purpose to a bonus under this Act, it is not. The provisions of review and general administration associated with the pension bonus can operate, and have been extended to apply, in respect of the aged person’s savings bonus.

This means that, if specific provision is not otherwise made in this Bill, the provisions of the Veterans’ Entitlements Act 1986 will apply to determinations made under this Part for the purposes of (for example)

- review of determinations;
- recovery of overpayments;
- delegation;
- offences relating to false statements;
- evidentiary matters.

Subsection (2) enables regulations to be made to modify the application of the Veterans’ Entitlements Act 1986 in its application to this Part, should that become necessary.
Part 4 – ATO clients who qualify for bonus payment

Division 1 – Interpretation

Section 33 - Definitions

Section 33 defines various phrases and terms for the purposes of this Part, which relates to ATO clients. Generally speaking, most of the phrases and terms are defined as bearing the same meaning as in the 3 major Commonwealth Acts administered by the 3 Commonwealth agencies who have functions under the Act. These Acts are: the Income Tax Assessment Act 1997, the Veterans’ Entitlements Act 1986 and the Social Security Act 1991.

Section 34 - Adjusted savings and investment income

Section 34 sets out the basis for working out a person’s adjusted savings and investment income, which is the basis for determining whether an ATO client can qualify for a savings bonus. One of the eligibility criteria for a bonus is that a person has adjusted savings and investment income in either the 1998-1999 or 1999-2000 income tax year. The rules for determining whether someone has adjusted savings and investment income are the same as those used in determining whether someone will qualify for the savings tax offset for the 1998-1999 year.

The first step in working out the amount of adjusted savings and investment income is to work out the amount of savings and investment income. Savings and investment income is, broadly, all assessable income other than salary or wages as defined in subsection 221A(1) of the Income Tax Assessment Act 1936 (ITAA36).

There are two main exceptions.

First, some amounts of salary or wages are counted for the purpose of the bonus. These are:

- certain amounts paid as superannuation pensions or annuities; and
- eligible termination payments.

For pensions and annuities a distinction is drawn between those from an Australian source and those from foreign sources:

- all Australian sourced pensions and annuities, other than social security pensions, are counted as savings and investment income. Social security pensions are principally those which may qualify the recipient for a pensioner or beneficiary rebate under section 160AAA of the ITAA36.
- in the case of foreign pensions, only those for which the recipient is, or has been, entitled to a deduction for the undeducted purchase price of the pension are counted as savings and investment income. This is a relatively simple way of distinguishing between pensions which the recipient has at least partly funded, as opposed to solely government provided pensions.
All assessable amounts of eligible termination payments (ETPs) qualify as savings and investment income. This is because ETPs generally arise from the same kind of savings behaviour as give rise to pensions and annuities, which also count as savings and investment income.

The second main exception to the broad rule mentioned above, is that some amounts of non-salary or wage income are not counted for the purposes of the bonus. These are:

- remuneration and allowances paid to members of local governing bodies; and
- assessable reimbursements of deductible amounts paid in respect of:
  - tax related expenses; and
  - election expenses.

Payments to members of local governing bodies are in the nature of salary or wages, even though they are normally excluded from the definition of salary or wages. The assessable reimbursements referred to above do not relate to savings and investment income.

After working out the savings and investment income some adjustments are made to determine the adjusted savings and investment income.

**Deductions relating to savings and investment income**

Certain tax deductions are offset against gross savings and investment income. Only deductions which relate to savings and investment income are deducted in determining the amount of adjusted savings and investment income. Deductions that are not related to any particular amount of adjusted savings and investment income are not deducted. This would mean, for example, that the following deductions would not be subtracted from savings and investment income:

- gifts;
- tax-related expenses;
- carried forward losses; and
- superannuation contributions.

**Superannuation contributions**

All personal contributions made by a taxpayer to a complying superannuation fund or retirement savings account (RSA) are also taken into account in calculating the amount of adjusted savings and investment income. However, contributions made on behalf of a spouse are not taken into account in calculating the savings bonus.

The amount of personal contributions taken into account is reduced by the amount of the contributions that are deductible under section 82AAT of the ITAA36.
Netting of savings and investment income and superannuation contributions

Net savings and investment income after deductions and undeducted superannuation contributions are effectively added together to determine the amount of adjusted savings and investment income.

Example

Hoa’s taxable income is as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rental income</td>
<td>$10,000</td>
</tr>
<tr>
<td>Salary</td>
<td>$35,000</td>
</tr>
<tr>
<td>less</td>
<td></td>
</tr>
<tr>
<td>Rental deductions</td>
<td>$11,000</td>
</tr>
<tr>
<td>Total income</td>
<td>$34,000</td>
</tr>
</tbody>
</table>

In addition, Hoa makes personal superannuation contributions of $1,500.

Hoa’s adjusted savings and investment income is $500 (ie. 10,000 + 1,500 – 11,000).

Division 2 – Claim for bonus payment

Division 2 provides for claims to be lodged with the ATO. People who have to lodge a tax return for the 1999-2000 income year may only lodge a claim for a bonus with the ATO. People who don’t have to lodge a tax return for 1999-2000 may still lodge a claim for a bonus with the ATO if they choose to voluntarily lodge a tax return for that year. However, they cannot lodge a claim with the ATO if they have already made a claim with the Department of Family and Community Services or the Repatriation Commission. People who make claims for a bonus with the ATO will be known as ATO clients. To simplify this procedure for making claims, it is intended that claim procedures for ATO clients will be referred to in Taxpack for the year 1999-2000.

Section 35 - Making a proper claim

Section 35 provides that a claim for a bonus by an ATO client must be made after 30 June 2000 but prior to 1 July 2001, it must be given to the Commissioner in a form and manner approved by the Commissioner, and must specify which tax year, or years, (1998-1999 or 1999-2000, or both) the ATO client wishes to have used for the purposes of determining his or her claim.

A person may qualify for a bonus in either or both of the 1998-1999 or 1999-2000 tax years. The general rule will be that a person is entitled to the bigger bonus if he or she qualifies in both years (see notes explaining Division 5, which deals with the determination of the amount of bonus payment). This means that a bonus would not be available until after a person’s 1999-2000 tax return is assessed by the ATO.
However, the law has been designed to allow a person to make a claim for one year only. This means that someone who qualifies for a bonus on the basis of their taxable income and adjusted savings and investment income for the 1998-1999 tax year could make a claim for the bonus on 1 July 2000, rather than wait until their 1999-2000 tax return is lodged and processed by the ATO. This option will be available to people who know they qualify for the maximum bonus based on the 1998-1999 data, or who prefer to get an earlier bonus payment. Where a person chooses this early payment option, they cannot make another claim for a bonus on the basis of data for the other tax year, even if the bonus in the other year would be bigger subsection 35(4).

The possibility to claim a bonus before lodging a 1999-2000 tax return is also possible because a bonus is delivered outside of the ATO client’s tax assessment. This is also the reason for having specific review and debt recovery provisions in this Bill (see explanation of Divisions 6 and 7). The review and recovery provisions for income tax assessments and debts could not easily be adopted for decisions related to bonus entitlements.

Section 36 - Proper claim can be withdrawn

Section 36 allows a person to withdraw a claim for a bonus, either in writing or any other manner approved by the Commissioner. This will allow a person to withdraw a claim before it is processed if the person discovers an error. A new claim can then be made.

If a person discovers an error after a claim has been determined by the Commissioner, the error can be rectified under the rules for review of determinations in new Division 6 (see notes on that Division).

Section 37 - No further proper claim can be made

An ATO client can only receive one bonus. Once a proper claim has been determined another claim cannot be made.

Division 3 – Qualification for bonus payment

Section 38 - Qualification for bonus payment

Section 38 explains that a bonus payment can have 2 components. One component is the aged persons savings bonus component (of up to $1,000). The other is the self-funded retirees supplementary bonus component (up to an additional $2,000).

The different components reflect the Government’s initial announcement in the tax reform document Tax Reform – not a new tax, a new tax system. The first component will help maintain the value of the savings of older Australians generally. The second represents an income supplement to help maintain the value of retirement incomes for people who have self-funded their retirement.
Section 39 - Qualification for components of bonus payment

Aged persons savings bonus component (up to $1,000)

Subsection 39(1) sets out the qualifying criteria for payment of the first component of a bonus. A person can qualify for this component if he or she has adjusted savings or investment income for either the 1998-1999 or 1999-2000 tax year and has a taxable income of less than $30,000 in the relevant year.

As well as that, the person must be 60 years or older on 1 July 2000 and be a resident of Australia within the meaning of the Social Security Act 1991.

- Subsection 7(2) of the Social Security Act 1991 defines **Australian resident**:

  7.(2) An **Australian resident** is a person who:
  
  (a) resides in Australia; and
  
  (b) is one of the following:

  (i) an Australian citizen;
  
  (ii) the holder of a permanent visa;
  
  (iii) the holder of a special category visa who is likely to remain permanently in Australia;
  
  (iv) the holder of a special purpose visa who is likely to remain permanently in Australia.

- These rules are different than the rules used to determine whether someone is a resident of Australia for tax purposes.

Self-funded retirees supplementary bonus component (up to an additional $2,000)

Subsection 39(2) sets out the qualifying criteria for the second component of a bonus. This component is only available to self-funded retirees. These are people who have attained age pension age (65 years for a man and 61½ years for a woman) on 1 July 2000, but, as a general rule, have not received a social security pension or benefit during the 3 months leading up to and including 1 July 2000 paragraph 39(2)(c).

The types of social security pensions and benefits that can disqualify a person from the second component of a bonus are listed in the definition of ‘disqualifying payment’ in section 33. These are:

- a social security pension (but not a bereavement allowance);
- a social security benefit;
- a service pension;
- a carer service pension; or
- an income support supplement.
There are two exceptions to the general rule on disqualifying payments. Subparagraph 39(2)(c)(ii) provides an exception for someone who received a disqualifying payment following the death of the person’s partner, so long as the person is not receiving a pension or benefit on 1 July 2000.

Subparagraph 39(2)(c)(iii) provides for other exceptions to be prescribed in the Regulations. This will allow exceptions, if necessary, to avoid hardship should such cases come to light.

Having qualified as a self-funded retiree, a person will qualify for the second component of the bonus if he or she is entitled to the first component of the bonus for either, or both, the 1998-1999 or 1999-2000 tax years and has adjusted savings and investment income for the relevant year, or years, of more than $1,000.

**Division 4 – Determination of proper claim**

Division 4 requires the Commissioner to determine whether or not a person is entitled to a bonus and to provide notice of his determination to the claimant.

A notice must contain certain information, including how a bonus was worked out or, where a person’s claim is not granted, the reasons for not granting the claim. This information will allow a claimant to seek a review of the Commissioner’s determination where the claimant disagrees with the Commissioner’s decision.

**Section 40 - Commissioner to determine proper claim**

Section 40 provides for the Commissioner to determine a claim received from an ATO client.

**Section 41 - Grant of proper claim**

Section 41 provides that the Commissioner must grant the claim if he or she is satisfied that the ATO client qualifies for a bonus payment subsection 41(1) and must provide a written notice to the ATO client of that determination, including how the bonus payment was worked out subsection 41(2).

**Section 42 - Refusal of proper claim**

Section 42 provides that if the Commissioner determines that an ATO client’s claim is not to be granted the Commissioner must give written notice of the determination to the ATO client, stating the reasons and advising the ATO client of the right to object to the determination.
Division 5 – Amount of bonus payment etc

Section 43 - Amount of bonus payment

As explained in the notes on Division 3 there are two possible components of a bonus, i.e., the aged persons savings bonus component and the self-funded retirees supplementary bonus component. To be eligible for the second component you have to be eligible for the first component.

A person may qualify for a bonus in either the 1998-1999 or 1999-2000 tax years or both. Where someone qualifies in both years subsection 43(2) provides for the higher bonus to be paid.

The amount of the aged persons savings bonus component is worked out using a table in subsection 43(4). For a person whose taxable income is $20,000 or less in the relevant year the amount of this component is the amount of the person’s adjusted savings and investment income to a maximum of $1,000. If a person’s income is more than $20,000 but less than $30,000 the component is the amount of the person’s adjusted savings and investment income (up to $1,000), reduced for every dollar of taxable income over $20,000. The reduction is worked out by multiplying the adjusted savings and investment income by the fraction:

\[
\frac{\text{ATO client’s taxable income} - $20,000}{\text{$10,000}}
\]

For instance, if a person had adjusted savings and investment income of $500 and a taxable income of $23,000 the reduction would be:

\[
\frac{$23,000-$20,000}{\text{$10,000}} = \frac{3}{10} \text{ of } $500 = $150 \text{ reduction. The bonus payable would be } $350.
\]

The amount of the self-funded retirees supplementary bonus component is worked out using a table in subsection 43(5). For someone whose taxable income is $20,000 or less this component is the amount of the person’s adjusted savings and investment income exceeding $1,000, up to a maximum of $2,000. This means the maximum bonus from adding together both components is $3,000.

As with the aged persons savings bonus component, the amount of the potential self-funded retirees supplementary bonus component is reduced for people whose taxable income exceeds $20,000. The reduction is worked out in a similar way as for reductions under the table in subsection 43(4).

Where a bonus payment is less than $1 it will be rounded up to $1.

Section 44 - Making of bonus payment

Section 44 provides for payment of a person’s bonus.
Division 6 – Review of determinations

Division 6 deals with the circumstances in which a determination of a claim for a bonus can be reviewed. A determination could be one that decides the amount of the bonus payable (section 41 – see notes on that section) or that decides that no bonus is payable (section 42).

Section 45 - Review after an amendment of assessment

One of the circumstances where a determination for a particular year could be reviewed is where the Commissioner amends the person’s income tax assessment for the year after having made a determination about a bonus. This is because a person’s bonus entitlement for a year depends in part on the amount of taxable income for the year. For instance, no bonus is payable to someone whose taxable income is $30,000 or more. If an amendment of taxable income increased taxable income over this threshold, or reduced taxable income below the threshold, it would have an effect on the correct amount of bonus as well. Subsection 45(1) requires the Commissioner, in such a case, to redetermine the correct amount of bonus.

Subsection 45(2) then establishes when a redetermination will actually lead to a variation to the original bonus decision, either upwards or downwards. The rules governing when a variation of bonus will be made are linked to the general review period for decisions on entitlement to a bonus. The period in which someone will be able to seek a review of the Commissioner’s decision to grant or not grant a bonus will be 13 weeks (see notes on section 47). Consistent with this, a variation to a bonus will generally only be made where something happens in that 13 week period to bring to notice that the Commissioner’s decision was incorrect. The 13 week review period to a bonus for ATO clients is consistent with the rules for variations of bonuses for Veterans’ Affairs customers and DFaCS customers. An exception to the general 13 week restriction on variations will be where the amendment of the income tax assessment would result in a smaller bonus. In that case the Commissioner will be required to redetermine the amount of bonus and raise a debt for the amount of the overpayment. Variations will be made where:

- the Commissioner amended the relevant income tax assessment within 13 weeks after giving notice of the bonus determination; or

- the Commissioner amended the assessment after the 13 week period, but because the person applied for an amendment of the assessment within that period; or

- the Commissioner amended the assessment after the 13 week period and, as a result of the amendment, the person would be entitled to a smaller bonus or no bonus at all.

Where these circumstances apply and the Commissioner had previously determined that the ATO client was entitled to a bonus, the Commissioner must vary the original determination to reflect the correct entitlement. Where a claim was made for a bonus for both the 1998-1999 and 1999-2000 years this means the Commissioner must re-examine both claims. This is because the Commissioner would previously have paid the ATO client the higher of the 2 bonuses claimed. A change to the person’s taxable income for either year may have an effect on which bonus is higher.
After redetermining the correct bonus, the Commissioner must either make an extra payment to the ATO client, where the bonus previously paid was smaller, or raise a debt, where there was an overpayment.

If the Commissioner originally determined that a bonus was payable but the redetermination shows that none is payable, the Commissioner must revoke the original decision. He must then issue a notice that no bonus is payable, with an explanation of the reasons paragraph 45(2)(e).

If the Commissioner originally determined that no bonus was payable but the redetermination shows that the ATO client is entitled to a bonus, the Commissioner must revoke the original determination. The Commissioner must then make a determination under section 41 of the amount of the bonus paragraph 45(2)(f).

Where the amount of a bonus is varied the Commissioner must give the ATO client affected a notice explaining the reasons for the variation.

**Section 46 - Commissioner may initiate review in other circumstances**

Another circumstance that may lead to a review of a determination is where the Commissioner discovers that a bonus was overpaid for some reason. This could occur, for instance, if an ATO client advises the Commissioner that an error was made in a claim. In such a case the Commissioner must redetermine the correct amount of the bonus and notify the ATO client, stating the reasons for varying the determination (section 46).

**Section 47 - ATO client may initiate review under the Taxation Administration Act**

The third circumstance where a review of a bonus determination may be initiated is where an ATO client disagrees with the Commissioner’s determination (under sections 41 or 42), or with the Commissioner’s decision (under sections 45 or 46) to vary an earlier decision.

In such a case an ATO client may object against the decision in the same way an objection can be lodged against other decisions of the Commissioner, under the provisions of Part IVC of the *Taxation Administration Act 1953* subsection 47(1).

One difference to the normal objection rules is that the period for lodging an objection will be 13 weeks, rather than the periods usually used for taxation objections subsection 47(2). This is consistent with the review period for Veterans’ Affairs customers and DFaCS customers. It also reflects the fact that a determination about a bonus is not linked directly to the income tax assessment process.

Finally, the Commissioner must notify a person of any determination variation affecting an entitlement to a bonus.

**Section 48 - Determinations not to be varied or revoked other than in accordance with this Division**

The Commissioner may only vary a determination following a review as allowed for under sections 45 or 46, or to give effect to an objection decision in respect of an objection lodged under section 47.
Division 7 – When and how payments can be recovered

Division 7 sets out how overpayments of bonuses can be recovered by the Commissioner, where necessary.

Section 49 - Recovery of payments

Under the bonus payment arrangement the following amounts may be recoverable as debts owing to the Commonwealth:

- a payment made to an ATO client to which the client was not entitled. This includes an amount owing due to any variation or revocation made by the Commissioner; and
- interest imposed on outstanding amounts under section 50. subsection 49(1)

Where an amount is recoverable in relation to a bonus payment, including interest, the amount is recoverable from an individual or the individual’s estate. subsection 49(2)

The above amounts are recoverable debts even though a person has been convicted of an offence relating to the payment. subsection 49(3)

Section 50 - Interests on amounts recoverable

Section 50 allows for interest to be imposed for late payment of debts raised under section 49.

Effectively, an ATO client will have a period of 3 months to either repay an overpayment or enter into an arrangement with the Commissioner to repay a debt. The Commissioner will have the power to extend the 3 month period, where appropriate.

Where no arrangement is made with the Commissioner and a debt remains unpaid at the end of 3 months, interest will accrue from then. If an arrangement has been made with the Commissioner for repayment of a debt, but a person defaults on payment required under the arrangement, interest will become payable on the unpaid debt from the date of default.

The rate of interest payable will be 8%, unless a different rate is prescribed in the regulations made for the purposes of this legislation.

Even though the Commissioner is authorised to impose interest, a court may order that interest is taken to be payable from a date later than the date specified under subsection 50(1) as the date from which interest will accrue. subsection 50(4)

Section 51 - Write off, waiver and payment by instalments

The Commissioner may, on behalf of the Commonwealth, make a written determination:

- writing off an amount that a client owes to the Commonwealth under the scheme;
- waiving the right of the Commonwealth to recover from an individual the whole or part of an amount that the person owes to the Commonwealth under the scheme; or
- allowing an individual to pay an amount owed to the Commonwealth under the scheme by instalments. subsection 51(1)
The determination is to take effect:
- on the day specified in the determination, being the day on which it is made or on any earlier or later day; or
- if no day is specified – on the day the determination is made. subsection 51(2)

If a determination referred to above is made in relation to the individual, the Commissioner must cause notice of the determination to be served on the person. subsection 51(3)

A decision by the Commissioner not to make a determination is reviewable by the Administrative Appeals Tribunal. subsection 51(4)

**Division 8 - Miscellaneous**

**Section 52 - General administration of Part**

Section 52 provides that the Commissioner of Taxation is responsible for the administration of Part 4.

**Section 53 - Use etc. of information relating to another person**

Section 53 protects ATO clients from misuse of information they provide in a claim for a bonus. Under section 53 a person is guilty of an offence if:

- the person uses, makes a record of or discloses or communicates to any person any information that relates to the affairs of another person and that was acquired by the performance of a function or obligation, or in the exercise of a power under this Part; and

- the use, making of the record, disclosure or communication was not carried out in the performance of a function or obligation, or the exercise of a power under this Part.

The maximum penalty is 2 years imprisonment.

Chapter 2 of the Criminal Code applies to the offence under subsection 53(1).

**Section 54 - False or misleading information etc**

No special rules are used for dealing with false or misleading statements in relation to a claim for a bonus. Instead section 54 will ensure that the ordinary rules dealing with false or misleading statements made to ATO officers will apply. These are contained in the *Taxation Administration Act 1953.*
Part 5 – Other Matters

Section 55 - Bonus payment not income under Social Security Act or Veterans’ Entitlements Act

Section 55 provides that a bonus payment to a Family and Community Services customer or a Veterans’ Affairs customer is not taken to be income for the purposes of the Social Security Act 1991 or the Veteran’s Entitlements Act 1986.

Section 56 - Appropriation

Section 56 provides that the Consolidated Revenue Fund is appropriated for the purpose of making payments under the new scheme.

Section 57 - Regulations

Section 57 provides that the Governor-General may make regulations prescribing matters which are required or permitted by this Bill to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Bill.