

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 31

TUESDAY, 13 NOVEMBER 1990

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- 1 The House met, at 2 p.m., pursuant to adjournment. Mr Speaker (the Honourable Leo McLeay) took the Chair, and read Prayers.
 - 2 **QUESTIONS:** Questions without notice were asked.
 - 3 **AUDITOR-GENERAL'S REPORT—PUBLICATION OF PAPER:** Mr Speaker presented the following paper:

Audit Act—Auditor-General—Audit report No. 11 of 1990-91—
Department of Community Services and Health: National AIDS Program.

Mr Beazley (Leader of the House), by leave, moved—That:

 - (1) this House, in accordance with the provisions of the *Parliamentary Papers Act 1908*, authorises the publication of the Auditor-General's audit report No. 11 of 1990-91; and
 - (2) the report be printed.

Question—put and passed.
 - 4 **PAPERS:** The following papers were presented:

Aboriginal deaths in custody—Royal Commission—Report of inquiry into the death of—

An aboriginal man on 25 February 1983 at Sir Charles Gairdner Hospital.
Bobby Bates.
Donald Harris.
Steven Glenn Michael.
Kim Polak.
Ronald Mack Ugle.
Misel Waigana.

Australian Science and Technology Council Act—Australian Science and Technology Council—Report and financial statements, including the Auditor-General's Report, for 1989-90.

Drought Policy Review Task Force—Report—Paper by the Minister for Primary Industries and Energy.

Industry, Science and Technology—Standing Committee—Report—Small business in Australia: challenges, problems and opportunities—Government response, dated November 1990.

Pipeline Authority Act—Pipeline Authority—17th Report and financial statements, including the Auditor-General's Report, for 1989-90.
 - 5 **ABORIGINAL DEATHS IN CUSTODY—ROYAL COMMISSION—REPORTS—PUBLICATION OF PAPERS:** Mr Beazley (Leader of the House), by leave, moved—That this House, in accordance with the provisions of the *Parliamentary Papers Act 1908*, authorises the publication of the reports

of the Royal Commission into Aboriginal Deaths in Custody of the inquiries into the deaths of—

An aboriginal man on 25 February 1983 at Sir Charles Gairdner Hospital.

Bobby Bates.

Donald Harris.

Steven Glenn Michael.

Kim Polak.

Ronald Mack Ugle.

Misel Waigana.

Question—put and passed.

- 6 **DROUGHT POLICY REVIEW TASK FORCE—PAPER—MOTION TO TAKE NOTE OF PAPER:** Mr Beazley (Leader of the House) moved—That the House take note of the following paper:

Drought Policy Review Task Force—Report—Paper by the Minister for Primary Industries and Energy.

Debate adjourned (Mr Fife), and the resumption of the debate made an order of the day for the next sitting.

- 7 **INDUSTRY, SCIENCE AND TECHNOLOGY—STANDING COMMITTEE—REPORT ON SMALL BUSINESS IN AUSTRALIA—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF PAPER:** Mr Beazley (Leader of the House) moved—That the House take note of the following paper:

Industry, Science and Technology—Standing Committee—Report—Small business in Australia: challenges, problems and opportunities—Government response, dated November 1990.

Debate adjourned (Mr Fife), and the resumption of the debate made an order of the day for the next sitting.

- 8 **PIPELINE AUTHORITY—REPORT—MOTION TO TAKE NOTE OF PAPER:** Mr Beazley (Leader of the House) moved—That the House take note of the following paper:

Pipeline Authority Act—Pipeline Authority—17th Report and financial statements, including the Auditor-General's Report, for 1989-90.

Debate adjourned (Mr Fife), and the resumption of the debate made an order of the day for the next sitting.

- 9 **DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—SMALL BUSINESS AND HOUSING:** The House was informed that Mr Prosser had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The failure of the Government to change economic policy in the light of the collapse of the small business and housing sectors".

The proposed discussion having received the necessary support—

Mr Prosser addressed the House.

Discussion ensued.

Discussion concluded.

- 10 **LONG TERM STRATEGIES—STANDING COMMITTEE:** The House was informed that the Government Whip had nominated Mr A. A. Morris to be a member of the Standing Committee for Long Term Strategies in place of Mr O'Neil.

- 11 **FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE:** The House was informed that the Opposition Whip had nominated Mr Somlyay to be a member of the Standing Committee on Finance and Public Administration for the purpose of the inquiry into the Australian banking industry.

- 12 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REPORT—STATEMENT BY MEMBER:** Mr Hollis (Chairman) presented the following report:

Public Works—Parliamentary Standing Committee—Report relating to the refurbishment of Head Office, Reserve Bank of Australia, Martin Place, Sydney (8th report of 1990).

Ordered to be printed.

Mr Hollis, by leave, made a statement in connection with the report.

- 13 AUSTRALIAN CAPITAL TERRITORY (PLANNING AND LAND MANAGEMENT) AMENDMENT BILL 1990:** Mr Simmons (Minister for the Arts, Tourism and Territories), pursuant to notice, presented a Bill for an Act to amend the *Australian Capital Territory (Planning and Land Management) Act 1988*.

Bill read a first time.

Mr Simmons moved—That the Bill be now read a second time.

Paper: Mr Simmons presented an explanatory memorandum to the Bill.

Debate adjourned (Mr Costello), and the resumption of the debate made an order of the day for the next sitting.

- 14 CUSTOMS AND EXCISE LEGISLATION AMENDMENT BILL 1990:** Mr Humphreys (Minister for Veterans' Affairs), for Mr Beddall (Minister for Small Business and Customs), pursuant to notice, presented a Bill for an Act to amend legislation relating to Customs and Excise, and for related purposes.

Bill read a first time.

Mr Humphreys moved—That the Bill be now read a second time.

Paper: Mr Humphreys presented an explanatory memorandum to the Bill.

Debate adjourned (Mr Jull), and the resumption of the debate made an order of the day for the next sitting.

- 15 CHILD SUPPORT LEGISLATION AMENDMENT BILL 1990:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

Limitation of debate: At 4.20 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.

- 16 SOCIAL SECURITY LEGISLATION AMENDMENT BILL 1990:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

Limitation of debate: At 6.20 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the second reading had expired—

Question—put and passed—Bill read a second time.

Messages from the Governor-General: The following messages from His Excellency the Governor-General were announced:

No. 56, dated 18 October 1990, recommending an appropriation of revenue for the purposes of the Bill; and

No. 57, dated 6 November 1990, recommending an appropriation of revenue for the purposes of amendments and new clauses to be moved to the Bill by a Minister.

The House resolved itself into a committee of the whole.

In the committee

Clauses 1 to 8, by leave, taken together.

On the motion of Mr Staples (Minister for Aged, Family and Health Services), by leave, the following amendments were made together:

Clause 4, page 2, after subclause (4) insert the following subclause:

“(4A) The subsections of the Principal Act omitted by sections 22A and 48 are taken never to have applied.

Commencement: 20 March 1991”.

Clause 5—

Page 5, paragraph (r), line 29, omit “definition”, substitute “definitions”.

Page 5, paragraph (r), before the proposed definition of “financial institution” insert the following definition:

“‘**employment declaration**’ has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*;”.

Page 5, paragraph (r), after the proposed definition of “financial institution” insert the following definition:

“‘**tax file number**’ has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*;”.

Clause 8, page 7, lines 40-43, and page 8, line 1, omit the clause, substitute the following clause:

Income from loans

“8. Section 4C of the Principal Act is amended:

(a) by inserting in subsection (1) the following definition:

‘“**entry contribution**” has the same meaning as in section 4B;’;

(b) by omitting subsection (3) and substituting the following subsection:

‘(3) For the purposes of this section, there is no loan by a person:

(a) because the person has money in an account with a financial institution; or

(b) because of any entry contribution of the person.’;

(c) by inserting after subsection (6) the following subsection:

‘(6A) The Minister may, by notice in writing, determine that this section does not apply to specified loans or a specified class of loans.’.

Commencement: 22 August 1990”.

Clauses, as amended, agreed to.

Clause 9—

Mr Braithwaite moved the following amendment: Page 8, after proposed subsection 4D (2) insert the following subsection:

“(2A) The references in subsections (1) and (2) to \$2,000 are, in the case of a married person, to be read as references to \$1,500.”.

Amendment negatived.

Clause agreed to.

Clauses 10 to 22, by leave, taken together, and agreed to.

New clause—

On the motion of Mr Staples, the following new clause was inserted in the Bill:

Indexation of certain rates

“22A. Section 34 of the Principal Act is amended by omitting subsections (5E), (5F), (5G) and (5H).

Commencement: 20 March 1991”.

Clauses 23 to 39, by leave, taken together.

On the motion of Mr Staples, by leave, the following amendments were made together:

Clause 33, page 20, lines 16-19, omit the clause.

Clause 35, page 20, lines 25 to 36 (inclusive), omit the clause.

Clauses, as amended, agreed to.

Clause 40—

Mr Staples moved the following amendment: Page 22, proposed subsection 84A (1), line 5, omit “\$300,000”, substitute “\$500,000”.

Debate continued.

Limitation of debate: At 6.25 p.m., the Deputy Chairman having called the attention of the committee to the fact that the time allotted for the committee stage had expired—

Question—That the amendment be agreed to—put.

The committee divided (the Deputy Chairman, Mr Jenkins, in the Chair)—

AYES, 66

Mr Baldwin	Mr Elliott	Mr Johns	Mr O’Neil
Mr Beazley	Ms Fatin	Mr Keating	Mr Price
Mr Beddall	Mr Ferguson	Mrs Kelly	Mr Punch
Mr Bilney	Mr Fitzgibbon	Mr Kerin	Mr Scholes
Mr Brereton	Mr Free	Mr Kerr	Mr J. L. Scott
Mr R. J. Brown	Mr Gayler	Mr Langmore	Mr L. J. Scott
Mr Campbell	Mr Gear*	Mr Lavarch	Mr Snow
Dr Catley	Mr Gibson	Mr Lee	Mr Staples
Dr Charlesworth	Mr Grace*	Mr Lindsay	Dr Theophanous
Mr Courtice	Mr Griffiths	Ms McHugh	Mr Tickner
Ms Crawford	Mr Hand	Mr Mack	Mr Walker
Mrs Crosio	Mr Holding	Mr Martin	Mr West
Mrs Darling	Mr Hollis	Mr Melham	Mr Willis
Mr Dawkins	Mr Howe	Mr A. A. Morris	Mr H. F. Woods
Mr Dubois	Mr Hulls	Mr P. F. Morris	Mr Wright
Mr Duffy	Mr Humphreys	Mr Newell	
Mr R. F. Edwards	Mrs Jakobsen	Mr O’Keefe	

NOES, 62

Mr Aldred	Mr Cowan	Dr Kemp	Mr B. C. Scott
Mr Anderson	Mr Dobie	Mr Lloyd	Mr Shack
Mr Andrew*	Mr Downer	Mr McArthur	Mr Sharp
Mr Atkinson	Dr H. R. Edwards	Mr McGauran	Mr Sinclair
Mrs Bailey	Mr Fife	Mr MacKellar	Mr Smith
Mr Beale	Mr Filing	Mr Miles	Mr Somlyay
Mr Bradford	Mr T. A. Fischer	Mr Moore	Mrs Sullivan
Mr Braithwaite	Mr P. S. Fisher	Mr Nehl	Mr Taylor
Mr Broadbent	Mr Ford	Mr Peacock	Mr Truss
Mr N. A. Brown	Mrs Gallus	Mr Prosser	Mr Tuckey
Mr Cadman	Mr Hall	Mr Reid	Mr Webster
Mr Cameron	Mr Halverson	Mr Reith	Mr Wilson
Mr Carlton	Mr Hawker	Mr Riggall	Dr R. L. Woods
Mr Charles	Mr Hicks*	Mr Rocher	Dr Wooldridge
Mr Cobb	Mr Howard	Mr Ronaldson	
Mr Costello	Mr Jull	Mr Ruddock	

* Tellers

And so it was resolved in the affirmative.

Question—That the clause, as amended, be agreed to—put.

The committee divided (the Deputy Chairman, Mr Jenkins, in the Chair)—

AYES, 66

Mr Baldwin	Mr Elliott	Mr Johns	Mr O'Neil
Mr Beazley	Ms Fatin	Mr Keating	Mr Price
Mr Beddall	Mr Ferguson	Mrs Kelly	Mr Punch
Mr Bilney	Mr Fitzgibbon	Mr Kerin	Mr Scholes
Mr Brereton	Mr Free	Mr Kerr	Mr J. L. Scott
Mr R. J. Brown	Mr Gayler	Mr Langmore	Mr L. J. Scott
Mr Campbell	Mr Gear*	Mr Lavarch	Mr Snow
Dr Catley	Mr Gibson	Mr Lee	Mr Staples
Dr Charlesworth	Mr Grace*	Mr Lindsay	Dr Theophanous
Mr Courtice	Mr Griffiths	Ms McHugh	Mr Tickner
Ms Crawford	Mr Hand	Mr Mack	Mr Walker
Mrs Crosio	Mr Holding	Mr Martin	Mr West
Mr Darling	Mr Hollis	Mr Melham	Mr Willis
Mr Dawkins	Mr Howe	Mr A. A. Morris	Mr H. F. Woods
Mr Dubois	Mr Hulls	Mr P. F. Morris	Mr Wright
Mr Duffy	Mr Humphreys	Mr Newell	
Mr R. F. Edwards	Mrs Jakobsen	Mr O'Keefe	

NOES, 62

Mr Aldred	Mr Cowan	Dr Kemp	Mr B. C. Scott
Mr Anderson	Mr Dobie	Mr Lloyd	Mr Shack
Mr Andrew*	Mr Downer	Mr McArthur	Mr Sharp
Mr Atkinson	Dr H. R. Edwards	Mr McGauran	Mr Sinclair
Mrs Bailey	Mr Fife	Mr MacKellar	Mr Smith
Mr Beale	Mr Filing	Mr Miles	Mr Somlyay
Mr Bradford	Mr T. A. Fischer	Mr Moore	Mrs Sullivan
Mr Braithwaite	Mr P. S. Fisher	Mr Nehl	Mr Taylor
Mr Broadbent	Mr Ford	Mr Peacock	Mr Truss
Mr N. A. Brown	Mrs Gallus	Mr Prosser	Mr Tuckey
Mr Cadman	Mr Hall	Mr Reid	Mr Webster
Mr Cameron	Mr Halverson	Mr Reith	Mr Wilson
Mr Carlton	Mr Hawker	Mr Riggall	Dr R. L. Woods
Mr Charles	Mr Hicks*	Mr Rocher	Dr Wooldridge
Mr Cobb	Mr Howard	Mr Ronaldson	
Mr Costello	Mr Jull	Mr Ruddock	

* Tellers

And so it was resolved in the affirmative.

Further question—That the remainder of the Bill and the remaining amendments and new clauses circulated by the Government be agreed to, and that the Bill be reported with amendments—put and passed.

The remaining amendments circulated by the Government were accordingly made in the Bill, and are as follows:

Amendments—

Clause 48, page 26, lines 33 to 40, and page 27, lines 1 and 2, omit the clause, substitute the following clause:

Entitlement to unemployment or sickness benefits etc.

“48. Section 119 of the Principal Act is amended by omitting subsections (5E) to (5M) (inclusive).

Commencement: 20 March 1991”.

Clause 55, page 30, line 20, omit “or”, substitute “and”.

New clause—

Page 35, after clause 61 insert the following new clause:

Heading to Part XVIA

“61A. The heading to Part XVIA is amended by inserting ‘**AND ALLOWANCE**’ after ‘**SUPPLEMENT**’.

Commencement: 1 November 1990”.

Amendments—

Clause 62—

Page 36, line 6, omit paragraph (c).

Page 36, after paragraph (d) insert the following paragraphs:

“(e) by omitting the definition of ‘**disqualified advance pensioner**’;

- (f) by inserting the following definitions:
- ‘**“allowance pensioner”** means a person who:
- (a) is in receipt of:
 - (i) an age pension; or
 - (ii) an invalid pension; or
 - (iii) a carer’s pension; or
 - (iv) a class B widow’s pension; or
 - (v) a wife’s pension; or
 - (vi) a sole parent’s pension; or
 - (vii) a widowed person’s allowance; or
 - (viii) a sheltered employment allowance; or
 - (ix) a rehabilitation allowance; or
 - (x) a sickness benefit; or
 - (xi) a job search allowance; and
 - (b) is not a prescribed person within the meaning of section 251A;
- and includes a special allowance pensioner;
- “pharmaceutical allowance”** means the allowance payable under section 151HA;
- “special allowance pensioner”** means a person who:
- (a) is in receipt of an unemployment benefit or a special benefit; and
 - (b) is over 60 years of age; and
 - (c) has been in receipt of:
 - (i) any pension or benefit under this Act; or
 - (ii) a service pension under the *Veterans’ Entitlements Act 1986*;
 continuously for at least 6 months; and
 - (d) is not a prescribed person within the meaning of section 251A;’.

Clause 63, page 36, after proposed subsection 151AB (2) insert the following subsection:

- “(3) Notwithstanding any other provision of this Part, a person is not qualified to receive a pharmaceutical allowance on a pay-day on which he or she:
- (a) is not an Australian resident; or
 - (b) is absent from Australia.”.

New clause—

Page 36, after clause 63 insert the following new clause:

“63A. After section 151H of the Principal Act the following sections are inserted:

Qualifications for pharmaceutical allowance

‘151HA. Subject to sections 151HB, 151K and 151L, an allowance pensioner is qualified to receive a pharmaceutical allowance.

Pharmaceutical allowance only payable after supplement period

‘151HB. Persons are only qualified to receive pharmaceutical allowances after the supplement period.

Rate of pharmaceutical allowance

‘151HC. (1) The rate of pharmaceutical allowance for an unmarried person is \$2.50 per week.

(2) Subject to subsection (3), the rate of pharmaceutical allowance for a married person is \$1.25 per week.

(3) Where paragraph 33 (1) (a) or subsection 33 (2) or 118 (1B) applies to a married person, the rate of pharmaceutical allowance payable to the person is \$2.50 per week.

Payment of pharmaceutical allowance

'151HD. A person's pharmaceutical allowance is payable on each day after the supplement period on which a pension, allowance or benefit because of which the person is an allowance pensioner is paid to or in respect of the person and on which the person is qualified for the allowance.'

Commencement: 1 November 1990".

Amendments—

Clause 65—

Page 37, lines 4 and 5, omit paragraph (a), substitute the following paragraph:

"(a) by omitting subsection (1) and substituting the following subsection:

'151K. (1) If an advance pensioner A has received at least one advance pharmaceutical supplement under section 151G, then pharmaceutical allowance is not payable to the pensioner during the pensioner's advance payment period.'

Page 37, line 6, after "November" insert "1990".

Page 37, line 8, after "March" insert "1991".

Clause 66, page 37, lines 10 to 15 (inclusive), omit the clause, substitute the following clause:

Pharmaceutical allowance not payable to advance pensioners B during advance payment period

"66. Section 151L of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

'151L. (1) If an advance pensioner B has received at least one pharmaceutical supplement under section 151H, then pharmaceutical allowance is not payable to the pensioner during the pensioner's advance payment period.'

Commencement: 1 November 1990".

Clause 67, page 37, lines 16-19, omit the clause, substitute the following clause:

Maximum benefit

"67. Section 151N of the Principal Act is amended:

(a) by omitting paragraph (1) (b) and substituting:

'(b) pharmaceutical allowances;';

(b) by omitting paragraph (2) (c) and substituting the following paragraph:

'(c) pharmaceutical allowances;';

(c) by omitting from paragraph (2) (e) '2-½' and substituting '2.5'.

Commencement: 1 November 1990".

New clauses—

Page 46, after clause 81 insert the following new clauses in Part 2:

Schedule 1

"81A. Schedule 1 to the Principal Act is repealed and the Schedule set out in Schedule 1 to this Act is substituted.

Commencement: Day of Royal Assent

New Schedule 6

"81B. The Principal Act is amended by adding at the end the Schedule set out in Schedule 2 to this Act.

Commencement: Day of Royal Assent".

Amendments—

Clause 86—

Page 48, proposed paragraph 17B (1) (b), line 1, omit "28", substitute "60".

Page 48, proposed section 17B, after proposed subsection (2) insert the following subsection:

“(3) In this section, “employment declaration” and “tax file number” have the same meanings as in Part VA of the *Income Tax Assessment Act 1936*.”.

New schedules—

Page 51, after Part 8 insert the following Schedules:

“ SCHEDULE 1 Section 81A

New Schedule 1

‘ SCHEDULE 1 Section 65

AGREEMENT

ON SOCIAL SECURITY BETWEEN THE GOVERNMENT OF AUSTRALIA

AND

THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland,

Wishing to strengthen the existing friendly relations between the two countries;

Having established reciprocity in the field of social security by means of an Agreement signed by the Parties at Canberra on 29 January 1958, which was amended by a further Agreement signed at Canberra on 16 August 1962 and by other Agreements set out in Exchanges of Notes at Canberra on 6 March 1975 and at London on 29 and 31 December 1986;

Wishing to consolidate the above Agreements and their extensions and modifications into a single document; and

Wishing to extend and modify the scope of that reciprocity and to take account of changes in their legislation;

Have agreed as follows:

PART I

GENERAL PROVISIONS

ARTICLE 1

DEFINITIONS

- (1) For the purpose of this Agreement, unless the context otherwise requires: “benefit” means pension, allowance or benefit payable under the legislation of one (or the other) Party and includes any increase payable for a dependant; “competent authority” means, in relation to the territory of the United Kingdom, the Secretary of State for Social Security for Great Britain, the Department of Health and Social Services for Northern Ireland, the Department of Health and Social Security of the Isle of Man, the Social Security Committee of the States of the Island of Jersey or the States of Guernsey Insurance Authority, as the case may require, and, in relation to Australia the Secretary to the Department of Social Security; “competent institution” means the institution from which the person concerned is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Party where that institution is situated;

“contribution”, in relation to the legislation of the United Kingdom, does not include a reduced rate contribution payable by a married woman or a widow, or a graduated contribution within the meaning of that legislation;

“employed person” means a person who, in the applicable legislation, comes within the definition of an employed earner or of an employed person or is treated as such and the words “person is employed” shall be construed accordingly;

“employment” means employment as an employed person and the words “employ”, “employed” or “employer” shall be construed accordingly;

“equivalent period” means, in relation to the United Kingdom, a period for which contributions appropriate to the benefit in question have been credited under the legislation of that Party;

“family allowance”, in relation to the United Kingdom, includes child benefit payable under the legislation of the United Kingdom, and, in relation to Australia means family allowance payable under the legislation of Australia;

“former Agreement” means the Agreement on Social Security signed at Canberra on 29 January 1958, on behalf of the Parties, as amended by the Agreement on Social Security signed at Canberra on 16 August 1962 and by the Agreements set out in the Exchanges of Notes at Canberra on 6 March 1975 and at London on 29 and 31 December 1986;

“full standard rate” means, in relation to any benefit payable under the legislation of the United Kingdom, the rate at which the beneficiary would be qualified to receive that benefit if the relevant contribution conditions were fully satisfied;

“gainfully occupied” means employed or self-employed;

“Guernsey” means the Islands of Guernsey, Alderney, Herm and Jethou;

“income support” means income support payable under the legislation of Great Britain and Northern Ireland and supplementary benefit payable under the legislation of the Isle of Man;

“legislation” means the legislation specified in Article 2 which, in relation to the United Kingdom, is in force in any part of the territory of the United Kingdom and, in relation to Australia, is in force in Australia;

“means test” means any provision of the legislation of Australia which affects the payment or rate of a benefit on account of income or property;

“qualified to receive” means, in relation to the United Kingdom, entitled to receive subject to any disqualification or any provision about claiming, hospital treatment or overlapping benefits which may be appropriate;

“retirement pension” means retirement pension or old age pension payable under the legislation of the United Kingdom and includes a contributory old age pension under that legislation and any graduated retirement benefit constituted by an increase in the weekly rate of retirement pension under that legislation, but excludes additional (earnings-related) pension payable under that legislation;

“self-employed person” means a person who, in the applicable legislation, comes within the definition of a self-employed earner or of a self-employed person or is treated as such, and the words “person is self-employed” shall be construed accordingly;

“spouse carer’s pension” means a carer’s pension payable to a husband under the legislation of Australia;

“territory” means in relation to the United Kingdom, Great Britain, Northern Ireland and also the Isle of Man, the Island of Jersey and Guernsey;

“widow” means, in relation to Australia, a *de jure* widow but does not include a woman who is the *de facto* spouse of a man;

“widow’s benefit” means, in relation to the United Kingdom, widow’s allowance, widow’s payment, widowed mother’s allowance (including any graduated retirement benefit constituted by an increase in the weekly rate of widowed mother’s allowance), widowed father’s allowance or widow’s pension under the legislation of any part of the United Kingdom.

(2) In the application by a Party of this Agreement in relation to a person, any term not defined in this Article shall, unless the context otherwise requires, have the meaning ascribed to it in the legislation of the Parties or, in the event of a conflict of meaning, by whichever of the legislation of the Parties is the more applicable to the circumstances of that person.

(3) Any reference in this Agreement to “Article” means an Article of this Agreement, and any reference to a “paragraph” is a reference to a paragraph of the Article in which the reference is made, unless it is stated to the contrary.

ARTICLE 2

SCOPE OF LEGISLATION

(1) The provisions of this Agreement shall apply:

(a) in relation to the territory of the United Kingdom, to:

- (i) the Social Security Acts 1975 to 1989 and the Social Security (Northern Ireland) Acts 1975 to 1989;
- (ii) the Social Security Acts 1975 to 1989 (Acts of Parliament) as those Acts apply to the Isle of Man by virtue of Orders made, or having effect as if made, under the Social Security Act 1982 (an Act of Tynwald);
- (iii) the Social Security (Jersey) Law, 1974;
- (iv) the Social Insurance (Guernsey) Law, 1978;
- (v) the Child Benefit Act 1975, the Child Benefit (Northern Ireland) Order 1975 and the Child Benefit Act 1975 (an Act of Parliament) as that Act applies to the Isle of Man by virtue of Orders made, or having effect as if made, under the Social Security Act 1982 (an Act of Tynwald); the Family Allowances (Jersey) Law, 1972 and the Family Allowances (Guernsey) Law, 1950;

and to the legislation which was repealed or consolidated by those Acts, Laws or Orders or repealed by legislation consolidated by them; and

(b) in relation to Australia, to the Social Security Act 1947.

(2) Subject to the provisions of paragraphs (3) and (4) this Agreement shall apply also to any laws, orders and regulations which supersede, replace, amend, supplement or consolidate the legislation specified in paragraph (1).

(3) This Agreement shall not affect any benefits payable under the legislation of either Party except in the manner set out in this Agreement.

(4) This Agreement shall not apply to legislation on social security of the Institutions of the European Communities or to any convention or agreement on social security which either Party has concluded with a third party or to any laws, orders or regulations which amend the legislation specified in paragraph (1) for the purpose of giving effect to such a convention or agreement but shall not prevent either Party from taking into account under its legislation the provisions of any other convention or agreement which that Party has concluded with a third party.

(5) Subject to the provisions of paragraph (2), this Agreement shall apply, unless the Parties agree otherwise, only to benefits described in the legislation specified in paragraph (1) at the date of coming into force of this Agreement and for which specific provision is made in this Agreement.

PART II

RETIREMENT PENSIONS, AGE PENSIONS AND BENEFITS FOR WIDOWS

ARTICLE 3

RETIREMENT PENSIONS

(1) For the purpose of determining entitlement to retirement pension under the legislation of any part of the territory of the United Kingdom, a person who is permanently resident in that part of the territory shall be treated as if he or she, or, in the case of a claim made by a married woman or a widow by virtue of her husband's insurance, her husband, had paid contributions under the legislation of that part of the territory for any period during which that person or that person's husband, as the case may be:

- (a) was resident in Australia and had attained the age of sixteen years; and
- (b) being a woman had not attained the age of sixty years, or sixty-five years in the case of Guernsey or Jersey, or being a man had not attained the age of sixty-five years.

(2) Where:

- (a) a woman claiming retirement pension by virtue of her own insurance had been, but is not at the time of the claim, married, and chooses to have her former husband's contributions taken into account for the purpose of her claim; and
- (b) her former husband had been resident in Australia for any period between the ages of sixteen years and sixty-five years;

her former husband shall be treated, for the purpose of her claim, as if he had paid contributions under the legislation of the territory of the United Kingdom for any period referred to in sub-paragraph (b).

(3) Where a person who is permanently resident in any part of the territory of the United Kingdom was receiving an age pension, otherwise than by virtue of this Agreement or the former Agreement, at the time when he or she was last in Australia, and was over pensionable age at that time, he or she shall, if not qualified by virtue of the preceding paragraphs of this Article to receive retirement pension at the full standard rate under the legislation of that part of the territory of the United Kingdom, be treated as if he or she satisfied the contribution conditions for such a pension.

(4) Any pension which is awarded by virtue of this Article shall continue to be payable if the pensioner ceases to be permanently resident in one part of the territory of the United Kingdom and becomes permanently resident in another part of the territory of the United Kingdom, and the competent authority of the latter part of the territory of the United Kingdom shall not determine entitlement under this Article.

(5) Any pension which is awarded by virtue of this Article shall cease to be payable if the pensioner ceases to be permanently resident in the territory of the United Kingdom.

(6) Where a person is entitled to receive a benefit by virtue of the provisions of this Article, the rate of benefit which he or she would otherwise be entitled to receive, but for this paragraph, shall be reduced by the amount of benefit which is payable by virtue of the legislation of Australia in accordance with the provisions of Article 8 (7).

ARTICLE 4

AGE PENSIONS

- (1) Where a person is qualified to receive an age pension under the legislation of Australia otherwise than by virtue of the provisions of this Agreement, or the former Agreement, that pension shall be payable and the provisions of this Article shall not apply under that legislation.
- (2) For the purpose of any claim by a person to receive an age pension under the legislation of Australia, that person shall be treated as an Australian resident for any period prior to that person's last arrival in Australia for which:
 - (a) that person; or
 - (b) if that person is a woman who is or has been married, her husband, paid contributions, or had earnings or contributions credited, under the legislation of the United Kingdom.
- (3) For the purpose of applying paragraph (2), any period during which the person (being a woman) and her husband both paid contributions or had earnings or contributions credited to them shall be counted only once.
- (4) For the purpose of applying paragraph (2), a period when the person or, if the person is a woman who is or has been married, her husband paid contributions or had earnings or contributions credited, which coincided with a period in which that person was an Australian resident, shall be counted only once.
- (5) A person who receives from Australia a wife's pension or a spouse carer's pension by virtue of the fact that the spouse of that person receives an age pension by virtue of this Article, shall, for the purpose of this Agreement, be deemed to receive that pension by virtue of this Agreement.

ARTICLE 5

UK BENEFITS FOR WIDOWS

- (1) For the purpose of determining entitlement to widow's benefit under the legislation of any part of the territory of the United Kingdom, a widow who is permanently resident in that part of the territory shall be treated as if her husband had paid contributions under the legislation of that part of the territory for any period during which he was resident in Australia between the ages of sixteen years and sixty-five years.
- (2) Where a widow who is permanently resident in any part of the territory of the United Kingdom was receiving a pension payable to widows under the legislation of Australia, otherwise than by virtue of this Agreement or the former Agreement, at the time when she was last in Australia, and is not qualified by virtue of paragraph (1) to receive widow's allowance, widowed mother's allowance or widow's pension at the full standard rate under the legislation of that part of the territory of the United Kingdom where she is permanently resident, she shall be qualified under that legislation to receive at the full standard rate:
 - (a) widow's allowance if she had been receiving a pension payable to widows under the legislation of Australia for less than one year in the case of Jersey and 26 weeks in the case of Guernsey; or
 - (b) widowed mother's allowance if she is not qualified to receive widow's allowance or if she has ceased to be qualified to receive widow's allowance, and if she has a child in her family or if she has residing with her a person under the age of nineteen years or sixteen years in the case of Jersey or eighteen years in the case of Guernsey, and the pension payable to widows which she was receiving at the time when she was last in Australia was being paid

to her on the basis that that child or person was her dependent child; or

- (c) widow's pension or retirement pension, as the case may require, if she is not qualified to receive widow's allowance, or widowed mother's allowance but had reached the age of fifty-five years or forty years where that widow is permanently resident in Jersey or Guernsey, either before she last left Australia or when she ceased to be qualified to receive widow's allowance or widowed mother's allowance.

(3) Any pension which is awarded by virtue of this Article shall continue to be payable if the pensioner ceases to be permanently resident in one part of the territory of the United Kingdom and becomes permanently resident in another part of the territory of the United Kingdom, and the competent authority of the latter part of the territory of the United Kingdom shall not determine entitlement under this Article.

(4) Any widow's benefit which is awarded by virtue of this Article shall cease to be payable if the widow ceases to be permanently resident in the territory of the United Kingdom.

(5) Where a person is entitled to receive a benefit by virtue of the provisions of this Article, the rate of benefit which she would otherwise be entitled to receive, but for this paragraph, shall be reduced by the amount of benefit which is payable by virtue of the legislation of Australia in accordance with the provisions of Article 8 (7).

(6) The provisions contained in this Article shall apply, in an equal and opposite way to widowed father's allowance under the legislation of Jersey.

(7) In the case of widows' benefits payable under the legislation of Jersey, contribution credits shall only be awarded to widows permanently resident in Jersey.

(8) In the case of widow's benefit payable under the legislation of Guernsey:

- (a) Class 3 contributions shall be credited only to a widow who is permanently resident in Guernsey;
- (b) where Class 3 contributions have not been credited to a widow under the provisions of sub-paragraph (a) above and the rate of old age pension which would be payable is less than the rate of widow's benefit payable immediately before pension age is attained the rate of old age pension shall be adjusted so that it is equal to the rate of widow's benefit which was payable, or which would be payable, if widow's benefit were payable beyond pension age.

ARTICLE 6

UK WIDOWED MOTHER'S ALLOWANCE—CHILD IN AUSTRALIA

Where a woman would be qualified under the legislation of the United Kingdom, otherwise than by virtue of this Agreement or the former Agreement, to receive widowed mother's allowance, including an allowance for a child, if her child were in the territory of the United Kingdom, she shall be qualified to receive that allowance for any period during which the child is in Australia.

ARTICLE 7

AUSTRALIAN BENEFITS FOR WIDOWS

(1) Where a person is qualified to receive a pension payable to widows under the legislation of Australia otherwise than by virtue of the provisions of this Agreement or the former Agreement, that pension shall be payable and the provisions of this Article shall not apply under that legislation.

(2) For the purpose of any claim to receive a pension payable to widows under the legislation of Australia, a widow shall be treated as if she had been an Australian resident during any period for which her husband (or her last husband if more than one) had paid contributions or had had earnings or contributions credited to him under the legislation of the United Kingdom.

(3) For the purpose of applying paragraph (2), any period when the widow was an Australian resident which coincided with a period when her husband (or her last husband if more than one) had paid contributions or had had earnings or contributions credited to him shall be counted only once.

ARTICLE 8

CONVERSION OF AUSTRALIAN RESIDENCE

(1) For the purpose of calculating entitlement under the legislation of Great Britain, Northern Ireland or the Isle of Man, to any benefit in accordance with Articles 3 and 5, periods of residence in Australia before 6 April 1975 shall be treated as if they had been contribution or equivalent periods completed under that legislation.

(2) For the purpose of calculating entitlement under the legislation of Great Britain, Northern Ireland or the Isle of Man, to any benefit in accordance with Articles 3 and 5, periods of residence in Australia on or after 6 April 1975 shall be treated as if a Class 3 contribution had been paid under that legislation for each week of residence.

(3) Notwithstanding the provisions of paragraph (2), where residence in Australia during any tax year beginning on or after 6 April 1975 is for a period of less than the complete tax year then for each week of that period during which a person satisfies the competent authority that he or she was employed in Australia:

(a) for each week up to 5 April 1987, a person shall be treated as having paid a contribution as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit under the legislation of Great Britain, Northern Ireland or the Isle of Man;

(b) for each week commencing on or after 6 April 1987, a person shall be treated as having earnings on which primary Class 1 contributions have been paid under the legislation of Great Britain, Northern Ireland or the Isle of Man; these earnings shall be treated as equivalent to two-thirds of that year's upper earnings limit.

(4) For the purpose of calculating entitlement under the legislation of Guernsey to any benefit in accordance with Articles 3 and 5, residence in Australia between the ages of sixteen years and sixty-five years shall be treated as if a Class 3 contribution had been paid under the legislation of Guernsey for each week of residence.

(5) For the purpose of calculating entitlement under the legislation of Jersey to any benefit in accordance with Articles 3 and 5, a person shall be treated:

(a) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years, being a week in the relevant quarter, as having paid contributions which derive a quarterly contribution factor of 0.077 for that quarter;

(b) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years, being a week in a relevant year, as having paid contributions which derive an annual contribution factor of 0.0193 for that year.

(6) Where it is not possible to determine accurately the periods of time in which certain insurance periods were completed under the legislation of the United Kingdom, such periods shall be treated as if they did not overlap with periods of residence in Australia, and they shall be taken into account to the best advantage of the beneficiary.

(7) For the purpose of calculating the rate of any benefit payable to a person under the legislation of the United Kingdom in accordance with the provisions of Articles 3, 5 or 13, the amount of any Australian benefit to be taken into account shall be initially the rate which that person is receiving at the date of entitlement to the United Kingdom benefit, and thereafter the rate which that person is receiving:

- (a) on the date on which the latest uprating order, made by the Secretary of State for Social Security under section 63 of the Social Security Act 1986, came into effect; or
- (b) in respect of Guernsey, on the date on which the latest Ordinance made under Section 19 of the Social Insurance (Guernsey) Law, 1978 came into effect; or
- (c) in respect of Jersey, annually on 1 October in accordance with Article 13 of the Social Security (Jersey) Law 1974.

(8) Notwithstanding the provisions of paragraph (7), where a person referred to in that paragraph has the rate of that Australian benefit reduced under the legislation of Australia upon being absent from Australia for 12 months, the benefit payable to that person under the legislation of the United Kingdom shall be adjusted upon that reduction occurring.

ARTICLE 9

CONVERSION OF UK EARNINGS FACTORS OR CONTRIBUTION FACTORS

In order to convert to a period of contributions or credits for the purposes of Articles 4 and 7:

- (a) the competent authority of Great Britain, Northern Ireland or the Isle of Man shall divide any earnings factor achieved in any tax year commencing after 5 April 1975 under its legislation, by that years lower earnings limit;
- (b) the competent authority of Jersey shall multiply any contribution factor achieved by a person under its legislation:
 - (i) by thirteen in the case of a quarterly contribution factor; and
 - (ii) by fifty-two in the case of an annual contribution factor.

The result shall be expressed as a whole number, any remaining fraction being ignored. The figure so calculated, subject to a maximum of the number of weeks during which the person was subject to that legislation in a quarter or in a year, shall be treated as representing the number of weeks of contributions or credits completed under that legislation.

PART III

UK FAMILY ALLOWANCE AND GUARDIAN'S ALLOWANCE

ARTICLE 10

FAMILY ALLOWANCE

(1) Where a person who has been resident in Australia becomes permanently resident in the territory of the United Kingdom, the period during which that person was resident in Australia shall be treated, for the purpose of a claim by the person for family allowance under the legislation of the United Kingdom, as a period during which that person was resident in that territory.

(2) For the purpose of any claim to family allowance under the legislation of Guernsey, a person whose place of birth is in Australia shall be treated as if his or her place of birth was in Guernsey.

(3) In the case of Jersey, family allowance shall only be paid in respect of a child who is ordinarily resident in Jersey.

ARTICLE 11

GUARDIAN'S ALLOWANCE

(1) Where a person who is permanently resident in the territory of the United Kingdom claims guardian's allowance under the legislation of any part of that territory for a child who is permanently resident there, each complete week during which either parent of that child was resident in Australia after reaching sixteen years of age shall be treated as if that week had been a complete week of residence in that part of the territory of the United Kingdom or as if that parent had been an insured person under the legislation of Guernsey.

(2) If either parent of a child referred to in paragraph (1) was born in Australia, that parent shall be treated as if he or she had been born in the United Kingdom.

PART IV

SICKNESS BENEFITS AND INVALIDITY BENEFITS

ARTICLE 12

AUSTRALIAN SICKNESS BENEFIT

Where a person who is temporarily absent from any part of the territory of the United Kingdom and who is legally in Australia claims sickness benefit under the legislation of Australia, that person shall, for the purpose of that claim, be deemed to be an Australian resident.

ARTICLE 13

UK SICKNESS BENEFIT AND INVALIDITY BENEFIT

(1) Where a person who is permanently resident in the territory of the United Kingdom and is ordinarily gainfully occupied, or would be, but for his or her incapacity for work, claims sickness or invalidity benefit under the legislation of the relevant part of that territory, then, for the purpose of calculating entitlement to those benefits, periods during which that person was in Australia shall be treated in accordance with the provisions of this Article.

(2) For the purpose of calculating entitlement under the legislation of Great Britain, Northern Ireland or the Isle of Man to sickness or invalidity benefit:

(a) periods of gainful occupation completed in Australia before 6 April 1975 shall be treated as if they had been contribution or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man; and

(b) periods completed as a self-employed person in Australia after 5 April 1975 shall be treated as if they have been contribution periods completed as a self-employed person or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man.

(3) For the purpose of calculating an earnings factor for assessing entitlement to sickness or invalidity benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man, a person shall be treated for each week beginning in a relevant tax year, during which he or she was an employed person in Australia, as follows:

(a) for each week commencing on or after 6 April 1975 and up to 5 April 1987, as having a contribution paid as an employed earner

- on earnings equivalent to two-thirds of that year's upper earnings limit; and
- (b) for each week beginning in a relevant tax year commencing on or after 6 April 1987, as having earnings on which primary Class 1 contributions have been paid. These earnings shall be treated as equivalent to two-thirds of that year's upper earnings limit.
- (4) For the purpose of calculating entitlement under the legislation of Guernsey to sickness or invalidity benefit:
- (a) periods during which a person was gainfully occupied as an employed person in Australia shall be treated as if they had been contribution or equivalent periods completed as an employed person under the legislation of Guernsey; and
- (b) periods during which a person was gainfully occupied as a self-employed person in Australia shall be treated as if they had been contribution or equivalent periods completed as a self-employed person under the legislation of Guernsey.
- (5) For the purpose of calculating entitlement under the legislation of Jersey to any benefit in accordance with this Article, a person shall be treated:
- (a) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years being a week in the relevant quarter, as having paid contributions which derive a quarterly contribution factor of 0.077 for that quarter;
- (b) for each week completed during residence in Australia between the ages of sixteen years and sixty-five years being a week in a relevant year, as having paid contributions which derive an annual contribution factor of 0.0193 for that year.
- (6) For the purpose of calculating entitlement under the legislation of the relevant part of the territory of the United Kingdom to sickness or invalidity benefit, a person shall be treated as if he or she had had earnings or contributions credited to him or her:
- (a) as an employed person for any week during which he or she was in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he or she was or would ordinarily have been employed; and
- (b) as a self-employed person for any other week during which he or she was in Australia and was incapable of work, if that week was part of a period during which he or she was or would ordinarily have been self-employed.
- (7) Where a person who is permanently resident in the territory of the United Kingdom was receiving a sickness benefit, an invalid pension, a sheltered employment allowance or a rehabilitation allowance under the legislation of Australia when he or she was last in Australia and is incapable of work at the time when he or she arrives in the territory of the United Kingdom, he or she shall be treated under the legislation of the United Kingdom as if, at that time and for so long as he or she continues from that time to be incapable of work, he or she satisfied the contribution conditions under which sickness or invalidity benefit is payable.
- (8) For the purpose of any claim to invalidity benefit under the legislation of the United Kingdom, any period in respect of which a person received sickness benefit or an invalid pension under the legislation of Australia shall be treated as if it were a period of entitlement to sickness benefit or invalidity benefit completed under the legislation of the United Kingdom.
- (9) Nothing in this Article shall diminish any right which a person has, apart from this Agreement, to receive sickness or invalidity benefit under the legislation of the United Kingdom.

(10) Where a person is entitled to receive a benefit by virtue of the provisions of this Article, the rate of benefit which he or she would otherwise be entitled to receive, but for this paragraph, shall be reduced by the amount of benefit which is payable by virtue of the legislation of Australia in accordance with the provisions of Article 8 (7).

PART V

UK UNEMPLOYMENT BENEFIT

ARTICLE 14

(1) Where a person who is permanently resident in the territory of the United Kingdom except for Jersey claims unemployment benefit under the legislation of any part of that territory, then, for the purpose of calculating entitlement to that benefit, periods during which that person was in Australia shall be treated in accordance with the provisions of this Article.

(2) Periods of gainful occupation as an employed person in Australia before 6 April 1975 shall be treated as if they had been contribution or equivalent periods completed under the legislation of Great Britain, Northern Ireland or the Isle of Man.

(3) For the purpose of calculating an earnings factor for assessing entitlement to unemployment benefit under the legislation of Great Britain, Northern Ireland or the Isle of Man, a person shall be treated for each week beginning in a relevant tax year, during which he or she was an employed person in Australia, as follows:

- (a) for each week commencing on or after 6 April 1975 and up to 5 April 1987, as having a contribution paid as an employed earner on earnings equivalent to two-thirds of that year's upper earnings limit; and
- (b) for each week beginning in a relevant tax year commencing on or after 6 April 1987, as having earnings on which primary Class 1 contributions have been paid. These earnings shall be treated as equivalent to two-thirds of that year's upper earnings limit.

(4) For the purpose of calculating entitlement to unemployment benefit under the legislation of Guernsey, periods during which a person was gainfully occupied as an employed person in Australia shall be treated as if they had been contribution or equivalent periods completed as an employed person under the legislation of Guernsey.

(5) A person shall be treated as if he or she had had earnings or contributions credited to him or her as an employed person for any week during which he or she was in Australia and was unemployed and available for work or was incapable of work, if that week was part of a period during which he or she was or would ordinarily have been gainfully occupied under a contract of service.

(6) Nothing in this Article shall diminish any right which a person has, apart from this Agreement, to receive unemployment benefit under the legislation of the United Kingdom.

(7) The provisions of this Article shall not apply to a person who claims unemployment benefit under the legislation of Guernsey and who has not paid 26 contributions as an employed person under that legislation.

PART VI

MISCELLANEOUS PROVISIONS

ARTICLE 15

TEMPORARY ABSENCES

(1) A benefit which is payable to a person by Australia under Part II of this Agreement shall not cease to be payable solely where the person is

absent from Australia and the competent authority of Australia is satisfied that the absence is temporary. After the person has been temporarily absent from Australia for a period of 12 months at any one time that person shall then be deemed to have departed permanently from Australia.

(2) Where a person, who is qualified to receive any benefit under the legislation of the United Kingdom, would be qualified to receive also an increase of that benefit for a dependant if the dependant were in that territory, he or she shall be qualified to receive that increase while the dependant is temporarily in Australia.

ARTICLE 16

CALCULATION OF AUSTRALIAN BENEFITS

(1) Subject to paragraph (5), the provisions of this Article shall apply, in relation to the territory of the United Kingdom, only to retirement pensions and widows' benefits, and, in relation to Australia only to age pensions, wives' pensions, spouse carer's pensions and pensions payable to widows, being benefits payable under the legislation of Australia solely by virtue of this Agreement; and, for the purpose of applying those provisions, the effect of any provision of the legislation of any part of the territory of the United Kingdom which concerns overlapping benefits shall be disregarded.

(2) Subject to the provisions of paragraph (3), where a person who is qualified to receive an Australian benefit also receives a United Kingdom benefit, the rate of that Australian benefit shall be set by:

- (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation the United Kingdom benefit received by that person;
- (b) deducting the amount of the United Kingdom benefit received by that person from the maximum rate of that Australian benefit; and
- (c) applying to the remaining benefit obtained under sub-paragraph (b) the relevant rate calculation set out in the legislation of Australia using as the person's income the amount calculated under sub-paragraph (a).

(3) Where a married person is, or both that person and his or her spouse are, in receipt of a United Kingdom benefit or benefits, each of them shall be deemed, for the purpose of paragraph (2) and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or the total of both of those benefits, as the case may be.

(4) If a person would receive an Australian benefit except for the operation of paragraph (2) or except for that person's failure to claim the benefit, then for the purpose of a claim by that person's spouse for a payment under the legislation of Australia that person shall be deemed to receive that benefit.

(5) The reference in paragraph (4) to a payment under the legislation of Australia to the spouse of a person is a reference to a payment of:

- (a) an age pension;
- (b) an invalid pension;
- (c) an unemployment benefit;
- (d) a sickness benefit;
- (e) a sheltered employment allowance; or
- (f) a rehabilitation allowance,

under that legislation, whether payable by virtue of this Agreement or otherwise.

(6) For the purpose of this Article "benefit" includes any additional earnings-related pension, incremental addition, invalidity allowance and age addition payable with the benefit.

ARTICLE 17

DUAL ENTITLEMENT IN AUSTRALIA

Where:

- (a) a claim is made for a benefit payable by Australia, by virtue of this Agreement; and
- (b) there are reasonable grounds for believing that the claimant may also be entitled, whether by virtue of this Agreement or otherwise, to a benefit that is payable under the legislation of the United Kingdom and that, if paid, would affect the amount of the first-mentioned benefit,

that first-mentioned benefit shall not be paid until a claim is duly lodged for payment of the second-mentioned benefit and the first-mentioned benefit shall not continue to be paid if the claim for the second-mentioned benefit is not actively pursued.

ARTICLE 18

DUAL ENTITLEMENT IN UK

Where a person is qualified to receive a benefit under the legislation of the United Kingdom pursuant to Articles 3, 5 or 13 and is also qualified to receive an Australian benefit, the rate of that Australian benefit shall be determined under the legislation of Australia but in that determination the amount of the benefit payable under the legislation of the United Kingdom shall be disregarded in the computation of that person's income.

ARTICLE 19

RECOVERY OF BENEFIT

(1) Where a benefit is payable by a Party to a person in respect of a past period (in this Article referred to as "the first benefit"), and

- (a) for all or part of that same period, the other Party has paid to that person a benefit under its legislation (in this Article referred to as "the second benefit"); and
- (b) the amount of the second benefit would have been reduced had the first benefit been paid during that period, the competent authority of the former Party, at the request of the competent authority of the latter Party, shall:
- (c) deduct from the first benefit an amount equal to the amount of the second benefit that would not have been paid had the first benefit been paid on a periodical basis throughout that past period; and
- (d) transmit any sum deducted in accordance with sub-paragraph (c) above to the competent authority of the latter Party.

Any balance shall be paid by the former Party direct to the person.

(2) Where the United Kingdom has paid a benefit to a person in respect of a past period and:

- (a) for all or part of that same period, Australia has paid to that person a benefit under its legislation; and
- (b) the amount of the benefit paid by Australia would have been reduced had the United Kingdom paid its benefit during that period, the competent authority of Australia may determine that:
- (c) the amount of its benefit which would not have been paid had the United Kingdom paid its benefit on a periodical basis throughout that period is a debt due by that person to Australia; and
- (d) the amount, or any part, of that debt may be recovered from future benefits which Australia may pay under its legislation to that person.

(3) A reference in paragraphs (1) or (2) to a payment under the legislation of a Party means a benefit payable whether by virtue of this Agreement or otherwise.

(4) Where a person has received income support under the legislation of Great Britain, Northern Ireland or the Isle of Man for a period for which that person subsequently becomes entitled to any benefit under the legislation of Australia, the competent institution of Australia, at the request of and on behalf of the competent institution of Great Britain, Northern Ireland or the Isle of Man, shall withhold from the benefit due for that period the amount by which the income support paid exceeded what would have been paid had the benefit under the legislation of Australia been paid before the amount of income support was determined, and shall transmit the amount withheld to the competent institution of Great Britain, Northern Ireland or the Isle of Man.

ARTICLE 20

MEANING OF PERMANENTLY RESIDENT

For the purpose of applying the provisions of this Agreement, a person shall be treated as permanently resident in the territory of the United Kingdom if he or she is ordinarily resident in that territory and the competent authority of that territory is satisfied that it is that person's intention to remain so resident permanently.

ARTICLE 21

GAINFUL OCCUPATION IN AUSTRALIA

For the purpose of Articles 13 and 14, a person shall be treated as having been gainfully occupied in Australia during:

- (a) any period of service, whether in Australia or elsewhere, in the Defence Force of Australia; and
- (b) any period of absence from Australia during which that person was an employee and was treated as being a resident of Australia within the meaning of any Act relating to the imposition, assessment and collection of a tax upon incomes in force in Australia.

PART VII

ADMINISTRATION

ARTICLE 22

ADMINISTRATIVE ARRANGEMENTS

The competent authorities of the United Kingdom of Great Britain and Northern Ireland and the Secretary to the Department of Social Security for the Government of Australia shall make whatever administrative arrangements are necessary from time to time in order to implement this Agreement.

ARTICLE 23

DISCLOSURE OF INFORMATION

(1) The competent authorities may supply to each other such information as is necessary for the operation of this Agreement or of the legislation of each territory to which this Agreement applies as if the matter involved the application of their own legislation.

(2) Any information received by a competent authority pursuant to paragraph (1) shall be protected in the same manner as information obtained under the legislation of that territory and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with matters, including the determination of appeals, arising under the provisions of this Agreement and of the legislation to which this Agreement applies and shall be used only for those purposes.

(3) In no case shall the provisions of paragraphs (1) and (2) be construed so as to impose on the competent authority of either Party the obligation:

- (a) to carry out administrative measures which are at variance with the laws or the administrative practice of either Party; or

- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of either Party.
- (4) The competent authorities shall notify each other of legislation that supersedes, amends, supplements or replaces the legislation within the scope of this Agreement in relation to their respective Parties, promptly after the first-mentioned legislation is enacted.
- (5) The appropriate competent authority shall also provide copies of the relevant legislation and of related explanatory material and any further amplification or clarification that the other competent authority may request.

PART VIII

TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 24

TRANSITIONAL PROVISIONS

- (1) No provision of this Agreement shall confer any right to receive any payment of a benefit for a period before the date of the entry into force of this Agreement.
- (2) Any contribution which a person has paid or earnings or contributions credited under the legislation of the United Kingdom before the date of the entry into force of this Agreement, and any period during which a person was resident in Australia before that date, shall be taken into account for the purpose of determining the right to receive a benefit in accordance with the provisions of this Agreement under the legislation of Australia and under the legislation of the United Kingdom respectively.
- (3) Subject to paragraph (4), where, on the date on which this Agreement enters into force, a person:
- (a) is in receipt of a benefit under the legislation of either Party by virtue of the former Agreement; or
 - (b) is qualified to receive a benefit referred to in sub-paragraph (a) and, where a claim for that benefit is required, has claimed that benefit,
- no provision of this Agreement shall affect the entitlement to receive that benefit.
- (4) The rate of a benefit which is payable by virtue of paragraph (3) shall, subject to this Agreement, be assessed in accordance with the provisions of the legislation of the relevant Party.

ARTICLE 25

ENTRY INTO FORCE

- (1) The Agreement shall enter into force on a date to be specified in Notes exchanged by the Parties through the Diplomatic channel notifying each other that all matters as are necessary to give effect to this Agreement have been finalised.
- (2) Subject to the provisions of Article 24, the former Agreement shall terminate on the date of entry into force of this Agreement.

ARTICLE 26

TERMINATION PROVISIONS

- (1) Subject to paragraph (2), this Agreement shall remain in force until the expiration of twelve months from the date on which either Party receives from the other written notice through the diplomatic channel of the intention of the other Party to terminate this Agreement.
- (2) In the event that this Agreement is terminated in accordance with paragraph (1), the Agreement shall continue to have effect in relation to all persons who by virtue of this Agreement:
- (a) at the date of termination, are in receipt of benefits; or

- (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed this Agreement.

Done in duplicate at London this 1st day of October 1990.

For the Government of
Australia:
Graham Richardson

For the Government of the
United Kingdom of Great
Britain and Northern
Ireland:
Caithness'.”.

“ **SCHEDULE 2** Section 81B

New Schedule 6

‘ **SCHEDULE 6** Section 65

AGREEMENT

between

AUSTRALIA

and

MALTA

ON SOCIAL SECURITY

Australia and Malta,

Wishing to strengthen the existing friendly relations between the two countries, and

Resolved to co-ordinate their social security systems;

Have agreed as follows:

PART 1

GENERAL PROVISIONS

ARTICLE 1

Interpretation

1. In this Agreement, unless the context otherwise requires:
 - “**applicable rate**” means, in relation to Malta, the rate that would otherwise have been payable to a claimant had the number of totalised contributions been all paid or credited under the legislation of Malta;
 - “**benefit**” means, in relation to a Party, a benefit for which provision is made in the legislation of that Party, and includes any additional amount, increase or supplement that is payable, in addition to that benefit, to or in respect of a person who qualifies for that additional amount, increase or supplement under the legislation of that Party;
 - “**Competent Authority**” means, in relation to Australia, the Secretary of the Department of Social Security and, in relation to Malta, the Director of Social Security;
 - “**Competent Institution**” means, in relation to Australia the Competent Authority for Australia and in relation to Malta, the Competent Authority for Malta;
 - “**legislation**” means, in relation to a Party, the laws specified in Article 2 in relation to that Party;
 - “**period of insurance**” means, the period of contributions or any equivalent period which has been or can be used to acquire the right

- to a benefit under the legislation of Malta, but does not include any period deemed pursuant to Article 9 to be a period of insurance;
- “**period of residence in Australia**”, in relation to a person, means a period defined as such in the legislation of Australia, but does not include any period deemed pursuant to Article 7 to be a period in which that person was an Australian resident;
 - “**territory**” means, in relation to Australia, Australia as defined in the legislation of Australia and in relation to Malta, Malta as defined in the Constitution of Malta; and
 - “**widow**” means, in relation to Australia, a de jure widow but does not include a woman who is the de facto spouse of a man.
2. In the application by a Party of this Agreement in relation to a person, any term not defined in this Article shall, unless the context otherwise requires, have the meaning assigned to it in the legislation of either Party or, in the event of a conflict of meaning, by whichever of those laws is the more applicable to the circumstances of that person.

ARTICLE 2

Legislative Scope

1. Subject to paragraph 2, this Agreement shall apply to the following laws, as amended at the date of signature of this Agreement, and to any laws that subsequently amend, supplement or replace them:
 - (a) in relation to Australia: the Social Security Act 1947 in so far as the Act provides for, applies to or affects:
 - (i) age pensions;
 - (ii) invalid pensions;
 - (iii) wives' pensions; and
 - (iv) pensions payable to widows; and
 - (b) in relation to Malta: the Social Security Act, 1987 as it provides for, applies to or affects:
 - (i) contributory pensions in respect of retirement;
 - (ii) contributory pensions in respect of invalidity;
 - (iii) contributory pensions in respect of widowhood; and
 - (iv) non-contributory assistance and pensions.
2. Notwithstanding the provisions of paragraph 1 the legislation of either Party shall not include any laws made at any time for the purpose of giving effect to any reciprocal agreement on Social Security entered into by either Party.
3. This Agreement shall apply to laws which extend the legislation of either Party to new categories of beneficiaries only if the two Parties so agree in a Protocol to this Agreement.
4. In respect of non-contributory assistance and pensions payable under the legislation of Malta, a citizen of Australia shall have the same rights as a citizen of Malta.

ARTICLE 3

Personal Scope

This Agreement shall apply to any person who:

- (a) is or has been an Australian resident; or
- (b) is or has been an insured person under the legislation of Malta, and, where applicable, to other persons in regard to the rights they derive from the person described above.

ARTICLE 4

Equality of Treatment

Subject to this Agreement, all persons to whom this Agreement applies

shall be treated equally by a Party in regard to rights and obligations which arise whether directly under the legislation of that Party or by virtue of this Agreement.

PART II
PROVISIONS RELATING TO
AUSTRALIAN BENEFITS

ARTICLE 5

Residence or Presence in Malta or a Third State

1. Where a person would be qualified under the legislation of Australia or by virtue of this Agreement for a benefit except that he or she is not an Australian resident and in Australia on the date on which he or she lodges a claim for that benefit but he or she:
 - (a) is an Australian resident or residing in the territory of Malta or a third State with which Australia has concluded an agreement on social security that includes provision for co-operation in the assessment and determination of claims for benefits; and
 - (b) is in Australia, or the territory of Malta or that third State, that person shall be deemed, for the purposes of lodging that claim, to be an Australian resident and in Australia on that date.
2. Paragraph 1 shall not apply to a claimant for a wife's pension who has never been an Australian resident.

ARTICLE 6

Spouse Related Australian Benefits

For the purposes of this Agreement, a person who receives from Australia an Australian benefit due to the fact that the spouse of that person receives, by virtue of this Agreement, another Australian benefit shall be deemed to receive that first-mentioned benefit by virtue of this Agreement.

ARTICLE 7

Totalisation for Australia

1. Where a person to whom this Agreement applies has claimed an Australian benefit under this Agreement and has accumulated:
 - (a) a period as an Australian resident that is less than the period required to qualify him or her, on that ground, under the legislation of Australia for a benefit; and
 - (b) a period of residence in Australia equal to or greater than the minimum period identified in accordance with paragraph 4 for that person,
and has accumulated a period of insurance, then for the purposes of a claim for that Australian benefit, that period of insurance shall be deemed, only for the purposes of meeting any minimum qualifying periods for that benefit set out in the legislation of Australia, to be a period in which that person was an Australian resident.
2. For the purposes of paragraph 1, where a person:
 - (a) has been an Australian resident for a continuous period which is less than the minimum continuous period required by the legislation of Australia for entitlement of that person to a benefit; and
 - (b) has accumulated a period of insurance in two or more separate periods that equals or exceeds in total the minimum period referred to in subparagraph (a),
the total of the periods of insurance shall be deemed to be one continuous period.
3. For all purposes of this Article, where a period by a person as an Australian resident and a period of insurance coincide, the period of

coincidence shall be taken into account once only by Australia as a period as an Australian resident.

4. The minimum period of residence in Australia which a person must have accumulated before paragraph 1 applies shall be as follows:
 - (a) for the purposes of an Australian benefit that is payable to a person residing outside Australia, the minimum period required shall be one year, of which at least 6 months must be continuous; and
 - (b) for the purposes of an Australian benefit that is payable to an Australian resident, no minimum period shall be required.
5. For the purposes of a claim by a person for a pension payable to a widow, that person shall be deemed to have accumulated a period of insurance for any period for which her spouse accumulated a period of insurance but any period during which the person and her spouse both accumulated periods of insurance shall be taken into account once only.
6. Where a person receives in Malta a contributory pension in respect of retirement by virtue of this Agreement, Australia shall, for the purposes of this Article, regard the period during which that person receives that pension, up to the age of 65, as a period of insurance.

ARTICLE 8

Calculation of Australian Benefits

1. Subject to paragraph 2, where an Australian benefit is payable, whether by virtue of this Agreement or otherwise, to a person who is outside Australia the rate of that benefit shall be determined according to the legislation of Australia but when assessing the income of that person for the purposes of calculating the rate of the Australian benefit only a proportion of any Maltese contributory pension in respect of retirement, invalidity or widowhood which is received by that person shall be regarded as income. That proportion shall be calculated by multiplying the number of whole months accumulated by that person in a period of residence in Australia (not exceeding 300) by the amount of that Maltese benefit and dividing that product by 300.
2. A person referred to in paragraph 1 shall only be entitled to receive the concessional assessment of income described in that paragraph for any period during which the rate of that person's Australian benefit is proportionalised under the legislation of Australia.
3. Where an Australian benefit is payable, whether by virtue of this Agreement or otherwise to a person who is resident in the territory of Malta, Australia shall disregard, when assessing the income of that person any non-contributory assistance and pension paid to that person by Malta.
4. Subject to the provisions of paragraph 5, where an Australian benefit is payable only by virtue of this Agreement to a person who is in Australia, the rate of that benefit shall be determined by:
 - (a) calculating that person's income according to the legislation of Australia but disregarding in that calculation the Maltese benefit received by that person;
 - (b) deducting the amount of the Maltese benefit received by that person from the maximum rate of that Australian benefit; and
 - (c) applying to the remaining benefit obtained under subparagraph (b) the relevant rate calculation set out in the legislation of Australia, using as the person's income the amount calculated under subparagraph (a).
5. Where a married person is, or both that person and his or her spouse are, in receipt of a Maltese benefit or benefits, each of them shall be

- deemed, for the purpose of paragraph 4 and for the legislation of Australia, to be in receipt of one half of either the amount of that benefit or the total of both of those benefits, as the case may be.
6. If a person would receive an Australian benefit except for the operation of paragraph 5 or except for that person's failure to claim the benefit, then for the purposes of a claim by that person's spouse for a payment under the legislation of Australia that person shall be deemed to receive that benefit.
 7. The reference in paragraph 6 to a payment under the legislation of Australia to the spouse of a person is a reference to a payment of any benefit, pension or allowance payable under the Social Security Act 1947 as amended from time to time and whether payable by virtue of this Agreement or otherwise.

PART III

PROVISIONS RELATING TO MALTESE BENEFITS

ARTICLE 9

Totalisation for Malta

1. Where this Agreement applies and there is a period of insurance that is:
 - (a) less than the period necessary to give a claimant entitlement to the benefit claimed under the legislation of Malta; and
 - (b) equal to or greater than the minimum period mentioned in paragraph 3 for that benefit,
 then any period of residence in Australia by the contributor to whom that period of insurance was credited shall be deemed to be a period of insurance.
2. For the purposes of this Article, where a period of insurance and a period of residence in Australia coincide, the period of coincidence shall be taken into account once only as a period of insurance.
3. The minimum period of insurance to be taken into consideration for purposes of paragraph 1 shall be 52 paid contributions. However, subject to paragraph 5, where the period of insurance, not being less than 52 paid contributions, does not entitle a person to a Maltese benefit, but the period of insurance in Malta and the period of residence in Australia together entitle such person to a Maltese benefit, they shall be taken into account.
4. The provisions of this Article shall not apply in the case of a Two-Thirds Pension (Retirement) or a Survivor's Pension (Widowhood) unless:
 - (a) in the case of a Two-Thirds Pension, the person concerned would have paid at least 156 contributions under the legislation of Malta after the 22nd January, 1979; and
 - (b) in the case of a Survivor's Pension, the husband of the widow concerned would have paid at least 156 contributions under the legislation of Malta after the 22nd January, 1979.
5. For the purposes of a claim by a person for a contributory widow's pension the contributor, provided the contributor meets the requirements of subparagraph 1(b), shall be deemed to have also accumulated a period of residence in Australia for any period for which the claimant accumulated a period of residence in Australia but any period during which the contributor and the claimant both accumulated periods of residence in Australia shall be taken into account once only.

ARTICLE 10

Calculation of Maltese Benefits

1. Where Malta pays non-contributory assistance or pension by virtue of this Agreement, the rate of that benefit shall be determined according to the legislation of Malta.
2. Where a contributory benefit is payable by Malta to a claimant by virtue of this Agreement the rate of that benefit shall be calculated as follows:
 - (a) in the case of a pension in respect of retirement other than a Two-Thirds Pension, by multiplying the applicable rate of that pension attributable to the claimant by the number of reckonable contributions (not exceeding 2400) on which that pension would have otherwise been calculated under the legislation of Malta and dividing the product by the number of totalised contributions aggregated under Article 9 (not exceeding 2400);
 - (b) in the case of a Two-Thirds Pension, the rate of that pension shall be calculated according to the following formula:

$$\frac{\text{P.I.} \times 2 \times \left(\frac{\text{T1}}{\text{Y}} + \frac{\text{T2}}{10} \right) \times \left(\frac{\text{C1}}{\text{T1}} + \frac{\text{C2}}{\text{T2}} \right)}{600}$$

but that pension shall not be payable if the formula $\frac{\left(\frac{\text{T1}}{\text{Y}} + \frac{\text{T2}}{10} \right)}{2}$ gives

a result that is less than 15

where:

- P.I. = the claimant's pensionable income or re-assessed pensionable income (as the case may be) according to the legislation of Malta;
- C1 = the number of reckonable contributions (not exceeding 1000) during any period prior to the last 10 calendar years immediately before retirement;
- C2 = the number of reckonable contributions (not exceeding 500) within the last 10 calendar years immediately before retirement;
- T1 = the number of totalised contributions (not exceeding 1000) aggregated under Article 9 during any period prior to the last 10 calendar years immediately before retirement;
- T2 = the number of totalised contributions (not exceeding 500) aggregated under Article 9 within the last 10 calendar years immediately before retirement; and
- Y = the number of reckonable years (not exceeding 20) prior to the last 10 calendar years immediately before retirement.
- (c) in the case of a pension in respect of invalidity, by multiplying the applicable rate of that pension attributable to the claimant by the number of reckonable contributions (not exceeding 2400) on which that pension would have otherwise been calculated under the legislation of Malta and dividing the product by the number of reckonable totalised contributions aggregated under Article 9 (not exceeding 2400);
 - (d) in the case of a pension in respect of widowhood other than a Survivor's Pension by multiplying the applicable rate of that pension attributable to the claimant by the number of reckonable contributions (not exceeding 2400) on which that pension would have otherwise been calculated under the legislation of Malta relating to her late husband and dividing the product by the number of

- totalised contributions aggregated under Article 9 (not exceeding 2400); and
- (e) in the case of a Survivor's Pension at 5/6 of the rate of pension arrived at in accordance with the provisions of paragraph 2 (b).
3. Any statutory pension additional rates that are applicable to certain benefits covered by this Agreement that are payable under the legislation of Malta, payment of which is also linked to a yearly contribution average, shall be calculated in the same manner as that indicated in paragraph 2, as the case may require.
 4. Where Malta pays a Maltese benefit to a person only by virtue of the Agreement it shall deduct any statutory pension deductions that would be deducted if those pensions were paid solely under the legislation of Malta provided that any service pension for war service or wife's service pension paid to that person by Australia as defined in and payable under its Veterans' Entitlement Act 1986 shall not for the purposes of this Agreement or otherwise under the legislation of Malta be treated as a service pension as defined in the legislation of Malta.
 5. Any pension arrived at in accordance with paragraphs 2, 3 and 4 shall be rounded up to the nearest whole cent.
 6. In this Article "reckonable contribution" and "reckonable year" shall have the meanings given to them in the legislation of Malta.

PART IV

MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS

ARTICLE 11

Lodgement of Documents

1. A claim, notice or appeal concerning a benefit, whether payable by a Party by virtue of this Agreement or otherwise, may be lodged in the territory of either of the Parties in accordance with an Administrative Arrangement made pursuant to Article 15 at any time after the Agreement enters into force.
2. The date on which a claim, notice or appeal referred to in paragraph 1 is lodged with the Competent Institution of the other Party shall be treated, for all purposes concerning the matter to which it relates, as the date of lodgement of that document with the Competent Institution of the first Party.
3. In relation to Australia, the reference in paragraph 2 to an appeal document is a reference to a document concerning an appeal that may be made to an administrative body established by, or administratively for the purposes of, the Social Security Act 1947 of Australia as amended from time to time.
4. In relation to Malta, the reference in paragraph 2 to an appeal document is a reference to a document concerning an appeal that may be made to the Umpire for the purposes of the Social Security Act, 1987 of Malta as amended from time to time.

ARTICLE 12

Determination of Claims

1. In determining the eligibility or entitlement of a person to a benefit by virtue of this Agreement:
 - (a) a period as an Australian resident and a period of insurance; and
 - (b) any event or fact which is relevant to that entitlement,

- shall, subject to this Agreement, be taken into account in so far as those periods or those events are applicable in regard to that person no matter when they were accumulated or occurred.
2. The commencement date for payment of a benefit payable by virtue of this Agreement shall be determined in accordance with the legislation of the Party concerned but in no case shall that date be a date earlier than the date on which this Agreement enters into force.
 3. Where:
 - (a) a claim is made for a benefit payable by one of the Parties by virtue of this Agreement; and
 - (b) there are reasonable grounds for believing that the claimant may also be entitled, whether by virtue of this Agreement or otherwise, to a benefit that is payable by the other Party and that, if paid, would affect the amount of the first-mentioned benefit, that first-mentioned benefit shall not be paid until a claim is duly lodged for payment of the second-mentioned benefit and the first-mentioned benefit shall not continue to be paid if the claim for the second-mentioned benefit is not actively pursued.
 4. Where:
 - (a) a benefit is paid or payable by a Party to a person in respect of a past period;
 - (b) for all or part of that period, the other Party has paid to that person a benefit under its legislation; and
 - (c) the amount of the benefit paid by that other Party would have been reduced had the benefit paid or payable by the first Party been paid during that period;then
 - (d) the amount that would not have been paid by the other Party had the benefit described in subparagraph (a) been paid throughout that past period shall be a debt due by that person to the other Party; and
 - (e) the other Party may determine that the amount, or any part, of that debt may be deducted from future payments of a benefit payable by that Party to that person.
 5. Where the first Party has not yet paid the arrears of benefit described in subparagraph 4 (a) to the person:
 - (a) that Party shall, at the request of the other Party, pay the amount of the debt described in subparagraph 4 (d) to the other Party and shall pay any excess to the person; and
 - (b) any shortfall in those arrears may be recovered by the other Party under subparagraph 4 (e).
 6. The Competent Institution receiving a request under paragraph 5 shall take the action set out in an Administrative Arrangement made pursuant to Article 15, to recoup the amount of the overpayment and to transfer it to the other Competent Institution.
 7. A reference in paragraphs 3, 4 and 5 to a benefit, in relation to Australia, means a pension, benefit or allowance that is payable under the Social Security Act 1947 of Australia as amended from time to time, and in relation to Malta, means any pension, benefit, allowance or assistance that is payable under the Social Security Act, 1987 of Malta.

ARTICLE 13

Payment of Benefits

1. The benefits payable by virtue of this Agreement and listed in this

- paragraph shall be payable within and outside the territories of both Parties:
- (a) for Australia:
 - (i) age pensions;
 - (ii) invalid pensions;
 - (iii) wives' pensions;
 - (iv) pensions payable to widows who were widowed while both they and their husbands were Australian residents;
 - (v) class B widows' pensions; and
 - (b) for Malta: contributory pensions in respect of retirement, invalidity and widowhood.
2. A pension payable to a widow whether payable by virtue of this Agreement or otherwise, shall be paid by Australia in the territories of both Parties with no limitation by time.
 3. If a Party imposes legal or administrative restrictions on the transfer of its currency abroad, both Parties shall adopt measures as soon as practicable to guarantee the rights to payment of benefits derived under this Agreement. Those measures shall operate retrospectively to the time the restrictions were imposed.
 4. A party that imposes restrictions described in paragraph 3 shall inform the other Party of those restrictions within one calendar month of their imposition and shall adopt the measures described in paragraph 3 within 3 months of the imposition of those restrictions. If the other Party is not so informed or if the necessary measures are not adopted within the set time the other Party may treat such a failure as a material breach of the Agreement for the purposes of Article 60 of the Vienna Convention on the Law of Treaties.
 5. A benefit payable by a Party by virtue of this Agreement to a person outside the territory of that Party shall be paid without deduction for government administrative fees and charges for processing and paying that benefit.
 6. The payment outside Australia of an Australian benefit that is payable by virtue of this Agreement shall not be restricted by those provisions of the legislation of Australia which prohibit the payment of a benefit to a former Australian resident who returns to Australia becoming again an Australian resident, and lodges a claim for an Australian benefit and leaves Australia within 12 months of the date of that return.

ARTICLE 14

Exchange of Information and Mutual Assistance

1. The Competent Authorities and Competent Institutions responsible for the application of this Agreement:
 - (a) shall communicate to each other any information necessary for the application of this Agreement or of the Social Security Laws of the Parties;
 - (b) shall lend their good offices and furnish assistance to one another with regard to the determination or payment of any benefit under this Agreement or the legislation to which this Agreement applies as if the matter involved the application of their own legislation;
 - (c) shall communicate to each other, as soon as possible, all information about the measures taken by them for the application of this Agreement or about changes in their respective legislation in so far as these changes affect the application of this Agreement; and
 - (d) at the request of one to the other, assist each other in relation to the implementation of agreements on social security entered into by

either of the Parties with third States, to the extent and in the circumstances specified in an Administrative Arrangement made pursuant to Article 15.

2. The assistance referred to in paragraph 1 shall be provided free of charge, subject to any Administrative Arrangement made pursuant to Article 15.
3. Unless disclosure is required under the laws of a Party, any information about an individual which is transmitted in accordance with this Agreement to a Competent Authority or a Competent Institution of that Party by a Competent Authority or a Competent Institution of the other Party is confidential and shall be used only for purposes of implementing this Agreement and the legislation to which this Agreement applies.
4. In no case shall the provisions of paragraphs 1 and 3 be construed so as to impose on the Competent Authority or Competent Institution of a Party the obligation:
 - (a) to carry out administrative measures at variance with the laws or the administrative practice of that Party or the other Party; or
 - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that Party or the other Party.
5. In the application of this Agreement, the Competent Authority and the Competent Institution of a Party may communicate with the other in the official language of that Party.

ARTICLE 15

Administrative Arrangement

The Competent Authorities of the Parties shall make whatever Administrative Arrangement is necessary from time to time in order to implement this Agreement.

ARTICLE 16

Resolution of Difficulties

1. The Competent Authorities of the Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.
2. The Parties shall consult promptly at the request of either concerning matters which have not been resolved by the Competent Authorities in accordance with paragraph 1.
3. Any dispute between the Parties concerning the interpretation of this Agreement which has not been resolved or settled by consultation in accordance with paragraph 1 or 2 shall, at the request of either Party, be submitted to arbitration.
4. Unless the Parties mutually determine otherwise, the arbitral tribunal shall consist of three arbitrators, of whom each Party shall appoint one and the two arbitrators so appointed shall appoint a third who shall act as president; provided that if the two arbitrators fail to agree, the President of the International Court of Justice shall be requested to appoint the president.
5. The arbitrators shall determine their own procedures.
6. The decision of the arbitrators shall be final and binding.
7. Unless the Parties otherwise agree, the place of arbitration shall be in the territory of the Party which did not raise the matter in dispute.

ARTICLE 17

Review of Agreement

Where a Party requests the other to meet to review this Agreement, the Parties shall meet for that purpose no later than 6 months after that request was made and, unless the Parties otherwise arrange, their meeting shall be held in the territory of the Party to which that request was made.

PART V—FINAL PROVISIONS

ARTICLE 18

Entry into Force and Termination

1. This Agreement shall enter into force one month after an exchange of notes by the Parties through the diplomatic channel notifying each other that all constitutional or legislative matters as are necessary to give effect to this Agreement have been finalized.
2. Subject to paragraph 3, this Agreement shall remain in force until the expiration of 12 months from the date on which either Party receives from the other a note through the diplomatic channel indicating the intention of the other Party to terminate this Agreement.
3. In the event that this Agreement is terminated in accordance with paragraph 2, the Agreement shall continue to have effect in relation to all persons who:
 - (a) at the date of termination, are in receipt of benefits; or
 - (b) prior to the expiry of the period referred to in that paragraph, have lodged claims for, and would be entitled to receive, benefits, by virtue of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Canberra this fifteenth day of August 1990.

FOR AUSTRALIA:
Graham Richardson

FOR MALTA:
Louis Galea'.

The House resumed; Mr Jenkins reported accordingly.

Limitation of debate: The time allotted for the remaining stages of the Bill having expired—

Question—That the report be adopted and the Bill be now read a third time—put and passed—Bill read a third time.

- 17 **PAPER:** Mr Staples (Minister for Aged, Family and Health Services) presented the following paper:
Social Security Legislation Amendment Bill 1990—Supplementary explanatory memorandum.

- 18 **CUSTOMS TARIFF PROPOSALS:** Mr Beddall (Minister for Small Business and Customs) moved Customs Tariff Proposals No. 6 (1990).

Debate adjourned (Mr Lloyd—Deputy Leader of the National Party of Australia), and the resumption of the debate made an order of the day for the next sitting.

19 **WOOL LEGISLATION AMENDMENT BILL 1990:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

Limitation of debate: At 9.55 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Message from the Governor-General: Message No. 58, dated 6 November 1990, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purposes of the Bill.

The House resolved itself into a committee of the whole.

In the committee

Question—That the Bill and the amendment and new clause circulated by the Government be agreed to, and that the Bill be reported with amendments—put and passed.

The amendment and new clause circulated by the Government were accordingly made in the Bill, and are as follows:

Amendment—

Clause 16, page 6, after proposed subsection (8) insert the following subsection:

“(9) Where:

(a) wool becomes carpet wool for the purposes of this Act because of the operation of paragraph (b) or (c) of the definition of ‘carpet wool’ in subsection (1); and

(b) either:

(i) the wool is subjected to a process of manufacture for the purpose of the manufacture of goods other than carpet or carpet yarn; or

(ii) the wool is exported from Australia;

the wool is taken to have ceased to be carpet wool for the purposes of this Act immediately before it was subjected to the process of manufacture or was exported, as the case may be.”

New clause—

Page 6, after clause 16 insert the following new clause:

Person liable to pay tax

“16A. Section 11 of the Principal Act is amended by adding at the end the following subsection:

“(2) Where:

(a) tax is imposed on shorn wool by a Wool Tax Act; and

(b) as a result of the operation of subsection 4 (4A) of the *Wool Tax Act (No. 4) 1964* or subsection 4 (4A) of the *Wool Tax Act (No. 5) 1964*, further tax is payable in respect of the wool under one of those Acts;

the amount that a person is liable to pay in respect of the further tax imposed by an Act referred to in paragraph (b) is reduced by the amount of the tax referred to in paragraph (a).”

The House resumed; Mr Jenkins reported accordingly.

Question—That the report be adopted and the Bill be now read a third time—put and passed—Bill read a third time.

20 **WOOL TAX (NOS. 1 TO 5) FURTHER AMENDMENT BILLS 1990:** The order of the day having been read for the resumption of the debate on the question—That the Bills be now read a second time—

Debate resumed.

Limitation of debate: At 10 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bills had expired—

Question—That the Bills be now read a second time—put and passed—Bills together read a second time.

The House resolved itself into a committee of the whole.

In the committee

Question—That the Bills and the amendments circulated by the Government be agreed to, and that the Bills be reported with amendments—put and passed.

The amendments circulated by the Government were accordingly made in the Bills, and are as follows:

Wool Tax (No. 4) Further Amendment Bill, clause 3, page 1, omit the clause, substitute the following clause:

Imposition of tax

“3. Section 4 of the Principal Act is amended:

- (a) by omitting from subsection (1) ‘a tax’ and substituting ‘tax’;
- (b) by omitting from subsection (4) ‘If’ and substituting ‘Subject to subsection (4A), if’;
- (c) by adding at the end the following subsection:

‘(4A) Subsection (4) does not apply to shorn wool if:

- (a) the tax imposed on the wool by another Wool Tax Act was imposed at a rate applicable to carpet wool; and
- (b) when tax was imposed on the wool by that other Wool Tax Act, the wool was carpet wool because of the operation of paragraph (b) or (c) of the definition of “carpet wool” in subsection 4(1) of the *Wool Tax (Administration) Act 1964*; and
- (c) the wool is subjected to a process of manufacture for the purpose of the manufacture of goods other than carpet or carpet yarn.’”.

Wool Tax (No. 5) Further Amendment Bill, clause 3, page 1, omit the clause, substitute the following clause:

Imposition of tax

“3. Section 4 of the Principal Act is amended:

- (a) by omitting from subsection (1) ‘a tax’ and substituting ‘tax’;
- (b) by omitting from subsection (4) ‘If’ and substituting ‘Subject to subsection (4A), if’;
- (c) by adding at the end the following subsection:

‘(4A) Subsection (4) does not apply to shorn wool if:

- (a) the tax imposed on the wool by another Wool Tax Act was imposed at a rate applicable to carpet wool; and
- (b) when the tax was imposed on the wool by that other Wool Tax Act, the wool was carpet wool because of the operation of paragraph (b) or (c) of the definition of “carpet wool” in subsection 4(1) of the *Wool Tax (Administration) Act 1964*; and
- (c) the wool is exported from Australia.’”.

The House resumed; Mr Jenkins reported accordingly.

Question—That the report be adopted and the Bills be now read a third time—put and passed—Bills together read a third time.

- 21 **HIGHER EDUCATION FUNDING AMENDMENT BILL 1990:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—
Debate resumed.

Limitation of debate: At 10.25 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the second reading had expired—

Question—put and passed—Bill read a second time.

Message from the Governor-General: Message No. 59, dated 26 August 1990, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purposes of the Bill.

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

New clause—

On the motion of Mr Baldwin (Minister for Higher Education and Employment Services), the following new clause was inserted in the Bill: Page 2, after clause 3 insert the following new clause:

Report by the Minister

“4. Section 119 of the Principal Act is amended by omitting ‘101 and 104’ and substituting ‘101, 104 and 107A’.”.

Bill, as amended, agreed to.

Bill to be reported with an amendment.

The House resumed; Mr Nehl reported accordingly.

On the motion of Mr Baldwin, the House adopted the report.

Mr Baldwin moved—That the Bill be now read a third time.

Debate ensued.

Limitation of debate: At 10.35 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Question—put and passed—Bill read a third time.

- 22 **HIGHER EDUCATION FUNDING AMENDMENT BILL (NO. 2) 1990:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed by Dr Kemp who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House:

- (1) deplores the Government’s mismanagement of higher education and its failure to establish a satisfactory framework for the development of an internationally competitive higher education sector; and
- (2) deplores in particular, the Government’s:
 - (a) failure to address adequately the issue of quality in higher education;
 - (b) failure to provide a proper framework for accountability with respect to the exercise of ministerial discretion;
 - (c) imposition of intrusive institutional profiles on tertiary institutions as a precondition for funding;
 - (d) failure to make inroads into the level of unmet demand;
 - (e) failure to provide institutions with the freedom and flexibility needed to address the impending shortage of academic staff;

- (f) policy of forced amalgamations and damaging pressures it has created towards institutional uniformity;
- (g) disarray in relation to the export of education; and
- (h) failure to undertake any meaningful assessment of the impact of its policies on the higher education sector”.

Debate continued.

Limitation of debate: At 10.40 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the second reading had expired—

Amendment negatived.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Message from the Governor-General: Message No. 60, dated 10 October 1990, from His Excellency the Governor-General was announced recommending an appropriation of revenue and moneys for the purposes of the Bill.

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

Mr Baldwin (Minister for Higher Education and Employment Services) moved the following amendment: Clause 15, page 7, lines 30 to 41, omit the clause, substitute the following clause:

Interpretation

“15. Section 34 of the Principal Act is amended:

- (a) by omitting paragraph (a) of the definition of ‘census date’ in subsection (1) and substituting the following paragraph:

‘(a) in the case of a course undertaken in a period that is taken to be a semester by virtue of subsection 37(2) or (3):

- (i) if the course is of not less than 6 weeks duration—the date that is 14 days after the date on which the student starts to undertake the course of study; or
- (ii) if the course is of less than 6 weeks duration—the date on which the student starts to undertake the course of study; or’;

- (b) by omitting paragraph (a) of the definition of ‘designated course of study’ in subsection (1) and substituting the following paragraph:

‘(a) a course leading to an undergraduate award that provides an initial qualification in relation to nursing;’.”

Limitation of debate: At 10.45 p.m., the Deputy Chairman having called the attention of the committee to the fact that the time allotted for the committee stage had expired—

Question—That the amendment be agreed to—put and passed.

Further question—That the Bill, as amended, be agreed to, and that the Bill be reported with an amendment—put and passed.

The House resumed; Mr Nehl reported accordingly.

On the motion of Mr Baldwin, the House adopted the report.

Mr Baldwin moved—That the Bill be now read a third time.

Debate ensued.

Limitation of debate: At 10.50 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Question—put and passed—Bill read a third time.

23 **STATES GRANTS (TAFE ASSISTANCE) AMENDMENT BILL 1990:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed by Dr Kemp who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House:

- (1) deploras the Government’s:
 - (a) imposition of increasingly numerous and complex goals on the TAFE sector; and
 - (b) imposition of performance indicators which are in some instances excessive and inappropriate or counter-productive; and
- (2) calls on the Government:
 - (a) to review the whole range of excessive regulatory demands it has placed on the TAFE sector and instead pursue the establishment of open and flexible training markets; and
 - (b) in particular, not only to widen the financial flexibility of the TAFE sector but also to provide significant autonomy in staffing matters so as to encourage the development of a TAFE sector which is flexible, competitive and responsive to consumer demand”.

Debate continued.

Limitation of debate: At 10.55 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the second reading had expired—

Amendment negatived.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Message from the Governor-General: Message No. 61, dated 10 October 1990, from His Excellency the Governor-General was announced recommending an appropriation of revenue for the purposes of the Bill.

The House resolved itself into a committee of the whole.

In the committee

Bill, by leave, taken as a whole.

On the motion of Mr Dawkins (Minister for Employment, Education and Training), by leave, the following amendments were made together:

Clause 6, page 2, paragraph (b), lines 23-25, omit the paragraph.

Clause 9, page 3, paragraph (b), lines 11-13, omit the paragraph.

Bill, as amended, agreed to.

Bill to be reported with amendments.

The House resumed; Mr Jenkins reported accordingly.

On the motion of Mr Dawkins, the House adopted the report.

Mr Dawkins moved—That the Bill be now read a third time.

Debate ensued.

Limitation of debate: At 11.05 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Question—put and passed—Bill read a third time.

24 **STATES GRANTS (SCHOOLS ASSISTANCE) AMENDMENT BILL 1990:** The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed by Dr Kemp who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the Bill a second reading, the House:

- (1) deplores the Government’s excessive centralised regulation of the schools sector and in particular its:
 - (a) attempt to control the growth in the Non Government school sector through the New Schools Policy;
 - (b) pricing of Non Government schools out of the reach of many parents through its Post 1992 funding policy; and
 - (c) excessive and intrusive accountability requirements through the mechanism of resource agreements;
- (2) deplores the Government’s mishandling of education at the recent Premiers’ Conference, and the Government’s failure to address properly the vital national issue of school standards; and
- (3) calls on the Government to adopt a policy which gives much greater weight to the right of parents in both the Government and Non Government school sectors to make informed choices between high quality education offerings”.

Debate continued.

Limitation of debate: At 11.10 p.m., the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Amendment negatived.

Question—That the Bill be now read a second time—put and passed—Bill read a second time.

Message from the Governor-General: Message No. 62, dated 9 November 1990, from His Excellency the Governor-General was announced recommending an appropriation of revenue and moneys for the purposes of the Bill.

Further question—That the remaining stages of the Bill be agreed to—put and passed—Bill read a third time.

- 25 PIPELINE AUTHORITY (CHARGES) BILL 1990: The order of the day having been read for the resumption of the debate on the question—That the Bill be now read a second time—

Debate resumed.

The House continuing to sit until after 12 midnight—

WEDNESDAY, 14 NOVEMBER 1990

Limitation of debate: At midnight, the Deputy Speaker having called the attention of the House to the fact that the time allotted for the remaining stages of the Bill had expired—

Question—That the Bill be now read a second time—put.

The House divided (the Deputy Speaker, Mrs Sullivan, in the Chair)—

AYES, 68

Mr Baldwin	Mr Elliott	Mr Jenkins	Mr O’Keefe
Mr Beazley	Ms Fatin	Mr Johns	Mr O’Neil
Mr Beddall	Mr Ferguson	Mr Jones	Mr Price
Mr Bilney	Mr Fitzgibbon	Mr Keating	Mr Scholes
Mr Brereton	Mr Free	Mrs Kelly	Mr J. L. Scott
Mr R. J. Brown	Mr Gayler	Mr Kerin	Mr L. J. Scott
Mr Campbell	Mr Gear*	Mr Kerr	Mr Simmons
Dr Catley	Mr Gibson	Mr Langmore	Mr Snow
Dr Charlesworth	Mr Grace*	Mr Lavarch	Mr Snowdon
Mr Courtice	Mr Griffiths	Mr Lee	Mr Staples
Ms Crawford	Mr Hand	Mr Lindsay	Dr Theophanous
Mrs Crosio	Mr Holding	Ms McHugh	Mr Tickner
Mrs Darling	Mr Hollis	Mr Martin	Mr Walker
Mr Dawkins	Mr Howe	Mr Melham	Mr West
Mr Dubois	Mr Hulls	Mr A. A. Morris	Mr Willis
Mr Duffy	Mr Humphreys	Mr P. F. Morris	Mr H. F. Woods
Mr R. F. Edwards	Mrs Jakobsen	Mr Newell	Mr Wright

NOES, 62

Mr Aldred	Mr Dobie	Mr McArthur	Mr Ruddock
Mr Anderson	Mr Downer	Mr McGauran	Mr B. C. Scott
Mr Andrew*	Dr H. R. Edwards	Mr Mack	Mr Shack
Mr Atkinson	Mr Fife	Mr MacKellar	Mr Sharp
Mrs Bailey	Mr Filing	Mr McLachlan	Mr Sinclair
Mr Beale	Mr T. A. Fischer	Mr Miles	Mr Smith
Mr Bradford	Mr P. S. Fisher	Mr Moore	Mr Somlyay
Mr Braithwaite	Mr Ford	Mr Nehl	Mr Taylor
Mr Broadbent	Mrs Gallus	Mr Nugent	Mr Truss
Mr N. A. Brown	Mr Hall	Mr Peacock	Mr Tuckey
Mr Cadman	Mr Halverson	Mr Prosser	Mr Webster
Mr Carlton	Mr Hawker	Mr Reid	Mr Wilson
Mr Charles	Mr Hicks*	Mr Reith	Dr R. L. Woods
Mr Cobb	Mr Howard	Mr Riggall	Dr Wooldridge
Mr Costello	Dr Kemp	Mr Rocher	
Mr Cowan	Mr Lloyd	Mr Ronaldson	

* Tellers

And so it was resolved in the affirmative—Bill read a second time.
The House resolved itself into a committee of the whole.

In the committee

Question—That the Bill and the amendments circulated by the Government be agreed to, and that the Bill be reported with amendments—put and passed.

The amendments circulated by the Government were accordingly made in the Bill, and are as follows:

Clause 4—

Page 3, line 15, omit paragraph (e).

Page 3, line 35, omit paragraph (c), substitute the following paragraphs:

“(c) Wagga Wagga;

(d) Young.”.

Clause 5, page 3, line 40, after “Sydney pipeline” insert “system”.

The House resumed; Mr Nehl reported accordingly.

Question—That the report be adopted and the Bill be now read a third time—put and passed—Bill read a third time.

26 **MESSAGE FROM THE SENATE:** Message No. 75, dated 13 November 1990, from the Senate was reported acquainting the House that Senator Bell had been discharged from further attendance on the Joint Standing Committee on Electoral Matters, and that Senator Kernot had been appointed a member of the committee.

27 **ADJOURNMENT:** Mr Beazley (Leader of the House) moved—That the House do now adjourn.

Debate ensued.

Closure: Mr Beazley moved—That the question be now put.

Question—That the question be now put—put.

The House divided (the Speaker, Mr McLeay in the Chair)—

AYES, 61

Mr Baldwin	Ms Fatin	Mr Jones	Mr J. L. Scott
Mr Beazley	Mr Ferguson	Mrs Kelly	Mr L. J. Scott
Mr Beddall	Mr Free	Mr Kerin	Mr Simmons
Mr Bilney	Mr Gayler	Mr Kerr	Mr Snow
Mr Brereton	Mr Gear*	Mr Lavarch	Mr Snowdon
Mr Campbell	Mr Gibson	Mr Lee	Mr Staples
Dr Catley	Mr Grace*	Mr Lindsay	Dr Theophanous
Dr Charlesworth	Mr Griffiths	Ms McHugh	Mr Tickner
Mr Courtice	Mr Hand	Mr Martin	Mr Walker
Ms Crawford	Mr Holding	Mr Melham	Mr West
Mrs Crosio	Mr Hollis	Mr A. A. Morris	Mr Willis
Mr Dawkins	Mr Hulls	Mr P. F. Morris	Mr H. F. Woods
Mr Dubois	Mr Humphreys	Mr Newell	Mr Wright
Mr Duffy	Mrs Jakobsen	Mr O'Keefe	
Mr R. F. Edwards	Mr Jenkins	Mr O'Neil	
Mr Elliott	Mr Johns	Mr Price	

NOES, 55

Mr Aldred	Mr Costello	Mr Jull	Mr Rocher
Mr Anderson	Mr Dobie	Dr Kemp	Mr Ronaldson
Mr Andrew*	Mr Downer	Mr McArthur	Mr Ruddock
Mr Atkinson	Dr H. R. Edwards	Mr Mack	Mr B. C. Scott
Mrs Bailey	Mr Fife	Mr MacKellar	Mr Sharp
Mr Beale	Mr Filing	Mr McLachlan	Mr Smith
Mr Bradford	Mr T. A. Fischer	Mr Miles	Mr Somlyay
Mr Broadbent	Mr Ford	Mr Nehl	Mrs Sullivan
Mr N. A. Brown	Mrs Gallus	Mr Nugent	Mr Truss
Mr Cadman	Mr Hall	Mr Peacock	Mr Tuckey
Mr Cameron	Mr Halverson	Mr Prosser	Mr Webster
Mr Carlton	Mr Hawker	Mr Reid	Mr Wilson
Mr Charles	Mr Hicks*	Mr Reith	Dr Wooldridge
Mr Cobb	Mr Howard	Mr Riggall	

* Tellers

And so it was resolved in the affirmative.

And the question—That the House do now adjourn—was put accordingly, and passed.

And then the House, at 12.32 a.m., adjourned until this day at 10 a.m.

PAPERS: The following papers were deemed to have been presented on 13 November 1990:

Australian Bureau of Statistics Act—Australian Bureau of Statistics—Proposal for the collection of information—1990—No. 27—Survey of tourist accommodation.

Public Service Act—Determination—1990—No. 177.

ATTENDANCE: All Members attended (at some time during the sitting) except Mr Bevis, Dr Blewett, Mr Burr, Mr Connolly, Mr Duncan, Mr Goodluck, Mr Sawford and Mr Sciacca.

A. R. BROWNING

Clerk of the House of Representatives