

1993-94

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 102

THURSDAY, 20 OCTOBER 1994

1 The House met, at 9.30 a.m., pursuant to adjournment. The Speaker (the Honourable Stephen Martin) took the Chair, and read Prayers.

2 **PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—REDEVELOPMENT OF HOUSING FOR SERVICE FAMILIES AT HMAS CERBERUS**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Redevelopment of housing for service families at HMAS *Cerberus*.

Question—put and passed.

3 **PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—REDEVELOPMENT OF DEFENCE OFFICE ACCOMMODATION AT RUSSELL, ACT**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Redevelopment of Defence office accommodation at Russell, ACT.

Question—put and passed.

4 **PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—REDEVELOPMENT OF HOUSING FOR SERVICE FAMILIES AT LAND WARFARE CENTRE, CANUNGRA, QLD**

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Redevelopment of housing for service families at Land Warfare Centre, Canungra, Qld.

Debate ensued.

Question—put and passed.

5 PUBLIC WORKS—PARLIAMENTARY STANDING COMMITTEE—REFERENCE OF WORK—REFURBISHMENT OF SCARBOROUGH HOUSE AND CONSTRUCTION OF COMMONWEALTH OFFICES, PHILLIP, ACT

Mr Walker (Minister for Administrative Services), pursuant to notice, moved—That, in accordance with the provisions of the *Public Works Committee Act 1969*, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Refurbishment of Scarborough House and construction of Commonwealth offices, Phillip, ACT.

Papers: Mr Walker presented plans in connection with the proposed work.

Question—put and passed.

6 NATIVE TITLE—PARLIAMENTARY JOINT COMMITTEE—REPORT—STATEMENTS BY MEMBERS

Mr Latham presented the following report and related papers:

Native Title—Parliamentary Joint Committee—First report—Consultations during August 1994—

Report, October 1994.

Evidence received by the committee.

Ordered—That the report be printed.

Mr Latham, Mr Knott and Mrs Gallus, by leave, made statements in connection with the report.

7 PUBLIC ACCOUNTS—JOINT COMMITTEE—FINANCE MINUTE—STATEMENT BY MEMBER

Mr L. J. Scott (Chairman), by leave, presented the following paper:

Public Accounts—Joint Committee—Finance minute on Report 326—An assessment of tax.

Mr L. J. Scott, by leave, made a statement in connection with the paper.

8 PUBLIC ACCOUNTS—JOINT COMMITTEE—REPORT—STATEMENT BY MEMBER

Mr L. J. Scott (Chairman) presented the following report:

Public Accounts—Joint Committee—Report 334—Annual report of activities 1993-94.

Mr L. J. Scott, by leave, made a statement in connection with the report.

9 PUBLIC ACCOUNTS—JOINT COMMITTEE—FINANCE MINUTE—STATEMENT BY MEMBER

Mr L. J. Scott (Chairman), by leave, presented the following paper:

Public Accounts—Joint Committee—Finance minute on Report 330—Review of Auditor-General's reports May 1991–September 1992.

10 PUBLICATIONS COMMITTEE—16TH REPORT

Mr Horne (Chairman) presented the following report:

PUBLICATIONS COMMITTEE 16TH REPORT

The Publications Committee reports that it has met in conference with the Publications Committee of the Senate.

The Committee, having considered petitions and documents presented to the Parliament since 20 September 1994, recommends that the following be printed:

Aboriginal Deaths in Custody—Royal Commission—Implementation of Australian Capital Territory Government responses to the recommendations of the Royal Commission—Report for 1992-93.

Anti-Dumping Authority Act—Anti-Dumping Authority—Report for 1993-94.

Australian Bureau of Statistics Act—Australian Statistics Advisory Council—Report for 1993-94.

Australian Capital Territory (Planning and Land Management) Act—National Capital Planning Authority—Report for 1993-94.

Australian Hearing Services—Report for 1993-94.

Australian Heritage Commission Act—Australian Heritage Commission—Report for 1993-94.

Australian Industry Development Corporation Act—Australian Industry Development Corporation—Report for 1993-94.

Australian Institute of Aboriginal and Torres Strait Islander Studies Act—Australian Institute of Aboriginal and Torres Strait Islander Studies—Report for 1993-94.

Australian Maritime Safety Authority Act—Australian Maritime Safety Authority—Report for 1993-94.

Australian Meat and Live-stock Corporation Act—Australian Meat and Live-stock Corporation—Report for 1993-94.

Australian National University Act—Council of the Australian National University—Report for 1993.

Australian Security Intelligence Organization Act—Security Appeals Tribunal—Report for 1993-94.

Australian Sports Drug Agency Act—Australian Sports Drug Agency—Report for 1993-94.

Australian Wool Realisation Commission Act—Australian Wool Realisation Commission—Final report for period 1 July to 30 November 1993.

Commissioner of Taxation—Report for 1993-94.

Commonwealth Funds Management Limited—Report for 1993-94.

Complaints (Australian Federal Police) Act—Federal Police Disciplinary Tribunal—Report for 1993-94.

Construction Industry Reform and Development Act—Construction Industry Development Agency—Corrigendum to report for 1993-94.

Construction Industry Reform and Development Act—Construction Industry Development Agency—Report for 1993-94.

Customs Administration Act—Australian Customs Service—Report for 1993-94.

Data-matching Program (Assistance and Tax) Act—Reports—

Department of Employment, Education and Training—Report on progress, October 1994.

Commissioner of Taxation, September 1994.

- Department of Housing and Regional Development, October 1994.
- Department of Social Security, October 1994.
- Department of Veterans' Affairs, October 1994.
- Defence Force Discipline Act—Judge Advocate General—Report for 1993.
- Director of Public Prosecutions Act—Office of the Director of Public Prosecutions—Report for 1993-94.
- Economic Planning Advisory Council Act—Economic Planning Advisory Council—Report for 1993-94.
- Financial Transaction Reports Act—Australian Transaction Reports and Analysis Centre—Report for 1993-94.
- Government securities on issue at 30 June 1994.
- Industrial Relations Act—Australian Industrial Relations Commission and the Australian Industrial Registry—Reports for 1993-94.
- Industry Commission Act—Industry Commission—Report No. 40—Petroleum products, 5 July 1994.
- Industry Research and Development Act—Industry Research and Development Board—Report for 1993-94.
- Maritime College Act—Australian Maritime College—Report for 1993.
- Meat Research Corporation Act—Meat Research Corporation—Report for 1993-94.
- Merit Protection (Australian Government Employees) Act—Merit Protection and Review Agency—Report for 1993-94.
- National Debt Sinking Fund Act—National Debt Commission—71st report, for 1993-94.
- National Food Authority Act—National Food Authority—Report for 1993-94.
- National Measurement Act—National Standards Commission—Report for 1993-94.
- Natural Resources Management (Financial Assistance) Act—National Landcare Advisory Committee—Report for period 24 December 1992 to 30 June 1994.
- Ombudsman Act—Commonwealth and Defence Force Ombudsman—Report, including a report made pursuant to the Complaints (Australian Federal Police) Act, for 1993-94.
- Primary Industry Councils Act—Australian Pig Industry Council—Report for period 20 September 1993 to 30 June 1994.
- Public Service Act—
- Department of Industry, Science and Technology—Report for 1993-94.
 - Department of the Parliamentary Reporting Staff—Report for 1993-94.
 - Department of the Prime Minister and Cabinet—Report for 1993-94.
 - Department of the Treasury—Report for 1993-94.
 - Department of Tourism—Report for 1993-94.
- Remuneration Tribunal Act—Remuneration Tribunal—Report for 1993-94.
- Resource Assessment Commission Act—Resource Assessment Commission—Report for period 1 July to 31 December 1993.

Seafarers Rehabilitation and Compensation Act—Seafarers Safety, Rehabilitation and Compensation Authority—Report for 1993-94.

Social Security Act—Social Security Appeals Tribunal—Report for 1993-94.

Textiles, Clothing and Footwear Development Authority Act—Textiles, Clothing and Footwear Development Authority—Report for 1993-94.

Trade Practices Act—Trade Practices Commission—Report for 1993-94.

Trade Union Training Authority Act—Australian Trade Union Training Authority—Report for 1993-94.

BOB HORNE
Chairman

20 October 1994

Mr Horne, by leave, moved—That the report be agreed to.

Question—put and passed.

11 EMPLOYMENT SERVICES BILL 1994

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.

Mr O'Connor, who had already spoken, again addressed the House, by leave.

Debate continued.

Papers: Mr Snowdon (Parliamentary Secretary to the Minister for Employment, Education and Training) presented the following papers:

Employment Services Act—

Draft determinations—

Employment Services (Case Management Services), No. 1 of 1994.

Employment Services (Case Managers Accreditation Scheme), No. 1 of 1994.

Employment Services (Case Management Documents), No. 1 of 1994.

Employment Services (Duties of Non-disclosure), No. 1 of 1994.

Employment Services (Participants), No. 1 of 1994.

Employment Services (Referrals—Matters to be taken into account by the CES), No. 1 of 1994.

Employment Services (Rules of Conduct), No. 1 of 1994.

Employment Services (Terminating Events), No. 1 of 1994.

Draft direction—Employment Services (Provision of Assistance by the CES to Case Managers), No. 1 of 1994

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

Consideration in detail

Bill, by leave, taken as a whole.

On the motion of Mr Snowdon, by leave, the following amendments were made together, after debate:

Amendment and new clause—

Clause 11, page 4, omit the clause, substitute the following new heading and clauses:

*“Division 1—National committee***Establishment of national committee**

“11. The Minister May establish a national committee.

Function of national committee

“11A. The function of the national committee established under section 11 is to advise the National Director of the CES on the operations of the Commonwealth Employment Service in Australia.”

Amendment—

Clause 12, page 5, subclause (1), line 3, omit “a committee established under this Part”, substitute “the national committee established under section 11”.

New clauses—

After clause 12, page 5, insert the following new headings and clauses:

*“Division 2—Area committees***Establishment of area committees**

“12A. The National Director of the CES may establish a committee for a specified area.

Function of area committees

“12B. The function of a committee established under section 12A for an area is to advise the National Director of the CES about the following matters, to the extent to which they relate to the area:

- (a) the creation of employment opportunities and training opportunities;
- (b) increasing the responsiveness of the CES to regional labour markets;
- (c) linking DEET programs with regional development.

For this purpose, a ‘DEET program’ is a program administered by the Department.

Provisions relating to area committees*Committee to be established in accordance with guidelines*

“12C.(1) The establishment of a committee under section 12A is to be in accordance with written guidelines formulated by the National Director of the CES. The guidelines may deal with, but are not limited to, the following matters:

- (a) the appointment of members of the committee;
- (b) the resignation of members of the committee;
- (c) the termination of the appointment of members of the committee.

Composition of committee

“(2) In formulating guidelines under subsection (1), the National Director of the CES is to have regard to the desirability of ensuring that, as far as practicable, the membership of each committee includes people with experience of, or expertise in, matters of concern to the following sectors:

- (a) employers;
- (b) trade unions or other organisations of employees;
- (c) community organisations;
- (d) regional organisations;
- (e) the Commonwealth government and State and Territory governments;
- (f) local government bodies;
- (g) major providers of education or training.

“Division 3—Disclosure of interests”.

Amendments—

Clause 21—

Page 7, subclause (1), omit the subclause, substitute the following subclauses:

Determinations about participants—general

“**21.(1)** The Minister may make a written determination that a person included in a specified class of persons becomes a participant in the case management system at a specified time if, at that time:

- (a) persons included in that class are registered with the CES; or
- (b) unemployment benefits (within the meaning of paragraph 51(xxiiiA) of the Constitution) are being provided by the Commonwealth to or in respect of persons included in that class.

A determination has effect accordingly.

Determinations about participants—special

“(1A) If the Employment Secretary is satisfied that there are special circumstances, the Employment Secretary may make a written determination that a specified person becomes a participant in the case management system at a specified time if, at that time:

- (a) the person is registered with the CES; or
- (b) unemployment benefits (within the meaning of paragraph 51(xxiiiA) of the Constitution) are being provided by the Commonwealth to or in respect of the person.

A determination has effect accordingly.”

Page 7, at the end of the clause add the following subclause:

Delegation

“(4) The Employment Secretary may, by writing, delegate all or any of his or her powers under subsection (1A) to an officer of the Department.”

Clause 24, page 10, omit the clause, substitute the following clause:

Consequences of failure to attend interview

“**24.** If a person refuses or fails to comply with a request under subsection 23(3), (4) or (5) of this Act, sections 546C and 630C of the *Social Security Act 1991* have effect, in relation to the person, as if:

- (a) the conditions set out in paragraphs (1)(b), (c), (d) and (e) of each of those sections were satisfied; and
- (b) the reference in subsection (2) of each of those sections to the requirement were a reference to the request.

Note: This means that job search allowance or newstart allowance would cease to be payable to the person for a period unless the person had a reasonable excuse for not complying with the request.”

Clause 25, page 10, subclause (5), line 36, insert “under this section” after “decision”.

Amendment and new clauses—

Clause 26, page 11, omit the clause, substitute the following new clauses:

Termination of referrals

When section applies

“**26.(1)** This section applies to a person:

- (a) who is a participant in the case management system; and
- (b) who has been referred to a case manager (the ‘**original case manager**’) under this Part.

CES may terminate referral to case manager

“(2) The CES may decide to terminate the person’s referral to the original case manager.

Notification after decision to terminate

“(3) As soon as practicable after the CES decides to terminate the person’s referral to the original case manager, the CES must give the person a written notice stating that the referral has been terminated.

Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* (which deal with service of documents) apply to a notice given under this subsection.

Procedure after termination—no waiting list

“(4) If the CES is of the opinion that a person given a notice under subsection (3) could reasonably be referred to another case manager within 24 days after the day on which the notice is given to the person:

- (a) the notice must contain a statement to the effect that:
 - (i) the CES proposes to refer the person to a new case manager; and
 - (ii) if the CES considers that the person could reasonably be referred to one of a number of other case managers—the person may nominate a preferred case manager in accordance with subsection 26B(2); or
- (b) the CES must ask the person:
 - (i) to attend an interview with the CES; or
 - (ii) to take part in an interview with the CES by telephone, video-link or similar means.

Procedure after termination—waiting list

“(5) If the CES is of the opinion that a person given a notice under subsection (3) could not reasonably be referred to another case manager within 24 days after the day (the ‘**notice day**’) on which the notice was given to the person:

- (a) the notice must contain a statement to that effect; and
- (b) if, on a day (the ‘**later day**’) later than the notice day, the CES becomes of the opinion that the person could reasonably be referred to a new case manager within 24 days after the later day—the CES must:
 - (i) give the person a written notice containing a statement to the effect that:
 - (A) the CES proposes to refer the person to a new case manager; and
 - (B) if the CES considers that the person could reasonably be referred to one of a number of other case managers—the person may nominate a preferred case manager in accordance with subsection 26B(2); or
 - (ii) ask the person:
 - (A) to attend an interview with the CES; or
 - (B) to take part in an interview with the CES by telephone, video-link or similar means.

Further requests for interview

“(6) If:

- (a) the CES asks a person to attend or take part in an interview under subsection (4) or (5) or under this subsection; and
- (b) the person does not attend or take part in the interview, as the case requires; and
- (c) the person is a participant in the case management system;

the CES may ask the person to attend or take part in another interview.

Consequences of failure to attend interview

“26A. If a person refuses or fails to comply with a request under paragraph 26(4)(b), subparagraph 26(5)(b)(ii) or subsection 26(6) of this Act, sections 546C and 630C of the *Social Security Act 1991* have effect, in relation to the person, as if:

- (a) the conditions set out in paragraphs (1)(b), (c), (d) and (e) of each of those sections were satisfied; and
- (b) the reference in subsection (2) of each of those sections to the requirement were a reference to the request.

Note: This means that job search allowance or newstart allowance would cease to be payable to the person for a period unless the person had a reasonable excuse for not complying with the request.

Referral to new case manager—no interview*When section applies*

“26B.(1) This section applies to a person if the CES has given the person a notice, in accordance with paragraph 26(4)(a) or (5)(b), stating that it proposes to refer the person to a new case manager.

Nomination of preferred case manager

“(2) If the notice states that the person may nominate a preferred case manager, the nomination must be:

- (a) in writing; and
- (b) given to the CES within 14 days after the day on which the notice was given to the person.

Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* (which deal with service of documents) apply to a nomination given under this subsection.

CES to refer person to case manager

“(3) The CES must, within 24 days after the day on which the notice was given to the person, decide to refer the person to a specified case manager. The decision takes effect on the day on which the decision is made.

Matters to be taken into account by CES

“(4) In making a decision under this section to refer the person to a case manager, the CES must:

- (a) take into account the following matters:
 - (i) any nomination of a preferred case manager given by the person in accordance with subsection (2);
 - (ii) such other matters (if any) as are specified in a written determination made by the Minister for the purposes of this subsection;
 - (iii) such other matters (if any) as the CES considers appropriate; and
- (b) give the greatest weight to the matter mentioned in subparagraph (a)(i).

Disallowable instrument

“(5) A determination under subsection (4) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Referral to new case manager—interview*When section applies*

“26C.(1) This section applies to a person if the CES has asked the person to attend or take part in an interview under section 26.

Information to be provided by CES

“(2) If the CES considers that the person could reasonably be referred to one of a number of case managers, the CES must, at or before the interview, tell the person that he or she may nominate a preferred case manager in accordance with subsection (3).

Nomination of preferred case manager

“(3) The nomination of a preferred case manager must be:

- (a) in writing; and
- (b) given to the CES within 14 days after the date of the interview.

Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* (which deal with service of documents) apply to a nomination given under this subsection.

CES to refer person to case manager

“(4) The CES must, within 24 days after the date of the interview, decide to refer the person to a specified case manager. The decision takes effect on the day on which the decision is made.

Matters to be taken into account by CES

“(5) In making a decision under this section to refer the person to a case manager, the CES must:

- (a) take into account the following matters:
 - (i) any nomination of a preferred case manager given by the person in accordance with subsection (3);
 - (ii) such other matters (if any) as are specified in a written determination made by the Minister for the purposes of this subsection;
 - (iii) such other matters (if any) as the CES considers appropriate; and
- (b) give the greatest weight to the matter mentioned in subparagraph (a)(i).

Disallowable instrument

“(6) A determination under subsection (5) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

Amendments—

Clause 28, page 12, line 31, omit “that section”, substitute “section 26B or 26C”.

Clause 30, page 13, line 27, omit “find”, substitute “obtain sustainable”.

Clause 31—

Page 15, subclause (6), at the end of the subclause add the following Note:

“Note: Section 34AA of the *Acts Interpretation Act 1901* (which deals with delegations to people holding specified offices or positions) applies to delegations under this subsection.”.

Page 15, add at the end of the clause the following subclause:

Delegated power to be treated as a function conferred on a case manager

“(7) A reference in this Act or any other law of the Commonwealth to a function conferred on a case manager under this Act includes a reference to a power delegated under subsection (6) in relation to the case manager.”.

Clause 32—

Page 15, after paragraph (1)(e) insert the following paragraphs:

- “(ea) subject to section 32A, development of self-employment;
- (eb) subject to section 32B, development of, and/or participation in, group enterprises or co-operative enterprises;”.

Page 15, paragraph (2)(a), lines 27 and 28, omit “that, in the opinion of the Employment Secretary, is suitable”, substitute “, other than work that is unsuitable”.

Page 15, Note to subclause (2), line 37, insert “1” after “Note”.

Page 15, at the end of the clause add the following Note:

“Note 2: See section 32C on what paid work is unsuitable.”.

Page 16, subclause (8), at the end of the subclause add the following Note:

“Note: Section 34AA of the *Acts Interpretation Act 1901* (which deals with delegations to people holding specified offices or positions) applies to delegations under this subsection.”.

Page 16, after subclause (8) insert the following subclause:

Delegated power to be treated as a function conferred on a case manager

“(8A) A reference in this Act or any other law of the Commonwealth to a function conferred on a case manager under this Act includes a reference to a power delegated under subsection (8) in relation to the case manager.”.

Page 17, after subclause (9) insert the following subclause:

Gaps in receipt of job search allowance or newstart allowance

“(9A) For the purposes of paragraph (9)(b), if:

- (a) a person is in receipt of job search allowance, or newstart allowance, under the *Social Security Act 1991*; and
- (b) either:
 - (i) the person ceases for a period of not longer than 6 weeks to be in receipt of job search allowance; or
 - (ii) the person ceases for a period of not longer than 13 weeks to be in receipt of newstart allowance; and

(c) at the end of that period, the person begins to receive such an allowance; the person is taken to have been in receipt of such an allowance throughout that period.”.

New clauses—

After clause 32, page 17, insert the following new clauses:

Case Management Activity Agreements—self-employment

Prior receipt of allowance and commercial viability of self-employment

“32A.(1) A Case Management Activity Agreement must not require a person to undertake as an activity any development of self-employment unless:

- (a) at all times during the 6 months immediately preceding the undertaking of the activity, the person has been, or will have been, receiving either of the following:
 - (i) a job search allowance under the *Social Security Act 1991*;
 - (ii) a newstart allowance under that Act; and

- (b) the Employment Secretary is satisfied that the activity:
- (i) will be commercially viable 12 months after the person begins the activity; and
 - (ii) is likely to provide the person with sustainable full-time employment that will provide the person with a level of income at least equivalent to the person's maximum basic rate.

Maximum basic rate

“(2) For the purposes of subparagraph (1)(b)(ii), a person's maximum basic rate is:

- (a) if the person has not turned 18—the person's maximum basic rate worked out under Module B of Benefit Rate Calculator A (within the meaning of the *Social Security Act 1991*); or
- (b) if the person has turned 18—the person's maximum basic rate worked out under Module B of Benefit Rate Calculator B (within the meaning of the *Social Security Act 1991*).

Other conditions

“(3) A Case Management Activity Agreement must not require a person to undertake as an activity any development of self-employment if:

- (a) the person is to undertake the activity for more than 12 months; or
- (b) subject to subsection (4), the person has previously been subject to a requirement under:
 - (i) that agreement; or
 - (ii) any other Case Management Activity Agreement; or
 - (iii) a Job Search Activity Agreement; or
 - (iv) a Newstart Activity Agreement;

to undertake the same activity or a similar activity; or

- (c) at any time during the 6 months immediately preceding the time at which the activity is to start, the person has been subject to a requirement under:
 - (i) that agreement; or
 - (ii) any other Case Management Activity Agreement; or
 - (iii) a Job Search Activity Agreement; or
 - (iv) a Newstart Activity Agreement;

to undertake as an activity other development of self-employment.

Special circumstances

“(4) Paragraph (3)(b) does not apply if the Employment Secretary determines in writing that there are special circumstances that justify inclusion of the activity in the Case Management Activity Agreement.

Activities to which section does not apply

“(5) This section does not apply to an activity to which a paragraph of subsection 32(1) other than paragraph 32(1)(ea) or (eb) applies.

Definitions

“(6) In this section:

‘**Job Search Activity Agreement**’ has the same meaning as in the *Social Security Act 1991*;

‘Newstart Activity Agreement’ has the same meaning as in the *Social Security Act 1991*.

Case Management Activity Agreements—group enterprises and co-operative enterprises

Development

“**32B.(1)** A Case Management Activity Agreement must not require a person to undertake as an activity any development of a group enterprise or co-operative enterprise unless:

- (a) at all times during the 6 months immediately preceding the undertaking of the activity, the person has been, or will have been, receiving either of the following:
 - (i) a job search allowance under the *Social Security Act 1991*;
 - (ii) a newstart allowance under that Act; and
- (b) the Employment Secretary is satisfied that the activity:
 - (i) will be viable 12 months after the person begins the activity; and
 - (ii) is likely to provide the person with skills, training or work experience that will assist the person to obtain paid employment, being paid employment that will provide the person with a level of income at least equivalent to the person’s maximum basic rate.

Participation

“(2) A Case Management Activity Agreement must not require a person to undertake as an activity any participation in a group enterprise or co-operative enterprise unless:

- (a) at all times during the 6 months immediately preceding the undertaking of the activity, the person has been, or will have been, receiving either of the following:
 - (i) a job search allowance under the *Social Security Act 1991*;
 - (ii) a newstart allowance under that Act; and
- (b) the Employment Secretary is satisfied that the activity is likely to provide the person with skills, training or work experience that will assist the person to obtain paid employment, being paid employment that will provide the person with a level of income at least equivalent to the person’s maximum basic rate.

Maximum basic rate

“(3) For the purposes of this section, a person’s maximum basic rate is:

- (a) if the person has not turned 18—the person’s maximum basic rate worked out under Module B of Benefit Rate Calculator A (within the meaning of the *Social Security Act 1991*); or
- (b) if the person has turned 18—the person’s maximum basic rate worked out under Module B of Benefit Rate Calculator B (within the meaning of the *Social Security Act 1991*).

Other conditions

“(4) A Case Management Activity Agreement must not require a person to undertake as an activity any development of, or participation in, a group enterprise or co-operative enterprise if:

- (a) the person is to undertake the activity for more than 12 months; or
- (b) the person has previously been subject to a requirement under:

- (i) that agreement; or
- (ii) any other Case Management Activity Agreement; or
- (iii) a Job Search Activity Agreement; or
- (iv) a Newstart Activity Agreement;

to undertake the same activity or a similar activity; or

- (c) at any time during the 6 months immediately preceding the time at which the activity is to start, the person has been subject to a requirement under:

- (i) that agreement; or
- (ii) any other Case Management Activity Agreement; or
- (iii) a Job Search Activity Agreement; or
- (iv) a Newstart Activity Agreement;

to undertake as an activity other development of, or participation in, a group enterprise or co-operative enterprise.

Activities to which section does not apply

“(5) This section does not apply to an activity to which a paragraph of subsection 32(1) other than paragraph 32(1)(ea) or (eb) applies.

Definitions

“(6) In this section:

‘**Job Search Activity Agreement**’ has the same meaning as in the *Social Security Act 1991*;

‘**Newstart Activity Agreement**’ has the same meaning as in the *Social Security Act 1991*.

When particular paid work is unsuitable

Unsuitable work

“**32C.(1)** For the purposes of paragraph 32(2)(a), particular paid work is taken to be unsuitable for a person if, and only if, in the Employment Secretary’s opinion:

- (a) the person lacks the particular skills, experience or qualifications that are needed to perform the work; or
- (b) the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed; or
- (c) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety and would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
- (d) the work would involve the person being self-employed; or
- (e) the work would be covered by an industrial award but the employer would only employ the person if the person agreed to become a party to an agreement reducing or abolishing rights that the award confers on employees; or
- (f) the work would not be covered by an industrial award and the remuneration for the work would be lower than the minimum applicable rate of remuneration for comparable work that is covered by an industrial award; or
- (g) commuting between the person’s home and the place of work would be unreasonably difficult; or

(h) for any other reason, the work is unsuitable for the person.

Commuting—unreasonable difficulty

“(2) For the purposes of paragraph (1)(g), commuting is taken not to be unreasonably difficult if:

(a) both:

- (i) apart from this subsection, commuting would be unreasonably difficult; and
- (ii) the sole or principal reason for the difficulty is that the commuting involves a journey, either from the person’s home to the place of work or from the place of work to the person’s home, that does not normally exceed 90 minutes in duration; or

(b) in the Employment Secretary’s opinion, a substantial number of people living in the same area as the person regularly commute to their places of work in circumstances similar to those of the person.

Remuneration

“(3) A reference in subsection (1) to remuneration for work is a reference to any income derived from the work that is income from personal exertion.

Definition

“(4) In this section:

‘**income from personal exertion**’ has the same meaning as in the *Social Security Act 1991*. ”.

Amendments—

Clause 33, page 17, subclause (2), omit the subclause, substitute the following subclause:

Cancellation resulting from termination of referral

“(2) If:

- (a) a Case Management Activity Agreement between a case manager and a person is in force; and
- (b) a decision of the CES under section 26 to terminate the person’s referral to the case manager takes effect;

the agreement is taken to be cancelled when the decision takes effect.

Note: The effect of sections 513 and 593 of the *Social Security Act 1991* is that, as a general rule, a person is not qualified for job search allowance or newstart allowance unless the person satisfies the activity test.

Clause 35—

Pages 18 and 19, subclauses (1), (2) and (3), omit the subclauses, substitute the following subclauses:

Persons to whom this section applies

“**35.(1)** This section applies to a person who is a participant in the case management system throughout a particular period (the ‘**participation period**’).

Case management period

“(2) For the purposes of this section, the person’s **case management period** is the period:

- (a) beginning on the first occasion during the participation period when a decision under Part 4.3 referring the person to a case manager took effect; and

- (b) ending at the end of the participation period.

Job Search Activity Agreement and Newstart Activity Agreement superseded

“(3) If:

- (a) the person was a party to Job Search Activity Agreement or a Newstart Activity Agreement that was in force immediately before the beginning of the person’s case management period; and
- (b) the person enters into a Case Management Activity Agreement with a case manager;

the Job Search Activity Agreement or the Newstart Activity Agreement, as the case requires, ceases to be in force immediately before the Case Management Activity Agreement comes into force.

Participant not to be required to enter into a Job Search Activity Agreement or a Newstart Activity Agreement

“(3A) The person is not to be required to enter into a Job Search Activity Agreement or a Newstart Activity Agreement during the person’s case management period.”.

Page 19, after subclause (4) insert the following subclause:

Compliance with Case Management Activity Agreement

“(4A) For the purposes of paragraph (4)(b), a person is taking reasonable steps to comply with the terms of a Case Management Activity Agreement unless the person has failed to comply with the terms of the agreement and:

- (a) the main reason for failing to comply involved a matter that was within the person’s control; or
- (b) the circumstances that prevented the person from complying were reasonably foreseeable by the person.”.

Page 19, subclause (5), line 28, omit “Sections”, substitute “During the person’s case management period, sections”.

Page 19, subclause (6), line 34, omit “Sections”, substitute “During the person’s case management period, sections”.

Page 20, subclause (7), line 3, omit “Sections”, substitute “During the person’s case management period, sections”.

Page 20, subclause (8), line 9, omit “Section”, substitute “During the person’s case management period, section”.

Page 20, subclause (10), before the definition of “Job Search Activity Agreement” insert the following definition:

“ ‘**case management period**’ has the meaning given by subsection (2);”.

Page 20, subclause (10), at the end of the subclause add the following definition:

“ ‘**participation period**’ has the meaning given by subsection (1).”.

Clause 36, page 21, subclause (5), omit the subclause, substitute the following subclause:

Person to comply

“(5) If the person refuses or fails to comply with subsection (2) or with a notice under subsection (3), sections 546C and 630C of the *Social Security Act 1991* have effect, in relation to the person, as if:

- (a) the conditions set out in paragraphs (1)(b), (c), (d) and (e) of each of those sections were satisfied; and

- (b) the reference in subsection (2) of each of those sections to the requirement were a reference to the requirement arising under subsection (2) of this section or to the requirement set out in the notice under subsection (3) of this section, as the case requires.

Note: This means that job search allowance or newstart allowance would cease to be payable to the person for a period unless the person had a reasonable excuse for not complying.

Clause 37, page 21, subclause (1), line 17, insert “32A, 32B, 32C,” after “section”.

Clause 40, page 23, subclause (3), omit the subclause.

New clauses—

After clause 41, page 24, insert the following new clause:

Compliance with rules of conduct

Additional condition of accreditation

“**41A.(1)** In addition to the conditions to which an entity’s accreditation is subject under the accreditation scheme, the accreditation is subject to the condition mentioned in subsection (2).

Compliance with rules of conduct

“(2) It is a condition of the accreditation of an entity that the entity must comply with any rules of conduct formulated under section 49A.

Condition has effect only if the entity is a contracted case manager

“(3) The condition mentioned in subsection (2) has effect only if the entity is a contracted case manager.

This section does not limit accreditation scheme

“(4) This section does not, by implication, limit the generality of section 40 (which deals with conditions under the accreditation scheme).”.

After clause 43, page 25, insert the following new clause:

Limits relating to client referrals etc.

Maximum number of client referrals

“**43A.(1)** A condition of an entity’s accreditation under the accreditation scheme may relate to the acceptance of client referrals and, in particular, may relate to the maximum number of client referrals that the entity can be required, or is permitted, to accept. For this purpose, a ‘**client referral**’ is a referral of a person to the entity under Part 4.3.

Maximum workloads

“(2) A condition of an entity’s accreditation under the accreditation scheme may relate to the maximum case management workload of any of the following individuals:

- (a) if the entity is a body corporate—a director or employee of the entity; or
- (b) if the entity is a partnership—an individual who is a partner in, or an employee of, the partnership; or
- (c) in any other case—an officer or employee of the entity.

For this purpose, a ‘**case management workload**’ is so much of an individual’s workload as relates to the provision of case management services.

This section does not limit accreditation scheme

“(3) This section does not, by implication, limit the generality of section 40 (which deals with conditions under the accreditation scheme).”.

Amendments—

Clause 44—

Page 25, subclause (1), line 12, omit “The ESRA Board may, by written instrument,” substitute “The accreditation scheme may”.

Page 25, subclause (3), omit the subclause.

New division—

After clause 49, page 30, insert the following new division:

“Division 2A—Rules of conduct**Rules of conduct***Rules of conduct*

“49A.(1) The ESRA Board may, by written instrument, formulate rules of conduct relating to the provision of case management services.

Rules of conduct have effect only for the purposes of section 41A

“(2) Rules of conduct formulated under subsection (1) have effect only for the purposes of section 41A.

Note: Section 41A provides that compliance with rules of conduct is a condition of an entity’s accreditation.

Disallowable instrument

“(3) An instrument under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

Amendments—

Clause 50, pages 30 and 31, subclauses (2) and (3), omit the subclauses, substitute the following subclause:

Codes to be advisory

“(2) A code of practice declared under subsection (1) is an instrument of an advisory character.”.

Clause 53—

Page 33, paragraph (1)(a), line 27, insert “, or anticipated provision,” after “provision”.

Pages 33 and 34, subclause (3), omit the subclause, substitute the following subclauses:

Case management document rules

“(3) The ESRA Board may, by written instrument, formulate rules about any or all the following:

- (a) the provision of case management documents by the CES to case managers;
- (b) the creation of case management documents by case managers;
- (c) the handling, copying and storage of case management documents;
- (d) the amendment of case management documents;
- (e) the return of case management documents to the CES;
- (f) the destruction of, or of copies of, case management documents held by case managers;
- (g) the retention of case management documents by case managers;

- (h) the giving of information relating to rules about any of the above-mentioned matters, where the information is provided to a person who is or has been referred to a case manager under Part 4.3.

The rules are to be known as the **case management document rules**.

Consent necessary for transfer of certain personal records

“(3A) Without otherwise limiting paragraph (3)(a), rules made for the purposes of that paragraph must provide that a document that consists of, or contains information extracted from:

- (a) a sensitive personal record relating to a person; or
- (b) a person’s criminal record;

is to be provided by the CES to a case manager only with the person’s consent. For this purpose, consent must be given in writing in a form specified in the case management document rules.

Note: ‘Sensitive personal record’ is defined by subsection (8).”.

Page 34, after subclause (6) insert the following subclauses:

Case management document rules to comply with the Privacy Act 1988

“(6A) The case management document rules must not be inconsistent with the provisions of the *Privacy Act 1988*.

Consultation with Privacy Commissioner

“(6B) Before an instrument is made under subsection (2) or (3), the ESRA Board must consult the Privacy Commissioner.”.

Page 34, add at the end of the clause the following subclause:

Definition

“(8) In this section:

‘sensitive personal record’, in relation to a person, means a record about the person that:

- (a) is made by any of the following other persons:
 - (i) a medical practitioner or other health worker;
 - (ii) a psychologist;
 - (iii) a social worker; and

- (b) is made by the other person acting in his or her professional capacity.”.

Clause 54, page 34, paragraph (2)(a), line 34, insert “, or anticipated provision,” after “provision”.

Clause 117, page 57, after subclause (3) insert the following subclause:

Identifying information

“(3A) A summary referred to in subsection (3) must not include information that is likely to enable the identification of an individual unless the individual has given his or her written consent to the inclusion of the information.”.

Clause 121—

Page 58, subclause (1), line 21, omit “during the day or night”, substitute “between the hours of 9 a.m. and 5 p.m. on a business day”.

Page 58, after subclause (2) insert the following subclause:

Limitations on search powers

“(2A) An inspector may exercise powers conferred by subsection (1) for the purpose of ascertaining whether a particular condition or agreement has been complied with only if the inspector has reasonable grounds to believe that:

- (a) ESRA has already made reasonable efforts to exercise other powers for that purpose, but the result of the exercise of those powers was not sufficient to achieve that purpose; or
- (b) the exercise by ESRA of other powers to achieve that purpose would not be effective.”.

Page 59, add at the end of the clause the following subclause:

Definition

“(6) In this section:

‘**business day**’ means a day that is not a Saturday, Sunday or a public holiday in the place concerned.”.

Clause 125, page 63, paragraph (4)(e), line 35, omit “4.8”, substitute “4.7”.

Heading to Part 4.10, page 65, line 18, insert “**DECISIONS RELATING TO PARTICIPATION IN THE CASE MANAGEMENT SYSTEM,**” after “**REVIEW OF**”.

Clause 132, page 65, definition of “reviewable decision”, line 26, insert “4.2,” after “Part”.

New clause—

After clause 135, page 67, insert the following new clause:

Automatic payment of job search allowance or newstart allowance if review of section 34 terms decision sought

When section applies

“**135A.(1)** This section applies to a decision of the Employment Secretary to give a notice under section 34 because of a person’s failure to agree to terms of a Case Management Activity Agreement proposed by the case manager concerned (subparagraph 34(2)(a)(iii)).

Effect on payments

“(2) If:

- (a) a person applies to the Employment Secretary under subsection 135(1) for review of the decision; and
- (b) the person makes the application within 14 days after being notified of the decision;

the following provisions have effect:

- (c) payment of job search allowance or newstart allowance, as the case requires, is to be made pending the determination of the review, as if the Case Management Activity Agreement had not been required;
- (d) if payments of the allowance had ceased for a period before the person applied for the review—arrears of allowance are payable to the person for the period despite section 589 or 660L of the *Social Security Act 1991*;
- (f) this Act and the *Social Security Act 1991* apply as if the Case Management Activity Agreement had not been required.

Review withdrawn or determined

“(3) Subsection (2) ceases to have effect if:

- (a) the application for review is withdrawn; or
- (b) the review of the decision is determined.

Definitions

“(4) In this section:

‘**job search allowance**’ has the same meaning as in the *Social Security Act 1991*;

'newstart allowance' has the same meaning as in the *Social Security Act 1991*."

Amendments—

Before clause 138, page 68, insert the following heading:

"Subdivision A—Object of Division"

Clause 138, page 69, lines 1 and 2, omit "This result is achieved by applying relevant provisions of the *Social Security Act 1991*."

Amendments and new clauses—

Clause 139, page 69, omit the clause, substitute the following new headings and clauses:

"Subdivision B—Review by the Social Security Appeals Tribunal

Application for review

Persons who May apply for review

"139.(1) If:

- (a) a decision has been reviewed by the Employment Secretary or an authorised review officer under section 136; and
- (b) the decision has been affirmed, varied or set aside;

a person whose interests are affected by the decision of the Employment Secretary or the authorised review officer may apply to the Social Security Appeals Tribunal for review of that decision.

Decision made by Employment Secretary or review officer

"(2) For the purposes of subsection (1), the decision made by the Employment Secretary or the authorised review officer is taken to be:

- (a) if the Employment Secretary or the authorised review officer affirms a decision—the decision as affirmed; and
- (b) if the Employment Secretary or the authorised review officer varies a decision—the decision as varied; and
- (c) if the Employment Secretary or the authorised review officer sets a decision aside and substitutes a new decision—the new decision.

Application requirement for certain section 32 decisions

"139A. The Social Security Appeals Tribunal may only review a decision under section 32 (to the extent that it relates to the terms of a Case Management Activity Agreement that is in force) if the application is expressed to be an application for review of that decision.

Automatic payment of job search allowance or newstart allowance if review of section 34 terms decisions sought

When section applies

"139B.(1) This section applies to a decision of the Employment Secretary to give a notice under section 34 because of a person's failure to agree to terms of a Case Management Activity Agreement proposed by the case manager concerned (subparagraph 34(2)(a)(iii)).

Effect on payments

"(2) If:

- (a) a person applies to the Social Security Appeals Tribunal under subsection 139(1) for review of the decision; and
- (b) the person makes the application within 14 days after being notified of the decision;

the following provisions have effect:

- (c) payment of job search allowance or newstart allowance, as the case requires, is to be made pending the determination of the review, as if the Case Management Activity Agreement had not been required;
- (d) if payment of the allowance had ceased for a period before the person applied for the review—despite section 589 or 660L of the *Social Security Act 1991*, arrears of allowance are payable to the person for the period;
- (e) this Act and the *Social Security Act 1991* apply as if the Case Management Activity Agreement had not been required.

When payment stops

“(3) Subsection (2) ceases to have effect if:

- (a) the application for review is withdrawn; or
- (b) the review of the decision is determined.

Definitions

“(4) In this section:

‘**job search allowance**’ has the same meaning as in the *Social Security Act 1991*; ‘**newstart allowance**’ has the same meaning as in the *Social Security Act 1991*.

Social Security Appeals Tribunal review powers

Powers of Social Security Appeals Tribunal

“139C.(1) If a person applies to the Social Security Appeals Tribunal under subsection 139(1) for review of a decision (other than a decision referred to in subsection (4) of this section), the Social Security Appeals Tribunal must:

- (a) affirm the decision; or
- (b) vary the decision; or
- (c) set the decision aside and:
 - (i) substitute a new decision; or
 - (ii) send the matter back to the Employment Secretary for reconsideration in accordance with any directions or recommendations of the Social Security Appeals Tribunal.

Tribunal may exercise Employment Secretary's powers

“(2) The Social Security Appeals Tribunal may, for the purposes of reviewing a decision, exercise all the powers and discretions that are conferred by this Act on the CES or on the Employment Secretary.

Event taken to have occurred

“(3) If:

- (a) the Social Security Appeals Tribunal sets a decision aside under subsection (1); and
- (b) the Employment Secretary, or the Social Security Appeals Tribunal, is satisfied that an event that did not occur would have occurred if the decision had not been made;

the Employment Secretary or the Social Security Appeals Tribunal, as the case requires, may, if satisfied that it is reasonable to do so, deem the event to have occurred for the purposes of this Act.

Application

“(4) This section does not apply to a decision under section 32 to the extent to which it relates to the terms of a Case Management Activity Agreement that is in force.

Social Security Appeals Tribunal review powers (Case Management Activity Agreement decision)

“**139D.** If a person applies to the Social Security Appeals Tribunal for review of a decision under section 32 to the extent to which it relates to the terms of a Case Management Activity Agreement that is in force, the Social Security Appeals Tribunal must:

- (a) affirm the decision; or
- (b) set the decision aside and send the matter back to the Employment Secretary for reconsideration in accordance with any recommendations of the Tribunal.

Date of effect of Social Security Appeals Tribunal decisions

General rule

“**139E.(1)** Subject to subsections (2) and (3), a decision by the Social Security Appeals Tribunal under this Act comes into operation immediately on the giving of the decision.

Social Security Appeals Tribunal may specify later date

“(2) The Social Security Appeals Tribunal may specify in a decision that the decision is not to come into operation until a later day specified in the decision and, if it does so, the decision comes into operation on that later day.

Decision varied or substituted

“(3) Subject to subsection (4), if the Social Security Appeals Tribunal:

- (a) varies the decision under review; or
- (b) sets aside the decision under review and substitutes a new decision for the decision under review;

the decision as varied or the new decision, as the case requires, has effect, or is to be taken to have had effect, on and after the day on which the decision under review has or had effect.

Social Security Appeals Tribunal may vary rule under subsection (3)

“(4) The Social Security Appeals Tribunal may order:

- (a) that subsection (3) not apply to a decision by the Social Security Appeals Tribunal on a review; and
- (b) that subsections (1) and (2) apply instead.

Application

“(5) This section does not apply to a decision under section 32 to the extent to which it relates to the terms of a Case Management Activity Agreement that is in force.

Date of effect of Social Security Appeals Tribunal decision (Case Management Activity Agreement decision)

Application

“**139F.(1)** This section applies to a decision under section 32 to the extent to which it relates to the terms of a Case Management Activity Agreement that is in force.

Decision of Social Security Appeals Tribunal applies immediately

“(2) Subject to subsection (3), a decision by the Social Security Appeals Tribunal in relation to such a decision comes to operation immediately on the giving of the decision.

Social Security Appeals Tribunal may specify later date

“(3) The Social Security Appeals Tribunal may specify in a decision that the decision is not to come into operation until a later day specified in the decision and, if it does so, the decision comes into operation on that later day.

Application requirements

Methods of applying for review

“139G.(1) A person may apply to the Social Security Appeals Tribunal under subsection 139(1) for review of a decision by:

- (a) sending or delivering a written application to:
 - (i) an office of the Social Security Appeals Tribunal; or
 - (ii) an office of the Department of Employment, Education and Training; or
 - (iii) an office of the Department of Social Security; or
- (b) going to an office of the Social Security Appeals Tribunal and making an oral application; or
- (c) telephoning an office of the Social Security Appeals Tribunal and making an oral application.

Written record of oral application

“(2) If a person makes an oral application under paragraph (1)(b) or (c), the person receiving the oral application must make a written record of the details of the oral application and note on the record the date on which the application is made.

Written record taken to be application

“(3) If a written record of an oral application is made under subsection (2), the written record is to be taken to be a written application by the applicant and to be delivered to an office of the Social Security Appeals Tribunal on the day on which the oral application is made.

Statement of reasons

“(4) An application may include a statement of the reasons for seeking a review of the decision.

Variation of decision before review completed

Application for review of decision as varied

“139H.(1) If a decision under this Act is varied after an application has been made to the Social Security Appeals Tribunal for review of the decision but before determination of the review, the application for review is to be treated as if it were an application for review of the decision as varied.

Application for review of substitute decision

“(2) If a decision under this Act is set aside and a new decision is substituted after an application has been made to the Social Security Appeals Tribunal for review of the decision set aside but before determination of the review, the application for review is to be treated as if it were an application for review of the new decision.

Procedure where variation or substitution before determination

“(3) If:

- (a) a person applies to the Social Security Appeals Tribunal for review of a decision under this Act; and

(b) before determination of the review:

- (i) the decision is varied; or
- (ii) the decision is set aside and a new decision is substituted;

the person may either:

- (c) proceed with the application for review of the decision as varied or the new decision; or
- (d) withdraw the application under section 1274 of the *Social Security Act 1991*.

Parties to Social Security Appeals Tribunal review

Parties to review

“**139J.(1)** The parties to a review by the Social Security Appeals Tribunal of a decision under this Act are:

- (a) the applicant; and
- (b) the Employment Secretary; and
- (c) any other person who has been made a party to the review under subsection (4).

Application to be made a party

“(2) If a person has applied under subsection 139(1) for review of a decision, any other person whose interests are affected by the decision may apply to the National Convenor of the Social Security Appeals Tribunal to be made a party to the review.

Written application

“(3) An application under subsection (2) must be in writing.

National Convenor of the Social Security Appeals Tribunal may make order

“(4) The National Convenor of the Social Security Appeals Tribunal may order that a person who has applied under subsection (2) be made a party to the review.

Social Security Appeals Tribunal's objectives

“**139K.** The Social Security Appeals Tribunal must, in carrying out its functions under this Act, pursue the objective of providing a mechanism of review that is fair, just, economical, informal and quick.

“*Subdivision C—Additional provisions relating to review of decisions*

Application of Parts 6.3 and 6.4 of the Social Security Act 1991

Application

“**139L.(1)** Subject to the changes set out below, the provisions of Parts 6.3 and 6.4 of the *Social Security Act 1991* apply in relation to:

- (a) applications to the Social Security Appeals Tribunal under subsection 139(1) of this Act for review of decisions under this Act; and
- (b) reviews under this Act by the Social Security Appeals Tribunal; and
- (c) decisions that have been reviewed by the Social Security Appeals Tribunal under this Act;

in a corresponding way to the way in which they apply in relation to:

- (d) applications to the Social Security Appeals Tribunal under the *Social Security Act 1991* for review of decisions under that Act; and
- (e) reviews under that Act by the Social Security Appeals Tribunal; and
- (f) decisions that have been reviewed by the Social Security Appeals Tribunal under that Act.

References to the Social Security Secretary

“(2) The first change is that each reference to the Social Security Secretary (other than each reference in section 1269 of the *Social Security Act 1991*) is to be replaced by a reference to the Employment Secretary.

References to the Social Security Act 1991

“(3) The second change is that each reference in subsections 1279(2) and (5) and 1283(4) of the *Social Security Act 1991* to that Act is to be replaced by a reference to:

- (a) in the case of subsections 1279(2) and (5) of the *Social Security Act 1991*—that Act and this Act; and
- (b) in the case of subsection 1283(4) of the *Social Security Act 1991*—this Act.

References to Department of Social Security

“(4) The third change is that each reference to the Department of Social Security is to be replaced by a reference to the Department of Employment, Education and Training.

Reference to section 1260

“(5) The fourth change is that the reference in subsection 1264(2) of the *Social Security Act 1991* to section 1260 of that Act is to be replaced by a reference to section 139J of this Act.

Note: This subsection deals with advice about a person's right to apply to the National Convenor of the Social Security Appeals Tribunal to be added as a party to a review.

References to section 1246

“(6) The fifth change is that each reference to section 1246 of the *Social Security Act 1991* is to be replaced by a reference to section 139K of this Act.

Note: This subsection deals with the Social Security Appeals Tribunal's objectives.

References to officer in section 1284

“(7) The sixth change is that each reference in section 1284 of the *Social Security Act 1991* to an officer is to be replaced by a reference to the Employment Secretary.

Note: This subsection deals with the variation etc. of decisions.”.

Paper: Mr Snowdon presented a supplementary explanatory memorandum to the Bill.

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Mr Snowdon, by leave, the Bill was read a third time.

12 EMPLOYMENT SERVICES (CONSEQUENTIAL AMENDMENTS) BILL 1994

The order of the day having been read for the second reading—Mr Snowdon (Parliamentary Secretary to the Minister for Employment, Education and Training) moved—That the Bill be now read a second time.

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

Consideration in detail

Bill, by leave, taken as a whole.

On the motion of Mr Snowdon, by leave, the following amendments were made together, after debate:

Amendments—**Clause 2—**

Page 1, subclause (1), line 10, after “This Part” insert “(other than subsection (1A) of this section)”.

Page 1, after subclause (1) insert the following subclause:

“(1A) This subsection and Division 4 of Part 6 commence on the day on which this Act receives the Royal Assent.”.

Clause 8, page 3, subclause (2), line 10, omit “subsection 11(1)”, substitute “section 11”.

Clause 9, pages 3 and 4, omit the clause.

Clause 12, pages 4 and 5, omit the clause, substitute the following clause:

Interpretation

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

- (a) by omitting ‘or a prescribed authority’ from the definition of ‘agency’ in subsection (1) and substituting ‘, a prescribed authority or an eligible case manager’;
- (b) by omitting ‘and’ from paragraph (a) of the definition of ‘principal officer’ in subsection (1) and substituting ‘or’;
- (c) by adding at the end of the definition of ‘principal officer’ in subsection (1) the following word and paragraph:

‘or (c) in relation to an eligible case manager:

- (i) if the eligible case manager is an individual—the individual; or
- (ii) in any other case—the individual who has primary responsibility for the management of the eligible case manager;’;

- (d) by adding at the end of paragraphs (a) and (b) of the definition of ‘responsible Minister’ in subsection (1) ‘or’;

- (e) by adding at the end of the definition of ‘responsible Minister’ in subsection (1) the following word and paragraph:

‘or (e) in relation to an eligible case manager—the Minister administering the *Employment Services Act 1994*;’;

- (f) by inserting in subsection (1) the following definition:

“**eligible case manager**” means an entity (within the meaning of the *Employment Services Act 1994*):

- (a) that is, or has at any time been, a contracted case manager within the meaning of that Act; and

- (b) that is not:

- (i) a Department; or
- (ii) a prescribed authority;’.”.

Clause 13, page 5, omit the clause, substitute the following clause:

Insertion of new section

“13. After section 6A of the Principal Act the following section is inserted:

Eligible case managers

‘6B. This Act only applies to a request for access to a document of an eligible case manager if the document is in respect of:

- (a) the provision of case management services (within the meaning of the *Employment Services Act 1994*) to a person referred to the eligible case manager under Part 4.3 of that Act; or
- (b) the performance of a function conferred on the eligible case manager under that Act.’.’.

Clause 16—

Page 7, paragraph (k), line 14, omit “definition”, substitute “definitions”.

Page 7, paragraph (k), before the proposed definition of “eligible case manager” insert the following definition:

“‘**case manager**’ has the same meaning as in the *Employment Services Act 1994*;”.

Page 7, paragraph (k), after the proposed definition of “eligible case manager” insert the following definition:

“‘**ESRA**’ means the Employment Services Regulatory Authority established under the *Employment Services Act 1994*.”.

Clause 18, page 8, lines 22 to 24, omit proposed subsection (4I).

New clause—

After clause 18, page 8, insert the following new clause:

Disclosure of information by Ombudsman

“**18A.** Section 35A of the Principal Act is amended by inserting after subsection (3) the following subsections:

‘(3A) If:

- (a) the Ombudsman has information about a particular case manager; and
- (b) the information is relevant to the performance of the functions, or the exercise of the powers, of ESRA; and
- (c) in the opinion of the Ombudsman, it is:
 - (i) in the interests of ESRA, the case manager or a complainant; or
 - (ii) otherwise in the public interest;

to disclose the information to ESRA or to make a statement about the information to ESRA;

this Act does not prevent the Ombudsman from disclosing the information, or making the statement, to ESRA.

‘(3B) Subsection (3A) does not, by implication, limit the generality of subsection (1).

‘(3C) The Ombudsman must not disclose information, or make a statement about information, under subsection (3A) if:

- (a) the information was obtained in the course of a particular investigation; and
- (b) the disclosure of the information, or the making of the statement, is likely to interfere with:
 - (i) the carrying out of that or any other investigation under this Act; or
 - (ii) the making of a report under this Act.

‘(3D) The Ombudsman must not disclose information, or make a statement about information, under subsection (3A) if:

- (a) the information was obtained as a result of the making of inquiries under section 7A; and

- (b) the disclosure of the information, or the making of the statement, is likely to interfere with:
 - (i) the making of those or any other inquiries under section 7A; or
 - (ii) the carrying out of an investigation under this Act; or
 - (iii) the making of a report under this Act.

‘(3E) The Ombudsman must not, in disclosing information, or making a statement, under subsection (3A):

- (a) set out opinions that are, either expressly or impliedly, critical of a case manager or person unless the Ombudsman has given the case manager or the person an opportunity to make submissions, either orally or in writing, in relation to the information or statement, as the case requires; or
- (b) disclose the name of a complainant or any matter that would enable a complainant to be identified unless it is fair and reasonable in all the circumstances to do so.’.

Amendments—

Clause 22—

Page 9, line 13, omit “(c),”.

Page 9, line 16, omit “after paragraph (1)(c)”, substitute “before paragraph (1)(d)”.

Page 9, proposed paragraph 7(1)(ca), line 17, omit “(ca)”, substitute “(cb)”.

New clause—

After clause 25, page 10, insert the following new clause:

Consequential amendment of the *Australian Capital Territory Government Service (Consequential Provisions) Act 1994*

“25A. Schedule 3 to the *Australian Capital Territory Government Service (Consequential Provisions) Act 1994* is amended by omitting the modifications of the definition of ‘agency’ in subsection 6(1) of the *Privacy Act 1988* and substituting the following modifications:

‘Subsection 6(1) (definition of “agency”):

- (a) After paragraph (b) insert the following paragraph:
“(ba) an ACT agency; or”.
- (b) Omit paragraph (g) and substitute the following paragraph:
“(g) a federal court and a court of the Australian Capital Territory; or”.’.

Amendments—

Clause 30—

Page 11, subclause (1), line 14, omit “543 and 627”, substitute “546C and 630C”.

Page 11, subclause (1), proposed Note, line 17, insert “, 26A” after “24”.

New division and new schedule—

After clause 30, page 11, add the following division (comprising clauses 31 to 36) and schedule:

“Division 4—Deferment periods for job search allowance and newstart allowance

Object of Division

“31. The object of this Division is to make amendments of the Principal Act relating to deferment periods for job search allowance and newstart allowance.

Repeal of section and substitution of new sections

“32. Section 546B of the Principal Act is repealed and the following sections are substituted:

Commencement of activity test deferment periods

‘546B.(1) Subject to subsection 546BA(2), if an automatic deferment provision of this Subdivision applies to a person, the Secretary must give to the person a written notice informing the person of the commencement of the activity test deferment period applicable to the person.

‘(2) Subject to subsections (3) and (6) of this section and sections 546BA and 546BB, the activity test deferment period commences on the day on which the notice is given to the person.

‘(3) Subject to sections 546BA and 546BB, if, at the time of the application of the automatic deferment provision, the person is already subject to a deferment period (the “**pre-existing deferment period**”) that has not yet ended, the activity test deferment period referred to in subsection (1) commences on the day after the day on which the pre-existing deferment period ends.

‘(4) If, at the time of the application of the automatic deferment provision, the person is already subject to more than one pre-existing deferment period that has not yet ended, the reference in subsection (3) to the day on which the pre-existing deferment period ends is a reference to the day on which the last occurring of those pre-existing deferment periods ends.

‘(5) Subsections (3) and (4) apply in respect of a pre-existing deferment period whether or not it has commenced, and whether or not it is the subject of a notice under this section.

‘(6) Subject to sections 546BA and 546BB, if:

- (a) on or before the day on which the period referred to in subsection (1) would (apart from this subsection) have commenced, job search allowance ceases to be payable to the person; and
- (b) it has not ceased to be payable because of the application of a deferment period;

the activity test deferment period referred to in subsection (1) commences on the day on which the job search allowance ceases to be payable to the person.

Note: For “activity test deferment period”, “automatic deferment provision” and “deferment period” see subsection 23(1).

Application of activity test deferment periods before claims for job search allowance

‘546BA.(1) Subject to subsection (2) of this section and section 546BB, if:

- (a) at a time when the person was not qualified for a job search allowance, an event occurred that resulted in an automatic deferment provision of this Subdivision applying to the person; and
- (b) before the end of the resulting activity test deferment period that would have applied to the person (assuming that the deferment period had commenced on the day on which the event occurred), the person made a claim for a job search allowance;

the deferment period is taken to have commenced on the day after the day on which the event occurred.

'(2) Subsections 546B(3), (4) and (5) apply in relation to an activity test deferment period referred to in subsection (1) of this section in the same way that they apply to an activity test deferment period referred to in subsection (1) of that section.

'(3) Subject to section 546BB, if:

- (a) at a time when the person was not qualified for a job search allowance, an event occurred that resulted in an automatic deferment provision of this Subdivision applying to the person; and
- (b) the person made a claim for a job search allowance after the end of the resulting activity test deferment period that would have applied to the person (assuming that the deferment period had commenced on the day on which the event occurred);

then:

- (c) the deferment period is taken to have commenced and to have ended before the claim was made; and
- (d) the Secretary is not obliged to give to the person a written notice under subsection 546B(1) in respect of the deferment period.

Note: For "activity test deferment period" and "automatic deferment provision" see subsection 23(1).

Waiting periods

'546BB.(1) If, under this Subdivision, an activity test deferment period that applies to a person would (apart from this subsection) commence at the same time as, or during, a waiting period that applies to the person, the deferment period is taken to commence immediately after the end of the waiting period.

'(2) If a waiting period that applies to a person commences during an activity test deferment period that applies to the person:

- (a) the deferment period is taken to be suspended for the duration of the waiting period; and
- (b) the remainder of the deferment period continues immediately after the end of the waiting period.

'(3) If a waiting period applies to a person and:

- (a) another waiting period commences during that waiting period and continues after the end of that waiting period; or
- (b) another waiting period commences immediately after the end of that waiting period;

a reference in subsection (1) or (2) to the end of that waiting period is taken to be a reference to the end of the other waiting period.

'(4) A reference in this section to a waiting period includes a reference to a liquid assets test waiting period under section 519.

Note: For "activity test deferment period" and "waiting period" see subsection 23(1).

Effect of sections 546B, 546BA and 546BB

'546BC. For the avoidance of doubt:

- (a) the application of an automatic deferment provision of this Subdivision cannot cause a job search allowance to cease being payable unless the activity test deferment period arising from the application of that provision has commenced under section 546B, 546BA or 546BB; and
- (b) those sections do not prevent a job search allowance ceasing to be payable in circumstances that do not involve the application of an automatic deferment provision of this Subdivision.

Note: For "activity test deferment period" and "automatic deferment provision" see subsection 23(1).

Repeal of section and substitution of new sections

“33. Section 547B of the Principal Act is repealed and the following sections are substituted:

Commencement of administrative breach deferment periods

‘547B.(1) If an automatic deferment provision of this Subdivision applies to a person, the Secretary must give to the person a written notice informing the person of the commencement of the administrative breach deferment period applicable to the person.

‘(2) Subject to subsections (3) and (6) of this section and section 547C, the administrative breach deferment period commences on the day on which the notice is given to the person.

‘(3) Subject to section 547C, if, at the time of the application of the automatic deferment provision, the person is already subject to a deferment period (the “**pre-existing deferment period**”) that has not yet ended, the administrative breach deferment period referred to in subsection (1) commences on the day after the day on which the pre-existing deferment period ends.

‘(4) If, at the time of the application of the automatic deferment provision, the person is already subject to more than one pre-existing deferment period that has not yet ended, the reference in subsection (3) to the day on which the pre-existing deferment period ends is a reference to the day on which the last occurring of those pre-existing deferment periods ends.

‘(5) Subsections (3) and (4) apply in respect of a pre-existing deferment period whether or not it has commenced, and whether or not it is the subject of a notice under this section.

‘(6) Subject to section 547C, if:

- (a) on or before the day on which the period referred to in subsection (1) would (apart from this subsection) have commenced, job search allowance ceases to be payable to the person; and
- (b) it has not ceased to be payable because of the application of a deferment period;

the administrative breach deferment period referred to in subsection (1) commences on the day on which the job search allowance ceases to be payable to the person.

Note: For “administrative breach deferment period”, “automatic deferment provision” and “deferment period” see subsection 23(1).

Waiting periods

‘547C.(1) If, under this Subdivision, an administrative breach deferment period that applies to a person would (apart from this subsection) commence at the same time as, or during, a waiting period that applies to the person, the deferment period is taken to commence immediately after the end of the waiting period.

‘(2) If a waiting period that applies to a person commences during an administrative breach deferment period that applies to the person:

- (a) the deferment period is taken to be suspended for the duration of the waiting period; and
- (b) the remainder of the deferment period continues immediately after the end of the waiting period.

‘(3) If a waiting period applies to a person and:

- (a) another waiting period commences during that waiting period and continues after the end of that waiting period; or
- (b) another waiting period commences immediately after the end of that waiting period;

a reference in subsection (1) or (2) to the end of that waiting period is taken to be a reference to the end of the other waiting period.

‘(4) A reference in this section to a waiting period includes a reference to a liquid assets test waiting period under section 519.

Note: For “administrative breach deferment period” and “waiting period” see subsection 23(1).

Effect of sections 547B and 547C

‘547D. For the avoidance of doubt:

- (a) the application of an automatic deferment provision of this Subdivision cannot cause a job search allowance to cease being payable unless the administrative breach deferment period arising from the application of that provision has commenced under section 547B or 547C; and
- (b) those sections do not prevent a job search allowance ceasing to be payable in circumstances that do not involve the application of an automatic deferment provision of this Subdivision.

Note: For “administrative breach deferment period” and “automatic deferment provision” see subsection 23(1).

Repeal of section and substitution of new sections

‘34. Section 630B of the Principal Act is repealed and the following sections are substituted:

Commencement of activity test deferment periods

‘630B.(1) Subject to subsection 630BA(2), if an automatic deferment provision of this Subdivision applies to a person, the Secretary must give to the person a written notice informing the person of the commencement of the activity test deferment period applicable to the person.

‘(2) Subject to subsections (3) and (6) of this section and sections 630BA and 630BB, the activity test deferment period commences on the day on which the notice is given to the person.

‘(3) Subject to sections 630BA and 630BB, if, at the time of the application of the automatic deferment provision, the person is already subject to a deferment period (the “**pre-existing deferment period**”) that has not yet ended, the activity test deferment period referred to in subsection (1) commences on the day after the day on which the pre-existing deferment period ends.

‘(4) If, at the time of the application of the automatic deferment provision, the person is already subject to more than one pre-existing deferment period that has not yet ended, the reference in subsection (3) to the day on which the pre-existing deferment period ends is a reference to the day on which the last occurring of those pre-existing deferment periods ends.

‘(5) Subsections (3) and (4) apply in respect of a pre-existing deferment period whether or not it has commenced, and whether or not it is the subject of a notice under this section.

‘(6) Subject to sections 630BA and 630BB, if:

- (a) on or before the day on which the period referred to in subsection (1) would (apart from this subsection) have commenced, newstart allowance ceases to be payable to the person; and

- (b) it has not ceased to be payable because of the application of a deferment period;

the activity test deferment period referred to in subsection (1) commences on the day on which the newstart allowance ceases to be payable to the person.

Note: For "activity test deferment period", "automatic deferment provision" and "deferment period" see subsection 23(1).

Application of activity test deferment periods before claims for newstart allowance

'630BA.(1) Subject to subsection (2) of this section and section 630BB, if:

- (a) at a time when the person was not qualified for a newstart allowance, an event occurred that resulted in an automatic deferment provision of this Subdivision applying to the person; and
- (b) before the end of the resulting activity test deferment period that would have applied to the person (assuming that the deferment period had commenced on the day on which the event occurred), the person made a claim for a newstart allowance;

the deferment period is taken to have commenced on the day after the day on which the event occurred.

'(2) Subsections 630B(3), (4) and (5) apply in relation to an activity test deferment period referred to in subsection (1) of this section in the same way that they apply to an activity test deferment period referred to in subsection (1) of that section.

'(3) Subject to section 630BB, if:

- (a) at a time when the person was not qualified for a newstart allowance, an event occurred that resulted in an automatic deferment provision of this Subdivision applying to the person; and
- (b) the person made a claim for a newstart allowance after the end of the resulting activity test deferment period that would have applied to the person (assuming that the deferment period had commenced on the day on which the event occurred);

then:

- (c) the deferment period is taken to have commenced and to have ended before the claim was made; and
- (d) the Secretary is not obliged to give to the person a written notice under subsection 630B(1) in respect of the deferment period.

Note: For "activity test deferment period" and "automatic deferment provision" see subsection 23(1).

Waiting periods

'630BB.(1) If, under this Subdivision, an activity test deferment period that applies to a person would (apart from this subsection) commence at the same time as, or during, a waiting period that applies to the person, the deferment period is taken to commence immediately after the end of the waiting period.

'(2) If a waiting period that applies to a person commences during an activity test deferment period that applies to the person:

- (a) the deferment period is taken to be suspended for the duration of the waiting period; and
- (b) the remainder of the deferment period continues immediately after the end of the waiting period.

'(3) If a waiting period applies to a person and:

- (a) another waiting period commences during that waiting period and continues after the end of that waiting period; or
- (b) another waiting period commences immediately after the end of that waiting period;

a reference in subsection (1) or (2) to the end of that waiting period is taken to be a reference to the end of the other waiting period.

'(4) A reference in this section to a waiting period includes a reference to a liquid assets test waiting period under section 598.

Note: For "activity test deferment period" and "waiting period" see subsection 23(1).

Effect of sections 630B, 630BA and 630BB

'630BC. For the avoidance of doubt:

- (a) the application of an automatic deferment provision of this Subdivision cannot cause a newstart allowance to cease being payable unless the activity test deferment period arising from the application of that provision has commenced under section 630B, 630BA or 630BB; and
- (b) those sections do not prevent a newstart allowance ceasing to be payable in circumstances that do not involve the application of an automatic deferment provision of this Subdivision.

Note: For "activity test deferment period" and "automatic deferment provision" see subsection 23(1).'

Repeal of section and substitution of new sections

'35. Section 631B of the Principal Act is repealed and the following sections are substituted:

Commencement of administrative breach deferment periods

'631B.(1) If an automatic deferment provision of this Subdivision applies to a person, the Secretary must give to the person a written notice informing the person of the commencement of the administrative breach deferment period applicable to the person.

'(2) Subject to subsections (3) and (6) of this section and section 631C, the administrative breach deferment period commences on the day on which the notice is given to the person.

'(3) Subject to section 631C, if, at the time of the application of the automatic deferment provision, the person is already subject to a deferment period (the "**pre-existing deferment period**") that has not yet ended, the administrative breach deferment period referred to in subsection (1) commences on the day after the day on which the pre-existing deferment period ends.

'(4) If, at the time of the application of the automatic deferment provision, the person is already subject to more than one pre-existing deferment period that has not yet ended, the reference in subsection (3) to the day on which the pre-existing deferment period ends is a reference to the day on which the last occurring of those pre-existing deferment periods ends.

'(5) Subsections (3) and (4) apply in respect of a pre-existing deferment period whether or not it has commenced, and whether or not it is the subject of a notice under this section.

'(6) Subject to section 631C, if:

- (a) on or before the day on which the period referred to in subsection (1) would (apart from this subsection) have commenced, newstart allowance ceases to be payable to the person; and
- (b) it has not ceased to be payable because of the application of a deferment period;

the administrative breach deferment period referred to in subsection (1) commences on the day on which the newstart allowance ceases to be payable to the person.

Note: For “administrative breach deferment period”, “automatic deferment provision” and “deferment period” see subsection 23(1).

Waiting periods

‘631C.(1) If, under this Subdivision, an administrative breach deferment period that applies to a person would (apart from this subsection) commence at the same time as, or during, a waiting period that applies to the person, the deferment period is taken to commence immediately after the end of the waiting period.

‘(2) If a waiting period that applies to a person commences during an administrative breach deferment period that applies to the person:

- (a) the deferment period is taken to be suspended for the duration of the waiting period; and
- (b) the remainder of the deferment period continues immediately after the end of the waiting period.

‘(3) If a waiting period applies to a person and:

- (a) another waiting period commences during that waiting period and continues after the end of that waiting period; or
- (b) another waiting period commences immediately after the end of that waiting period;

a reference in subsection (1) or (2) to the end of that waiting period is taken to be a reference to the end of the other waiting period.

‘(4) A reference in this section to a waiting period includes a reference to a liquid assets test waiting period under section 598.

Note: For “administrative breach deferment period” and “waiting period” see subsection 23(1).

Effect of sections 631B and 631C

‘631D. For the avoidance of doubt:

- (a) the application of an automatic deferment provision of this Subdivision cannot cause a newstart allowance to cease being payable unless the administrative breach deferment period arising from the application of that provision has commenced under section 631B or 631C; and
- (b) those sections do not prevent a newstart allowance ceasing to be payable in circumstances that do not involve the application of an automatic deferment provision of this Subdivision.

Note: For “administrative breach deferment period” and “automatic deferment provision” see subsection 23(1).

Further amendments relating to deferment periods

“36. The Principal Act is further amended as set out in the Schedule.

‘SCHEDULE

Section 36

AMENDMENTS OF THE SOCIAL SECURITY ACT 1991 RELATING TO DEFERMENT PERIODS

1. Section 3:

Omit from the Index:

“NS automatic deferment provision	23(1)
NS discretionary deferment provision	23(1)”.

2. Section 3:

Insert in the Index the following entries in their respective appropriate alphabetical positions (determined on a letter-by-letter basis):

“activity test deferment period	23(1)
administrative breach deferment period	23(1)
deferment period	23(1)
discretionary deferment provision	23(1)
NS allowance automatic deferment provision	23(1)
NS allowance discretionary deferment provision	23(1)”.

3. Subsection 23(1):

Insert:

“**‘deferment period’** means an activity test deferment period or an administrative breach deferment period;”.

4. Subsection 542(1):

Omit the subsection, substitute:

“(1) A job search allowance is not payable to a person for the activity test deferment period if:

- (a) the person is required to satisfy the activity test in order to qualify, or to continue to qualify, for a job search allowance; and
- (b) the person fails to satisfy the activity test.”.

5. Subsection 542A(1):

Omit the subsection, substitute:

“(1) A job search allowance is not payable to a person for the activity test deferment period if:

- (a) the person is required to enter into a Job Search Activity Agreement in order to qualify, or to continue to qualify, for a job search allowance; and
- (b) the person fails to enter into a Job Search Activity Agreement.”.

6. Subsection 542B(1):

Omit the subsection, substitute:

“(1) A job search allowance is not payable to a person for the activity test deferment period if:

- (a) the person is required to take reasonable steps to comply with the terms of a Job Search Activity Agreement in order to qualify, or to continue to qualify, for a job search allowance; and
- (b) the person fails to take reasonable steps to comply with the terms of the Job Search Activity Agreement.”.

7. Subsection 624(1):

Omit the subsection, substitute:

“(1) A newstart allowance is not payable to a person for the activity test deferment period if:

- (a) the person is required to satisfy the activity test in order to qualify, or to continue to qualify, for a newstart allowance; and
- (b) the person fails to satisfy the activity test.”.

8. Subsection 625(1):

Omit the subsection, substitute:

“(1) A newstart allowance is not payable to a person for the activity test deferment period if:

- (a) the person is required to enter into a Newstart Activity Agreement in order to qualify, or to continue to qualify, for a newstart allowance; and
- (b) the person fails to enter into a Newstart Activity Agreement.”.

9. Subsection 626(1):

Omit the subsection, substitute:

“(1) A newstart allowance is not payable to a person for the activity test deferment period if:

- (a) the person is required to take reasonable steps to comply with the terms of a Newstart Activity Agreement in order to qualify, or to continue to qualify, for a newstart allowance; and
- (b) the person fails to take reasonable steps to comply with the terms of the Newstart Activity Agreement.”.

10. Paragraph 630A(6)(b):

Omit “job start allowance”, substitute “job search allowance”.

11. Subdivision F of Division 1 of Part 2.12 (Heading):

Omit “F”, substitute “G”.

12. Subdivision G of Division 1 of Part 2.12 (Heading):

Omit “G”, substitute “H”.

13. Items 70 and 71 of Schedule 1A (as enacted by item 73 of Schedule 3 of the Social Security Legislation Amendment Act (No. 2) 1994):

Renumber as Items 69A and 69B.’.”.

Paper: Mr Snowdon presented a supplementary explanatory memorandum to the Bill.

Bill, as amended, agreed to.

Consideration in detail concluded.

On the motion of Mr Snowdon, by leave, the Bill was read a third time.

13 DECLARATION OF BILLS AS COGNATE BILLS

Mr Free (Minister for Schools, Vocational Education and Training), by leave, declared that the Student Assistance (Youth Training Allowance) Amendment Bill 1994 and the Student Assistance (Youth Training Allowance—Transitional Provisions and Consequential Amendments) Bill 1994 were cognate Bills.

14 STUDENT ASSISTANCE (YOUTH TRAINING ALLOWANCE) AMENDMENT BILL 1994

The order of the day having been read for the second reading—Mr Free (Minister for Schools, Vocational Education and Training) moved—That the Bill be now read a second time.

Debate ensued.

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

Message from the Administrator: Message No. 196, dated 18 October 1994, from His Excellency the Administrator was announced recommending an appropriation for the purposes of the Bill.

Leave granted for third reading to be moved forthwith.

On the motion of Mr Johns (Special Minister of State), the Bill was read a third time.

15 STUDENT ASSISTANCE (YOUTH TRAINING ALLOWANCE—TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1994

The order of the day having been read for the second reading—Mr Johns (Special Minister of State) moved—That the Bill be now read a second time.

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

Leave granted for third reading to be moved forthwith.

On the motion of Mr Johns, the Bill was read a third time.

16 AEROSPACE TECHNOLOGIES OF AUSTRALIA LIMITED SALE BILL 1994

The order of the day having been read for the second reading—Mr Elliott (Parliamentary Secretary to the Treasurer) moved—That the Bill be now read a second time.

Debate ensued.

It being 3 p.m., the debate was interrupted in accordance with standing order 101A, and the resumption of the debate made an order of the day for a later hour this day.

17 QUESTIONS

Questions without notice were asked.

18 PAPER

Mr Keating (Prime Minister) presented the following paper:

Commonwealth Cultural Policy launch—Address by the Prime Minister, 18 October 1994.

19 PAPERS

The Speaker presented the following papers:

Public Service Act—

Department of the Parliamentary Library—Report for 1993-94.

Joint House Department—Report for 1993-94.

20 AUDITOR-GENERAL'S REPORT—PUBLICATION OF PAPER

The Speaker presented the following paper:

Audit Act—Auditor-General—Audit report No. 4 of 1994-95—Project audit—Special investigation into Casselden Place Building, Melbourne—Department of Administrative Services.

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

(1) this House authorises the publication of the Auditor-General's audit report No. 4 of 1994-95; and

(2) the report be printed.

Mr Connolly addressing the House—

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

Question—That the question be now put—put.

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

AYES, 69

Mr Adams	Mr M. J. Evans	Mrs Kelly	Mr Sawford*
Mr Beazley	Ms Fatin	Mr Kerr	Mr Sciacca
Mr Beddall	Mr Ferguson	Mr Knott	Mr L. J. Scott
Mr Bilney	Mr Fitzgibbon	Mr Latham	Mr Simmons
Mr Brereton	Mr Free	Mr Lavarch	Mrs S. J. Smith
Mr Brown	Mr Gear	Mr Lee	Mr S. F. Smith
Mr Campbell	Mr Gibson	Mr Lindsay	Mr Snow
Mr Chynoweth	Mr Gorman	Ms McHugh	Mr Snowdon
Mr Cleeland	Mr Grace*	Mr McLeay	Mr Swan
Mr Crean	Mr Griffin	Mr Melham	Mr Tanner
Mrs Crosio	Mr Griffiths	Mr A. A. Morris	Dr Theophanous
Mr Cunningham	Mr Haviland	Mr P. F. Morris	Mr Tickner
Ms Deahm	Ms Hazzell	Mr Newell	Mr Walker
Mr Dodd	Mr Holding	Mr O'Connor	Mr Willis
Mr Duffy	Mr Hollis	Mr O'Keefe	Mr Woods
Mr Duncan	Mr Horne	Mr Price	
Mrs Easson	Mr Humphreys	Mr Punch	
Mr Elliott	Mr Jenkins	Mr Quick	

NOES, 53

Mr Abbott	Mr Filing	Mr Moore	Mr Sinclair
Mr J. N. Andrew	Mr Fischer	Mrs Moylan	Mr Slipper
Mr K. J. Andrews	Mr Forrest	Mr Nehl	Mr Somlyay
Mr Atkinson	Mrs Gallus	Mr Neville	Mrs Sullivan
Mr Beale	Mr Hall	Mr Nugent	Mr Taylor
Mrs Bishop	Mr Halverson	Mr Prosser	Mr Truss
Mr Bradford	Mr Hawker*	Mr Pyne	Mr Tuckey
Mr Cadman	Mr Hicks*	Mr Reid	Mr Vaile
Mr Charles	Mr Howard	Mr Reith	Mr Taylor
Mr Cobb	Mr Jull	Mr Rocher	Mr Williams
Mr Connolly	Mr Katter	Mr Ronaldson	Ms Worth
Mr Costello	Mr Lieberman	Mr Ruddock	
Mr Dobie	Mr Lloyd	Mr B. C. Scott	
Mr R.D.C. Evans	Mr McGauran	Mr Sharp	

* Tellers

And so it was resolved in the affirmative.

And the question—That the motion be agreed to—was put accordingly and passed.

21 PAPERS

The following papers were presented:

Aboriginal Land Rights (Northern Territory) Act—Aboriginals Benefit Trust Account—Report for 1993-94.

Affirmative Action (Equal Employment Opportunity for Women) Act—Affirmative Action Agency—Report for period 1 June 1993 to 31 May 1994.

Australia Council Act—Australia Council—Report for 1993-94.

Australian Federal Police Act—Australian Federal Police—Report for 1993-94.

Australian National Maritime Museum Act—Australian National Maritime Museum—Report for 1993-94.

Australian Securities Commission Act—Australian Securities Commission—Report for 1993-94.

Australian Security Intelligence Organization Act—Australian Security Intelligence Organization—Report for 1993-94.

- Australian Wine and Brandy Corporation Act—Australian Wine and Brandy Corporation—13th report, for 1993-94.
- Broadcasting Services Act—Australian Broadcasting Authority—Report for 1993-94.
- Bureau of Meteorology—Report for 1993-94.
- Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 1993-94.
- Defence Science and Technology Organisation—Commercial activities—Report for 1993-94.
- Development Allowance Authority Act—Development Allowance Authority—Report for 1993-94.
- Environment Protection (Alligator Rivers Region) Act—Supervising Scientist for the Alligator Rivers Region—Report for 1993-94.
- Equal Employment Opportunity (Commonwealth Authorities) Act—Equal employment opportunity program—Australia Post—Report for 1993-94.
- Health Insurance Commission Act—Health Insurance Commission—Report for 1993-94.
- Industrial Chemicals (Notification and Assessment) Act—National Industrial Chemicals Notification and Assessment Scheme—Report for 1993-94.
- Inspector-General of Intelligence and Security Act—Inspector-General of Intelligence and Security—Report for 1993-94.
- International Air Services Commission Act—International Air Services Commission—Report for 1993-94.
- Management Advisory Board—Ongoing reform in the Australian Public Service—Occasional report to the Prime Minister, October 1994.
- National Health and Medical Research Council Act—National Health and Medical Research Council—Report for 1993.
- National Library Act—National Library of Australia—34th report, for 1993-94.
- National Museum of Australia Act—National Museum of Australia—Report for 1993-94.
- National Treatment Monitoring Committee—Report for 1993-94.
- Public Service Act—
- Attorney-General's Department—Report for 1993-94.
 - Department of Foreign Affairs and Trade—Report for 1993-94.
 - Department of Transport—Report for 1993-94.
 - Public Service Commissioner—Report for 1993-94.
- Qantas Airways Limited—Report for 1993-94.
- Safety, Rehabilitation and Compensation Act—Comcare Australia and Commission for the Safety, Rehabilitation and Compensation of Commonwealth Employees—Report for 1993-94.
- Special Broadcasting Service Act—Special Broadcasting Service Corporation (SBS)—Report for 1993-94.
- Stevedoring Industry Finance Committee Act—Stevedoring Industry Finance Committee—Report for 1993-94.

Superannuation Act 1976—Commonwealth Superannuation Board of Trustees No. 2—Report for 1993-94—Erratum.

Superannuation Act 1990—Commonwealth Superannuation Board of Trustees No. 1—Report for 1993-94—Erratum.

22 PAPERS—MOTION TO TAKE NOTE OF PAPERS

Mr Beazley (Leader of the House) moved—That the House take note of the following papers:

Aboriginal Land Rights (Northern Territory) Act—Aboriginals Benefit Trust Account—Report for 1993-94.

Affirmative Action (Equal Employment Opportunity for Women) Act—Affirmative Action Agency—Report for period 1 June 1993 to 31 May 1994.

Australia Council Act—Australia Council—Report for 1993-94.

Australian Federal Police Act—Australian Federal Police—Report for 1993-94.

Australian National Maritime Museum Act—Australian National Maritime Museum—Report for 1993-94.

Australian Securities Commission Act—Australian Securities Commission—Report for 1993-94.

Australian Security Intelligence Organization Act—Australian Security Intelligence Organization—Report for 1993-94.

Broadcasting Services Act—Australian Broadcasting Authority—Report for 1993-94.

Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 1993-94.

Defence Science and Technology Organisation—Commercial activities—Report for 1993-94.

Development Allowance Authority Act—Development Allowance Authority—Report for 1993-94.

Environment Protection (Alligator Rivers Region) Act—Supervising Scientist for the Alligator Rivers Region—Report for 1993-94.

Equal Employment Opportunity (Commonwealth Authorities) Act—Equal employment opportunity program—Australia Post—Report for 1993-94.

Health Insurance Commission Act—Health Insurance Commission—Report for 1993-94.

Inspector-General of Intelligence and Security Act—Inspector-General of Intelligence and Security—Report for 1993-94.

International Air Services Commission Act—International Air Services Commission—Report for 1993-94.

Management Advisory Board—Ongoing reform in the Australian Public Service—Occasional report to the Prime Minister, October 1994.

National Health and Medical Research Council Act—National Health and Medical Research Council—Report for 1993.

National Library Act—National Library of Australia—34th report, for 1993-94.

National Museum of Australia Act—National Museum of Australia—Report for 1993-94.

Public Service Act—

Attorney-General's Department—Report for 1993-94.

Department of Foreign Affairs and Trade—Report for 1993-94.

Department of Transport—Report for 1993-94.

Public Service Commissioner—Report for 1993-94.

Qantas Airways Limited—Report for 1993-94.

Safety, Rehabilitation and Compensation Act—Comcare Australia and Commission for the Safety, Rehabilitation and Compensation of Commonwealth Employees—Report for 1993-94.

Special Broadcasting Service Act—Special Broadcasting Service Corporation (SBS)—Report for 1993-94.

Stevedoring Industry Finance Committee Act—Stevedoring Industry Finance Committee—Report for 1993-94.

Superannuation Act 1976—Commonwealth Superannuation Board of Trustees No. 2—Report for 1993-94—Erratum.

Superannuation Act 1990—Commonwealth Superannuation Board of Trustees No. 1—Report for 1993-94—Erratum.

Veterans' Entitlements Act—National Treatment Monitoring Committee—Report for 1993-94.

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

23 AFFIRMATIVE ACTION AGENCY—REPORT—PUBLICATION OF PAPER

Mr Beazley (Leader of the House), by leave, moved—That this House authorises the publication of the report of the Affirmative Action Agency for the period 1 June 1993 to 31 May 1994.

Question—put and passed.

24 UNITED NATIONS INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT, CAIRO—OUTCOMES—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER

Mr Bilney (Minister for Development Co-operation and Pacific Island Affairs), by leave, made a ministerial statement on the outcomes of the United Nations International Conference on Population and Development held in Cairo, 5-13 September 1994, and presented the following paper:

United Nations International Conference on Population and Development held in Cairo, 5-13 September 1994—Outcomes—Joint statement by Senator Bolkus (Minister for Immigration and Ethnic Affairs) and Mr Baldwin (Minister representing the Minister for Immigration and Ethnic Affairs), October 1994.

Dr Theophanous (Parliamentary Secretary to the Prime Minister) moved—That the House take note of the paper.

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

25 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—MINISTER FOR TRANSPORT

The House was informed that Mr Sharp had proposed that a definite matter of public importance be submitted to the House for discussion, namely, "The failure of the Minister for Transport to adequately explain his failure to respond to

concerns expressed in the Parliament about aviation operators, which has led to a loss of confidence in aviation safety and the Minister's ability to administer his portfolio responsibilities".

The proposed discussion having received the necessary support—

Mr Sharp addressed the House.

Discussion ensued.

26 ADJOURNMENT

It being 5.30 p.m.—The question was proposed—That the House do now adjourn.

Debate ensued.

The House continuing to sit until 6 p.m.—The Speaker adjourned the House until Monday, 7 November 1994, at 12.30 p.m.

PAPERS

The following papers were deemed to have been presented on 20 October 1994:

Migration Act—

Statements (4) under section 115.

Statements (9) under section 166BE.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Aldred, Mr Anderson, Mr Baldwin, Mr Bevis, Mr Braithwaite*, Mr Cameron, Ms Crawford, Dr Hewson, Mr Howe, Mr Jones, Mr Langmore, Dr Lawrence, Mr Mack, Mr McLachlan and Mr Staples*.

*On leave

L. M. BARLIN

Clerk of the House of Representatives

1993-94

HOUSE OF REPRESENTATIVES
SUPPLEMENT TO VOTES AND PROCEEDINGS

No. 102

MAIN COMMITTEE

MINUTES OF PROCEEDINGS

THURSDAY, 20 OCTOBER 1994

1 The Main Committee met at 10 a.m.

2 **VETERANS' AFFAIRS (1994-95 BUDGET MEASURES) LEGISLATION
AMENDMENT BILL (NO. 2) 1994**

The order of the day having been read for the second reading—Mr Sciacca (Minister for Veterans' Affairs) moved—That the Bill be now read a second time.

Debate ensued.

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

Message from the Administrator: Message No. 194, dated 18 October 1994, from His Excellency the Administrator was announced recommending an appropriation for the purposes of the Bill.

Consideration in detail

Clauses 1 to 53, by leave, taken together and agreed to.

Proposed new clause—

Mr Tuckey moved—That the following new clause be inserted in the Bill:

Insertion of section

“53A. After section 196ZM of the Principal Act the following sections are inserted in Part XIB:

Medical expenses

‘196ZN. (1) The Commonwealth may, subject to this section, pay to an applicant who asks the Review Council to conduct a review as provided for by this Part an amount to cover the medical expenses incurred by him or her in respect of relevant documentary medical evidence obtained for the purposes of the review and submitted to the Review Council.

‘(2) The applicant is not to be paid:

- (a) if the applicant has submitted to the Review Council relevant documentary medical evidence relating to only one medical condition—more than \$425 for medical expenses; or

- (b) if the applicant has submitted to the Review Council relevant documentary medical evidence relating to more than one medical condition—more than \$425 for the medical expenses incurred in respect of the evidence relating to any one of those conditions.

‘(3) An amount is not payable in respect of medical expenses unless:

- (a) the person who has incurred the expenses; or
 (b) any person approved by that person or by the Commission;
 applies in writing to the Commission for payment.

‘(4) The application for payment must:

- (a) be in accordance with a form approved by the Commission; and
 (b) be made within 3 months after the relevant documentary medical evidence was submitted to the Review Council; and
 (c) be lodged, together with any document that the applicant considers relevant, at an office of the Department in Australia.

‘(5) For the purposes of this section “relevant documentary medical evidence” in relation to an application has the same meaning as is specified in section 133.

Travelling expenses for obtaining medical evidence

‘196ZO. (1) If an applicant has had to travel to obtain any relevant documentary medical evidence submitted to the Review Council, the applicant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

‘(2) If:

- (a) the applicant is accompanied by an attendant when travelling to obtain the evidence; and
 (b) the Commission is of the view that it is reasonable for the applicant to be so accompanied by an attendant;

the attendant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

‘(3) Travelling expenses are not payable in respect of travel outside Australia.

‘(4) Travelling expenses are not payable unless:

- (a) the person who has incurred the expenses; or
 (b) any person approved by that person or by the Commission;
 applies in writing to the Commission for payment under subsection (5).

‘(5) The application for payment must:

- (a) be in accordance with a form approved by the Commission; and
 (b) be made within 3 months after the end of the travel; and
 (c) be lodged, together with any document that the applicant considers relevant, at an office of the Department in Australia.

‘(6) The Commonwealth is to pay the travelling expenses to which a person is entitled under this section.

Advance of travelling expenses

‘196ZP. (1) If the Commission is satisfied that:

- (a) it is reasonable to expect that a person may become entitled to travelling expenses under section 196ZO; and

(b) it is appropriate, in all the circumstances, that the person should be paid an advance on account of those expenses;

the Commission may authorise the payment of that advance to the person.

'(2) If:

(a) a person has received an advance on account of any travelling expenses that the person is likely to incur; and

(b) the person:

(i) does not incur those travelling expenses; or

(ii) incurs travelling expenses that are less than the amount of the advance;

the person is liable to repay to the Commonwealth:

(c) the amount of the advance; or

(d) the difference between the amount of the advance and the amount of the travelling expenses;

as the case requires.'".

Debate ensued.

Proposed new clause negatived.

Remainder of the Bill, by leave, taken as a whole and agreed to.

Bill agreed to.

Consideration in detail concluded.

Ordered—That the Bill be reported to the House without amendment.

3 VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL (NO. 2) 1994

The order of the day having been read for the second reading—Mr Sciacca (Minister for Veterans' Affairs) moved—That the Bill be now read a second time.

Debate ensued.

Suspension of sitting: At 11.49 a.m., the Deputy Speaker left the Chair due to the lack of a quorum.

Resumption of sitting: At 11.50 a.m., the Deputy Speaker resumed the Chair, and a quorum was present.

Debate continued.

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

Message from the Administrator: Message No. 195, dated 18 October 1994, from His Excellency the Administrator was announced recommending an appropriation for the purposes of the Bill.

Leave granted for the motion for the Bill to be reported to be moved forthwith.

On the motion of Mr Sciacca, Bill to be reported to the House without amendment.

4 SUPERANNUATION INDUSTRY (SUPERVISION) LEGISLATION AMENDMENT BILL 1994

The order of the day having been read for the second reading—Mr Elliott (Parliamentary Secretary to the Treasurer) moved—That the Bill be now read a second time.

Debate ensued.

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

5 ADJOURNMENT

On the motion of Mr Elliott (Parliamentary Secretary to the Treasurer), the Main Committee adjourned at 1.01 p.m.

The Deputy Speaker fixed Wednesday, 9 November 1994, at 10 a.m., for the next meeting of the Main Committee.



I. C. HARRIS

Clerk of the Main Committee