



Families, Community Services and Indigenous Affairs Legislation Amendment (Further 2007 Budget Measures) Bill 2007

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Contents

Purpose.....	4
Background.....	4
Schedule 1 – Pension bonus scheme.....	4
Proposed changes to the Pension bonus scheme	4
Cost.....	5
Purpose.....	5
Origins of the Pension Bonus Scheme.....	5
PBS description	6
Amount of pension bonus scheme bonus	6
PBS take up	6
PBS changes in Schedule 1.....	7
Providing the surviving spouse of a deceased member of the PBS with a payment of the bonus accrued up to the time of death	7
Allowing a top up of the bonus if there is an increase in PBS participant’s rate of forgone age pension in the 13 week period after date of claim	7

Allowing the discretion to allow a top up of the bonus if there is a claim more than 13 weeks after date of claim that there is an increase in PBS members rate of forgone age pension	7
Allowing PBS members to take employment related leave as a non accruing member of the PBS for up to 26 weeks	8
Schedule 2 – Assurances of support.....	8
Cost	8
Assurance of Support.....	8
Assuror	9
Assuree.....	10
AoS bond	10
Payment of special benefit and debt	10
Substantial change in circumstances for SpB	11
Recoverable amounts under an assurance of support	12
Assurance of support scheme now administered by Centrelink	13
Summary	13
Schedule 3 – Crisis payments for humanitarian entrants	13
Cost	14
Crisis payment	14
People in Australia for less than two year cannot access crisis payment.....	14
Schedule 4 – Funeral investments	15
Cost	15
Exempt funeral investments.....	15
Proposed doubling of the exempt funeral amount for funeral investments.....	16
Purpose of the funeral investment asset test changes	16
Schedule 5 – Extension of multiple birth allowance.....	17

Cost	17
Purpose.....	17
Main provisions	18
Schedule 1 – Pension bonus scheme	18
Schedule 2 – Assurances of support.....	19
Schedule 3 – Crisis payments for humanitarian entrants	20
Schedule 4 – Funeral investments	20
Schedule 5 – Extension of multiple birth allowance.....	20
Conclusion	21

Families, Community Services and Indigenous Affairs Legislation Amendment (Further 2007 Budget Measures) Bill 2007

Date introduced: 20 June 2007

House: House of Representatives

Portfolio: Families, Community Services and Indigenous Affairs

Commencement: From 1 January 2008.

Links:

The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

To provide the legislation necessary for several government initiatives announced in the 2007-08 Budget. These initiatives are:

- enhancements to the Pension Bonus Scheme (PBS),
- improvements and clarification to the legislation governing the Assurance of Support (AoS) program,
- expansion of access to the crisis payment for newly arrived humanitarian entrants,
- increases in the assets test exemption amounts for funeral bonds, and
- expansion of access to the Multiple birth allowance.

Background

Schedule 1 – Pension bonus scheme

Proposed changes to the Pension bonus scheme

The changes to the PBS presented in **Schedule 1** of the Bill were announced by the government in the 2007-08 Budget.¹ The changes proposed are:

1. Department of Treasury, Budget Paper No. 2 - Budget Measures 2007-08, *Pension Bonus Scheme – enhancements*, 8 May 2007, pp. 191-192:
<http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>

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- providing the surviving partner of a deceased member of the PBS with a payment of the PBS bonus accrued up to the time of death,
- allowing a top up of the PBS bonus if there is an increase in the PBS participant's rate of forgone age pension in the 13 week period after date of claim,
- allowing the discretion to allow a claim for a top up of the PBS bonus where the claim for this top up is lodged more than 13 weeks after date of original claim for the PBS, and
- allowing PBS members to take employment related leave as a non accruing member of the PBS for up to 26 weeks.

Cost

The Financial impact statement in the Explanatory Memorandum details that the expanded access to the PBS is estimated to cost \$9.1 million in 2007-08, \$12.0 million in 2008-09, \$12.4 million in 2009-10 and \$12.9 million in 2010-11.

Purpose

In announcing the changes to the PBS the government said the reason for the changes to the PBS was:

This payment and the other 2007-08 Federal Budget initiatives for older Australians, including changes to the Pension Bonus Scheme (PBS), will provide greater incentives for older Australians to invest in their futures.²

Origins of the Pension Bonus Scheme

The PBS has its origins with the passage of the *Social Security and Veterans' Affairs Legislation Amendment (Pension Bonus Scheme) Act 1998*.³ The PBS commenced from 1 July 1998. A person wishing to access the PBS must claim within 13 weeks of first qualifying for age (or age service) pension.

2. The Hon. Mal Brough, MP, Minister for Families, Community Services and Indigenous Affairs, *Howard Government \$1.4 billion Package for Older Australians*, media release, Canberra, Australia, 8 May 2007.

http://www.facs.gov.au/internet/Minister3.nsf/content/budget07_older_australians.htm

3. Peter Yeend, *Social Security and Veterans' Affairs Legislation Amendment (Pension Bonus Scheme) Bill 1998*, *Bills Digest No. 173 1997-98*, Parliamentary Library, Canberra, Australia, 6 April 1998. <http://www.aph.gov.au/library/pubs/bd/1997-98/98bd173.htm#Contact>

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PBS description

The PBS is for people who qualify for a payment of an age pension (or age service pension) but delay taking payment of the pension while they, or their registered partner, continue to work for at least 960 hours each year (18.5 hours a week). These people may then receive a tax free lump sum bonus payment when they eventually stop working if they claim and receive age (or age service) pension. Some limitations apply to people over 75 years of age.

Once a person has reached age pension age and otherwise has an entitlement to a payment of age pension, if they wish to access the PBS they must make a claim for the PBS bonus. Persons of pension age otherwise entitled to a payment of age pension who do not lodge a claim for age pension and the PBS bonus do not qualify for the PBS.

Amount of pension bonus scheme bonus

The amount of PBS bonus is a multiple of the person's annual rate of basic age pension payable when the pension is granted. The multiple is made up of the number of qualifying years the pension has been deferred by the amount of pension otherwise payable. For example:

If a person's basic annual pension after the application of the income test was \$5 850 and they deferred taking their age pension under the PBS for 3.526 years, their PBS bonus would be a calculation of:

$$\$5\ 850 \times (0.094 \times 3.526) \times \text{the period deferred of } 3.526 = \text{a bonus of } \$6\ 836.70.$$

PBS take up

In an answer to a question on notice from Senator Chris Evans in Senate 2005-06 Budget Estimates about the take up of the PBS, the Department of Families and Community Services and Indigenous Affairs responded:

Answer:

As at 30 December 2005, a total of 95,919 people had registered with the Pension Bonus Scheme since it commenced in 1998. While the composition may change over time, 51,790 people are currently registered in the Scheme with approximately 30 per cent being single and 70 per cent being partnered.⁴

4. Department of Families, Community Services and Indigenous Affairs, *Answer to question on notice – Pension Bonus Scheme*, question No. 036, asked by Senator Chris Evans, 2005-06 Budget - Additional Senate Estimates, Community Affairs Legislation Committee, Canberra,

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Not every age pension claimant has a chance of taking advantage of the PBS. The way the PBS is constructed means that it is confined to those who already have a substantial attachment to the workforce upon reaching retirement age, and intend to continue to undertake substantial work and can afford to defer receiving payment of the age pension. This means those who would otherwise be entitled to the maximum rate of pension, or a substantive rate of pension, due to having a small amount of other income, are not usually financially able to elect to defer and access the PBS.

PBS changes in Schedule 1

Providing the surviving spouse of a deceased member of the PBS with a payment of the bonus accrued up to the time of death

This is probably a common sense enhancement of the PBS. As can be seen from the answer to the question on notice above, 70 per cent of PBS applicants are partnered.⁵

Allowing a top up of the bonus if there is an increase in PBS participant's rate of forgone age pension in the 13 week period after date of claim

This enhancement provides for increased flexibility in the PBS application. It probably won't affect many PBS applicants as it would require an applicant to realise an increase in their rate of age pension otherwise payable (usually due to a reduction in employment income) in the 13 week period after claim and yet still qualify to the PBS by meeting the minimum work requirements. The initiative does increase PBS flexibility but it is a very minor enhancement in terms of the number of persons likely to benefit.

Allowing the discretion to allow a top up of the bonus if there is a claim more than 13 weeks after date of claim that there is an increase in PBS members rate of forgone age pension

The Explanatory Memorandum attached to the Bill explains this proposed amendment to the PBS provisions in the SSA is to provide for situations where Centrelink has made a mistake in calculating the rate of pension otherwise payable and to allow for the mistake to be corrected.⁶ Again, as per the previous amendment to the PBS arrangements, this would not involve many cases. The provisions require the correcting amount to be specified in a

Australia, February 2006, p. 59.

http://www.aph.gov.au/Senate/committee/clac_ctte/estimates/add_0506/index.htm

5. Department of Families, Community Services and Indigenous Affairs, *Answer to question on notice – Pension Bonus Scheme*, question No. 036, op. cit.
6. Explanatory Memorandum, pp. 6-7.

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Legislative Instrument but this would not be a Disallowable Instrument that would allow scrutiny by the parliament.⁷

Allowing PBS members to take employment related leave as a non accruing member of the PBS for up to 26 weeks

The requirement that the person be engaged in gainful work does not currently allow a PBS qualifying person to take leave and still serve a qualifying period for the PBS bonus. The amendments in **Schedule 2** will allow employment related leave (such as annual leave, sick leave, long service leave) to be taken for up to 26 weeks. This change will make the PBS arrangements more flexible.

Schedule 2 – Assurances of support

Schedule 2 presents amendments to provide improvements to the AoS scheme arrangements provided under the SSA. This initiative was announced by the government in the 2007-08 Budget.⁸

Cost

The Financial impact statement in the Explanatory Memorandum details that amendments to the AoS provisions in the SSA is estimated to cost \$5.6 million in 2007-08, \$2.5 million in 2008-09, \$2.5 million in 2009-10 and \$2.5 million in 2010-11.

Assurance of Support

Some categories of Australia's migration program require an AoS to be approved with the Australian Government before an application to migrate can be granted. Without the undertaking of the AoS, the immigrant applicant would not be otherwise able to gain legal entry to Australia.⁹ The AoS is a legal commitment by a person (not necessarily the sponsor) to support the assuree during their qualifying period for welfare assistance in Australia. This qualifying period for a newly arrived migrant of working age is usually two years. For a newly arrived migrant of age pension age, the pension qualifying period

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7. Moira Coombs, Acts Interpretation Amendment (Legislative Instruments) Bill 2005, *Bills Digest No. 11 2005-06*, Parliamentary Library, Canberra, 8 August 2005. <http://www.aph.gov.au/library/pubs/bd/2005-06/06bd011.pdf>
 8. Department of Treasury, Budget Paper No. 2 - Budget Measures 2007-08, *Assurance of Support simplification package*, 8 May 2007, pp. 177–178. <http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>
 9. Department of Immigration and Citizenship, *Fact Sheet No. 34 Assurance of Support*, Canberra Australia, 30 January 2007. <http://www.immi.gov.au/media/fact-sheets/34aos.htm>

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is ten years, as this is the residence qualifying period for a person to qualify for age pension – subsection 7(5) of the SSA refers.¹⁰

The AoS is a commitment to the government to repay certain welfare payments paid to a migrant during their first two years (or ten years) after arriving in Australia, (or after the grant of the relevant visa, whichever happens later). Any welfare payments made covered by the AoS are a debt against the assurator. The signing of the AoS enables the welfare costs in the qualifying period for the immigrant to be met by an Australian permanent resident or citizen, rather than by the Australian community.

Assurator

Generally, for a person to be accepted as an assurator they should be:

- an Australian citizen, Australian permanent resident or eligible New Zealand citizen over the age of 18,
- usually resident in Australia, and
- financially able to support the sponsored/nominated person/s and to repay certain welfare payments should they be made to the person/s covered by the AoS.

An AoS can be provided by a third party who is not the sponsor/nominator. Individual assurors are limited to providing an AoS for no more than two adults. It is possible for two or three people to lodge an AoS for one person (assuree) and each assurator will be jointly and severally liable for any debt incurred by the assuree and recovered by Centrelink.

Potential assurors are assessed to ensure that they are in a financial position to meet the undertaking made in signing the AoS. They are assessed to ensure that they will be able to repay to the Australian Government any recoverable payments paid to the migrant during the first two (or ten) years in Australia. The intention is to protect potential assurers from financial hardship in the event that an AoS debt is recovered from them by the government. Where it is assessed the assurator might not be able to meet the financial obligation of supporting the assuree and repaying any debt, the AoS is denied.

10. 7.(5) A person has 10 years qualifying Australian residence if and only if:

- (a) the person has, at any time, been an Australian resident for a continuous period of not less than 10 years; or
- (b) the person has been an Australian resident during more than one period and:
 - (i) at least one of those periods is 5 years or more; and
 - (ii) the aggregate of those periods exceeds 10 years.

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Assuree

An AoS applies to certain visa classes which require the applicant to be sponsored (or nominated) by an Australian citizen or permanent resident. An AoS is required (or mandatory) for applicants in the following visa categories:

- Skilled – Australian-sponsored,
- Skilled – Designated Area-sponsored,
- Skilled – Australian-sponsored Overseas Student,
- Skilled – Designated Area-sponsored Overseas Student,
- Skilled – Australian-sponsored New Zealand Citizen,
- Skilled – Designated Area-sponsored New Zealand Citizen,
- Parent,
- Aged Parent,
- Contributory Parent,
- Contributory Aged Parent,
- Aged Dependent Relative,
- Last Remaining Relative, and
- Carer.

AoS bond

Assurers must lodge a refundable bond of \$3 500 (or \$5 000 for a couple) for a two year AoS. For a ten year AoS the bond is \$10 000 or \$14 000 for a couple. The bond is both a disincentive to welfare benefit claims in the AoS period and makes funds available for debt recovery purposes if any welfare payments are made. The bond is held by the Commonwealth Bank for the two year (or ten year) AoS period and is released by Centrelink at the end of that time, less any amount needed to repay any recoverable welfare payments.¹¹

Payment of special benefit and debt

For a newly arrived resident migrant sponsored into Australia under an AoS, they are to serve the newly arrived resident waiting period of 2 years before they can qualify for an

11. Centrelink, *Assurance of Support Fact Sheet*, Canberra, Australia, April 2007.
<http://www.centrelink.gov.au/internet/internet.nsf/publications/co148.htm>

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income support payment. For persons over age pension age the qualifying period for the age pension is 10 years.

In exceptional circumstances, special benefit (SpB) may be payable to the assuree inside the two or ten year period. However, any payment of SpB in the AoS period is a debt against the assesor. SpB can only be paid in cases where there has been unforeseen and substantial change in circumstances of the assesor, which thereafter means they can no longer honour their obligations under the AoS.

Substantial change in circumstances for SpB

Residents who have been sponsored into Australia under an AoS must make every effort to get adequate support from their assesor before they can qualify for SpB. It is only in cases where there has been some unforeseen and substantial change in circumstances, after the AoS was entered into, that now prevents the assesor from supporting the newly sponsored migrant, that SpB can be paid. A sponsored resident would have suffered a substantial change in circumstances if their assesor:

- died and there is no ongoing financial support provided for the assuree,
- started receiving disability support pension or carer payment or a social security benefit, or would receive the benefit but for a waiting or deferment period,
- had been declared bankrupt or has left Australia permanently or for an indeterminate period that the delegate considers likely to be longer than three months and the assesor did not leave provision for ongoing support for the newly arrived resident,
- had become a long-term prisoner, or is confined long-term to a hospital, psychiatric institution or nursing home and is unable to provide support to the assuree, or
- has been notified as a missing person who cannot be located by police.

An AoS assuree would have suffered a substantial change in circumstances if the business where the assuree was employed and their place of employment:

- went into receivership,
- ceased to operate, or
- their employment was terminated and they could not obtain alternative employment.

An AoS assuree would have suffered a substantial change in circumstances if they:

- were a victim of domestic violence and the abuse is substantiated by documentary evidence from police, an apprehended violence order or a medical report,
- find that a confirmed offer of employment, arranged before their arrival in Australia, has been withdrawn after they arrive, or
- were subject to workplace harassment, sufficient for them to leave the employment, and they cannot obtain alternative employment.

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Recoverable amounts under an assurance of support

Under section 1227 of the SSA, where SpB is paid and an AoS is in place, any amounts of SpB paid to the sponsored resident (assuree), is a recoverable debt against the assurator.¹² The following welfare payments are recoverable as a debt from the assurator under the AoS scheme:

- newstart allowance,
- partner allowance,
- youth allowance,
- Austudy payment,
- mature age allowance,
- widow allowance,
- parenting payment (partnered),
- special benefit, and
- crisis payment.

12. 1227.(2) In this Chapter:

assurance of support debt means:

- (a) a debt due and payable by a person to the Commonwealth, or a liability of a person to the Commonwealth, because of the operation of:
- (i) subregulation 165(1) of the Migration (1989) Regulations as in force on or before 19 December 1991; or
 - (ii) regulation 164C of the Migration (1989) Regulations as in force after 19 December 1991 and before 1 February 1993; or
 - (iii) Part 5 of the Migration (1993) Regulations as in force on or after 1 February 1993; or
 - (iv) Division 2.7 of the *Migration Regulations 1994* as in force on or after 1 September 1994;
- in respect of the payment to another person of a social security payment of a kind mentioned in subregulation 2.38(1) of the *Migration Regulations 1994*; or
- (b) a liability of a person to the Commonwealth because of the operation of section 1061ZZGG.

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Assurance of support scheme now administered by Centrelink

Substantive changes were made to the administration of the AoS scheme with the passage of the *Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003*.¹³ The Bills Digest provides a more comprehensive background to the AoS scheme arrangements and the changes then made to the scheme.

Summary

The changes presented in **Schedule 2** of the Bill to the AoS provisions in the SSA are largely improved or clarified wording in the SSA. The provisions do not present any substantive changes to the existing AoS provisions.

Schedule 3 – Crisis payments for humanitarian entrants

The provisions presented in **Schedule 3** of the Bill propose to extend access to the crisis payment¹⁴ to newly arrived humanitarian entrants.¹⁵ This initiative was announced by the government in the 2007-08 Budget.¹⁶

13. Peter Yeend, *Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Bill 2003*, *Bills Digest No. 43 2003-04*, Parliamentary Library, Canberra, Australia, 8 October 2003. <http://www.aph.gov.au/library/pubs/bd/2003-04/04bd043.htm>

14. A person can get a Crisis Payment if:

- they are in severe financial hardship, and
- are claiming in Australia, and
- certain payments from Centrelink are payable, and
 - have left their home and cannot return because of an extreme circumstance, such as domestic violence, and have set up or intend to set up a new home, or
 - they remain in their home after experiencing domestic violence and the family member responsible has left or been removed from their home, or
 - they have served at least 14 days in jail, have just been released and are in severe financial hardship.

In most cases the person must have lived in Australia for a total of two years as an Australian resident to be eligible. Crisis Payment is a one-off payment, equal to the rate one week's payment (without add-ons) of the normal Centrelink pension or benefit payment the person is entitled to get. It is limited to four payments for extreme circumstances in any 12 months.

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Cost

The Financial impact statement in the Explanatory Memorandum details that the provision of the crisis payment to newly arrived humanitarian settlement migrants is estimated to cost \$1.4 million in 2007-08, \$1.7 million in 2008-09, \$1.7 million in 2009-10 and \$1.7 million in 2010-11.

Crisis payment

Crisis payment was introduced from November 1999 to assist people in severe financial hardship.¹⁷ Crisis payment can be paid in addition to any other welfare payment otherwise payable. As crisis payment is an extra payment, unlike advance loans and anticipated payments, it is not recovered from other future entitlements.

People in Australia for less than two year cannot access crisis payment

In most cases, to access the crisis payment the person must have lived in Australia for a total of two years as an Australian resident to be eligible. This is because crisis payment is only payable to a person otherwise qualified to receive an income support payment under the SSA and under section 623A of the SSA, and newly arrived residents are not entitled to such a payment for at least the first two years of residency, due to the newly arrived resident waiting period (two years).¹⁸

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15. Permanent entry to Australia can be through the Migration Program (for skilled and family migrants) or the Humanitarian Program (for refugees and others in humanitarian need). The Humanitarian Program comprises two components: offshore resettlement for people in humanitarian need overseas; and onshore protection for those people already in Australia who arrived on temporary visas or in an unauthorised manner, and who claim Australia's protection.
 16. Department of Treasury, Budget Paper No. 2 - Budget Measures 2007-08, *Humanitarian settlement initiatives – extending the Crisis Payment to newly arrived humanitarian entrants on arrival in Australia*, 8 May 2007, pp. 189. <http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>
 17. Peter Yeend, Further 1998 Budget Measures Legislation Amendment (Social Security) Bill 1999, *Bills Digest No. 129 1998-99*, Parliamentary Library, Canberra, Australia, 23 March 1999. <http://www.aph.gov.au/library/pubs/bd/1998-99/99bd129.htm#Contact>
 18. 623A. Newly arrived resident's waiting period

623A.(1) Subject to this section, a person who:

(a) has entered Australia on or after 1 January 1993; and

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Holders of permanent refugee and humanitarian visas have a qualifying residence exemption for all payments. That is, holders of these visas are exempt from all qualifying residence periods (two or ten years) and the newly arrived residence waiting period provisions, provided that they continue to reside in Australia.

While newly arrived migrants that have entered under a humanitarian visa do not have to serve the normal two year residence qualifying period to access welfare payments, the first years in Australia when they are establishing themselves place them under considerable financial pressure. The proposal to extend access to the crisis payment to this group for those who have entered on or after 1 January 2008 is a beneficial change.

Schedule 4 – Funeral investments

The amendments to the SSA presented in **Schedule 4** propose to raise the asset test exemption limit for funeral investments from \$5 000 to \$10 000 and to index this exemption limit to the Consumer Price Index (CPI). This initiative was announced by the government in the 2007-08 Budget.¹⁹

Cost

The Financial impact statement in the Explanatory Memorandum details that raised exemption limit for funeral bonds, coupled with the indexation of the limit is estimated to cost \$1.5 million in 2007-08, \$1.0 million in 2008-09, \$0.9 million in 2009-10 and \$0.9 million in 2010-11.

Exempt funeral investments

Some funeral investments are exempt as an asset under the asset test. An exempt funeral investment is usually called a funeral bond or funeral fund. Under section 23 of the SSA (the general definitions section in the SSA), an exempt funeral investment:

- is a funeral investment that matures on the death of the income support recipient or their spouse,
- does not relate to a funeral to which another funeral investment or funeral expenses paid in advance applies,

(b) has not been an Australian resident and in Australia for a period of, or periods totalling, 104 weeks;

is subject to a newly arrived resident's waiting period.

19. Department of Treasury, Budget Paper No. 2 - Budget Measures 2007-08, *Funeral bonds means test exemption – increased threshold*, 8 May 2007, p. 187.
<http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>

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- is not able to be redeemed, and
- has not had more than \$5 000 invested in it by the income support recipient.²⁰

Under current legislation, each member of a couple may invest up to \$5 000 in an exempt funeral investment. This means that if each member of a couple has an individual investment of \$5 000, then \$10 000 is an exempt asset for the couple. If a couple invest in a joint funeral investment, then the amount invested must be no more than \$5 000 for the funeral investment to qualify as an exempt funeral investment.

Proposed doubling of the exempt funeral amount for funeral investments

The provisions presented in **Schedule 4** will basically double the amount of the exempt funeral asset applied under the asset test from \$5 000 to \$10 000 for an individual, or from \$10 000 to \$20 000 for a couple.

Purpose of the funeral investment asset test changes

The government, in announcing the doubling of the exempt asset test limits for funeral investments, said:

The Federal Budget will also provide further assistance to older Australians through a \$4.3 million measure to increase the existing social security income and asset test exemption threshold for funeral bonds from \$5,000 to \$10,000 for each person or

20. 23. General definitions

23.(1) In this Act, unless the contrary intention appears:

"exempt funeral investment" means:

- (a) a type A funeral investment of not more than \$5,000 (disregarding any return on the investment) that does not relate to a funeral:
 - (i) to which another type A funeral investment relates; or
 - (ii) to which a type B funeral investment relates; or
 - (iii) expenses for which have been paid in advance; or
- (b) a type B funeral investment of not more than \$5,000 (disregarding any return on the investment) that does not relate to a funeral:
 - (i) to which another type B funeral investment relates; or
 - (ii) to which a type A funeral investment relates; or
 - (iii) expenses for which have been paid in advance.

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couple. Mr Brough said the measures built on the great work the Howard Government has undertaken to assist older Australians in retirement.²¹

The small amount of additional expenditure that this initiative is estimated to cost²² is an indication that not many individuals will benefit from this doubling of the asset test exempt limits for funeral bonds.

Schedule 5 – Extension of multiple birth allowance

The amendments to the *A New Tax System (Family Assistance) Act 1999* (FAA) presented in **Schedule 5** of the Bill will expand access to the multiple birth allowance to a wider range of dependent children. Currently multiple birth allowance is only paid where the claimant has three or more children from the same birth and is paid until the children turn six years of age.²³

The proposal to extend access to the multiple birth allowance was announced in the 2007-08 Budget.²⁴ The amendments in the Bill will see payment of multiple birth allowance until the child/ren turn sixteen, or for full-time students, to the end of the year in which the child/ren turns eighteen.

Cost

The Financial impact statement in the Explanatory Memorandum details that the expanded access to the multiple birth allowance is estimated to cost \$2.1 million in 2007-08, \$2.6 million in 2008-09, \$2.6 million in 2009-10 and \$2.7 million in 2010-11.

Purpose

The government, in announcing the expanded access to the multiple birth allowance, said:

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21. The Hon. Mal Brough, MP, Minister for Families, Community Services and Indigenous Affairs, *Howard Government \$1.4 billion Package for Older Australians*, op. cit.
 22. Explanatory Memorandum, Financial impact statement.
 23. A person can get Multiple Birth Allowance if they have three or more children who are born during the same birth for whom they receive Family Tax Benefit. Multiple Birth Allowance can be added to the Family Tax Benefit and is paid until the children turn six years old. Triplets qualify for \$121.94 each per fortnight or \$3,179.15 each per year (2007 rates). Quadruplets or more qualify for \$162.54 each per fortnight or \$4,237.65 each per year (2007 rates).
 24. Department of Treasury, Budget Paper No. 2 - Budget Measures 2007-08, *Multiple Birth Allowance – extension of eligibility*, 8 May 2007, p. 191. <http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>

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These families face a significantly increased financial burden as a result of having triplets or greater numbers of children in one birth. This initiative will be particularly helpful to families in meeting education costs for their higher order multiple birth children. Parents of triplets, quads and quintuplets have told us that the start of school is one of their most expensive times with the need to purchase school requirements for three or more children at a time. This extension will help these families with their children's primary and high school education.²⁵

Main provisions

Schedule 1 – Pension bonus scheme

Items 1 to 6 make amendments to the *Income Tax Assessment Act 1997* (ITAA1997) updating references to the PBS bereavement payment to ensure it is not taxable income.

Item 7 amends the SSA to ensure a PBS bereavement payment is not an asset for the SSA assets test. **Item 24** inserts new provisions into the SSA to provide for a top up bonus payment of the bonus payable under the PBS. **Item 25** inserts a provision stipulating the top up bonuses apply to PBS bonuses that have a start date of 1 January 2008 or later.

Item 26 inserts new provisions to provide for the PBS bonus that has accrued up to the time of death of the PBS participant (bereavement payment) to be paid to a surviving partner. **Item 27** inserts a provision stipulating the PBS bereavement payments apply to PBS participants who die on or after January 2008.

Item 32 inserts new provisions in to the *Social Security (Administration) Act 1999* (SSAA) to provide for the Secretary to develop guidelines by way of a Legislative Instrument to provide a top up bonus to a PBS bonus due to special circumstances. **Items 33 and 36** insert provisions into the SSAA stipulating that the top up bonuses that might apply to a PBS bonus payment, applies to PBS bonuses that have a start date of 1 January 2008 or later. **Item 35** inserts a new provision allowing the Secretary the discretion to accept a claim for a top up bonus more than 13 weeks after the original claim for the PBS bonus is made and in a period to be determined by the Secretary.

Item 37 inserts provisions setting the general time limit for the lodgement of claim by the partner for the PBS bereavement payment at 26 weeks after the date of death of the PBS

25. The Hon. Mal Brough, MP, Minister for Families, Community Services and Indigenous Affairs, *Greater support for families with triplets, quadruplets and quintuplets*, media release, Canberra, Australia, 8 May 2007.
http://www.facs.gov.au/internet/Minister3.nsf/content/budget07_triplets_quadruplets_quintuplets.htm

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claimant. However, it also empowers the Secretary to accept a claim greater than 26 weeks after the date of death where there are special circumstances.

Items 53 to 96 refer to provisions to be inserted or to be amended in the *Veterans' Entitlements Act 1986* (VEA) in respect of the PBS being about the PBS bonuses and PBS bereavement payments. While the PBS only applies to age pension provided under the SSA, there are several payments provided under the VEA that also have PBS provisions, being the age service pension, the income support supplement (ISS)²⁶ and the Defence Force Income Support Allowance (DFISA).²⁷ The amendments to the VEA presented in this part of **Schedule 1** mirror those amendments to the SSA for the age pension also in **Schedule 1**.

Many of the provisions for income support payments in both the SSA and the VEA mirror each other and this parity is maintained to ensure consistency and equity of treatment between like payments. These mirrored provisions commonly refer to rates of payment, income testing, asset testing, indexation of the rates paid and treatment of compensation income. All of the income support pensions and allowances provided under the SSA (except for blind pensions) are income and assets tested. The like income support payments provided under the VEA, which are also income and assets tested, are the age service pension, invalidity service pension and ISS.

Schedule 2 – Assurances of support

Much of the amendments to the SSA presented in **Schedule 2** of the Bill are clarification and better wording of the AoS provisions in the SSA.

26. ISS is an income support pension paid to:

- eligible war widows and war widowers under the *Veterans' Entitlements Act 1986* (VEA), and
- persons receiving wholly dependent partners' compensation under the *Military Rehabilitation and Compensation Act 2004* (MRCA).

ISS is subject to an income and an assets test, being the same test as applies to age pension. The person needs to be over service pension qualifying age. The maximum rate of ISS as at July 2007 is \$156.60 per fortnight.

27. A person is entitled to DFISA if they are qualified for an income support payment and they or their partner receives a disability pension (DP) under the VEA and they meet one of the following criteria:

- their income support payment is reduced because of the impact of their DP, or
- their income support payment is not payable because of the impact of their DP.

DFISA is the difference between the actual rate of income support payment paid under the SSA and what the payment would be if DP were exempt from this rate assessment.

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Item 2 inserts a new provision in reference to access to special benefit for the assuree. It will preclude payment of special benefit where the assurator can and will provide an adequate level of support and it is reasonable for the assuree to accept the support. It is not uncommon for there to develop personal differences between an assurator and an assuree. This new provision will make it clear that special benefit cannot be paid where the AoS requirements of support provision and support acceptance can be reasonably met. For example, this will make it clear that it will not be an option for the assurator to no longer provide support if they have developed a dislike for the assuree. Likewise, for the assuree it will not be an option to not accept support if they have developed a dislike for the assurator.

Item 5 inserts a new provision making it clear that the assurator cannot withdraw from the assurance once the assuree become a holder of a visa contingent on the AoS. This makes assurances binding on the assurator for the duration of the visa.

Item 9 inserts a new provision with wording that makes it clear that the AoS remains in force unless conditions or circumstances arise whereby the AoS is not in force. This makes it clear that notwithstanding that there might be changes in circumstances of either the assurator or the assuree, unless the circumstances as specified arise, the AoS remains in force.

Schedule 3 – Crisis payments for humanitarian entrants

Item 2 inserts new provisions setting out that a newly arrived humanitarian migrant can access the crisis payment. One condition is that the claim for the crisis payment will need to be lodged within 7 days of the date of arrival which raises the issue of how will such new entrants know of the existence of the crisis payment. It is probable that the officials dealing with the newly arrived migrant will advise those in severe financial hardship of the capacity to claim and how to claim. **Item 3** provides for access to the crisis payment for newly arrived humanitarian migrants and is limited to those who arrive on or after 1 January 2008.

Schedule 4 – Funeral investments

Item 2 inserts replacement provisions into the SSA to describe an exempt funeral investment. These replacement provisions specify that the amount of exemption value is up to \$10 000 and this amount is indexed annually to the CPI. **Item 10** does the same for the VEA. See the comments above about how many of the provisions for income support payments in both the SSA and the VEA mirror each other and this parity is maintained to ensure consistency and equity of treatment between like payments.

Schedule 5 – Extension of multiple birth allowance

Items 1 to 3 insert provisions to expand the access to the multiple birth allowance. Specifically it will be payable in respect to children up to age fifteen and to full time

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students aged sixteen to eighteen, with the payment ceasing at the end of the calendar year the full time student turns age eighteen. **Item 5** inserts a provision so that this expanded access applies to persons qualifying for the multiple birth allowance on or after 1 January 2008 in respect of the 2007-08 year.

Conclusion

The provisions presented in the Bill are generally beneficial. The individual initiatives in the Bill do not involve significant expenditure and this largely arises as not many individuals will benefit from the expanded access to the programs affected.²⁸

The biggest single expense item is in **Schedule 1**, dealing with the amendments to the PBS. However, with the PBS expansion, the estimated extra cost of about \$13 million a year is very small in the context that the age pension program is estimated to cost \$23.9 billion in the 2007-08 year.²⁹ Not that many age pension claimants access the PBS³⁰ and those who can are generally those with sufficient work after age pension qualifying age and also sufficient financial resources (from work and other sources) to support themselves without the age pension. This is usually those persons who are better off financially than those qualified for the maximum pension rate and with no other financial resources. Therefore, the beneficiaries of the PBS and also of the expanded access to the PBS, are generally those age pension claimants who are better off financially.

The expansion of access to the multiple birth allowance presented in **Schedule 5** is significant in that it takes the maximum qualifying age from six up to age fifteen and up to age eighteen when the child is a full time student. However, again, the low anticipated extra expenditure³¹ suggests that the numbers who will benefit will be small.

28. Explanatory Memorandum, Financial impact statement.

29. Department of Treasury, Portfolio Budget Statement 2007-08, Families, Community Services and Indigenous Affairs portfolio, *Budget Related Paper No. 1.8*, Canberra, Australia, 8 May 2007, p. 53. http://www.facsia.gov.au/internet/facsinternet.nsf/aboutfacs/budget/budget2007-07_pbs.htm

30. Department of Families, Community Services and Indigenous Affairs, *Answer to question on notice – Pension Bonus Scheme*, question No. 036, op. cit.

31. Explanatory Memorandum, Financial impact statement.

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