



## Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008

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## Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008

**Date introduced:** 29 May 2008

**House:** House of Representatives

**Portfolio:** Families, Housing, Community Services and Indigenous Affairs

**Commencement:** There are various commencement dates for different schedules and sections in this Bill and these are set out in the Table in **Clause 2** of the Bill.

**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 for the legislative amendments necessary for the implementation of initiatives announced by the government, mostly in the 2008-09 Budget. There are also some other minor legislative amendments. The Budget initiatives feature:

- a \$150 000 income limit for Family Tax Benefit Part B (FTB-B),
- a \$150 000 income limit for the Baby Bonus (BB),
- the payment of the BB over 13 fortnightly instalments rather than as a lump-sum,
- changing the twice yearly indexation of the BB to once yearly indexation to movements in the Consumer Price Index (CPI),
- an expansion of the age limit at which an adoption gives access to the BB from the current 2 year age limit to a 16 year age limit,
- introduction of the requirement to provide a Tax File Number (TFN) for claimants of the Commonwealth Seniors Health Card (CSHC),
- the allowance for individuals to volunteer to have their welfare payments placed under an Income Management Regime (IMR) payment arrangement, and
- a reduction in access to the partner service pension for partners from the current age 50, raising the access age to the age service pension qualifying age.

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## Background

### Schedule 1 – Income limit for family tax benefit Part B

#### \$150 000 income limit for family tax benefit part B announced in the 2008-09 Budget

The government announced its intention of introducing an income limit of \$150 000 for access to the FTB-B in the 2008-09 Budget.<sup>1</sup> FTB-B is to be limited to families where the primary income earner has income of \$150 000 a year or less. The initiative is scheduled to commence from 1 July 2008.

### Savings

The Budget papers and the Explanatory Memorandum presents estimated savings of \$112.8 million in 2008-09, \$132.4 million in 2009-10, \$141.2 million in 2010-2011 and \$158.0 million in 2011-2012.<sup>2</sup> These savings will be achieved by reduced numbers of persons qualifying for FTB-B and is a total net savings of \$543.9 million over four years.

### Current FTB-B qualification

FTB-B was introduced, along with the two other main Commonwealth family income supplement payments (Family Tax Benefit Part A and Child Care Benefit), with the Goods and Services Tax (GST) and the A New Tax System (ANTS) arrangements that commenced from July 2000.<sup>3</sup> FTB-B replaced a number of payments and income tax rebates for sole parents and single income couple families. The payments and assistance replaced were Guardian Allowance, Basic Parenting Payment, Family Tax Payment Part B, Family Tax Assistance Part B, Sole Parent Tax Rebate and Dependent Spouse Tax Rebate (with Children).

As with the payments and tax measures it replaced, the current FTB-B tests only one income in a partnered family, that is the income of the lowest income earner, in a partnered family. For sole parent families, there is no income test and there is an automatic entitlement to the full rate of the FTB-B, regardless of income.

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1. Australian Government, *2008-09 Budget Paper No. 2 - Budget Measures*, Better Targeting and delivery of Family Tax Benefit - \$150 000 income test of primary earner for FTB, Canberra, 13 May 2008, pp. 370–371. <http://www.aph.gov.au/budget/2008-09/content/bp2/html/index.htm>
  2. *ibid.*, Explanatory Memorandum, Financial Impact Statement.
  3. L. Lang, D. Daniels and P. Yeend, 'A New Tax System (Family Assistance) Act 1999', *Bills Digest No. 175*, Parliamentary Library, Canberra, 10 May 1999. <http://www.aph.gov.au/library/pubs/bd/1998-99/99bd175.htm#Contact>

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For FTB-B, for the 2007-08 year, where the income of the lower income earner in a partnered family is up to \$4 380, the full FTB-B rate is paid. Thereafter, FTB-B is reduced by 20 cents for each dollar of income above that amount. In certain circumstances, the lower earner can earn up to \$22 302 and still be eligible for some FTB-B. This resembles the old Dependant Tax Spouse Rebate, which was available to a person with a partner with low income, regardless of the amount of that person's own taxable income.

### Some high income families can access FTB-B

An answer to a question on notice in Senate Budget Estimates has demonstrated that under the current FTB-B income test, some families with substantially high incomes can access FTB-B.<sup>4</sup>

The table below shows the distribution of actual adjusted taxable income of customers who were entitled to Family Tax Benefit Part B at any stage during 2004-05 and who have been reconciled as at 29 September 2006.

Actual ATI for 2004-05 (\$)	Number of customers who were entitled to FTB part B
0 to less than 20,000	525,380
20,000 to less than 40,000	445,714
40,000 to less than 60,000	292,416
60,000 to less than 80,000	183,592
80,000 to less than 100,000	75,828
100,000 to less than 120,000	27,225
120,000 to less than 140,000	12,374
140,000 to less than 160,000	6,369
160,000 to less than 180,000	3,714
180,000 to less than 200,000	2,334
200,000 to less than 300,000	4,712
300,000 to less than 400,000	1,182
400,000 to less than 500,000	445
500,000 to less than 600,000	199
600,000 to less than 700,000	117
700,000 to less than 800,000	80
800,000 to less than 900,000	56
900,000 to less than 1,000,000	33
1,000,000 or more	101
Total	1,581,871

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4. Senate, 2006-07 Supplementary Estimates, Community Affairs Committee, Answer to Question on Notice No. 284 from Senator Chris Evans, Families, Community Services and Indigenous Affairs Portfolio, Canberra, 3 and 4 March 2007.  
[http://www.aph.gov.au/Senate/committee/clac\\_ctte/estimates/bud\\_0607/index.htm](http://www.aph.gov.au/Senate/committee/clac_ctte/estimates/bud_0607/index.htm)

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### The proposed \$150 000 income test

Under the proposed income test, for the first time an income limit will apply for sole parent families for access to FTB-B. Currently, where the claimant is a sole parent, there is no income test. The new income limit will be \$150 000 or less. The amendments in the Bill index this income limit once a year on 1 July to movements in the CPI.

For partnered families, for the first time, the income of the primary income earner will be tested and will need to be \$150 000 or less for access to FTB-B. Currently, the income of the highest earner in a partnered family is disregarded. It is the income of the lowest earner that is tested and currently needs to be below \$22 302 per annum for the person to be able to qualify for some payment. The income test for the secondary earner is not altered by these proposed changes.

The government stated that the income test will ensure that family payments are targeted to families on the basis of need.<sup>5</sup> The government has indicated that it estimates the FTB-B income test will affect about 40 000 families.<sup>6</sup>

### Comment

The proposed \$150 000 income limit for both sole parent and partnered parent families will go some way towards addressing the issue of family assistance payments being provided to high income families. The income limit of \$150 000 is still comparatively high. The allowable income limit for a family (sole parent or partnered) to access Family Tax Benefit Part A (FTB-A) is \$97 845 for one child aged 0 to 17 years.

This new income test limit for FTB-B also does not address the issue of horizontal equity. That is, where the income of a partnered family is earned by one of the partners, the FTB-B payable to the other partner means they have an advantage over partnered families with the same overall income, where the income earned is shared equally between both partners.

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5. Australian Government, *2008-09 Budget Paper No. 2 - Budget Measures*, Better Targeting and delivery of Family Tax Benefit - \$150 000 income test of primary earner for FTB, op. cit.
  6. The Hon. Jenny Macklin, MP, Minister for Families, Housing, Community Services and Indigenous Affairs, *Simpler and Fairer Family Payments*, *media release*, Canberra, 13 May 2008.  
[http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/budget08\\_family\\_13may08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/budget08_family_13may08.htm) (accessed on 16 June 2008)

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## Schedule 2 – Baby Bonus

### Background

The BB was introduced from 1 July 2004.<sup>7</sup> That Act provided for the BB amount to be \$3 000 from 1 July 2004, and increase to \$4 000 from 1 July 2006 and then further increase to \$5 000 from 1 July 2008. The Act also provided for the twice-yearly indexation of the BB to movements in the CPI in March and September each year. Consequently, the BB amount is currently \$4 258.

### Amendments to the provision of the Baby Bonus

**Schedule 2** presents four main changes to the provision of the BB. These are:

- an income test of \$150 000 a year from 1 January 2009,
- the BB to be paid in 13 fortnightly instalments instead of as a lump-sum from 1 January 2009,
- the indexation of the BB once a year on 1 July instead of twice yearly on 20 March and 20 September, to commence from 1 July 2008, and
- the expansion of access to the BB for the adoption of a child from the current aged below 2 years up to the age of below 16 years, from 1 January 2009.

### Part 1 - Income limit for baby bonus

Currently, the BB does not have an income test. The government announced the introduction of an income test for the BB in the 2008-09 Budget.<sup>8</sup> The proposed income test is to limit the BB to families with an income of \$75 000 or less in the 6 month period after the birth of a child or the adoption of a child. This will require the claimant to provide an estimate of anticipated family income for the 6 month period. This will not be an unusual process for FTB and Child Care Benefit (CCB) claimants, as they currently have to provide a forward estimate of their income for the financial year.

Given that all other income testing for FTB and CCB is based on annual income, it seems strange that a 6 month income test is to apply for access to the BB. This is not properly explained in the Explanatory Memorandum. This is probably being driven by the fact the proposed periodic payment of the BB, is to be in 13 fortnightly instalments (over a 26

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7. *Family Assistance Legislation Amendment (More Help for Families–Increased Payments) Act 2004*, <http://parlinfoweb.parl.net/parlinfo/browse.aspx?NodeID=889>

8. Australian Government, *2008-09 Budget Paper No. 2 - Budget Measures*, Better targeting and delivery of Baby Bonus, Canberra, 13 May 2008, pp. 370.  
<http://www.aph.gov.au/budget/2008-09/content/bp2/html/index.htm>

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week period), and the government wants to tightly target the means testing to the period of the payment receipt.

The allowable time a person may claim the BB will be extended to 52 weeks. This is mainly to allow for families, who originally anticipated that their income would be in excess of the \$75 000 limit in the 6 month period, and therefore didn't claim, to lodge a claim later. This will be for cases where the family subsequently didn't earn \$75 000 in the 6 month period.

Numbers affected by the income test

In 2006–07, the BB was paid in respect of 291 876 children, including 315 adopted children.<sup>9</sup> While the Budget papers do not directly indicate how many families are expected to be no longer eligible for the BB from 1 January 2009, the Budget papers elsewhere give an estimate of the numbers of children and families to be paid the BB in 2008-09. This is in respect of 285 000 children from 281 000 families.<sup>10</sup> This figure includes 330 adopted children. Jenny Macklin, the Minister for Families, Housing, Community Services and Indigenous Affairs, has indicated that as a result of the income test, some 16 000 high income families will no longer be able to access the BB.<sup>11</sup>

Savings from the Baby Bonus changes

The Explanatory Memorandum presents estimated savings of \$52.4 million in 2008-09, \$96.5 million in 2009-10, \$101.0 million in 2010-2011 and \$104.7 million in 2011-2012.<sup>12</sup> These savings will be achieved by reduced numbers of persons qualifying for the BB and, while it is estimated to cost \$22.6 million to administer, it is estimated to realise a total net savings of \$354.5 million over four years.<sup>13</sup>

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9. Department of Families and Community Services and Indigenous Affairs, *2006-07 Annual Report*, Canberra, 2007, p. 169. <http://www.facs.gov.au/annualreport/2007/pdf.htm>

10. Australian Government, Portfolio Budget Statements 2008-09, Budget related paper No. 1.7, Families, Housing, Community Services and Indigenous Affairs Portfolio, Canberra, 13 May 2008, p. 88. <http://www.fahcsia.gov.au/internet/>

11. The Hon. Jenny Macklin, MP, Minister for Families, Housing, Community Services and Indigenous Affairs, *Simpler and Fairer Family Payments*, *media release*, op. cit.

12. Explanatory Memorandum, Financial Impact Statement.

13. Australian Government, *2008-09 Budget Paper No. 2 - Budget Measures*, Better targeting and delivery of Baby Bonus, op. cit.

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## Part 2 – Payment of baby bonus by instalments

**Part 2 of Schedule 2** proposes to alter the way the BB is paid, to pay the BB in 13 fortnightly instalments. This initiative was announced in the 2008-09 Budget.<sup>14</sup>

Currently, in most cases, the BB is paid as a lump sum to new mothers, although either parent can claim. There is the option to pay the BB in instalments and in some circumstances it may be more appropriate to pay the BB by fortnightly instalments or as a combination of a lump sum and fortnightly instalments. If an applicant's personal preference is to receive the BB in fortnightly instalments, the instalment option can be used. For applicants aged 17 or under the BB must be paid in 13 equal fortnightly instalments.

With the BB rate scheduled to increase to \$5 000 from 1 July 2008, this will then mean 13 payments of \$384.62 per fortnight.

## Part 3 - Baby bonus indexation

Currently, the BB is indexed twice a year on 20 March and 20 September. The amendments in **Part 3 of Schedule 2** propose to alter this to a once a year indexation on 1 July. The current twice yearly indexation of the BB to movements in the CPI refers to CPI movements over a 6 month period and the proposed once a year indexation will refer to CPI movements over a 12 month period, so overall there shouldn't be any impact on the rate of BB paid. This change will bring the BB indexation into line with the current indexation for most other family assistance payment rates and income test limits, which are indexed once a year on 1 July to annual movements in the CPI.

## Cost

This will have a minimal cost impact – there will be a six month delay in receiving the increase, however the quantum of the increase will cover the same period and amount.

## Part 4 Eligibility for baby bonus for adopted children

This initiative was announced in the 2008-09 Budget.<sup>15</sup>

When the original BB legislation was introduced from 1 July 2004, the BB was only payable in respect of a child who entered care within their first 26 weeks. Eligibility for the new payment was limited to children who entered the care of their adoptive family before the age of 26 weeks. This effectively excluded most adopted children because only

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14. *ibid.*

15. *ibid.*

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a minority were adopted before that age. Overseas adoptions were particularly affected. This was altered in 2005 to allow access for adoptions where the child was aged up to 2 years.<sup>16</sup>

#### Cost

This initiative was grouped with the other BB initiatives in the Budget and a separate cost figure for this individual change was not provided in the Budget papers or in the Explanatory Memorandum. The whole of the BB initiatives included in this Bill are estimated to achieve net savings of \$354.5 million over four years, but obviously expanding access to the BB for adoptions aged up to 16 years will cost extra money, but the net savings figure for all of the BB initiatives is realised by the \$150 000 income test initiative.

#### Current BB access for adoptions

Currently, a newly adopted child can qualify for the BB but the child needs to be aged under 2 years of age when the child was adopted.<sup>17</sup> **Part 4 of Schedule 2** proposes to raise the age for which an adopted child can qualify for BB from the current under age 2 to under age 16.

#### Democrat proposal to raise the adoption age for access to the BB

This issue of providing the BB to those who adopt a child has gained increased impetus recently with the tabling of the *A New Tax System (Family Assistance) (Improved Access to Baby Bonus) Amendment Bill 2008* in the parliament. The Bill was tabled in the Senate on 20 March 2008. That Bill was very similar to the amendments to the BB presented in **Part 4**, although it used a different drafting technique to refer to the age which the BB should apply to adoptions. The Bill wanted the BB to apply to adoptions, where the child was under the age of consent as set out in the *Social Security Act 1991* (SSA).<sup>18</sup>

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16. Dale Daniels, Family and Community Services Legislation Amendment (Family Assistance and Related Measures) Bill 2005, *Bills Digest No. 182 2004-05*, Parliamentary Library, Canberra, 14 June 2005. <http://www.aph.gov.au/library/pubs/bd/2004-05/05bd182.htm#Contact>

17. Paragraph 36(5)b of the A New Tax System Family Assistance Act 1999.

18. The SSA uses definitions which refer to the age of consent as that 'applicable in the State or Territory in which they are living' (for examples paragraphs 1067L(2)(b) and 1068A(3)(c). The general pattern is State/Territory legislation is that the age of consent is 16 or 17.

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Adoptions by age in Australia

Table A3: Adoptions, by type of adoption, by age and sex of child, 2006-07

Age group (years)	Inter-country adoptions			Local adoptions			'Known' child adoptions			Total		
	M	F	P	M	F	P	M	F	P	M	F	P
Number												
Under 1	81	87	168	17	18	35	—	—	—	98	105	203
1	36	90	126	8	8	16	—	—	—	44	98	142
2-4	32	46	78	3	3	6	—	—	—	35	49	84
5-9	10	20	30	—	—	—	17	13	30	27	33	60
10-14	2	1	3	—	1	1	18	21	39	20	23	43
15-17	—	—	—	—	1	1	9	10	19	9	11	20
18+	—	—	—	—	—	—	7	9	16	7	9	16
Total	161	244	405	28	31	59	51	53	104	240	328	568
Per cent												
Under 1	50.3	35.7	41.5	60.7	58.1	59.3	—	—	—	40.8	32.0	35.7
1	22.4	36.9	31.1	28.6	25.8	27.1	—	—	—	18.3	29.9	25.0
2-4	19.9	18.9	19.3	10.7	9.7	10.2	—	—	—	14.6	14.9	14.8
5-9	6.2	8.2	7.4	—	—	—	33.3	24.5	28.8	11.3	10.1	10.6
10-14	1.2	0.4	0.7	—	3.2	1.7	35.3	39.6	37.5	8.3	7.0	7.6
15-17	—	—	—	—	3.2	1.7	17.6	18.9	18.3	3.8	3.4	3.5
18+	—	—	—	—	—	—	13.7	17.0	15.4	2.9	2.7	2.8
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

M = male, F = female, P = persons

Notes

- Percentages may not add to 100 due to rounding.
- For local and inter-country adoptions, 'age of child' refers to the age of the adopted child at the date of placement with the adoptive parent(s); for 'known' child adoptions 'age of child' refers to the age of the adopted child at the date the adoption order was granted.

Source: AIHW Adoptions Australia data collection.

The number of adoptions in the age groups of age 2 to 14 in the table above shows some 187 adoptions in this age group occurred in 2006-07. This is 33 per cent of all 568 adoptions. If all of the 187 adoptions were otherwise eligible for the BB, at \$5 000 per payment, that equals \$935 000 in expenditure. The raising of the age of the qualifying adopted child to under age 16 will be of some financial benefit to adoptive families.

### Schedule 3 – Seniors health card

The government announced the proposal to collect a Tax File Number (TFN) from Commonwealth Seniors Health Card (CSHC) claimants in the 2008-09 Budget.<sup>20</sup>

19. Australian Institute of Health and Welfare, Adoptions Australia 2006-07, *Child Welfare Series No. 44*, Canberra, February 2008.  
<http://www.aihw.gov.au/publications/index.cfm/title/10547>

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Currently, CSHC claimants are not required to provide a TFN, they are just required to provide evidence of their adjusted taxable income, usually by way of their last tax notice of assessment.

This initiative complements other initiatives announced by the government in the 2008-09 Budget, being the changes to the adjusted taxable income for the CSHC, adding in gross income from superannuation income streams from a taxed source and also to include income that is salary sacrificed to superannuation.<sup>21</sup>

## Savings

The Budget papers detailed that the **Schedule 3** initiative will cost \$13.5 million over 5 years to administer and will provide net savings of \$82.4 million over 5 years.<sup>22</sup> This is made up of expenditure of \$4.6 million in 2008-09 followed by savings of \$24.3 million in 2009-10, \$28.6 million in 2010-11 and \$34.0 million in 2011-12.<sup>23</sup>

## Commonwealth Seniors Health Card history and eligibility

The CSHC was introduced from July 1994. The CSHC was available to people of pension age who were not eligible for the age pension (or service pension) for reasons other than the income test, for example, insufficient length of residence or asset holdings exceeding the asset test limits.

The original purpose of the CSHC was to provide assistance to low-income retired aged persons but who were not eligible for the age pension (or service pension). When introduced, the income limits for the CSHC were the same as for the age pension, so the vast majority of retired persons issued with a CSHC were those who were on low income but asset rich, mainly farmers.

The CSHC primarily provides access to concessional prescription medicines under the Pharmaceutical Benefits Scheme (PBS). The CSHC may also provide access to other services which may include:

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20. Australian Government, *2008-09 Budget Paper No. 2 - Budget Measures*, Fraud and Compliance – Commonwealth Seniors Health Card compliance reviews, Canberra, 13 May 2008, p. 393. <http://www.apf.gov.au/budget/2008-09/content/bp2/html/index.htm>
  21. *ibid.*, Australian Government, *2008-09 Budget Paper No. 2 - Budget Measures*, Commonwealth Seniors Health Card – adjusted taxable income test, pp. 381–382.
  22. Australian Government, *2008-09 Budget Paper No. 2 - Budget Measures*, Fraud and Compliance – Commonwealth Seniors Health Card compliance reviews, op. cit.
  23. *ibid.*

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- bulk-billed GP appointments, at the discretion of the general practitioners,
- a reduction in the cost of out-of-hospital medical expenses above a concessional threshold, through Medicare Safety Net, and
- in some instances, additional health, household, transport, education and recreation concessions which may be offered by State, Territory and local governments and private providers. Note: these providers offer these concessions at their own discretion, and the availability of these concessions may vary regionally.

A CSHC holder may also be entitled to receive the following allowances:

- Seniors Concession Allowance of \$500 per year - to help with regular bills such as energy, rates and motor vehicle registration fees that are not available at a concessional rate.
- Telephone Allowance - if the card holder has a telephone connected in Australia in their own or their partner's name.

Income test changes for the Commonwealth Seniors Health Card changed from January 1999 and September 2001

From its inception in 1994, the CSHC used the income test applied under the *Social Security Act 1991* (SSA). From January 1999, the income test for the CSHC was changed to one based on adjusted taxable income<sup>24</sup> and also the income test limits were substantially increased.<sup>25</sup> The SSA uses a different measurement of income than the *Income Tax Assessment Act 1936* (ITAA1936) and the *Income Tax Assessment Act 1997* (ITAA1997), mainly featuring gross income rather than net taxable income. Deductions are allowed, being those directly incurred in earning the income, but many tax deductions allowed under the ITAA are not allowed under the SSA.

Set out below are the CSHC income limits as they have changed over time. The 2001 limits are still the current limits.

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24. Adjusted taxable income refers to net taxable income with three elements added back in being foreign income, employer provided fringe benefits and negatively geared property losses.
  25. Lesley Lang, Budget Measures Legislation Amendment (Social Security and Veterans' Entitlements) Bill 1998, *Bills Digest No 21 1998-99*, Parliamentary Library, Canberra, 20 November 1998. <http://www.aph.gov.au/library/pubs/bd/1998-99/99bd021.htm#Contact>

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<b>Status</b>	<b>Income test limits Up to Dec 1998(1)</b>	<b>Income test limits From Jan 1999</b>	<b>Current income test limits From Sept 2001</b>
<b>Single</b>	\$21 460.40	\$40 000	\$50 000
<b>Partnered (combined)</b>	\$35 859.20	\$67 000	\$80 000

1. These income limits were the then cut-off limits for the pensions income test.

With the income test limits being set at \$50 000 single and \$80 000 partnered, the CSHC is now no longer a low-income health card.

Number of Commonwealth Seniors Health Card holders

In an answer to a Question on Notice No. 116 on 19 June 2008, it was detailed that there were about 277 000 holders of the CSHC.<sup>26</sup>

**Commonwealth Seniors Health Care Card  
(Question No. 116)**

Mr Abbott asked the Minister for Families, Housing, Community Services and Indigenous Affairs, in writing, on 3 June 2008:

In respect of the Budget decision to tighten eligibility for the Commonwealth Seniors Health Care Card: (a) how many people currently have this card; and (b) what is the financial total in benefits to these card holders.

Ms Macklin—The answer to the honourable member's question is as follows:

- (a) There are currently around 277,000 holders of the Commonwealth Seniors Health Card.
- (b) The total in benefits for a Commonwealth Seniors Health Card holder may vary due to a range of factors. These include the number of prescription medicines or Medicare services they require and whether they have a home internet connection for Telephone Allowance purposes. Some State and Territory Governments and third party concession providers may offer additional concessions to these card holders.

The Australian Government's main purpose in issuing concession cards is to provide access to concession rate Pharmaceutical Benefits Scheme prescription medicines and certain Medicare services, at a cheaper rate. Holders of the Commonwealth Seniors Health Card can receive Seniors Concession Allowance of \$500 a year and Telephone Allowance of \$88 a year, plus a further \$44 a year if they have a home internet connection.

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26. The Hon. Jenny Macklin, MP, Minister for Families, Housing, Community Services and Indigenous Affairs, Answer to Question on Notice No. 116, House of Representatives, *Hansard*, 19 June 2008, p. 98. <http://www.aph.gov.au/hansard/hansreps.htm>

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#### Tax File Numbers - a common requirement

The fact that currently CSHC claimants are not required to provide a TFN is uncommon. The provision of a TFN is usually required for claimants for an income support or income supplement payment and has been in place since the late 1980s.<sup>27</sup> It provides support for the identity of the claimant and also allows data matching with Australian Tax Office (ATO) records. Data matching allows the verification of income information provided to claim the CSHC and similar information provided by the claimant to the ATO. The provision of a TFN by CSHC claimants will allow Centrelink to obtain information from the ATO about adjusted taxable income.

#### Comment

The main impetus to require the provision of a TFN by CSHC claimants is to identify those with income from a superannuation income stream from a taxed source. Since 1 July 2007, superannuation income from a taxed superannuation fund source for those aged 60 or more has not been taxable income.<sup>28</sup> There may be a few CSHC claimants claiming the CSHC with salary sacrificed into superannuation, but comparatively fewer than those with superannuation income from a taxed superannuation source. The identification of salary sacrificed superannuation and non-taxable income from a superannuation source will still be relevant for the purposes of the adjusted taxable income test for the CSHC.

#### Schedule 4 – Income management regime

The amendments presented in **Schedule 5** are to allow an income support or income supplement recipient to volunteer to have their payments subject to the Income Management Regime (IMR) arrangements.

#### Income Management Regime payment arrangements

The IMR payment arrangements for welfare payments were introduced with the passage of the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007*.<sup>29</sup> In brief, the IMR provisions provide for the quarantining of welfare payments, in

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27. Social Security and Veterans' Affairs Legislation Amendment Act (No. 3) 1989.
  28. Les Nielson, Tax Laws Amendment (Simplified Superannuation) Bill 2006, *Bills Digest No. 65 2006-07*, parliamentary Library, Canberra, 24 January 2007. <http://www.aph.gov.au/library/pubs/SearchResults.asp>
  29. Peter Yeend and Coral Dow, Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007, *Bills Digest No. 27 2007-08*, Parliamentary Library, Canberra, 13 August 2007. <http://www.aph.gov.au/library/pubs/bd/2007-08/08bd027.htm> This formed a part of a package of Bills commonly referred to as the Northern Territory Intervention.

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part or in full, to be paid into a special account for an individual. The individual can then draw on that account for essential and agreed expenditure like paying rent, electricity, food and other necessary items.

The IMR provisions apply differently in different parts of Australia. An individual can become subject to an IMR for one of the following reasons:

- for the protection of the child of that individual,
- the individual's child is deemed to have unsatisfactory school attendance,
- the individual is a resident of a specified area of the NT, or
- the individual is subject to the jurisdiction of the Queensland Family Responsibilities Commission and the Commission requests that the provisions be applied.

Although there are no provisions specifically targeting indigenous individuals, it is acknowledged that the majority of residents in declared areas of the Northern Territory (NT) and those subject to the Queensland Family Responsibilities Commission in Cape York are indigenous. Part of the provisions under the legislation enabling IMRs suspends the operation of Part II of the *Racial Discrimination Act 1975*, which includes the operative provisions prohibiting racial discrimination.

However, for other IMR purposes like in Western Australia (WA), the child protection and child unsatisfactory attendance at school provisions of the IMR legislation can be applied. This is also not indigenous specific – in theory the IMR provisions can be applied to an individual anywhere in Australia, using the child protection or child unsatisfactory attendance at school provisions.

As said, in cases outside the designated areas of the NT, or a Queensland Commission referred case, application of IMR provisions essentially requires either the child attendance at school or the child protection provisions to apply. It is probable there are Constitutional difficulties in the Commonwealth legislating for the application of the IMR provisions on an area basis in the States, as was done in the Northern Territory. If either of these provisions do not apply, the IMR provisions cannot be applied.

The proposed amendments in **Schedule 4**, will allow for a person to volunteer to have their welfare payments provided under the IMR processes. The Explanatory Memorandum does not provide any detail or description as to the sort of circumstances where a person might want to volunteer for the IMR arrangements. The Minister said in the second reading speech that anecdotal evidence had indicated some people wanted the option of volunteering to have their welfare payments controlled under the IMR arrangements.<sup>30</sup> No description was provided as to why they might want to volunteer.

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30. The Hon. Jenny Macklin, MP, Minister for Families, Housing, Community Services and Indigenous Affairs, Second reading, Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008,

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Presumably some families facing difficulties managing their finances might find the discipline of the IMR processes of some assistance.

The amendments allow the welfare payment recipient, who has volunteered to be placed under IMR payment arrangements, to elect to relinquish the IMR arrangements at any time.

## Schedule 5 – Eligibility for partner service pension

**Schedule 5** presents amendments to the *Veterans' Entitlements Act 1986* (VEA) to alter the qualifying age for access to the partner service pension. This initiative was announced in the 2008-09 Budget.<sup>31</sup>

### Partner service pension

A person can qualify for partner service pension if they are:

- legally married to and living with a veteran, or
- living with a veteran as their partner; and
- the veteran is receiving an age service pension or an invalidity service pension; or

A person is also eligible for partner service pension if they are a member of a couple, their partner is a veteran having rendered qualifying service, and the person is eligible for an age pension.

Unless the partner qualifies for an age pension, the partner must also meet one of the following criteria:

- be at least 50 years of age,
- have a dependent child or children when the claim is made,
- their veteran partner receives the totally and permanently incapacitated (T&PI) disability pension, or
- their veteran partner is receiving, or eligible to receive, a Special Rate Disability Pension (SRDP) under the *Military Rehabilitation and Compensation Act 2004* (MRCA).

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House of Representatives, *Debates*, 29 May 2008, p. 70.

<http://www.aph.gov.au/hansard/hansreps.htm>

31. Australian Government, *2008-09 Budget Paper No. 2 - Budget Measures*, Partner service pension – align partner and veteran age eligibility, Canberra, 13 May 2008, p. 409.

<http://www.aph.gov.au/budget/2008-09/content/bp2/html/index.htm>

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## Former partners

Partner service pension may be paid to a former partner who is legally married to, but separated from a veteran. Former partners are eligible if the veteran is receiving or is eligible to receive:

- the service pension, and
  - the partner is at least 50 years of age, or
  - the partner has a dependent child or dependent children.

## Raising the qualifying age to service pension age

The amendments presented in **Schedule 5** will raise the qualifying age for access to the partner service pension from age 50 to the service pension age. This is age 60 for males or age 58.5 years for females.<sup>32</sup> This raised qualification age is not to apply where the person is a partner of a Totally and Permanently Incapacitated (T&PI) disability pensioner or has a dependent child.

## Savings

The Budget papers detailed that the estimated cost savings for this initiative are net savings of \$34.6 million over four years. This will be made up of \$0.3 million in 2007-08, \$4.3 million in 2008-09, \$7.7 million in 2009-10, \$10.4 million in 2010-11 and \$12.6 million in 2011-12.<sup>33</sup>

These estimated savings in the Budget papers are only against outlays for the Veterans' Affairs portfolio. There is no estimate provided about what the partners, who would have otherwise qualified for partner service pension, would otherwise claim. Most will

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32. Pension age for a female is being raised by six months every two years so that by 1 January 2014, female and male pension ages will be the same. The table below show when females qualify.

<b>Date of Birth</b>	<b>Qualifying age</b>
Before 1 July 1949	Eligible
1 July 1949 to 31 December 1950	58.5
1 January 1951 to 30 June 1952	59
1 July 1952 to 31 December 1953	59.5
1 January 1954 and later	60

33. Australian Government, *2008-09 Budget Paper No. 2 - Budget Measures*, Partner service pension – align partner and veteran age eligibility, op. cit.

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probably claim Newstart Allowance under the SSA so the overall net savings will be somewhat less.

### Passive income support

Essentially partner service pension is an income support payment for a person who is the partner of a service pensioner. Compared to income support payments provided under the SSA, partner service pension is a bit anachronistic. The passive and/or dependency based income support payments provided under the SSA have been phased out as follows:

- no more new grants of wife pension from 1 July 1995,
- no more new grants of widow B pension from 20 March 1997,
- no more new grants of widow allowance from 1 July 2005, unless born on or before 1 July 1955,
- no more new grants of partner allowance from 20 September 2003, and
- no more new grants of mature age allowance from 20 September 2003.

Successive governments have made these changes to the income support arrangements for persons of working age, in order that support is no longer provided to a person just because they are the partner (or former partner) of an income support recipient. Likewise, passive income support payments like Mature Age Allowance, where persons of working age are not required to look for and accept employment to support themselves, are also being phased out. Essentially, persons of working age should qualify for income support in their own right.

In most cases, the alternative income support payment persons will qualify for is Newstart Allowance, which requires the person to satisfy work search and work participation requirements. Some may qualify for other payments like Disability Support Pension or Carer Payment. The reason these payments are being phased out, rather than just being cancelled, is in recognition that for some older aged female persons with little, or no recent attachment to the workforce, they may have difficulty satisfying the work search and participation requirements.

## Schedule 6 – Other amendments

### Background

**Schedule 6** contains amendments to the *A New Tax System (Family Assistance) Act 1999* (FAA), the *A New Tax System (Family Assistance) (Administration) Act 1999* (FAAA), the *Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Act 2006* (CSLARCSSA), *Child Support (Registration and Collection) Act 1988* (CSRCA) and the SSA. The amendments to these various acts arise

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from the passage of the CSLARCSSA and the commencement of the new CSS and child support maintenance formula arrangements from 1 July 2008.<sup>34</sup>

## Costs/Savings

The Explanatory Memorandum details that the financial impact of the amendments presented in **Schedule 6** are negligible.<sup>35</sup>

## Shared care and recognition of shared care for FTB and the Child Support Scheme maintenance formula

### Background

The recognition of shared care in the FTB rate calculations and also in the CSS maintenance formula are to be aligned to reflect the recommendations in the response to the Howard government's Ministerial Taskforce on Child Support and its report *In the Best Interests of the Children*.<sup>36</sup> The Howard government's response to the Taskforce Report was announced on 28 February 2006 and the response contained major changes to the CSS child support maintenance formula.<sup>37</sup> The major legislation then arising from the changes was the *Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Act 2006* (CSLARCSSA).<sup>38</sup>

### Shared care

The new shared care rules do not recognise a carer for FTB rate splitting purposes, where a person has less than 35 per cent of the shared care. This contrasts with the current arrangements where up to a 90 per cent and 10 per cent shared care arrangement can be recognised in the splitting of the FTB rate. The new arrangements mean the FTB will be wholly provided to the person who is the principle carer, that is, has care for 65 per cent or

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34. Peter Yeend, Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Bill 2006, *Bills Digest No. 43 2006-07*, Parliamentary Library, 18 October 2006. <http://www.aph.gov.au/library/pubs/bd/2006-07/07bd043.htm#Contact>

35. Explanatory Memorandum, Financial Impact Statement.

36. Ministerial Taskforce on Child Support, *In the Best Interest of the Children*, Canberra, May 2005. <http://www.facs.gov.au/internet/facsinternet.nsf/family/childsupport.htm>

37. The Hon. Mr Mal Brough, MP, Minister for Families, Community Services and Indigenous Affairs, *Child Support Reforms To Deliver Fairer System*, Canberra, 28 February 2006. [http://www.facs.gov.au/internet/Minister3.nsf/content/child\\_support\\_reform\\_28feb06.htm](http://www.facs.gov.au/internet/Minister3.nsf/content/child_support_reform_28feb06.htm)

38. Peter Yeend, Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Bill 2006, op. cit.

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more of the time. There may be a splitting of the FTB rate payable for the child where care is shared from between 35 per cent to 65 per cent of the time. Where a person has care from between 14 per cent to 35 per cent, while they may not be able to access any part rate FTB, the costs associated with their care can be taken into account for the CSS maintenance formula.

Most of the principle amendments to the FAA and the FAAA for the application of the new FTB rules to apply from 1 July 2008 were made with the passage of the CSLARCSSA.<sup>39</sup> The Explanatory Memorandum details that the amendments to the FAA and the FAAA presented in **Schedule 6** are minor and aim to ensure the reforms are applied as intended.<sup>40</sup> In short it is legislative catch up and housekeeping.

## Main provisions

### Schedule 1 – Income limit for family tax benefit Part B

#### Part 1 – Main amendments

**Item 2** inserts a new clause into the FAA to detail that a FTB-B rate is to be nil where the individual's adjusted taxable annual income is more than \$150 000. **Item 2** also inserts provisions to ensure that, where the claimant is partnered, their partner's income is also taken into account in applying the \$150 000 annual income limit.

**Item 7** provides for the application of the proposed new \$150 000 annual income limit from the 2008-09 year.

#### Part 2 - Other amendments

**Part 2** of **Schedule 1** amends the ITAA1936 in reference to access to various tax offsets. These tax offsets are the Dependent Spouse Tax Offset, Child-Housekeeper Tax Offset, Invalid Relative Tax Offset and Parent/Parent-in-law Tax Offset. The aim of the amendments is to deny access to these tax offsets where the claimant's taxable income for the year of claim is more than \$150 000. There are no references to adjusted taxable income in these amendments to the ITAA1936, being the test used for access to FTB-B, so in effect it is a different test. Reference is only made to taxable income and so it does not adjust for foreign income, negatively geared property losses or reportable fringe benefits. This means there will be persons whose adjusted taxable income will exceed the \$150 000 limit and therefore will not qualify for FTB-B but their taxable income may be less than \$150 000 and they may qualify for some tax offsets.

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39. *ibid.*

40. Explanatory Memorandum, p. 30.

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## Schedule 2 – Baby Bonus

### Part 1 – Income limit for baby bonus

**Item 3** inserts new provisions to apply an income test for qualification to the BB. This will require that the claimant's estimated adjusted taxable income (and also their partner's if they have one) for the 6 month period beginning on the day of the child's birth, will need to be equal to or less than \$75 000. **Item 6** does the same as **Item 3** but refers to a case where the claimant is not the child's parent and refers to the 6 month period commencing on the day the child came into the claimant's care. This refers to cases where the claimant qualifies for BB and they have not adopted the child. BB can be paid where a person has the care of a newborn child within 13 weeks of the child's birth and are likely to continue to have care for no less than 13 weeks and the person is eligible for FTB (excluding the income test) within 13 weeks of the child's birth or of the child being entrusted to their care.

**Item 10** inserts provisions in reference to adoption cases and applies the \$75 000 limit to the income estimate for adjusted taxable income for the 6 month period commencing from the date the child came into care.

**Items 14 and 15** provide for the annual indexation to the CPI of the income limit for the BB (\$75 000) on 1 July each year. **Item 16** inserts a provision which will mean a BB claim will not be effective unless it contains an income estimate for the next 6 months.

**Items 18 and 19** change references to 26 weeks to 52 weeks and **Items 20 and 21** change references to 13 weeks to 26 weeks in the FAA. Currently, a child must be entrusted to the care of the claimant (or their partner) within 13 weeks of the birth. Recognising the new income test limit for FTB-B applies a 26 week test, these changes will allow greater flexibility for claimants to lodge a claim. Likewise the current requirement that the care will continue for at least 13 weeks is extended to 26 weeks. This is a narrowing of the qualification requirements and may restrict access for some claimants. Continuing on with the theme of these time changes, the current requirement that the claimant be eligible for FTB (disregarding the income test) within 13 weeks is to be extended to 26 weeks. This is an expansion of the qualification requirements and will allow greater flexibility for persons to claim and qualify.

The changes allowing a claim to be lodged within 52 weeks (up from the current 26 weeks) will allow persons who, at a later date, discover their income is below the \$75 000, greater flexibility to make a claim.

### Part 2 – Payment of baby bonus by instalments

**Item 24** inserts new provisions to provide for the payment of the BB by 13 instalments. **Item 28** inserts provisions to allow some flexibility of the payment of the BB by instalments. It may be that the care of the child (and therefore qualification to the BB)

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might change during the 13 periodic payments period. Where the change of care for the child occurs and the new care provider meets all the BB qualification requirements, then the residual payments owing after the date the child entered care can be paid to the new care provider.

### Part 3 – Baby bonus indexation

**Item 35** replaces the current twice yearly indexation of the amount of the BB with a once a year indexation to the CPI.

### Part 4 - Eligibility for baby bonus for adopted children

Subsection 36(5) of the FAA sets out the age qualification criterion for access to the BB. **Item 37** amends paragraph 36(5) to change the relevant age limit to access the BB from less than age 2 to less than age 16.

### Schedule 3 – Seniors health card

**Item 1** amends the definition of personal assistance in the *Data-matching Program (Assistance and Tax) Act 1990* (DMATA) to add in CSHC. This will expose the CSHC to the provisions of the DMATA. **Item 3** adds provisions to the SSA to require that a TFN be supplied for a person to qualify for the CSHC. **Item 4** does likewise to the *Social Security (Administration) Act 1999* (SSAA). **Item 5** empowers the requesting of a TFN from a CSHC claimant and **Items 6 to 9** basically provides for a 28 day period for the claimant to comply with the TFN request for the claim to be granted.

**Items 12 to 18** amend the VEA to provide for like provisions for persons claiming a CSHC and to provide a TFN.

### Schedule 4 – Income management regime

**Schedule 4** amends the SSAA to make provisions for a person to volunteer to be subject to the IMR payment arrangements. **Item 1** provides for a person to volunteer for the IMR arrangements. **Item 3** allows a person to volunteer for the IMR arrangements, but only if their usual place of residence is within a declared volunteer IMR designated area. **Item 5** empowers the Minister, by way of a Legislative Instrument, to declare a State, or an area, or a Territory as an area that volunteer IMR provisions can apply. A Legislative

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Instrument would be a disallowable instrument under the *Legislative Instruments Act* (LIA).<sup>41</sup> Therefore this is an instrument that is disallowable by the parliament.

**Item 7** inserts provisions detailing which welfare payments the voluntary IMR provisions are to apply to. The two categories of payments are category H and category I payments. Category H payments for IMR purposes are defined in section 123TC of the SSAA as:

***category H welfare payment*** means:

- (a) a social security benefit; or
- (b) a social security pension; or
- (c) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance; or
- (d) a service pension; or
- (e) income support supplement; or
- (f) Defence Force Income Support Allowance.

Category H payments are essentially the income support payments provided under the SSA and also under the VEA.

Category I payments for IMR purposes are defined in section 123TC of the SSAA as:

***category I welfare payment*** means:

- (a) a category H welfare payment; or
- (b) double orphan pension; or
- (c) family tax benefit under the Family Assistance Act; or
- (d) family tax benefit advance under the Family Assistance Administration Act; or
- (e) baby bonus under the Family Assistance Act; or
- (f) maternity immunisation allowance under the Family Assistance Act; or
- (g) carer allowance; or
- (h) mobility allowance; or
- (i) pensioner education supplement; or
- (j) telephone allowance under Part 2.25 of the 1991 Act; or

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41. Moira Coombs, Legislative Instruments Bill 2003, *Bills Digest 26 2003-04*, Parliamentary Library, Canberra, 8 September 2003. <http://www.aph.gov.au/library/pubs/bd/2003-04/04bd026.htm#Contact>

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- (k) telephone allowance under Part VIIB of the Veterans' Entitlements Act; or
- (l) utilities allowance under Part 2.25A of the 1991 Act; or
- (m) utilities allowance under Part VIIAC of the Veterans' Entitlements Act; or
- (n) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre; or
- (o) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement; or
- (p) a social security bereavement payment; or
- (q) a veterans' entitlement bereavement payment; or
- (r) a Northern Territory CDEP transition payment; or
- (s) an advance payment under Part 2.22 of the 1991 Act; or
- (t) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act; or
- (u) a mobility allowance advance under section 1045 of the 1991 Act; or
- (v) an advance payment under Part IVA or VIIA of the Veterans' Entitlements Act.

The category I payments include the category H payments and also includes the income supplement payments, which are add ons for specific circumstances or needs, like the care of children, to help pay for private rent.

Volunteering for IMR can only occur where the volunteer is receiving a category H payment, that is, an income support payment. This means where the person is receiving an income supplement payment alone, they cannot volunteer. Where they are receiving an income support payment, then any income supplement payment they receive (in category I), can also have the IMR provisions applied.

Amounts withheld under IMR arrangements for category I payments paid by instalments is to be normally 70 per cent of the payment.

## Schedule 5 – Eligibility for partner service pension

**Item 1** amends the VEA to change the age qualification age for access to the partner service pension from age 50 to the age service pension qualifying age.<sup>42</sup>

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42. Pension age for a female is being raised by six months every two years so that by 1 January 2014 it will be the same, op. cit.

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## Schedule 6 – Other amendments

**Item 2** inserts a **new section 25A** into the FAAA detailing that, where a person cares for a child from between 14 per cent to 35 per cent of the time, they are taken to be a regular care person of the child. This doesn't have any impact on access to FTB but the cost of providing care to the child can be taken into account for the new CSS maintenance formula arrangements.

**Item 7** amends subclause 20B(2) of the FAA to ensure that where a notional assessment of child support has components within it for disability expense maintenance, then the notional assessment is not to include the amount of disability expense maintenance. Disability expense maintenance is provided by a non-custodial parent to a custodial parent for expenses arising directly from a physical, intellectual or psychiatric disability; or a learning difficulty of a child of the individual. To be exempt as income, the disability expense maintenance must be received from a parent of the child, or the partner or former partner, of a parent of the child.

**Items 12 to 14** refer to the assessment of adjusted taxable income for FTB and for CCB and the assessment of reportable fringe benefits. There were changes to the definition of reportable fringe benefits for the income assessment for FTB, CCB made by the *Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Act 2006*.<sup>43</sup> The changes were a part of aligning the adjusted taxable income test used for FTB and CCB with the adjusted taxable income test used for the CSS maintenance test. The report of the Ministerial Taskforce into Child Support had made recommendations that for the purposes of the CSS formula, the current definition of adjusted taxable income should be broadened to include certain non-taxable payments such as certain forms of income support, currently exempt and also that the definitions of income for child support and FTB should be consistent and the components should be the same.<sup>44</sup>

The *Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Act 2006* then made the alignment change to the FTB/CCB income test to take into regard gross reportable fringe benefits.

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43. Peter Yeend, *Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Bill 2006*, *Bills Digest No. 43 2006-07*, Parliamentary Library, Canberra, 18 October 2006. <http://www.aph.gov.au/library/pubs/SearchResults.asp>

44. Ministerial Taskforce on Child Support, *In the Best Interests of the Children, Reforming the Child Support Scheme - Summary Report and Recommendations of the Ministerial Taskforce on Child Support*, Canberra, May 2005, p. 17.  
<http://www.facs.gov.au/internet/facsinternet.nsf/family/childsupport.htm>

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From 1 July 2008 the assessments are to refer to gross reportable fringe benefits. When an employer reports to the Australian Tax Office (ATO) amounts of reportable fringe benefits paid to an employee, they are required to gross up the amount. The fringe benefits gross up rates are set out below. The employer then pays Fringe Benefits Tax (45 per cent) on this grossed up amount.

#### Gross-up rates for fringe benefits tax

Gross-up rate	FBT year ending 31/3/2009	FBT year ending 31/3/2008	FBT year ending 31/3/2007	FBT year ending 31/3/2006	Explanation
<b>Type 1</b> Higher gross-up rate	2.0647	2.0647	2.0647	2.1292	This rate is used where the benefit provider is <b>entitled to a GST credit</b> in respect of the provisions of a benefit.
<b>Type 2</b> Lower gross-up rate	1.8692	1.8692	1.8692	1.9417	This rate is used if the benefit provider is <b>not entitled to claim GST credits</b> .  (Regardless of whether the benefits provided are type 1 or type 2, only the lower gross-up rate is used for reporting on employees' payment summaries.)

So for example, if an employer paid \$16,000 to an employee in fringe benefits, the amount reported to the ATO would be \$16,000 X 2.0647 which equals \$33,035. Why are they required to gross it up? Firstly, it has a revenue collection purpose. Secondly, if an employer pays salary to an employee, there is the gross amount (before tax) paid, and also the net amount (after tax) paid. The grossing up is designed to factor in the equivalent of the gross amount for fringe benefit provided to the employee, as if they had been paid in wages or salary, rather than as a fringe benefit.

The amendments clarify that the assessment of adjusted fringe benefits grossed up amounts refers to assessments for the 2008-09 year and also for FTB/CCB Centrelink provided indexed income estimates.

In some cases Centrelink can provide an indexed estimate of income. Normally it is the claimant for FTB or CCB who provides an estimate of their income. It isn't common that Centrelink makes an estimate, but in cases where the claimant cannot make an estimate,

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Centrelink has the power under the FAAA<sup>45</sup> to make an indexed estimate. This estimate mostly is based on past year's income, current activities and probable future activities that might vary that amount. The amendments provide that estimates for 2008-09 income and onwards are to be based on gross amounts of reportable fringe benefits.

Government reversal of grossed up reportable fringe benefits amounts

The government has announced that it would provide for changes to the FAA to reverse the application of the grossing up of reportable fringe benefits amounts from 1 July 2008.<sup>46</sup> This change was largely instigated by concerns about the adverse impact on employees of charitable organisations and in the not-for-profit sector.

The taking into regard of the grossed up amount of a reportable fringe benefit does seem to disadvantage employees provided with this form of employment remuneration, in terms of their adjusted taxable income. Perhaps it signals a need to examine whether the method of using grossed up amounts of reportable fringe benefits is also appropriate for income assessments under the *Child Support (Assessment) Act 1989*.

**Items 16 and 17** are essentially transitional provisions dealing with CSS agreements that are to apply before and after 1 July 2008, recognising the application of the new CSS maintenance formula arrangements from 1 July 2008.<sup>47</sup>

## Concluding comments

This Bill features the provisions necessary for the implementation of a \$150 000 income limit for the BB and the FTB-B, in both cases for the first time.

The FTB-B \$150 000 limit is to apply to sole parents, the first time since July 2000 that an income limit has applied for sole parents claiming FTB-B. Likewise, the \$150 000 limit is to apply to the primary income earner (in a partnered family), the first time an income limit has applied to the primary income earner. The families who will be precluded from access to the BB and the FTB-B will be those with income in excess of \$150 000, that is high income families. The income limit of \$150 000 is comparatively high compared to the other income limits that apply to FTB.

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45. Section 20A of the FAAA.

46. The Hon. Jenny Macklin, MP, Minister for Families, Housing, Community Services and Indigenous Affairs, Protection for Charitable Sector Employees, *media release*, Canberra, 19 June 2008.  
[http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/charitable\\_sector\\_employees\\_19june08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/charitable_sector_employees_19june08.htm)

47. *ibid.*

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Since it was introduced from July 2004, the BB has been paid by way of a lump sum. This Bill changes that to pay the BB by way of 13 fortnightly instalments. Access to the BB is significantly expanded for adoptive parent/s from children aged up to 2 to children aged up to age 16. This is a significant expansion of access to the BB for adoptive families.

The changes to definitions of adjusted taxable income for the CSHC to add in superannuation from taxed superannuation sources and also salary sacrificed superannuation is driving the initiative to require a TFN from CSHC claimants. Not many CSHC holders will have salary sacrificed superannuation but many will have superannuation from taxed superannuation funds, which, since July 2007 for those aged 60 or more, is not taxable income. The change to the CSHC income test arrangements in 1999 to adjusted taxable income certainly provided for more generous income testing. The requirement to provide a TFN is common for claims to income support and income supplement payments.

The amendments providing for volunteers to have their welfare payments provided under the IMR arrangements are fairly benign, allowing volunteers to opt out at any time. However, no proper explanation is provided in the Explanatory Memorandum, or in the Minister's second reading speech, as to the origins of this initiative and what sort of cases or situations IMR volunteering might apply to.

The raising of the qualifying age to be applied for access to the partner service pension from age 50 to age service pension age is in line with changes to other passive and dependency based income support programs over the past 10 years.

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