



# **Social Security (Administration) Act 1999**

**No. 191, 1999 as amended**

**Compilation start date:** 1 October 2013

**Includes amendments up to:** Act No. 76, 2013

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Social Security (Administration) Act 1999* as in force on 1 October 2013. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 1 October 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

### Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

### Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details of the provision are set out in the endnotes.

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# **An Act to provide for the administration of the social security law, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Social Security (Administration) Act 1999*.

### **2 Commencement**

- (1) Subject to subsections (2) and (3), this Act commences on 20 March 2000.
- (2) This Part and section 257 commence on the day on which this Act receives the Royal Assent.
- (3) Section 54 commences on 1 July 2000.

### **2A Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

### **3 Interpretation**

- (1) Unless a contrary intention appears, an expression that is defined in Schedule 1 has in this Act the meaning given in that Schedule.
- (2) Unless a contrary intention appears, an expression that is used in the 1991 Act has the same meaning, when used in this Act, as in the 1991 Act.
- (3) A reference in this Act to the social security law (other than the reference in section 4) is a reference to this Act, the 1991 Act and any other Act that is expressed to form part of the social security law.
- (4) A reference in this Act to a provision of the social security law is a reference to a provision of this Act, the 1991 Act or any other Act that is expressed to form part of the social security law.

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- (5) To the extent that a provision of this Act relates to a double orphan pension, a reference in the provision to a person includes a reference to an approved care organisation.
- (6) Unless a contrary intention appears, a reference in this Act (other than a reference in section 243):
  - (a) to this Act; or
  - (b) to the social security law;includes a reference to regulations made under section 243.

### 4 Social security law

This Act forms part of the social security law.

### 5 Manner of giving notice

- (1) If a provision of the social security law requires that a written notice be given to a person, it is sufficient compliance with that provision if the notice is given in a manner approved by the Secretary.
- (2) Nothing in subsection (1) prevents a notice being given in accordance with section 28A of the *Acts Interpretation Act 1901*.

### 6 Effect of certain determinations

If the social security law provides that a determination takes effect on a day (the *earlier day*) before the day on which the determination is made, the social security law has effect as if the determination had taken effect on the earlier day.

### 6A Secretary may arrange for use of computer programs to make decisions

- (1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for any purposes for which the Secretary may make decisions under the social security law.
- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Secretary.

## **Part 2—General administration of social security law**

### **7 General administration of social security law**

The Secretary is, subject to any direction of the Minister, to have the general administration of the social security law.

### **8 Principles of administration**

In administering the social security law, the Secretary is to have regard to:

- (a) the desirability of achieving the following results:
  - (i) the ready availability to members of the public of advice and information services relating to income support generally and to the social security payments that are available;
  - (ii) the ready availability of publications containing clear statements about income support entitlements and procedural requirements;
  - (iii) the delivery of services under the law in a fair, courteous, prompt and cost-efficient manner;
  - (iv) the development of a process of monitoring and evaluating delivery of programs with an emphasis on the impact of programs on social security recipients;
  - (v) the establishment of procedures to ensure that abuses of the social security system are minimised; and
- (b) the special needs of disadvantaged groups in the community; and
- (c) the need to be responsive to the interests of the Aboriginal and Torres Strait Islander communities and to cultural and linguistic diversity; and
- (d) the importance of the system of review of decisions under the social security law; and
- (e) the need to ensure that social security recipients have adequate information regarding the system of review of decisions under the social security law; and

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- (f) the need to apply government policy in accordance with the law and with due regard to relevant decisions of the Administrative Appeals Tribunal and the Social Security Appeals Tribunal.

### **9 Government policy statements**

- (1) The Minister may prepare a written statement of the policy of the Commonwealth Government in relation to the administration of the social security law and may give a copy of the statement to:
  - (a) the Secretary; and
  - (b) the Principal Member of the Social Security Appeals Tribunal.
- (2) If the Minister gives a copy of a statement to the Secretary or the Principal Member under subsection (1), the Minister must cause a copy of the statement to be laid before each House of the Parliament within 15 sitting days of that House after the Minister gives the copy under that subsection.
- (3) In exercising powers under the social security law, an officer must have regard to any statement a copy of which has been given to the Secretary under subsection (1).
- (4) In exercising powers under the social security law, the Principal Member and the Social Security Appeals Tribunal must have regard to any statement a copy of which has been given to the Principal Member under subsection (1).

### **10 Agreement on administrative arrangements**

- (1) The Secretary and the Principal Member of the Social Security Appeals Tribunal may agree on administrative arrangements to further the objectives of Part 4 of this Act.
- (2) The Secretary and the Employment Secretary may agree on administrative arrangements to further the objectives of Part 2.12 of the 1991 Act.
- (3) Administrative arrangements agreed on under subsection (2) may provide for officers of the Employment Department to perform functions or duties, or exercise powers, under Part 2.12 of the 1991 Act.

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- (4) The Secretary and the Secretary to the Department of Agriculture, Fisheries and Forestry may agree on administrative arrangements to further the objectives of sections 26 and 27 of the 1991 Act.

## **Part 3—Provision of benefits**

### **Division 1—Claim for social security payment or concession card**

#### **Subdivision A—Need for claim**

##### **11 General rule**

- (1) Subject to subsection (2) and Subdivision B, a person who wants to be granted:
  - (a) a social security payment; or
  - (b) a concession card;must make a claim for the payment or card in accordance with this Division.
- (2) Subsection (1) does not apply to a concession card for which a person is qualified under Division 1 of Part 2A.1 of the 1991 Act or under Subdivision A of Division 3 of that Part.

#### **Subdivision B—Cases where claim not necessary**

##### **12 Deemed claim in certain cases**

- (1) The Secretary may determine that, for the purposes of the social security law, a person is taken to have made a claim for an income support payment (the *new payment*), if:
  - (a) the person became qualified for the new payment while receiving another income support payment; or
  - (b) the person became qualified for the new payment immediately after ceasing to receive another income support payment.
- (2) The person is taken to have made the claim for the new payment on the day specified in the Secretary's determination. That day must not be earlier than:
  - (a) the day that is 13 weeks before the day on which the Secretary's determination is made; or



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- (b) if the person became qualified for the new payment after the day referred to in paragraph (a)—the day on which the person became qualified for the new payment.

**12A One-off payment to the aged**

A claim is not required for one-off payment to the aged.

**12AAA One-off payments to older Australians**

A claim is not required for:

- (a) 2006 one-off payment to older Australians; or
- (b) 2007 one-off payment to older Australians; or
- (c) 2008 one-off payment to older Australians.

**12AA One-off payments to carers**

A claim is not required for the following:

- (a) one-off payment to carers (carer allowance related);
- (b) one-off payment to carers (carer payment related);
- (c) 2005 one-off payment to carers (carer payment related);
- (d) 2005 one-off payment to carers (carer service pension related);
- (e) 2005 one-off payment to carers (carer allowance related);
- (f) 2006 one-off payment to carers (carer payment related);
- (g) 2006 one-off payment to carers (wife pension related);
- (h) 2006 one-off payment to carers (partner service pension related);
- (i) 2006 one-off payment to carers (carer service pension related);
- (j) 2006 one-off payment to carers (carer allowance related);
- (k) 2007 one-off payment to carers (carer payment related);
- (l) 2007 one-off payment to carers (wife pension related);
- (m) 2007 one-off payment to carers (partner service pension related);
- (n) 2007 one-off payment to carers (carer service pension related);
- (o) 2007 one-off payment to carers (carer allowance related);
- (p) 2008 one-off payment to carers (carer payment related);

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- (q) 2008 one-off payment to carers (wife pension related);
- (r) 2008 one-off payment to carers (partner service pension related);
- (s) 2008 one-off payment to carers (carer service pension related);
- (t) 2008 one-off payment to carers (carer allowance related).

**12AB Economic security strategy payment, training and learning bonus or farmers hardship bonus**

A claim is not required for an economic security strategy payment, training and learning bonus or farmers hardship bonus.

**12B Language, literacy and numeracy supplement**

A claim is not required for language, literacy and numeracy supplement.

**12C Utilities allowance**

A claim is not required for utilities allowance.

**12D Seniors supplement**

A claim is not required for seniors supplement.

**12DA Quarterly pension supplement**

A claim is not required for quarterly pension supplement.

**12DB Quarterly clean energy supplement**

A claim is not required for quarterly clean energy supplement.

**12E Child disability assistance**

A claim is not required for child disability assistance.

**12F Carer allowance**

A claim is not required for carer allowance if the person qualifies for the carer allowance under section 954B.

**12G Carer supplement**

A claim is not required for carer supplement.

**12H Student start-up scholarship payment and relocation scholarship payment**

A claim is not required for a student start-up scholarship payment or a relocation scholarship payment.

**12J Voluntary income management incentive payment**

A claim is not required for a voluntary income management incentive payment.

**12K Clean energy advance**

A claim is not required for a clean energy advance.

**12L Income support bonus**

A claim is not required for an income support bonus.

**13 Deemed claim—person contacting Department about a claim for a social security payment**

- (1) For the purposes of the social security law, if:
  - (a) the Department is contacted by or on behalf of a person in relation to a claim for a social security payment; and
  - (b) the person is, on the day on which the Department is contacted, qualified for the social security payment; and
  - (c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
  - (d) the person lodges a claim for the social security payment within 14 days after the Department is contacted;the person is taken to have made a claim for the social security payment on the day on which the Department was contacted.
- (2) For the purposes of the social security law, if:

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- (a) the Department is contacted by or on behalf of a person in relation to a claim for a social security payment, other than crisis payment or special employment advance; and
  - (b) the person is, on the day on which the Department is contacted, qualified for the social security payment; and
  - (c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
  - (d) the person lodges a claim for the payment more than 14 days, but not more than 13 weeks, after the Department is contacted; and
  - (e) the Secretary is satisfied that:
    - (i) throughout the period starting on the day on which the Department was contacted and ending on the day on which the person lodged the claim, the person was suffering from a medical condition; and
    - (ii) that medical condition, or circumstances related to that medical condition, had a significant adverse effect on the person's ability to lodge the claim earlier;
- the person is taken to have made a claim for the social security payment on the day on which the Department was contacted.
- (3) For the purposes of the social security law, if:
- (a) the Department is contacted by or on behalf of a person (the **claimant**) in relation to a claim for a social security payment, other than crisis payment or special employment advance; and
  - (b) the claimant is, on the day on which the Department is contacted, qualified for the social security payment; and
  - (c) the Secretary gives the claimant a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
  - (d) the claimant lodges a claim for the payment more than 14 days, but not more than 13 weeks, after the Department is contacted; and
  - (e) the Secretary is satisfied that:
    - (i) throughout the period starting on the day on which the Department was contacted and ending on the day on which the claimant lodged the claim, the claimant was caring for, or was the partner of, another person; and

- (ii) throughout that period, the other person suffered from a medical condition; and
- (iii) the medical condition, or circumstances related to the medical condition, from which the other person was suffering had a significant adverse effect on the claimant's ability to lodge the claim earlier;

the claimant is taken to have made a claim for the social security payment on the day on which the Department was contacted.

(3A) For the purposes of the social security law, if:

- (a) the Department is contacted by or on behalf of a person in relation to a claim for a social security payment; and
- (b) the person is, on the day on which the Department is contacted, qualified for the social security payment; and
- (c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
- (d) the person lodges a claim for the social security payment more than 14 days, but not more than 13 weeks, after the Department is contacted; and
- (e) the Secretary is satisfied that, in the special circumstances of the case, it was not reasonably practicable for the person to lodge the claim earlier;

the person is taken to have made a claim for the social security payment on the day on which the Department was contacted.

- (4) A reference in this section to the Department being contacted includes a reference to the Department being contacted by post or telephone or by the transmission of a message by the use of facsimile, computer equipment or other electronic means.
- (5) This section has effect subject to section 18.

#### **14 Deemed claim—person contacting Department about a claim for a concession card**

(1) For the purposes of the social security law, if:

- (a) the Department is contacted by or on behalf of a person in relation to a claim for a concession card; and
- (b) the person is, on the day on which the Department is contacted, qualified for the concession card; and

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(c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and

(d) the person lodges a claim for the concession card within 14 days after he or she contacts the Department;

the person is taken to have made a claim for the concession card on the day on which the Department was contacted.

(2) For the purposes of the social security law, if:

(a) the Department is contacted by or on behalf of a person in relation to a claim for a concession card; and

(b) the person is, on the day on which the Department is contacted, qualified for the concession card; and

(c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and

(d) the person lodges a claim for the concession card more than 14 days, but not more than 13 weeks, after the Department is contacted; and

(e) the Secretary is satisfied that:

(i) throughout the period starting on the day on which the Department was contacted and ending on the day on which the person lodged the claim, the person was suffering from a medical condition; and

(ii) that medical condition, or circumstances related to that medical condition, had a significant adverse effect on the person's ability to lodge the claim earlier;

the person is taken to have made a claim for the concession card on the day on which the Department was contacted.

(3) For the purposes of the social security law, if:

(a) the Department is contacted by or on behalf of a person (the ***claimant***) in relation to a claim for a concession card; and

(b) the claimant is, on the day on which the Department is contacted, qualified for the concession card; and

(c) the Secretary gives the claimant a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and

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- (d) the claimant lodges a claim for the concession card more than 14 days, but not more than 13 weeks, after the Department is contacted; and
  - (e) the Secretary is satisfied that:
    - (i) throughout the period starting on the day on which the Department was contacted and ending on the day on which the claimant lodged the claim, the claimant was caring for, or was the partner of, another person; and
    - (ii) throughout that period, the other person suffered from a medical condition; and
    - (iii) the medical condition, or circumstances related to the medical condition, from which the other person was suffering had a significant adverse effect on the claimant's ability to lodge the claim earlier;the claimant is taken to have made a claim for the concession card on the day on which the Department was contacted.
- (3A) For the purposes of the social security law, if:
- (a) the Department is contacted by or on behalf of a person in relation to a claim for a concession card; and
  - (b) the person is, on the day on which the Department is contacted, qualified for the concession card; and
  - (c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
  - (d) the person lodges a claim for the concession card more than 14 days, but not more than 13 weeks, after the Department is contacted; and
  - (e) the Secretary is satisfied that, in the special circumstances of the case, it was not reasonably practicable for the person to lodge the claim earlier;
- the person is taken to have made a claim for the concession card on the day on which the Department was contacted.
- (4) A reference in this section to the Department being contacted includes a reference to the Department being contacted by post or telephone or by the transmission of a message by the use of facsimile, computer equipment or other electronic means.

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**15 Deemed claim—incorrect or inappropriate claims**

- (1) For the purposes of the social security law, if:
  - (a) a person makes an incorrect claim; and
  - (b) the person subsequently makes a claim for a social security payment for which the person is qualified; and
  - (c) the Secretary is satisfied that it is reasonable that this subsection be applied;the person is taken to have made a claim for that social security payment on the day on which he or she made the incorrect claim.
- (2) For the purposes of this section, a claim made by a person is an incorrect claim if:
  - (a) the claim is for a social security payment, other than a supplementary payment; and
  - (b) when the claim was made, the person was not qualified for the payment claimed but was qualified for another social security payment, other than a supplementary payment.
- (3) For the purposes of this section, a claim made by a person is an incorrect claim if:
  - (a) the claim is for a supplementary payment; and
  - (b) when the claim was made, the person was not qualified for the payment claimed but was qualified for another supplementary payment.
- (4) For the purposes of the social security law, if:
  - (a) a person makes a claim for a pension, allowance, benefit or other payment under a law of the Commonwealth, other than this Act or the 1991 Act, or under a program administered by the Commonwealth, that is similar in character to a social security payment, other than a supplementary payment (the ***initial claim***); and
  - (b) when the claim was made, the person was qualified for a social security payment, other than a supplementary payment; and
  - (c) the person subsequently makes a claim for the social security payment referred to in paragraph (b) (the ***later claim***); and
  - (d) the Secretary is satisfied that it is reasonable that this subsection be applied;



the person is taken to have made the later claim on the day on which the initial claim was made.

(4A) For the purposes of the social security law, if:

- (a) a person makes a claim for an income support payment (the *initial claim*); and
- (b) on the day on which the initial claim is made, the person is qualified for another income support payment (the *other income support payment*); and
- (c) the person subsequently makes a claim for the other income support payment (the *later claim*); and
- (d) the Secretary is satisfied that it is reasonable that this subsection be applied;

the person is taken to have made the later claim on the day on which the initial claim was made.

(4B) For the purposes of the social security law, if:

- (a) a person makes a claim for a supplementary payment (the *initial claim*); and
- (b) on the day on which the initial claim is made, the person is qualified for another supplementary payment (the *other supplementary payment*); and
- (c) the person subsequently makes a claim for the other supplementary payment (the *later claim*); and
- (d) the Secretary is satisfied that it is reasonable that this subsection be applied;

the person is taken to have made the later claim on the day on which the initial claim was made.

(5) In this section:

*supplementary payment* means:

- (a) carer allowance; or
- (b) double orphan pension; or
- (c) education entry payment; or
- (i) mobility allowance; or
- (j) pensioner education supplement.

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**15A Deemed claim—certain claims for carer allowance**

*Claim for carer payment rejected*

- (1) For the purposes of the social security law, if:
- (a) on or after 1 July 2009, a person (the *carer*) makes a claim for a carer payment for caring for a person because the carer is qualified for the payment other than under paragraph 198(2)(d); and
  - (b) the Secretary makes a determination rejecting the claim; and
  - (c) within 28 days of being notified of the determination, the carer makes a claim for carer allowance for caring for the person; and
  - (d) the carer is qualified under section 953 of the 1991 Act for carer allowance for the person; and
  - (e) the Secretary is satisfied that it is reasonable that this section be applied;

the carer is taken to have made a claim for carer allowance on the day on which the carer made the claim for a carer payment.

*Carer payment suspended or cancelled*

- (2) For the purposes of the social security law, if:
- (a) on or after 1 July 2009, a person (the *carer*) is receiving the carer payment for caring for one or more persons because the carer is qualified for the payment other than under paragraph 198(2)(d); and
  - (b) the Secretary makes a determination cancelling or suspending the carer's carer payment; and
  - (c) within 28 days of being notified of the determination, the carer makes a claim for carer allowance for caring for the person; and
  - (d) the carer is qualified under section 953 of the 1991 Act for carer allowance for the person; and
  - (e) the Secretary is satisfied that it is reasonable that this section be applied;

the carer is taken to have made a claim for carer allowance on the day after the day on which the cancellation or suspension took effect.

## **Subdivision C—Manner of making a claim**

### **16 How to make a claim**

- (1) A person makes a claim for a social security payment or a concession card:
  - (a) by lodging a written claim for the payment or card; or
  - (b) by making the claim in accordance with subsection (7).
- (2) A written claim for the purpose of subsection (1) for one social security payment or for a concession card must be in accordance with a form approved by the Secretary.
- (3) Two or more written claims by the same person may, subject to subsection (3A), be combined in one claim. Such a claim must be made in accordance with a form approved by the Secretary for the purposes of this subsection.
- (3A) A claim by a person for low income supplement for an income year must not be combined with any other claim.
- (4) A written claim is lodged by being delivered:
  - (a) to a person apparently performing duties at a place approved for the purpose by the Secretary; or
  - (b) to a person approved for the purpose by the Secretary; or
  - (c) in a manner, and to a place, approved for the purpose by the Secretary.
- (5) Subject to subsection (6), a place or person approved for the purposes of subsection (4) must be a place or person in Australia.
- (6) The Secretary may approve a place or person outside Australia for the purposes of subsection (4) for the lodgment of:
  - (a) claims made under a scheduled international social security agreement; or
  - (b) claims for AGDRP in relation to a major disaster that occurred outside Australia; or
  - (c) claims for AVTOP.
- (7) A person may make a claim in a manner approved by the Secretary for the purposes of this subsection.

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- (8) The power of the Secretary to make an approval under subsection (7) is not limited by any other provision of this section.

**17 Special requirements regarding claims for pension bonus**

- (1) A claim for pension bonus must be:
- (a) attached to a proper claim made by the person for age pension and lodged together with that claim for age pension; or
  - (b) made in accordance with an invitation under subsection (3); or
  - (c) the subject of a determination under subsection (5).
- (2) A claim for pension bonus may be made even though it is not certain whether the person will start to receive an age pension at or after the time when the person makes the claim. The claim has effect as a claim that is contingent on the person receiving an age pension.
- (3) If:
- (a) a person makes a claim for an age pension; and
  - (b) the claim is in accordance with a form that does not require the claimant to disclose whether the claimant is registered as a member of:
    - (i) the pension bonus scheme; or
    - (ii) the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act; and
  - (c) the person is, to the knowledge of the Secretary, registered as a member of the pension bonus scheme; and
  - (d) a claim by the person for pension bonus is not attached to the claim for age pension;
- the Secretary must give the claimant a written notice inviting the claimant to lodge a claim for pension bonus:
- (e) within such period after the lodgment of the claim for age pension as is specified in the notice; and
  - (f) at such place as is specified in the notice.
- (4) If a claim for pension bonus is made in accordance with an invitation under subsection (3), the person is taken to have claimed the pension bonus at the same time as the person claimed age pension.

- (5) If:
- (a) a person who is a registered member of the pension bonus scheme lodges a claim for age pension; and
  - (b) a claim for pension bonus for the person is lodged after the claim for age pension; and
  - (c) the Secretary is satisfied that, having regard to guidelines (if any) made under subsection (6), special circumstances apply in relation to the lodgment of the claim for pension bonus;
- the Secretary may determine that the claim for the pension bonus is taken to have been made at the time the person claimed age pension.
- (6) The Secretary may, by legislative instrument, make guidelines for the purposes of subsection (5).

## **18 Additional provisions regarding claim for special employment advance**

- (1) A claim for special employment advance must specify the amount of special employment advance sought.
- (2) Subject to subsection (3), if a claim based on the effect of the unreceived income on the claimant's special employment advance qualifying entitlement is lodged before the first day for which the entitlement is not payable or is reduced as a result of the claimant, or the claimant's partner, having earned the income, the claim is taken to have been made on that day.
- (3) If:
- (a) the claimant's special employment advance qualifying entitlement referred to in subsection (2) is an entitlement in respect of which the Secretary has determined that this subsection applies; and
  - (b) the claim is lodged before the day referred to in subsection (2);
- the Secretary may treat the claim as having been made on a day earlier than the day referred to in subsection (2) that the Secretary considers appropriate having regard to the kind of entitlement concerned.

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- (4) A claim based on the need for financial assistance from the Commonwealth to take up offered employment must set out:
  - (a) particulars (including the duration) of the employment; and
  - (b) the way in which the financial assistance is to be expended to enable the claimant to take up the employment.

### **19 Special requirements regarding claims for essential medical equipment payment**

- (1) A claim for an essential medical equipment payment must include a statement by the person making the claim that the medical equipment to which the claim relates is used in the relevant EMEP residence.
- (2) If:
  - (a) a person who provides care and attention for a person with medical needs makes a claim for an essential medical equipment payment; and
  - (b) the person with medical needs is not a dependent child of that or any other person;the claim must be signed by the person with medical needs.

### **Subdivision E—Time limits for claims for pension bonus**

## **20 Interpretation**

An expression used in this Subdivision has the same meaning as it has in Part 2.2A of the 1991 Act.

## **21 General rule**

- (1) A claim for pension bonus must be made within the lodgment period fixed by this Subdivision.
- (2) However, the Secretary may in special circumstances allow a person a longer period to make a claim than the period fixed by this Subdivision. If the Secretary does so, the lodgment period for the person's claim is the period allowed by the Secretary.
- (3) Subsection (2) does not apply in relation to a claim for which the lodgment period is fixed by subsection 23(1).

## **22 Last bonus period a full-year period**

- (1) If a person's last bonus period is a full-year period, the lodgment period for a claim by the person for pension bonus is the period of 13 weeks immediately following that bonus period. However, this rule does not apply if:
  - (a) the person is an exempt partnered person for the purposes of section 24 at the end of the person's last bonus period; or
  - (b) the person's membership of the pension bonus scheme becomes non-accruing immediately after the end of the person's last bonus period; or
  - (c) the person is a post-75 member of the pension bonus scheme and has a post-75 work period (see subsection 26(2)).
- (2) For the purposes of this section, if a person has accrued only one full-year bonus period, that period is the person's last bonus period.

## **23 Last bonus period a part-year period**

- (1) If a person's last bonus period is a part-year period, the lodgment period for a claim by the person for pension bonus is:
  - (a) the period of 13 weeks beginning at the end of that bonus period; or
  - (b) if the Secretary allows a longer period—that longer period.However, this subsection does not apply if:
  - (c) the person is an exempt partnered person (see subsection 24(2)) at the end of the person's last bonus period; or
  - (d) the person's membership of the pension bonus scheme becomes non-accruing immediately after the end of the person's last bonus period; or
  - (e) the person is a post-75 member of the pension bonus scheme and has a post-75 work period (see subsection 26(2)).
- (2) If:
  - (a) subsection (1) applies to a person's claim for pension bonus; and
  - (b) the claim is lodged within a period allowed under paragraph (1)(b);

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Division 6 of Part 2.2A of the 1991 Act has effect, in relation to the calculation of the amount of that pension bonus, as if the person had not accrued the part-year bonus period.

### **24 Claim by exempt partnered person**

- (1) If a person is an exempt partnered person at the end of the person's last bonus period, the lodgment period applicable to the person's claim for pension bonus is the period:
  - (a) beginning at the end of that bonus period; and
  - (b) ending at:
    - (i) the time of the last occasion on which the person's partner could have lodged a claim for a pension bonus; or
    - (ii) the end of the period of 13 weeks after the person ceases to be a member of the same couple (whether because of the death of the person's partner or for any other reason);whichever comes first.
- (2) For the purposes of this section, a person is an exempt partnered person at a particular time if, at that time, the person is a member of a couple and:
  - (a) the person's partner is an accruing or non-accruing member of the pension bonus scheme; or
  - (b) the person's partner is an accruing or non-accruing member of the corresponding scheme under Part IIIAB of the Veterans' Entitlements Act.

### **25 Claim where membership has become non-accruing**

If a person's membership of the pension bonus scheme becomes non-accruing immediately after the end of the person's last bonus period, the lodgment period applicable to the person's claim for pension bonus is the period:

- (a) beginning at the end of the person's last bonus period; and
- (b) ending 13 weeks after the time when the person's membership of the scheme ceases to be non-accruing.



## **26 Claim where person has post-75 work period**

- (1) If a post-75 member of the pension bonus scheme has a post-75 work period, the lodgment period for a claim by the person for pension bonus is the period of 13 weeks beginning at the end of the period nominated in the claim as the person's post-75 work period.
- (2) For the purposes of this section, a post-75 member of the pension bonus scheme has a post-75 work period if all of the following requirements are satisfied:
  - (a) the person's claim for pension bonus nominates a particular period as the person's post-75 work period;
  - (b) the nominated period begins immediately after the end of the person's last bonus period;
  - (c) if it were assumed that the person had been an accruing member of the pension bonus scheme throughout each test period that is applicable to the person, the person would have passed the work test for each test period.
- (3) For the purposes of subsection (2), the test period or test periods applicable to a person are worked out as follows:
  - (a) identify the ***extended period***, which is that part of the nominated period when the person was neither:
    - (i) subject to a compensation preclusion period or a carer preclusion period; nor
    - (ii) covered by a declaration under section 92Q of the 1991 Act;
  - (b) if the extended period is 365 days or less—the extended period is the only test period;
  - (c) if the extended period is longer than 365 days—each of the following periods is a test period:
    - (i) the full-year period beginning at the start of the extended period;
    - (ii) if 2 or more succeeding full-year periods are included in the extended period—each of those full-year periods;
    - (iii) the period (if any) consisting of the remainder of the extended period.
- (4) In addition to its effect apart from this subsection, section 93B of the 1991 Act also has the effect it would have if each reference in paragraph 93B(1)(a), (2)(a), (3)(a) or (4)(a) to an accruing member

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of the pension bonus scheme were a reference to a post-75 member of the scheme.

**Subdivision EA—Time limits for claims for pension bonus bereavement payment**

**26A General rule**

A person's claim for pension bonus bereavement payment must be made within the period of 26 weeks beginning on the day of death of the partner in respect of whom the person is qualified for pension bonus bereavement payment.

**26B Extension**

The Secretary may in special circumstances allow a person a longer period to make a claim than the period under section 26A. If the Secretary does so, the person's claim must be made before the end of the period allowed by the Secretary.

**Subdivision F—Time limit for claims for fares allowance**

**27 Time limit for claim**

- (1) Subject to this section, a claim for fares allowance must be lodged in the study year to which the claim relates or before 1 April next following the end of that year (the *final date*).
- (2) A claim for fares allowance may be lodged on or after the final date if the Secretary is satisfied that:
  - (a) the claimant took reasonable steps to lodge the claim, or have the claim lodged, before the final date; and
  - (b) circumstances beyond the claimant's control prevented the claim being lodged before the final date.
- (3) A claim for fares allowance may be lodged on or after the final date if the Secretary is satisfied that:
  - (a) circumstances beyond the claimant's control prevented the claimant taking reasonable steps to lodge the claim, or have the claim lodged, before the final date; and
  - (b) the claimant has sought to lodge the claim as soon as practicable after those circumstances ceased to exist.

### **Subdivision FAA—Time limit for claims for Disaster Recovery Allowance**

#### **27AA Time limit for claims for Disaster Recovery Allowance**

- (1) A claim for a Disaster Recovery Allowance relating to a Part 2.23B major disaster must be lodged within 6 months after the determination of the disaster under section 36A of the 1991 Act.
- (2) However, the claim may be lodged more than 6 months after the determination if the Secretary is satisfied that:
  - (a) there are special circumstances applying to the person's claim that justify a late lodgement; and
  - (b) the claim is lodged within a reasonable period having regard to those circumstances.

### **Subdivision FA—Time limit for claims for AGDRP**

#### **27A Time limit for claim**

- (1) A claim for an AGDRP relating to a major disaster must be lodged within 6 months after the determination of the disaster under section 36 of the 1991 Act.
- (2) However, the claim may be lodged more than 6 months after the declaration if the Secretary is satisfied that:
  - (a) there are special circumstances applying to the person's claim that justify a late lodgement; and
  - (b) the claim is lodged within a reasonable period having regard to those circumstances.

### **Subdivision FB—Time limit for claims for AVTOP**

#### **27B Time limit for claims for AVTOP**

- (1) A claim for an AVTOP by a primary victim of a declared overseas terrorist act must be lodged within 2 years after the day the declaration is made under subsection 35B(1) of the 1991 Act.
- (2) A claim for an AVTOP by a secondary victim of a declared overseas terrorist act must be lodged within 12 months after the day the close family member to whom the claim relates died.

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- (3) However, a claim may be lodged after the period referred to in subsection (1) or (2) if the Secretary is satisfied that:
  - (a) there are special circumstances applying to the person's claim that justify a late lodgment; and
  - (b) the claim is lodged within a reasonable period having regard to those circumstances.

**Subdivision FC—Time limit for claims for low income supplement**

**27C Time limit for claim**

- (1) A claim for low income supplement for an income year must be made during that income year.
- (2) However, the claim may be made after the end of that income year if the Secretary is satisfied that:
  - (a) there are special circumstances applying to the person's claim that justify making a late claim; and
  - (b) the claim is made within a reasonable period having regard to those circumstances.

**Subdivision G—Age requirement for certain claims**

**28 Claims for disability support pension**

A person cannot make a claim for a disability support pension unless the person is under the pension age on the day on which the claim is lodged.

**Subdivision H—Residence requirements for claimants**

**29 General rule**

- (1) Subject to sections 30, 30A, 31, 31A and 32, a claim for a social security payment or a concession card may only be made by a person who:
  - (a) is an Australian resident; and
  - (b) is in Australia.

- (2) Subject to sections 30, 30A, 31, 31A and 32, a claim made at a time when the claimant is not an Australian resident or is not in Australia is taken not to have been made.

### **30 Residence requirements for claimants for special benefit**

A claim for special benefit may only be made by a person who:

- (a) is in Australia; and
- (b) satisfies one of the following subparagraphs:
  - (i) the person is an Australian resident;
  - (iii) the person holds a visa that is in a class of visas determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the 1991 Act.

### **30A Exclusion from section 29 residence requirement of crisis payment claimants holding certain visas**

Despite paragraph 29(1)(a), a person who is not an Australian resident may make a claim for a crisis payment if the person is qualified for special benefit because he or she is the holder of a visa that is in a class of visas determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the 1991 Act.

### **31 Exclusion of certain claims from requirements of section 29**

- (1) Section 29 does not apply to a claim for an AGDRP if the claim relates to a major disaster that occurred in Australia or outside Australia.
- (1A) Section 29 does not apply to a claim for an AVTOP.
- (1B) Section 29 does not apply to a claim for a Disaster Recovery Allowance.
- (2) Section 29 does not apply to a claim for parenting payment if:
  - (a) the claimant is an Australian resident; and
  - (b) the claimant, while outside Australia, has been receiving an income support payment; and
  - (c) the income support payment has been cancelled or has ceased to be payable; and

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- (d) the claim is made within 13 weeks after the income support payment was cancelled or ceased to be payable, as the case may be.
- (3) Section 29 does not apply to a claim for double orphan pension.

### **31A Exclusion of certain claims by special category visa holders from section 29 residence requirement**

Despite paragraph 29(1)(a), a person who is not an Australian resident may make a claim for a social security payment or a concession card if:

- (a) the person is a special category visa holder residing in Australia; and
- (b) in order to qualify for the payment or concession card concerned, the person is not required to be an Australian resident if the person is a special category visa holder residing in Australia.

### **32 Claims for sickness allowance**

- (1) This section only has effect in relation to a claim for sickness allowance.
- (2) For the purposes of section 29, if:
  - (a) a person is temporarily absent from Australia; and
  - (b) the person is absent in order to seek medical treatment of a kind that is not available in Australia;the person is taken to be in Australia:
  - (c) if the period of absence does not exceed 6 weeks—during the whole of that period; or
  - (d) if the period of absence exceeds 6 weeks—during the first 6 weeks of that period.

### **Subdivision I—Withdrawal of claim**

### **33 Right to withdraw**

- (1) A claimant for a social security payment or a concession card, or a person acting on behalf of such a claimant, may withdraw a claim that has not been determined.

- (2) A claim that is withdrawn is taken not to have been made.

### **34 Manner of withdrawal**

- (1) A claim may be withdrawn orally or in writing or in any other manner approved by the Secretary.
- (2) If:
- (a) a person claims both a pension bonus and an age pension; and
  - (b) the claim for an age pension is withdrawn;
- the claim for a pension bonus is taken to have been withdrawn.
- (3) If:
- (a) a person claims both a pension bonus and an age pension; and
  - (b) the claim for an age pension is rejected as a direct or indirect result of the operation of:
    - (i) Division 2 of Part 3.12 of the 1991 Act; or
    - (ii) Part 3.14 of that Act;
- the claim for a pension bonus is taken to have been withdrawn.

### **Subdivision J—Special provision for certain claims**

### **35 Claims by persons in gaol etc.**

- (1) A person who is:
- (a) in gaol; or
  - (b) undergoing psychiatric confinement because he or she has been charged with an offence;
- may make a claim for a social security pension or benefit or for a crisis payment not earlier than 3 weeks before the person's expected release day.
- (2) A day is a person's expected release day for the purpose of subsection (1) if there are reasonable grounds for believing that the person will be released from gaol or psychiatric confinement on that day.

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**35A Claims for advance pharmaceutical allowance**

- (1) A person may only make a claim for advance pharmaceutical allowance if the claim is made in accordance with subsection (2), (3) or (4).
- (2) A person may make a claim for advance pharmaceutical allowance to be paid in a calendar year if:
  - (a) the person has received an instalment of a social security pension in relation to an instalment period that included 31 December in the previous calendar year; and
  - (b) the claim is lodged within 14 days after the end of that instalment period.
- (3) A person may make a claim for advance pharmaceutical allowance to be paid in a calendar year if:
  - (a) the person claims a social security pension in that year; and
  - (b) the claim for advance pharmaceutical allowance is lodged:
    - (i) when the claim for the pension is lodged; or
    - (ii) after the claim for the pension is lodged but before that claim is determined.
- (4) A person may make a claim for advance pharmaceutical allowance to be paid in a calendar year if:
  - (a) the person has been qualified for pharmaceutical allowance for a period (the **qualification period**) during the calendar year; and
  - (b) the amount spent by the person during the qualification period on the purchase of pharmaceutical benefits is equal to or greater than the total amount that has been paid to the person in the calendar year by way of:
    - (i) pharmaceutical allowance; and
    - (ii) advance pharmaceutical allowance.

**35B Secondary victim claims for AVTOP**

- (1) If a person makes a claim for an AVTOP as a secondary victim in relation to a close family member who has died, the Secretary must make reasonable inquiries as to whether there are other persons (a **potential claimant**) who may also qualify for an AVTOP as a secondary victim in relation to the same close family member.



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- (2) If the Secretary considers there are potential claimants, the Secretary must give each of them a written notice stating that:
  - (a) he or she may make a claim for an AVTOP as a secondary victim in relation to the close family member; and
  - (b) he or she must make a claim before the day (the ***claim due day***) specified in the notice; and
  - (c) if he or she fails to make a claim by the claim due day, an AVTOP in relation to the close family member will not be payable to him or her.
- (3) The claim due day must be at least 30 days after the day the notice is given to the potential claimant.
- (4) If the Secretary is satisfied that it is appropriate to do so, the Secretary may change the claim due day to a later day.
- (5) If the Secretary changes the claim due day under subsection (4), then:
  - (a) the Secretary must change the claim due day for each of the potential claimants to the new claim day; and
  - (b) the Secretary must give each of the potential claimants a written notice of the new claim due day; and
  - (c) the new claim due day is taken to be the day specified in the notice under subsection (2) for the purposes of subparagraph 1061PAC(b)(ii) of the 1991 Act.

## **Division 2—Determination of claim**

### **36 Obligation of Secretary to determine claim**

- (1) Subject to this section, the Secretary must, in accordance with the social security law, determine a claim for a social security payment or a concession card, either granting or rejecting the claim.
- (2) If a person claims both a pension bonus and an age pension, the Secretary must not determine the claim for pension bonus until the claim for age pension has been granted.
- (3) If more than one person makes a claim for an AVTOP as a secondary victim of a declared overseas terrorist act in relation to the same close family member, the Secretary must determine the claims at the same time.

### **37 Grant of claim**

- (1) Subject to section 40, the Secretary must determine that a claim for a social security payment is to be granted if the Secretary is satisfied that:
  - (a) the claimant is qualified for the social security payment; and
  - (b) the social security payment is payable.
- (1A) The Secretary must determine that a claim for parenting payment is to be granted if the Secretary is satisfied that:
  - (a) the claimant is qualified, or is expected to be qualified, for the payment; and
  - (b) the payment would be payable apart from the application of a compliance penalty period.
- (2) The Secretary must determine that a claim for a newstart allowance is to be granted if the Secretary is satisfied that:
  - (a) the claimant is qualified, or is expected to be qualified, for the allowance; and
  - (b) the allowance would be payable apart from:
    - (i) the application of a waiting period; or
    - (ii) the application of a compliance penalty period; or

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- (v) the application of an income maintenance period where the rate of newstart allowance payable to the person is nil; or
  - (vi) the operation of section 615 of the 1991 Act.
- (3) The Secretary must determine that a claim for a social security payment to which this subsection applies is to be granted if the Secretary is satisfied that:
  - (a) the person is qualified, or is expected to be qualified, for the payment; and
  - (b) the payment would be payable if the person were not subject to a seasonal work preclusion period.
- (4) Subsection (3) applies to the following social security payments:
  - (a) mature age allowance under Part 2.12A;
  - (b) mature age allowance under Part 2.12B;
  - (c) newstart allowance;
  - (d) parenting payment;
  - (e) partner allowance;
  - (f) widow allowance;
  - (g) youth allowance;
  - (ga) special benefit;
  - (h) disability support pension;
  - (i) sickness allowance;
  - (j) carer payment;
  - (k) austudy payment.
- (5) If:
  - (a) a determination has been made under subsection (1) granting a claim for a newstart allowance to a person who was qualified for the allowance under subsection 593(1B) of the 1991 Act; and
  - (b) the person ceases to be qualified for the allowance under subsection 593(1B) of the 1991 Act but becomes qualified for the allowance under subsection 593(1) of that Act within 14 days after the person ceased to be qualified under subsection 593(1B);the Secretary may make a determination varying the first-mentioned determination to give effect to any change in the person's start day.

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- (6) The Secretary must determine that a claim for youth allowance or austudy payment is to be granted if the Secretary is satisfied that:
  - (a) the person is qualified, or is expected to be qualified, for the allowance or payment; and
  - (b) the allowance or payment would be payable, apart from:
    - (i) the application of a waiting period; or
    - (ii) the application of a compliance penalty period; or
    - (v) the application of an income maintenance period where the rate of allowance or payment payable to the person is nil; or
    - (vi) if the claim is a claim for youth allowance—the operation of section 547AA of the 1991 Act.
- (7) The Secretary must determine that a claim made in accordance with section 35 for a social security pension or benefit or for a crisis payment is to be granted if the Secretary is satisfied that:
  - (a) the claimant:
    - (i) is in gaol; or
    - (ii) is undergoing psychiatric confinement because he or she has been charged with an offence; and
  - (b) the claimant is expected to be in gaol or undergoing psychiatric confinement for at least 14 days; and
  - (c) there are reasonable grounds for believing that the claimant will be released from gaol or psychiatric confinement on or before the day that is the claimant's expected release day for the purposes of subsection 35(1); and
  - (d) either:
    - (i) in the case of a claim for a social security pension or benefit, the claimant is qualified for the pension or benefit; or
    - (ii) in any case, the claimant is expected to be qualified for the pension, benefit or payment immediately after the claimant is released from gaol or psychiatric confinement; and
  - (e) the pension, benefit or payment is expected to be payable to the claimant immediately after the claimant is released from gaol or psychiatric confinement.

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- (8) The Secretary must make a determination granting a claim for a concession card if the Secretary is satisfied that the claimant is qualified for the card.

Note: The Secretary must not make a determination granting a claim for a seniors health card in certain circumstances if the Secretary makes a request under subsection 75(2) or (3) of the claimant (about providing tax file numbers): see subsections 76(1A) and 77(1A).

- (9) A determination under subsection (8) granting a claim for a seniors health card:
- (a) must specify the period at the end of which the determination ceases to have effect; and
  - (b) unless it has already been cancelled, ceases to have effect at the end of that period.
- (10) A determination under subsection (8) granting a claim for a health care card under Subdivision B of Division 3 of Part 2A.1 of the 1991 Act:
- (a) must specify the period at the end of which the determination ceases to have effect; and
  - (b) unless it has already been cancelled, ceases to have effect at the end of that period.
- (11) The Minister may, by legislative instrument, determine the periods that are to be specified in determinations for the purposes of subsections (9) and (10).

**37AA Grant of claim—schooling requirements**

- (1) Without limiting subsection 37(1), the Secretary must determine that a claim for a schooling requirement payment is to be granted if the Secretary is satisfied that:
- (a) the person is qualified, or is expected to be qualified, for the payment; and
  - (b) the payment would be payable if it were not for the application of subsection 124G(1), 124L(1) or 124NE(1).
- (2) Subsection (1) does not apply to a schooling requirement payment under the Veterans' Entitlements Act.

Note 1: **Schooling requirement payments** are social security benefits, social security pensions and certain payments under the Veterans' Entitlements Act (see section 124D of this Act).

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Note 2: Section 124G and 124L provide that a schooling requirement payment is not payable to a person if he or she fails to comply with an enrolment notice or an attendance notice after the end of an initial compliance period (unless he or she has a reasonable excuse or special circumstances apply). Section 124NE provides that a schooling requirement payment is not payable to a person if he or she fails to comply with a compliance notice (subject to exceptions in that section).

Note 3: If the payment is suspended under section 124H, 124M or 124NF (because of the application of subsection 124G(1), 124L(1) or 124NE(1)) on the day the claim is granted, the start day for the payment is deferred until the suspension ends (at the earliest) (see clause 5 of Schedule 2).

### **37A Duration of certain health care cards**

- (1) A seniors health card expires at the end of the period specified, for the purposes of subsection 37(9), in the determination granting the claim for the card.
- (2) A health care card granted to a person qualified for the card under Subdivision B of Division 3 of Part 2A.1 of the 1991 Act expires at the end of the period specified, for the purposes of subsection 37(10), in the determination granting the claim for the card.
- (3) A person to whom a concession card referred to in subsection (1) or (2) has been granted may make a claim for a further concession card before the first-mentioned card expires.

### **38 Refusal of claim for special employment advance**

- (1) Subject to subsection (2), the Secretary must refuse a claim for special employment advance if:
  - (a) the claim is based on the effect of unreceived income on the claimant's special employment advance qualifying entitlement; and
  - (b) the Secretary is satisfied that the income will be received within 2 days after the claim is made.
- (2) Subsection (1) does not apply if the Secretary considers that the claimant's financial needs are such that the claim should be granted.
- (3) In this section:

*unreceived income* has the same meaning as in subsection 1061EM(1) of the 1991 Act.

### **39 Deemed refusal of claim**

- (1) Subject to subsection (3), if the Secretary does not make a determination regarding a claim within the period of 13 weeks after the day on which the claim was made, the Secretary is taken to have made, at the end of that period, a determination rejecting the claim.
- (3) If:
  - (a) a person makes a claim for a social security payment that is a relevant social security payment for the purposes of subclause 4(1) of Schedule 2; and
  - (b) the person is not, on the day on which the claim is made, qualified for the payment; and
  - (c) assuming the person does not sooner die, the person will, because of the passage of time or the occurrence of an event, become qualified for the payment within the period of 13 weeks after the day on which the claim is made; and
  - (d) the person becomes so qualified within that period;the claim is taken, for the purposes of subsection (1), to be made on the day on which the person becomes qualified.
- (4) If the Secretary asks a person who has made a claim for a social security payment or a concession card or another person for information in relation to the claim, the period that:
  - (a) begins on the day on which the Secretary asks for the information; and
  - (b) ends on the day on which the information is given to the Secretary;is not counted for the purpose of subsection (1).
- (5) If:
  - (a) a person makes a claim (the *actual claim*); and
  - (b) apart from this subsection, the person would, by virtue of section 13 or 14, be taken to have made the claim on a particular day;

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then, in spite of section 13 or 14, as the case may be, a reference in subsection (1) of this section to the day on which the claim was made is a reference to the day on which the actual claim was made.

- (6) The Secretary may determine that a specified period, being a period that is longer than 13 weeks, applies for the purposes of claims for an AVTOP in relation to a declared overseas terrorist act.
- (7) If, under subsection (6), there is a determination of a period in force for the purposes of claims for an AVTOP in relation to a declared overseas terrorist act, then this Act applies to those claims as if references in subsections (1) and (3) to the period of 13 weeks were references to the period referred to in the determination.
- (8) A determination under subsection (6) is not a legislative instrument.

### **40 Rejection of claim for failure to obtain foreign payment**

- (1) The Secretary may make a determination rejecting a claim for a social security payment if:
  - (a) the claimant has been given a notice under subsection 66(2); and
  - (b) the Secretary is not satisfied that the claimant has taken reasonable action to obtain a comparable foreign payment at the highest rate applicable to the claimant within the period specified in the notice.
- (2) The Secretary may make a determination rejecting a claim for a social security payment if:
  - (a) the claimant has been given a notice under subsection 66(3); and
  - (b) the Secretary is not satisfied that the claimant's partner has taken reasonable action to obtain a comparable foreign payment at the highest rate applicable to the partner within the period specified in the notice.



## **Division 3—Commencement of social security payment**

### **41 Commencement**

- (1) Unless another provision of the social security law provides otherwise, a social security payment becomes payable to a person on the person's start day in relation to the social security payment.
- (2) Unless another provision of the social security law provides otherwise, a concession card takes effect on the person's start day in relation to the card.

### **42 Start day**

For the purposes of the social security law, a person's start day in relation to a social security payment or a concession card is the day worked out in accordance with Schedule 2.

## **Division 3A—Compliance with obligations in relation to participation payments**

### **Subdivision A—Object of this Division**

#### **42A Simplified outline**

The following is a simplified outline of this Division:

- The Secretary may determine that a person commits a no show no pay failure, a connection failure, a reconnection failure or a serious failure.
- A person commits such a failure by failing to comply with his or her obligations in relation to a participation payment. The participation payments are newstart allowance, and for some people, youth allowance, parenting payment and special benefit.
- For a no show no pay failure, a penalty amount is deducted from the person's participation payment.
- For a connection failure, a requirement may be imposed on the person (and if the person fails to comply with the requirement, the person commits a reconnection failure).
- For a reconnection failure, generally a penalty amount is deducted from the person's participation payment until the person complies with a requirement imposed on the person.
- For a serious failure, a participation payment is not payable to the person for 8 weeks. The 8 week period may be ended in certain circumstances.
- The Secretary may also determine that a person is unemployed as a result of a voluntary act or misconduct. If the Secretary does so, a participation payment is not payable to the person for either 8 or 12 weeks, depending on the circumstances.

- The Secretary may also determine that a participation payment is not payable to a person for a period because of certain failures. However, once that period ends, the person may be able to receive back pay.

#### **42B Object of this Division**

- (1) The object of this Division is to encourage people to participate in employment and engage with employment services. It is also the object of this Division to secure compliance with a person's obligations and requirements in relation to participation payments, and to ensure that those who do not comply are re-engaged with employment services as quickly as possible.
- (2) However, this Division is not intended to punish a person who has a reasonable excuse for failing to comply with such obligations.

#### **Subdivision B—No show no pay failures**

##### **42C No show no pay failures**

- (1) The Secretary may determine that a person commits a ***no show no pay failure*** on a day if:
  - (a) the person commits any of the following failures:
    - (i) the person fails to participate, on the day, in an activity that the person is required to undertake by an employment pathway plan that is in force in relation to the person;
    - (ii) the person fails to comply, on the day, with a serious failure requirement imposed on the person;
    - (iii) the person commits misconduct, on the day, while participating in an activity referred to in subparagraph (i) or while purporting to comply with a serious failure requirement imposed on the person;
    - (iv) the person intentionally acts in a manner on the day (including by failing to attend a job interview), and it is reasonably foreseeable that acting in that manner could result in an offer of employment not being made to the person; and

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- (b) the person receives an instalment of a participation payment for the instalment period in which the day occurs.

Note: A penalty amount is deducted from the person's participation payment for a no show no pay failure (see section 42D).

- (2) Without limiting subparagraph (1)(a)(i), a person fails to participate in an activity if:
  - (a) the person fails to attend the activity at all; or
  - (b) the person is not punctual in attending the activity.

*Limitations on determining no show no pay failures*

- (3) If:
  - (a) more than one subparagraph of paragraph (1)(a) applies to a person on a day; or
  - (b) a subparagraph of paragraph (1)(a) applies more than once to a person on a day;then the Secretary may only determine that the person commits one no show no pay failure on the day.

Note: However, the Secretary may determine that a person commits no show no pay failures on 2 or more days.

- (4) Despite subsection (1), the Secretary must not determine that a person commits a no show no pay failure on a day if:
  - (a) both of the following apply:
    - (i) subparagraph (1)(a)(i), (ii) or (iv) applies;
    - (ii) the person satisfies the Secretary that the person has a reasonable excuse for the failure; or
  - (b) the person is a new apprentice; or
  - (ba) the person is someone to whom section 42SB applies; or
  - (c) the day is in a reconnection failure period for the person.

Note: The Secretary must take certain matters into account for the purposes of paragraph (4)(a) (see section 42U). For the purposes of paragraph (4)(a), see also section 42UA (about prior notification of excuses).

*Determining an instalment period*

- (5) The Secretary must include in a determination under this section the instalment period in which a penalty amount (see section 42T) for the no show no pay failure is to be deducted from the person's

instalment of a participation payment, provided that the penalty amount may not be deducted until at least the instalment after the first instalment made following notification to the person of the no show no pay failure.

#### **42D Deducting the penalty amount**

If the Secretary determines that a person commits a no show no pay failure, the person's penalty amount (see section 42T) for the no show no pay failure is to be deducted from the person's instalment of a participation payment for the instalment period determined under subsection 42C(5).

Note: The balance of the penalty amount is to be deducted from instalments of the participation payment for any later instalment periods, or from any instalments of any other participation payment paid to the person (see section 42V).

#### **Subdivision C—Connection and reconnection failures**

##### **42E Connection failures**

- (1) The Secretary may determine that a person commits a **connection failure** if:
- (a) the person commits any of the failures mentioned in subsection (2); and
  - (b) the person receives an instalment of a participation payment for the instalment period in which the person commits the failure.

Note: A reconnection requirement may be imposed for a connection failure (see section 42G).

- (2) For the purposes of subsection (1), the failures are the following:
- (a) the person fails to comply with a requirement that was notified to the person under subsection 63(2) or (4);
  - (b) the person fails to comply with a requirement, under section 501, 544A, 605 or 731L of the 1991 Act, to enter into an employment pathway plan;
  - (c) the person fails to attend an appointment that the person is required to attend by an employment pathway plan that is in force in relation to the person;

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- (d) the person is issued with a notice under subsection 42F(1) and fails to comply with it within the period specified in the notice;
  - (e) the person fails to comply with subsection 42F(2);
  - (f) the person fails to comply with a requirement included in an employment pathway plan that is in force in relation to the person to undertake a certain number of job searches per fortnight;
  - (g) the person fails to comply with a requirement included in an employment pathway plan that is in force in relation to the person:
    - (i) to keep a record of the person's job searches in a document referred to in the plan as a job seeker diary; and
    - (ii) to return the job seeker diary to the Department at the end of the period specified in the plan.
- (3) The Secretary may determine that a person commits 2 or more connection failures on a day.

*Limitations on determining connection failures*

- (4) Despite subsection (1), the Secretary must not determine that a person commits a connection failure if:
- (a) the person satisfies the Secretary that the person has a reasonable excuse for the failure; or
  - (b) both of the following apply:
    - (i) the person's failure is a failure to comply with a requirement under section 544A of the 1991 Act to enter into an employment pathway plan;
    - (ii) a youth allowance is not payable to the person for the instalment period in which the person commits the failure because of section 547AA of that Act; or
  - (c) both of the following apply:
    - (i) the person's failure is a failure to comply with a requirement under section 605 of the 1991 Act to enter into an employment pathway plan;
    - (ii) a newstart allowance is not payable to the person for the instalment period in which the person commits the failure because of section 615 of that Act; or
  - (d) the person is a new apprentice; or
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- (da) the person is someone to whom section 42SB applies; or
- (e) in the case of a failure under paragraphs (2)(d) to (g)—the person is receiving parenting payment.

Note: The Secretary must take certain matters into account for the purposes of paragraph (4)(a) (see section 42U). For the purposes of paragraph (4)(a), see also section 42UA (about prior notification of excuses).

**42F Requiring a person to apply for job vacancies**

- (1) The Secretary may notify a person that the person must apply for a particular number of advertised job vacancies in the period specified in the notice if:
  - (a) the person is required to satisfy the activity test; and
  - (b) the person is receiving a participation payment other than a parenting payment.
- (2) The person must give the Secretary a written statement from each employer whose job vacancy the person applied for during that period that confirms that the person applied for that job vacancy.
- (3) The statement from the employer must be in a form approved by the Secretary.
- (4) Subsection (2) does not apply to a person if the Secretary is satisfied that there are special circumstances in which it is not reasonable to expect the person to give the statement referred to in that subsection.

**42G Reconnection requirements**

If:

- (a) the Secretary determines that a person commits a connection failure; or
- (b) a person fails to participate, on a day, in an activity that the person is required to undertake by an employment pathway plan that is in force in relation to the person; or
- (c) a person fails to attend an appointment that the person is required to attend by an employment pathway plan that is in force in relation to the person; or
- (d) a person fails to comply with a requirement that was notified to the person under subsection 63(2) or (4);

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then:

- (e) if, in relation to a failure referred to in paragraph (b) or (c), the Secretary determines, under subsection 42SA(1), that a participation payment is not payable to the person—the Secretary must require the person to comply with a requirement (the ***reconnection requirement***); or
- (f) in any other case—the Secretary may require the person to comply with a requirement (the ***reconnection requirement***).

Note: The Secretary must notify the person of the effect of not complying with the reconnection requirement (see section 42K).

**42H Reconnection failures**

- (1) The Secretary may determine that a person commits a ***reconnection failure*** if:
  - (a) the person is required to comply with:
    - (i) a reconnection requirement; or
    - (ii) a further reconnection requirement; and
  - (b) the person fails to comply with the requirement.

Note: A further reconnection requirement may be imposed, and a penalty amount is deducted from the person's participation payment, for a reconnection failure (see sections 42J and 42L).

- (2) The Secretary may determine that a person commits 2 or more reconnection failures on a day.

*Limitation on determining reconnection failures*

- (3) Despite subsection (1), the Secretary must not determine that a person commits a reconnection failure if:
  - (a) the person satisfies the Secretary that the person has a reasonable excuse for the failure; or
  - (b) the person is someone to whom section 42SB applies.

Note: The Secretary must take certain matters into account for the purposes of paragraph (a) (see section 42U). For the purposes of paragraph (a), see also section 42UA (about prior notification of excuses).

*Reconnection failure period*

- (4) If the Secretary determines that a person commits a reconnection failure, the person commits the failure during the period (the ***reconnection failure period***) that:



- (a) begins on the day the person commits the failure; and
- (b) ends on:
  - (i) the day before the person complies with any further reconnection requirement imposed on the person in relation to the reconnection failure; or
  - (ii) if the person fails to comply with a further reconnection requirement imposed on the person in relation to the reconnection failure, and the person satisfies the Secretary that the person has a reasonable excuse for the failure—the day before the person fails to comply with the requirement.

*Determining an instalment period*

- (5) The Secretary must include in a determination under this section the instalment period in which a penalty amount (see section 42T) for the reconnection failure is to be deducted from the person's instalment of a participation payment.

**42J Further reconnection requirements**

- (1) The Secretary may require a person to comply with a further requirement (the *further reconnection requirement*) if the Secretary determines that:
  - (a) the person fails to comply with a reconnection requirement imposed on the person; or
  - (b) the person fails to comply with an earlier further reconnection requirement imposed on the person.

Note: The Secretary must notify the person of the effect of not complying with the further reconnection requirement (see section 42K).

- (2) The Secretary may impose a further reconnection requirement on a person under subsection (1) even if the person satisfies the Secretary that the person has a reasonable excuse for failing to comply with the reconnection requirement or earlier further reconnection requirement.

**42K Notification requirements**

- (1) The Secretary must notify the person that a failure to comply with a reconnection requirement or a further reconnection requirement

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imposed on the person might result in either or both of the following:

- (a) a penalty amount being deducted from the person's participation payment;
  - (b) the person's participation payment not being payable to the person for a period.
- (2) The notification does not have to be in writing, but must occur before the person is required to comply with the reconnection requirement or the further reconnection requirement.

**42L Deduction of penalty amount**

If the Secretary determines that a person commits a reconnection failure, the person's penalty amount (see section 42T) for the reconnection failure is to be deducted from the person's instalment of a participation payment for the instalment period determined under subsection 42H(5).

Note: The balance of the penalty amount is to be deducted from instalments of the participation payment for any later instalment periods, or from any instalments of any other participation payment paid to the person (see section 42V).

**Subdivision D—Serious failures**

**42M Serious failure for persistent non-compliance**

- (1) The Secretary may determine that a person commits a *serious failure* if:
- (a) the Secretary is satisfied that the person has, up to the day the Secretary makes the determination, persistently failed to comply with his or her obligations in relation to a participation payment (including by committing no show no pay failures, connection failures or reconnection failures); and
  - (b) the person receives a participation payment for the instalment period in which the Secretary makes the determination.

Note 1: A participation payment is not payable for 8 weeks for a serious failure (see section 42P).

Note 2: For the day the Secretary makes the determination, see section 42Y.

- (2) In determining whether a person commits a serious failure under subsection (1):
- (a) the Secretary must not take into account failures that were outside the person's control; and
  - (b) the Secretary may only take into account any other failures that occurred intentionally, recklessly or negligently.

*Limitations on determining persistent non-compliance serious failures*

- (3) The Secretary must not determine that a person commits a serious failure under subsection (1):
- (a) while the person is in a serious failure period for another serious failure determined under subsection (1); or
  - (b) if the person is a new apprentice; or
  - (c) if the person is someone to whom section 42SB applies.

*Legislative instrument*

- (4) The Minister must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether a person persistently failed to comply with his or her obligations in relation to a participation payment.
- (5) In deciding whether a person persistently failed to comply with his or her obligations in relation to a participation payment, the Secretary must take the matters determined under subsection (4) into account.
- (6) To avoid doubt, subsection (5) does not limit the matters that the Secretary may take into account in deciding whether the person failed to comply with his or her obligations.

**42N Serious failure for refusing or failing to accept an offer of suitable employment**

- (1) The Secretary may determine that a person commits a *serious failure* if:
- (a) the person is receiving a participation payment; and
  - (b) the person refuses or fails to accept an offer of suitable employment.

**Part 3** Provision of benefits

**Division 3A** Compliance with obligations in relation to participation payments

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Note: A participation payment is not payable for 8 weeks for a serious failure (see section 42P).

- (2) Despite subsection (1), the Secretary must not determine that a person commits a serious failure under that subsection if:
- (a) the person satisfies the Secretary that the person has a reasonable excuse for the failure; or
  - (b) the person is someone to whom section 42SB applies.

Note: The Secretary must take certain matters into account for the purposes of paragraph (a) (see section 42U).

**42NA Comprehensive compliance assessment**

- (1) Before the Secretary determines that a person has committed a serious failure under section 42M, the Secretary must conduct a comprehensive compliance assessment in relation to the person.
- (2) The *comprehensive compliance assessment* must assess the following:
- (a) the reasons why the person may have committed failures under this Division;
  - (b) the reasons why the person may have failed to meet other requirements under the social security law;
  - (c) whether the person has any barriers to employment;
  - (d) whether the person's participation requirements are appropriate.

**42NC Determination about serious failure requirements and severe financial hardship**

If the Secretary determines that a person commits a serious failure, the Secretary must also determine that this section applies unless the Secretary is satisfied that:

- (a) the person does not have the capacity to undertake any serious failure requirement; and
- (b) serving the serious failure period would cause the person to be in severe financial hardship.

## 42P Consequences of serious failure

### *Participation payment not payable during serious failure period*

- (1) If the Secretary determines that a person commits a serious failure and has determined that section 42NC applies, a participation payment is not payable to the person during the person's serious failure period.

Note 1: The Secretary may end a serious failure period under section 42Q or determine that a participation payment is payable, despite this section, under section 42R.

Note 2: The Secretary may continue the participation payment pending the outcome of an application for review (see sections 131 and 145 of the Administration Act).

- (2) The person's ***serious failure period*** is the period:
- (a) beginning on the first day of the first instalment period that begins after the day the Secretary makes the determination; and
  - (b) ending:
    - (i) if the Secretary ends the person's serious failure period under section 42Q—on the day mentioned in that section; or
    - (ii) otherwise—8 weeks after the period begins.

Note: For the day the Secretary makes the determination, see section 42Y.

### *Serious failure requirements*

- (3) If the Secretary determines that a person commits a serious failure, then the Secretary may require the person to comply with a requirement (the ***serious failure requirement***).

Note: A person who complies with a serious failure requirement may have his or her serious failure period end under section 42Q. A person who fails to comply with a serious failure requirement may commit a no show no pay failure under section 42C.

## 42Q Ending serious failure periods

- (1) The Secretary may end a person's serious failure period if:
- (a) the person begins to comply with a serious failure requirement imposed on the person; or

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- (b) the Secretary determines that:
  - (i) the person does not have the capacity to undertake any serious failure requirement; and
  - (ii) serving the serious failure period would cause the person to be in severe financial hardship.

Note: For *in severe financial hardship* see subsection 14A(7) of the 1991 Act.

- (1A) The Secretary may make a determination under paragraph (1)(b) on request or on his or her own initiative.
- (2) The person's serious failure period ends on:
  - (a) if paragraph (1)(a) applies—the day before the person begins to comply with the requirement; or
  - (b) if the Secretary makes a determination under paragraph (1)(b) on request—the day before the request was made; or
  - (c) if the Secretary makes a determination under paragraph (1)(b) on his or her own initiative—the day before the Secretary makes the determination.

Note: For the day the Secretary makes the determination, see section 42Y.

- (3) Section 42NC does not affect the operation of this section.

**42R Determining that participation payments payable**

- (1) The Secretary may determine that, despite a person's serious failure period, a participation payment is payable to the person during the period mentioned in subsection (2) if the person informs the Secretary that the person intends to comply with a serious failure requirement imposed on the person.
- (2) The participation payment is payable during the period that:
  - (a) begins on the day that the person informs the Secretary; and
  - (b) ends on:
    - (i) the day before the person begins to comply with the serious failure requirement; or
    - (ii) if the person does not begin to comply with the serious failure requirement on the day the person is required to begin—the day before that day.

- (3) If a period ends under subparagraph (2)(b)(ii), the period (the *payability period*) mentioned in subsection (2) does not count towards the 8 weeks of the person's serious failure period.

### **Subdivision E—Unemployment resulting from a voluntary act or misconduct**

#### **42S Unemployment resulting from a voluntary act or misconduct**

- (1) A participation payment is not payable to a person for the period mentioned in subsection (3) if the Secretary determines that:
- (a) the person is unemployed as a result (whether direct or indirect) of a voluntary act of the person; or
  - (b) the person is unemployed as a result of the person's misconduct as an employee.

Note: The Secretary may continue the participation payment pending the outcome of an application for review (see sections 131 and 145 of the Administration Act).

- (2) Despite paragraph (1)(a), the Secretary must not make a determination under that paragraph in relation to a person if:
- (a) the Secretary is satisfied that the voluntary act was reasonable; or
  - (b) the person is someone to whom section 42SB applies.

#### *Period of non-payment*

- (3) The participation payment is not payable to the person for the period (the *unemployment non-payment period*) of:
- (a) 8 weeks beginning on the initial day; or
  - (b) 12 weeks beginning on the initial day if, during the 6 months ending on the day immediately before the person becomes unemployed, the person has been paid relocation assistance in relation to the employment to which the voluntary act or misconduct related.

Note: The Secretary may end an unemployment non-payment period under subsection (4).

- (3A) For the purposes of subsection (3), the *initial day* is:
- (a) the day that the person becomes unemployed as a result of the person's voluntary act or misconduct; or

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- (b) the first day of the first instalment period that begins after the day the Secretary makes the determination if:
  - (i) the Secretary considers that first day is more appropriate than the day mentioned in paragraph (a); and
  - (ii) the person is receiving a participation payment at the time of the voluntary act or misconduct.

Note: For the day the Secretary makes the determination, see section 42Y.

- (3B) For the purposes of subsection (3), ***relocation assistance***, in relation to employment, means a payment:
- (a) that is made by the Commonwealth to a person for the purpose of assisting the person to take up the employment; and
  - (b) that is specified in a legislative instrument made by the Secretary for the purposes of this paragraph.

*Ending unemployment non-payment periods*

- (4) The Secretary may end a person's unemployment non-payment period if:
- (a) the Secretary determines that serving the unemployment non-payment period would cause the person to be in severe financial hardship; and
  - (b) the person is in a class of persons specified by legislative instrument under subsection (5).

Note: For ***in severe financial hardship*** see subsection 14A(7) of the 1991 Act.

- (5) For the purposes of subsection (4), the Secretary may, by legislative instrument, specify a class of persons.

**Subdivision EA—Immediate non-payment of participation payments for certain failures**

**42SA Immediate non-payment of participation payments for certain failures**

- (1) The Secretary may determine that a participation payment is not payable to a person if:



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- (a) the person fails to participate, on a day, in an activity that the person is required to undertake by an employment pathway plan that is in force in relation to the person; or
- (b) the person fails to attend an appointment that the person is required to attend by an employment pathway plan that is in force in relation to the person; or
- (c) the person fails to comply with a reconnection requirement or a further reconnection requirement.

Note 1: If paragraph (1)(a) or (b) applies, a reconnection requirement must be imposed for that failure (see section 42G).

Note 2: The participation payment may not be payable to the person if the person fails to comply with a notice under section 63: see section 64.

- (1A) Despite subsection (1), the Secretary must not make a determination under that subsection that a participation payment is not payable to a person if the person is someone to whom section 42SB applies.
- (2) The participation payment is not payable to the person for the period beginning on the day the person first commits the failure and ending at the end of:
  - (a) the day before the day on which the person notifies the Secretary that the person intends to comply with:
    - (i) for a failure referred to in paragraph (1)(a) or (b)—the reconnection requirement imposed on the person under paragraph 42G(e) because of that failure; or
    - (ii) for a failure referred to in paragraph (1)(c)—the reconnection requirement or the further reconnection requirement referred to in that paragraph; or
  - (b) if the Secretary determines that an earlier day is more appropriate than the day that would otherwise apply under paragraph (a)—that earlier day.
- (3) If a period ends under subsection (2) in relation to a person, then, subject to the social security law, the participation payment becomes payable to the person for that period.

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**Subdivision EB—Failures by certain recipients of parenting payments**

**42SB Suspension of payments for certain failures**

- (1) This section applies in relation to a person who:
  - (a) is receiving a participation payment that is a parenting payment; and
  - (b) is someone to whom paragraph 500(1)(ca) of the 1991 Act applies.
- (2) The Secretary may determine that the parenting payment is not payable to the person if:
  - (a) the person fails to comply with a requirement that was notified to the person under subsection 63(2) or (4); or
  - (b) the person fails to comply with a requirement under section 501 of the 1991 Act to enter into an employment pathway plan; or
  - (c) the person fails to participate, on a day, in an activity that the person is required to undertake by an employment pathway plan that is in force in relation to the person; or
  - (d) the person fails to attend an appointment that the person is required to attend by an employment pathway plan that is in force in relation to the person.
- (3) The parenting payment is not payable to the person for the period beginning on the day the person first commits the failure and ending at the end of:
  - (a) the day before the day on which the person notifies the Secretary that the person intends to comply with the requirement; or
  - (b) if the Secretary determines that an earlier day is more appropriate than the day that would otherwise apply under paragraph (a)—that earlier day.
- (4) If a period ends under subsection (3) in relation to the person, then, subject to the social security law, the parenting payment becomes payable to the person for that period.

## **Subdivision F—General provisions**

### **42T Legislative instrument determining method for working out penalty amount**

- (1) The Minister must, by legislative instrument, determine a method for working out a person's penalty amount for a no show no pay failure or a reconnection failure.
- (2) The method determined for a no show no pay failure that a person commits on a day must not provide for a penalty amount for the person that is more than the following:

$$1.4 \times \frac{\text{Amount of the person's instalment of participation payment for the instalment period in which the day occurs}}{\text{Number of days in the person's instalment period}}$$

- (3) The method determined for a reconnection failure that a person commits must not provide for a penalty amount in respect of a day in the reconnection failure period that is more than the following:

$$1.4 \times \frac{\text{Amount of the person's instalment of participation payment for the instalment period in which the day occurs}}{\text{Number of days in the person's instalment period}}$$

- (4) In addition, the method determined for a no show no pay failure or a reconnection failure must relate to:
  - (a) for a person's no show no pay failure—the amount of the participation payment paid to the person on the day on which the person commits the no show no pay failure; or
  - (b) for a person's reconnection failure—the amount of the participation payment paid to the person during the reconnection failure period.
- (5) The method determined by the Minister for working out a person's penalty amount must not affect any rent assistance, pharmaceutical allowance or youth disability supplement payable to the person.
- (6) The method determined may provide for a penalty amount that is nil.

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- (7) The legislative instrument may also deal with the amount of a penalty amount to be deducted from an instalment of a participation payment.

**42U Legislative instruments relating to reasonable excuse**

- (1) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether a person has a reasonable excuse for committing:
- (a) a no show no pay failure (see paragraph 42C(4)(a)); or
  - (b) a connection failure (see paragraph 42E(4)(a)); or
  - (c) a reconnection failure (see paragraph 42H(3)(a)); or
  - (d) a serious failure (see paragraph 42N(2)(a)).
- (2) To avoid doubt, a determination under subsection (1) does not limit the matters that the Secretary may take into account in deciding whether the person has a reasonable excuse.

**42UA Prior notification of excuse**

- (1) This section applies in relation to the following failures of a person:
- (a) a failure to participate, on a day, in an activity that the person is required to undertake by an employment pathway plan that is in force in relation to the person;
  - (b) a failure to comply with a serious failure requirement imposed on the person, where the requirement was to undertake an activity on a day or to attend an appointment, or contact a person, at a particular time;
  - (c) a failure to comply with a requirement notified to the person under subsection 63(2), where the requirement was to attend an office of the Department, to contact the Department or to attend a particular place for a particular purpose;
  - (d) a failure to attend an appointment that the person is required to attend by an employment pathway plan that is in force in relation to the person;
  - (e) a failure to comply with a reconnection requirement or a further reconnection requirement, where the requirement was to undertake an activity on a day or to attend an appointment, or contact a person, at a particular time.

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- (2) For the purposes of subparagraph 42C(4)(a)(ii), paragraph 42E(4)(a) or 42H(3)(a), in deciding whether the person has a reasonable excuse for the failure, the following table has effect:

<b>Prior notification of excuse</b>	
<b>For this failure:</b>	<b>An excuse cannot be a reasonable excuse unless:</b>
1 A failure referred to in paragraph (1)(a) or (d)	<p>(a) before the start of the activity on the day concerned or before the time of the appointment, the person notified the excuse to the person or body specified in the employment pathway plan as the person or body to whom prior notice should be given if the person is unable to undertake the activity or attend the appointment; or</p> <p>(b) the Secretary is satisfied that there were circumstances in which it was not reasonable to expect the person to give the notification</p>
2 A failure referred to in paragraph (1)(b) or (e)	<p>(a) before the start of the activity on the day concerned or before the time of the appointment or contact, the person notified the excuse to the person or body notified by the Secretary as the person or body to whom prior notice should be given if the person is unable to undertake the activity, attend the appointment or make the contact; or</p> <p>(b) the Secretary is satisfied that there were circumstances in which it was not reasonable to expect the person to give the notification</p>
3 A failure referred to in paragraph (1)(c)	<p>(a) before the end of the time specified under subsection 63(2), the person notified the excuse to the person or body notified by the Secretary as the person or body to whom prior notice should be given if the person is unable to attend the office, contact the Department or attend the place; or</p> <p>(b) the Secretary is satisfied that there were circumstances in which it was not reasonable to expect the person to give the notification</p>

Note: Despite subsection (2), the Secretary may decide for other reasons that the excuse is not a reasonable excuse.

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**42V Deduction from any participation payment**

The balance of a person's penalty amount for a no show no pay failure or a reconnection failure that is not reduced to nil under section 42D or 42L is to be deducted from:

- (a) the instalments of the participation payment referred to in that section for any later instalment periods (until the balance is reduced to nil); and
- (b) if the balance is not reduced to nil under paragraph (a)—the instalments of any other participation payment paid to the person (until the balance is reduced to nil).

**42W Penalty amount not a debt**

To avoid doubt, a penalty amount is not a debt owed to the Commonwealth under Part 5.2 of the 1991 Act.

**42X Payability**

A participation payment remains payable even if it is reduced to nil as a result of deducting a penalty amount, or the balance of a penalty amount, for a no show no pay failure or a reconnection failure.

**42Y Day of determination**

For the purposes of paragraph 42M(1)(a), 42P(2)(a), 42Q(2)(c) or 42S(3A)(b), the day the Secretary makes the determination is the day the Secretary originally makes the determination (even if another decision in relation to the determination is later made on review).

**42YA Relationship between Subdivisions of this Division**

No Subdivision of this Division limits any other Subdivision of this Division.

**42Z Relationship with section 80**

Nothing in this Division affects the power of the Secretary to cancel or suspend a participation payment under section 80 of this Act.

## **Division 4—Payment of social security payment**

### **43 Payment by instalments**

#### *Payment in arrears in relation to periods*

- (1) A social security periodic payment is to be paid:
  - (a) in arrears; and
  - (b) by instalments relating to such periods (not exceeding 14 days) as the Secretary determines.

#### *Timing of payments of instalments*

- (2) Subject to sections 52 and 53, instalments of a social security periodic payment are to be paid at such times as the Secretary determines.

#### *Total instalment relating to a period*

- (3) Subject to subsection (4), the amount that is to be paid to a person as an instalment of a social security periodic payment in relation to a period is the total of the amounts of the social security periodic payment (calculated by reference to the daily rate of payment applicable to each day) payable to the person for days in that period on which the social security periodic payment was payable to the person.

#### *Weekly payments of a social security periodic payment*

- (3A) The Secretary may determine that a person is to be paid the total amount of the social security periodic payment relating to an instalment period of 14 days determined under subsection (1) in 2 payments (the **part payments**) if the person is a member of a class specified under subsection (3B).
- (3B) The Minister may by legislative instrument specify a class of persons for the purposes of subsection (3A).
- (3C) The first of the part payments:
  - (a) is not to exceed the total of the amounts of the social security periodic payment (calculated by reference to the daily rate of

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payment applicable to each day, subject to subsections (4) and (5A)) payable to the person for days that:

- (i) are days on which the social security periodic payment was payable to the person; and
  - (ii) are included in the first 7 days of the instalment period; and
- (b) is to be paid at a time determined by the Secretary that is after the first 7 days of the instalment period.

(3D) The other of the part payments:

- (a) is the excess of the amount that is to be paid to a person as the instalment of the social security periodic payment in relation to the instalment period (see subsection (3)) over the first of the part payments; and
- (b) is to be paid at a time determined by the Secretary that is after the end of the instalment period.

(3E) If the person is, or is to be, paid the total amount of the social security periodic payment relating to the instalment period in part payments, then it is taken for the purposes of the social security law that:

- (a) a single instalment of the social security periodic payment is, or is to be, paid in relation to the period; and
- (b) that instalment is, or is to be, paid when the last of the part payments is, or is to be, made; and
- (c) that instalment is equal to the total of the part payments.

Note: The total of the part payments equals the amount worked out under subsection (3) (as affected by subsection (4), if relevant) as the amount to be paid to the person as the instalment of the social security periodic payment in relation to the instalment period.

(3F) However, the following provisions of this Act (about deductions from instalments) apply as if each of the part payments were a separate instalment:

- (a) section 61;
- (b) Division 5 of Part 3B;
- (c) subsection 238(2).



*Minimum daily rate*

- (4) If:
- (a) either of the following amounts (the **added amount**) is added to a person's maximum basic rate for a particular day in working out the amount of an instalment of a social security payment:
    - (i) an amount of pharmaceutical allowance;
    - (ii) a pension supplement amount; and
  - (aa) the social security payment:
    - (i) is not a social security pension; or
    - (ii) is a disability support pension to which subsection 1066A(1) or 1066B(1) of the 1991 Act applies; or
    - (iii) if the person has not reached pension age on the day—is a pension PP (single); and
  - (b) if an added amount is a pension supplement amount used by the Rate Calculator to produce an annual rate—the total of the added amounts is more than the person's pension supplement basic amount; and
  - (c) there is no election by the person under subsection 1061VA(1) of the 1991 Act in force on that day; and
  - (d) apart from this subsection, the portion of the instalment corresponding to that day would be less than the person's minimum daily rate, but more than a nil amount;
- the amount of that portion of the instalment is to be increased to the person's minimum daily rate.

- (5) In subsection (4):

**minimum daily rate**, for a person, means:

- (a) if an amount of pharmaceutical allowance is an added amount:
  - (i) if the Rate Calculator for the social security payment produces a fortnightly rate— $\frac{1}{14}$  of that amount; or
  - (ii) if the Rate Calculator for the social security payment produces an annual rate— $\frac{1}{364}$  of that amount; or
- (b) if a pension supplement amount is the only added amount— $\frac{1}{364}$  of the person's minimum pension supplement amount.

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(5AA) If:

- (a) either or both of the following amounts (the *added amounts*) are added to a person's maximum basic rate for a particular day in working out the amount of an instalment of a social security pension:
  - (i) a pension supplement amount;
  - (ii) clean energy supplement; and
- (aa) the social security pension:
  - (i) is not a disability support pension to which subsection 1066A(1) or 1066B(1) of the 1991 Act applies; and
  - (ii) if the person has not reached pension age on the day—is not a pension PP (single); and
- (b) if one of the added amounts is a pension supplement amount used by the Rate Calculator to produce an annual rate—the pension supplement amount is more than the person's pension supplement basic amount; and
- (c) there is no election by the person under subsection 915A(1) or 1061VA(1) of the 1991 Act in force on that day; and
- (d) apart from this subsection, the portion of the instalment corresponding to that day would be less than the person's minimum daily rate, but more than a nil amount;

the amount of that portion of the instalment is to be increased to the person's minimum daily rate.

(5AB) For the purposes of subsection (5AA), a person's *minimum daily rate* is  $\frac{1}{364}$  of the total of:

- (a) the person's minimum pension supplement amount, if a pension supplement amount is an added amount; and
- (b) the person's clean energy supplement, if clean energy supplement is an added amount.

*No reduction of portion of quarterly pension supplement relating to a day*

(5A) If:

- (a) an election by the person under subsection 1061VA(1) of the 1991 Act is in force on a particular day; and
- (b) apart from this subsection, the portion of the instalment of the person's quarterly pension supplement that corresponds

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to that day would be reduced under subsection 1210(3) of the 1991 Act, but not reduced to a nil amount;  
the amount of that portion of the instalment is not to be reduced under subsection 1210(3) of the 1991 Act.

*No reduction of portion of quarterly clean energy supplement relating to a day*

(5B) If:

- (a) quarterly clean energy supplement is payable to a person for a particular day; and
  - (b) the social security payment to which the quarterly clean energy supplement relates:
    - (i) is a social security pension; and
    - (ii) is not a disability support pension to which subsection 1066A(1) or 1066B(1) of the 1991 Act applies; and
    - (iii) if the person has not reached pension age on the day—is not a pension PP (single); and
  - (c) apart from this subsection, the portion of the instalment of the person's quarterly clean energy supplement that corresponds to that day would be reduced under subsection 1210(3A) of the 1991 Act; and
  - (d) the reduction of the main rate mentioned in subparagraph 1210(3A)(b)(ii) would not be to a nil amount;
- the amount of that portion of the instalment is not to be reduced under subsection 1210(3A) of the 1991 Act.

*Instalment periods*

- (6) Each of the periods determined by the Secretary under subsection (1) is an instalment period in relation to the social security periodic payment.

#### **44 Payment of instalments to person or nominee**

- (1) Subject to section 45, instalments of a person's social security periodic payment are to be paid to that person.
- (2) If, by virtue of a determination under subsection 46(2), a person's special employment advance is to be paid by instalments, the instalments are to be paid to that person.

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- (3) This section has effect subject to Part 3A.

**45 Payment of youth allowance—person under 18 and not independent**

- (1) Subject to subsection (2), instalments of youth allowance of a person who is under 18 years of age and is not independent are to be paid on behalf of the person:
- (a) if the person has only one living parent—to that parent; or
  - (b) if the person has more than one living parent—to the parent nominated in writing by the person to the Secretary.
- (2) The Secretary may direct that the whole or a part of the instalments of youth allowance of a person referred to in subsection (1) is to be paid to the person.
- (3) If the Secretary gives a direction under subsection (2), the instalments are to be paid in accordance with the direction.
- (4) This section has effect subject to Part 3A.

**46 Payment of special employment advance**

- (1) Unless the Secretary makes a determination under subsection (2), a person's special employment advance is to be paid in accordance with section 47.
- (2) If the Secretary considers that it is appropriate for a person's special employment advance to be paid by instalments, the Secretary may determine that the person's special employment advance is to be so paid.

**46A Payment of AGDRP**

- (1) Unless the Secretary makes a determination under subsection (2), a person's AGDRP is to be paid in accordance with section 47.
- (2) If the Secretary considers that it is appropriate for a person's AGDRP to be paid by instalments, the Secretary may determine that the person's AGDRP is to be so paid.

#### **46B Payment of AVTOP**

- (1) Unless the Secretary makes a determination under subsection (2), a person's AVTOP is to be paid:
  - (a) in accordance with section 47; and
  - (b) on the date that is determined by the Secretary to be the earliest date on which it is reasonably practicable for the payment to be made to the person.
- (2) If the Secretary considers that it is appropriate for a person's AVTOP to be paid by instalments, the Secretary may determine that the person's AVTOP is to be so paid.

#### **47 Payment of lump sum benefits**

- (1) In this section:

***lump sum benefit*** means:

- (a) an advance payment under section 864A or Part 2.22 of the 1991 Act; or
- (aa) AGDRP, except where the Secretary has made a determination under subsection 46A(2); or
- (aaa) AVTOP, except where the Secretary has made a determination under subsection 46B(2); or
- (ab) child disability assistance; or
- (b) crisis payment; or
- (ba) student start-up scholarship payment; or
- (bb) relocation scholarship payment; or
- (d) education entry payment; or
- (f) fares allowance; or
- (fa) voluntary income management incentive payment; or
- (fb) matched savings scheme (income management) payment; or
- (g) one-off payment to the aged; or
- (ga) 2006 one-off payment to older Australians; or
- (gb) 2007 one-off payment to older Australians; or
- (gc) 2008 one-off payment to older Australians; or
- (gd) carer supplement; or
- (h) one-off payment to carers (carer allowance related); or
- (ha) one-off payment to carers (carer payment related); or
- (hb) 2005 one-off payment to carers (carer payment related); or

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- (hc) 2005 one-off payment to carers (carer service pension related); or
  - (hd) 2005 one-off payment to carers (carer allowance related); or
  - (he) 2006 one-off payment to carers (carer payment related); or
  - (hf) 2006 one-off payment to carers (wife pension related); or
  - (hg) 2006 one-off payment to carers (partner service pension related); or
  - (hh) 2006 one-off payment to carers (carer service pension related); or
  - (hi) 2006 one-off payment to carers (carer allowance related); or
  - (hj) 2007 one-off payment to carers (carer payment related); or
  - (hk) 2007 one-off payment to carers (wife pension related); or
  - (hl) 2007 one-off payment to carers (partner service pension related); or
  - (hm) 2007 one-off payment to carers (carer service pension related); or
  - (hn) 2007 one-off payment to carers (carer allowance related); or
  - (ho) 2008 one-off payment to carers (carer payment related); or
  - (hp) 2008 one-off payment to carers (wife pension related); or
  - (hq) 2008 one-off payment to carers (partner service pension related); or
  - (hr) 2008 one-off payment to carers (carer service pension related); or
  - (hs) 2008 one-off payment to carers (carer allowance related); or
  - (ht) economic security strategy payment; or
  - (hu) training and learning bonus; or
  - (hv) farmers hardship bonus; or
    - (i) pension bonus; or
    - (ia) pension bonus bereavement payment; or
    - (j) special employment advance, except where the Secretary has made a determination under subsection 46(2); or
    - (k) clean energy advance; or
    - (l) low income supplement or essential medical equipment payment; or
    - (m) income support bonus.
- (2) If a claim for crisis payment is granted because of subsection 37(7), the Secretary may pay an amount equal to the

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amount of the crisis payment to the claimant before the claimant is released from gaol or psychiatric confinement if the Secretary thinks it is necessary to do so in order to ensure that the claimant, on release, will not suffer severe financial hardship.

- (3) If an amount is paid to a person under subsection (2), the amount is taken, after the person's release from gaol or psychiatric confinement, to be a payment of crisis payment made in relation to the claim referred to in subsection (2).
- (4) Subject to subsections 47C(3) and (4), section 47DA and Part 3A, a person's lump sum benefit is to be paid to the person.

**47A Payment of one-off payment to the aged**

One-off payment to the aged is to be paid to a person on the date that is determined by the Secretary to be the earliest date on which it is reasonably practicable for the payment to be made to the person.

**47AA Payment of one-off payments to older Australians**

- (1) If an individual is qualified for one of the payments mentioned in subsection (2), the Secretary must pay the payment to the individual in a single lump sum:
  - (a) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
  - (b) in such manner as the Secretary considers appropriate.
- (2) The payments are the following:
  - (a) 2006 one-off payment to older Australians;
  - (b) 2007 one-off payment to older Australians;
  - (c) 2008 one-off payment to older Australians.

**47AB Payment of carer supplement**

If an individual is qualified for carer supplement for a year, the Secretary must pay the supplement to the individual:

- (a) on the date or dates that the Secretary considers to be the earliest date or dates on which it is reasonably practicable for the payment to be made; and

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- (b) in such manner as the Secretary considers appropriate.

**47B Payment of one-off payments to carers**

- (1) If an individual is qualified for one of the payments mentioned in subsection (2), the Secretary must pay the payment to the individual in a single lump sum:
  - (a) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
  - (b) in such manner as the Secretary considers appropriate.
- (2) The payments are the following:
  - (a) one-off payment to carers (carer allowance related);
  - (b) one-off payment to carers (carer payment related);
  - (c) 2005 one-off payment to carers (carer payment related);
  - (d) 2005 one-off payment to carers (carer service pension related);
  - (e) 2005 one-off payment to carers (carer allowance related);
  - (f) 2006 one-off payment to carers (carer payment related);
  - (g) 2006 one-off payment to carers (wife pension related);
  - (h) 2006 one-off payment to carers (partner service pension related);
  - (i) 2006 one-off payment to carers (carer service pension related);
  - (j) 2006 one-off payment to carers (carer allowance related);
  - (k) 2007 one-off payment to carers (carer payment related);
  - (l) 2007 one-off payment to carers (wife pension related);
  - (m) 2007 one-off payment to carers (partner service pension related);
  - (n) 2007 one-off payment to carers (carer service pension related);
  - (o) 2007 one-off payment to carers (carer allowance related);
  - (p) 2008 one-off payment to carers (carer payment related);
  - (q) 2008 one-off payment to carers (wife pension related);
  - (r) 2008 one-off payment to carers (partner service pension related);
  - (s) 2008 one-off payment to carers (carer service pension related);



- (t) 2008 one-off payment to carers (carer allowance related).

**47C Payment of economic security strategy payments, training and learning bonuses and farmers hardship bonuses**

- (1) If an individual is qualified for an economic security strategy payment, the Secretary must pay the payment to the individual in a single lump sum:
  - (a) on 8 December 2008, or on such later date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
  - (b) in such manner as the Secretary considers appropriate.
- (2) If an individual is qualified for a training and learning bonus or farmers hardship bonus, the Secretary must pay the bonus in a single lump sum:
  - (a) to the individual; and
  - (b) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
  - (c) in such manner as the Secretary considers appropriate.
- (3) Despite paragraph (2)(a) of this section, if:
  - (a) the individual is qualified for a training and learning bonus under paragraph 910(2)(a) of the 1991 Act because the individual was receiving youth allowance in respect of 3 February 2009; and
  - (b) the whole or a part of the individual's instalment of youth allowance in respect of a period that included that day was paid to a parent of the individual under section 45 of this Act;the Secretary may pay the whole, or the same proportion, of the individual's training and learning bonus to that parent or to any other person.
- (4) Despite paragraph (2)(a) of this section, if:
  - (a) the individual is qualified for a training and learning bonus:
    - (i) under paragraph 910(2)(e) of the 1991 Act because the individual was receiving a payment under the ABSTUDY Scheme in respect of 3 February 2009; or
    - (ii) under paragraph 910(2)(f) or (g) of the 1991 Act because the individual was receiving an education

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allowance referred to in that paragraph in respect of that day; and

- (b) the whole or a part of the individual's instalment of the payment or allowance in respect of a period that included that day was paid to a person (the *recipient*) other than the individual;

the Secretary may pay the whole, or the same proportion, of the individual's training and learning bonus to the recipient or to any other person.

**47D Payment of clean energy advance**

- (1) If an individual is qualified for a clean energy advance, the Secretary must pay the advance to the individual in a single lump sum:
  - (a) on the day that the Secretary considers to be the earliest day on which it is reasonably practicable for the advance to be made; and
  - (b) in such manner as the Secretary considers appropriate.

Note: This section applies to a qualification under Subdivision A or C of Division 1 of Part 2.18A of the 1991 Act.

- (2) However, the Secretary must not pay the advance if the Secretary is aware that the individual has died.

**47DAA Payment of low income supplement or essential medical equipment payment**

If an individual is qualified for a low income supplement or essential medical equipment payment, the Secretary must pay the supplement or payment (as the case requires) to the individual in a single lump sum in such manner as the Secretary considers appropriate.

**47DAB Payment of income support bonus**

If a person is qualified for an income support bonus on an income support bonus test day, the Secretary must pay the bonus to the person in a single lump sum:

- (a) on the day that the Secretary considers to be the earliest day on which it is reasonably practicable for the bonus to be paid; and

(b) in such manner as the Secretary considers appropriate.

#### **47DA Student start-up scholarship payments and relocation scholarship payments**

If:

- (a) a person is qualified for a student start-up scholarship payment, or a relocation scholarship payment, on a particular day because the person is receiving youth allowance; and
- (b) the whole or a part of the person's instalment of youth allowance in respect of a period that included that day is paid to a parent of the person under section 45 of this Act;

the Secretary may pay the whole, or the same proportion, of the person's scholarship payment to that parent or to any other person.

#### **48 Payment of telephone allowance**

- (1) Telephone allowance is to be paid by instalments.
- (2) An instalment of telephone allowance is to be paid to a person on each telephone allowance payday on which telephone allowance is payable to the person.
- (3) The amount of an instalment of telephone allowance is worked out by dividing the amount of the annual rate of telephone allowance by 4.
- (4) In this section:

***telephone allowance payday*** means:

- (a) for a person who is qualified for telephone allowance otherwise than under subsection 1061Q(4A)—the first day on which an instalment of a social security periodic payment would normally be paid to the person on or after any of the following:
  - (i) 1 January;
  - (ii) 20 March;
  - (iii) 1 July;
  - (iv) 20 September; and
- (b) for a person who is qualified for telephone allowance under subsection 1061Q(4A)—any of the following:
  - (i) 1 January;

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- (ii) 20 March;
  - (iii) 1 July;
  - (iv) 20 September;
- or the first working day after that day if that day is not a working day.

**working day** means a day other than:

- (a) a Saturday; or
- (b) a Sunday; or
- (c) a day that is a public holiday or bank holiday in Canberra or Sydney.

**48A Payment of utilities allowance**

- (1) Utilities allowance is to be paid by instalments.
- (2) If utilities allowance is payable to a person in relation to a utilities allowance test day, then an instalment of the allowance is to be paid to the person on the person's first payday on or after that test day.
- (3) The amount of an instalment of utilities allowance is worked out by dividing the amount of the annual rate of utilities allowance by 4.
- (4) In this section:

**utilities allowance test day** means:

- (a) 20 March; and
- (b) 20 June; and
- (c) 20 September; and
- (d) 20 December.

**48B Payment of seniors supplement**

- (1) Seniors supplement is to be paid by instalments.
- (2) An instalment of seniors supplement is to be paid to a person as soon as is reasonably practicable after the end of an instalment period.
- (3) The amount of the instalment is worked out by:

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- (a) working out the amount of the person's seniors supplement for each day in the instalment period; and
  - (b) adding up the amounts resulting from paragraph (a).
- (4) In this section:

***instalment period*** means a period:

- (a) in relation to each day of which seniors supplement is payable to the person; and
- Note: For when seniors supplement is payable to the person, see section 1061UA of the 1991 Act.
- (b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and
  - (c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and
  - (d) that is not included in a longer instalment period.

#### **48C Payment of quarterly pension supplement**

- (1) Quarterly pension supplement is to be paid by instalments.
- (2) An instalment of quarterly pension supplement is to be paid to a person as soon as is reasonably practicable after the end of an instalment period.
- (3) The amount of the instalment is worked out by multiplying the person's daily rate of quarterly pension supplement by the number of days in the instalment period.
- (4) In this section:

***instalment period*** means a period:

- (a) in relation to each day of which quarterly pension supplement is payable to the person; and
- Note: For when quarterly pension supplement is payable to the person, see section 1061VA of the 1991 Act.
- (b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and
  - (c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and
  - (d) that is not included in a longer instalment period.

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**48D Payment of quarterly clean energy supplement**

- (1) Quarterly clean energy supplement is to be paid by instalments.
- (2) An instalment of quarterly clean energy supplement is to be paid to a person as soon as is reasonably practicable after the end of an instalment period.

Note: For when quarterly clean energy supplement is payable to the person, see section 915 of the 1991 Act.

- (3) The amount of the instalment is worked out by:
  - (a) working out the amount of the person's quarterly clean energy supplement for each day in the instalment period; and
  - (b) adding up the amounts resulting from paragraph (a).
- (4) In this section:

*instalment period* means a period:

- (a) for each day of which quarterly clean energy supplement is payable to the person; and
- Note: For when quarterly clean energy supplement is payable to the person, see section 915 of the 1991 Act.
- (b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and
  - (c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and
  - (d) that is not included in a longer instalment period.

**49 Timing of payment of fares allowance**

- (1) Subject to subsection (2), fares allowance for a journey by a person is to be paid as a reimbursement after the journey is made.
- (2) If the journey has not been made, the fares allowance for the journey is to be paid before the journey is made.

**50 To whom fares allowance is to be paid**

- (1) Subject to subsection (4), if the person is or was receiving youth allowance at the time of the making of the journey, fares allowance is to be paid to the person to whom instalments of the youth allowance are or were being paid under section 44 or 45.

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- (2) Subject to subsection (4), if the person is or was receiving austudy payment at the time of the making of the journey, fares allowance is to be paid to the person to whom instalments of the austudy payment are or were being paid under section 44.
- (3) Subject to subsection (4), if the person is or was receiving pensioner education supplement at the time of the making of the journey, fares allowance is to be paid to the person to whom instalments of the pensioner education supplement are or were being paid under section 44.
- (4) If the fares allowance is to be paid as referred to in subsection 49(2), it is to be paid, on behalf of the person, to the commercial operator who provides the person's means of travel.
- (5) This section has effect subject to section 58.

### **50A Payment of child disability assistance**

If an individual is qualified for child disability assistance in respect of a particular 1 July, the Secretary must pay the assistance to the individual in a single lump sum:

- (a) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
- (b) in such manner as the Secretary considers appropriate.

### **51 Advance in case of severe financial hardship**

- (1) If:
  - (a) the Secretary determines:
    - (i) that a claim by a person who is in Australia for a social security benefit or pension is to be granted; or
    - (ii) that a social security benefit or pension is payable to a person under section 85; and
  - (b) the Secretary is satisfied that, if the person is required to wait until the end of:
    - (i) the first instalment period in relation to the benefit or pension; or
    - (ii) the first instalment period in relation to the benefit or pension after the resumption of payment of the benefit or pension;

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for payment of an instalment, the person will suffer severe financial hardship;

the Secretary may determine that a specified amount is to be paid to the person in advance.

- (2) If:
- (a) a claim for a social security pension or benefit is granted because of subsection 37(7); and
  - (b) the Secretary makes a determination under subsection (1);
- the amount payable by virtue of that determination may be paid before the claimant is released from gaol or psychiatric confinement if the Secretary thinks it is necessary to do so in order to ensure that the claimant, on release, will not suffer severe financial hardship.
- (3) The operation of subsection (2) is not affected by section 1158, 1162 or 1162A of the 1991 Act.
- (4) The amount paid under a determination under subsection (1) is not to exceed the amount that, in the opinion of the Secretary, would be the total of the amounts payable to the person for the first 14 days on which the benefit or pension is payable to the person.
- (5) An amount paid to a person under subsection (1) is taken to be an advance payment of the instalment or instalments, or of that part of the instalment or instalments, that relate to the days referred to in subsection (4).

**52 Payment of certain amounts outside Australia**

- (1) This section applies to the following social security payments:
- (a) age pension;
  - (b) bereavement allowance;
  - (c) carer payment;
  - (d) disability support pension;
  - (e) mature age allowance payable under Part 2.12A of the 1991 Act;
  - (f) mature age partner allowance payable under Part 2.12A of the 1991 Act;
  - (g) pension PP (single) to which clause 105A of Schedule 1A to the 1991 Act applies;



- (h) pensioner education supplement;
  - (i) widow B pension;
  - (j) wife pension;
  - (k) special benefit;
  - (l) Northern Territory CDEP transition payment.
- (2) If a person who is receiving a social security payment to which this section applies is outside Australia, instalments of the payment are to be paid to the person at such times as the Secretary determines for the purposes of this section.

### **53 Payment of instalments where pension received under other legislation**

- (1) If:
- (a) an age pension or a disability support pension is payable to a person; and
  - (b) the person is receiving a veteran's disability pension; and
  - (c) the Secretary has made a determination, for the purposes of this subsection, that instalments of age pension or disability support pension, as the case may be, are to be paid to the person on the days on which instalments of the veteran's disability pension are paid to the person; and
  - (d) the determination has not been revoked;
- instalments of age pension or disability support pension are to be paid to the person in accordance with the determination.
- (2) If:
- (a) an age pension or a disability support pension is payable to a person; and
  - (b) the person's partner is receiving:
    - (i) an age pension and a veteran's disability pension; or
    - (ii) a disability support pension and a veteran's disability pension; and
  - (c) the Secretary has made a determination, for the purposes of this subsection, that instalments of age pension or disability support pension, as the case may be, are to be paid to the person on the days on which instalments of the veteran's disability pension are paid to the person's partner; and
  - (d) the determination has not been revoked;

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instalments of age pension or disability support pension are to be paid to the person in accordance with the determination.

- (3) If:
- (a) a person is receiving a wife pension; and
  - (b) the person's partner is receiving:
    - (i) an age pension and a veteran's disability pension; or
    - (ii) a disability support pension and a veteran's disability pension; and
  - (c) the Secretary has made a determination, for the purposes of this subsection, that instalments of wife pension are to be paid to the person on the days on which instalments of the veteran's disability pension are paid to the person's partner; and
  - (d) the determination has not been revoked;
- instalments of wife pension are to be paid to the person in accordance with the determination.

**54 Rounding off instalments of social security payments**

- (1) In this section:

***instalment*** means an instalment of a social security payment.

Note: Subsection 43(3E) affects what is an instalment of a social security periodic payment if the Secretary has determined under subsection 43(3A) that a person is to be paid the total amount of a social security periodic payment relating to an instalment period in 2 payments.

- (2) If the amount of an instalment would be:
- (a) one or more whole dollars and a part of a cent; or
  - (b) one or more whole dollars and cents and a part of a cent;
- the amount is to be increased or decreased to the nearest whole cent.
- (3) If the amount of an instalment would be:
- (a) one or more whole dollars and 0.5 cent; or
  - (b) one or more whole dollars and cents and 0.5 cent;
- the amount is to be increased by 0.5 cent.
- (4) If, apart from this subsection, the amount of an instalment would be less than \$1.00, the amount is to be increased to \$1.00.

## **55 Payment into bank account etc.**

- (1) Subject to Part 3A, an amount (the **relevant amount**) that is to be paid to a person under section 44, 45, 47, 48, 48A, 48B, 48C, 48D or 50 is to be paid in the manner set out in this section.
- (2) Subject to subsections (4) and (4A), the relevant amount is to be paid to the credit of a bank account nominated and maintained by the person.
- (3) The account may be an account that is maintained by the person either alone or jointly or in common with another person.
- (4) The Secretary may direct that the whole or a part of the relevant amount be paid to the person in a different way from that provided for by subsection (2). If the Secretary gives a direction, the relevant amount is to be paid in accordance with the direction.
- (4A) Fares allowance is to be paid to a person as follows:
  - (a) fares allowance is to be paid to the credit of the bank account to the credit of which payments of youth allowance, austudy payment or pensioner education supplement payable to the person are or were made;
  - (b) if, because of a direction under subsection (4), youth allowance, austudy payment or pensioner education supplement is not paid to the credit of a bank account, fares allowance is to be paid in the same way as the youth allowance, austudy payment or pensioner education supplement, as the case may be.
- (5) If, at the end of the period of 28 days starting on the day on which the Secretary requested the person to nominate an account for the purposes of subsection (2) (the **28 day period**):
  - (a) the person has not nominated an account for the purposes of subsection (2); and
  - (b) the Secretary has not given, or has revoked, a direction under subsection (4) in relation to the payment of the relevant amount to the person;the relevant amount ceases to be payable to the person.
- (6) If the person nominates an account for the purposes of subsection (2) after the end of the 28 day period, the relevant amount again becomes payable to the person and is so payable:

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- (a) if the nomination is made within 13 weeks after the end of the 28 day period—on and from the first day after the end of that period; or
  - (b) if the nomination is not so made—on and from the day on which the nomination is made.
- (7) Subsection (6) does not apply at a time when, because of the operation of another provision of the social security law, the relevant amount is not payable to the person.

### **56 Youth allowance—failure to nominate parent**

- (1) This section applies to a person if:
  - (a) the person is under 18 years of age and is not independent; and
  - (b) youth allowance has become payable to the person; and
  - (c) the person has more than one living parent; and
  - (d) at the end of the period of 28 days starting on the day on which youth allowance became payable to the person:
    - (i) the person has not nominated a parent for the purposes of subsection 45(1); and
    - (ii) the Secretary has not given a direction under subsection 45(2) in relation to payment of instalments of the person's youth allowance.
- (2) Youth allowance is not payable to a person while this section applies to the person.
- (3) If a person to whom this section applies nominates a parent for the purposes of subsection 45(1), this section ceases to apply to the person.

### **57 Change of particular payday**

If the Secretary is satisfied that an amount that would, apart from this section, be paid on a particular day cannot reasonably be paid on that day, the Secretary may direct that the amount be paid on an earlier day.

**58 Payment of social security payment, other than pension bonus and pension bonus bereavement payment, after death**

- (1) If:
- (a) an amount representing a social security payment (other than pension bonus or pension bonus bereavement payment) is payable to a person; and
  - (b) the person dies; and
  - (c) another person applies to receive the amount; and
  - (d) the application is made:
    - (i) within 26 weeks after the death; or
    - (ii) within such further period as is allowed by the Secretary in the special circumstances of the case;
- the Secretary may pay the amount to the person who, in the Secretary's opinion, is best entitled to it.
- (2) If the Secretary pays an amount of a social security payment under subsection (1), the Commonwealth has no further liability to any person in respect of that amount.

**59 Payment of pension bonus or pension bonus bereavement payment after death**

- (1) This section sets out the only circumstances in which a pension bonus or a pension bonus bereavement payment will be payable after the death of the person concerned.
- (1A) If:
- (a) a person claims a pension bonus; and
  - (b) the person dies; and
  - (c) at the time of the person's death, the person had received the bonus; and
  - (d) after the person's death, the Secretary determines that the person's bonus is to be increased under section 93K or 93L;
- the increase is payable to the legal personal representative of the person.
- (2) If:
- (a) a person claims a pension bonus or a pension bonus bereavement payment; and
  - (b) the person dies; and
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(c) at the time of the person's death, the claim had been granted, but the person had not received the bonus or payment; the bonus or payment is payable to the legal personal representative of the person.

(3) If:

- (a) a person claims a pension bonus or a pension bonus bereavement payment; and
- (b) the person dies; and
- (c) at the time of the person's death, the claim had not been determined;

then:

- (d) the Secretary must determine the claim after the person's death as if the person had not died; and
- (e) if the claim is granted—the bonus or payment is payable to the legal personal representative of the person.

(4) If:

- (a) under paragraph (3)(d), the Secretary is required to determine a claim for pension bonus after a person's death; and
- (b) at the time of the person's death, the person's claim for age pension had not been determined;

then, for the purposes of the determination of the claim for pension bonus, the following provisions have effect:

- (c) the requirements of paragraph 92C(a) of the 1991 Act are taken to be satisfied if:
  - (i) the person would have started to receive an age pension if he or she had not died; and
  - (ii) that age pension would have been received otherwise than because of a scheduled international social security agreement;
- (d) Division 6 of Part 2.2A of the 1991 Act has effect as if:
  - (i) a reference in that Division to a particular rate were a reference to the rate that would have been applicable to the person if the person had not died; and
  - (ii) a reference in that Division to the date of grant of the age pension were a reference to the date on which the age pension would have been granted if the person had not died;

- (e) this Act has effect as if subsections 17(2) and 34(2) were omitted.
- (4A) If a pension bonus is payable to the legal personal representative of a person under subsection (2) or (3), any increase in that bonus determined by the Secretary under section 93K or 93L is also payable to that legal personal representative.
- (5) If a pension bonus or pension bonus bereavement payment is paid under subsection (2) or (3), the Commonwealth has no further liability to any person in respect of that bonus or payment.

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## **Division 5—Protection of social security payments**

### **60 Protection of social security payment**

- (1) A social security payment is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.
- (2) This section has effect subject to:
  - (a) sections 61 and 238 of this Act; and
  - (aa) Part 3B of this Act; and
  - (b) sections 1231 and 1234A of the 1991 Act.

### **61 Deduction at request of recipient**

The Secretary may make deductions from instalments of a social security payment payable to a person if the person asks the Secretary:

- (a) to make the deductions; and
- (b) to pay the amounts deducted to the Commissioner of Taxation.

### **62 Effect of garnishee or attachment order**

- (1) If:
  - (a) a person has an account with a financial institution; and
  - (b) either or both of the following subparagraphs apply:
    - (i) instalments of a social security payment payable to the person (whether on the person's own behalf or not) are being paid to the credit of the account;
    - (ii) an advance payment of a social security payment payable to the person (whether on the person's own behalf or not) has been paid to the credit of the account; and
  - (c) a court order in the nature of a garnishee order comes into force in respect of the account;the court order does not apply to the saved amount (if any) in the account.



- (2) The saved amount is worked out as follows:

*Method statement*

- Step 1. Work out the total amount payable to the person in respect of the social security payment that has been paid to the credit of the account during the 4 week period immediately before the court order came into force.
- Step 2. Subtract from that amount the total amount withdrawn from the account during the same 4 week period: the result is the ***saved amount***.

- (3) This section applies to an account whether it is maintained by a person:
- (a) alone; or
  - (b) jointly with another person; or
  - (c) in common with another person.

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**Division 6—Requirement to provide information, undergo medical examination etc.**

**Subdivision A—General**

**63 Requirement to attend Department etc.**

*Secretary may require person to attend Department etc.*

- (1) Subsection (2) applies to a person if:
  - (a) the person is receiving, or has made a claim for, a social security payment; or
  - (b) the person is the holder of, or has made a claim for, a concession card; or
  - (c) the Department is contacted by or on behalf of the person in relation to a claim for:
    - (i) if the person is not undertaking full-time study and is not a new apprentice—youth allowance; or
    - (ii) in any case—newstart allowance; to be paid to the person.
- (2) If the Secretary is of the opinion that a person to whom this subsection applies should:
  - (a) attend an office of the Department; or
  - (b) contact the Department; or
  - (c) attend a particular place for a particular purpose; or
  - (d) give information to the Secretary;the Secretary may notify the person that he or she is required, within a specified time, to do that act or thing. However, the Secretary may not, under this subsection, notify a person that he or she is required to do an act or thing referred to in paragraph (4)(a) or (b).

*Secretary may require person to undergo medical examination etc.*

- (3) Subsection (4) applies to a person if:
  - (a) the person is receiving, or has claimed, any of the following social security payments:

- (i) disability support pension;
    - (ii) parenting payment;
    - (iii) youth allowance;
    - (iv) newstart allowance;
    - (v) sickness allowance;
    - (vi) special benefit;
    - (vii) mobility allowance; or
  - (b) the Department is contacted by or on behalf of the person in relation to a claim for youth allowance or newstart allowance to be paid to the person.
- (4) If the Secretary is of the opinion that a person to whom this subsection applies should:
- (a) complete a questionnaire; or
  - (b) undergo a medical, psychiatric or psychological examination (whether or not at a particular place), and provide to the Secretary the report, in the approved form, of the person who conducts the examination;
- the Secretary may notify the person that he or she is required, within a specified time, to do that act or thing.

*Method for giving notice*

- (5) The Secretary may notify a person under subsection (2) or (4):
- (a) by sending the notice by prepaid post addressed to the person at his or her postal address last known to the Secretary; or
  - (b) in any other way the Secretary considers appropriate.

*Validity of notice not affected in certain circumstances*

- (6) A failure to specify the particular purpose in a notice given to a person for the purposes of paragraph (2)(c) does not affect the validity of the notice.

*Consequence of not informing person of effect of failure to comply with requirement in notice*

- (7) If a person is notified under subsection (2) or (4) and the notice does not inform the person of the effect of section 64, subsection 64(1) or (5) (as the case requires) does not apply to the person in relation to the requirement in the notice.

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**64 Effect of failing to comply with requirement to attend  
Department etc.**

*Person receiving, or claiming, social security payment*

- (1) If:
- (a) a person is receiving, or has made a claim for, a social security payment; and
  - (b) the Secretary notifies the person under subsection 63(2) or (4); and
  - (c) the requirement in the notice is reasonable; and
  - (d) the person does not comply with the requirement; and
  - (e) except if the person is receiving, or has made a claim for, a participation payment—the Secretary is not satisfied that the person had a reasonable excuse for not complying with the requirement; and
  - (f) the Secretary is satisfied that it is reasonable for this subsection to apply to the person;
- the payment that the person is receiving or has claimed is not payable.

- (2) Subsection (1) does not apply if:
- (a) the person is receiving, or has made a claim for, youth allowance; and
  - (b) the notice included a statement to the effect that a failure to comply with the requirement in the notice could constitute a youth allowance participation failure.

Note: If a recipient of, or claimant for, youth allowance does not comply with a requirement notified under subsection 63(2) or (4), this may result in the payment not being payable to the person: see sections 550B and 551 of the 1991 Act.

- (3) Subsection (1) does not apply if:
- (a) the person is receiving, or has made a claim for, an austudy payment; and
  - (b) the notice included a statement to the effect that a failure to comply with the requirement in the notice could constitute an austudy participation failure.

Note: If a recipient of, or claimant for, an austudy payment does not comply with a requirement notified under subsection 63(2), this may result in

the payment not being payable to the person: see sections 576A and 577 of the 1991 Act.

(4) If:

- (a) a social security payment is not payable to a person because of subsection (1); and
- (b) the Secretary is satisfied that it is no longer reasonable for that subsection to apply to the person in relation to the requirement in the notice given to the person under subsection 63(2) or (4);

the Secretary may determine that, on and after a day specified by the Secretary, subsection (1) ceases to apply to the person in relation to that requirement.

*Person holding, or claiming, concession card*

(5) If:

- (a) a person is the holder of, or has made a claim for, a concession card; and
- (b) the Secretary notifies the person under subsection 63(2); and
- (c) the requirement in the notice is reasonable; and
- (d) the person does not comply with the requirement; and
- (e) the Secretary is not satisfied that the person had a reasonable excuse for not complying with the requirement; and
- (f) the Secretary is satisfied that it is reasonable for this subsection to apply to the person;

the person ceases to be, or is not, qualified for the concession card.

(6) If:

- (a) a person has ceased to be, or is not, qualified for a concession card because of subsection (5); and
- (b) the Secretary is satisfied that it is no longer reasonable for that subsection to apply to the person in relation to the requirement in the notice given to the person under subsection 63(2);

the Secretary may determine that, on and after a day specified by the Secretary, subsection (5) ceases to apply to the person in relation to that requirement.

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**65 Medical certificate in support of claim for sickness allowance**

- (1) Subject to subsection (3), a claim for sickness allowance must be supported by the certificate of a medical practitioner which states:
  - (a) the medical practitioner's diagnosis; and
  - (b) the medical practitioner's prognosis; and
  - (c) that the person is incapacitated for work; and
  - (d) the period for which the person is incapacitated for work.
- (2) A certificate for the purpose of subsection (1) must be in accordance with a form approved by the Secretary.
- (3) A person's claim for sickness allowance need not be supported by a medical certificate if the person is claiming to be qualified for sickness allowance under section 667 of the 1991 Act.
- (4) The Secretary may, in special circumstances, direct that subsection (1) or (2) does not apply in relation to a claim.

**66 Notice to obtain foreign payment**

- (1) This section applies to the following social security payments:
  - (a) age pension;
  - (b) bereavement allowance;
  - (c) carer payment;
  - (d) disability support pension;
  - (e) parenting payment;
  - (f) special needs age pension;
  - (g) special needs disability support pension;
  - (h) special needs widow B pension;
  - (i) special needs wife pension;
  - (j) widow allowance;
  - (k) widow B pension;
  - (l) wife pension.
- (2) If:
  - (a) a person claims, or is receiving, a social security payment to which this section applies; and
  - (b) the Secretary is satisfied that the person may be entitled to a comparable foreign payment from a foreign country if the person applied for the payment;

the Secretary may give the person a notice that requires the person to take reasonable action to obtain the payment at the highest rate applicable to the person.

- (3) If:
- (a) a person claims, or is receiving, a social security payment to which this section applies; and
  - (b) the Secretary is satisfied that the person's partner may be entitled to a comparable foreign payment from a foreign country if the partner applied for the payment;
- the Secretary may give the person a notice that requires the partner to take reasonable action to obtain the payment at the highest rate applicable to the partner.
- (4) A notice under subsection (2) or (3):
- (a) must be given in writing; and
  - (b) may be given personally or by post or in any manner approved by the Secretary; and
  - (c) must specify the period within which the reasonable action is to be taken.
- (5) The period specified under paragraph (4)(c) must not end earlier than 14 days after the day on which the notice is given.

### **Subdivision B—Requirement to give information about change of circumstances etc.**

#### **66A General requirement to inform of a change of circumstances etc.**

*Person who has made a claim*

- (1) If:
- (a) a person has made a claim for:
    - (i) a social security payment; or
    - (ii) a concession card; and
  - (b) the claim has been granted or has not been determined; and
  - (c) an event or change of circumstances occurs that might affect the payment of that social security payment or the person's qualification for the concession card;

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the person must, within 14 days after the day on which the event or change occurs, inform the Department of the occurrence of the event or change.

*Person receiving a social security payment or holding a concession card*

(2) If:

(a) either:

- (i) a social security payment (other than utilities allowance or seniors supplement) is being paid to a person; or
- (ii) a person holds a concession card; and

(b) an event or change of circumstances occurs that might affect the payment of that social security payment or the person's qualification for the concession card;

the person must, within 14 days after the day on which the event or change occurs, inform the Department of the occurrence of the event or change.

*Person who has received a social security payment or held a concession card*

(3) If:

(a) either:

- (i) a person is not receiving a social security payment but a social security payment (other than utilities allowance or seniors supplement) has at any time been paid to the person; or
- (ii) a person does not hold a concession card but has at any time held such a card; and

(b) an event or change of circumstances occurs that might have affected the payment of that social security payment or the person's qualification for the concession card;

the person must, within 14 days after the day on which the event or change occurs, inform the Department of the occurrence of the event or change.

*Interaction with notices under this Subdivision*

(4) If:



- (a) a person is subject to a requirement under subsection (1), (2) or (3) in relation to an event or change of circumstances; and
  - (b) the person is given, or purportedly given, a notice under this Subdivision in relation to the same event or change of circumstances; and
  - (c) the person complies with the notice to the extent that it relates to that event or change;
- the person is taken to have also complied with that requirement within the period referred to in that subsection.
- (5) Subsection (4) does not apply if the notice is given after the end of the period referred to in subsection (1), (2) or (3).
  - (6) This section does not limit the power of the Secretary to give a person a notice under this Subdivision.

#### **67 Person who has made a claim**

- (1) Subsection (2) applies to a person if:
  - (a) the person has made a claim for a social security payment; and
  - (b) either:
    - (i) the claim has been granted; or
    - (ii) the claim has not been determined.
- (2) The Secretary may give a person to whom this subsection applies a notice in writing that requires the person to do any or all of the following:
  - (a) inform the Department if:
    - (i) a specified event or change of circumstances occurs; or
    - (ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
  - (b) give the Department a statement about a matter that might affect the payment to the person of the social security payment;
  - (c) give the Department a statement about a matter that might affect the operation, or prospective operation, of Part 3B in relation to the person.
- (3) Subsection (4) applies to a person if:
  - (a) the person has made a claim for a concession card; and

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- (b) either:
    - (i) the claim has been granted; or
    - (ii) the claim has not been determined.
- (4) The Secretary may give a person to whom this subsection applies a notice in writing that requires the person to do either or both of the following:
  - (a) inform the Department if:
    - (i) a specified event or change of circumstances occurs; or
    - (ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
  - (b) give the Department a statement about a matter that might affect the person's qualification for the concession card.
- (5) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might:
  - (a) affect the payment of the social security payment or the person's qualification for the concession card, as the case requires; or
  - (b) affect the operation, or prospective operation, of Part 3B in relation to the person.

**68 Person receiving social security payment or holding concession card**

- (1) Subsection (2) applies to a person to whom a social security payment (other than utilities allowance or seniors supplement) is being paid.
- (2) The Secretary may give a person to whom this subsection applies a notice that requires the person to do any or all of the following:
  - (a) inform the Department if:
    - (i) a specified event or change of circumstances occurs; or
    - (ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
  - (b) give the Department one or more statements about a matter that might affect the payment to the person of the social security payment;

- (c) give the Department one or more statements about a matter that might affect the operation, or prospective operation, of Part 3B in relation to the person.
- (3) Subsection (4) applies to a person who is the holder of a concession card.
- (4) The Secretary may give a person to whom this subsection applies a notice that requires the person to do either or both of the following:
  - (a) inform the Department if:
    - (i) a specified event or change of circumstances occurs; or
    - (ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
  - (b) give the Department a statement about a matter that might affect the person's qualification for the concession card.
- (5) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might:
  - (a) affect the payment of the social security payment or the person's qualification for the concession card, as the case requires; or
  - (b) affect the operation, or prospective operation, of Part 3B in relation to the person.

**69 Person who has received a social security payment or who has held a concession card**

- (1) Subsection (2) applies to a person who is not receiving a social security payment but to whom a social security payment (other than utilities allowance or seniors supplement) has at any time been paid.
- (2) The Secretary may give a person to whom this subsection applies a notice that requires the person to do either or both of the following:
  - (a) inform the Department whether a specified event or change of circumstances has occurred;
  - (b) give the Department a statement about a matter that might have affected the payment to the person of the social security payment.

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- (3) Subsection (4) applies to a person who is not the holder of a concession card but has at any time held such a card.
- (4) The Secretary may give a person to whom this subsection applies a notice that requires the person to do either or both of the following:
  - (a) inform the Department whether a specified event or change of circumstances has occurred;
  - (b) give the Department a statement about a matter that might have affected the person's qualification for the concession card.
- (5) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might have affected the payment of the social security payment or the person's qualification for the concession card, as the case requires.
- (6) A person is not required to comply with a notice under this section if the notice requires the person to give information or a statement about an event or change of circumstances that occurred, or a matter that arose, more than 13 weeks before the giving of the notice.

### **70 Care receiver in respect of whom carer payment being made**

- (1) If a person is being paid a carer payment because he or she is providing constant care (or, if section 197F of the 1991 Act applies to the person, care) for a care receiver (other than one to whom subsection 198(7) of the 1991 Act applies) or care receivers, the Secretary may give a notice to:
  - (a) any care receiver who is 16 or more; or
  - (b) a parent of any care receiver who is under 16;that requires the care receiver or parent, as the case may be, to inform the Department if:
  - (c) a specified event or change of circumstances occurs; or
  - (d) he or she becomes aware that a specified event or change of circumstances is likely to occur.
- (2) The notice may describe the event or change of circumstances specified in the notice as a notifiable event for the purposes of section 198C of the 1991 Act.

## **70A Person who is subject to the income management regime etc.**

### *Scope*

- (1) This section applies to a person if:
  - (a) the person is subject to the income management regime (within the meaning of Part 3B); or
  - (b) the Secretary is satisfied that it is likely that the person will become subject to the income management regime (within the meaning of Part 3B).

### *Requirement*

- (2) The Secretary may give the person a notice that requires the person to do either or both of the following:
  - (a) inform the Department if:
    - (i) a specified event or change of circumstances occurs; or
    - (ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
  - (b) give the Department one or more statements about a matter that might affect the operation, or prospective operation, of Part 3B in relation to the person.
- (3) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might affect the operation, or prospective operation, of Part 3B in relation to the person.

## **72 Provisions relating to notice**

- (1) A notice under this Subdivision:
  - (a) must be given in writing; and
  - (b) may be given personally or by post or in any other manner approved by the Secretary; and
  - (c) must specify how the person is to give the information or statement to the Department; and
  - (d) must specify:
    - (i) in the case of a notice under section 68 that requires the giving of more than one statement, each relating to the payment of the social security payment in respect of a

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- period—the date by which the person is to give each statement to the Department; or
- (ii) in any other case—the period within which the person is to give the information or statement to the Department; and
- (e) must specify that the notice is an information notice given under the social security law.
- (2) A notice under this Subdivision is not invalid merely because it fails to comply with paragraph (1)(c) or (e).
- (2A) A date specified for the purposes of subparagraph (1)(d)(i) must be no earlier than 7 days after:
- (i) the day on which the notice under section 68 is given; or
- (ii) the day on which the period specified in the notice in relation to that first mentioned date begins;
- whichever is the later.
- (3) Subject to subsections (4), (6) and (7), the period specified for the purpose of subparagraph (1)(d)(ii) must:
- (a) in the case of a notice under section 67, 68 or 69 that requires the giving of information about an event or change of circumstances consisting of the receipt by the person of a compensation payment—be the period of 7 days after the day on which the person becomes aware that he or she has received, or is to receive, a compensation payment; or
- (b) in the case of a notice under section 67, 68 or 69 that requires the giving of any other information, or a notice under section 70—be the period of 14 days after:
- (i) the day on which the event or change of circumstances occurs; or
- (ii) the day on which the person becomes aware that the event or change of circumstances is likely to occur; as the case may be; or
- (c) in the case of a notice under section 67 or 68 that requires the giving of a statement that relates to the payment of the social security payment in respect of a period specified in the notice—end not earlier than 7 days after the day on which the notice is given; or
- (d) in the case of a notice under section 67, 68 or 69 that requires the giving of a statement, not being a notice to which

- paragraph (c) applies—end not earlier than 14 days after the day on which the notice is given; or
- (e) in the case of a notice under section 70A that requires the giving of information mentioned in paragraph 70A(2)(a)—be the period of 14 days after:
- (i) the day on which the event or change of circumstances occurs; or
  - (ii) the day on which the person becomes aware that the event or change of circumstances is likely to occur; as the case may be; or
- (f) in the case of a notice under section 70A that requires the giving of a statement mentioned in paragraph 70A(2)(b)—end not earlier than 14 days after the day on which the notice is given.
- (4) If the Secretary is satisfied that there are special circumstances related to a person who is to be given a notice under this Subdivision that requires the giving of information about an event or change of circumstances, the period to be specified for the purpose of subparagraph (1)(d)(ii) is such period as the Secretary directs in writing, being a period that ends not less than 15 days, and not more than 28 days, after:
- (a) in the case of a notice under section 67, 68 or 70A:
    - (i) the day on which the event or change of circumstances occurs; or
    - (ii) the day on which the person becomes aware that the event or change of circumstances is likely to occur; or
  - (b) in the case of a notice under section 69—the day on which the notice is given.
- (6) If a notice under section 67, 68 or 70A specifies an event consisting of the death of a person, the period to be specified under subparagraph (1)(d)(ii) is a period of 28 days after the day on which the event occurs.
- (7) To the extent that a notice under section 67, 68 or 70A requires a person to inform the Department of any proposal by the person to leave Australia, subsection (3) does not apply to the notice.
- (8) For the purposes of any provision of this Act, other than section 74 or a provision of Part 6, a person is taken to have failed to comply with a notice under this Subdivision if, in response to the notice:
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- (a) the person gives information or a statement; and
  - (b) the information or statement is false or misleading; and
  - (c) the person is reckless as to whether the information or statement is false or misleading.
- (9) Nothing in this section prevents the giving of more than one notice under this Subdivision to the same person in relation to:
  - (a) a claim by the person for the same social security payment or concession card; or
  - (b) the receipt by the person of the same social security payment; or
  - (c) the holding by the person of the same concession card.

### **73 Application of provisions**

Sections 66A to 72 extend to:

- (a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
- (b) all persons irrespective of their nationality or citizenship.

### **74 Offence—failure to comply with notice**

- (1) A person must not refuse or fail to comply with a notice under section 67, 68, 69, 70 or 70A.

Penalty: Imprisonment for 6 months.

- (2) Subsection (1) applies only to the extent to which the person is capable of complying with the notice.
- (3) Subsection (1) does not apply if the person has a reasonable excuse.
- (4) Subsection (1) is an offence of strict liability.

### **Subdivision C—Provision of tax file numbers**

### **75 Secretary's power to request tax file numbers**

- (1) This section applies to a person in Australia who:
  - (a) has made a claim for a social security payment; or



- (b) is receiving a social security payment (other than utilities allowance or seniors supplement); or
  - (c) has made a claim for a seniors health card; or
  - (d) is the holder of a seniors health card.
- (2) The Secretary may request, but not compel, a person to whom this section applies:
  - (a) if the person has a tax file number—to give the Secretary a written statement of the person's tax file number; or
  - (b) if the person does not have a tax file number:
    - (i) to apply to the Commissioner of Taxation for a tax file number; and
    - (ii) to give the Secretary a written statement of the person's tax file number after the Commissioner of Taxation has issued it.
- (3) If:
  - (a) this section applies to a person; and
  - (b) the person is a member of a couple; and
  - (c) the person's partner is in Australia;the Secretary may request, but not compel, the person to give the Secretary a written statement of the tax file number of the person's partner.
- (4) If:
  - (a) this section applies to a person (the **recipient**) because the person is receiving a social security payment; and
  - (b) the income of a person (other than the recipient) is required to be taken into account for the purpose of working out the rate of the recipient's social security payment; and
  - (c) the person referred to in paragraph (b) is in Australia;the Secretary may request, but not compel, the recipient to give the Secretary a written statement of the tax file number or numbers of each person who is a person referred to in paragraph (b).

## **76 Effect of failure by person to satisfy request for person's tax file number**

- (1) If the Secretary makes a request under subsection 75(2) of a person who has made a claim for, or is receiving, a social security

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payment, the social security payment is not payable to the person unless, within 28 days after the request is made:

- (a) the person satisfies the request; or
- (b) the person satisfies subsection (2) or (3) of this section; or
- (c) the Secretary exempts the person from the need to satisfy the request.

(1A) If the Secretary makes a request under subsection 75(2) of a person who has made a claim for a seniors health card, the Secretary must not make a determination granting the claim unless, within 28 days after the request is made:

- (a) the person satisfies the request; or
- (b) the person satisfies subsection (2) or (3) of this section; or
- (c) the Secretary exempts the person from the need to satisfy the request.

(1B) If the Secretary makes a request under subsection 75(2) of a person who is the holder of a seniors health card, the Secretary is to determine that the card is to be cancelled unless, within 28 days after the request is made:

- (a) the person satisfies the request; or
- (b) the person satisfies subsection (2) or (3) of this section; or
- (c) the Secretary exempts the person from the need to satisfy the request.

(2) A person satisfies this subsection if:

- (a) the person has given the Secretary a TFN declaration; and
- (b) the declaration states that the person:
  - (i) has a tax file number but does not know what it is; and
  - (ii) has asked the Commissioner of Taxation to inform the person of the person's tax file number; and
- (c) the person has given the Secretary a document that authorises the Commissioner of Taxation to tell the Secretary:
  - (i) whether the person has a tax file number; and
  - (ii) if the person has a tax file number—that number; and
- (d) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

(3) A person satisfies this subsection if:

- (a) the person has given the Secretary a TFN declaration; and

- (b) the declaration states that an application by the person for a tax file number is pending; and
- (c) the person has given the Secretary a document that authorises the Commissioner of Taxation to tell the Secretary:
  - (i) if a tax file number is issued to the person—that number; or
  - (ii) if the application is refused—that the application has been refused; or
  - (iii) if the application is withdrawn—that the application has been withdrawn; and
- (d) the Commissioner has not told the Secretary that the person has not applied for a tax file number, that an application by the person for a tax file number has been refused or that the person has withdrawn an application for a tax file number.

**77 Effect of failure by person to satisfy request for partner's or related person's tax file number**

- (1) If the Secretary makes a request under subsection 75(3) of a person who has made a claim for, or is receiving, a social security payment, the social security payment is not payable to the person unless, within 28 days after the request is made:
  - (a) the person satisfies the request; or
  - (b) the person satisfies subsection (3) or (4) of this section; or
  - (c) the Secretary exempts the person from the need to satisfy the request.
- (1A) If the Secretary makes a request under subsection 75(3) of a person who has made a claim for a seniors health card, the Secretary must not make a determination granting the claim unless, within 28 days after the request is made:
  - (a) the person satisfies the request; or
  - (b) the person satisfies subsection (3) or (4) of this section; or
  - (c) the Secretary exempts the person from the need to satisfy the request.
- (1B) If the Secretary makes a request under subsection 75(3) of a person who is the holder of a seniors health card, the Secretary is to determine that the card is to be cancelled unless, within 28 days after the request is made:
  - (a) the person satisfies the request; or

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- (b) the person satisfies subsection (3) or (4) of this section; or
  - (c) the Secretary exempts the person from the need to satisfy the request.
- (2) If the Secretary makes a request under subsection 75(4) of a person who is receiving a social security payment, the social security payment is not payable to the person unless, within 28 days after the request is made:
  - (a) the person satisfies the request; or
  - (b) the person satisfies subsection (3) or (4) of this section; or
  - (c) the Secretary exempts the person from the need to satisfy the request.
- (3) A person satisfies this subsection if:
  - (a) the person has given the Secretary a declaration by the related person in accordance with a form approved by the Secretary; and
  - (b) the declaration states that the related person:
    - (i) has a tax file number but does not know what it is; and
    - (ii) has asked the Commissioner of Taxation to inform the related person of his or her tax file number; and
  - (c) the person has given the Secretary a document in which the related person authorises the Commissioner of Taxation to tell the Secretary:
    - (i) whether the related person has a tax file number; and
    - (ii) if the related person has a tax file number—that number; and
  - (d) the Commissioner of Taxation has not told the Secretary that the related person has no tax file number.
- (4) A person satisfies this subsection if:
  - (a) the person has given the Secretary a declaration by the related person in accordance with a form approved by the Secretary; and
  - (b) the declaration states that an application by the related person for a tax file number is pending; and
  - (c) the person has given the Secretary a document in which the related person authorises the Commissioner of Taxation to tell the Secretary:

- (i) if a tax file number is issued to the related person—that number; or
    - (ii) if the application is refused—that the application has been refused; or
    - (iii) if the application is withdrawn—that the application has been withdrawn; and
  - (d) the Commissioner of Taxation has not told the Secretary that an application by the related person for a tax file number has been refused or withdrawn.
- (5) The Secretary may exempt a person from compliance with a request for a statement of a related person's tax file number if the Secretary is satisfied that:
- (a) the person does not know the related person's tax file number; and
  - (b) the person can obtain none of the following from the related person:
    - (i) the related person's tax file number;
    - (ii) a statement of the related person's tax file number;
    - (iii) a declaration by the related person under paragraph (3)(a) or (4)(a).
- (6) In this section:
- related person*** means:
- (a) in relation to a person of whom a request has been made under subsection 75(3)—the person's partner; or
  - (b) in relation to a person of whom a request has been made under subsection 75(4)—a person who is a person referred to in paragraph 75(4)(b).

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## **Division 7—Various determinations**

### **Subdivision A—Provisions relating to social security payments**

#### **78A When this Subdivision does not apply**

This Subdivision does not apply in relation to utilities allowance and seniors supplement.

#### **78 Rate increase determination**

If the Secretary is satisfied that the rate at which a social security payment is being, or has been, paid is less than the rate provided for by the social security law, the Secretary must:

- (a) determine that the rate is to be increased to the rate provided for by the social security law; and
- (b) specify the last-mentioned rate in the determination.

#### **79 Rate reduction determination**

- (1) If the Secretary is satisfied that the rate at which a social security payment is being, or has been, paid is more than the rate provided for by the social security law, the Secretary is to:
  - (a) determine that the rate is to be reduced to the rate provided for by the social security law; and
  - (b) specify the last-mentioned rate in the determination.
- (2) Subsection (1) does not authorise the Secretary to make a determination if:
  - (a) the rate at which a social security payment is payable to a person is reduced by the operation of another provision of the social security law; and
  - (b) the determination would take effect at or after the time at which the reduction referred to in paragraph (a) would take effect.

## **80 Cancellation or suspension determination**

- (1) If the Secretary is satisfied that a social security payment is being, or has been, paid to a person:
  - (a) who is not, or was not, qualified for the payment; or
  - (b) to whom the payment is not, or was not, payable;the Secretary is to determine that the payment is to be cancelled or suspended.
- (2) Subsection (1) does not authorise the Secretary to make a determination if:
  - (a) the payment of a social security payment to a person has been cancelled or suspended by the operation of another provision of the social security law; and
  - (b) the determination would take effect at or after the time at which the cancellation or suspension referred to in paragraph (a) would take effect.
- (3) However, subsection (1) authorises the Secretary to make a determination that:
  - (a) cancels a social security payment that has been suspended under subsection 81(3); and
  - (b) takes effect at or after the time the suspension took effect.
- (3A) Subsection (1) does not authorise the Secretary to make a determination that cancels the payment of a parenting payment, youth allowance, austudy payment, newstart allowance or special benefit to a person if:
  - (a) paragraph (1)(a) does not apply to the person; and
  - (b) paragraph (1)(b) applies only because of the application of a compliance penalty period.
- (4) A reference in this section to a social security payment being, or having been, paid includes a reference to:
  - (a) if the social security payment is a youth allowance—the youth allowance being payable but for the operation of section 547AA; or
  - (b) if the social security payment is a newstart allowance—the newstart allowance being payable but for the operation of section 615.

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**81 Cancellation or suspension for non-compliance with certain notices**

(1) If:

- (a) a person who is receiving a social security payment (other than a newstart allowance) has been given:
  - (i) a notice under section 67 or 68 that requires the person to give the Department a statement; or
  - (ii) a notice embodying a requirement under Division 1 of Part 5; and
- (b) the person does not comply with the requirement of the notice;

the Secretary may determine that the payment is to be cancelled or suspended.

(2) If:

- (a) a person and his or her partner (the *partner*) are each receiving a social security payment; and
- (b) the partner has been given:
  - (i) a notice under section 67 or 68 that requires the partner to give the Department a statement; or
  - (ii) a notice embodying a requirement under Division 1 of Part 5; and
- (c) the notice relates to matters that might also affect the payment of the person's social security payment; and
- (d) the partner does not comply with the requirement of the notice;

the Secretary may determine that the person's payment is to be cancelled or suspended.

(3) If:

- (a) a person who is receiving a social security payment has been given a notice under section 67 or 68 that requires the person to inform the Department of a proposal by the person to leave Australia; and
- (b) the person does not comply with the requirement; and
- (c) the person leaves Australia; and
- (d) the person's portability period (see section 1217 of the 1991 Act) for the payment has not ended;



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the Secretary may determine that the payment is to be cancelled or suspended.

Note: Subsection (3) lets the Secretary make one determination suspending the payment and later make another determination cancelling the payment. See subsection 33(1) of the *Acts Interpretation Act 1901*.

**81A Rate reduction determination for non-compliance with notice relating to rent assistance**

- (1) Without limiting section 81, if:
  - (a) an amount of rent assistance is being added to a person's maximum basic rate of social security payment; and
  - (b) the person has been given:
    - (i) a notice under section 67 or 68 that requires the person to give the Department a statement; or
    - (ii) a notice embodying a requirement under Division 1 of Part 5; and
  - (c) any statement, information or document required by the notice relates to:
    - (i) whether the person qualifies for rent assistance; or
    - (ii) the amount of the person's rent assistance; and
  - (d) the person does not comply with the requirement of the notice;

the Secretary may determine that the person's rate of social security payment is to be reduced by not adding the amount of rent assistance to the person's maximum basic rate.
- (2) The determination must also specify the new rate of social security payment.
- (3) Subsection (1) does not authorise the Secretary to make a determination if:
  - (a) another provision of the social security law provides that the rate at which the social security payment is payable to the person is to be reduced by not adding the amount of rent assistance to the person's maximum basic rate; and
  - (b) the determination would take effect at or after the time at which the reduction referred to in paragraph (a) would take effect.

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**82 Cancellation or suspension for failure to take action to obtain foreign payment**

- (1) If:
- (a) a person who is receiving a social security payment has been given a notice under subsection 66(2); and
  - (b) the Secretary is satisfied that the person has not complied with the requirement of the notice;
- the Secretary may determine that the social security payment is to be cancelled or suspended.
- (2) If:
- (a) a person who is receiving a social security payment has been given a notice under subsection 66(3); and
  - (b) the Secretary is satisfied that the person's partner has not complied with the requirement of the notice;
- the Secretary may determine that the social security payment is to be cancelled or suspended.

**83 Changes to payments by computer**

- (1) If:
- (a) payment of a social security payment is based upon data in a computer; and
  - (b) the rate of the payment is increased or reduced, or the payment is cancelled or suspended, because of the operation of a computer program used under the control of the Secretary; and
  - (c) the program causes the change for a reason for which the Secretary could make the change by determination;
- the change is taken to have been made by the Secretary by determination for that reason.
- (2) A determination that is taken, by virtue of subsection (1), to have been made is taken to have been made on the day on which the computer program caused the change to be made.

## **84 Automatic transfer by computer**

(1) If:

- (a) payment of a social security payment to a person is based upon data in a computer; and
- (b) because of the operation of a computer program used under the control of the Secretary, a social security payment of a different kind becomes payable to the person;

the Secretary is taken to have made a determination:

- (c) that the payment referred to in paragraph (b) is to be payable to the person; and
- (d) that the payment referred to in paragraph (a) is to cease to be payable to the person immediately before the day on which the payment referred to in paragraph (b) is to become payable to the person.

(2) A determination that is taken, by virtue of subsection (1), to have been made is taken to have been made on the day on which the payment referred to in paragraph (1)(b) became payable because of the operation of the computer program.

## **85 Resumption of payment after cancellation or suspension**

(1) If:

- (a) a person's social security payment is:
  - (i) cancelled by force of section 93 or 94; or
  - (ii) cancelled or suspended under section 80, 81 or 82; or
  - (iii) cancelled under Part 3C (schooling requirements); and

Note: For reconsideration of the suspension of a schooling requirement payment, see sections 124J, 124N and 124NG.

- (b) the Secretary reconsiders the decision; and
- (c) as a result of the reconsideration, the Secretary is satisfied that, because of the decision:
  - (i) the person did not receive a social security payment that was payable to the person; or
  - (ii) the person is not receiving a social security payment that is payable to the person;

the Secretary is to determine that the social security payment was or is payable to the person, as the case requires.

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- (2) The reconsideration referred to in paragraph (1)(b) may be a reconsideration on an application under section 129 or a reconsideration on the Secretary's own initiative.

**85A Rate increase determination following rate reduction for non-compliance with notice relating to rent assistance**

- (1) If:
- (a) the Secretary reduces a person's rate of social security payment under section 81A by not adding an amount of rent assistance to the person's maximum basic rate; and
  - (b) the Secretary reconsiders the decision; and
  - (c) as a result of the reconsideration, the Secretary is satisfied that, because of the decision, the rate at which social security payment is being, or has been, paid is less than the rate provided for by the social security law;
- the Secretary must determine that the rate is to be increased to the rate provided for by the social security law.
- (2) The determination must also specify the new rate of social security payment.
- (3) The reconsideration referred to in paragraph (1)(b) may be a reconsideration on an application under section 129 or a reconsideration on the Secretary's own initiative.

**Subdivision B—Provisions relating to concession cards**

**86 Cancellation—person not qualified**

- (1) If the Secretary is satisfied that a person to whom a concession card has been granted is not qualified for the card, the Secretary is to determine that the card is to be cancelled.

**Note:** The Secretary must cancel a seniors health card in certain circumstances if the Secretary makes a request under subsection 75(2) or (3) of the holder (about providing tax file numbers): see subsections 76(1B) and 77(1B).

- (2) Subsection (1) does not authorise the Secretary to make a determination if:
- (a) the card has been cancelled by the operation of another provision of the social security law; and

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- (b) the determination would take effect at or after the time at which the cancellation referred to in paragraph (a) would take effect.

**87 Cancellation—non-compliance with certain notices**

If:

- (a) a person who is the holder of a concession card has been given:
  - (i) a notice under section 68 that requires the person to give the Department a statement; or
  - (ii) a notice embodying a requirement under Division 1 of Part 5; and
- (b) the person does not comply with the requirement of the notice;

the Secretary may determine that the person is to cease to be qualified for the card.

**88 Changes to qualification by computer**

If:

- (a) a person is qualified for a concession card; and
- (b) the person ceases to be qualified for the card because of the operation of a computer program used under the control of the Secretary; and
- (c) the program causes the change for a reason for which the Secretary could make the change by determination under section 87;

the change is taken to have been made by the Secretary by a determination under section 87 made for that reason.

**89 Resumption of qualification**

(1) If:

- (a) the Secretary makes a determination under section 87 that a person is to cease to be qualified for a concession card; and
- (b) the Secretary reconsiders the decision; and
- (c) as a result of the reconsideration, the Secretary is satisfied that, because of the decision, the person was deprived of the concession card when he or she was qualified for the card;

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the Secretary is to determine that the person is qualified for the card.

- (2) The reconsideration referred to in paragraph (1)(b) may be a reconsideration on an application under section 129 or a reconsideration without any such application having been made.

## **Division 8—Automatic cancellations and variations**

### **Subdivision A—Social security payments**

#### **90A When this Subdivision does not apply**

This Subdivision does not apply in relation to utilities allowance and seniors supplement.

#### **90 Automatic cancellation—transfer to new payment type**

- (1) If:
- (a) a person is receiving a social security pension or benefit (the *old payment*); and
  - (b) either:
    - (i) a different kind of social security pension or benefit (the *new pension or benefit*) becomes payable to the person; or
    - (ii) a service pension or income support supplement becomes payable to the person;
- the old payment is cancelled, by force of this section, immediately before the day on which the new pension or benefit or the service pension, as the case may be, becomes payable to the person.

- (2) In this section:

*social security benefit* does not include parenting payment.

#### **91 Automatic cancellation of parenting payment on transfer to new payment type—member of couple**

- (1) If:
- (a) a person who is a member of a couple is receiving parenting payment; and
  - (b) a social security benefit (other than benefit (PP) partnered) becomes payable to the person;
- parenting payment is cancelled, by force of this section, immediately before the day that is the person's start day in relation to the benefit referred to in paragraph (b).

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(2) If:

- (a) a person who is a member of a couple is receiving parenting payment; and
- (b) as a result of a social security pension, service pension or income support supplement becoming payable to the person, the rate at which parenting payment is payable to the person becomes nil;

parenting payment is cancelled by force of this section immediately before the day on which the social security pension, the service pension or the income support supplement, as the case may be, becomes payable to the person.

**93 Automatic cancellation—recipient complying with subsection 68(2) notice**

(1) Subject to subsection (2), if:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstances occurs; and
- (d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change of circumstances:
  - (i) the person ceases to be qualified for the social security payment; or
  - (ii) the payment would, but for this section, cease to be payable to the person; and
- (f) the social security payment is not cancelled before the end of the instalment period for the person that is current when the event or change of circumstances occurs;

the following paragraphs have effect:

- (g) if the social security payment is cancelled during the instalment period (the *first period*) following the instalment period in which the event or change of circumstances occurs, the payment is payable to the person until the end of the



instalment period in which the event or change occurs, and is then cancelled by force of this subsection;

- (h) if the payment is not cancelled during the first period, the payment is payable to the person until the end of the notification period, and is then cancelled by force of this subsection.

(2) If:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the **notification period**); and
- (c) the event or change of circumstances occurs; and
- (d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the event or change of circumstances, the person's working credit balance or student income bank balance is reduced to nil in an instalment period (the **nil instalment period**) of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs (the **event instalment period**); and
- (f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the social security payment would, but for this subsection, cease to be payable to the person; and
- (g) the social security payment is not cancelled before the end of the nil instalment period;

the social security payment continues to be payable to the person until a day determined in accordance with subsection (3) and is then cancelled by force of this subsection.

- (3) For the purposes of subsection (2), the day until which the social security payment continues to be payable to the person is:
  - (a) if the cancellation is attributable to the reduction of the balance referred to in paragraph (2)(e) to nil and the payment is so cancelled during the instalment period (the **next instalment period**) following the nil instalment period—the later of:

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- (i) the day before the day on which the balance was reduced to nil; or
  - (ii) the end of the event instalment period; and
- (b) if the cancellation is attributable to the balance having already been reduced to nil and the payment is so cancelled during the next instalment period—the later of:
  - (i) the day before the first day on which the opening balance was nil; or
  - (ii) the end of the event instalment period; and
- (c) if the cancellation is attributable to the reduction of the balance to nil but the payment is not so cancelled during the next instalment period—the later of:
  - (i) the day before the day on which the balance was reduced to nil; or
  - (ii) the end of the notification period; and
- (d) if the cancellation is attributable to the balance having already been reduced to nil but the payment is not so cancelled during the next instalment period—the later of:
  - (i) the day before the first day on which the opening balance was nil; or
  - (ii) the end of the notification period.

**94 Automatic cancellation—recipient not complying with subsection 68(2) notice**

- (1) Subject to subsection (2), if:
  - (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
  - (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
  - (c) the event or change of circumstances occurs; and
  - (d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
  - (e) because of the occurrence of the event or change of circumstances:
    - (i) the person ceases to be qualified for the social security payment; or

(ii) the social security payment ceases to be payable to the person;  
the social security payment is cancelled, by force of this subsection, on the day on which the event or change of circumstances occurs.

(2) If:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstance occurs; and
- (d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the event or change of circumstances, the person's working credit balance or student income bank balance is reduced to nil in an instalment period of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs; and
- (f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the social security payment ceases to be payable to the person;

the social security payment is cancelled, by force of this subsection, on:

- (g) if the cancellation is attributable to the reduction of the balance to nil—the day on which the balance was so reduced; and
- (h) if the cancellation is attributable to the balance having already been reduced to nil—the first day on which the opening balance was nil.

## **95 Automatic cancellation—failure to provide statement under subsection 68(2)**

(1) If:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2) requiring the person to give the Department a statement or a number of statements; and

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- (b) the notice relates to the payment of the social security payment in respect of a period or a number of periods specified in the notice; and
  - (c) the person does not comply with the notice so far as it relates to a particular period;
- then, subject to subsection (2), the social security payment is cancelled, by force of this section, on the first day in that period.
- (2) If the Secretary is satisfied that, in the special circumstances of the case, it is appropriate to do so, the Secretary may determine in writing that subsection (1) does not apply to the person on and from a day specified in the determination.
- (3) The day specified under subsection (2) may be before or after the making of the determination.

**95A Automatic cancellation of carer payment for non-compliance with section 70 notice**

If:

- (a) a care receiver or parent of a care receiver is given a notice under section 70; and
  - (b) the notice requires the care receiver or parent to inform the Department of the occurrence of an event or change of circumstances within a specified period (the ***notification period***); and
  - (c) the event or change of circumstances occurs; and
  - (d) the care receiver or parent does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
  - (e) because of the occurrence of the event or change of circumstances:
    - (i) the person receiving the carer payment ceases to be qualified for the payment; or
    - (ii) the carer payment ceases to be payable to the person;
- the carer payment is cancelled, by force of this section, on the day on which the event or change of circumstances occurs.

**95B Automatic suspension or cancellation—carer allowance**

If:

- (a) a person is receiving a carer allowance because the person is qualified for that allowance under section 954B of the 1991 Act (receiving carer payment); and
  - (b) the person's carer payment is suspended or cancelled;
- the carer allowance is by force of this section, suspended or cancelled, as the case may be, on the same day that the person's carer payment is suspended or cancelled.

**96 Disability support pension—suspension instead of cancellation under section 93**

(1) If:

- (a) a person ceases to be qualified for disability support pension because the person obtains paid work that is for at least 30 hours per week; and
- (b) the person has, within the notification period referred to in section 93, informed the Secretary that the person has obtained that work;

the Secretary may determine:

- (c) that section 93 does not apply to the person's disability support pension; and
- (d) that the person's disability support pension is to be suspended.

(2) Subsection (1) does not apply to a person if:

- (a) the Secretary gives written notice to the person that the person is no longer qualified for disability support pension; and
- (b) the Secretary's notice is given before the person informs the Secretary that the person has obtained work.

(3) If:

- (a) disability support pension ceases to be payable to a person because the rate of the pension is nil as a result of the income, or increased income, earned by the person from his or her employment; and

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- (b) the person has informed the Secretary about the income or increased income within the notification period referred to in section 93;

the Secretary may determine:

- (c) that section 93 does not apply to the person's disability support pension; and
- (d) that the person's disability support pension is to be suspended.

(3A) If:

- (a) the Secretary makes a determination under subsection (1) or (3) suspending a person's disability support pension; and
- (b) within 2 years from the date of effect of the determination, the Secretary reconsiders the decision to suspend; and
- (c) as a result of the reconsideration, the Secretary is satisfied that the person is not receiving disability support pension that is payable to the person;

the Secretary is to determine that the disability support pension is payable to the person.

(3B) The reconsideration referred to in paragraph (3A)(b) may be a reconsideration on an application under section 129 or a reconsideration on the Secretary's own initiative.

(4) If:

- (a) the Secretary suspends a person's disability support pension under subsection (1) or (3); and
- (b) the determination suspending the disability support pension continues in effect throughout the period of 2 years from the date of effect of the determination;

then, at the end of that period of 2 years, the determination granting the person disability support pension is, by force of this section, revoked.

(5) If:

- (a) the Secretary suspends a person's disability support pension under subsection (1) or (3); and
- (b) the person has a partner who is receiving:
  - (i) age pension; or
  - (ii) disability support pension; or
  - (iii) service pension or income support supplement;

then, for the period of the suspension, the partner is taken to be partnered (partner getting neither pension nor benefit).

(6) If:

- (a) the Secretary suspends a person's disability support pension under subsection (1) or (3); and
- (b) the person has a partner who was, immediately before the suspension, receiving wife pension or carer payment;

the Secretary must determine that the partner's wife pension or carer payment, as the case may be, is not to be cancelled but is to be suspended.

### **97 Disability support pension—suspension taken to have been under section 96**

(1) If:

- (a) a person ceases to be qualified for disability support pension because the person obtains paid work that is for at least 30 hours per week; and
- (b) disability support pension ceases to be payable to the person under section 93; and
- (c) within the period of 2 years after the pension ceases to be payable, the person ceases to do work of the kind referred to in paragraph (a);

the Secretary may determine that the person is to be treated as if:

- (d) section 93 had not applied to the person's disability support pension; and
- (e) the disability support pension had been suspended under section 96.

(2) If:

- (a) the Secretary makes a determination under subsection (1) in respect of a person; and
- (b) the person's partner had ceased to be qualified for wife pension or carer payment when the person ceased to be qualified for disability support pension because the person obtained paid work;

the Secretary may determine that the partner is to be treated as if the partner's wife pension or carer payment, as the case may be, had not been cancelled but had been suspended under section 96.

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(3) If:

- (a) disability support pension ceased to be payable to a person under section 93 because the rate of the pension was nil as a result of the income, or increased income, earned by the person from his or her employment; and
- (b) within the period of 2 years after the pension ceased to be payable, the income earned by the person from his or her employment is reduced to a rate that would not preclude the person from receiving disability support pension;

the Secretary may determine that the person is to be treated as if:

- (c) section 93 had not applied to the person's disability support pension; and
- (d) the disability support pension had been suspended under section 96.

(4) If:

- (a) the Secretary makes a determination under subsection (3) in respect of a person; and
- (b) the person's partner had ceased to be qualified for wife pension or carer payment when disability support pension ceased to be payable to the person for the reason mentioned in paragraph (3)(a);

the Secretary may determine that the partner is to be treated as if the partner's wife pension or carer payment, as the case may be, had not been cancelled but had been suspended under section 96.

**97A Disability support pension—suspension instead of cancellation under section 94 (person obtains work)**

(1) If:

- (a) a person was receiving disability support pension as a result of a claim made before 1 July 2006; and
- (b) the person ceased to be qualified for disability support pension because he or she obtained paid work that was for at least 30 hours per week; and
- (c) the person subsequently informs the Secretary that he or she has obtained that work; and
- (d) the person's disability support pension was cancelled under section 94 because of that work; and



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- (e) within the period of 2 years and 14 days after the person ceased to be qualified for the disability support pension, the person ceases to do work of the kind referred to in paragraph (b);

the Secretary may determine that:

- (f) the person is to be treated as if section 94 had not applied to the person's disability support pension; and
- (g) the person's disability support pension is suspended from the day on which the person ceased to be qualified for the pension.

However, this subsection ceases to apply to a transitional DSP applicant from the date of effect of the first decision about the person's capacity to perform work made on or after 1 July 2006 following a review of the person's capacity to perform work.

(2) If:

- (a) subsection (1) does not apply, or has ceased to apply, to a person; and
- (b) the person ceased to be qualified for disability support pension because he or she obtained paid work that is for at least 30 hours per week; and
- (c) the person subsequently informs the Secretary that he or she has obtained that work; and
- (d) the person's disability support pension was cancelled under section 94 because of that work; and
- (e) within the period of 2 years and 14 days after the person ceased to be qualified for the disability support pension, the person ceases to do work of the kind referred to in paragraph (b);

the Secretary may determine that:

- (f) the person is to be treated as if section 94 had not applied to the person's disability support pension; and
- (g) the person's disability support pension is suspended from the day on which the person ceased to be qualified for the pension.

(3) Neither subsection (1) nor (2) applies to a person if:

- (a) the Secretary gives written notice to the person that the person is no longer qualified for disability support pension; and

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(b) the Secretary's notice is given before the person informs the Secretary that the person has obtained work.

(4) If:

- (a) the Secretary makes a determination under subsection (1) or (2) suspending a person's disability support pension; and
- (b) the determination continues in force throughout the period (or the balance of the period) of 2 years and 14 days after its date of effect;

then, at the end of that period (or the balance of that period), the determination granting the person disability support pension is, by force of this subsection, revoked.

(5) If:

- (a) the Secretary makes a determination under subsection (1) or (2) suspending a person's disability support pension; and
- (b) the person's partner had ceased to be qualified for wife pension or carer payment when the person ceased to be qualified for disability support pension for the reason mentioned in paragraph (1)(b) or (2)(b);

the Secretary may determine that the partner is to be treated as if the partner's wife pension or carer payment, as the case may be, had not been cancelled but had been suspended for the period of the suspension of the person's disability support pension.

(6) If:

- (a) the Secretary makes a determination under subsection (1) or (2) suspending a person's disability support pension; and
- (b) within 2 years and 14 days from the date of effect of the determination, the Secretary reconsiders the decision to suspend; and
- (c) as a result of the reconsideration, the Secretary is satisfied that the person is not receiving disability support pension that is payable to the person;

the Secretary is to determine that the disability support pension is payable to the person.

(7) The reconsideration referred to in paragraph (6)(b) may be a reconsideration on an application under section 129 or a reconsideration on the Secretary's own initiative.

**97B Disability support pension—suspension instead of cancellation  
under section 94 (person’s income)**

- (1) If:
- (a) disability support pension ceased to be payable to a person because the rate of the pension was nil as a result of the income, or increased income, earned by the person from his or her employment; and
  - (b) the person subsequently informs the Secretary of that income or increased income; and
  - (c) the person’s disability support pension was cancelled under section 94 because the pension ceased to be payable to the person for the reason mentioned in paragraph (a); and
  - (d) within the period of 2 years and 14 days after the pension ceased to be payable, the income the person earned from his or her employment is reduced to a rate that would not preclude the person from receiving disability support pension;

the Secretary may determine that:

- (e) the person is to be treated as if section 94 had not applied to the person’s disability support pension; and
  - (f) the person’s disability support pension is suspended from the day on which the pension ceased to be payable to the person.
- (2) Subsection (1) does not apply to a person if:
- (a) the Secretary gives written notice to the person that the person is no longer qualified for disability support pension; and
  - (b) the Secretary’s notice is given before the person informs the Secretary of the person’s income or increased income.
- (3) If:
- (a) the Secretary makes a determination under subsection (1) suspending a person’s disability support pension; and
  - (b) the determination continues in force throughout the period (or the balance of the period) of 2 years and 14 days after its date of effect;

then, at the end of that period (or the balance of that period), the determination granting the person disability support pension is, by force of this subsection, revoked.

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(4) If:

- (a) the Secretary makes a determination under subsection (1) suspending a person's disability support pension; and
- (b) the person's partner had ceased to be qualified for wife pension or carer payment when disability support pension ceased to be payable to the person for the reason mentioned in paragraph (1)(a);

the Secretary may determine that the partner is to be treated as if the partner's wife pension or carer payment, as the case may be, had not been cancelled but had been suspended for the period of the suspension of the person's disability support pension.

(5) If:

- (a) the Secretary makes a determination under subsection (1) suspending a person's disability support pension; and
- (b) within 2 years and 14 days from the date of effect of the determination, the Secretary reconsiders the decision to suspend; and
- (c) as a result of the reconsideration, the Secretary is satisfied that the person is not receiving disability support pension that is payable to the person;

the Secretary is to determine that the disability support pension is payable to the person.

(6) The reconsideration referred to in paragraph (5)(b) may be a reconsideration on an application under section 129 or a reconsideration on the Secretary's own initiative.

**98 Automatic rate reduction—partner starting to receive pension or benefit**

(1) Subject to subsection (2), if:

- (a) a person is receiving a social security payment; and
- (b) the person's partner starts to receive:
  - (i) a social security pension or benefit; or
  - (ii) a service pension or income support supplement; and
- (c) the person's social security payment rate is reduced because of the partner's receipt of the pension, benefit or supplement;

the social security payment becomes payable to the person at the reduced rate on the day on which the partner starts to receive the pension or benefit.

(2) If:

- (a) a person is receiving a social security payment; and
- (b) the person's partner starts to receive:
  - (i) a social security pension or benefit; or
  - (ii) a service pension; and
- (c) because the partner starts to receive that pension or benefit, the person's working credit balance or student income bank balance is reduced to nil; and
- (d) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the person's social security payment rate is to be reduced;

the social security payment becomes payable to the person at the reduced rate on:

- (e) if the rate reduction is attributable to the reduction of the balance to nil—the day on which the balance was so reduced; and
- (f) if the rate reduction is attributable to the balance having already been reduced to nil—the first day on which the opening balance was nil.

## **99 Automatic rate reduction—recipient complying with subsection 68(2) notice**

(1) Subject to subsection (2), if:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstances occurs; and
- (d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change of circumstances, the rate of the social security payment is to be reduced; and

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- (f) the person's rate of payment is not reduced before the end of the instalment period for the person that is current when the event or change of circumstances occurs;

the following paragraphs have effect:

- (g) if the person's rate of payment is reduced during the instalment period (the **first period**) following the instalment period in which the event or change of circumstances occurs, the payment becomes payable to the person at the reduced rate immediately after the end of the instalment period in which the event or change occurs;
  - (h) if the person's rate of payment is not reduced during the first period, the payment becomes payable to the person at the reduced rate immediately after the end of the notification period.
- (2) If:
- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
  - (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the **notification period**); and
  - (c) the event or change of circumstances occurs; and
  - (d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
  - (e) because of the event or change of circumstances, the person's working credit balance or student income bank balance is reduced to nil in an instalment period (the **nil instalment period**) of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs (the **event instalment period**); and
  - (f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the rate of the person's social security payment is to be reduced; and
  - (g) the person's rate of payment is not reduced before the end of the nil instalment period;
- the social security payment becomes payable to the person at the reduced rate from the day immediately after the day determined in accordance with subsection (3).

- (3) For the purposes of subsection (2), the day immediately after which the social security payment becomes payable to the person at the reduced rate is:
- (a) if the rate reduction is attributable to the reduction of the balance referred to in paragraph (2)(e) to nil and the rate is so reduced during the instalment period (the ***next instalment period***) following the nil instalment period—the later of:
    - (i) the day before the day on which the balance was reduced to nil; or
    - (ii) the end of the event instalment period; and
  - (b) if the rate reduction is attributable to the balance having already been reduced to nil and the rate is so reduced during the next instalment period—the later of:
    - (i) the day before the first day on which the opening balance was nil; or
    - (ii) the end of the event instalment period; and
  - (c) if the rate reduction is attributable to the reduction of the balance to nil but the rate is not so reduced during the next instalment period—the later of:
    - (i) the day before the day on which the balance was reduced to nil; or
    - (ii) the end of the notification period; and
  - (d) if the rate reduction is attributable to the balance having already been reduced to nil but the rate is not so reduced during the next instalment period—the later of:
    - (i) the day before the first day on which the opening balance is nil; or
    - (ii) the end of the notification period.

#### **100 Automatic rate reduction—recipient not complying with subsection 68(2) notice**

- (1) Subject to subsection (2), if:
- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
  - (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the ***notification period***); and
  - (c) the event or change of circumstances occurs; and

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- (d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change of circumstances, the rate of the social security payment is to be reduced;

the social security payment becomes payable to the person at the reduced rate on the day on which the event or change of circumstances occurs.

(2) If:

- (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstances occurs; and
- (d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the event or change of circumstances, the person's working credit balance or student income bank balance is reduced to nil in an instalment period of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs; and
- (f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the rate of the person's social security payment is to be reduced;

the social security payment becomes payable to the person at the reduced rate on:

- (g) if the rate reduction is attributable to the reduction of the balance to nil—the day on which the balance was so reduced; and
- (h) if the rate reduction is attributable to the balance having already been reduced to nil—the first day on which the opening balance was nil.



**101 Automatic rate reduction—receipt of pension by person receiving parenting payment**

If:

- (a) a person who is a member of a couple is receiving parenting payment; and
- (b) as a result of a social security pension, a service pension or income support supplement becoming payable to the person, the rate at which parenting payment is payable to the person is reduced;

parenting payment becomes payable to the person at the reduced rate on the day on which the social security pension, the service pension or the income support supplement, as the case may be, becomes payable to the person.

**103 Changes to payments by computer following automatic cancellation or reduction**

(1) If:

- (a) a person is receiving a social security payment on the basis of data in a computer; and
- (b) the payment is cancelled, or the payment rate is reduced, by the operation of a provision of the social security law; and
- (c) the cancellation or reduction is given effect by the operation of a computer program used under the control of the Secretary stopping payment or reducing the rate of payment;

the Secretary is taken to have made a determination that the provision referred to in paragraph (b) applies to the person's social security payment.

- (2) A determination that is taken, by virtue of subsection (1), to have been made is taken to have been made on the day on which the cancellation or reduction took effect.

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**Subdivision B—Concession cards**

**104 Automatic cancellation—holder complying with subsection 68(4) notice**

If:

- (a) a person who is the holder of a concession card is given a notice under subsection 68(4); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstances occurs; and
- (d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change of circumstances, the person would, but for this section, cease to be qualified for the card; and
- (f) the person does not cease to hold the card before the end of the notification period;

the person continues to be qualified for the card until the end of the notification period, and then ceases to be so qualified.

**105 Automatic cancellation—holder not complying with subsection 68(4) notice**

If:

- (a) a person who is the holder of a concession card is given a notice under subsection 68(4); and
- (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the *notification period*); and
- (c) the event or change of circumstances occurs; and
- (d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
- (e) because of the occurrence of the event or change of circumstances, the person ceases to be qualified for the card;

the person ceases to be qualified for the card on the day on which the event or change of circumstances occurs.

## **106 Changes by computer following automatic cancellation**

- (1) If:
  - (a) a person is qualified for a concession card on the basis of data in a computer; and
  - (b) the person ceases, by virtue of section 104 or 105, to be qualified for the card; and
  - (c) the cessation is given effect by the operation of a computer program under the control of the Secretary causing the person to be notified of the cessation;the Secretary is taken to have made a determination that the provision referred to in paragraph (b) applies to the person's concession card.
- (2) A determination that is taken, by virtue of subsection (1), to have been made is taken to have been made on the day on which the cessation took effect.

### **106A Automatic cancellation on cessation of qualification**

If a person who is the holder of a concession card ceases, otherwise than by virtue of section 104 or 105, to be qualified for the card, the card is cancelled by force of this section on the day on which the person ceases to be so qualified.

### **Subdivision C—Additional provision for certain pensioner concession cards and automatic issue health care cards**

#### **106B Automatic cancellation**

- (1) Subject to subsection (3), if:
  - (a) a section 1061ZA pensioner concession card or a listed automatic issue health care card has been granted to a person; and
  - (b) in order to be qualified for the card, the person must be receiving, or be qualified for, a particular social security pension or benefit; and
  - (c) the pension or benefit is cancelled;

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the section 1061ZA pensioner concession card or listed automatic issue health care card, as the case may be, is, by force of this section, cancelled.

(2) If:

- (a) a health care card has been granted to a person; and
- (b) the person was qualified for the card under subsection 1061ZK(4) of the 1991 Act; and
- (c) the person ceases to be qualified under that subsection; the health care card is, by force of this section, cancelled.

(3) Subsection (1) does not have effect in a case in which the Secretary determines in writing that he or she is satisfied that the person concerned is likely to be granted a social security pension or benefit before it is reasonably practicable to take steps to give effect to the cancellation of the card.

(4) In this section:

***listed automatic issue health care card*** means an automatic issue health care card that is granted:

- (a) to a person who receives one of the following social security payments:
  - (i) widow allowance;
  - (ii) newstart allowance;
  - (iii) sickness allowance;
  - (iv) special benefit;
  - (v) partner allowance;
  - (vi) benefit PP (partnered); or
- (b) to a person who is receiving a youth allowance and who, at the time when a determination was made to grant the person the youth allowance:
  - (i) was not undertaking full-time study; and
  - (ii) was not a new apprentice; or
- (c) to a person who is receiving exceptional circumstances relief payment or farm help income support under the *Farm Household Support Act 1992*.

***section 1061ZA pensioner concession card*** means a pensioner concession card granted to a person who is qualified for the card under section 1061ZA of the 1991 Act.

## **Division 9—Date of effect of determinations**

### **Subdivision A—Determinations relating to claims**

#### **107 General rule**

- (1) Subject to subsections (2), (3), (4) and (5), a determination under section 37 takes effect on the day on which the determination is made or on such earlier or later day as is specified in the determination.
- (2) If:
  - (a) a decision (the ***original decision***) is made rejecting a person's claim for a social security payment or a concession card; and
  - (b) the person is given a notice informing him or her of the original decision; and
  - (c) within 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
  - (d) a decision that the claim be granted is made as a result of the application for review;the determination embodying the last-mentioned decision takes effect on the day on which the determination embodying the original decision took effect.
- (3) If:
  - (a) a decision (the ***original decision***) is made rejecting a person's claim for a social security payment or concession card; and
  - (b) the person is given a notice informing him or her of the original decision; and
  - (c) more than 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
  - (d) a decision that the claim be granted is made as a result of the application for review;the determination embodying the last-mentioned decision takes effect on the day on which the application for review was made.

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(4) If:

- (a) a decision (the *original decision*) is made rejecting a person's claim for a social security payment or concession card; and
- (b) no notice is given to the person informing the person of the original decision; and
- (c) the person applies to the Secretary, under section 129, for review of the original decision; and
- (d) a decision that the claim be granted is made as a result of the application for review;

the determination embodying the last-mentioned decision takes effect on the day on which the determination embodying the original decision took effect.

(5) If:

- (a) a decision (the *original decision*) is made rejecting a person's claim for a social security payment or concession card; and
- (b) the person is given a notice informing him or her of the original decision; and
- (c) the Secretary reviews the decision under section 126 without any application under section 129 for review of the decision having been made; and
- (d) a decision that the claim be granted is made as a result of the review;

the determination embodying the last-mentioned decision takes effect on the day on which the determination embodying the original decision took effect.

### **Subdivision B—Determinations under section 78, 81A, 85 or 85A**

#### **108 Definition**

In this Subdivision:

*favourable determination* means a determination under section 78, 85 or 85A.

## **109 Date of effect of favourable determination resulting from review**

(1) If:

- (a) a decision (the ***original decision***) is made in relation to a person's social security payment; and
- (b) a notice is given to the person informing the person of the original decision; and
- (c) within 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
- (d) the favourable determination is made as a result of the application for review;

the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

(2) If:

- (a) a decision (the ***original decision***) is made in relation to a person's social security payment; and
- (b) a notice is given to the person informing the person of the original decision; and
- (c) more than 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
- (d) the favourable determination is made as a result of the application for review;

the favourable determination takes effect on the day on which the application for review was made.

(3) If:

- (a) a decision (the ***original decision***) is made in relation to a person's social security payment; and
- (b) the person is not given notice of the original decision; and
- (c) the person applies to the Secretary, under section 129, for review of the original decision; and
- (d) the favourable determination is made as a result of the application for review;

the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

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(4) If:

- (a) a decision (the ***original decision***) is made in relation to a person's social security payment; and
- (b) the person is given a notice informing him or her of the original decision; and
- (c) the Secretary reviews the decision under section 126 without any application under section 129 for review of the decision having been made; and
- (d) as a result of the review, the favourable determination is made within 13 weeks after notice of the original decision was given to the person;

the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

(5) If:

- (a) a decision (the ***original decision***) is made in relation to a person's social security payment; and
- (b) the person is given a notice informing him or her of the original decision; and
- (c) the Secretary reviews the decision under section 126 without any application under section 129 for review of the decision having been made; and
- (d) as a result of the review, the favourable determination is made more than 13 weeks after notice of the original decision was given to the person;

the favourable determination takes effect on the day on which the review was begun by the Secretary.

(6) This section does not apply to determinations to which section 110A applies.

(7) For the purposes of this section, if:

- (a) the Secretary makes a decision constituted by a determination made under section 78 to increase the rate at which a social security payment is being, or has been, paid; and
- (b) the determination is made because an amount has been indexed or adjusted by the operation of Part 3.16 of the 1991 Act;



then:

- (c) each person whose rate of social security payment is, or was, affected by the determination is taken to have been given notice of the determination and of the increased rate; and
- (d) the notice is taken to have been given on the day on which the amount was so indexed or adjusted.

### **110 Date of effect of favourable determination**

- (1) Subject to subsections (1A) to (11) (inclusive), if a favourable determination is made following a person having informed the Department of the occurrence of an event or change of circumstances, the determination takes effect:
  - (a) on the day on which the person so informed the Department;  
or
  - (b) on the day on which the event or change occurred;  
whichever is the later.
- (1A) If a favourable determination is made in relation to a person who has not reached pension age:
  - (a) following the person's having informed the Department of the occurrence of an event or change of circumstances; and
  - (b) because, in an instalment period of the person:
    - (i) there is a decrease in the amount of employment income that is earned, derived or received, or that is taken to have been earned, derived or received, by the person; or
    - (ii) the person has ceased to earn, derive or receive, or to be taken to earn, derive or receive, employment income;

the determination takes effect on the first day of the instalment period, or on the first day of the instalment period in which the person so informs the Department, whichever is the later.
- (2) Subject to subsection (2A), if a favourable determination is made following a person having given the Department a statement about a matter in accordance with a notice under section 67 or 68, the determination takes effect on the day on which the matter arose.
- (2A) If a favourable determination is made in relation to a person who has not reached pension age:
  - (a) following the person's having given the Department a statement about a matter in accordance with a notice under

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section 68 that relates to the payment of the social security payment in respect of an instalment period specified in the notice; and

(b) because, in the instalment period:

- (i) there is a decrease in the amount of employment income that is earned, derived or received, or that is taken to have been earned, derived or received, by the person; or
- (ii) the person has ceased to earn, derive or receive, or to be taken to earn, derive or receive, employment income;

the determination takes effect on the first day of the instalment period.

(3) Subject to subsection (3A), if:

- (a) a person and his or her partner (the *partner*) are each receiving a social security payment; and
- (b) the partner has been given a notice under section 68 that requires the partner to give the Department a statement; and
- (c) the notice relates to the payment of the partner's social security payment in respect of a period specified in the notice; and
- (d) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the specified period; and
- (e) following the giving of the statement, a favourable determination is made in relation to the person's social security payment;

the determination takes effect on the day on which the matter arose.

(3A) If:

- (a) a person and his or her partner (the *partner*) are each receiving a social security payment; and
- (b) the partner has not reached pension age; and
- (c) the partner has been given a notice under section 68 that requires the partner to give the Department a statement; and
- (d) the notice relates to the payment of the partner's social security payment in respect of an instalment period specified in the notice; and

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- (e) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the instalment period; and
  - (f) following the giving of the statement, a favourable determination is made in relation to the person's social security payment; and
  - (g) the determination is made because, in the instalment period:
    - (i) there is a decrease in the amount of employment income that is earned, derived or received, or that is taken to have been earned, derived or received, by the partner; or
    - (ii) the partner has ceased to earn, derive or receive, or to be taken to earn, derive or receive, employment income;the determination takes effect on the first day of the instalment period.
- (4) If:
- (a) a favourable determination is made following the death of a person's partner (the *partner*); and
  - (b) the favourable determination is made because the person elects not to receive bereavement payments; and
  - (c) within the bereavement period:
    - (i) the person notifies the Department, orally or in writing or in a manner approved by the Secretary, of the partner's death; or
    - (ii) the Secretary otherwise becomes aware of the death;the determination takes effect on the day on which the partner died.
- (5) If:
- (a) a favourable determination is made following the death of a person's partner (the *partner*); and
  - (b) immediately before the partner died, the partner:
    - (i) was not receiving a social security pension, a service pension or income support supplement; and
    - (ii) was not a long-term social security recipient; and
  - (c) within the period of 4 weeks starting on the day after the day on which the partner dies:
    - (i) the person notifies the Department, orally or in writing or in a manner approved by the Secretary, of the partner's death; or
    - (ii) the Secretary otherwise becomes aware of the death;
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the determination takes effect on the day on which the partner died.

(9) If:

- (a) the favourable determination is made as a result of the Secretary forming the opinion, for the purposes of subsection 5(12) of the 1991 Act, that a young person will not, or would not, if an application were duly made, receive payments under a prescribed educational scheme; and
- (b) the Secretary is notified that the young person has been refused payment under a prescribed educational scheme within 28 days after the person is notified of that refusal;

the determination takes effect on the day on which the determination is made or on such earlier or later day as is specified in the determination.

(10) If:

- (a) the favourable determination is made because, for the purposes of subsection 5(11) of the 1991 Act, a young person is not qualified to receive a payment under a prescribed educational scheme; and
- (b) the young person, or another person or organisation, was previously in receipt of a payment under a prescribed educational scheme in respect of the young person but the payment has since ceased; and
- (c) the Secretary was notified, within 28 days after the payment was granted, that it was no longer being received;

the determination takes effect on the day on which the determination is made or on such earlier or later day as is specified in the determination.

(11) If:

- (a) the favourable determination is made because, for the purposes of subsection 5(11) of the 1991 Act, a young person is not qualified to receive payments under any prescribed educational scheme; and
- (b) no application has been made for payments in respect of that young person under any prescribed educational scheme; and
- (c) the Secretary is satisfied that it is reasonable that no such application has been made; and
- (d) the young person ceased, within 13 weeks after becoming a prescribed student child, to be a prescribed student child

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because the Secretary formed an opinion for the purposes of paragraph 5(12)(c) of the 1991 Act;  
the determination takes effect on the day on which the young person became a prescribed student child.

- (12) This section does not apply to determinations to which section 110A applies.

**110A Date of effect of favourable determinations resuming payment after suspensions relating to non-compliance**

If:

- (a) a favourable determination is made under section 85 resuming payment of a parenting payment, youth allowance, austudy payment, newstart allowance or special benefit the payment of which had been suspended under section 80; and
- (b) the payment had been suspended because it was not payable because of:
  - (i) subsection 42P(1) or 42S(1) (if the payment was a participation payment); or
  - (ii) section 550B or 551 of the 1991 Act (if the payment was a youth allowance); or
  - (iii) section 576A or 577 of the 1991 Act (if the payment was an austudy payment);

the determination takes effect, or is taken to have taken effect, on the day after the end of the period for which the payment, allowance or benefit is not payable because of section 550B, 551, 576A or 577 of the 1991 Act, or on the day after the serious failure period or unemployment non-payment period ends under subsection 42P(1) or 42S(3) or (4) or section 42Q of this Act, as the case requires.

**111 Date of effect of section 78 determination resulting from indexation or adjustment**

If:

- (a) the Secretary makes a determination under section 78; and
- (b) the determination is made because an amount has been indexed or adjusted by the operation of Part 3.16 of the 1991 Act;

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the determination takes effect on the day on which the amount was so indexed or adjusted.

### **114 Date of effect of other favourable determinations**

- (1) In the case of a favourable determination to which none of sections 109, 110 and 110A apply, the determination takes effect on the day on which the determination is made or on such other day as is specified in the determination.
- (2) A day specified in a determination for the purpose of subsection (1) may be:
  - (a) later than the day on which the determination is made; or
  - (b) not earlier than 13 weeks before the day on which the determination is made.

### **Subdivision C—Determinations under section 89**

#### **115 Definition**

In this Subdivision:

*favourable determination* means a determination under section 89.

#### **116 Date of effect of favourable determination resulting from review—concession cards**

- (1) If:
  - (a) a decision (the *original decision*) is made in relation to a person's qualification for a concession card; and
  - (b) the person is given a notice informing him or her of the original decision; and
  - (c) within 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
  - (d) the favourable determination is made as a result of the application for review;the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

(2) If:

- (a) a decision (the ***original decision***) is made in relation to a person's qualification for a concession card; and
- (b) the person is given a notice informing him or her of the original decision; and
- (c) more than 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
- (d) the favourable determination is made as a result of the application for review;

the favourable determination takes effect on the day on which the application for review was made.

(3) If:

- (a) a decision (the ***original decision***) is made in relation to a person's qualification for a concession card; and
- (b) the person is not given any notice informing him or her of the original decision; and
- (c) the person applies to the Secretary, under section 129, for review of the original decision; and
- (d) the favourable determination is made as a result of the application for review;

the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

(4) If:

- (a) a decision (the ***original decision***) is made in relation to a person's qualification for a concession card; and
- (b) the person is given a notice informing him or her of the original decision; and
- (c) the Secretary reviews the decision under section 126 without any application under section 129 for review of the decision having been made;
- (d) as a result of the review, the favourable decision is made more than 13 weeks after the notice of the original decision was given to the person;

the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

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**Subdivision D—Date of effect of adverse determinations  
relating to social security payments**

**117 Definition**

In this Subdivision:

***adverse determination*** means a determination under section 79, 80, 81, 81A or 82.

**118 Date of effect of adverse determinations—general rules**

- (1) The day on which an adverse determination takes effect in relation to a social security payment is worked out:
  - (b) in the case of carer payment—in accordance with this section and section 120; and
  - (c) in the case of any other social security payment—in accordance with this section.
- (2) Subject to subsections (2A) and (2B), if:
  - (a) an adverse determination is made following a person having informed the Department of the occurrence of an event or change of circumstances; and
  - (b) the person is not paid an instalment of the social security payment after the occurrence of the event or change and before the determination is made;the determination takes effect on the day on which the event or change of circumstances occurred.
- (2A) If an adverse determination is made in relation to a person who has not reached pension age:
  - (a) following the person's having informed the Department of the occurrence of an event or change of circumstances; and
  - (b) because the person earns, derives or receives, or is taken to earn, derive or receive, employment income in an instalment period of the person;the determination takes effect on:
  - (c) if the determination is attributable to the reduction, during the instalment period, of the person's working credit balance or student income bank balance to nil—the day on which the balance was so reduced; and



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- (d) if the determination is attributable to the person's having a working credit balance or a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person's opening balance was nil; and
  - (e) in any other case—the first day of the instalment period;
- so long as the person is not paid an instalment of the social security payment after the day worked out under paragraph (c), (d) or (e) and before the determination is made.
- (2B) If:
- (a) an adverse determination is made in relation to a person following the person's having informed the Department of the occurrence of an event or change of circumstances; and
  - (b) the determination is made because, in an instalment period of the person, either:
    - (i) the person earns, derives or receives, or is taken to earn, derive or receive, ordinary income other than employment income; or
    - (ii) the person has reached pension age and earns, derives or receives, or is taken to earn, derive or receive, employment income; and
  - (c) the person's student income bank balance is reduced to nil during the instalment period;
- the determination takes effect on:
- (d) if the determination is attributable to the reduction of the student income bank balance to nil—the day on which the balance was so reduced; and
  - (e) if the determination is attributable to the person's having a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person's opening balance was nil;
- so long as the person is not paid an instalment of the social security payment after the day worked out under paragraph (d) or (e) and before the determination is made.

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(3) If:

- (a) an adverse determination is made in relation to a person because of point 1064-E3, 1066A-F2A, 1067G-H25, 1067L-D24, 1068-G8A, 1068A-E13 or 1068B-D21, or Division 3 of Part 3.14, of the 1991 Act; and
- (b) a social security payment has been paid to the person or the person's partner when, because of the payment of arrears of periodic compensation payments, the payment should have been cancelled or suspended;

the determination takes effect on the first day of the periodic payments period to which the arrears of periodic compensation payments relate.

(4) If:

- (a) an adverse determination is made in relation to a person because of point 1064-E3, 1066A-F2A, 1067G-H25, 1067L-D24, 1068-G8A, 1068A-E13 or 1068B-D21, or Division 3 of Part 3.14, of the 1991 Act; and
- (b) the rate at which a social security payment was paid to the person or the person's partner was, because of the payment of arrears of periodic compensation payments, higher than the rate at which the payment should have been paid;

the determination takes effect on the first day of the periodic payments period to which the arrears of periodic compensation payments relate.

(5) Subject to subsections (5A) and (5B), if the adverse determination is made following a person having given the Department a statement about a matter in accordance with a notice under section 67 or 68, the determination takes effect on the day on which the matter arose.

(5A) If an adverse determination is made in relation to a person who has not reached pension age:

- (a) following the person's having given the Department a statement about a matter in accordance with a notice under section 68 that relates to the payment of the social security payment in respect of an instalment period specified in the notice; and
- (b) because the person earns, derives or receives, or is taken to earn, derive or receive, employment income in the instalment period;

the determination takes effect on:

- (c) if the determination is attributable to the reduction, during the instalment period, of the person's working credit balance or student income bank balance to nil—the day on which the balance was so reduced; and
- (d) if the determination is attributable to the person's having a working credit balance or a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person's opening balance was nil; and
- (e) in any other case—the first day of the instalment period.

(5B) If:

- (a) an adverse determination is made in relation to a person following the person's having given the Department a statement about a matter in accordance with a notice under section 68 that relates to the payment of the social security payment in respect of an instalment period specified in the notice; and
- (b) the determination is made because, in the instalment period, either:
  - (i) the person earns, derives or receives, or is taken to earn, derive or receive, ordinary income other than employment income; or
  - (ii) the person has reached pension age and earns, derives or receives, or is taken to earn, derive or receive, employment income; and
- (c) the person's student income bank balance is reduced to nil during the instalment period;

the determination takes effect on:

- (d) if the determination is attributable to the reduction of the student income bank balance to nil—the day on which the balance was so reduced; and
- (e) if the determination is attributable to the person's having a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person's opening balance was nil.

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- (6) Subject to subsections (6A) and (6B), if:
- (a) a person and his or her partner (the *partner*) are each receiving a social security payment; and
  - (b) the partner is given a notice under section 68 requiring the partner to give the Department a statement; and
  - (c) the notice relates to the payment of the partner's social security payment in respect of a period specified in the notice; and
  - (d) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the specified period; and
  - (e) following the giving of the statement, an adverse determination is made in relation to the person's social security payment;

the determination takes effect on the day on which the matter arose.

(6A) If:

- (a) a person and his or her partner (the *partner*) are each receiving a social security payment; and
- (b) the partner has not reached pension age; and
- (c) the partner is given a notice under section 68 requiring the partner to give the Department a statement; and
- (d) the notice relates to the payment of the partner's social security payment in respect of an instalment period specified in the notice; and
- (e) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the instalment period; and
- (f) following the giving of the statement, an adverse determination is made in relation to the person's social security payment; and
- (g) the determination is made because the partner earns, derives or receives, or is taken to earn, derive or receive, employment income in the instalment period;

the determination takes effect on:

- (h) if the adverse determination is attributable to the reduction, during the instalment period, of the partner's working credit balance or student income bank balance to nil—the day on which the balance was so reduced; and

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- (i) if the determination is attributable to the partner's having a working credit balance or a student income bank balance that has already been reduced to nil during the instalment period—the first day of the instalment period on which the opening balance was nil; and
- (j) in any other case—the first day of the instalment period.

(6B) If:

- (a) a person and his or her partner (the *partner*) are each receiving a social security payment; and
- (b) the partner is given a notice under section 68 requiring the partner to give the Department a statement; and
- (c) the notice relates to the payment of the partner's social security payment in respect of an instalment period specified in the notice; and
- (d) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the instalment period; and
- (e) the partner's student income bank balance is reduced to nil during the instalment period; and
- (f) following the giving of the statement, an adverse determination is made in relation to the person's social security payment; and
- (g) the determination is made because, in the instalment period, either:
  - (i) the partner earns, derives or receives, or is taken to earn, derive or receive, ordinary income other than employment income; or
  - (ii) the partner has reached pension age and earns, derives or receives, or is taken to earn, derive or receive, employment income;

the determination takes effect on:

- (h) if the determination is attributable to the reduction of the partner's student income bank balance to nil—the day on which the balance was so reduced; and
- (i) if the determination is attributable to the partner's having a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the partner's opening balance was nil.

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(7) If:

- (a) the person whose social security payment is affected by the adverse determination has contravened a provision of this Act or a provision of the 1991 Act (other than an excluded provision); and
- (b) the contravention causes a delay in the making of the determination;

the adverse determination takes effect on such day (which may be earlier than the day on which the determination is made) as is specified in the determination.

(7A) Subsection (7) does not apply to a determination under subsection 81(3).

(8) If:

- (a) a person has made a false statement or misrepresentation; and
- (b) because of the false statement or misrepresentation, a social security payment has been paid to a person when it should have been cancelled or suspended;

the adverse determination takes effect on such day (which may be earlier than the day on which the determination is made) as is specified in the determination.

(9) If:

- (a) a person has made a false statement or misrepresentation; and
- (b) because of the false statement or misrepresentation, the rate at which a social security payment was paid to a person was higher than it should have been;

the adverse determination takes effect on such day (which may be earlier than the day on which the determination is made) as is specified in the determination.

(11) If:

- (a) a person's social security payment is suspended under section 80, 81 or 82; and
- (b) the payment is subsequently cancelled under section 80, 81 or 82;

the determination by which the payment is cancelled takes effect on the day on which the payment was suspended.

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- (11A) Despite subsection (11), a determination under section 80 or subsection 81(3) cancelling a person's social security payment that has already been suspended under subsection 81(3) takes effect on such day (which may be earlier than the day on which the determination is made) as is specified in the determination.
- (12) An adverse determination in relation to telephone allowance takes effect:
- (a) on the day on which it is made; or
  - (b) if a later day is specified in the determination, on that day.
- (12A) If:
- (a) a decision (the ***social security decision***) was made that rent assistance (the ***social security rent assistance***) was to be included when calculating a person's rate of social security payment for each day in a period; and
  - (b) the condition in subsection (12B) is met for each day in that period (which is about rent assistance also being included in family tax benefit); and
  - (c) because the inclusion of the social security rent assistance was contrary to Part 3.7 of the 1991 Act, an adverse determination is made to reduce the rate of, or cancel, the person's social security payment for each day in that period;
- the adverse determination takes effect on the first day of that period.
- (12B) The condition in this subsection is met for each day in a period if:
- (a) both of the following apply:
    - (i) the person was a member of a couple (other than an illness separated couple, a respite care couple or a temporarily separated couple) on each day in the period;
    - (ii) when the social security decision was made, a determination under the family assistance law was in force that included rent assistance when calculating the person's, or the person's partner's, Part A rate of family tax benefit for each day in the period; or
  - (b) both of the following apply:
    - (i) the person was not a member of a couple, or was a member of an illness separated couple, a respite care couple, or a temporarily separated couple, on each day in the period;

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- (ii) when the social security decision was made, a determination under the family assistance law was in force that included rent assistance when calculating the person's Part A rate of family tax benefit for each day in the period; or
- (c) all of the following apply:
  - (i) when the social security decision was made, no determination of a kind mentioned in subparagraph (a)(ii) or (b)(ii) (as the case requires) was in force;
  - (ii) after the social security decision was made, such a determination was made;
  - (iii) each day in the period either is, or comes after, the day on which the determination was made.

(12C) If:

- (a) an adverse determination is made under section 80 suspending the payment of a parenting payment, youth allowance, austudy payment, newstart allowance or special benefit to a person; and
- (b) the determination was made because of the application of:
  - (i) subsection 42P(1) or 42S(1) (if the payment is a participation payment); or
  - (ii) section 550B or 551 of the 1991 Act (if the payment is a youth allowance); or
  - (iii) section 576A or 577 of the 1991 Act (if the payment is an austudy payment);

the determination is taken to have taken effect on the day of the start of the period for which the payment, allowance or benefit is not payable because of that section.

(12D) However, subsection (12C) does not apply to an adverse determination if the determination would take effect on an earlier day under another provision of this Act.

(13) In any other case, an adverse determination takes effect:

- (a) on the day on which it is made; or
- (b) if a later day is specified in the determination, on that day.



- (14) For the purposes of subsection (7), the excluded provisions are:
- (a) subsections 67(2), 68(2) and 69(2) of this Act to the extent that they relate to the giving of a notice requiring a person to give a statement to the Department; and
  - (b) sections 192, 193, 194 and 195 of this Act.

## **120 Additional rules in the case of carer payment**

- (1) If:
- (a) the Secretary makes a determination (the *earlier determination*) that a person (the *carer*) is entitled to carer payment because the carer is providing care for a care receiver or care receivers; and
  - (b) the determination is based on an assessment of the taxable income of the care receiver, or any of the care receivers, for a tax year; and
  - (c) the assessment is subsequently amended by the Commissioner of Taxation, a tribunal or a court; and
  - (d) as a result of the amendment of the assessment, the taxable income of the care receiver, or the sum of the taxable incomes of the care receivers, is more than the income ceiling under section 198A of the 1991 Act; and
  - (e) the Secretary makes a determination under section 80 cancelling or suspending the carer payment;
- the adverse determination takes effect on the day on which the earlier determination took effect.
- (2) If:
- (a) the Secretary makes a determination (the *earlier determination*) that a person (the *carer*) is entitled to carer payment because the carer is providing care for a care receiver or care receivers; and
  - (b) in making the determination, the Secretary had regard to the taxable income of the care receiver, or the sum of the taxable incomes of the care receivers, for a tax year; and
  - (c) the taxable income of the care receiver or any of the care receivers is or includes an amount estimated by:
    - (i) in the case of a care receiver who is a higher ADAT score adult—the care receiver or the care receiver's partner; or

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- (ii) in the case of a care receiver who is a sole care child, combined care child or multiple care child—the parent of the care receiver, the parent’s partner (if the parent is a member of a couple) or the carer; or
  - (iii) in the case of a care receiver who is a lower ADAT score adult—the carer or the care receiver’s partner; or
  - (iv) in the case of a care receiver who is a dependent child of a lower ADAT score adult—the carer or the care receiver’s parent; and
  - (d) the Commissioner of Taxation subsequently makes an assessment of that taxable income; and
  - (e) as a result of the assessment, the taxable income of the care receiver or the sum of the taxable incomes of the care receivers is more than the income ceiling under section 198A of the 1991 Act; and
  - (f) the Secretary makes a determination under section 80 cancelling or suspending the carer payment;
- the adverse determination takes effect on the day on which the earlier determination took effect.

(3) If:

- (a) on the basis of the taxable income for a tax year of a care receiver who is a higher ADAT score adult, the Secretary makes a determination that a person (the **carer**) is entitled to carer payment because the carer is providing care for the care receiver; and
- (b) the care receiver’s taxable income for a later tax year exceeds the income ceiling under section 198A of the 1991 Act; and
- (c) the Secretary makes a determination under section 80 cancelling or suspending the carer’s carer payment;

the adverse determination takes effect:

- (d) if the Secretary made the determination under section 80 after the carer or care receiver informed the Department that the care receiver’s taxable income exceeded the income ceiling—on the day on which the carer or care receiver informed the Department; or
- (e) if, when the Secretary made the determination under section 80, the Department had not been informed by the carer or the care receiver that the care receiver’s taxable income exceeded the income ceiling—on the day on which

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the care receiver's taxable income exceeded the income ceiling.

(4) If:

- (a) on the basis of the taxable income for a tax year of a care receiver who is a sole care child, the Secretary makes a determination that a person (the *carer*) is entitled to carer payment because the carer is providing care for the care receiver; and
- (b) the care receiver's taxable income for a later tax year exceeds the income ceiling under section 198A of the 1991 Act; and
- (c) the Secretary makes a determination under section 80 cancelling or suspending the carer's carer payment;

the adverse determination takes effect:

- (d) if the Secretary made the determination under section 80 after the parent or carer of the child informed the Department that the care receiver's taxable income exceeded the income ceiling—on the day on which the parent or carer informed the Department; or
- (e) if, when the Secretary made the determination under section 80, the Department had not been informed by the parent or carer that the care receiver's taxable income exceeded the income ceiling—on the day on which the care receiver's taxable income exceeded the income ceiling.

(5) If:

- (a) on the basis of the sum of the taxable incomes for a tax year of care receivers who are combined care children, the Secretary makes a determination that a person (the *carer*) is entitled to carer payment because the carer is providing care to the care receivers; and
- (b) the sum of the taxable incomes of the care receivers for a later tax year exceeds the income ceiling under section 198A of the 1991 Act; and
- (c) the Secretary makes a determination under section 80 cancelling or suspending the carer's carer payment;

the adverse determination takes effect:

- (d) if the Secretary made the determination under section 80 after a parent or carer of any of the children informed the Department that the sum of the taxable incomes exceeded the

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income ceiling—on the day on which the parent or carer informed the Department; or

- (e) if, when the Secretary made the determination under section 80, the Department had not been informed by a parent or carer of any of the children that the sum of the taxable incomes exceeded the income ceiling—on the day on which the sum of the taxable incomes of the care receivers exceeded the income ceiling.

(5A) If:

- (a) on the basis of the sum of the taxable incomes for a tax year of care receivers who are a lower ADAT score adult and one or more multiple care children, the Secretary makes a determination that a person (the *carer*) is entitled to carer payment because the carer is providing care to the care receivers; and
- (b) the sum of the taxable incomes of the care receivers for a later tax year exceeds the income ceiling under section 198A of the 1991 Act; and
- (c) the Secretary makes a determination under section 80 cancelling or suspending the carer's carer payment;

the adverse determination takes effect:

- (d) if the Secretary made the determination under section 80 after the carer or the lower ADAT score adult informed the Department that the sum of the taxable incomes exceeded the income ceiling—on the day on which the Department was so informed; or
- (e) if, when the Secretary made the determination under section 80, the Department had not been informed by the carer or the lower ADAT score adult that the sum of the taxable incomes exceeded the income ceiling—on the day on which the sum of the taxable incomes exceeds the income ceiling.

(6) If:

- (a) on the basis of the sum of the taxable incomes for a tax year of care receivers who are a lower ADAT score adult and a dependent child, the Secretary makes a determination that a person (the *carer*) is entitled to carer payment because the carer is providing care to the care receivers; and

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- (b) the sum of the taxable incomes of the care receivers for a later tax year exceeds the income ceiling under section 198A of the 1991 Act; and
  - (c) the Secretary makes a determination under section 80 cancelling or suspending the carer's carer payment;
- the adverse determination takes effect:
- (d) if the Secretary made the determination under section 80 after the carer, the lower ADAT score adult or a parent of the dependent child informed the Department that the sum of the taxable incomes exceeded the income ceiling—on the day on which the Department was so informed; or
  - (e) if, when the Secretary made the determination under section 80, the Department had not been informed by the carer, the lower ADAT score adult or a parent of the dependent child that the sum of the taxable incomes exceeded the income ceiling—on the day on which the sum of the taxable incomes exceed the income ceiling.

**Subdivision E—Date of effect of adverse determinations relating to concession cards**

**121 Definition**

In this Subdivision:

***adverse determination*** means a determination under subsection 76(1B) or 77(1B) or section 86 or 87.

**122 Date of effect of adverse determinations**

An adverse determination takes effect:

- (a) on the day on which it is made; or
- (b) if a later day is specified in the determination, on that day.

## **Division 10—Continuing effect of determinations**

### **123 Continuing effect of determinations**

- (1) A determination that:
  - (a) a person's claim for a social security payment is granted; or
  - (b) a social security payment is payable to a person;continues in effect until:
  - (c) a further determination in relation to the payment under section 80, 81, 82, 124H, 124M or 124NF takes effect; or
  - (d) the payment ceases to be payable under section 90, 91, 93, 94 or 95; or
  - (e) the end of the day immediately before the day on which the person dies.
- (2) A determination that a person is qualified for a concession card continues in effect until:
  - (a) a further determination under subsection 76(1B) or 77(1B) or section 86 or 87 takes effect; or
  - (b) the person ceases to be qualified under section 104 or 105.
- (3) A determination of the rate of a social security payment continues in effect until:
  - (a) a further determination in relation to the payment under section 78, 79, 81A or 85A takes effect; or
  - (b) the payment becomes payable at a lower rate under section 98, 99 or 100.

## Part 3A—Nominees

### Division 1—Preliminary

#### 123A Definitions

In this Part:

*correspondence nominee* means a person who, by virtue of an appointment in force under section 123C, is the correspondence nominee of another person.

*nominee* means a correspondence nominee or a payment nominee.

*payment nominee* means:

- (a) a person who, by virtue of an appointment in force under section 123B, is the payment nominee of another person; or
- (b) a person to whom instalments of youth allowance of another person are to be paid in accordance with subsection 45(1).

*principal*, in relation to a nominee, means:

- (a) in the case of a nominee appointed under section 123B or 123C, the person in relation to whom the nominee was appointed; or
- (b) in the case of a person to whom instalments of youth allowance are to be paid in accordance with subsection 45(1), the person on whose behalf those instalments are to be so paid.

*relevant payment* means:

- (a) instalments of a social security periodic payment; or
- (b) instalments of a special employment advance; or
- (c) a social security payment that is a lump sum benefit for the purposes of section 47; or
- (ca) a clean energy payment; or
- (d) instalments of utilities allowance; or
- (e) instalments of seniors supplement; or
- (f) a payment of quarterly pension supplement.

## **Division 2—Appointment of nominees**

### **123B Appointment of payment nominee**

Subject to section 123D, the Secretary may, in writing:

- (a) appoint a person (including a body corporate) to be the payment nominee of another person for the purposes of the social security law; and
- (b) direct that the whole or a specified part of a specified relevant payment that is payable to the nominee's principal, or would, but for subsection 45(1), be so payable, is to be paid to the nominee.

### **123C Appointment of correspondence nominee**

Subject to section 123D, the Secretary may, in writing, appoint a person (including a body corporate) to be the correspondence nominee of another person for the purposes of the social security law.

### **123D Provisions relating to appointments**

- (1) A person may be appointed as the payment nominee and the correspondence nominee of the same person.
- (2) The Secretary must not appoint a nominee for a person (the *proposed principal*) under section 123B or 123C except:
  - (a) with the written consent of the person to be appointed; and
  - (b) after taking into consideration the wishes (if any) of the proposed principal regarding the making of such an appointment.
- (3) The Secretary must cause a copy of an appointment under section 123B or 123C to be given to:
  - (a) the nominee; and
  - (b) the principal.
- (4) The Secretary must not appoint a payment nominee for a person who is the holder of a concession card but is not receiving a social security payment.



### **123E Suspension and revocation of nominee appointments**

- (1) If a person who is a nominee by virtue of an appointment under section 123B or 123C informs the Secretary in writing that the person no longer wishes to be a nominee under that appointment, the Secretary must, as soon as practicable, revoke the appointment.
- (2) If:
  - (a) the Secretary gives a person who is a nominee a notice under section 123K; and
  - (b) the person informs the Department that:
    - (i) an event or change of circumstances has occurred or is likely to occur; and
    - (ii) the event or change of circumstances is likely to have an effect referred to in paragraph 123K(1)(b);the Secretary may suspend or revoke the appointment by virtue of which the person is a nominee.
- (3) If:
  - (a) the Secretary gives a person who is a nominee a notice under section 123K or 123L; and
  - (b) the person does not comply with the requirement of the notice;the Secretary may suspend or revoke the appointment, or each appointment, by virtue of which the person is a nominee.
- (4) While an appointment is suspended, the appointment has no effect for the purposes of this Part.
- (5) The Secretary may, at any time, cancel the suspension of an appointment under subsection (2) or (3).
- (6) The suspension or revocation of an appointment, and the cancellation of such a suspension, must be in writing.
- (7) The revocation of an appointment has effect on and from such day, being later than the day of the revocation, as is specified in the revocation.
- (8) Subsections (2) and (3) do not apply to a person who is a payment nominee by virtue of paragraph (b) of the definition of **payment nominee** in section 123A.

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- (9) The Secretary must cause a copy of:
- (a) a suspension of an appointment; or
  - (b) a revocation of an appointment; or
  - (c) a cancellation of a suspension of an appointment;
- to be given to:
- (d) the nominee; and
  - (e) the principal.

## **Division 3—Payments to payment nominee**

### **123F Payment of instalments etc. to payment nominee**

- (1) If:
  - (a) a person has a payment nominee; and
  - (b) the whole or a part of a relevant payment is payable to the person, or would, but for subsection 45(1), be so payable; and
  - (c) the Secretary has given a direction in relation to the relevant payment under section 123B;the relevant payment is to be paid in accordance with the direction.
- (2) An amount paid to the payment nominee of a person:
  - (a) is paid to the payment nominee on behalf of the person; and
  - (b) is taken, for the purposes of the social security law (other than this Part), to have been paid to the person and to have been so paid when it was paid to the nominee.
- (3) An amount that is to be paid to the payment nominee of a person must be paid to the credit of a bank account nominated and maintained by the nominee.
- (4) The Secretary may direct that the whole or a part of an amount that is to be paid to a payment nominee be paid to the payment nominee in a different way from that provided for by subsection (3). If the Secretary gives such a direction, an amount to which the direction relates is to be paid in accordance with the direction.
- (5) Subsections (3) and (4) do not apply in the case of a person who is a payment nominee by virtue of paragraph (b) of the definition of ***payment nominee*** in section 123A.

## **Division 4—Functions and responsibilities of nominees**

### **123G Definition**

In this Division:

***benefit recipient*** means a person who:

- (a) has made a claim for, or is receiving, a social security payment; or
- (b) has made a claim for, or is the holder of, a concession card.

### **123H Actions of correspondence nominee on behalf of benefit recipient**

- (1) Subject to section 123S and subsection (4), any act that may be done by a benefit recipient under, or for the purposes of, the social security law (other than an act for the purposes of Division 2 or 3) may be done by the benefit recipient's correspondence nominee.
- (2) Without limiting subsection (1), an application or claim that may be made under the social security law by a benefit recipient may be made by the benefit recipient's correspondence nominee on behalf of the benefit recipient, and an application or claim so made is taken to be made by the benefit recipient.
- (3) An act done by a benefit recipient's correspondence nominee under this section has effect, for the purposes of the social security law (other than this Part), as if it had been done by the benefit recipient.
- (4) If, under a provision of the social security law, the Secretary:
  - (a) gives to a benefit recipient who has a correspondence nominee a notice making a requirement of the benefit recipient; or
  - (b) notifies a benefit recipient who has a correspondence nominee that the benefit recipient is required to do an act;subsection (1) does not authorise the correspondence nominee to do an act that is required by the notice or the notification, as the case may be, to be done by the benefit recipient.

**123I Giving of notices to correspondence nominee**

- (1) Any notice that the Secretary is authorised or required by the social security law to give to a benefit recipient may be given by the Secretary to the benefit recipient's correspondence nominee.
- (2) The notice:
  - (a) must, in every respect, be in the same form, and in the same terms, as if it were being given to the benefit recipient; and
  - (b) may be given to the correspondence nominee personally or by post or in any other manner approved by the Secretary.
- (3) If:
  - (a) under subsection (1), the Secretary gives a notice (the ***nominee notice***) to a benefit recipient's correspondence nominee; and
  - (b) the Secretary afterwards gives the benefit recipient a notice that:
    - (i) is expressed to be given under the same provision of the social security law as the nominee notice; and
    - (ii) makes the same requirement of the benefit recipient as the nominee notice;section 123J ceases to have effect in relation to the nominee notice.
- (4) If:
  - (a) under subsection (1), the Secretary gives a notice (the ***nominee notice***) to a benefit recipient's correspondence nominee; and
  - (b) the Secretary has already given to the benefit recipient a notice that:
    - (i) is expressed to be given under the same provision of the social security law as the nominee notice; and
    - (ii) makes the same requirement of the benefit recipient as the nominee notice;section 123J does not have effect in relation to the nominee notice.

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**123J Compliance by correspondence nominee**

- (1) If, under section 123I, a notice is given to a benefit recipient's correspondence nominee, the following paragraphs have effect:
  - (a) for the purposes of the social security law, other than this Part, the notice is taken:
    - (i) to have been given to the benefit recipient; and
    - (ii) to have been so given on the day on which the notice was given to the correspondence nominee;
  - (b) any requirement that the notice makes of the benefit recipient may be satisfied by the correspondence nominee;
  - (c) any act done by the correspondence nominee for the purpose of satisfying a requirement of the notice has effect, for the purposes of the social security law (other than Part 6 of this Act), as if it had been done by the benefit recipient;
  - (d) if the correspondence nominee fails to satisfy a requirement of the notice, the benefit recipient is taken, for the purposes of the social security law, to have failed to comply with the requirement;
  - (e) for the purposes of determining whether anything done by the correspondence nominee constitutes compliance with the notice, the social security law has effect as if a reference in the notice to the benefit recipient becoming aware that a specified event or change of circumstances is likely to occur were a reference to the correspondence nominee becoming so aware.
- (2) In order to avoid doubt, and without limiting subsection (1), it is declared as follows:
  - (a) if the notice requires the benefit recipient to inform the Department of a matter within a specified period and the correspondence nominee informs the Department of the matter within that period in accordance with the notice, the benefit recipient is taken, for the purposes of the social security law, to have complied with the requirement set out in the notice;
  - (b) if the notice requires the benefit recipient to give a statement about a matter, or produce a document, to the Department within a specified period and the correspondence nominee gives a statement about that matter, or produces the document, as the case may be, to the Department within that

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period in accordance with the notice, the benefit recipient is taken, for the purposes of the social security law, to have complied with the requirement set out in the notice;

- (c) if the notice requires the benefit recipient to inform the Department of a matter within a specified period and the correspondence nominee does not inform the Department of the matter within that period in accordance with the notice, the benefit recipient is taken, for the purposes of the social security law, to have failed to comply with the requirement set out in the notice;
- (d) if the notice requires the benefit recipient to give a statement about a matter, or produce a document, to the Department within a specified period and the correspondence nominee does not give a statement about that matter, or produce the document, as the case may be, to the Department within that period in accordance with the notice, the benefit recipient is taken, for the purposes of the social security law, to have failed to comply with the requirement set out in the notice.

**123K Notification by nominee of matters affecting ability to act as nominee**

- (1) The Secretary may give a nominee of a benefit recipient a notice that requires the nominee to inform the Department if:
    - (a) either:
      - (i) an event or change of circumstances occurs; or
      - (ii) the nominee becomes aware that an event or change of circumstances is likely to occur; and
    - (b) the event or change of circumstances is likely to affect:
      - (i) the ability of the nominee to act as the payment nominee or correspondence nominee of the benefit recipient, as the case may be; or
      - (ii) the ability of the Secretary to give notices to the nominee under this Act; or
      - (iii) the ability of the nominee to comply with notices given to the nominee by the Secretary under this Act.
  - (2) Subject to subsection (3), a notice under subsection (1):
    - (a) must be in writing; and
    - (b) may be given personally or by post or by any other means approved by the Secretary; and
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- (c) must specify how the nominee is to give the information to the Department; and
  - (d) must specify the period within which the nominee is to give the information to the Department.
- (3) A notice under subsection (1) is not ineffective merely because it fails to comply with paragraph (2)(c).
- (4) Subject to subsection (5), the period specified under paragraph (2)(d) must not end earlier than 14 days after:
  - (a) the day on which the event or change of circumstances occurs; or
  - (b) the day on which the nominee becomes aware that the event or change of circumstances is likely to occur.
- (5) If a notice requires the nominee to inform the Department of any proposal by the nominee to leave Australia, subsection (4) does not apply to that requirement.
- (6) This section extends to:
  - (a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
  - (b) all persons, irrespective of their nationality or citizenship.

**123L Statement by payment nominee regarding disposal of money**

- (1) The Secretary may give the payment nominee of a benefit recipient a notice that requires the nominee to give the Department a statement giving particulars of the disposal by the nominee of money paid under the social security law to the nominee on behalf of the benefit recipient.
- (2) Subject to subsection (3), a notice under subsection (1):
  - (a) must be in writing; and
  - (b) may be given personally or by post or by any other means approved by the Secretary; and
  - (c) must specify how the nominee is to give the statement to the Department; and
  - (d) must specify the period within which the nominee is to give the statement to the Department.



- (3) A notice under subsection (1) is not ineffective merely because it fails to comply with paragraph (2)(c).
- (4) The period specified under paragraph (2)(d) must not end earlier than 14 days after the day on which the notice is given.
- (5) A statement given in response to a notice under subsection (1) must be in writing and in accordance with a form approved by the Secretary.
- (6) A nominee must not refuse or fail to comply with a notice under subsection (1).  
  
Penalty: 60 penalty units.
- (7) Subsection (6) applies only to the extent to which the person is capable of complying with the notice.
- (8) Subsection (6) does not apply if the person has a reasonable excuse.
- (9) An offence against subsection (6) is an offence of strict liability.
- (10) This section extends to:
  - (a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
  - (b) all persons, irrespective of their nationality or citizenship.

## **Division 5—Other matters**

### **123M Protection of principal against liability for actions of nominee**

Nothing in this Part has the effect of rendering a person guilty of an offence against this Act in respect of any act or omission of the person's correspondence nominee.

### **123N Protection of nominee against criminal liability**

- (1) A nominee is not subject to any criminal liability under the social security law in respect of:
  - (a) any act or omission of the principal; or
  - (b) anything done, in good faith, by the nominee in his or her capacity as nominee.
- (2) This section has effect subject to section 123L.

### **123O Duty of nominee to principal**

- (1) It is the duty of a person who is the payment or correspondence nominee of another person at all times to act in the best interests of the principal.
- (2) A nominee does not commit a breach of the duty imposed by subsection (1) by doing an act if, when the act is done, there are reasonable grounds for believing that it is in the best interests of the principal that the act be done.
- (3) A nominee does not commit a breach of the duty imposed by subsection (1) by refraining from doing an act if, at the relevant time, there are reasonable grounds for believing that it is in the best interests of the principal that the act be not done.

### **123P Saving of Secretary's powers of revocation**

Nothing in this Part is to be taken to be an expression of a contrary intention for the purposes of subsection 33(3) of the *Acts Interpretation Act 1901*.

### **123Q Saving of Secretary's powers to give notices to principal**

Nothing in this Part is intended in any way to limit or affect the Secretary's powers under other provisions of the social security law to give notices to, or make requirements of, a person who has a nominee.

### **123R Notification of nominee where notice given to principal**

If, under a provision of the social security law (other than a provision of this Part), the Secretary gives a notice to a person who has a correspondence nominee, the Secretary may inform the correspondence nominee of the giving of the notice and of the terms of the notice.

### **123S Right of nominee to attend with principal**

(1) If:

- (a) under a provision of the social security law (other than a provision of this Part), the Secretary gives a notice to a person who has a correspondence nominee; and
- (b) the notice requires the person:
  - (i) to attend the Department; or
  - (ii) to attend a particular place; and
- (c) the Secretary informs the person's correspondence nominee of the giving of the notice;

the correspondence nominee may attend the Department or place, as the case may be, with the person if the person so wishes.

(2) If:

- (a) under a provision of the social security law (other than a provision of this Part), the Secretary gives a notice to a person who has a correspondence nominee; and
- (b) the notice requires the person to undergo a medical, psychiatric or psychological examination;

the correspondence nominee may accompany the person while the examination is being conducted:

- (c) if the person so wishes; and
- (d) to the extent to which the person conducting the examination consents.

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- (3) If a person's correspondence nominee is a body corporate, the last reference in subsection (1) or (2) to the correspondence nominee is to be read as a reference to an officer or employee of the correspondence nominee.

## **Part 3B—Income management regime**

### **Division 1—Introduction**

#### **123TA Simplified outline**

The following is a simplified outline of this Part:

- This Part sets up an income management regime for recipients of certain welfare payments.
- A person may become subject to the income management regime because:
  - (a) a child protection officer of a State or Territory requires the person to be subject to the income management regime; or
  - (b) the Secretary has determined that the person is a vulnerable welfare payment recipient; or
  - (c) the person meets the criteria relating to disengaged youth; or
  - (d) the person meets the criteria relating to long-term welfare payment recipients; or
  - (e) the person, or the person's partner, has a child who does not meet school enrolment requirements; or
  - (f) the person, or the person's partner, has a child who has unsatisfactory school attendance; or
  - (g) the Queensland Commission requires the person to be subject to the income management regime; or
  - (ga) an officer or employee of a recognised State/Territory authority requires the person to be subject to the income management regime; or

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- (h) the person voluntarily agrees to be subject to the income management regime.
- A person who is subject to the income management regime will have an income management account.
- Amounts will be deducted from the person's welfare payments and credited to the person's income management account.
- Amounts will be debited from the person's income management account for the purposes of enabling the Secretary to take action directed towards meeting the priority needs of:
  - (a) the person; and
  - (b) the person's children (if any); and
  - (c) the person's partner (if any); and
  - (d) any other dependants of the person.

**123TB Objects**

The objects of this Part are as follows:

- (a) to reduce immediate hardship and deprivation by ensuring that the whole or part of certain welfare payments is directed to meeting the priority needs of:
  - (i) the recipient of the welfare payment; and
  - (ii) the recipient's children (if any); and
  - (iii) the recipient's partner (if any); and
  - (iv) any other dependants of the recipient;
- (b) to ensure that recipients of certain welfare payments are given support in budgeting to meet priority needs;
- (c) to reduce the amount of certain welfare payments available to be spent on alcoholic beverages, gambling, tobacco products and pornographic material;

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- (d) to reduce the likelihood that recipients of welfare payments will be subject to harassment and abuse in relation to their welfare payments;
- (e) to encourage socially responsible behaviour, including in relation to the care and education of children;
- (f) to improve the level of protection afforded to welfare recipients and their families.

**123TC Definitions**

In this Part:

***account statement***, in relation to an income management account, means a statement that sets out:

- (a) the amounts credited to the income management account during a particular period; and
- (b) the amounts debited from the income management account during that period; and
- (c) the balance of the income management account as at the end of that period.

***acquire*** has the same meaning as in the *Competition and Consumer Act 2010*.

***alcoholic beverage*** means a beverage that contains more than 0.1% by volume of ethyl alcohol.

***applicable school period*** has the meaning given by section 123UI.

***category E welfare payment*** means:

- (a) youth allowance; or
- (b) newstart allowance; or
- (c) special benefit; or
- (d) pension PP (single); or
- (e) benefit PP (partnered).

***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

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- (d) a service pension; or
- (e) income support supplement; or
- (f) Defence Force Income Support Allowance.

***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) income support bonus; or
- (g) carer allowance; or
- (ga) child disability assistance; or
- (gb) carer supplement; or
- (h) mobility allowance; or
- (i) pensioner education supplement; or
- (j) telephone allowance under Part 2.25 of the 1991 Act; or
- (k) veterans supplement under section 118B of the Veterans' Entitlements Act; or
- (l) utilities allowance under Part 2.25A of the 1991 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 of the Veterans' Entitlements Act.



**category P 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.

**category Q welfare payment** means:

- (a) a category P welfare payment; or
  - (aa) income support bonus; or
  - (b) carer allowance; or
  - (ba) child disability assistance; or
  - (bb) carer supplement; or
  - (c) mobility allowance; or
  - (d) pensioner education supplement; or
  - (e) telephone allowance under Part 2.25 of the 1991 Act; or
  - (f) utilities allowance under Part 2.25A of the 1991 Act; or
  - (g) 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
  - (h) a social security bereavement payment (other than a social security bereavement payment in relation to an age pension or a carer payment); or
  - (i) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement; or
  - (j) an advance payment under Part 2.22 of the 1991 Act (other than an advance payment of an age pension or a carer payment); or
  - (k) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act; or
  - (l) a mobility allowance advance under section 1045 of the 1991 Act; or
  - (m) double orphan pension; or
  - (n) family tax benefit under the Family Assistance Act; or
  - (o) family tax benefit advance under the Family Assistance Administration Act; or
  - (p) baby bonus under the Family Assistance Act.
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***category R welfare payment*** means:

- (c) a service pension; or
- (d) income support supplement; or
- (e) Defence Force Income Support Allowance.

***category S welfare payment*** means:

- (a) family tax benefit under the Family Assistance Act; or
- (b) family tax benefit advance under the Family Assistance Administration Act; or
- (c) baby bonus under the Family Assistance Act; or
- (e) double orphan pension; or
- (f) carer allowance; or
- (fa) child disability assistance; or
- (fb) carer supplement; or
- (g) 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.

***child*** of a person means:

- (a) a dependent child of the person; or
- (b) an FTB child of the person; or
- (c) on or after 1 July 2008—a regular care child of the person.

This definition does not apply to:

- (d) the definition of ***child protection officer*** in this section; or
- (e) Division 2; or
- (f) subsection 123ZE(2); or
- (g) section 123ZEB.

***child protection officer*** means an officer or employee of a State or Territory who has functions, powers or duties in relation to the care, protection or welfare of children.

***clean energy income-managed payment*** means:

- (a) a clean energy advance under the 1991 Act; or
- (b) a clean energy advance under the Veterans' Entitlements Act for service pension; or
- (c) a clean energy advance under the Family Assistance Act; or
- (d) quarterly clean energy supplement under the 1991 Act; or

- (e) quarterly clean energy supplement under the Veterans' Entitlements Act for service pension.

***declared child protection State or Territory*** has the meaning given by section 123TF.

***declared primary school area*** has the meaning given by subsection 123TG(1).

***declared secondary school area*** has the meaning given by subsection 123TG(3).

***declared voluntary income management area*** has the meaning given by section 123TGA.

***economic security strategy payment*** means:

- (a) an economic security strategy payment under Part 2.17 of the 1991 Act; or
- (b) an economic security strategy payment under Part VIIG of the Veterans' Entitlements Act; or
- (c) an economic security strategy payment to families under Part 6 of the Family Assistance Act; or
- (d) a payment under the scheme determined under Schedule 4 to the *Social Security and Other Legislation Amendment (Economic Security Strategy) Act 2008*.

***eligible care child*** has the meaning given by section 123UH.

***eligible care period*** has the meaning given by section 123UJ.

***eligible recipient*** has the meaning given by section 123TK.

***ETR income-managed payment*** means:

- (a) ETR payment under the Family Assistance Act; or
- (b) ETR payment under the Veterans' Entitlements Act.

***excluded goods*** has the meaning given by subsection 123TI(1).

***excluded Part 3B payment nominee*** means:

- (a) the Public Trustee (however described) of a State or Territory; or
- (b) a Part 3B payment nominee who is not subject to the income management regime.

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***excluded service*** has the meaning given by subsection 123TI(2).

***exempt welfare payment recipient*** has the meaning given by section 123UGB, 123UGC or 123UGD.

***family law order*** means:

- (a) a parenting order within the meaning of section 64B of the *Family Law Act 1975*; or
- (b) a family violence order within the meaning of section 4 of that Act; or
- (c) a State child order registered under section 70D of that Act; or
- (d) an overseas child order registered under section 70G of that Act.

***full-time student*** has the meaning given by section 123UGF.

***gambling*** means a service provided to a person in the capacity of a customer of a gambling service (within the meaning of the *Interactive Gambling Act 2001*).

***goods*** has the same meaning as in the *Competition and Consumer Act 2010*.

***household stimulus payment*** means:

- (a) a training and learning bonus under Division 1 of Part 2.18 of the 1991 Act; or
- (b) a farmers hardship bonus under Division 2 of Part 2.18 of the 1991 Act; or
- (c) an education entry payment supplement under Division 14 of Part 2.13A of the 1991 Act; or
- (d) a back to school bonus or single income family bonus under Part 7 of the Family Assistance Act; or
- (e) a payment under the scheme determined under Schedule 4 to the *Household Stimulus Package Act (No. 2) 2009*.

***income management account*** means a notional account kept in accordance with section 123WA.

***Income Management Record*** means the Income Management Record established by section 123VA.

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**income tax law** has the same meaning as in the *Income Tax Assessment Act 1997*.

**net amount** of an instalment or payment means:

- (a) if a deduction is made from, or an amount is set off against, the instalment or payment under:
  - (i) section 61 or 238 of this Act; or
  - (ii) section 1231 of the 1991 Act; or
  - (iii) section 84, 84A, 92, 92A, 225, 226 or 227 of the Family Assistance Administration Act; or
  - (iv) section 50A, 50B, 58J, 79L, 122B, 122D, 205 or 205AA of the Veterans' Entitlements Act;so much of the instalment or payment as remains after the deduction is made or the set-off occurs, as the case may be; or
- (b) in any other case—the amount of the instalment or payment.

**non-alcoholic beverage** means a beverage other than an alcoholic beverage.

**parenting plan** has the same meaning as in the *Family Law Act 1975*.

**Part 3B payment nominee** means:

- (a) a person who is, by virtue of an appointment in force under section 123B of this Act or section 219TB of the Family Assistance Administration Act, the payment nominee of another person; or
- (b) a person to whom payment of another person's service pension is made by virtue of an approval in force under section 58D of the Veterans' Entitlements Act; or
- (c) a person to whom payment of another person's service pension is made by virtue of an appointment in force under section 202 of the Veterans' Entitlements Act; or
- (d) a person to whom another person's instalments of youth allowance are to be paid in accordance with subsection 45(1) of this Act.

**pornographic material** has the meaning given by section 123TJ.

**priority needs** has the meaning given by section 123TH.

Section 123TC

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**quarter** means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

**Queensland Commission** means a body or agency that:

- (a) is established by a law of Queensland; and
- (b) is specified in a legislative instrument made by the Minister for the purposes of this paragraph.

**recognised State or Territory** has the meaning given by section 123TGAB.

**recognised State/Territory authority** has the meaning given by section 123TGAA.

**registered parenting plan** has the same meaning as in the *Family Law Act 1975*.

**school age child** has the meaning given by section 123UGG.

**service** has the same meaning as in the *Competition and Consumer Act 2010*.

**social security bereavement payment** means a payment under any of the following provisions of the 1991 Act:

- (a) Division 9 of Part 2.2;
- (b) Division 10 of Part 2.3;
- (c) Subdivision B of Division 9 of Part 2.4;
- (d) Subdivision B or D of Division 9 of Part 2.5;
- (e) Division 9 of Part 2.7;
- (f) Division 9 of Part 2.8;
- (g) Subdivision B or C of Division 9 of Part 2.10;
- (h) Subdivision A of Division 10 of Part 2.11;
- (i) Division 10 of Part 2.11A;
- (j) Subdivision AA of Division 9 of Part 2.12;
- (k) Subdivision C of Division 11 of Part 2.12B;
- (l) Division 9 of Part 2.14;
- (m) Division 9 of Part 2.15;
- (n) Subdivision C of Division 9 of Part 2.15A;
- (o) Division 10 of Part 2.16;
- (p) Subdivision C of Division 10 of Part 2.19;
- (q) Subdivision B of Division 10 of Part 2.20.

Section 123TF

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**stored value card** includes a portable device that is:

- (a) capable of storing monetary value in a form other than physical currency; and
- (b) of a kind specified in a legislative instrument made by the Minister for the purposes of this paragraph.

**subject to the income management regime** has the meaning given by section 123UC, 123UCA, 123UCB, 123UCC, 123UD, 123UE, 123UF, 123UFAA or 123UFA.

**supply** has the same meaning as in the *Competition and Consumer Act 2010*.

**tobacco product** has the same meaning as in the *Tobacco Advertising Prohibition Act 1992*.

**unsatisfactory school attendance situation** has the meaning given by section 123UK.

**veterans' entitlement bereavement payment** means:

- (a) a bereavement payment within the meaning of subsection 53K(3) of the Veterans' Entitlements Act; or
- (b) a bereavement payment paid under subsection 53L(4) of that Act; or
- (c) an amount paid under subsection 53Q(1) of that Act; or
- (d) a bereavement payment within the meaning of subsection 53T(1) of that Act.

**voluntary income management agreement** means an agreement under section 123UM.

**vulnerable welfare payment recipient** has the meaning given by section 123UGA.

### **123TF Declared child protection State or Territory**

The Minister may, by legislative instrument, determine that a specified State or Territory is a **declared child protection State or Territory** for the purposes of this Part.

Section 123TG

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**123TG Declared primary school area and declared secondary school area**

*Declared primary school area*

- (1) The Minister may, by legislative instrument, determine that:
  - (a) a specified State; or
  - (b) a specified Territory; or
  - (c) a specified area;is a ***declared primary school area*** for the purposes of this Part.
- (2) This Part does not prevent an area specified under paragraph (1)(c) from being described as the area within the boundary of premises occupied by a particular primary school.

*Declared secondary school area*

- (3) The Minister may, by legislative instrument, determine that:
  - (a) a specified State; or
  - (b) a specified Territory; or
  - (c) a specified area;is a ***declared secondary school area*** for the purposes of this Part.
- (4) This Part does not prevent an area specified under paragraph (3)(c) from being described as the area within the boundary of premises occupied by a particular secondary school.

**123TGAA Recognised State/Territory authority**

- (1) The Minister may, by legislative instrument, determine that:
  - (a) a specified department, or a specified part of a department, of a State or Territory; or
  - (b) a specified body of a State or Territory; or
  - (c) a specified agency of a State or Territory;is a ***recognised State/Territory authority*** for the purposes of this Part.

*Functions, powers or duties of officers or employees*

- (2) Before making a determination under subsection (1), the Minister must be satisfied that officers or employees of the department or part of the department, or of the body or agency, have functions,



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Section 123TGAB

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powers or duties in relation to the care, protection, welfare or safety of adults, children or families.

*Appropriate review process*

- (3) Before making a determination under subsection (1), the Minister must be satisfied that there is an appropriate process for reviewing any decisions to give notices of the kind referred to in paragraph 123UFAA(1)(b) that could be made by officers or employees of the department or part of the department or of the body or agency if the Minister were to make the determination.
- (4) In deciding whether the Minister is satisfied as mentioned in subsection (3), the Minister must have regard to the following:
  - (a) the cost of the review process to applicants;
  - (b) the timeliness of the review process;
  - (c) whether the review process provides that applicants are entitled to be represented and heard;
  - (d) the degree of independence of the review process;
  - (e) whether the review process provides for the use of the services of an interpreter.

This subsection does not limit the matters to which the Minister may have regard to in deciding whether the Minister is satisfied as mentioned in subsection (3).

### **123TGAB Recognised State or Territory**

The Minister may, by legislative instrument, determine that a specified State or Territory is a *recognised State or Territory* for the purposes of this Part.

### **123TGA Declared voluntary income management area**

The Minister may, by legislative instrument, determine that:

- (a) a specified State; or
- (b) a specified Territory; or
- (c) a specified area;

is a *declared voluntary income management area* for the purposes of this Part.

Section 123TH

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**123TH Priority needs**

- (1) For the purposes of this Part, a person's *priority needs* are as follows:
- (a) food;
  - (b) non-alcoholic beverages;
  - (c) clothing;
  - (d) footwear;
  - (e) basic personal hygiene items;
  - (f) basic household items;
  - (g) housing, including:
    - (i) rent; and
    - (ii) home loan repayments; and
    - (iii) repairs; and
    - (iv) maintenance;
  - (h) household utilities, including:
    - (i) electricity; and
    - (ii) gas; and
    - (iii) water; and
    - (iv) sewerage; and
    - (v) garbage collection; and
    - (vi) fixed-line telephone;
  - (i) rates and land tax;
  - (j) health, including:
    - (i) medical, nursing, dental or other health services; and
    - (ii) pharmacy items; and
    - (iii) the supply, alteration or repair of artificial teeth; and
    - (iv) the supply, alteration or repair of an artificial limb (or part of a limb), artificial eye or hearing aid; and
    - (v) the supply, alteration or repair of a medical or surgical appliance; and
    - (vi) the testing of eyes; and
    - (vii) the prescribing of spectacles or contact lenses; and
    - (viii) the supply of spectacles or contact lenses; and
    - (ix) the management of a disability;
  - (k) child care and development;
  - (l) education and training;

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Section 123TI

- (m) items required for the purposes of the person's employment, including:
    - (i) a uniform or other occupational clothing; and
    - (ii) protective footwear; and
    - (iii) tools of trade;
  - (n) funerals;
  - (o) public transport services, where the services are used wholly or partly for purposes in connection with any of the above needs;
  - (p) the acquisition, repair, maintenance or operation of:
    - (i) a motor vehicle; or
    - (ii) a motor cycle; or
    - (iii) a bicycle;that is used wholly or partly for purposes in connection with any of the above needs;
  - (q) any thing specified in a legislative instrument made by the Minister for the purposes of this paragraph.
- (2) For the purposes of this Part, excluded goods or excluded services are not *priority needs*.

**123TI Excluded goods and excluded services***Excluded goods*

- (1) Each of the following goods are *excluded goods* for the purposes of this Part:
- (a) alcoholic beverages;
  - (b) tobacco products;
  - (c) pornographic material;
  - (d) goods specified in a legislative instrument made by the Minister for the purposes of this paragraph.

*Excluded services*

- (2) Each of the following services is an *excluded service* for the purposes of this Part:
- (a) gambling;
  - (b) a service specified in a legislative instrument made by the Minister for the purposes of this paragraph.

Section 123TJ

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**123TJ Pornographic material**

- (1) For the purposes of this Part, *pornographic material* is:
  - (a) a publication, film or computer game classified RC; or
  - (b) an unclassified publication, film or computer game that contains material that would be likely to cause it to be classified RC; or
  - (c) a publication classified Category 1 restricted or Category 2 restricted; or
  - (d) an unclassified publication that contains material that would be likely to cause it to be classified Category 1 restricted or Category 2 restricted; or
  - (e) a film classified X 18+; or
  - (f) an unclassified film that contains material that would be likely to cause it to be classified X 18+.
- (2) An expression used in subsection (1) and in the *Classification (Publications, Films and Computer Games) Act 1995* has the same meaning in subsection (1) as it has in that Act.

**123TK Eligible recipient**

For the purposes of this Part, if a claim by a person for a particular payment is granted, the person is an *eligible recipient* of the payment during the period:

- (a) beginning on:
  - (i) if the payment is in relation to a service pension, income support supplement or Defence Force Income Support Allowance—the provisional commencement day (within the meaning of the Veterans' Entitlements Act) for the payment; or
  - (ii) in any other case—the start day for the payment; and
- (b) ending when the payment is cancelled.

## **Division 2—Persons subject to the income management regime**

### **Subdivision A—Situations in which a person is subject to the income management regime**

#### **123UA Persons subject to the income management regime**

This Subdivision sets out the various situations in which a person is *subject to the income management regime*.

#### **123UC Persons subject to the income management regime—child protection**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
  - (a) at the test time, the person, or the person's partner, is an eligible recipient of a category H welfare payment; and
  - (b) before the test time, a child protection officer of a State or Territory gave the Secretary a written notice requiring that the person be subject to the income management regime under this section; and
  - (c) the notice was given:
    - (i) under a law (whether written or unwritten) in force in a State or Territory (other than a law of the Commonwealth); or
    - (ii) in the exercise of the executive power of a State or Territory; and
  - (d) at the test time, the notice had not been withdrawn or revoked; and
  - (e) at the test time, the State or Territory is a declared child protection State or Territory; and
  - (f) if, at the test time, the person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
  - (g) at the test time, the person is not subject to the income management regime under section 123UF.

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- (2) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
- (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a Part 3B payment nominee; and
  - (c) at the test time, the Part 3B payment nominee is subject to the income management regime under subsection (1).

**123UCA Persons subject to the income management regime—vulnerable welfare payment recipients**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
- (a) at the test time, the person is an eligible recipient of a category H welfare payment; and
  - (b) at the test time, the person's usual place of residence is within a State, a Territory or an area specified in an instrument under subsection (3); and
  - (c) at the test time, the person is a vulnerable welfare payment recipient; and
  - (d) if, at the test time, the person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
  - (e) at the test time, the person is not subject to the income management regime under section 123UC, 123UD, 123UE, 123UF or 123UFAA.
- (2) If:
- (a) a person is subject to the income management regime under subsection (1); and
  - (b) paragraph (1)(b) ceases to apply in relation to the person; and
  - (c) at the time of that cessation, paragraphs (1)(a), (c), (d) and (e) apply in relation to the person;
- then the person remains subject to the income management regime under subsection (1) until paragraph (1)(a), (c), (d) or (e) ceases to apply in relation to the person.
- (3) The Minister may, by legislative instrument, specify a State, a Territory or an area for the purposes of this section.
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**123UCB Persons subject to the income management regime—  
disengaged youth**

- (1) For the purposes of this Part, a person is ***subject to the income management regime*** at a particular time (the ***test time***) if:
  - (a) at the test time, the person is an eligible recipient of a category E welfare payment; and
  - (b) at the test time, the person is at least 15 years of age and under 25 years of age; and
  - (c) at the test time, the person's usual place of residence is within a State, a Territory or an area specified in an instrument under subsection (4); and
  - (d) at the test time, the person is not an exempt welfare payment recipient; and
  - (e) if, at the test time, the person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
  - (f) at the test time, the person is not subject to the income management regime under section 123UC, 123UCA, 123UD, 123UE, 123UF or 123UFAA; and
  - (g) the person was an eligible recipient of a category E welfare payment for at least 13 weeks during the 26-week period ending immediately before the test time.
- (2) For the purposes of this Part, a person is ***subject to the income management regime*** at a particular time (the ***test time***) if:
  - (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a Part 3B payment nominee; and
  - (c) at the test time, the Part 3B payment nominee is subject to the income management regime under subsection (1).
- (3) If:
  - (a) a person is subject to the income management regime under subsection (1); and
  - (b) paragraph (1)(c) ceases to apply in relation to the person; and
  - (c) at the time of that cessation, paragraphs (1)(a), (b), (d), (e), and (f) apply in relation to the person;

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then the person remains subject to the income management regime under subsection (1) until the earlier of the following:

- (d) the time paragraph (1)(a), (b), (d), (e), or (f) ceases to apply in relation to the person;
  - (e) the end of the period of 13 weeks beginning on the day that paragraph (1)(c) ceased to apply in relation to the person.
- (4) The Minister may, by legislative instrument, specify a State, a Territory or an area for the purposes of this section.

**123UCC Persons subject to the income management regime—  
long-term welfare payment recipients**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
- (a) at the test time, the person is an eligible recipient of a category E welfare payment; and
  - (b) at the test time, the person is at least 25 years of age but has not reached pension age; and
  - (c) at the test time, the person's usual place of residence is within a State, a Territory or an area specified in an instrument under subsection (4); and
  - (d) at the test time, the person is not an exempt welfare payment recipient; and
  - (e) if, at the test time, the person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
  - (f) at the test time, the person is not subject to the income management regime under section 123UC, 123UCA, 123UD, 123UE, 123UF or 123UFAA; and
  - (g) the person was an eligible recipient of a category E welfare payment for at least 52 weeks during the 104-week period ending immediately before the test time.
- (2) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
- (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a Part 3B payment nominee; and
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- (c) at the test time, the Part 3B payment nominee is subject to the income management regime under subsection (1).
- (3) If:
  - (a) a person is subject to the income management regime under subsection (1); and
  - (b) paragraph (1)(c) ceases to apply in relation to the person; and
  - (c) at the time of that cessation, paragraphs (1)(a), (b), (d), (e), and (f) apply in relation to the person;then the person remains subject to the income management regime under subsection (1) until the earlier of the following:
  - (d) the time paragraph (1)(a), (b), (d), (e), or (f) ceases to apply in relation to the person;
  - (e) the end of the period of 13 weeks beginning on the day that paragraph (1)(c) ceased to apply in relation to the person.
- (4) The Minister may, by legislative instrument, specify a State, a Territory or an area for the purposes of this section.

#### **123UD Persons subject to the income management regime—school enrolment**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
  - (a) at the test time, the person, or the person's partner, is an eligible recipient of a category H welfare payment; and
  - (b) at the test time, the person, or the person's partner, has an eligible care child; and
  - (c) under a law of a State or Territory, the eligible care child is required to be enrolled at school; and
  - (d) the Secretary is satisfied that it is appropriate for the eligible care child to be enrolled at:
    - (i) a primary school in a declared primary school area; or
    - (ii) a secondary school in a declared secondary school area; and
  - (e) at the test time, the eligible care child is not enrolled at:
    - (i) if subparagraph (d)(i) applies—a primary school in the declared primary school area; or
    - (ii) if subparagraph (d)(ii) applies—a secondary school in the declared secondary school area; and

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- (f) if, at the test time, the person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
  - (g) at the test time, the person is not subject to the income management regime under section 123UC or 123UF; and
  - (h) at the test time, a determination under subsection (2) is not in force in relation to the person; and
  - (i) such other conditions (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph are satisfied.
- (2) The Secretary may, by writing, determine that a person is exempt from subsection (1).
- (3) In making a determination under subsection (2), the Secretary must comply with any principles set out in a legislative instrument made by the Minister for the purposes of this subsection.
- (4) For the purposes of this Part, a person is ***subject to the income management regime*** at a particular time (the ***test time***) if:
  - (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a Part 3B payment nominee; and
  - (c) at the test time, the Part 3B payment nominee is subject to the income management regime under subsection (1).

*Documentary evidence*

- (5) If a person, or the person's partner, has an eligible care child, the Secretary may, by written notice given to the person, request the person to give the Secretary, within a period (the ***compliance period***) specified in the notice, documentary evidence of the eligible care child's enrolment at a school during a specified applicable school period.
- (6) A notice under subsection (5) must set out the effect of subsection (9).
- (7) The compliance period specified in a notice under subsection (5) must not be shorter than 7 days.

- (8) The Secretary may extend the compliance period specified in a notice under subsection (5).
- (9) If:
  - (a) a person is given a notice under subsection (5); and
  - (b) the person does not comply with the notice;the Secretary may determine that subsection (1) has effect as if the eligible care child was not enrolled at any school at any time during the applicable school period specified in the notice.
- (10) This Part does not prevent a notice from being characterised as:
  - (a) a notice under subsection (5); and
  - (b) a notice under another provision of a law of the Commonwealth.

### **123UE Persons subject to the income management regime—school attendance**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
  - (a) at the test time, the person, or the person's partner, is an eligible recipient of a category H welfare payment; and
  - (b) at the test time, an unsatisfactory school attendance situation exists in relation to a child; and
  - (c) throughout a period that ended before the unsatisfactory school attendance situation came into existence, the child was an eligible care child of:
    - (i) the person; or
    - (ii) the person's partner; and
  - (d) at the test time, the child is enrolled at a school; and
  - (e) if the school is a primary school—at the test time, the school is in a declared primary school area; and
  - (f) if the school is a secondary school—at the test time, the school is in a declared secondary school area; and
  - (g) before the test time, the person, or the person's partner, had been given a formal warning under section 123UL; and
  - (h) the whole or a part of an applicable school period in relation to the child occurred in the period:
    - (i) beginning when the formal warning was given; and
    - (ii) ending at the test time; and

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- (i) if, at the test time, the person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
  - (j) at the test time, the person is not subject to the income management regime under section 123UC or 123UF; and
  - (k) at the test time, a determination under subsection (2) is not in force in relation to the person; and
  - (l) such other conditions (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph are satisfied.
- (2) The Secretary may, by writing, determine that a person is exempt from subsection (1).
- (3) In making a determination under subsection (2), the Secretary must comply with any principles set out in a legislative instrument made by the Minister for the purposes of this subsection.
- (4) For the purposes of this Part, a person is ***subject to the income management regime*** at a particular time (the ***test time***) if:
  - (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a Part 3B payment nominee; and
  - (c) at the test time, the Part 3B payment nominee is subject to the income management regime under subsection (1).

**123UF Persons subject to the income management regime—  
Queensland Commission**

- (1) For the purposes of this Part, a person is ***subject to the income management regime*** at a particular time (the ***test time***) if:
  - (a) at the test time, the person, or the person's partner, is an eligible recipient of a category P welfare payment; and
  - (b) before the test time, the Queensland Commission gave the Secretary a written notice requiring that the person be subject to the income management regime under this section; and
  - (c) the notice was given under a law of Queensland; and

- (d) the notice was not given in such circumstances (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
  - (e) at the test time, the notice had not been withdrawn or revoked; and
  - (f) if, at the test time, the person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
  - (g) the test time occurs before 1 January 2014.
- (2) For the purposes of this Part, a person is ***subject to the income management regime*** at a particular time (the ***test time***) if:
- (a) at the test time, neither the person, nor the person's partner, is an eligible recipient of a category P welfare payment; and
  - (b) at the test time, the person, or the person's partner, is an eligible recipient of a category R welfare payment; and
  - (c) before the test time, the Queensland Commission gave the Secretary a written notice requiring that the person be subject to the income management regime under this section; and
  - (d) the notice was given under a law of Queensland; and
  - (e) the notice was not given in such circumstances (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
  - (f) at the test time, the notice had not been withdrawn or revoked; and
  - (g) if, at the test time, the person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
  - (h) the test time occurs before 1 January 2014.
- (3) For the purposes of this Part, a person is ***subject to the income management regime*** at a particular time (the ***test time***) if:
- (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a Part 3B payment nominee; and
  - (c) at the test time, the Part 3B payment nominee is subject to the income management regime under subsection (1) or (2).

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**123UFAA Persons subject to the income management regime—  
other State/Territory referrals**

- (1) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
  - (a) at the test time, the person, or the person's partner, is an eligible recipient of a category H welfare payment; and
  - (b) before the test time, an officer or employee of a recognised State/Territory authority gave the Secretary a written notice requiring that the person be subject to the income management regime under this section; and
  - (c) the notice was given:
    - (i) under a law (whether written or unwritten) in force in a State or Territory (other than a law of the Commonwealth); or
    - (ii) in the exercise of the executive power of a State or Territory; and
  - (d) at the test time, the notice had not been withdrawn or revoked; and
  - (e) at the test time, the State or Territory is a recognised State or Territory; and
  - (f) if, at the test time, the person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
  - (g) at the test time, the person is not subject to the income management regime under section 123UC, 123UD, 123UE or 123UF.
- (2) For the purposes of this Part, a person is *subject to the income management regime* at a particular time (the *test time*) if:
  - (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
  - (b) at the test time, the person has a Part 3B payment nominee; and
  - (c) at the test time, the Part 3B payment nominee is subject to the income management regime under subsection (1).

**123UFA Persons subject to the income management regime—  
voluntary income management agreement**

For the purposes of this Part, a person is *subject to the income management regime* at a particular time if, at that time, a voluntary income management agreement is in force in relation to the person.

**Subdivision BA—Additional provisions relating to vulnerable  
welfare payment recipients**

**123UGA Vulnerable welfare payment recipients**

*Determination by Secretary*

- (1) The Secretary may, by writing, determine that a person is a *vulnerable welfare payment recipient* for the purposes of this Part.
- (2) In making a determination under subsection (1), the Secretary must comply with any decision-making principles set out in a legislative instrument made by the Minister for the purposes of this subsection.

*Duration of determination*

- (3) A determination made under subsection (1):
  - (a) comes into force:
    - (i) on the day on which it is made; or
    - (ii) if a later day is specified in the determination—on that later day; and
  - (b) remains in force (unless earlier revoked):
    - (i) for 12 months; or
    - (ii) if a shorter period is specified in the determination—for that shorter period.

*New determinations*

- (4) If a determination made under subsection (1) is, or has been, in force in relation to a person, subsection (3) does not prevent the Secretary from making a new determination under subsection (1) in relation to that person.

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*Variation and revocation*

- (5) The Secretary may, by writing, vary or revoke a determination made under subsection (1):
  - (a) on his or her own initiative; or
  - (b) on request made under subsection (8).
- (6) In deciding whether to vary or revoke a determination made under subsection (1), the Secretary must comply with any decision-making principles set out in an instrument made for the purposes of subsection (2).
- (7) Subsection (5) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.

*Request to reconsider circumstances*

- (8) Subject to subsection (9), if a determination made under subsection (1) is in force in relation to a person, the person may request the Secretary to:
  - (a) reconsider the person's circumstances; and
  - (b) vary, or revoke, the determination.
- (9) A person must not make a request under subsection (8) in relation to a determination if, at any time during the preceding period of 90 days, the person has made a request under that subsection in relation to the same determination.
- (10) If a person makes a request under subsection (8), the Secretary must reconsider the person's circumstances unless the request was made in contravention of subsection (9).

*Determination not a legislative instrument*

- (11) A determination made under subsection (1) is not a legislative instrument.



**Subdivision BB—Additional provisions relating to disengaged youth and long-term welfare payment recipients**

**123UGB Exempt welfare payment recipient—inclusion in specified class**

- (1) The Secretary may, by writing, determine that a person is an *exempt welfare payment recipient* if the Secretary is satisfied that the person is included in a class of persons specified in an instrument made by the Minister under subsection (2).
- (2) The Minister may, by legislative instrument, specify a class of persons to be exempt welfare payment recipients for the purposes of this section.
- (3) A determination made by the Secretary under subsection (1) is not a legislative instrument.

**123UGC Exempt welfare payment recipient—persons without dependent children**

- (1) The Secretary may, by writing, determine that a person is an *exempt welfare payment recipient* at a particular time (the *test time*) if:
  - (a) the person has no dependent children at the test time; and
  - (b) the Secretary is satisfied that one of the following applies:
    - (i) the person is a full-time student or a new apprentice at the test time;
    - (ii) during the 12-month period ending immediately before the test time, the person worked for at least 15 hours per week for at least 26 weeks on wages that were at or above the relevant minimum wage;
    - (iii) at the test time, the person is undertaking an activity specified in an instrument made by the Minister under subsection (2).

Note: A child can be a dependent child of only one person at a time: see section 123UGE.

- (2) The Minister may, by legislative instrument, specify activities for the purpose of subparagraph (1)(b)(iii). The activities may be specified by reference to a class of persons undertaking the activities.

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- (3) A determination made by the Secretary under subsection (1) is not a legislative instrument.

- (4) In this section:

***dependent child*** means a dependent child who is a school age child or younger.

Note: For ***dependent child***, see section 5 of the 1991 Act.

**123UGD Exempt welfare payment recipient—persons with dependent children**

- (1) The Secretary may, by writing, determine that a person is an ***exempt welfare payment recipient*** at a particular time (the ***test time***) if:
- (a) the person has one or more dependent children at the test time; and
  - (b) in relation to each dependent child who is a school age child—the Secretary is satisfied that:
    - (i) at the test time, the child is enrolled at a school, and, in each of the 2 school terms ending immediately before that time, the child has had no more than 5 absences for reasons that are not satisfactory to a person responsible for the operation of the school; or
    - (ia) at the test time, the child is enrolled at a school, and, in each of the 2 school terms ending immediately before that time, the child has had more than 5 absences for reasons that are not satisfactory to a person responsible for the operation of the school but the person is taking reasonable steps to ensure that the child attends school as required by the law of the State or Territory concerned; or
    - (ii) at the test time, the child is covered by a schooling arrangement that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to enrol at, or attend, a school (for example, the child is home-schooled), and the child's schooling is progressing satisfactorily; or
    - (iii) at the test time, the child is participating in an activity specified in an instrument made by the Minister under subsection (2); and

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- (c) in relation to each other dependent child—the Secretary is satisfied that, at the test time, the person or the child is participating in the required number and kind of activities specified in an instrument made by the Minister under subsection (3); and
- (d) the Secretary is satisfied that there were no indications of financial vulnerability in relation to the person during the 12-month period ending immediately before the test time.

Note 1: A child can be a dependent child of only one person at a time: see section 123UGE.

Note 2: In deciding whether he or she is satisfied as mentioned in paragraph (1)(d), the Secretary must comply with decision-making principles: see subsection (5).

*Alternative activities for school age children*

- (2) The Minister may, by legislative instrument, specify activities for the purpose of subparagraph (1)(b)(iii).

*Activities relating to dependent children (other than school age children)*

- (3) The Minister must, by legislative instrument, specify the number and kind of activities that a person, or the person's dependent child (other than a school age child), may participate in for the purposes of paragraph (1)(c).
- (4) The activities that may be specified under subsection (3) may relate to a child's intellectual, physical or social development.

*Decision-making principles relating to financial vulnerability*

- (5) In deciding whether he or she is satisfied as mentioned in paragraph (1)(d), the Secretary must comply with any decision-making principles set out in a legislative instrument made by the Minister for the purposes of this subsection.

*Determination not a legislative instrument*

- (6) A determination made by the Secretary under subsection (1) is not a legislative instrument.

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*Definitions*

- (7) In this section:

***dependent child*** has the same meaning as in section 123UGC.

***person responsible***, for the operation of a school, has the same meaning as in Part 3C.

**123UGE Child can be dependent child of only one person at a time**

- (1) For the purposes of sections 123UGC and 123UGD, a child can be a dependent child of only one person at a time.
- (2) If the Secretary is satisfied that, but for subsection (1), a child would be a dependent child of 2 or more persons, the Secretary must determine in relation to which of those persons the child is a dependent child.

**123UGF Full-time student**

A person is a ***full-time student*** for the purposes of this Part if the person:

- (a) is an eligible recipient of youth allowance; and
- (b) is undertaking full-time study (as defined by section 541B of the 1991 Act).

**123UGG School age child**

- (1) For the purposes of this Part, a child is a ***school age child*** if the child is required, under a law of a State or Territory:
  - (a) to be enrolled at a school; or
  - (b) to attend a school at times required under that law.

- (2) For the purposes of this section:

***attendance***, at a school, includes attendance at a place, for the purpose of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to attend a school.

***enrolment***, at a school, includes anything, for the purposes of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to enrol at a school.

### **Subdivision C—Additional provisions relating to school enrolment and attendance**

#### **123UH Eligible care child**

For the purposes of this Part, a person (the ***first person***) is an ***eligible care child*** of another person at a particular time if, and only if:

- (a) at that time, the first person is a dependent child of the other person; or
- (b) all of the following conditions are satisfied:
  - (i) that time occurs during an eligible care period;
  - (ii) under a family law order, registered parenting plan or parenting plan that is in force during the eligible care period, the first person is supposed to live or spend time with the other person;
  - (iii) assuming the family law order, registered parenting plan or parenting plan were complied with during the eligible care period, the first person would have been in the other person's care for at least 14% of that period.

#### **123UI Applicable school period**

- (1) For the purposes of this Part, an ***applicable school period*** in relation to a child is a period ascertained in accordance with a legislative instrument made by the Minister for the purposes of this subsection.
- (2) A period ascertained under subsection (1) may be a recurring period.
- (3) A period may be ascertained under subsection (1) by reference to a term of the school attended by the child.
- (4) For the purposes of this Part, it is immaterial whether an applicable school period begins before or after the commencement of this section.

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**123UJ Eligible care period**

- (1) For the purposes of this Part, an *eligible care period* is a period ascertained in accordance with a legislative instrument made by the Minister for the purposes of this subsection.
- (2) A period ascertained under subsection (1) may be a recurring period (for example, a fortnight).
- (3) For the purposes of this Part, it is immaterial whether an eligible care period begins before or after the commencement of this section.

**123UK Unsatisfactory school attendance situation**

- (1) For the purposes of this Part, the question whether an *unsatisfactory school attendance situation* exists, or has existed, in relation to a child is to be ascertained in accordance with a legislative instrument made by the Minister for the purposes of this subsection.
- (2) However, an *unsatisfactory school attendance situation* does not exist in relation to a child if the child is not required, under a law of a State or Territory, to attend school in a State or Territory.
- (3) For the purposes of this Part, it is immaterial whether an unsatisfactory school attendance situation exists or has existed before or after the commencement of this section.

**123UL Formal warning—unsatisfactory school attendance situation**

If:

- (a) a person is not subject to the income management regime under section 123UE; and
- (b) the person, or the person's partner, has an eligible care child; and
- (c) an unsatisfactory school attendance situation exists, or has existed, in relation to the eligible care child;

the Secretary may give the person a formal warning that the person, or the person's partner, could become subject to the income management regime under section 123UE if an unsatisfactory school attendance situation exists in relation to the eligible care child.

## **Subdivision D—Voluntary income management agreements**

### **123UM Voluntary income management agreement**

- (1) A person may enter into a written agreement with the Secretary under which the person agrees voluntarily to be subject to the income management regime throughout the period when the agreement is in force.
- (2) An agreement under subsection (1) is to be known as a ***voluntary income management agreement***.
- (3) The Secretary must not enter into a voluntary income management agreement with a person (the ***first person***) unless:
  - (a) the first person is an eligible recipient of a category H welfare payment; and
  - (b) the first person's usual place of residence is within a declared voluntary income management area; and
  - (c) if the first person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee.
- (4) In deciding whether to enter into a voluntary income management agreement with a person, the Secretary must have regard to:
  - (a) the extent to which it would be feasible for the Secretary to take action under Division 6 in relation to the person if the person were subject to the income management regime; and
  - (b) such other matters (if any) as the Secretary considers relevant.
- (5) The Secretary must not enter into a voluntary income management agreement with a person if:
  - (a) the person is subject to the income management regime under section 123UC, 123UCA, 123UCB, 123UCC, 123UD, 123UE, 123UF or 123UFAA; or
  - (b) during the 12-month period ending when the voluntary income management agreement is to come into force, there were 4 occasions on which previous voluntary income management agreements relating to the person were terminated under subsection 123UO(2).

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**123UN Duration of voluntary income management agreement**

- (1) A voluntary income management agreement in relation to a person (the *first person*):
  - (a) comes into force at the time specified in the agreement, so long as:
    - (i) at that time, the first person is an eligible recipient of a category H welfare payment; and
    - (ii) at that time, the first person's usual place of residence is within a declared voluntary income management area; and
    - (iii) if, at that time, the first person has a Part 3B payment nominee—the Part 3B payment nominee is not an excluded Part 3B payment nominee; and
    - (v) at that time, the first person is not subject to the income management regime under section 123UC, 123UCA, 123UCB, 123UCC, 123UD, 123UE, 123UF or 123UFAA; and
  - (b) remains in force until:
    - (i) it is terminated under section 123UO; or
    - (ii) if the agreement specifies a period (which must be at least 13 weeks) during which it is to remain in force, and the agreement has not been terminated under section 123UO before the end of that period—the end of that period.
- (3) If a voluntary income management agreement (the *original agreement*) in relation to a person is in force, subsection (1) does not prevent the Secretary from entering into a new voluntary income management agreement with the person, so long as the new agreement is expressed to come into force immediately after the original agreement ceases to be in force.
- (4) If a voluntary income management agreement in relation to a person has ceased to be in force, subsection (1) does not prevent the Secretary from entering into a new voluntary income management agreement with the person.



## **123UO Termination of voluntary income management agreement**

### *Termination by request*

- (1) If a voluntary income management agreement relates to a person, the person may, by written notice given to the Secretary, request the Secretary to terminate the agreement.
- (1A) However, a person must not make a request under subsection (1) unless the voluntary income management agreement to which the request relates has been in force for at least 13 weeks.
- (2) The Secretary must comply with a request under subsection (1) as soon as practicable after receiving the request, unless the request relates to a voluntary income management agreement that, on the day the request is received, has not been in force for at least 13 weeks.

### *Grounds of termination*

- (3) If:
  - (a) a voluntary income management agreement in relation to a person (the **first person**) is in force; and
  - (b) any of the following events occurs:
    - (i) the first person ceases to be an eligible recipient of a category H welfare payment;
    - (iii) in a case where the first person has a Part 3B payment nominee—the Part 3B payment nominee becomes an excluded Part 3B payment nominee;
    - (v) the first person becomes subject to the income management regime under section 123UC, 123UCA, 123UCB, 123UCC, 123UD, 123UE, 123UF or 123UFAA;
    - (vi) the Secretary becomes satisfied that it is not feasible for the Secretary to take action under Division 6 in relation to the first person;

the Secretary must terminate the voluntary income management agreement as soon as practicable after the occurrence of the event.

**Part 3B** Income management regime

**Division 2** Persons subject to the income management regime

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*Limit on new voluntary income management agreements*

- (4) If a voluntary income management agreement in relation to a person is terminated under this section, the Secretary must not enter into another voluntary income management agreement with the person within 21 days after the termination.

## **Division 3—Establishment of the Income Management Record**

### **123VA Establishment of the Income Management Record**

The Income Management Record is established by this section.

### **123VC Bank account**

Amounts standing to the credit of the Income Management Record may be kept in a single bank account.

## **Division 4—Income management accounts**

### **Subdivision A—Income management accounts**

#### **123WA Income management accounts**

*Income management accounts to be kept*

- (1) Separate notional accounts are to be kept within the Income Management Record in the names of particular persons.

*Person's income management account*

- (2) An account kept in the name of a person is to be known as the person's ***income management account***.

Note: Section 123TC provides that ***income management account*** means a notional account kept in accordance with this section.

*Amounts not held on trust*

- (3) An amount standing to the credit of a person's income management account is not held on trust.

#### **123WB Opening of income management accounts**

*Power*

- (1) The Secretary may open an income management account in the name of a particular person.
- (2) The Secretary may open the income management account even if the person is not subject to the income management regime.

*Duty*

- (3) The Secretary must open an income management account in the name of a particular person if:
  - (a) the person does not already have an income management account; and
  - (b) the person is subject to the income management regime.

### **123WC Closing of income management accounts**

The Secretary may close a person's income management account if the balance of the income management account is nil, and:

- (a) the person is not subject to the income management regime;  
or
- (b) the person has died.

### **123WD Income management accounts may have a nil balance**

*Nil balance*

- (1) A person's income management account may have a nil balance.

*Examples*

- (2) The following are examples of cases where an income management account might have a nil balance:
  - (a) no amount has been credited to the income management account;
  - (b) the balance of the income management account has been debited under section 123WJ;
  - (c) the balance of the income management account has been debited under section 123WL;
  - (d) the balance of the income management account has been debited under Division 6.

### **123WE One income management account per person**

*Only one income management account*

- (1) Only one income management account may be kept in respect of a particular person.
- (2) A contravention of subsection (1) does not affect the validity of an income management account.

*Amalgamation*

- (3) If the Secretary becomes aware that 2 or more income management accounts are being kept in respect of the same person, the Secretary must amalgamate the accounts into a single account.

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**123WF Credits to, and debits from, a person's income management account**

An amount must not be credited to, or debited from, a person's income management account except as provided by this Part.

**Subdivision B—Account statements**

**123WG Internet and telephone access to account statements etc.**

*Scope*

- (1) This section applies if an income management account is kept in the name of a person.

*Internet and telephone access to account statements etc.*

- (2) The Secretary may issue the person with a means of identification (for example, a personal identification number) that enables the person to do either or both of the following:
  - (a) to access on the internet electronic versions of account statements for the person's income management account;
  - (b) to be told the balance of the person's income management account using an automated telephone answering system.

**123WH Person may request account statements**

*Scope*

- (1) This section applies if an income management account is kept in the name of a person.

*Account statement may be requested*

- (2) The person may request the Secretary to give the person a written account statement for the income management account.
- (3) The Secretary must comply with the request.
- (4) However, the Secretary may refuse to comply with the request if the person has made a previous request at any time during the preceding period of 30 days.

## **123WI Account statements to be given**

### *Scope*

- (1) This section applies if an income management account is kept in the name of a person.

### *Account statement to be given*

- (2) At least once each quarter, the Secretary must give the person a written account statement for the income management account.
- (3) However, the Secretary is not required to give the person a written account statement relating to a particular period unless:
  - (a) an amount has been credited to, or debited from, the income management account during that period; or
  - (b) the income management account has a credit balance as at the end of that period.

## **Subdivision C—Miscellaneous**

### **123WJ Payment of credit balances of income management accounts—person ceases to be subject to the income management regime**

#### *Scope*

- (1) This section applies if:
  - (a) at a particular time, a person (the **first person**) ceases to be subject to the income management regime; and
  - (b) the first person's income management account has a credit balance at that time; and
  - (c) if, immediately before the first person ceased to be subject to the income management regime, the first person was subject to the income management regime under section 123UC, 123UCA, 123UCB, 123UCC, 123UD, 123UE, 123UF or 123UFAA—the Secretary is satisfied that the first person is not likely to become subject to the income management regime within 60 days after the cessation; and
  - (d) if, immediately before the first person ceased to be subject to the income management regime, the first person was subject to the income management regime under section 123UFA—

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the Secretary is satisfied that the first person is not likely to become subject to the income management regime under section 123UC, 123UCA, 123UCB, 123UCC, 123UD, 123UE, 123UF or 123UFAA within 60 days after the cessation.

*Residual amount*

- (2) For the purposes of this section, the **residual amount** is an amount equal to the credit balance of the first person's income management account.
- (3) The residual amount is payable to the first person in accordance with this section.

*Payment by instalments*

- (4) The Secretary may determine that the whole or a part of the residual amount is to be paid to the first person by instalments. The instalments are to be paid on the days specified in a determination made by the Secretary.
- (5) The days specified in the determination must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.
- (6) If an instalment is paid under subsection (4):
  - (a) the Income Management Record is debited by an amount equal to the amount of the instalment; and
  - (b) the first person's income management account is debited by an amount equal to the amount of the instalment.

*Lump sum payment*

- (7) The Secretary may determine that the whole or a part of the residual amount is to be paid to the first person as a single lump sum on a day determined by the Secretary.
- (8) The day specified in the determination must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.
- (9) The Secretary must not make a determination under subsection (7) unless:



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- (a) the lump sum is \$200 or less; or
  - (b) the Secretary is satisfied that there are special circumstances that warrant the making of the determination; or
  - (c) immediately before the first person ceased to be subject to the income management regime, the first person was subject to the income management regime under section 123UFA.
- (10) If a lump sum is paid under subsection (7):
  - (a) the Income Management Record is debited by an amount equal to the lump sum; and
  - (b) the first person's income management account is debited by an amount equal to the lump sum.

*Expense payment*

- (11) The Secretary may, on behalf of the Commonwealth:
  - (a) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount to a third person; or
  - (b) make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount to a fourth person;so long as:
  - (c) the payment is made with the consent of the first person; and
  - (d) the amount paid by the Secretary does not exceed the residual amount.
- (12) The payment under subsection (11) must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.
- (13) If the Secretary makes a payment under subsection (11):
  - (a) the Income Management Record is debited by an amount equal to the amount paid under subsection (11); and
  - (b) the first person's income management account is debited by an amount equal to the amount paid under subsection (11); and
  - (c) the Secretary is taken to have paid the first person so much of the residual amount as equals the amount paid under subsection (11).

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*Set-off*

- (14) If the first person owes an amount (the *debt amount*) to the Commonwealth, the Secretary may, with the consent of the first person, set off the whole or part of the residual amount against the whole or a part of the debt amount.
- (15) The set-off under subsection (14) must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.
- (16) If the Secretary sets off an amount under subsection (14):
  - (a) the Income Management Record is debited by an amount equal to the amount set off; and
  - (b) the first person's income management account is debited by an amount equal to the amount set off; and
  - (c) the Secretary is taken to have paid the first person so much of the residual amount as equals the amount set off.
- (16A) Subsection (14) is not limited by Chapter 5 of the 1991 Act also applying in relation to the debt amount.

*Tax consequences*

- (17) If a payment is made under subsection (4), (7) or (11), the payment does not have consequences under the income tax law for the first person.
- (18) If the Secretary sets off an amount under subsection (14), the set-off does not have consequences under the income tax law for the first person.

*Interpretation*

- (19) This section is subject to section 123WJA.

**123WJA Ceasing payment of credit balances of income management accounts—person becomes subject to the income management regime again**

- (1) This section applies if:
  - (a) at a particular time, a person ceases to be subject to the income management regime; and

- (b) at the time referred to in paragraph (a), there is a residual amount in relation to the person; and
  - (c) at any time after the cessation, the person becomes subject to the income management regime again; and
  - (d) at the time referred to in paragraph (c), the whole or a part of the residual amount has not been paid to the person in accordance with section 123WJ.
- (2) The Secretary may determine that section 123WJ ceases to apply in relation to:
  - (a) the whole of the residual amount; or
  - (b) a part of the residual amount specified in the determination.The determination has effect accordingly.
- (3) In this section:

*residual amount* has the same meaning as in subsection 123WJ(2).

**123WK Payment into bank account etc. of credit balances of income management accounts—person ceases to be subject to the income management regime**

*Scope*

- (1) This section applies to an amount that is to be paid to a person as:
  - (a) an instalment under subsection 123WJ(4); or
  - (b) a lump sum under subsection 123WJ(7).

*Payment into bank account etc.*

- (2) The amount is to be paid to the credit of a bank account kept by the person.
- (3) The bank account may be kept by the person either alone or jointly or in common with another person.
- (4) The Secretary may direct that the whole or a part of the amount be paid to the person in a different way from that provided for by subsection (2).
- (5) If the Secretary gives a direction under subsection (4), the amount is to be paid in accordance with the direction.

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**123WL Payment of credit balances of income management accounts—person dies**

*Scope*

- (1) This section applies if:
- (a) an income management account is kept in the name of a person; and
  - (b) the person dies; and
  - (c) at the time of the person's death, the person's income management account has a credit balance.

*Residual amount*

- (2) For the purposes of this section, the **residual amount** is an amount equal to the credit balance of the person's income management account.

*Payment of residual amount*

- (3) The residual amount is to be paid in one or more of the following ways (as determined by the Secretary):
- (a) to the legal personal representative of the person;
  - (b) to one or more other persons whom the Secretary is satisfied have carried out, are carrying out, or will carry out, an appropriate activity in relation to the estate or affairs of the person;
  - (c) to the credit of a bank account nominated by the person for the purposes of subsection 55(2).

An amount that is to be paid under this subsection is to be paid as a lump sum on a day determined by the Secretary.

- (3A) A person may be paid more than one amount under subsection (3).
- (4) The day specified in the determination under subsection (3) must occur within the 12-month period beginning on the day of the person's death.
- (5) If a lump sum is paid under subsection (3):
- (a) the Income Management Record is debited by an amount equal to the lump sum; and

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- (b) the person's income management account is debited by an amount equal to the lump sum.

*Tax consequences*

- (6) If a payment is made under subsection (3), the payment does not have consequences under the income tax law for the person's estate.

**123WM Payment into bank account etc. of credit balances of income management accounts—person dies**

*Scope*

- (1) This section applies to an amount that is to be paid to a person under paragraph 123WL(3)(a) or (b).

*Payment into bank account etc.*

- (2) The amount is to be paid to the credit of a bank account kept by the person.
- (3) The bank account may be kept by the person either alone or jointly or in common with another person.
- (4) The Secretary may direct that the whole or a part of the amount be paid to the person in a different way from that provided for by subsection (2).
- (5) If the Secretary gives a direction under subsection (4), the amount is to be paid in accordance with the direction.

**123WN Crediting of amounts to income management accounts—Ministerial rules**

The Minister may, by legislative instrument, make rules providing that an amount ascertained in accordance with the rules is to be credited to:

- (a) the Income Management Record; and
  - (b) a person's income management account;
- in the circumstances specified in the rules.

## **Division 5—Deductions from welfare payments**

### **Subdivision B—Child protection**

#### **123XI Deductions from category I welfare payments—instalments**

##### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UC; and
  - (b) an instalment of a category I welfare payment is payable to the person.

##### *Deductions from category I welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

##### *Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category I welfare payment is:
  - (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;of the net amount of the instalment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

## **123XJ Deductions from category I welfare payments—lump sums**

### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UC; and
  - (b) a category I welfare payment is payable to the person otherwise than by instalments.

### *Deductions from category I welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

### *Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a category I welfare payment is:
  - (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;of the net amount of the payment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

## **Subdivision BA—Vulnerable welfare payment recipients**

## **123XJA Deductions from category I welfare payments—instalments**

### *Scope*

- (1) This section applies if:
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- (a) a person is subject to the income management regime under section 123UCA; and
- (b) an instalment of category I welfare payment is payable to the person.

*Deductions from category I welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

*Deductible portion—instalments of baby bonus*

- (3) For the purposes of subsection (2), the **deductible portion** of an instalment of baby bonus under the Family Assistance Act is:
  - (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;of the net amount of the instalment (rounded down to the nearest cent).

*Deductible portion—instalments of other category I welfare payments*

- (4) For the purposes of subsection (2), the **deductible portion** of an instalment of a category I welfare payment (other than baby bonus under the Family Assistance Act) is:
  - (a) 50%; or
  - (b) if another percentage (not exceeding 100%) is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the other percentage;of the net amount of the instalment (rounded down to the nearest cent).
- (5) An instrument under paragraph (4)(b) may specify different percentages in relation to different category I welfare payments.



- (6) An instrument under paragraph (4)(b) may specify a percentage that is higher than 50% only if the Minister considers the higher percentage is necessary to promote the objects of this Part.

### **123XJB Deductions from category I welfare payments—lump sums**

#### *Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime under section 123UCA; and
  - (b) a category I welfare payment is payable to the person otherwise than by instalments.

#### *Deductions from category I welfare payments—lump sums*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

#### *Deductible portion*

- (3) For the purposes of subsection (2), the **deductible portion** of a category I welfare payment is:
- (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;
- of the net amount of the instalment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

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**Subdivision BB—Disengaged youth and long-term welfare  
payment recipients**

**123XJC Deductions from category I welfare payments—instalments**

*Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime under section 123UCB or 123UCC; and
  - (b) an instalment of category I welfare payment is payable to the person.

*Deductions from category I welfare payments—instalments*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

*Deductible portion—instalments of baby bonus*

- (3) For the purposes of subsection (2), the **deductible portion** of an instalment of baby bonus under the Family Assistance Act is:
- (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;
- of the net amount of the instalment (rounded down to the nearest cent).

*Deductible portion—instalments of other category I welfare payments*

- (4) For the purposes of subsection (2), the **deductible portion** of an instalment of a category I welfare payment (other than baby bonus under the Family Assistance Act) is:
- (a) 50%; or

- (b) if another percentage (not exceeding 100%) is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the other percentage;
- of the net amount of the instalment (rounded down to the nearest cent).
- (5) An instrument under paragraph (4)(b) may specify different percentages in relation to different category I welfare payments.
- (6) An instrument under paragraph (4)(b) may specify a percentage that is higher than 50% only if the Minister considers the higher percentage is necessary to promote the objects of this Part.

### **123XJD Deductions from category I welfare payments—lump sums**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UCB or 123UCC; and
  - (b) a category I welfare payment is payable to the person otherwise than by instalments.

#### *Deductions from category I welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

#### *Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a category I welfare payment is:
  - (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;

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of the net amount of the instalment (rounded down to the nearest cent).

- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

**Subdivision C—School enrolment and attendance**

**123XK Deductions from category I welfare payments—instalments**

*Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime under section 123UD or 123UE; and
  - (b) an instalment of a category I welfare payment is payable to the person.

*Deductions from category I welfare payments—instalments*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the **deductible portion** of an instalment of a category I welfare payment is:
- (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;
- of the net amount of the instalment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

## **123XL Deductions from category I welfare payments—lump sums**

### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UD or 123UE; and
  - (b) a category I welfare payment is payable to the person otherwise than by instalments.

### *Deductions from category I welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

### *Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a category I welfare payment is:
  - (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;of the net amount of the payment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

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**Subdivision D—Queensland Commission**

**123XM Deductions from category Q welfare payments—instalments**

*Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime under subsection 123UF(1) or (3); and
  - (b) an instalment of a category Q welfare payment is payable to the person.

*Deductions from category Q welfare payments—instalments*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the instalment of the category Q welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category Q welfare payment is the percentage of the net amount of the instalment determined by the Secretary in relation to the instalment (rounded down to the nearest cent).
- (4) The percentage specified in the determination must not exceed 100%.

**123XN Deductions from category Q welfare payments—lump sums**

*Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime under subsection 123UF(1) or (3); and
  - (b) a category Q welfare payment is payable to the person otherwise than by instalments.

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*Deductions from category Q welfare payments—lump sums*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the category Q welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a category Q welfare payment is the percentage of the net amount of the payment determined by the Secretary in relation to the payment (rounded down to the nearest cent).
- (4) The percentage specified in the determination must not exceed 100%.

**123XO Deductions from category S welfare payments—instalments**

*Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime under subsection 123UF(2); and
  - (b) an instalment of a category S welfare payment is payable to the person.

*Deductions from category S welfare payments—instalments*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the instalment of the category S welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

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*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category S welfare payment is the percentage of the net amount of the instalment determined by the Secretary in relation to the instalment (rounded down to the nearest cent).
- (4) The percentage specified in the determination must not exceed 100%.

**123XP Deductions from category S welfare payments—lump sums**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under subsection 123UF(2); and
  - (b) a category S welfare payment is payable to the person otherwise than by instalments.

*Deductions from category S welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category S welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a category S welfare payment is the percentage of the net amount of the payment determined by the Secretary in relation to the payment (rounded down to the nearest cent).
- (4) The percentage specified in the determination must not exceed 100%.



## Subdivision DAA—Other State/Territory referrals

### 123XPAA Deductions from category I welfare payments— instalments

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UFAA; and
  - (b) an instalment of a category I welfare payment is payable to the person.

#### *Deductions from category I welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

#### *Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category I welfare payment is:
  - (a) 70%; or
  - (b) if another percentage (not exceeding 100%) is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the other percentage;of the net amount of the instalment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages depending on one or more of the following:
  - (a) the category I welfare payments payable to persons subject to the income management regime under section 123UFAA;
  - (b) the usual place of residence of those persons;

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- (c) the recognised State/Territory authorities whose officers or employees may give a notice of the kind referred to in paragraph 123UFAA(1)(b).

**123XPAB Deductions from category I welfare payments—lump sums**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UFAA; and
  - (b) a category I welfare payment is payable to the person otherwise than by instalments.

*Deductions from category I welfare payments—lump sums*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the **deductible portion** of a category I welfare payment is:
  - (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;of the net amount of the payment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages depending on one or more of the following:
  - (a) the category I welfare payments payable to persons subject to the income management regime under section 123UFAA;
  - (b) the usual place of residence of those persons;

- (c) the recognised State/Territory authorities whose officers or employees may give a notice of the kind referred to in paragraph 123UFAA(1)(b).

## **Subdivision DA—Voluntary income management agreements**

### **123XPA Deductions from category I welfare payments—instalments**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime under section 123UFA; and
  - (b) an instalment of a category I welfare payment is payable to the person.

#### *Deductions from category I welfare payments—instalments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
  - (b) an amount equal to the deductible portion of the instalment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the instalment is credited to the person's income management account.

#### *Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of an instalment of a category I welfare payment is:
  - (a) 70%; or
  - (b) if another percentage (not exceeding 100%) is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the other percentage;of the net amount of the instalment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

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**123XPB Deductions from category I welfare payments—lump sums**

*Scope*

- (1) This section applies if:
- (a) a person is subject to the income management regime under section 123UFA; and
  - (b) a category I welfare payment is payable to the person otherwise than by instalments.

*Deductions from category I welfare payments—lump sums*

- (2) The following provisions have effect:
- (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a category I welfare payment is:
- (a) 100%; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;
- of the net amount of the payment (rounded down to the nearest cent).
- (4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

## **Subdivision DB—Economic security strategy payments and household stimulus payments**

### **123XPC Deductions from economic security strategy payments**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) an economic security strategy payment is payable to the person.
- (2) However, this section does not apply in relation to an economic security strategy payment under Part VIIG of the Veterans' Entitlements Act if the person is subject to the income management regime because of section 123UF.

#### *Deductions from economic security strategy payments*

- (3) The following provisions have effect:
  - (a) the Secretary must deduct from the economic security strategy payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (4) For the purposes of subsection (3), the ***deductible portion*** of an economic security strategy payment is 100% of the amount of the payment.

### **123XPD Deductions from household stimulus payments**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) a household stimulus payment is payable to the person.

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*Deductions from household stimulus payments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the household stimulus payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the ***deductible portion*** of a household stimulus payment is 100% of the amount of the payment.

**Subdivision DC—Student start-up scholarship payments and relocation scholarship payments**

**123XPF Deductions from student start-up scholarship payments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) a student start-up scholarship payment is payable to the person.

*Deductions from payment*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the student start-up scholarship payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the ***deductible portion*** of a student start-up scholarship payment is:
  - (a) 100% of the amount of the payment; or

- (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage of the amount of the payment.

### **123XPG Deductions from relocation scholarship payments**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) a relocation scholarship payment is payable to the person.

#### *Deductions from payment*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the relocation scholarship payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the ***deductible portion*** of a relocation scholarship payment is:
  - (a) 100% of the amount of the payment; or
  - (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage of the amount of the payment.

### **Subdivision DD—Voluntary income management incentive payments and matched savings scheme (income management) payments**

### **123XPH Deductions from voluntary income management incentive payments**

#### *Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and

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- (b) a voluntary income management incentive payment is payable to the person.

*Deductions from payments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the voluntary income management incentive payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.

*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of a voluntary income management incentive payment is 100% of the amount of the payment.

**123XPI Deductions from matched savings scheme (income management) payments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) a matched savings scheme (income management) payment is payable to the person.

*Deductions from payments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the matched savings scheme (income management) payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.



*Deductible portion*

- (3) For the purposes of subsection (2), the ***deductible portion*** of the matched savings scheme (income management) payment is 100% of the amount of the payment.

**Subdivision DE—Clean energy income-managed payments**

**123XPJ Deductions from clean energy income-managed payments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) a clean energy income-managed payment is payable to the person.

*Deductions from clean energy income-managed payments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the ***deductible portion*** of a clean energy income-managed payment is 100% of the amount of the payment.

**Subdivision DF—ETR income-managed payments**

**123XPJ Deductions from ETR income-managed payments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) an ETR income-managed payment is payable to the person.

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*Deductions from ETR income-managed payments*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the deductible portion of an ETR income-managed payment is 100% of the amount of the payment.

**Subdivision DG—Schoolkids bonus payments**

**123XPL Deductions from schoolkids bonus payments**

*Scope*

- (1) This section applies if:
  - (a) a person is subject to the income management regime; and
  - (b) a payment of schoolkids bonus under the Family Assistance Act is payable to the person.

*Deductions from schoolkids bonus*

- (2) The following provisions have effect:
  - (a) the Secretary must deduct from the payment the deductible portion of the payment;
  - (b) an amount equal to the deductible portion of the payment is credited to the Income Management Record;
  - (c) an amount equal to the deductible portion of the payment is credited to the person's income management account.
- (3) For the purposes of subsection (2), the deductible portion of a payment of schoolkids bonus is 100% of the amount of the payment.

## **Subdivision E—Deducted amount taken to have been paid**

### **123XQ Deducted amount taken to have been paid**

#### *Scope*

- (1) This section applies if an amount is deducted under this Division from an instalment or payment that is payable to a person.

#### *Deducted amount taken to have been paid*

- (2) The deducted amount is taken, for the purposes of:
- (a) the income tax law; and
  - (b) this Act (other than this Part); and
  - (c) the 1991 Act; and
  - (d) the Family Assistance Act; and
  - (e) the Family Assistance Administration Act; and
  - (f) the *Student Assistance Act 1973*; and
  - (g) the Veterans' Entitlements Act; and
  - (h) the *Child Support (Assessment) Act 1989*;
- to have been paid to the person at whichever of the following times is applicable:
- (i) if the deducted amount was equal to 100% of the net amount of the instalment or payment—when the instalment or payment would have been paid if the deduction had not been made;
  - (j) otherwise—when the instalment or payment was paid.

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## **Division 6—Debits from income management accounts**

### **Subdivision A—General**

#### **123YA Priority needs—application of income management account**

*Scope*

- (1) This section applies if:
- (a) a person (the ***first person***) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance.

*Priority needs*

- (2) If the Secretary is aware of any unmet priority needs of:
- (a) the first person; or
  - (b) the first person's children (if any); or
  - (c) the first person's partner (if any); or
  - (d) any other dependants of the first person;
- the Secretary must, within a reasonable period after becoming aware of those priority needs, take appropriate action under Subdivision B directed towards meeting those priority needs.
- (3) If:
- (a) the Secretary is satisfied that the current or future balance of the first person's income management account exceeds what is reasonably required to meet the current, and reasonably foreseeable, priority needs of:
    - (i) the first person; and
    - (ii) the first person's children (if any); and
    - (iii) the first person's partner (if any); and
    - (iv) any other dependants of the first person; and
  - (b) the first person requests the Secretary to take action under this Division that:
    - (i) is not directed towards meeting the current, and reasonably foreseeable, priority needs mentioned in paragraph (a); and

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- (ii) would result in the first person's income management account being debited by a particular amount; and
  - (c) the Secretary is satisfied that the debit would not result in the current or future balance of the first person's income management account falling below what is reasonably required to meet the current, and reasonably foreseeable, priority needs mentioned in paragraph (a);
- the Secretary must not unreasonably refuse the request.

**123YB Secretary must have regard to the best interests of children**

*Scope*

- (1) This section applies if:
  - (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the person has one or more children.

*Secretary must have regard to the best interests of children*

- (2) In deciding whether to take action under this Division that results in an amount being debited from the first person's income management account, the Secretary must have regard to:
  - (a) the best interests of the first person's children; and
  - (b) such other matters (if any) as the Secretary considers relevant.

**Subdivision B—Restricted debits**

**123YC Vouchers—general**

*Scope*

- (1) This section applies if:
  - (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a Part 3B payment nominee.

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*Vouchers*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) give the first person a voucher that:
    - (i) has a face value of a particular amount; and
    - (ii) enables the first person to acquire goods or services; or
  - (b) with the consent of the first person, give a third person a voucher that:
    - (i) has a face value of a particular amount; and
    - (ii) enables the third person to acquire goods or services;
- so long as the face value of the voucher does not exceed the credit balance of the first person's income management account.
- (3) A voucher may be for limited goods or services.

*Income Management Record to be debited*

- (4) If the first person or a third person is given a voucher under subsection (2), the Income Management Record is debited by an amount equal to the face value of the voucher.

*First person's income management account to be debited*

- (5) If the first person or a third person is given a voucher under subsection (2), the first person's income management account is debited by an amount equal to the face value of the voucher.

*Criteria*

- (6) The Secretary must not give the first person or a third person a voucher under subsection (2) if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If the first person or a third person is given a voucher under subsection (2), the giving of the voucher does not have any consequences under the income tax law for the first person or the third person, as the case may be.

## **123YD Vouchers—Part 3B payment nominee**

### *Scope*

- (1) This section applies if:
  - (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a Part 3B payment nominee.

### *Vouchers*

- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) give the Part 3B payment nominee a voucher that:
    - (i) has a face value of a particular amount; and
    - (ii) enables the Part 3B payment nominee to acquire goods or services; or
  - (b) with the consent of the Part 3B payment nominee, give a third person a voucher that:
    - (i) has a face value of a particular amount; and
    - (ii) enables the third person to acquire goods or services;so long as the face value of the voucher does not exceed the credit balance of the first person's income management account.
- (3) A voucher may be for limited goods or services.

### *Income Management Record to be debited*

- (4) If the Part 3B payment nominee or a third person is given a voucher under subsection (2), the Income Management Record is debited by an amount equal to the face value of the voucher.

### *First person's income management account to be debited*

- (5) If the Part 3B payment nominee or a third person is given a voucher under subsection (2), the first person's income management account is debited by an amount equal to the face value of the voucher.

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*Criteria*

- (6) The Secretary must not give the Part 3B payment nominee or a third person a voucher under subsection (2) if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If the Part 3B payment nominee or a third person is given a voucher under subsection (2), the giving of the voucher does not have any consequences under the income tax law for the Part 3B payment nominee, the first person or the third person.

**123YE Stored value cards—general**

*Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a Part 3B payment nominee.

*Stored value cards*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) give the first person a stored value card that enables the first person to acquire goods or services, so long as no part of the monetary value stored on the card may be withdrawn in cash; or
  - (c) increase the monetary value stored on a stored value card held by the first person, so long as:
    - (i) no part of the monetary value stored on the card may be withdrawn in cash; and
    - (ii) the stored value card enables the first person to acquire goods or services;
- so long as:
- (e) if paragraph (a) applies—the monetary value stored on the card does not exceed the credit balance of the first person's income management account; or



- (f) if paragraph (c) applies—the increase in monetary value does not exceed the credit balance of the first person's income management account.
- (3) A stored value card may be for limited goods or services.

*Income Management Record to be debited*

- (4) If, under subsection (2), the Secretary gives the first person a stored value card, the Income Management Record is debited by an amount equal to the monetary value stored on the card.
- (5) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the first person, the Income Management Record is debited by an amount equal to the increase in the monetary value.

*First person's income management account to be debited*

- (6) If, under subsection (2), the Secretary gives the first person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.
- (7) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the first person, the first person's income management account is debited by an amount equal to the increase in the monetary value.

*Criteria*

- (8) The Secretary must not, under subsection (2):
  - (a) give the first person a stored value card; or
  - (b) increase the monetary value stored on a stored value card;if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (9) If, under subsection (2), the Secretary gives the first person a stored value card, the giving of the card does not have consequences under the income tax law for the first person.

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- (10) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the first person, the increase does not have consequences under the income tax law for the first person.

**123YF Stored value cards—Part 3B payment nominee**

*Scope*

- (1) This section applies if:
- (a) a person (the ***first person***) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a Part 3B payment nominee.

*Stored value cards*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) give the Part 3B payment nominee a stored value card that enables the Part 3B payment nominee to acquire goods or services, so long as no part of the monetary value stored on the card may be withdrawn in cash; or
  - (b) with the consent of the Part 3B payment nominee, give the first person a stored value card that enables the first person to acquire goods or services, so long as no part of the monetary value stored on the card may be withdrawn in cash; or
  - (c) increase the monetary value stored on a stored value card held by the Part 3B payment nominee, so long as:
    - (i) no part of the monetary value stored on the card may be withdrawn in cash; and
    - (ii) the stored value card enables the Part 3B payment nominee to acquire goods or services; or
  - (d) with the consent of the Part 3B payment nominee, increase the monetary value stored on a stored value card held by the first person, so long as:
    - (i) no part of the monetary value stored on the card may be withdrawn in cash; and
    - (ii) the stored value card enables the first person to acquire goods or services;

so long as:

- (e) if paragraph (a) or (b) applies—the monetary value stored on the card does not exceed the credit balance of the first person's income management account; or
  - (f) if paragraph (c) or (d) applies—the increase in the monetary value does not exceed the credit balance of the first person's income management account.
- (3) A stored value card may be for limited goods or services.

*Income Management Record to be debited*

- (4) If, under subsection (2), the Secretary gives the Part 3B payment nominee or the first person a stored value card, the Income Management Record is debited by an amount equal to the monetary value stored on the card.
- (5) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the Part 3B payment nominee or the first person, the Income Management Record is debited by an amount equal to the increase in the monetary value.

*First person's income management account to be debited*

- (6) If, under subsection (2), the Secretary gives the Part 3B payment nominee or the first person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.
- (7) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the Part 3B payment nominee or the first person, the first person's income management account is debited by an amount equal to the increase in the monetary value.

*Criteria*

- (8) The Secretary must not, under subsection (2):
- (a) give the Part 3B payment nominee or the first person a stored value card; or
  - (b) increase the monetary value stored on a stored value card; if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

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*Tax consequences*

- (9) If, under subsection (2), the Secretary gives the Part 3B payment nominee or the first person a stored value card, the giving of the card does not have consequences under the income tax law for the Part 3B payment nominee or the first person.
- (10) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the Part 3B payment nominee or the first person, the increase does not have consequences under the income tax law for the Part 3B payment nominee or the first person.

**123YG Expense payment—general**

*Scope*

- (1) This section applies if:
  - (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a Part 3B payment nominee.

*Expense payment*

- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount to a third person in respect of expenditure incurred by the first person in relation to goods or services; or
  - (b) with the consent of the first person, make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount to a fourth person in respect of expenditure incurred by the third person in relation to goods or services; or
  - (c) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount by way of rates or land tax; or
  - (d) with the consent of the first person, make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount by way of rates or land tax;

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so long as the amount paid does not exceed the credit balance of the first person's income management account.

*Income Management Record to be debited*

- (3) If the Secretary makes a payment under subsection (2), the Income Management Record is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (4) If the Secretary makes a payment under subsection (2), the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (5) The Secretary must not make a payment under paragraph (2)(a) or (b) if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (6) If the Secretary makes a payment under subsection (2), the payment does not have consequences under the income tax law for the first person.

**123YH Expense payment—Part 3B payment nominee**

*Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a Part 3B payment nominee.

*Expense payment*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) make a payment in discharge, in whole or in part, of an obligation of the Part 3B payment nominee to pay an amount

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to a third person in respect of expenditure incurred by the Part 3B payment nominee in relation to goods or services; or

- (b) with the consent of the Part 3B payment nominee, make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount to a fourth person in respect of expenditure incurred by the third person in relation to goods or services; or
- (c) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount to a third person in respect of expenditure incurred by the first person in relation to goods or services;

so long as the amount paid does not exceed the credit balance of the first person's income management account.

*Income Management Record to be debited*

- (3) If the Secretary makes a payment under subsection (2), the Income Management Record is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (4) If the Secretary makes a payment under subsection (2), the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (5) The Secretary must not make a payment under subsection (2) if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (6) If the Secretary makes a payment under subsection (2), the payment does not have consequences under the income tax law for the Part 3B payment nominee or the first person.

## **123YI Crediting of account—general**

### *Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a Part 3B payment nominee.

### *Crediting of accounts*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to a third person on condition that the third person will:
    - (i) credit the amount to an account held by the first person with the third person; and
    - (ii) not allow the first person to debit the account except for the purposes of acquiring goods or services; and
    - (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the first person for the purposes of the acquisition of goods or services; or
  - (b) with the consent of the first person, pay an amount to a third person on condition that the third person will:
    - (i) credit the amount to an account held by a fourth person with the third person; and
    - (ii) not allow the fourth person to debit the account except for the purposes of acquiring goods or services; and
    - (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the fourth person for the purposes of the acquisition of goods or services;
- so long as the amount paid by the Secretary does not exceed the credit balance of the first person's income management account.
- (3) The goods or services referred to in paragraph (2)(a) or (b) may be limited to such goods or services as are determined by the Secretary.

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*Income Management Record to be debited*

- (4) If the Secretary pays an amount to a third person under subsection (2), the Income Management Record is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (5) If the Secretary pays an amount to a third person under subsection (2), the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (6) The Secretary must not, under subsection (2), pay an amount to a third person if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If the Secretary pays an amount to a third person under subsection (2), the payment does not have consequences under the income tax law for the first person.

**123YJ Crediting of account—Part 3B payment nominee**

*Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a Part 3B payment nominee.

*Crediting of accounts*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to a third person on condition that the third person will:
    - (i) credit the amount to an account held by the Part 3B payment nominee with the third person; and



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- (ii) not allow the Part 3B payment nominee to debit the account except for the purposes of acquiring goods or services; and
    - (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the Part 3B payment nominee for the purposes of the acquisition of goods or services; or
  - (b) with the consent of the Part 3B payment nominee, pay an amount to a third person on condition that the third person will:
    - (i) credit the amount to an account held by a fourth person with the third person; and
    - (ii) not allow the fourth person to debit the account except for the purposes of acquiring goods or services; and
    - (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the fourth person for the purposes of the acquisition of goods or services; or
  - (c) pay an amount to a third person on condition that the third person will:
    - (i) credit the amount to an account held by the first person with the third person; and
    - (ii) not allow the first person to debit the account except for the purposes of acquiring goods or services; and
    - (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the first person for the purposes of the acquisition of goods or services;
- so long as the amount paid by the Secretary does not exceed the credit balance of the first person's income management account.
- (3) The goods or services referred to in paragraph (2)(a), (b) or (c) may be limited to such goods or services as are determined by the Secretary.

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*Income Management Record to be debited*

- (4) If the Secretary pays an amount to a third person under subsection (2), the Income Management Record is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (5) If the Secretary pays an amount to a third person under subsection (2), the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (6) The Secretary must not, under subsection (2), pay an amount to a third person if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If the Secretary pays an amount to a third person under subsection (2), the payment does not have consequences under the income tax law for the Part 3B payment nominee or the first person.

**123YK Transfers to accounts—general**

*Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a Part 3B payment nominee.

*Transfers*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of an account held by the first person with:
    - (i) a bank; or

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- (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph;  
so long as money standing to the credit of the account cannot be debited except for the purposes of:
      - (iii) acquiring goods or services; or
      - (iv) paying account-related fees or charges; or
  - (b) with the consent of the first person, pay an amount to the credit of an account held by a third person with:
    - (i) a bank; or
    - (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph;  
so long as money standing to the credit of the account cannot be debited except for the purposes of:
      - (iii) acquiring goods or services; or
      - (iv) paying account-related fees or charges;so long as the amount paid by the Secretary does not exceed the credit balance of the first person's income management account.
- (3) The goods or services referred to in paragraph (2)(a) or (b) may be limited to such goods or services as are determined by the Secretary.

*Income Management Record to be debited*

- (4) If, under subsection (2), the Secretary pays an amount to the credit of an account, the Income Management Record is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (5) If, under subsection (2), the Secretary pays an amount to the credit of an account, the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (6) The Secretary must not, under subsection (2), pay an amount to the credit of an account if the Secretary is satisfied that any of relevant goods or services are excluded goods or excluded services.

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*Tax consequences*

- (7) If, under subsection (2), the Secretary pays an amount to the credit of an account, the payment does not have any consequences under the income tax law for the first person.

**123YL Transfers to accounts—Part 3B payment nominee**

*Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a Part 3B payment nominee.

*Transfers*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of an account held by the Part 3B payment nominee with:
    - (i) a bank; or
    - (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph;  
so long as money standing to the credit of the account cannot be debited except for the purposes of:
      - (iii) acquiring goods or services; or
      - (iv) paying account-related fees or charges; or
  - (b) with the consent of the Part 3B payment nominee, pay an amount to the credit of an account held by a third person with:
    - (i) a bank; or
    - (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph;  
so long as money standing to the credit of the account cannot be debited except for the purposes of:
      - (iii) acquiring goods or services; or
      - (iv) paying account-related fees or charges;

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so long as the amount paid by the Secretary does not exceed the credit balance of the first person's income management account.

- (3) The goods or services referred to in paragraph (2)(a) or (b) may be limited to such goods or services as are determined by the Secretary.

*Income Management Record to be debited*

- (4) If, under subsection (2), the Secretary pays an amount to the credit of an account, the Income Management Record is debited by an amount equal to the amount paid.

*First person's income management account to be debited*

- (5) If, under subsection (2), the Secretary pays an amount to the credit of an account, the first person's income management account is debited by an amount equal to the amount paid.

*Criteria*

- (6) The Secretary must not, under subsection (2), pay an amount to the credit of an account if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

- (7) If, under subsection (2), the Secretary pays an amount to the credit of an account, the payment does not have consequences under the income tax law for the Part 3B payment nominee or the first person.

## **123YM Restricted direct payment—general**

*Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a Part 3B payment nominee.

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*Direct payment*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of a bank account held by the first person (whether alone or jointly or in common with another person); or
  - (b) with the consent of the first person, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or
  - (c) if:
    - (i) the first person is subject to the income management regime under section 123UF; and
    - (ii) under a law of Queensland, the Queensland Commission gave the Secretary a written notice stating that a specified bank account held by a third person is a nominated third party account in relation to the first person; and
    - (iii) the notice has not been withdrawn or revoked;pay the amount to the credit of that bank account; or
  - (d) pay an amount to the first person by way of a cheque; or
  - (e) with the consent of the first person, pay an amount to a third person by way of a cheque; or
  - (f) pay an amount to the first person by way of cash; or
  - (g) with the consent of the first person, pay an amount to a third person by way of cash; or
  - (h) give the first person a stored value card that enables the first person to withdraw cash;
- so long as:
- (j) if paragraph (a), (b), (c), (d), (e), (f) or (g) applies—the amount paid does not exceed the credit balance of the first person's income management account; or
  - (k) if paragraph (h) applies—the monetary value stored on the card does not exceed the credit balance of the first person's income management account.

*Income Management Record to be debited*

- (3) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the Income Management Record is debited by an amount equal to the amount paid.

- (4) If, under paragraph (2)(h), the Secretary gives the first person a stored value card, the Income Management Record is debited by an amount equal to the monetary value stored on the card.

*First person's income management account to be debited*

- (5) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the first person's income management account is debited by an amount equal to the amount paid.
- (6) If, under paragraph (2)(h), the Secretary gives the first person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.

*Criteria*

- (7) The Secretary must not pay an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g) if the Secretary has reasonable grounds to believe that the whole or a part of the amount paid will be used to acquire excluded goods or excluded services.
- (8) The Secretary must not give the first person a stored value card under paragraph (2)(h) if the Secretary has reasonable grounds to believe that the whole or a part of the monetary value stored on the card will be used to acquire excluded goods or excluded services.

*Tax consequences*

- (9) If the Secretary makes a payment under paragraph (2)(a), (d) or (f) the payment does not have consequences under the income tax law for the first person.
- (10) If the Secretary makes a payment under paragraph (2)(b), (c), (e) or (g), the payment does not have consequences under the income tax law for the first person or the third person.
- (11) If, under paragraph (2)(h), the Secretary gives the first person a stored value card, the giving of the card does not have consequences under the income tax law for the first person.

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**123YN Restricted direct payment—Part 3B payment nominee**

*Scope*

- (1) This section applies if:
- (a) a person (the ***first person***) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a Part 3B payment nominee.

*Direct payment*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of a bank account held by the Part 3B payment nominee (whether alone or jointly or in common with another person); or
  - (b) with the consent of the Part 3B payment nominee, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or
  - (c) if:
    - (i) the first person is subject to the income management regime under section 123UF; and
    - (ii) under a law of Queensland, the Queensland Commission gave the Secretary a written notice stating that a specified bank account held by a third person is a nominated third party account in relation to the first person; and
    - (iii) the notice has not been withdrawn or revoked;pay the amount to the credit of that bank account; or
  - (d) pay an amount to the Part 3B payment nominee by way of a cheque; or
  - (e) with the consent of the Part 3B payment nominee, pay an amount to a third person by way of a cheque; or
  - (f) pay an amount to the Part 3B payment nominee by way of cash; or
  - (g) with the consent of the Part 3B payment nominee, pay an amount to a third person by way of cash; or



- (h) give the Part 3B payment nominee a stored value card that enables the Part 3B payment nominee to withdraw cash; or
- (i) with the consent of the Part 3B payment nominee, give the first person a stored value card that enables the first person to withdraw cash;

so long as:

- (j) if paragraph (a), (b), (c), (d), (e), (f) or (g) applies—the amount paid does not exceed the credit balance of the first person's income management account; or
- (k) if paragraph (h) or (i) applies—the monetary value stored on the card does not exceed the credit balance of the first person's income management account.

*Income Management Record to be debited*

- (3) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the Income Management Record is debited by an amount equal to the amount paid.
- (4) If, under paragraph (2)(h) or (i), the Secretary gives the Part 3B payment nominee or the first person a stored value card, the Income Management Record is debited by an amount equal to the monetary value stored on the card.

*First person's income management account to be debited*

- (5) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the first person's income management account is debited by an amount equal to the amount paid.
- (6) If, under paragraph (2)(h) or (i), the Secretary gives the Part 3B payment nominee or the first person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.

*Criteria*

- (7) The Secretary must not pay an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g) if the Secretary has reasonable grounds to believe that the whole or a part of the amount paid will be used to acquire excluded goods or excluded services.

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- (8) The Secretary must not give the Part 3B payment nominee or the first person a stored value card under paragraph (2)(h) or (i) if the Secretary has reasonable grounds to believe that the whole or a part of the monetary value stored on the card will be used to acquire excluded goods or excluded services.

*Tax consequences*

- (9) If the Secretary makes a payment under paragraph (2)(a), (d) or (f), the payment does not have consequences under the income tax law for the Part 3B payment nominee or the first person.
- (10) If the Secretary makes a payment under paragraph (2)(b), (c), (e) or (g), the payment does not have consequences under the income tax law for the Part 3B payment nominee or the first person.
- (11) If, under paragraph (2)(h) or (i), the Secretary gives the Part 3B payment nominee or the first person a stored value card, the giving of the card does not have consequences under the income tax law for the Part 3B payment nominee or the first person.

**Subdivision C—Unrestricted debits**

**123YO Unrestricted direct payment—general**

*Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person does not have a Part 3B payment nominee.

*Direct payment*

- (2) The Secretary may, on behalf of the Commonwealth:
- (a) pay an amount to the credit of a bank account held by the first person (whether alone or jointly or in common with another person); or
  - (b) with the consent of the first person, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or

- (c) pay an amount to the first person by way of a cheque; or
  - (d) with the consent of the first person, pay an amount to a third person by way of a cheque; or
  - (e) pay an amount to the first person by way of cash; or
  - (f) with the consent of the first person, pay an amount to a third person by way of cash; or
  - (g) give the first person a stored value card that enables the first person to withdraw cash;
- so long as:
- (i) if paragraph (a), (b), (c), (d), (e) or (f) applies—the amount paid does not exceed the credit balance of the first person’s income management account; or
  - (j) if paragraph (g) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account.
- (3) In deciding whether to take action under subsection (2), the Secretary must have regard to:
- (a) such matters (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
  - (b) such other matters (if any) as the Secretary considers relevant.

*Income Management Record to be debited*

- (4) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the Income Management Record is debited by an amount equal to the amount paid.
- (5) If, under paragraph (2)(g), the Secretary gives the first person a stored value card, the Income Management Record is debited by an amount equal to the monetary value stored on the card.

*First person’s income management account to be debited*

- (6) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the first person’s income management account is debited by an amount equal to the amount paid.
- (7) If, under paragraph (2)(g), the Secretary gives the first person a stored value card, the first person’s income management account is

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debited by an amount equal to the monetary value stored on the card.

*Tax consequences*

- (8) If the Secretary makes a payment under paragraph (2)(a), (c) or (e), the payment does not have consequences under the income tax law for the first person.
- (9) If the Secretary makes a payment under paragraph (2)(b), (d) or (f), the payment does not have consequences under the income tax law for the first person or the third person.
- (10) If, under paragraph (2)(g), the Secretary gives the first person a stored value card, the giving of the card does not have consequences under the income tax law for the first person.

**123YP Unrestricted direct payment—Part 3B payment nominee**

*Scope*

- (1) This section applies if:
  - (a) a person (the ***first person***) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance; and
  - (c) the first person has a Part 3B payment nominee.

*Direct payment*

- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) pay an amount to the credit of a bank account held by the Part 3B payment nominee (whether alone or jointly or in common with another person); or
  - (b) with the consent of the Part 3B payment nominee, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or
  - (c) pay an amount to the Part 3B payment nominee by way of a cheque; or
  - (d) with the consent of the Part 3B payment nominee, pay an amount to a third person by way of a cheque; or

- (e) pay an amount to the Part 3B payment nominee by way of cash; or
  - (f) with the consent of the Part 3B payment nominee, pay an amount to a third person by way of cash; or
  - (g) give the Part 3B payment nominee a stored value card that enables the Part 3B payment nominee to withdraw cash; or
  - (h) with the consent of the Part 3B payment nominee, give the first person a stored value card that enables the first person to withdraw cash;
- so long as:
- (i) if paragraph (a), (b), (c), (d), (e) or (f) applies—the amount paid does not exceed the credit balance of the first person’s income management account; or
  - (j) if paragraph (g) or (h) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account.
- (3) In deciding whether to take action under subsection (2), the Secretary must have regard to:
- (a) such matters (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
  - (b) such other matters (if any) as the Secretary considers relevant.

*Income Management Record to be debited*

- (4) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the Income Management Record is debited by an amount equal to the amount paid.
- (5) If, under paragraph (2)(g) or (h), the Secretary gives the Part 3B payment nominee or the first person a stored value card, the Income Management Record is debited by an amount equal to the monetary value stored on the card.

*First person’s income management account to be debited*

- (6) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the first person’s income management account is debited by an amount equal to the amount paid.

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- (7) If, under paragraph (2)(g) or (h), the Secretary gives the Part 3B payment nominee or the first person a stored value card, the first person's income management account is debited by an amount equal to the monetary value stored on the card.

*Tax consequences*

- (8) If the Secretary makes a payment under paragraph (2)(a), (c) or (e), the payment does not have consequences under the income tax law for the Part 3B payment nominee or the first person.
- (9) If the Secretary makes a payment under paragraph (2)(b), (d) or (f), the payment does not have consequences under the income tax law for the Part 3B payment nominee, the first person or the third person.
- (10) If, under paragraph (2)(g) or (h), the Secretary gives the Part 3B payment nominee or the first person a stored value card, the giving of the card does not have consequences under the income tax law for the Part 3B payment nominee or the first person.

**Subdivision D—Miscellaneous action**

**123YQ Miscellaneous action**

*Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) the first person's income management account has a credit balance.

*Miscellaneous action*

- (2) The Secretary may, on behalf of the Commonwealth, take an action specified in a legislative instrument made by the Minister for the purposes of this subsection, so long as the non-administrative expenses paid by the Commonwealth in relation to the taking of the action do not exceed the credit balance of the first person's income management account.

*Income Management Record to be debited*

- (3) If the Secretary takes action under subsection (2), the Income Management Record is debited by an amount equal to the non-administrative expenses paid by the Commonwealth in relation to the taking of the action.

*First person's income management account to be debited*

- (4) If the Secretary takes action under subsection (2), the first person's income management account is debited by an amount equal to the non-administrative expenses paid by the Commonwealth in relation to the taking of the action.

*Criteria*

- (5) The Secretary must not take action under subsection (2) unless the Secretary is satisfied that the action:
- (a) will benefit any or all of the following:
    - (i) the first person;
    - (ii) the first person's children (if any);
    - (iii) the first person's partner (if any);
    - (iv) any other dependants of the first person; and
  - (b) will not result in the acquisition of any excluded goods or excluded services.

*Tax consequences*

- (6) If the Secretary takes action under subsection (2), the taking of the action does not have consequences under the income tax law for:
- (a) the first person; or
  - (b) any other person for whose benefit the action was taken.

**123YR Credit of income management account in error**

- (1) If the Secretary is satisfied that an amount (the *excess amount*) has been credited to a person's income management account in error, the Secretary may determine, in writing, that the person's income management account is to be debited by an amount equal to the excess amount.

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- (2) If the Secretary makes a determination under subsection (1):
- (a) the Income Management Record is debited by an amount equal to the excess amount; and
  - (b) the person's income management account is debited by an amount equal to the excess amount.



## **Division 7—Information**

### **123ZB Information-gathering powers—school enrolment and attendance**

In determining the scope of the power conferred on the Secretary by section 192 or 195 to require the giving of information, or the production of a document, it is to be assumed that:

- (a) each reference in this Part to a declared primary school area were a reference to a State or Territory; and
- (b) each reference in this Part to a declared secondary school area were a reference to a State or Territory.

### **123ZC Child protection—notice of cancellation of category H welfare payments**

#### *Scope*

- (1) This section applies if:
  - (a) a person ceases to be subject to the income management regime under section 123UC because of the cancellation of a category H welfare payment of the person or the person's partner; and
  - (b) immediately before the cancellation, the relevant notice referred to in paragraph 123UC(1)(b) had not been withdrawn or revoked.

#### *Notice*

- (2) As soon as practicable after the cancellation, the Secretary must give a child protection officer of the State or Territory written notice of the cancellation.

### **123ZD Queensland Commission—notice of cancellation of welfare payments**

#### *Scope*

- (1) This section applies if:

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- (a) a person ceases to be subject to the income management regime under section 123UF because of the cancellation of:
  - (i) a category P welfare payment of the person or the person's partner; or
  - (ii) a category R welfare payment of the person or the person's partner; and
- (b) immediately before the cancellation, the relevant notice referred to in paragraph 123UF(1)(b) or (2)(c) had not been withdrawn or revoked.

*Notice*

- (2) As soon as practicable after the cancellation, the Secretary must give the Queensland Commission written notice of the cancellation.

**123ZDA Other State/Territory referrals—notice of cancellation of category H welfare payments**

*Scope*

- (1) This section applies if:
  - (a) a person ceases to be subject to the income management regime under section 123UFAA because of the cancellation of a category H welfare payment of the person or the person's partner; and
  - (b) immediately before the cancellation, the relevant notice referred to in paragraph 123UFAA(1)(b) had not been withdrawn or revoked.

*Notice*

- (2) As soon as practicable after the cancellation, the Secretary must give an officer or employee of the recognised State/Territory authority written notice of the cancellation.

**123ZE Disclosure of information to the Secretary—child protection**

- (1) Despite any law (whether written or unwritten) in force in a State or Territory, a child protection officer of a State or Territory may give the Secretary information about a person if:
  - (a) either:

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- (i) the person is subject to the income management regime under section 123UC; or
    - (ii) the child protection officer is considering whether to give a notice of the kind referred to in paragraph 123UC(1)(b) in relation to the person; and
  - (b) the disclosed information is relevant to the operation of this Part.
- (2) If information about a person is disclosed by a child protection officer of a State or Territory as mentioned in subsection (1), the Secretary may disclose information about the person to a child protection officer of the State or Territory for the purposes of the performance of the functions and duties, or the exercise of the powers, of the child protection officer in relation to the care, protection or welfare of children.

**123ZEA Disclosure of information to the Secretary—Queensland Commission**

- (1) Despite any law (whether written or unwritten) in force in Queensland, the Queensland Commission may give the Secretary information about a person if:
- (a) either:
    - (i) the person is subject to the income management regime under section 123UF; or
    - (ii) the Queensland Commission is considering whether to give a notice of the kind referred to in paragraph 123UF(1)(b) or (2)(c) in relation to the person; and
  - (b) the disclosed information is relevant to the operation of this Part.
- (2) If information about a person is disclosed by the Queensland Commission as mentioned in subsection (1), the Secretary may disclose information about the person to the Queensland Commission for the purposes of the performance of the functions, or the exercise of the powers, of the Queensland Commission.

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**123ZEAA Disclosure of information to the Secretary—other State/Territory referrals**

- (1) Despite any law (whether written or unwritten) in force in a State or Territory, an officer or employee of a recognised State/Territory authority may give the Secretary information about a person if:
  - (a) either:
    - (i) the person is subject to the income management regime under section 123UFAA; or
    - (ii) the officer or employee is considering whether to give a notice of the kind referred to in paragraph 123UFAA(1)(b) in relation to the person; and
  - (b) the disclosed information is relevant to the operation of this Part.
- (2) If information about a person is disclosed as mentioned in subsection (1), the Secretary may disclose information about the person to an officer or employee of the recognised State/Territory authority for the purposes of the performance of the functions and duties, or the exercise of the powers, of the officer or employee.

**123ZEB Disclosure of information to the Secretary—school enrolment and attendance**

- (1) Despite any law (whether written or unwritten) in force in a State or Territory:
  - (a) a State or Territory; or
  - (b) a non-government school authority; or
  - (c) any other person who is responsible for the operation of one or more schools;may give the Secretary information about the enrolment, or non-enrolment, of children at school.
- (2) Despite any law (whether written or unwritten) in force in a State or Territory:
  - (a) a State or Territory; or
  - (b) a non-government school authority; or
  - (c) any other person who is responsible for the operation of one or more schools;may give the Secretary information about the attendance, or non-attendance, of children at school.

## **Division 8—Debt recovery etc.**

### **123ZF Person other than payee obtaining payment of a cheque**

#### *Scope*

- (1) This section applies if:
- (a) a person (the ***first person***) is subject to the income management regime; and
  - (b) an amount is paid by cheque under section 123YM, 123YN, 123YO or 123YP; and
  - (c) the payment resulted in the first person's income management account being debited by an amount equal to the amount paid; and
  - (d) a person (the ***second person***) other than the payee of the cheque obtains possession of the cheque from the payee; and
  - (e) the cheque is not endorsed by the payee to the second person; and
  - (f) the second person obtains value for the cheque.

#### *Recovery*

- (2) The amount of the cheque is a debt due by the second person to the Commonwealth.

Note: For debt recovery, see Chapter 5 of the 1991 Act.

#### *Crediting of amounts*

- (3) The Secretary may determine, in writing, that the first person's income management account is to be credited by an amount equal to the amount of the cheque.
- (4) If the Secretary makes a determination under subsection (3), then an amount equal to the amount of the cheque is:
- (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.

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**123ZG Misuse of vouchers and stored value cards**

*Scope*

- (1) This section applies if:
- (a) a person (the ***first person***) is subject to the income management regime; and
  - (b) either:
    - (i) the Secretary has given the first person or another person a voucher under subsection 123YC(2) or 123YD(2); or
    - (ii) the Secretary has given the first person or another person a stored value card under subsection 123YE(2), 123YF(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and
  - (c) the Secretary's action resulted in the first person's income management account being debited; and
  - (d) a person (the ***unauthorised person***) other than the person to whom the voucher or stored value card was given:
    - (i) obtains possession of the voucher or stored value card from the person to whom the voucher or stored value card was given; and
    - (ii) uses the voucher or stored value card to acquire goods or services or to obtain cash; and
  - (e) the unauthorised person does so without the consent of the person to whom the voucher or stored value card was given.

*Recovery*

- (2) In the case of the use of a voucher, an amount equal to the face value of the voucher is a debt due by the unauthorised person to the Commonwealth.

Note: For debt recovery, see Chapter 5 of the 1991 Act.

- (3) In the case of the use of a stored value card, an amount equal to the monetary value involved in the use is a debt due by the unauthorised person to the Commonwealth.

Note: For debt recovery, see Chapter 5 of the 1991 Act.

*Crediting of amounts*

- (4) In the case of the use of a voucher, the Secretary may determine, in writing, that the first person's income management account is to be credited by an amount equal to the face value of the voucher.
- (5) If the Secretary makes a determination under subsection (4), then an amount equal to the face value of the voucher is:
  - (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.
- (6) In the case of the use of a stored value card, the Secretary may determine, in writing, that the first person's income management account is to be credited by an amount equal to the monetary value involved in the use.
- (7) If the Secretary makes a determination under subsection (6), then an amount equal to the monetary value involved in the use is:
  - (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.

**123ZH Repayment of money credited to an account**

*Scope*

- (1) This section applies if:
  - (a) a person (the **first person**) is subject to the income management regime; and
  - (b) under section 123YI or 123YJ, the Secretary has paid an amount to a third person; and
  - (c) the payment resulted in the first person's income management account being debited by an amount equal to the amount paid.

*Repayment*

- (2) The Secretary may, by written notice given to the third person, require the third person to repay to the Commonwealth (as a debt due to the Commonwealth) so much of the amount paid as has not been applied by the relevant account holder for the purposes of the acquisition of goods or services.

Note: For debt recovery, see Chapter 5 of the 1991 Act.

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*Crediting of amounts*

- (3) If:
- (a) the Secretary gives the third person a notice under subsection (2); and
  - (b) the Secretary is aware of the amount (the **relevant amount**) that has not been applied by the relevant account holder for the purposes of the acquisition of goods or services;
- the Secretary may determine, in writing, that the first person's income management account is to be credited by an amount equal to the relevant amount.
- (4) If the Secretary makes a determination under subsection (3), then an amount equal to the relevant amount is:
- (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.

**123ZI Breach of condition relating to crediting of account**

*Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) under section 123YI or 123YJ, the Secretary has paid an amount to a third person; and
  - (c) the payment resulted in the first person's income management account being debited by an amount equal to the amount paid; and
  - (d) the third person has breached a condition of the payment.

*Recovery*

- (2) So much of the amount paid as has not been applied by the relevant account holder for the purposes of the acquisition of goods or services is a debt due by the third person to the Commonwealth.

Note: For debt recovery, see Chapter 5 of the 1991 Act.



*Crediting of amounts*

- (3) If the Secretary is aware of the amount (the **relevant amount**) that has not been applied by the relevant account holder for the purposes of the acquisition of goods or services, the Secretary may determine, in writing, that the first person's income management account is to be credited by an amount equal to the relevant amount.
- (4) If the Secretary makes a determination under subsection (3), then an amount equal to the relevant amount is:
  - (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.

**123ZIA Balance of income management account falls below value of action taken under Division 6**

*Scope*

- (1) This section applies if:
  - (a) the Secretary takes action under Division 6 that requires an amount (the **initial amount**) to be debited from a person's income management account; and
  - (b) at any time between the taking of the action and the recording of the debit as mentioned in subsection 123ZNA(2), the balance of the person's account falls below an amount equal to the initial amount.

Note: The recording of the debiting of the initial amount may leave the person's income management account having a debit balance, but subsections (2) and (3) allow a credit to that account of an amount equal to the initial amount.

*Crediting of amounts*

- (2) The Secretary may determine, in writing, that the person's income management account is to be credited by an amount equal to the initial amount.
- (3) If the Secretary makes a determination under subsection (2), then an amount equal to the initial amount is:
  - (a) credited to the Income Management Record; and
  - (b) credited to the person's income management account.

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*Debt*

- (4) If the Secretary makes a determination under subsection (2), then an amount equal to the initial amount is a debt due by the person to the Commonwealth.

Note: For debt recovery, see Chapter 5 of the 1991 Act.

**123ZJ Value of action taken under Division 6 exceeds credit balance of income management account**

*Scope*

- (1) This section applies if:
- (a) a person (the *first person*) is subject to the income management regime; and
  - (b) the Secretary purports to take action under Division 6; and
  - (c) apart from this section, the action is invalid because of a breach of whichever of the following requirements is applicable under Division 6:
    - (i) in the case of giving a voucher—the requirement that the face value of the voucher must not exceed the credit balance of the first person’s income management account;
    - (ii) in the case of giving a stored value card—the requirement that the monetary value stored on the card must not exceed the credit balance of the first person’s income management account;
    - (iii) in the case of increasing the monetary value stored on a stored value card—the requirement that the increase in the monetary value must not exceed the credit balance of the first person’s income management account;
    - (iv) in the case of paying an amount—the requirement that the amount paid must not exceed the credit balance of the first person’s income management account;
    - (v) in the case of taking an action under subsection 123YQ(2)—the requirement that the non-administrative expenses paid by the Commonwealth in relation to the taking of the action must not exceed the credit balance of the first person’s income management account; and

- (d) the breach was the result of an administrative error or oversight.

*Validation*

(2) Both:

- (a) the action taken by the Secretary; and
- (b) the resulting debit from the first person's income management account;

are as valid as they would have been if:

- (c) the requirement mentioned in paragraph (1)(c) were not applicable to the action; and
- (d) this Part had allowed the first person's income management account to have a debit balance.

- (2A) To avoid doubt, the action to which subparagraph (1)(c)(ii), (iii), (iv) or (v) applies is covered by paragraph 123ZN(1)(e), (f), (g) or (h) (as the case requires).

*Relevant excess*

(3) For the purposes of this section, the **relevant excess** is:

- (a) in the case of giving a voucher—the amount by which the face value of the voucher exceeds the credit balance of the first person's income management account; or
- (b) in the case of giving a stored value card—the amount by which the monetary value stored on the card exceeds the credit balance of the first person's income management account; or
- (c) in the case of increasing the monetary value stored on a stored value card—the amount by which the increase in the monetary value exceeds the credit balance of the first person's income management account; or
- (d) in the case of paying an amount—the amount by which the amount paid exceeds the credit balance of the first person's income management account; or
- (e) in the case of taking an action under subsection 123YQ(2)—the amount by which the non-administrative expenses paid by the Commonwealth in relation to the taking of the action exceeds the credit balance of the first person's income management account.

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*Crediting of amounts*

- (4) An amount equal to the relevant excess is:
- (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.

*Recovery*

- (5) An amount equal to the relevant excess is a debt due by the first person to the Commonwealth.

Note: For debt recovery, see Chapter 5 of the 1991 Act.

**Division 9—Miscellaneous****123ZK Secretary must comply with certain directions given by the Queensland Commission***Deductible portion*

- (1) If:
- (a) a person is subject to the income management regime under section 123UF; and
  - (b) under a law of Queensland, the Queensland Commission gives the Secretary a written direction about the exercise of a power of the Secretary under subsection 123XM(3), 123XN(3), 123XO(3) or 123XP(3) in relation to the person; the Secretary must comply with the direction.

*Debits from income management accounts*

- (2) If:
- (a) a person is subject to the income management regime under section 123UF; and
  - (b) under a law of Queensland, the Queensland Commission gives the Secretary a written direction about the exercise of a power of the Secretary under Division 6 that results in a debit from the person's income management account; the Secretary must comply with the direction.

**123ZL Surrender of unused vouchers and unused stored value cards***Scope*

- (1) This section applies if:
- (a) a person (the **first person**) is subject to the income management regime; and
  - (b) either:
    - (i) the Secretary has given the first person or another person a voucher under subsection 123YC(2) or 123YD(2); or
    - (ii) the Secretary has given the first person or another person a stored value card under subsection 123YE(2),

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123YF(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and

- (c) as a result of the taking of the action referred to in paragraph (b), the first person's income management account has been debited by a particular amount (the ***debited amount***); and
- (d) the voucher or stored value card has not been used.

*Surrender of voucher or stored value card*

- (2) The voucher or stored value card may be surrendered to the Secretary.

*Income Management Record to be credited*

- (3) If, under subsection (2), the voucher or stored value card is surrendered to the Secretary, an amount equal to the debited amount is credited to the Income Management Record.

*First person's income management account to be credited*

- (4) If, under subsection (2), the voucher or stored value card is surrendered to the Secretary, an amount equal to the debited amount is credited to the first person's income management account.

**123ZM Vouchers**

- (1) The Secretary may, on behalf of the Commonwealth, purchase vouchers to be given under subsection 123YC(2) or 123YD(2).
- (2) The Secretary may, on behalf of the Commonwealth:
  - (a) issue vouchers to be given under subsection 123YC(2) or 123YD(2); and
  - (b) enter into agreements with the suppliers of goods or services under which the suppliers undertake to accept those vouchers in consideration for the supply of goods or services.
- (3) Subsections (1) and (2) do not limit the executive power of the Commonwealth.
- (4) To the extent to which:
  - (a) the issue of vouchers under paragraph (2)(a); or

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(b) an agreement entered into under paragraph (2)(b); involves a borrowing of money by the Commonwealth, that borrowing is authorised by this subsection.

Note: Section 37 of the *Financial Management and Accountability Act 1997* provides that an agreement for the borrowing of money by the Commonwealth is of no effect unless the borrowing is authorised by an Act.

**123ZN Appropriation**

- (1) The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of:
- (a) making payments under subsection 123WJ(4), (7) or (11) or 123WL(3); and
  - (b) enabling the Secretary to set off an amount under subsection 123WJ(14); and
  - (c) making a purchase mentioned in subsection 123ZM(1); and
  - (d) making a payment of an amount payable by the Commonwealth under an agreement mentioned in paragraph 123ZM(2)(b); and
  - (e) enabling the Secretary to give a stored value card under subsection 123YE(2), 123YF(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and
  - (f) enabling the Secretary to increase, under subsection 123YE(2) or 123YF(2), the monetary value stored on a stored value card; and
  - (g) enabling the Secretary to pay an amount under subsection 123YG(2), 123YH(2), 123YI(2), 123YJ(2), 123YK(2), 123YL(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and
  - (h) paying or discharging expenses incurred by the Commonwealth in relation to action taken by the Secretary under subsection 123YQ(2).
- (2) To avoid doubt, subsection (1) is the only provision of this Part that appropriates the Consolidated Revenue Fund.

**123ZNA Recording of amounts in accounts and records**

- (1) This section applies to:

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- (a) the crediting of an amount to the Income Management Record, or to a person's income management account, under this Part; and
  - (b) the debiting of an amount from the Income Management Record, or from a person's income management account, under this Part.
- (2) The crediting or debiting takes effect at the time an entry recording the crediting or debiting is made in the accounts and records of the Department or the Human Services Department.

**123ZO This Part has effect despite other provisions etc.**

This Part has effect despite anything in:

- (a) any other provision of this Act; or
- (b) the 1991 Act; or
- (c) the Family Assistance Act; or
- (d) the Family Assistance Administration Act; or
- (e) the *Student Assistance Act 1973*; or
- (f) the Veterans' Entitlements Act.



## Part 3C—Schooling requirements

### Division 1—General

#### 124 Scope

- (1) This Part applies to a person (a ***schooling requirement person***) in relation to another person (a ***child***) at a particular time if:
  - (a) either of the following applies at that time in relation to a schooling requirement payment:
    - (i) a claim by the person for the payment is being determined (under this Act or the Veterans' Entitlements Act);
    - (ii) a claim by the person for the payment has been granted, and the payment has not been cancelled (under this Act or the Veterans' Entitlements Act); and
  - (b) either:
    - (i) the child is a schooling requirement child of the person at that time; or
    - (ii) the child was a schooling requirement child of the person at any time within a period provided by the schooling requirement determination before that time; and
  - (c) the child is required, under a law of a State or Territory:
    - (i) to be enrolled at a school; or
    - (ii) to attend a school at times required under that law.
- (2) If this Part ceases to apply to a person while the person's schooling requirement payment is suspended under this Part, then, despite that cessation, section 124J, 124N or 124NG, as the case requires, is taken to apply in relation to the person and, for this purpose, the reconsideration day for the purposes of that section is taken to be the day of that cessation.

Note: Sections 124J, 124N and 124NG deal with when payments become payable after suspension.

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**124A Enrolment and attendance at school**

- (1) In this Part:

**attendance**, at a school, includes attendance at a place, for the purpose of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to attend a school.

**enrolment**, at a school, includes anything, for the purpose of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to enrol at a school.

**person responsible**, for the operation of a school, includes:

- (aa) a person included in a class of persons specified in an instrument under subsection (2); and
  - (a) a person responsible for schooling (or for the administration of schooling) at a place, other than a school, to which the definition of **attendance** applies; and
  - (b) a person responsible for schooling (or for the administration of schooling) in relation to which alternative enrolment of a kind mentioned in the definition of **enrolment** applies.
- (2) The Minister may, by legislative instrument, specify a class of persons for the purposes of paragraph (aa) of the definition of **person responsible** in subsection (1).

**124B Schooling requirement child**

*Schooling requirement child*

- (1) For the purposes of this Act, a person (the **first person**) is a **schooling requirement child** of another person at a particular time if:
- (a) at that time, the first person is a dependent child of the other person; or
  - (b) all of the following conditions are satisfied:
    - (i) that time occurs during a schooling requirement period;
    - (ii) under a family law order, or a registered parenting plan or parenting plan (within the meaning of the *Family Law Act 1975*), that is in force during the schooling

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requirement period, the first person is supposed to live or spend time with the other person;

- (iii) assuming the family law order, registered parenting plan or parenting plan were complied with during the schooling requirement period, the first person would have been in the other person's care for at least 14% of that period.

*Schooling requirement period*

- (2) For the purposes of subsection (1), a ***schooling requirement period*** is a period worked out in accordance with the schooling requirement determination.
- (3) A period worked out under subsection (2) may be a recurring period (for example, a fortnight).
- (4) For the purposes of this section, it is immaterial whether a schooling requirement period begins before or after the commencement of this section.

*Family law order*

- (5) In this section:

***family law order*** has the same meaning as in section 123TC.

## **124C Schooling requirement determination**

For the purposes of this Part, the Minister may, by legislative instrument, make a determination (the ***schooling requirement determination***) relating to school enrolment and attendance.

## **124D Schooling requirement payments**

In this Act:

***schooling requirement payment*** means:

- (a) a social security benefit; or
- (b) a social security pension; or
- (c) one of the following payments under the Veterans' Entitlements Act:
  - (i) Defence Force Income Support Allowance;

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- (ii) income support supplement;
- (iii) service pension.

**124E Application to payments under the Veterans' Entitlements Act**

- (1) For the purposes of this Part, the provisions of this Act covered by subsection (2) apply (to the extent mentioned in that subsection) in relation to schooling requirement payments that are made under the Veterans' Entitlements Act as if the payments were schooling requirement payments that are social security payments.
- (2) The provisions of this Act covered by this subsection are as follows:
  - (a) Part 1 (which includes provisions relating to the application of the *Criminal Code* and interpretation);
  - (b) section 85 and Division 9 of Part 3, to the extent that these provisions relate to the cancellation of schooling requirement payments under this Part;
    - Note: These provisions deal with the reconsideration of decisions in relation to social security payments.
  - (c) Division 10 of Part 3 (continuing effect of determinations), to the extent that the Division relates to the suspension and cancellation of schooling requirement payments under this Part;
  - (d) Part 4 (review of decisions), to the extent that the Part relates to the suspension and cancellation of schooling requirement payments under this Part;
  - (e) Part 5 (information management), to the extent necessary or convenient for the administration of this Part;
  - (f) Part 6 (offences), to the extent that the Part relates to acts or omissions occurring in relation to the administration of this Part;
  - (g) Part 7 (which includes provisions relating to delegations and regulations etc.), to the extent necessary or convenient for the administration of this Part;
  - (h) Schedule 1 (Dictionary).

## **Division 2—School enrolment**

### **124F School enrolment—enrolment notices**

#### *Enrolment notices generally*

- (1) The Secretary may give a notice (an **enrolment notice**) to a schooling requirement person about the person's child, requiring the person to give the Secretary evidence (in accordance with the notice) that the child is enrolled at a school as required by a law of a State or Territory.
- (2) Without limiting subsection (1), an enrolment notice may require evidence of enrolment to be given in the form of a written or oral statement by the schooling requirement person, or another person, confirming enrolment.
- (3) The enrolment notice must give details of:
  - (a) how to comply with the notice; and
  - (b) the initial period for compliance with the notice, and the Secretary's power to extend that period (see subsections (4) and (5)); and
  - (c) the consequences under this Division of not complying with the notice.

#### *Initial period for compliance*

- (4) The enrolment notice must state an initial period for compliance with the notice of at least 14 days after the notice is given.
- (5) The Secretary may extend the initial period for compliance stated in the enrolment notice before or after the end of the stated period.

### **124G School enrolment—condition of schooling requirement payments**

- (1) A schooling requirement payment is not payable to a schooling requirement person if the person fails to comply with an enrolment notice given to the person under section 124F.
- (2) Subsection (1) does not apply to the schooling requirement person in relation to an enrolment notice, as at a particular day, if:

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- (a) the initial compliance period stated in the notice (as extended, if at all, under subsection 124F(5)) has not ended at that day; or
- (b) the Secretary is satisfied that:
  - (i) as at that day, the person has a reasonable excuse, as determined in accordance with the schooling requirement determination (if any), for failing to comply with the enrolment notice; or
  - (ii) in the special circumstances of the case applying as at that day, as determined in accordance with the schooling requirement determination (if any), it is appropriate that the subsection should not apply as at that day.
- (3) A schooling requirement payment cannot be suspended, or cancelled, because of the application of subsection (1) except as provided by section 124H.
- (4) For a schooling requirement payment under the Veterans' Entitlements Act:
  - (a) this section does not apply in relation to the grant of the payment; but
  - (b) this section otherwise applies in relation to the payment.

**124H School enrolment—suspension or cancellation for non-compliance with enrolment notice**

*Scope*

- (1) This section applies if, as at a particular day:
  - (a) a schooling requirement person has been given an enrolment notice; and
  - (b) a schooling requirement payment is not payable to the person because subsection 124G(1) applies to the person as at that day.

Note: Section 124G provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an enrolment notice after the end of the initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

*Suspension or cancellation of payment*

- (2) The Secretary must:
- (a) if the payment has been suspended under this section for a total period of 13 weeks or more (which need not be a continuous period) in relation to compliance with the enrolment notice—determine that the payment is to be suspended or cancelled; or
  - (b) in any other case—determine that the payment is to be suspended.

*Payment may be suspended more than once*

- (3) The Secretary may make more than one determination under subsection (2) in relation to compliance with a particular enrolment notice.

Note: Following suspension of a schooling requirement payment, the payment may become payable again under section 124J. Subsection 124H(3) allows for a further suspension of the payment even after the payment has become payable again.

*Payment may be suspended even if not yet received*

- (4) The Secretary may suspend a schooling requirement person's schooling requirement payment under this section even if the person has not started to receive the payment.

Note: An enrolment notice may be given to a claimant for a schooling requirement payment (see section 124 (Scope)). The claim may be granted even if subsection 124G(1) applies to the person. However, in that event, the Secretary must suspend the payment under this section (before it has started).

**124J School enrolment—when payments become payable after suspension**

*Scope*

- (1) This section applies if, on a particular day (the ***reconsideration day***):
- (a) a person's schooling requirement payment has been, and remains, suspended under section 124H; and

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- (b) the Secretary has reconsidered the decision to suspend the payment (whether on an application under section 129 or on his or her own initiative); and
- (c) as a result of the reconsideration, the Secretary is satisfied that, as at the reconsideration day, subsection 124G(1) no longer applies to the person.

Note 1: The cancellation of a schooling requirement payment may be reconsidered under section 85.

Note 2: Section 124G provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an enrolment notice after the end of an initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

*Determination that payment is payable*

- (2) The Secretary must determine:
  - (a) that the schooling requirement payment is payable to the schooling requirement person (subject to any other provision of the social security law or the Veterans' Entitlements Act, as the case requires); and
  - (b) that any arrears resulting from the operation of this section are to be paid at a time, or times, stated in the determination under this subsection (or worked out in accordance with that determination).

*Entitlement to arrears—suspension for total period of up to 13 weeks*

- (3) If the payment has been suspended under section 124H for a total period of less than 13 weeks (which need not be a continuous period) in relation to compliance with a particular enrolment notice, the date of effect of the determination under subsection (2) is the day on which the latest suspension determination was made under section 124H in relation to such compliance.

Note: A schooling requirement payment may be suspended more than once under section 124H (see subsection 124H(3)).



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*Entitlement to arrears—suspension for total period of 13 weeks or more*

- (4) If subsection (3) does not apply, the date of effect of the determination under subsection (2) is:
  - (a) the reconsideration day; or
  - (b) an earlier day stated by the Secretary in that determination to be appropriate, in the special circumstances of the case applying as at the reconsideration day, as determined in accordance with the schooling requirement determination (if any).
- (5) For the purposes of subsection (4), the Secretary may vary a determination under subsection (2) to state an earlier date of effect, if the determination:
  - (a) does not include such a statement; or
  - (b) includes such a statement in relation to a later day.

*How arrears are paid*

- (6) Arrears resulting from the operation of this section may be paid to the person as a lump sum payment, a series of regular payments, or otherwise, as provided by the determination under subsection (2).
- (7) The person is entitled to a payment, or payments, of arrears arising from the operation of this section at the time, or times, provided by the determination under subsection (2).

*Non-application of general provisions for date of effect*

- (8) Division 9 of Part 3 (date of effect of determinations) does not apply in relation to a determination under subsection (2).

## **Division 3—School attendance notices**

### **124K School attendance—attendance notices**

#### *Scope*

- (1) This section applies if:
  - (a) a schooling requirement person's child is enrolled at a school in a State or Territory; and
  - (b) a person responsible for the operation of the school gives the Secretary written notice that:
    - (i) the child is failing to attend school, as required by the law of that State or Territory, to the satisfaction of the person responsible; and
    - (ii) the schooling requirement person is failing to take reasonable steps to ensure that the child attends school, as required by the law of that State or Territory, to the satisfaction of the person responsible.

#### *Attendance notice*

- (2) The Secretary may give a notice (an **attendance notice**) to the schooling requirement person, requiring the person to take reasonable steps, as determined in accordance with the schooling requirement determination (if any), to ensure that the child attends school as required by the law of that State or Territory.
- (3) The attendance notice must give details of:
  - (a) how to comply with the notice; and
  - (b) the initial period for compliance with the notice, and the Secretary's power to extend that period (under subsections (4) and (5)); and
  - (c) the consequences under this Division of not complying with the notice.

#### *Initial period for compliance*

- (4) The attendance notice must state an initial period for compliance with the notice of at least 28 days after the notice is given.

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- (5) The Secretary may extend the initial period for compliance stated in the attendance notice before or after the end of the stated period.

**124L School attendance—condition of schooling requirement payments**

- (1) A schooling requirement payment is not payable to a schooling requirement person if the person fails to comply with an attendance notice given to the person under section 124K.
- (2) Subsection (1) does not apply to the schooling requirement person in relation to an attendance notice, as at a particular day, if:
- (a) the initial compliance period stated in the notice (as extended, if at all, under subsection 124K(5)) has not ended at that day; or
  - (b) the Secretary is satisfied that:
    - (i) as at that day, the person has a reasonable excuse, as determined in accordance with the schooling requirement determination (if any), for failing to comply with the attendance notice; or
    - (ii) in the special circumstances of the case applying as at that day, as determined in accordance with the schooling requirement determination (if any), it is appropriate that the subsection should not apply as at that day.
- (3) A schooling requirement payment cannot be suspended, or cancelled, because of the application of subsection (1) except as provided by section 124M.
- (4) For a schooling requirement payment under the Veterans' Entitlements Act:
- (a) this section does not apply in relation to the grant of the payment; but
  - (b) this section otherwise applies in relation to the payment.

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**124M School attendance—suspension or cancellation for non-compliance with attendance notice**

*Scope*

- (1) This section applies if, as at a particular day:
- (a) a schooling requirement person has been given an attendance notice; and
  - (b) a schooling requirement payment is not payable to the person because subsection 124L(1) applies to the person as at that day.

**Note:** Section 124L provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an attendance notice after the end of the initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

*Suspension or cancellation of payment*

- (2) The Secretary must:
- (a) if the payment has been suspended under this section for a total period of 13 weeks or more (which need not be a continuous period) in relation to compliance with the attendance notice—determine that the payment is to be suspended or cancelled; or
  - (b) in any other case—determine that the payment is to be suspended.

*Payment may be suspended more than once*

- (3) The Secretary may make more than one determination under subsection (2) in relation to compliance with a particular attendance notice.

**Note:** Following suspension of a schooling requirement payment, the payment may become payable again under section 124N. Subsection 124M(3) allows for a further suspension of the payment even after the payment has become payable again.

*Payment may be suspended even if not yet received*

- (4) The Secretary may suspend a schooling requirement person's schooling requirement payment under this section even if the person has not started to receive the payment.

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Note: An attendance notice may be given to a claimant for a schooling requirement payment (see section 124 (Scope)). The claim may be granted even if subsection 124L(1) applies to the person. However, in that event, the Secretary must suspend the payment under this section (before it has started).

**124N School attendance—when payments become payable after suspension**

*Scope*

- (1) This section applies if, on a particular day (the ***reconsideration day***):
- (a) a person's schooling requirement payment has been, and remains, suspended under section 124M; and
  - (b) a person responsible for the operation of a school in a State or Territory at which the person's child is enrolled gives the Secretary written notice that the child is attending school, as required by the law of that State or Territory, to the satisfaction of the person responsible.
- (2) This section also applies if, on a particular day (the ***reconsideration day***):
- (a) a person's schooling requirement payment has been, and remains, suspended under section 124M; and
  - (b) the Secretary has reconsidered the decision to suspend the payment (whether on an application under section 129 or on his or her own initiative); and
  - (c) as a result of the reconsideration, the Secretary is satisfied that, as at the reconsideration day, subsection 124L(1) no longer applies to the person.

Note 1: The cancellation of a schooling requirement payment may be reconsidered under section 85.

Note 2: Section 124L provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an attendance notice after the end of an initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

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*Determination that payment is payable*

- (3) The Secretary must determine:
- (a) that the schooling requirement payment is payable to the schooling requirement person (subject to any other provision of the social security law or the Veterans' Entitlements Act, as the case requires); and
  - (b) that any arrears resulting from the operation of this section are to be paid at a time, or times, stated in the determination under this subsection (or worked out in accordance with that determination).

*Entitlement to arrears—suspension for total period of up to 13 weeks*

- (4) If the payment has been suspended under section 124M for a total period of less than 13 weeks (which need not be a continuous period) in relation to compliance with a particular attendance notice, the date of effect of the determination under subsection (3) is the day on which the latest suspension determination was made under section 124M in relation to such compliance.

Note: A schooling requirement payment may be suspended more than once under section 124M (see subsection 124M(3)).

*Entitlement to arrears—suspension for total period of 13 weeks or more*

- (5) If subsection (4) does not apply, the date of effect of the determination under subsection (3) is:
- (a) the reconsideration day; or
  - (b) an earlier day stated by the Secretary in that determination to be appropriate, in the special circumstances of the case applying as at the reconsideration day, as determined in accordance with the schooling requirement determination (if any).
- (6) For the purposes of subsection (5), the Secretary may vary a determination under subsection (3) to state an earlier date of effect, if the determination:
- (a) does not include such a statement; or
  - (b) includes such a statement in relation to a later day.

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*How arrears are paid*

- (7) Arrears resulting from the operation of this section may be paid to the person as a lump sum payment, a series of regular payments, or otherwise, in accordance with the determination under subsection (3).
- (8) The person is entitled to a payment, or payments, of arrears arising from the operation of this section at the time, or times, provided by the determination under subsection (3).

*Non-application of general provisions for date of effect*

- (9) Division 9 of Part 3 (date of effect of determinations) does not apply in relation to a determination under subsection (3).

## **Division 3A—School attendance plans**

### **124NA When this Division applies**

This Division applies if:

- (a) a schooling requirement person's child is enrolled at a school in a State or Territory; and
- (b) a person responsible for the operation of the school gives the Secretary written notice that the child is failing to attend school, as required by the law of that State or Territory, to the satisfaction of the person responsible.

### **124NB Conference notices**

The Secretary (the *notifier*), or a person responsible for the operation of the school (the *notifier*), may give a notice to the schooling requirement person specifying the following:

- (a) the person is required to attend a conference with a specified person at a specified place and time;
- (b) the purpose of the conference is to discuss the child's school attendance;
- (c) the person is required, at the conference, to enter into a school attendance plan that is in accordance with section 124NC;
- (d) the consequences under this Division of not complying with the notice.

### **124NC School attendance plans**

- (1) If a school attendance plan is not in force in relation to the schooling requirement person, the Secretary (the *notifier*), or a person responsible for the operation of the school (the *notifier*), may require the person to enter into such a plan.
- (2) If a school attendance plan is in force in relation to the schooling requirement person, the Secretary (the *notifier*), or a person responsible for the operation of the school (the *notifier*), may require the person to enter into another plan instead of the existing one.



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*Notice of requirement*

- (3) The notifier is to give the schooling requirement person notice of:
  - (a) the requirement; and
  - (b) the place and time at which the plan is to be entered into; and
  - (c) the consequences under this Division of not complying with the requirement.
- (4) Without limiting subsection (3), the notice may be included in a notice under section 124NB or 124ND.

*Form of plan*

- (5) A school attendance plan must be in a form approved by the notifier.

*Children covered by the plan*

- (6) A school attendance plan must cover one or more children of the schooling requirement person.

*Purpose of plan*

- (7) A school attendance plan must contain requirements, that the schooling requirement person is required to comply with, that the notifier considers appropriate for the purpose of ensuring improved school attendance of the one or more children covered by the plan.

## **124ND Compliance notices**

- (1) The Secretary (the ***notifier***), or a person responsible for the operation of the school (the ***notifier***), may give a notice (a ***compliance notice***) to the schooling requirement person requiring the person to comply with one or more requirements specified in the notice if the person commits any of the following failures:
  - (a) if a notice is given to the person under section 124NB—the person fails to attend the conference at the place and time specified under paragraph 124NB(a);
  - (b) the person fails to enter into a school attendance plan in accordance with section 124NC;
  - (c) the person fails to comply with a school attendance plan in force in relation to the person.

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- (2) The compliance notice must give details of:
  - (a) how to comply with the notice; and
  - (b) the consequences under this Division of not complying with the notice.

*Purpose of notice*

- (3) A requirement specified in the compliance notice must be one that the notifier considers appropriate for the purpose of ensuring improved school attendance of the schooling requirement person's child.

**124NE School attendance—condition of schooling requirement payments**

- (1) A schooling requirement payment is not payable to a schooling requirement person if the person fails to comply with a compliance notice given to the person under section 124ND.
- (2) Subsection (1) does not apply to the person in relation to a compliance notice, as at a particular day, if the Secretary is satisfied that there are special circumstances applying as at that day, as determined in accordance with the schooling requirement determination (if any), that justify the failure to comply with the compliance notice.
- (3) Subsection (1) does not apply to the person in relation to a compliance notice, as at a particular day, if:
  - (a) before that day, the person has been fined under a law of a State or Territory in relation to the failure of the person's child or children to attend school in that State or Territory; and
  - (b) having regard to all the circumstances, the Secretary determines that subsection (1) should not apply to the person as at that day.
- (4) A schooling requirement payment cannot be suspended, or cancelled, because of the application of subsection (1) except as provided by section 124NF.
- (5) For a schooling requirement payment under the Veterans' Entitlements Act:

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- (a) this section does not apply in relation to the grant of the payment; but
  - (b) this section otherwise applies in relation to the payment.
- (6) A determination under paragraph (3)(b) is not a legislative instrument.

**124NF School attendance—suspension or cancellation for non-compliance with compliance notice**

*Scope*

- (1) This section applies if, as at a particular day:
  - (a) a schooling requirement person has been given a compliance notice; and
  - (b) a schooling requirement payment is not payable to the person because subsection 124NE(1) applies to the person as at that day.

Note: Section 124NE provides that a schooling requirement payment is not payable to a person if he or she fails to comply with a compliance notice.

*Suspension or cancellation of payment*

- (2) The Secretary must:
  - (a) if the payment has been suspended under this section for a total period of 13 weeks or more (which need not be a continuous period) in relation to compliance with the compliance notice—determine that the payment is to be suspended or cancelled; or
  - (b) in any other case—determine that the payment is to be suspended.

*Payment may be suspended more than once*

- (3) The Secretary may make more than one determination under subsection (2) in relation to compliance with a particular compliance notice.

Note: Following suspension of a schooling requirement payment, the payment may become payable again under section 124NG. Subsection (3) of this section allows for a further suspension of the payment even after the payment has become payable again.

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*Payment may be suspended even if not yet received*

- (4) The Secretary may suspend a schooling requirement person's schooling requirement payment under this section even if the person has not started to receive the payment.

Note: A compliance notice may be given to a claimant for a schooling requirement payment (see section 124 (Scope)). The claim may be granted even if subsection 124NE(1) applies to the person. However, in that event, the Secretary must suspend the payment under this section (before it has started).

**124NG School attendance—when payments become payable after suspension**

*Scope*

- (1) This section applies if, on a particular day (the ***reconsideration day***):
- (a) a person's schooling requirement payment has been, and remains, suspended under section 124NF, where the compliance notice concerned required the person to enter into a school attendance plan; and
  - (b) the Secretary has reconsidered the decision to suspend the payment (whether on an application under section 129 or on his or her own initiative); and
  - (c) as a result of the reconsideration, the Secretary is satisfied that, as at the reconsideration day:
    - (i) the person has entered into such a plan containing requirements that the Secretary considers appropriate for the purpose of ensuring improved school attendance of the one or more children covered by the plan; or
    - (ii) there are special circumstances applying, as determined in accordance with the schooling requirement determination (if any), that justify the person being unable to enter into such a plan.
- (2) This section also applies if, on a particular day (the ***reconsideration day***):
- (a) a person's schooling requirement payment has been, and remains, suspended under section 124NF, where the compliance notice concerned required the person to comply

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with a school attendance plan in force in relation to the person; and

- (b) the Secretary has reconsidered the decision to suspend the payment (whether on an application under section 129 or on his or her own initiative); and
- (c) as a result of the reconsideration, the Secretary is satisfied that, as at the reconsideration day:
  - (i) the person is complying with the plan; or
  - (ii) there are special circumstances applying, as determined in accordance with the schooling requirement determination (if any), that justify the person being unable to comply with the plan.

*Determination that payment is payable*

- (3) The Secretary must determine:
  - (a) that the schooling requirement payment is payable to the schooling requirement person (subject to any other provision of the social security law or the Veterans' Entitlements Act, as the case requires); and
  - (b) that any arrears resulting from the operation of this section are to be paid at a time, or times, stated in the determination under this subsection (or worked out in accordance with that determination).

*Entitlement to arrears—suspension for total period of up to 13 weeks*

- (4) If the payment has been suspended under section 124NF for a total period of less than 13 weeks (which need not be a continuous period) in relation to compliance with a particular compliance notice, the date of effect of the determination under subsection (3) is the day on which the latest suspension determination was made under section 124NF in relation to such compliance.

Note: A schooling requirement payment may be suspended more than once under section 124NF (see subsection 124NF(3)).

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*Entitlement to arrears—suspension for total period of 13 weeks or more*

- (5) If subsection (4) does not apply, the date of effect of the determination under subsection (3) is:
  - (a) the reconsideration day; or
  - (b) an earlier day stated by the Secretary in that determination to be appropriate, in the special circumstances of the case applying as at the reconsideration day, as determined in accordance with the schooling requirement determination (if any).
- (6) For the purposes of subsection (5), the Secretary may vary a determination under subsection (3) to state an earlier date of effect, if the determination:
  - (a) does not include such a statement; or
  - (b) includes such a statement in relation to a later day.

*How arrears are paid*

- (7) Arrears resulting from the operation of this section may be paid to the person as a lump sum payment, a series of regular payments, or otherwise, in accordance with the determination under subsection (3).
- (8) The person is entitled to a payment, or payments, of arrears arising from the operation of this section at the time, or times, provided by the determination under subsection (3).

*Non-application of general provisions for date of effect*

- (9) Division 9 of Part 3 (date of effect of determinations) does not apply in relation to a determination under subsection (3).

## **Division 4—Information about schooling**

### **124P Schooling requirements—information about schooling**

- (1) Despite any law (whether written or unwritten) in force in a State or Territory:
  - (a) a State or Territory; or
  - (b) a non-government school authority; or
  - (c) any other person who is responsible for the operation of one or more schools;may, for the purposes of this Part, give the Secretary information about the enrolment, or non-enrolment, of children at school.
- (2) Despite any law (whether written or unwritten) in force in a State or Territory:
  - (a) a State or Territory; or
  - (b) a non-government school authority; or
  - (c) any other person who is responsible for the operation of one or more schools;may, for the purposes of this Part, give the Secretary information about either or both of the following:
  - (d) the attendance, or non-attendance, of children at school;
  - (e) a person's compliance with a compliance notice given to the person.

## **Division 5—General provisions**

### **124PA Relationship between Divisions of this Part**

No Division of this Part limits any other Division of this Part.



## **Part 4—Review of decisions**

### **Division 1—Effect of Part**

#### **124Q Application of Part to decisions under repealed laws**

This Part applies as if a decision under:

- (a) the 1947 Act; or
  - (b) the 1991 Act as in force immediately before the commencement of this Part;
- were a decision under the social security law.

#### **125 Decisions by officers under instruments**

For the purposes of this Part, a decision made by an officer under an instrument (other than an instrument that is a legislative instrument) made or issued under this Act or the 1991 Act is taken to be a decision under the social security law.

## **Division 2—Internal review**

### **126 Review of decisions by Secretary**

- (1) The Secretary may review:
  - (a) subject to subsection (2), a decision of an officer under the social security law; or
  - (c) a decision of an officer under the *Farm Household Support Act 1992*; or
  - (e) a decision under section 44-24 of the *Aged Care Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act; if the Secretary is satisfied that there is sufficient reason to review the decision.
- (2) The Secretary may review a decision:
  - (a) whether or not any person has applied for review of the decision; and
  - (b) even though an application has been made to the Social Security Appeals Tribunal or the Administrative Appeals Tribunal for review of the decision.
- (3) The Secretary may:
  - (a) affirm a decision; or
  - (b) vary a decision; or
  - (c) set a decision aside and substitute a new decision.
- (4) If:
  - (a) the Secretary sets a decision aside under subsection (3); and
  - (b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;the Secretary may, if satisfied that it is reasonable to do so, determine that the event is taken to have occurred for the purposes of the social security law.

### **127 Decisions that are not reviewable by the Secretary**

- (1) The Secretary may not, on an application under section 129, review a decision made by the Secretary himself or herself.

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- (2) The Secretary may not review a decision made by the Employment Secretary declaring, under section 28 of the 1991 Act, a program of work to be an approved program of work for income support payment.
- (3) The Secretary may not review a decision made by the Agriculture Minister or the Secretary of the Agriculture Department under the *Farm Household Support Act 1992*.

**128 Notice to Principal Member or AAT Registrar**

- (1) If:
  - (a) the Secretary makes a decision under subsection 126(3); and
  - (b) at the time when the Secretary makes the decision, a person has applied to the Social Security Appeals Tribunal for review of the decision that was reviewed by the Secretary;the Secretary must give the Principal Member written notice of the Secretary's decision under subsection 126(3).
- (2) If:
  - (a) the Secretary makes a decision under subsection 126(3); and
  - (b) at the time when the Secretary makes the decision, a person has applied to the Administrative Appeals Tribunal for review of the decision that was reviewed by the Secretary;the Secretary must give the Registrar of the Administrative Appeals Tribunal written notice of the Secretary's decision under subsection 126(3).

**129 Application for review**

- (1) Subject to subsections (3) and (4), a person affected by:
  - (a) a decision of an officer under the social security law; or
  - (c) a decision of an officer under the *Farm Household Support Act 1992*; or
  - (e) a decision under section 44-24 of the *Aged Care Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under section 96-2(7) of that Act;may apply to the Secretary for review of the decision.

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- (3) If:
- (a) an officer makes a decision under the social security law in relation to pension bonus, low income supplement or essential medical equipment payment; and
  - (b) notice is given to the person concerned;
- the person is not entitled to make an application under subsection (1) for review of the decision more than 13 weeks after the giving of the notice.
- (4) A person may not apply under subsection (1) for review of:
- (a) a decision made by the Secretary himself or herself; or
  - (c) a decision made by the Employment Secretary:
    - (i) under section 28 of the 1991 Act; or
    - (ii) approving a course of study or a labour market program; or
    - (iii) exempting a person from the application of a provision of the social security law; or
  - (d) a decision made by the Agriculture Minister or the Secretary of the Agriculture Department under the *Farm Household Support Act 1992*; or
  - (e) a decision made by the Health Secretary under or in relation to the social security law; or
  - (f) a decision made by the Chief Executive Centrelink himself or herself in the exercise of a delegated power.
- (5) A reference in this section to a decision of an officer under the social security law includes a reference to a determination that the Secretary is taken, by virtue of a provision of the social security law, to have made.

**130 Withdrawal of application**

- (1) A person who has applied for review of a decision may withdraw the application at any time before the review has been completed.
- (2) If an application for review of a decision is withdrawn, the application is taken never to have been made.
- (3) An application may be withdrawn orally or in writing or in any other manner approved by the Secretary.

**131 Secretary may continue payment pending outcome of application for review**

- (1) Subject to subsection (2), if:
  - (a) an adverse decision is made in relation to a social security payment; and
  - (b) the adverse decision:
    - (i) depends on the exercise of a discretion, or the holding of an opinion, by a person; or
    - (ii) would result in the application of a compliance penalty period; and
  - (c) a person applies to the Secretary under section 129 for review of the adverse decision;the Secretary may declare that the payment of the social security payment is to continue pending the determination of the review as if the adverse decision had not been made.
- (3) A declaration under subsection (1) must be by notice in writing.
- (4) While a declaration under subsection (1) is in force in relation to an adverse decision, the social security law (other than this Part) applies as if the adverse decision had not been made.
- (5) A declaration under subsection (1) in relation to an adverse decision:
  - (a) takes effect on the day on which it is made or on such earlier day (if any) as is specified in the declaration; and
  - (b) ceases to have effect:
    - (i) if the application for review is withdrawn—on the day the application is withdrawn; or
    - (ii) if a decision (the *review decision*) is made by the Secretary on the review of the adverse decision—at the end of the period of 13 weeks beginning on the day the review decision is made, or on such earlier day (if any) within that 13 week period as is specified by the Secretary; or
    - (iii) if the declaration is revoked by the Secretary—on the day the declaration is revoked.

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(5A) If:

- (a) an adverse decision results in a serious failure period or an unemployment non-payment period; and
- (b) a declaration in relation to the decision ceases to have effect under subsection (5); and
- (c) after the declaration ceases, the serious failure period or the unemployment non-payment period, or the balance of that period, remains to be served;

the period or the balance of the period continues from the day the declaration ceases.

(6) A reference in subsection (1) to a person's holding of an opinion is a reference to the person's holding that opinion, whether or not the social security law expressly requires the opinion to be held before the decision concerned is made.

(7) In this section:

***adverse decision***, in relation to a social security payment, means:

- (a) a decision to cancel or suspend the social security payment; or
- (b) a decision to reduce the rate of the social security payment.

**132 Guidelines for exercise of Secretary's power to continue payment**

The Minister, by legislative instrument:

- (a) is to determine guidelines for the exercise of the Secretary's power to make declarations under section 131 in relation to social security payments to persons who are subject to a compliance penalty period; and
- (b) may revoke or vary those guidelines.

**135 Review of decisions following application under section 129**

(1) Subject to subsection (3) and subsection 127(1), if a person applies under section 129 for review of a decision, the Secretary, the Chief Executive Centrelink or an authorised review officer must:

- (a) review the decision; and
- (b) do one of the following:
  - (i) affirm the decision;

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- (ii) vary the decision;
  - (iii) set the decision aside and substitute a new decision.
- (2) In the case of an application for review of a decision made by an officer of the Employment Department as a delegate of the Secretary, the reference in subsection (1) to an authorised review officer is to be read as a reference to an authorised review officer who is an officer of that Department.
- (3) An authorised review officer may not review a decision relating to the exercise of the Secretary's power under section 182 of this Act.
- (5) If:
  - (a) a person sets aside a decision under subsection (1); and
  - (b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;the Secretary may, if satisfied that it is reasonable to do so, determine that the event is taken to have occurred for the purposes of the social security law.

**136 Notice of decision on review**

If a person makes a decision under subsection 135(1), the person must give the applicant written notice of the decision.

**137 Certain decisions not to be revived**

- (1) This section has effect if:
  - (a) the Secretary makes a determination (the *first determination*) that:
    - (i) a social security payment is granted or is payable to a person; or
    - (ii) a social security payment is payable to a person at a particular rate; and
  - (b) the Secretary makes a determination (the *second determination*):
    - (i) cancelling the social security payment; or
    - (ii) reducing the rate at which the social security payment is payable; and
  - (c) notice of the second determination is given to the person; and

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- (d) the person applies under section 129 for review of the second determination; and
  - (e) the application is made more than 13 weeks after notice of the second determination was given; and
  - (f) a decision (the **review decision**) is made by the Secretary, an authorised review officer, the Social Security Appeals Tribunal or the Administrative Appeals Tribunal; and
  - (g) the review decision, or the effect of the review decision, is:
    - (i) to set aside the second determination; or
    - (ii) to affirm a decision setting aside the second determination.
- (2) This section has effect if:
- (a) the Secretary makes a determination (the **first determination**) that:
    - (i) a social security payment is granted or is payable to a person; or
    - (ii) a social security payment is payable to a person at a particular rate; and
  - (b) the Secretary makes a determination (the **second determination**):
    - (i) cancelling the social security payment; or
    - (ii) reducing the rate at which the social security payment is payable; and
  - (c) notice of the second determination is given to the person; and
  - (d) the Secretary reviews the second determination under section 126 without any application under section 129 for review of the decision having been made; and
  - (e) the decision of the Secretary on the review is to set aside the second determination; and
  - (f) the decision on the review is made more than 13 weeks after notice of the second determination was given.
- (3) This section has effect if:
- (a) the Secretary makes a determination (the **first determination**) that:
    - (i) a person's claim for a concession card is granted; or
    - (ii) a person is qualified for a concession card; and



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- (b) the Secretary makes a determination (the ***second determination***) cancelling the concession card; and
  - (c) notice of the second determination is given to the person; and
  - (d) the person applies under section 129 for review of the second determination; and
  - (e) the application is made more than 13 weeks after notice of the second determination was given; and
  - (f) a decision (the ***review decision***) is made by the Secretary, an authorised review officer, the Social Security Appeals Tribunal or the Administrative Appeals Tribunal; and
  - (g) the review decision, or the effect of the review decision, is:
    - (i) to set aside the second determination; or
    - (ii) to affirm a decision setting aside the second determination.
- (4) This section has effect if:
- (a) the Secretary makes a determination (the ***first determination***) that:
    - (i) a person's claim for a concession card is granted; or
    - (ii) a person is qualified for a concession card; and
  - (b) the Secretary makes a determination (the ***second determination***) cancelling the concession card; and
  - (c) notice of the second determination is given to the person; and
  - (d) the Secretary reviews the second determination under section 126 without any application under section 129 for review of the declaration having been made; and
  - (e) the decision of the Secretary on the review is to set aside the second determination; and
  - (f) the decision is made more than 13 weeks after notice of the second determination was given.
- (5) If this section has effect:
- (a) the second determination does not become void from the time when it was made; and
  - (b) the mere setting aside of the second determination does not of itself revive the first determination.

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- (6) For the purposes of this section, a person is taken to have applied for review of a determination (the *primary determination*) if:
  - (a) the person applies for review of another determination or decision; and
  - (b) a review of the primary determination is necessary to resolve the issues raised by the review of that other determination or decision.

**138 Notification of further rights of review**

- (1) If a person (the *decision-maker*) gives another person notice under section 136, the notice must include:
  - (a) a statement to the effect that the other person may, subject to the social security law, apply to the Social Security Appeals Tribunal for review of the decision-maker's decision; and
  - (b) a statement about the decision-maker's decision that:
    - (i) sets out the reasons for the decision; and
    - (ii) sets out the findings by the decision-maker on material questions of fact; and
    - (iii) refers to the evidence or other material on which those findings were based; and
  - (c) a statement to the effect that, if the other person is dissatisfied with the decision of the Social Security Appeals Tribunal, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Administrative Appeals Tribunal for review of the decision of the Social Security Appeals Tribunal.
- (2) A contravention of subsection (1) in relation to notice of a decision does not affect the validity of the decision.
- (3) Paragraphs (1)(a) and (c) do not apply in relation to a decision that is not reviewable by the Social Security Appeals Tribunal (see section 144).

## **Division 3—Review by the Social Security Appeals Tribunal**

### **Subdivision A—Preliminary**

#### **139 Continuance of Social Security Appeals Tribunal**

- (1) The Social Security Appeals Tribunal continued in existence by the 1991 Act is further continued in existence by this Act.
- (2) Provisions relating to the constitution and membership, and the organisation of the business of, the Social Security Appeals Tribunal, together with certain saving provisions, are to be found in Schedule 3.

### **Subdivision B—Review by SSAT**

#### **140 Application of Division**

- (1) This Division applies to:
  - (a) all decisions of an officer under the social security law, including:
    - (i) a decision under section 606 of the 1991 Act to the extent to which it relates to the terms of a Newstart Employment Pathway Plan that is in force; or
    - (ii) a decision under section 731M of the 1991 Act to the extent to which it relates to the terms of a Special Benefit Employment Pathway Plan that is in force; and
  - (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Employment Pathway Plan that is in force; and
  - (b) a decision under section 544B of the 1991 Act to the extent to which it relates to the terms of a Youth Allowance Employment Pathway Plan that is in force; and
  - (d) all decisions of an officer under the *Farm Household Support Act 1992*; and
  - (f) all decisions under section 44-24 of the *Aged Care Act 1997* by the Secretary, or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act.

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- (2) A reference in this section to a decision of an officer under the social security law includes a reference to a determination that the Secretary is taken, by virtue of a provision of the social security law, to have made.

**141 SSAT objective**

- (1) In carrying out its functions under this Act, the SSAT must pursue the objective of providing a mechanism of review that is fair, just, economical, informal and quick.
- (2) That objective must also be pursued by the Principal Member in performing or exercising his or her functions and powers under this Act.

**142 Application for review by SSAT**

- (1) Subject to section 144, if:
  - (a) a decision has been reviewed by the Secretary, the Chief Executive Centrelink or an authorised review officer under section 126 or 135; and
  - (b) the decision has been affirmed, varied or set aside;  
a person whose interests are affected by the decision of the Secretary, the Chief Executive Centrelink or the authorised review officer may apply to the SSAT for review of that decision.
- (2) Subject to section 144, if a decision has been made by the Secretary himself or herself or by the Chief Executive Centrelink himself or herself, a person whose interests are affected by the decision may apply to the SSAT for review of the decision.
- (4) For the purposes of subsection (1), the decision made by the Secretary, the Chief Executive Centrelink or the authorised review officer is taken to be:
  - (a) if the Secretary, the Chief Executive Centrelink or the authorised review officer affirms a decision—that decision as affirmed; and
  - (b) if the Secretary, the Chief Executive Centrelink or the authorised review officer varies a decision—that decision as varied; and

- (c) if the Secretary, the Chief Executive Centrelink or the authorised review officer sets a decision aside and substitutes a new decision—the new decision.
- (5) For the purposes of subsection (2), if:
  - (a) an application has been made under subsection 129(1) for review of a decision made by the Secretary himself or herself or the Chief Executive Centrelink himself or herself; and
  - (b) before the application under subsection 129(1) was made, the Secretary or Chief Executive Centrelink had reviewed the decision under section 126;the decision made by the Secretary or Chief Executive Centrelink is taken to be:
  - (c) if the Secretary or Chief Executive Centrelink had affirmed or varied the decision—that decision as affirmed or varied; and
  - (d) if the Secretary or Chief Executive Centrelink had set the decision aside and substituted a new decision—the new decision.

### **143 Application requirement for certain decisions**

- (1A) The SSAT may only review a decision under section 501A of the 1991 Act (to the extent to which it relates to the terms of a Parenting Payment Employment Pathway Plan that is in force) if the application is expressed to be an application for review of that decision.
- (1) The SSAT may only review a decision under section 544B of the 1991 Act (to the extent to which it relates to the terms of a Youth Allowance Employment Pathway Plan that is in force) if the application is expressed to be an application for review of that decision.
- (2) The SSAT may only review a decision under section 606 of the 1991 Act (to the extent to which it relates to the terms of a Newstart Employment Pathway Plan that is in force) if the application is expressed to be an application for review of that decision.
- (3) The SSAT may only review a decision under section 731M of the 1991 Act (to the extent to which it relates to the terms of a Special

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Benefit Employment Pathway Plan that is in force) if the application is expressed to be an application for review of that decision.

**144 Non-reviewable decisions**

The SSAT cannot review any of the following decisions:

- (c) a decision of the Agriculture Minister or the Secretary of the Agriculture Department under the *Farm Household Support Act 1992*;
- (d) a decision under section 36 or 36A of the 1991 Act;
- (daa) a decision under the 1991 Act or this Act in relation to Part 2.27 of the 1991 Act (Northern Territory CDEP transition payment);
- (da) a decision under section 1061ZZGC of the 1991 Act;
- (e) a decision under a provision dealing with the approval by the Employment Secretary of a course, labour market program, program of work for unemployment payment or rehabilitation program;
- (f) a decision under section 16 of this Act;
- (fa) a decision under subsection 42P(3) of this Act;
- (g) a decision under section 58 or 59 to pay an amount to a person;
- (h) a decision to make a payment under section 75 of this Act;
- (i) a decision, under subsection 59(3) of this Act, to grant a claim for a pension bonus after the claimant has died;
- (j) a decision under subsection 7A(2) or paragraph 15(b) of the *Farm Household Support Act 1992*;
- (k) a decision to give a notice under Subdivision B of Division 6 of Part 3 of this Act;
- (m) a decision under section 131 or 145 of this Act;
- (n) a decision under section 192, 193, 194 or 195 of this Act;
- (o) a decision under section 238 of this Act;
- (p) a decision of the Secretary:
  - (i) determining, under subsection 1100(2) of the 1991 Act, that it is not appropriate for that subsection to apply in respect of a payment or a class or kind of payments; or
  - (ii) determining, in accordance with section 1100 of the 1991 Act, that a rate of exchange is appropriate for the

calculation of the value in Australian currency of an amount (the *foreign amount*) received by a person in a foreign currency if that rate does not differ by more than 5% from the rate of exchange that was applied when the person received Australian currency for the foreign amount;

- (s) a decision relating to the Secretary's power under section 182 of this Act to settle proceedings before the AAT.

#### **145 Secretary may continue payment pending outcome of application for review**

(1) If:

- (a) an adverse decision is made in relation to a social security payment; and
- (b) the adverse decision:
  - (i) depends on the exercise of a discretion by a person or the holding of an opinion by a person; or
  - (ii) would result in the application of a compliance penalty period; and
- (c) a person applies to the SSAT under subsection 142(1) or (2) for review of the adverse decision;

the Secretary may declare that payment of the social security payment is to continue, pending the determination of the review, as if the adverse decision had not been made.

- (2) A declaration must be by notice in writing.
- (3) While a declaration under subsection (1) is in force in relation to an adverse decision, the social security law (other than this Division) applies as if the adverse decision had not been made.
- (4) A declaration under subsection (1) in relation to an adverse decision:
  - (a) takes effect on the day on which the declaration is made or on such earlier day (if any) as is specified in the declaration; and
  - (b) ceases to have effect:
    - (i) if the application for review is dismissed—on the day the application is dismissed; or

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- (ii) if a decision (the **review decision**) is made by the SSAT on the review of the adverse decision—at the end of the period of 13 weeks beginning on the day the review decision is made, or on such earlier day (if any) within that 13 week period as is specified by the Secretary; or
  - (iii) if the declaration is revoked by the Secretary—on the day the declaration is revoked.
- (4A) If:
  - (a) an adverse decision results in a serious failure period or an unemployment non-payment period; and
  - (b) a declaration in relation to the decision ceases to have effect under subsection (4); and
  - (c) after the declaration ceases, the serious failure period or the unemployment non-payment period, or the balance of that period, remains to be served;the period or the balance of the period continues from the day the declaration ceases.
- (5) A reference in subsection (1) to a person's holding of an opinion is a reference to the person's holding that opinion, whether or not the social security law expressly requires the opinion to be held before the decision concerned is made.
- (6) In this section:
  - adverse decision**, in relation to a social security payment, means:
    - (a) a decision to cancel or suspend the social security payment; or
    - (b) a decision to reduce the rate of the social security payment.

**146 Guidelines for exercise of Secretary's power to continue payment**

The Minister, by legislative instrument:

- (a) is to set guidelines for the exercise of the Secretary's power to make a declaration under subsection 145(1) affecting payments to persons who are subject to a compliance penalty period; and
- (b) may revoke or vary those guidelines.



## **149 SSAT review powers**

- (1) If a person applies to the SSAT for review of a decision (other than a decision referred to in subsection (5)), the SSAT must:
  - (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set the decision aside and:
    - (i) substitute a new decision; or
    - (ii) send the matter back to the Secretary or the Chief Executive Centrelink, as the case requires, for reconsideration in accordance with any directions or recommendations of the SSAT.
- (2) If the SSAT sets a decision aside and substitutes for it a decision that a person is entitled to a social security payment (other than pension bonus or pension bonus bereavement payment), the SSAT must:
  - (a) assess the rate at which the social security payment is to be paid to the person; or
  - (b) ask the Secretary or the Chief Executive Centrelink, as the case requires, to assess the rate at which the social security payment is to be paid to the person.
- (3) If the SSAT sets a decision aside and substitutes for it a decision that a person is entitled to a pension bonus or pension bonus bereavement payment, the SSAT must:
  - (a) assess the amount of the pension bonus or pension bonus bereavement payment that is to be paid to the person; or
  - (b) ask the Secretary to assess the amount of the pension bonus or pension bonus bereavement payment that is to be paid to the person.
- (4) If:
  - (a) the SSAT sets a decision aside under subsection (1); and
  - (b) the Secretary or the SSAT (as the case may be), is satisfied that an event that did not occur would have occurred if the decision had not been made;the Secretary or the SSAT, as the case requires, may, if satisfied that it is reasonable to do so, direct that the event is to be taken, for the purposes of the social security law, to have occurred.

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- (5) This section does not apply to:
- (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Employment Pathway Plan that is in force; or
  - (a) a decision under section 544B of the 1991 Act to the extent to which it relates to the terms of a Youth Allowance Employment Pathway Plan that is in force; or
  - (b) a decision under section 606 of the 1991 Act to the extent to which it relates to the terms of a Newstart Employment Pathway Plan that is in force; or
  - (c) a decision under section 731M of the 1991 Act to the extent to which it relates to the terms of a Special Benefit Employment Pathway Plan that is in force.

**150 SSAT review powers (Employment Pathway Plan decisions)**

If a person applies to the SSAT for review of:

- (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Employment Pathway Plan that is in force; or
- (a) a decision under section 525B of the 1991 Act as previously in force to the extent to which it related to the terms of a Job Search Activity Agreement that was previously in force; or
- (b) a decision under section 544B of that Act to the extent to which it relates to the terms of a Youth Allowance Employment Pathway Plan that is in force; or
- (c) a decision under section 606 of that Act to the extent to which it relates to the terms of a Newstart Employment Pathway Plan that is in force; or
- (ca) a decision under section 731M of that Act to the extent to which it relates to the terms of a Special Benefit Employment Pathway Plan that is in force;

the SSAT must:

- (d) affirm the decision; or
- (e) set aside the decision and send the matter back to the Secretary or the Chief Executive Centrelink, as the case requires, for reconsideration in accordance with any recommendations of the Tribunal.

## **151 Powers of the SSAT**

- (1) Subject to subsection (2), the SSAT may, for the purpose of reviewing a decision under the social security law, exercise all the powers and discretions that are conferred by the social security law on the Secretary.
- (2) The reference in subsection (1) to powers and discretions conferred by the social security law does not include a reference to a power or discretion conferred by:
  - (a) a provision dealing with the form and place of lodgment of a claim; or
  - (b) a provision dealing with the manner of payment of a social security payment; or
  - (ba) section 1061ZZGC of the 1991 Act; or
  - (c) section 1233 of the 1991 Act; or
  - (d) a provision dealing with the giving of a notice requiring information; or
  - (e) section 1100 of the 1991 Act; or
  - (g) section 131 or 145 of this Act; or
  - (h) a provision dealing with the imposition of requirements before the grant of a social security payment; or
  - (i) a provision dealing with the deduction of amounts from payments of a social security payment for tax purposes.
- (3) The SSAT may, for the purpose of reviewing a decision under the *Health Insurance Act 1973*, exercise all the powers and discretions conferred by that Act on the Secretary.
- (4) Nothing in this section applies in relation to the review of:
  - (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Employment Pathway Plan that is in force; or
  - (a) a decision under section 544B of the 1991 Act to the extent to which it relates to the terms of a Youth Allowance Employment Pathway Plan that is in force; or
  - (b) a decision under section 606 of the 1991 Act to the extent to which it relates to the terms of a Newstart Employment Pathway Plan that is in force; or

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- (c) a decision under section 731M of the 1991 Act to the extent to which it relates to the terms of a Special Benefit Employment Pathway Plan that is in force.

**152 Date of effect of SSAT decisions (other than Employment Pathway Plan decisions)**

- (1) Subject to subsections (2) and (3), a decision of the SSAT comes into operation immediately on the giving of the decision.
- (2) The SSAT may specify in a decision that the decision is not to come into operation until a later day specified in the decision and, if it does so, the decision comes into operation on that later day.
- (3) Subject to subsections (4) and (5), if the SSAT:
  - (a) varies a decision under review; or
  - (b) sets aside a decision under review and substitutes a new decision;the decision as varied or the new decision (as the case may be) has effect, or is to be taken to have had effect, on and from the day on which the decision under review has or had effect.
- (4) If:
  - (a) a person is given written notice of a decision under the social security law; and
  - (b) the person applies to the SSAT more than 13 weeks after the notice was given for review of the decision; and
  - (c) the SSAT varies the decision or sets the decision aside and substitutes a new decision; and
  - (d) the effect of the decision of the SSAT is:
    - (i) to grant the person's claim for a social security payment or a concession card; or
    - (ii) to direct the making of a payment of a social security payment to the person or the issue of a concession card to the person, as the case may be; or
    - (iii) to increase the rate of the person's social security payment;the social security law has effect as if the decision under review had taken effect on the day on which the application was made to the SSAT for review of that decision.

- (5) The SSAT may declare:
  - (a) that subsection (3) does not apply to a decision by the SSAT on a review; and
  - (b) that subsections (1) and (2) apply instead.
- (6) This section does not apply to:
  - (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Employment Pathway Plan that is in force; or
  - (a) a decision under section 544B of that Act to the extent to which it relates to the terms of a Youth Allowance Employment Pathway Plan that is in force; or
  - (b) a decision under section 606 of the 1991 Act to the extent to which the decision relates to the terms of a Newstart Employment Pathway Plan that is in force; or
  - (c) a decision under section 731M of the 1991 Act to the extent to which the decision relates to the terms of a Special Benefit Employment Pathway Plan that is in force.

### **153 Date of effect of SSAT decision (Employment Pathway Plan decision)**

- (1) This section applies to:
  - (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Employment Pathway Plan that is in force; and
  - (a) a decision under section 544B of the 1991 Act to the extent to which it relates to the terms of a Youth Allowance Employment Pathway Plan that is in force; and
  - (b) a decision under section 606 of the 1991 Act to the extent to which the decision relates to the terms of a Newstart Employment Pathway Plan that is in force; and
  - (c) a decision under section 731M of the 1991 Act to the extent to which the decision relates to the terms of a Special Benefit Employment Pathway Plan that is in force.
- (2) Subject to subsection (3), a decision by the SSAT in relation to a decision to which this section applies comes into operation immediately on the giving of the decision.

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

**154 Application requirements**

- (1) A person may apply to the SSAT for review of a decision by:
  - (a) sending or delivering a written application to:
    - (i) an office of the SSAT; or
    - (ii) an office of the Department; or
    - (iii) if the decision was made by the Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*)—an office of the Human Services Department; or
  - (b) going to an office of the SSAT and making an oral application; or
  - (c) contacting an office of the SSAT by telephone and making an oral application.
- (2) If a person makes an oral application in accordance with paragraph (1)(b) or (c), the person receiving the oral application must make a written record of the details of the oral application and note on the record the day on which the application is made.
- (3) If a written record of an oral application is made in accordance with subsection (2), Division 4 has effect as if the written record were a written application.
- (4) An application may include a statement of the reasons for seeking a review of the decision.

**155 Variation of decision before review completed**

- (1) If an officer varies a decision after an application has been made to the SSAT for review of the decision but before determination of the review, the application for review is to be treated as if it were an application for review of the decision as varied.
- (2) If an officer sets a decision aside and substitutes a new decision after an application has been made to the SSAT for review of the original decision but before the determination of the review, the

application for review is to be treated as if it were an application for review of the new decision.

- (3) If:
- (a) a person applies to the SSAT for review of a decision; and
  - (b) before determination of the review, an officer varies the decision or sets it aside and substitutes a new decision;
- the person may:
- (c) proceed with the application for review of the decision as varied or the new decision; or
  - (d) request the Principal Member to dismiss the application under section 171; or
  - (e) notify, under section 172, the SSAT that the application is discontinued or withdrawn.

### **156 Parties to SSAT review**

- (1) The parties to a review by the SSAT are:
  - (a) the applicant; and
  - (b) the Secretary; and
  - (c) if the relevant decision was made by the Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*) in the exercise of a delegated power—the Chief Executive Centrelink; and
  - (d) any other person who has been made a party to the review under subsection (4).
- (2) If a person has applied under section 142 for review of a decision, any other person whose interests are affected by the decision may apply to the Principal Member to be made a party to the review.
- (3) An application under subsection (2) must be in writing.
- (4) The Principal Member may order that a person who has applied under subsection (2) be made a party to the review.

## **Division 4—Procedures for review by the SSAT**

### **Subdivision A—Preliminary procedures**

#### **157 Procedure on receipt of application for review by SSAT**

- (1) If an application under section 142 is sent or delivered to an office of the Department or the Human Services Department, the Secretary must send the application to the Principal Member as soon as practicable and, in any case, not later than 7 days after the application is received at the office of the Department or the Human Services Department, as the case may be.
- (2) If:
  - (a) an application under section 142 is sent or delivered to an office of the SSAT; or
  - (b) the Secretary sends such an application to the Principal Member in accordance with subsection (1);the Principal Member must give the applicant and the Secretary written notice that the application has been received.
- (3) Within 28 days after receiving notice of the making of an application from the Principal Member, the Secretary must send to the Principal Member:
  - (a) a statement about the decision under review that:
    - (i) sets out the findings of fact made by the person who made the decision; and
    - (ii) refers to the evidence on which those findings were based; and
    - (iii) gives the reasons for the decision; and
  - (b) the original or a copy of every document or part of a document that:
    - (i) is in the possession, or under the control, of the Secretary; and
    - (ii) relates to the applicant; and
    - (iii) is relevant to the review of the decision.



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- (4) If the Principal Member asks the Secretary to send the statement and documents referred to in subsection (3) by a day earlier than the day fixed by that subsection, the Secretary must take reasonable steps to comply with the Principal Member's request.
- (5) If:
  - (a) after the end of the period referred to in subsection (3) but before the determination of the review, the Secretary obtains possession of a document; and
  - (b) the Secretary considers that the document or a part of the document is relevant to the review; and
  - (c) a copy of the document or the part of the document has not been sent to the Principal Member in accordance with subsection (3);the Secretary must send a copy of the document or the part of the document to an office of the SSAT as soon as practicable after obtaining possession of the document.

**158 Parties to be given a statement about the decision under review**

The Principal Member must give each party (other than the Secretary) a copy of the statement referred to in paragraph 157(3)(a).

**159 Arrangements for hearing of application**

- (1) If an application is made to the SSAT for review of a decision, the Principal Member must fix a day, time and place for the hearing of the application.
- (2) If a declaration under section 145 is in force in relation to a decision, the Principal Member must take reasonable steps to ensure that the decision is reviewed as quickly as possible.
- (3) The Principal Member must give the applicant and any other parties to the review written notice of the day, time and place fixed for the hearing of the application.
- (4) The notice under subsection (3) must be given a reasonable time before the day fixed for the hearing.

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**160 Notice of application to person affected by decision**

- (1) If:
  - (a) an application has been made to the SSAT for review of a decision; and
  - (b) the Principal Member is satisfied that the interests of a person who is not a party to the review are affected by the decision; the Principal Member must take reasonable steps to give the person written notice that an application has been made to the SSAT for review of the decision.
- (2) The notice under subsection (1):
  - (a) must be in writing; and
  - (b) must include notification of the person's right under section 156 to apply to the Principal Member to be added as a party to the review; and
  - (c) may be given at any time before the determination of the review.
- (3) The Principal Member must give each party to the review a copy of the notice.

**Subdivision B—Submissions from parties other than Secretary**

**160A Subdivision does not apply in relation to Secretary**

This Subdivision does not apply in relation to a party to a review of a decision who is the Secretary.

**161 Submissions to SSAT**

- (1) Subject to section 162, a party to a review of a decision may make oral or written submissions to the SSAT or both oral and written submissions.
- (2) A party to a review of a decision may, with the permission of the Principal Member, have another person make submissions to the SSAT on the party's behalf.
- (3) In deciding whether to grant permission under subsection (2), the Principal Member must have regard to the wishes of the parties and the need to protect their privacy.

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- (4) The Principal Member may determine that submissions to the SSAT by a party or a party's representative are to be made by telephone or by means of other electronic communications equipment.
- (5) Without limiting subsection (4), the Principal Member may make a determination under subsection (4) in relation to an application if:
  - (a) the application is urgent; or
  - (b) the party lives in a remote area and unreasonable expense would be incurred if the party or the party's representative had to travel to the place at which the hearing is to be held; or
  - (c) the party has failed to attend the hearing and has not indicated that he or she intends to attend the hearing; or
  - (d) the applicant is unable to attend the hearing because of illness or infirmity.
- (6) If a party is not proficient in English, the Principal Member may give directions in relation to the use of an interpreter in connection with the hearing of the review.

**162 SSAT hearings on written submissions only**

- (1) The Principal Member may direct that a hearing be conducted without oral submissions from the parties if:
  - (a) the Principal Member considers that the review hearing could be determined fairly on the basis of written submissions by the parties; and
  - (b) all parties to the review consent to the hearing being conducted without oral submissions.
- (2) If the Principal Member gives a direction under subsection (1), the Principal Member must give each of the parties to the review written notice:
  - (a) informing the party of the direction; and
  - (b) inviting the party to submit written submissions; and
  - (c) specifying the address to which the written submissions are to be delivered; and
  - (d) specifying the time within which the written submissions are to be delivered.
- (3) The time specified under paragraph (2)(d) must be such as to allow a reasonable period for the parties to make written submissions.

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- (4) Despite subsection (1), the SSAT, as constituted for the hearing, may, if it thinks necessary after considering the written submissions made by the parties, make an order permitting the parties to make oral submissions to the SSAT at the hearing of the review.

**163 SSAT hearings without oral submissions by party**

- (1) If a party to a review has informed the Principal Member that the party does not intend to make oral submissions to the SSAT, the SSAT may proceed to hear the application for review without oral submissions from the party.
- (2) If:
- (a) the Principal Member has determined that oral submissions to the SSAT by a party or a party's representative are to be made by telephone or by means of other electronic communications equipment; and
  - (b) on the day fixed for the hearing the presiding member has been unable to contact the party or the party's representative, as the case may, after taking reasonable steps to do so;
- the Principal Member may authorise the SSAT to proceed to hear the application without oral submissions from the party or the party's representative, as the case may be.
- (3) If:
- (a) the Principal Member has not determined that oral submissions to the SSAT by a party or a party's representative are to be made by telephone or by means of other electronic communications equipment; and
  - (b) the party or the party's representative, as the case may be, does not attend the hearing at the time fixed for the hearing;
- the Principal Member may authorise the SSAT to proceed to hear the application without oral submissions from the party or the party's representative, as the case may be.
- (4) If the Principal Member gives an authorisation under subsection (2) or (3), the SSAT may proceed to hear the application in accordance with the authorisation.
- (5) The Principal Member may revoke an authorisation under subsection (2) or (3).

## **Subdivision BA—Submissions from Secretary**

### **163A Submissions from Secretary**

- (1) The Secretary may make written submissions to the SSAT.

*Secretary may request permission to make oral submissions etc.*

- (2) The Secretary may, by writing, request the Principal Member for permission to make:

- (a) oral submissions to the SSAT; or
- (b) both oral and written submissions to the SSAT.

The request must explain how such submissions would assist the SSAT.

- (3) The Principal Member may, by writing, grant the request if, in the opinion of the Principal Member, such submissions would assist the SSAT.

*SSAT may order Secretary to make oral submissions etc.*

- (4) The Principal Member may order the Secretary to make:

- (a) oral submissions to the SSAT; or
- (aa) written submissions to the SSAT; or
- (b) both oral and written submissions to the SSAT;

if, in the opinion of the Principal Member, such submissions would assist the SSAT.

*Oral submissions by telephone etc.*

- (5) For the purposes of subsections (3) and (4), the Principal Member may determine that oral submissions to the SSAT by the Secretary are to be made by telephone or by means of other electronic communications equipment.

- (6) Subsection (5) does not limit subsection (3) or (4).

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**Subdivision BB—Other evidence provisions**

**164 Evidence on oath or affirmation**

The SSAT may take evidence on oath or affirmation for the purposes of a review of a decision.

**165 Provision of further information by Secretary**

- (1) The Principal Member may ask the Secretary to provide the SSAT with information or a document that the Secretary has and that is relevant to the review of a decision.
- (2) The Secretary must comply with a request under subsection (1) as soon as practicable and, in any event, not later than 14 days after the request is made.

**165A Power to obtain information or documents**

- (1) This section applies to a person if the Principal Member believes on reasonable grounds that the person has information or a document that is relevant to a review.
- (2) The Principal Member may, by written notice given to the person, require the person:
  - (a) to give to the SSAT, within the period and in the manner specified in the notice, any such information; or
  - (b) to produce to the SSAT, within the period and in the manner specified in the notice, any such documents.
- (3) The period specified in a notice given under subsection (2) must be at least 14 days after the notice is given.

*Offence*

- (4) A person commits an offence if:
  - (a) the person is given a notice under subsection (2); and
  - (b) the person fails to comply with the notice.

Penalty: Imprisonment for 6 months.

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*Notice to set out the effect of offence provisions*

- (5) A notice under subsection (2) must set out the effect of the following provisions:
- (a) subsection (4);
  - (b) section 137.1 of the *Criminal Code* (about giving false or misleading information);
  - (c) section 137.2 of the *Criminal Code* (about producing false or misleading documents).

**165B Inspecting and copying documents**

The following may inspect a document produced under section 165A and may make and retain copies of the whole or a part of the document:

- (a) a member who constitutes, or who is one of the members who constitute, the SSAT for the purposes of the review;
- (b) a member of the staff of the SSAT.

**165C Retention of documents**

- (1) The following may take possession of a document produced under section 165A, and retain it for as long as is reasonably necessary:
  - (a) a member who constitutes, or who is one of the members who constitute, the SSAT for the purposes of the review;
  - (b) a member of the staff of the SSAT.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Principal Member to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Principal Member must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of the whole or a part of the document.

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**166 Exercise by Secretary of powers under section 192**

- (1) The Principal Member may ask the Secretary to exercise the Secretary's powers under section 192 if the Principal Member is satisfied that a person has information, or has custody or control of a document, that is relevant to the review of a decision.
- (2) The Secretary must comply with a request under subsection (1) as soon as practicable and, in any event, within 7 days after the request is made.

**Subdivision BC—Directions hearings**

**166A Directions hearings**

- (1) Before the hearing of a review commences, the Principal Member may convene one or more directions hearings with the parties to the review if he or she considers that it would assist in the conduct and consideration of the review to do so.
- (2) At a directions hearing, the Principal Member may:
  - (a) fix a day or days for the hearing; and
  - (b) give directions about the time within which submissions are to be made to the SSAT; and
  - (c) give directions about the time within which evidence is to be brought before the SSAT; and
  - (d) give directions about what information is to be given to the SSAT.

**166B Powers of SSAT if parties reach agreement**

- (1) If:
  - (a) at a directions hearing under section 166A with the parties to a review, the parties agree to the terms of a decision of the SSAT:
    - (i) in the review; or
    - (ii) in relation to a part of the review, or a matter arising out of the review;that would be acceptable to the parties; and
  - (b) before the hearing of the review commences, the terms of the agreement are:



- (i) put in writing; and
  - (ii) signed by or on behalf of the parties; and
  - (iii) lodged with the SSAT; and
- (c) before the hearing of the review commences, the SSAT is satisfied that a decision in those terms, or consistent with those terms, would be within the powers of the SSAT; the SSAT may act in accordance with whichever of subsection (2) or (3) is relevant.
- (2) If the agreement reached is an agreement as to the terms of a decision of the SSAT in the review, the SSAT may make a decision in accordance with those terms without holding a hearing of the review.
- (3) If the agreement relates to a part of the review, or a matter arising out of the review, the SSAT may in its decision in the review give effect to the terms of the agreement without dealing at the hearing of the review with the part or matter to which the agreement relates.

## **Subdivision C—The hearing**

### **167 Hearing procedure**

- (1) The SSAT, in reviewing a decision:
  - (a) is not bound by legal technicalities, legal forms or rules of evidence; and
  - (b) is to act as speedily as a proper consideration of the review allows.
- (2) The SSAT may inform itself on any matter relevant to a review of a decision in any manner it considers appropriate.

### **168 Hearing in private**

- (1) The hearing of a review is to be in private.
- (2) The Principal Member may give directions, in writing or otherwise, as to the persons who may be present at any hearing of a review.

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- (3) In giving directions under subsection (2), the Principal Member must have regard to the wishes of the parties and the need to protect their privacy.

**Subdivision D—Other procedural matters**

**170 Adjournment of SSAT hearings**

- (1) The SSAT may adjourn the hearing of a review of a decision from time to time.
- (2) Without limiting subsection (1), the SSAT may refuse to adjourn the hearing of a review if:
  - (a) the hearing has already been adjourned on 2 or more occasions; or
  - (c) a declaration under section 131 or 145 is in force in relation to the decision under review.

**171 Dismissal of application for review by SSAT**

- (1) The Principal Member may, on the request of a party or on his or her own initiative, dismiss an application for review of a decision if:
  - (a) the decision is not reviewable under this Division; or
  - (b) the application is frivolous or vexatious; or
  - (c) all of the parties consent; or
  - (d) the Principal Member is satisfied:
    - (i) after having communicated with each party; or
    - (ii) after having made reasonable attempts to communicate with each party and having failed to do so;or a combination of both, that none of the parties intend to proceed with the application; or
  - (e) all of the parties fail to attend the hearing.
- (2) The Principal Member may dismiss an application under paragraph (1)(b) only if:
  - (a) one of the following applies:
    - (i) the Principal Member has received and considered submissions from the applicant for review;

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- (ii) the Principal Member has otherwise communicated with the applicant in relation to the grounds of the application;
    - (iii) the Principal Member has made reasonable attempts to communicate with the applicant in relation to the grounds of the application and has failed to do so; and
  - (b) all of the parties (other than the applicant) consent to the dismissal.
- (3) If the Principal Member dismisses an application under subsection (1) (other than under paragraph (1)(b)), a party to the review may:
- (a) within 28 days after receiving notification that the application has been dismissed; or
  - (b) within such longer period as the Principal Member, in special circumstances, allows;
- request that the Principal Member reinstate the application.
- (4) If the Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (5) If it appears to the Principal Member that an application has been dismissed under subsection (1) in error, he or she may, on the request of a party to the review or on his or her own initiative, reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (6) This section does not apply in relation to a party if the party is the Secretary or the Chief Executive Centrelink.

**172 Dismissal of application for review on request of party**

- (1) An applicant for review may notify the SSAT at any time that the application for review is discontinued or withdrawn.
- (2) If the applicant orally notifies the SSAT, the person who receives the notification must make a written record of the day on which the notification was given.
- (3) If notification is given under subsection (1), the Principal Member is taken to have dismissed the application.

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- (4) If the Principal Member dismisses an application under subsection (3), a party to the review may:
  - (a) within 28 days after receiving notification that the application has been dismissed; or
  - (b) within such longer period as the Principal Member, in special circumstances, allows;request that the Principal Member reinstate the application.
- (5) If the Principal Member considers it appropriate to do so, he or she may reinstate the application and give such directions as he or she considers appropriate in the circumstances.
- (6) This section does not apply in relation to a party if the party is the Secretary or the Chief Executive Centrelink.

#### **173 Presiding member at SSAT hearing**

If the SSAT is constituted by 2 or more members for the purposes of the review of a decision, the Principal Member must designate one of those members as the member who is to preside at the hearing of the review.

#### **174 Decision of questions before SSAT**

- (1A) This section applies if the SSAT is constituted by 2 or more members for the purposes of the review of a decision.
- (1) Subject to subsection (2), a question arising before the SSAT on a review is to be decided according to the opinion of a majority of the members constituting the SSAT for the purposes of the review.
- (2) If, on a question arising on a review, the opinions of the members of the SSAT are equally divided, the question is to be decided according to the opinion of the member presiding.

#### **175 Directions as to procedure for hearings**

- (1) The Principal Member:
  - (a) may give general directions as to the procedure to be followed by the SSAT in connection with the review of decisions under the social security law or under the *Farm Household Support Act 1992*; and

- (b) may give directions as to the procedure to be followed by the SSAT in connection with a particular review.
- (2) A direction under subsection (1) must not be inconsistent with any provision of the social security law or the *Farm Household Support Act 1992*.
- (3) A direction under paragraph (1)(b) may be given before or after the hearing of the particular review has commenced.
- (4) The presiding member of the SSAT as constituted for the purposes of a particular review may give directions as to the procedure to be followed on the hearing of the review.
- (5) A direction under subsection (4) must not be inconsistent with:
  - (a) any provision of the social security law; or
  - (b) any provision of the *Farm Household Support Act 1992*; or
  - (d) a direction under subsection (1) of this section.
- (6) A direction under subsection (4) may be given before or after the hearing of the particular review has commenced.

#### **176 Costs of review**

- (1) Subject to subsection (4), a party to a review must bear any expenses incurred by the party in connection with the review.
- (2) The SSAT may determine that the Commonwealth is to pay the reasonable costs that are:
  - (a) incurred by a party for travel and accommodation in connection with the review; and
  - (b) specified in the determination.
- (3) If the SSAT arranges for the provision of a medical service in relation to a party to a review, the SSAT may determine that the Commonwealth is to pay the costs of the provision of the service.
- (4) If the SSAT makes a determination under subsection (2) or (3), the costs to which the determination relates are payable by the Commonwealth.

## **Subdivision E—Notification of decisions**

### **177 Procedure following SSAT decision**

#### *SSAT affirms decisions*

- (1A) If the SSAT makes a decision on a review and the decision is of a kind mentioned in paragraph 149(1)(a), the SSAT must:
- (a) prepare a written statement (the ***initial statement***) that sets out the decision of the SSAT on the review; and
  - (b) give each party to the review a copy of the initial statement within 14 days after making the decision; and
  - (c) within 14 days after making the decision, either:
    - (i) give reasons for the decision orally to each party to the review and explain that the party may make a written request for a statement under subparagraph (ii) within 14 days after the copy of the initial statement is given to the party; or
    - (ii) give each party to the review a written statement (whether or not as part of the initial statement) that sets out the reasons for the decision, sets out the findings on any material questions of fact and refers to evidence or other material on which the findings of fact are based; and
  - (d) return to the Secretary any document that the Secretary has provided to the SSAT in connection with the review; and
  - (e) give the Secretary a copy of any other document that contains evidence or material on which the findings of fact are based.
- (1B) If the SSAT does not give a written statement to a party under subparagraph (1A)(c)(ii), the party may, within 14 days after the copy of the initial statement is given to the party, make a written request of the SSAT for such a statement.
- (1C) The SSAT must comply with a request under subsection (1B) within 14 days after the day on which it receives the request.

#### *SSAT varies decisions or sets decisions aside*

- (1) If the SSAT makes a decision on a review and the decision is of a kind mentioned in paragraph 149(1)(b) or (c), the SSAT must:
- (a) prepare a written statement that:

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- (i) sets out the decision of the SSAT on the review; and
- (ii) sets out the reasons for the decision; and
- (iii) sets out the findings on any material questions of fact; and
- (iv) refers to evidence or other material on which the findings of fact are based; and
- (b) give each party to the review a copy of the statement referred to in paragraph (a) within 14 days after the making of the decision in relation to the review; and
- (d) return to the Secretary any document that the Secretary has provided to the SSAT in connection with the review; and
- (e) give the Secretary a copy of any other document that contains evidence or material on which the findings of fact are based.

*Notice of further review right*

- (2) When the SSAT determines a review, the Principal Member must give each party to the review (other than the Secretary) a written notice that includes a statement to the effect that, if the person is dissatisfied with the decision of the SSAT, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the AAT for review of the decision.
- (3) A failure to comply with subsection (2) in relation to a decision of the SSAT does not affect the validity of the decision.

**Subdivision F—Correction of errors in decisions or statements of reasons**

**177A Correction of errors in decisions or statements of reasons**

*Correction of errors*

- (1) If:
  - (a) the SSAT makes a decision on a review; and
  - (b) the presiding member of the SSAT as constituted for the purposes of the review, or the Principal Member, is satisfied that there is an obvious error in:
    - (i) the text of the decision; or
    - (ii) a written statement of reasons for the decision;

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the presiding member or the Principal Member may alter the text of the decision or statement.

- (2) If the text of a decision or statement is altered under subsection (1), the altered text is taken to be the decision of the SSAT or the statement of reasons for the decision, as the case may be.

*Examples of obvious errors*

- (3) Examples of obvious errors in the text of a decision or statement of reasons are:
- (a) an obvious clerical or typographical error in the text of the decision or statement; and
  - (b) an inconsistency between the decision and the statement.

**Subdivision G—Restrictions on disclosure of information**

**177B Orders restricting disclosure of information**

- (1) The Principal Member may make an order directing a person:
- (a) not to disclose information specified in the order; or
  - (b) not to disclose information specified in the order except in the circumstances, or for the purposes, specified in the order; or
  - (c) not to disclose information specified in the order, except to a specified person or class of persons.
- (2) An order may only specify information that has been disclosed to the person for purposes relating to a review under this Part.
- (3) A person commits an offence if:
- (a) the Principal Member makes an order under subsection (1) in relation to the person; and
  - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (4) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure referred to in subsection (2) was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the *Criminal Code*.



### 177C Varying an order to permit certain disclosures

- (1) A person in relation to whom an order has been made under subsection 177B(1) may request the Principal Member to vary the order to allow the person to disclose particular information specified in the order:
  - (a) in particular circumstances or for particular purposes; or
  - (b) to a particular person or class of persons.
- (2) The Principal Member may vary the order in accordance with the request.
- (3) This section does not limit the Principal Member's power to vary or revoke an order.

Note: For variation and revocation apart from under this section, see subsection 33(3) of the *Acts Interpretation Act 1901*.

### 177D Orders restricting secondary disclosures of information

- (1) If an order (the **primary order**) under subsection 177B(1) directs a person not to disclose information specified in the order, except to any of the following (an **authorised recipient**):
  - (a) a specified person;
  - (b) a member of a specified class of persons;the Principal Member may make another order, directing an authorised recipient not to disclose the information specified in the primary order.
- (2) A person commits an offence if:
  - (a) the Principal Member makes an order under subsection (1) in relation to the person; and
  - (b) the person contravenes the order.

Penalty: Imprisonment for 2 years.

- (3) An order made under subsection (1) in relation to a person does not apply to information which the person knew before the disclosure of the information in accordance with the primary order was made.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

## **Division 5—Review by the Administrative Appeals Tribunal**

### **Subdivision A—Preliminary**

#### **178 Application of Division**

- (1) Unless a contrary intention appears, the provisions of this Division apply to:
  - (a) all decisions of an officer under the social security law or under the *Farm Household Support Act 1992*; and
  - (b) all decisions under section 44-24 of the *Aged Care Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act.
- (2) This Division applies as if a decision under the 1991 Act, as in force immediately before the commencement of this Part, were a decision under the social security law.

### **Subdivision B—Right to review by AAT**

#### **179 Review of decisions by AAT**

- (1) If:
  - (a) a decision has been reviewed by the SSAT; and
  - (b) the decision has been affirmed, varied or set aside by the SSAT;application may be made to the AAT for review of the decision of the SSAT.
- (2) For the purposes of subsection (1), the decision made by the SSAT is taken to be:
  - (a) where the SSAT affirms a decision—that decision as affirmed; and
  - (b) where the SSAT varies a decision—that decision as varied; and
  - (c) where the SSAT sets a decision aside and substitutes a new decision—the new decision; and
  - (d) where the SSAT sets a decision aside and sends the matter back to the Secretary for reconsideration in accordance with

any directions or recommendations of the SSAT—the  
directions or recommendations of the SSAT.

- (3) Subsection (1) has effect subject to section 29 of the *Administrative Appeals Tribunal Act 1975*.
- (4) If:
- (a) the AAT sets aside a decision of the SSAT; and
  - (b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;
- the Secretary may, if satisfied that it is reasonable to do so, direct that the event is to be taken, for the purposes of the social security law, to have occurred.

### **180 Variation of decision before AAT review completed**

- (1) If an officer varies a decision after an application has been made to the AAT for review of that decision but before the determination of the application, the application is to be treated as if:
- (a) the decision as varied had been affirmed by the SSAT; and
  - (b) the application were an application for review of the decision as varied.
- (2) If an officer sets a decision aside and substitutes a new decision after an application has been made to the AAT for review of the original decision but before the determination of the application, the application is to be treated as if:
- (a) the SSAT had set aside the original decision and substituted the new decision; and
  - (b) the application were an application for review of the new decision.
- (3) If:
- (a) a person applies to the AAT for review of a decision; and
  - (b) before determination of the application, an officer varies the decision or sets the decision aside and substitutes a new decision;
- the applicant may, instead of proceeding with the application under subsection (1) or (2), withdraw the application.

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**181 Review by AAT limited to decisions reviewed by SSAT**

The AAT may only review a decision that has been reviewed by the SSAT.

**182 Settlement of proceedings before the AAT**

- (1) The Secretary may agree with other parties to proceedings before the AAT that relate to the recovery of a debt that the proceedings be settled. The agreement must be in writing.
- (2) If proceedings are settled and the Secretary gives the AAT a copy of the agreement to settle the proceedings, the application for review of the decision the subject of the proceedings is taken to have been dismissed.

**Subdivision C—Modification of Administrative Appeals Tribunal Act**

**183 Definition**

In this Subdivision:

*AAT Act* means the *Administrative Appeals Tribunal Act 1975*.

**184 Notice of application for review**

The AAT Act applies to an application under section 179 for review of a decision as if the reference in subsection 29(11) of the AAT Act to the person who made the decision were a reference to each person who was a party to the review of the decision by the SSAT (other than the party who made the application under section 179).

**185 Parties to a review by the AAT**

The AAT Act applies to an application under section 179 for review as if the reference in paragraph 30(1)(b) of the AAT Act to the person who made the decision were a reference to each party to the review of the decision by the SSAT.

## 186 Lodgment of documents with the AAT

- (1) The AAT Act applies to an application under section 179 for review as if references in section 37 of the AAT Act to the person who made the decision the subject of the application were references to:
  - (a) if the original decision was made by the Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*)—the Chief Executive Centrelink; or
  - (b) in any other case—the Secretary.
- (2) If a person applies to the AAT under section 179 for review of a decision, the Secretary is to be taken to have complied with the Secretary's obligations under paragraph 37(1)(a) of the AAT Act in relation to the decision if the Secretary gives the AAT the prescribed number of copies of the statement prepared by the SSAT under paragraph 177(1)(a).
- (3) Subsection (2) does not limit the powers of the AAT under section 38 of the AAT Act.
- (4) If:
  - (a) a person applies under section 179 for review of a decision; and
  - (b) the original decision was made by the Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*);subsection (2) applies as if references to the Secretary were references to the Chief Executive Centrelink.
- (5) In this section:

***original decision*** means the decision that was reviewed by the SSAT.

## 187 Power of AAT to obtain additional information

The AAT Act applies to an application under section 179 for review as if references in section 38 of the AAT Act to the person who lodges a statement referred to in paragraph 37(1)(a) of that Act with the AAT were references to the Principal Member.

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**188 Operation and implementation of the decision under review**

- (1) The AAT Act applies to an application under section 179 for review of a decision as if references in subsection 41(4) of the AAT Act to the person who made the decision were references to each party to the review by the SSAT.
- (2) The AAT Act applies to an application under section 179 for review of a decision as if references in section 41 of the AAT Act to the decision to which the relevant proceeding relates were references to:
  - (a) if the SSAT affirmed the original decision—the original decision; or
  - (b) if the SSAT varied the original decision:
    - (i) the original decision as varied by the SSAT; and
    - (ii) the original decision; or
  - (c) if the SSAT set aside the original decision and substituted a new decision:
    - (i) the new decision; and
    - (ii) the original decision; or
  - (d) if the SSAT set aside the original decision and sent the matter back to the Secretary for reconsideration in accordance with any directions or recommendations of the SSAT:
    - (i) any decision made as a result of that reconsideration; and
    - (ii) the original decision.
- (3) For the purposes of subsection (2), the original decision is the decision that was reviewed by the SSAT.

**189 Failure of party to appear**

The AAT Act applies to the review of a decision on an application under section 179 as if the reference in subsection 42A(2) of the AAT Act to the person who made the decision were a reference to the Secretary.

## **Part 5—Information management**

### **Division 1—Information gathering**

#### **191 Application of Division**

- (1) This Division:
  - (a) binds the Crown in each of its capacities; and
  - (b) extends to:
    - (i) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
    - (ii) all persons, irrespective of their nationality or citizenship.
- (2) This Division does not require a person to give information or produce a document to the extent that in doing so the person would contravene a law of the Commonwealth (other than a law of a Territory).

#### **192 General power to obtain information**

The Secretary may require a person to give information, or produce a document that is in the person's custody or under the person's control, to the Department if the Secretary considers that the information or document may be relevant to one or more of the following:

- (a) the question whether a person who has made a claim for a social security payment is or was qualified for the payment;
- (b) the question whether a social security payment is payable to a person who is receiving the payment;
- (c) the question whether a social security payment was payable to a person who has received the payment;
- (d) the rate of social security payment that is or was applicable to a person;
- (daa) the operation of Division 3A of Part 3;
- (da) the question whether a person who has made a claim under the Social Security (Fares Allowance) Rules 1998 was eligible for fares allowance;
- (db) the operation of Part 3B;

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- (e) the administration of an agreement between Australia and a foreign country on social security matters;
- (f) the question whether a person who has been granted a concession card is or was qualified for the card;
- (g) the question whether a person who has applied for financial supplement is eligible for the supplement;
- (h) the question whether a person who has obtained a financial supplement is or was eligible for the supplement;
- (i) the determination of the maximum amount of financial supplement that a person is eligible for;
- (j) the question whether an assurance of support given under Chapter 2C of the 1991 Act should be accepted or rejected.

**193 Power to obtain information from a person who owes a debt to the Commonwealth**

The Secretary may require a person who owes a debt to the Commonwealth under or as a result of the social security law or the *Farm Household Support Act 1992*:

- (a) either to:
  - (i) give to the Department information that is relevant to the person's financial situation; or
  - (ii) produce to the Department a document that is in the person's custody or under the person's control and is relevant to the person's financial situation; and
- (b) if the person's address changes—to inform the Department of the new address within 14 days after the change.

**194 Obtaining information about a person who owes a debt to the Commonwealth**

If the Secretary believes that a person may have information or a document:

- (a) that would help the Department locate another person (the **debtor**) who owes a debt to the Commonwealth under or as a result of the social security law or the *Farm Household Support Act 1992*; or
  - (b) that is relevant to the debtor's financial situation;
- the Secretary may require the person to give the information, or produce the document, to the Department.



**195 Obtaining information to verify claims etc.**

- (1) The Secretary may require a person to give information about a class of persons to the Department for any or all of the following purposes:
  - (a) to detect cases in which amounts of social security payment under the social security law have been paid when they should not have been paid;
  - (b) to detect cases in which concession cards have been granted to persons to whom they should not have been granted;
  - (c) to verify the qualification of persons who have made claims for social security payments under the social security law for those payments;
  - (ca) to facilitate the administration of Part 3B;
  - (cb) to facilitate the administration of Part 3C (schooling requirements);
  - (d) to verify the eligibility of persons who have applied for financial supplement.
- (2) The information that the Secretary may require about each person in the class of persons is all or any of the following information (but no other information):
  - (a) full name and any previous name;
  - (b) address;
  - (c) sex;
  - (d) marital status;
  - (e) date of birth;
  - (f) date of death;
  - (g) dates of entries into and departures from Australia;
  - (h) any payments received by the person from the person given the notice, within the period of 52 weeks before the giving of the notice, and the account number of the account into which any of those payments were paid;
  - (ha) in relation to any legal or equitable estate or interest in real property held by the person:
    - (i) the name of the owner of the property;
    - (ii) the address of the property;
    - (iii) the details of the title documents for the property;

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- (i) in relation to a course of study being undertaken by the person:
  - (i) the name of the educational institution that the person is attending;
  - (ii) the name of any educational institution previously attended by the person;
  - (iii) the person's enrolment status;
  - (iv) the person's student identification number;
  - (v) the name of the course;
  - (vi) the course code;
  - (vii) the date on which the course started or starts;
  - (viii) the date on which the course ends;
  - (ix) the subject or unit code;
  - (x) the normal full-time study work load for the course;
  - (xi) indicators of the person's work load, including (but not limited to) effective full-time student units, credit points, contact hours, number of subjects undertaken and number of assignments completed;
  - (xii) the number of semesters required to complete the course;
  - (xiii) the date on which the person first attended, or will first attend, the course;
  - (xiv) the date on which the person last attended, or will last attend, the course;
  - (xv) whether the person has discontinued the course and, if the person has discontinued the course, the date on which it happened;
  - (xvi) details of any unapproved absences from the course;
  - (xvii) the results or grade obtained by the person;
  - (xviii) the amount or value of a Commonwealth Education Costs Scholarship, or of a Commonwealth Accommodation Scholarship, received by the person;
- (j) in relation to any employment of the person by the person given the notice:
  - (i) the date on which the person's employment started; and
  - (ii) the date on which the person's employment ended;
- (k) for the purposes of Part 3C (schooling requirements), in relation to a schooling requirement child—any information

- relevant to the child's past or present enrolment, or attendance, at school (within the meaning of that Part);
- (l) for the purposes of Part 3C (schooling requirements), in relation to a person in respect of whom a compliance notice is in force—any information relevant to the person's compliance with the notice.
- (3) The Secretary may require information about a particular class of persons whether or not the Secretary is able to identify any of the persons in that class as being:
- (a) persons:
- (i) who have received; or
- (ii) who are receiving; or
- (iii) who have made claims for; social security payments; or
- (b) persons:
- (i) who are the holders of concession cards; or
- (ii) who have made claims for concession cards; or
- (c) persons who have applied for financial supplement.
- (4) Within 13 weeks after information is given in response to a requirement under subsection (1), the Secretary must decide which (if any) of the information is, or is likely to be, relevant to a matter referred to in subsection (1).
- (5) If the Secretary decides, within the 13 week period, that some or all of the information given in response to the requirement is not, or is not likely to be, relevant to a matter referred to in subsection (1), the Secretary must ensure that any record of the irrelevant information is destroyed.
- (6) If the Secretary has not made a decision under subsection (4) at the end of the 13 week period, the Secretary must ensure that any record of all or any part of the information is destroyed.

## **196 Written notice of requirement**

- (1) A requirement under this Division must be made by written notice given to the person of whom the requirement is made.
- (2) The notice:

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- (a) may be given personally or by post or in any other manner approved by the Secretary; and
- (b) must specify:
  - (i) how the person is to give the information or produce the document to which the requirement relates; and
  - (ii) the period within which the person is to give the information or produce the document to the Department; and
  - (iii) the officer (if any) to whom the information is to be given or the document is to be produced; and
  - (iv) that the notice is given under this section.
- (3) The period specified under subparagraph (2)(b)(ii) must not end earlier than 14 days after the notice is given.
- (4) The notice may require the person to give the information by appearing before a specified officer to answer questions.
- (5) If the notice requires the person to appear before an officer, the notice must specify a time and place at which the person is to appear. The time must be at least 14 days after the notice is given.

**197 Offence—failure to comply with requirement**

- (1) A person must not refuse or fail to comply with a requirement under this Division to give information or produce a document.  
  
Penalty: Imprisonment for a term not exceeding 12 months.
- (2) Subsection (1) applies only to the extent to which the person is capable of complying with the requirement.
- (3) Subsection (1) does not apply if the person has a reasonable excuse.

**198 Obligations not affected by State or Territory laws**

Nothing contained in a law of a State or a Territory operates to prevent a person from:

- (a) giving information; or
- (b) producing a document; or
- (c) giving evidence;

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that the person is required to give or produce to the Department or an officer for the purposes of the social security law.

## **Division 2—End-of-employment statements**

### **199 Request for end-of-employment statement**

If a person's employment (including employment under a contract for services) ceases, the person may request his or her former employer to give the person a statement, in accordance with a form approved by the Secretary, about that employment.

### **200 Offence—failure to give end-of-employment statement**

- (1) If a person makes a request under section 199, the former employer must comply with the request as soon as practicable.

Penalty: Imprisonment for a term not exceeding 12 months.

- (2) Strict liability applies to the element of an offence against subsection (1) that a request is a request under section 199.

## **Division 3—Confidentiality**

### **201 Operation of Division**

- (1) Nothing in this Division prevents a person from disclosing information to another person if the information is disclosed for the purposes of the *Child Support (Registration and Collection) Act 1988* or the *Child Support (Assessment) Act 1989*.
- (2) The provisions of this Division that relate to the disclosure of information do not affect the operation of the *Freedom of Information Act 1982*.

#### **201A Definition of *officer***

In this Division:

***officer*** means:

- (a) a person who is or has been an officer within the meaning of subsection 23(1) of the 1991 Act; or
- (b) a person who is or has been appointed or employed by the Commonwealth and who, as a result of that appointment or employment, may acquire or has acquired information concerning a person under the social security law or the *Farm Household Support Act 1992*; or
- (c) a person who, although not appointed or employed by the Commonwealth, performs or did perform services for the Commonwealth and who, as a result of performing those services, may acquire or has acquired information concerning a person under the social security law or the *Farm Household Support Act 1992*.

### **202 Protection of personal information**

- (1) A person may obtain protected information if the information is obtained for the purposes of:
  - (a) the social security law; or
  - (b) the *Farm Household Support Act 1992*; or
  - (c) the *Dental Benefits Act 2008*; or

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- (d) the Family Homelessness Prevention and Early Intervention Pilot; or
  - (e) administering Commonwealth scholarships payable under Part 2-4 of the *Higher Education Support Act 2003*; or
  - (f) the Digital Switch-over Household Assistance Program.
- (2) A person may:
  - (a) make a record of protected information; or
  - (b) disclose such information to any person; or
  - (c) otherwise use such information;if the record, disclosure or use made of the information by the person is made:
  - (d) for the purposes of the social security law, the *Farm Household Support Act 1992* or the *Dental Benefits Act 2008*; or
  - (daa) for the purposes of the family assistance law; or
  - (dab) for the purposes of the *Paid Parental Leave Act 2010*; or
  - (dac) for the purposes of the *Student Assistance Act 1973*; or
  - (da) for the purposes of the Family Homelessness Prevention and Early Intervention Pilot; or
  - (db) for the purposes of the administration of Commonwealth scholarships payable under Part 2-4 of the *Higher Education Support Act 2003*; or
  - (dc) for the purposes of the Digital Switch-over Household Assistance Program; or
  - (e) for the purpose for which the information was disclosed to the person under section 207 or 208 of this Act; or
  - (f) with the express or implied authorisation of the person to whom the information relates.
- (2A) A person engaged (whether as an employee or otherwise) by a service organisation may:
  - (a) obtain protected information; or
  - (b) make a record of protected information; or
  - (c) disclose protected information to another person; or
  - (d) otherwise use protected information;if the person believes, on reasonable grounds, that the obtaining, recording, disclosure or use that is proposed to be made of the



information by the person is reasonably necessary for one or more of the purposes specified in subsection (2B).

(2B) The purposes for which the person may obtain, record, disclose or use protected information are as follows:

- (a) facilitating access by a service recipient to a work-related service provided by a service organisation;
- (b) facilitating efficient and effective delivery of a work-related service by a service organisation;
- (c) facilitating efficient and effective performance of duties or exercise of functions relating to the provision of work-related services by a service organisation;
- (d) facilitating efficient and effective administration by the Commonwealth of one or more of the matters mentioned in paragraphs (a), (b) or (c) (for example, payments to service organisations by the Commonwealth);
- (e) any other purpose determined by the Secretary under subsection (2E).

(2C) A person may:

- (a) obtain protected information; or
- (b) make a record of protected information; or
- (c) disclose protected information to another person; or
- (d) otherwise use protected information;

if the Secretary believes, on reasonable grounds, that the obtaining, recording, disclosure or use that is proposed to be made of the information by the person is reasonably necessary for one or more of the following purposes:

- (e) research into matters of relevance to a Department that is administering any part of the social security law;
- (f) statistical analysis of matters of relevance to a Department that is administering any part of the social security law;
- (g) policy development.

(2D) In this section:

***service organisation*** means:

- (a) an Agency (within the meaning of the *Public Service Act 1999*); or
- (b) another authority of the Commonwealth; or

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- (c) an organisation that performs services for the Commonwealth.

**service recipient** means a person:

- (a) who is receiving a social security payment, benefit or allowance; or
- (b) who has made a claim for a social security payment, benefit or allowance; or
- (c) who has contacted the Department about the receipt of, or an existing or future claim for, a social security payment, benefit or allowance; or
- (d) on whose behalf another person, with the person's authority, has contacted the Department about any of the matters mentioned in paragraphs (a) to (c) relating to the person.

**work-related service** means a service of the following kind:

- (a) assessment of the capacity to work of a service recipient;
- (b) assistance given to a service recipient with the purpose of preparing the service recipient to seek or undertake work;
- (c) placement of a service recipient in a position of employment;
- (d) a service of a kind determined by the Secretary under subsection (2E).

- (2E) The Secretary may, by legislative instrument, determine either or both of the following:
  - (a) that a specified purpose that is related to a matter mentioned in paragraphs (2B)(a) to (d) is a purpose for which the person may obtain, record, disclose or use protected information under subsection (2A);
  - (b) services of a specified kind are work-related services for the purposes of this section.
- (3) The Minister may, by legislative instrument, specify additional purposes relating to other programs administered by the Department for which protected information may be obtained under subsection (1), or recorded, disclosed or otherwise used under subsection (2).
- (5) For the purposes of subsection 12(1) of the *Legislative Instruments Act 2003*, an instrument does not take effect until the end of the period in which it could be disallowed in either House of the Parliament.

*Enrolment and attendance at school*

- (6) If protected information relates to a matter covered by subsection (7), a person may do any of the following:
  - (a) obtain the information;
  - (b) make a record of the information;
  - (c) disclose the information to a person responsible for the operation of the relevant school, or any other school;
  - (d) otherwise use the information.
- (7) This subsection covers matters in relation to the following:
  - (a) the enrolment, or non-enrolment, of a child at a school;
  - (b) a person whose child is, or is not, enrolled at a school;
  - (c) the attendance, or non-attendance, of a child at a school;
  - (d) a person whose child is, or is not, attending a school;
  - (e) a person's compliance with a compliance notice given to the person.
- (8) If a person does something under subsection (6) for the purposes of Part 3C (schooling requirements), in subsection (6) or (7) of this section the following terms have the same meaning as in Part 3C (see section 124A):
  - (a) **attendance** (at a school);
  - (b) **enrolment** (at a school);
  - (c) **person responsible** (for the operation of a school).

Note: In addition to the requirements of this section, information disclosed under this section must be dealt with in accordance with section 14 of the *Privacy Act 1988*.

## **203 Offence—unauthorised access to information**

- (1) If:
  - (a) a person intentionally obtains information; and
  - (b) the person is not authorised by or under the social security law or the *Farm Household Support Act 1992* to obtain the information; and
  - (c) the person knows or ought reasonably to know that the information is protected information;the person is guilty of an offence.

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- (2) An offence against subsection (1) is punishable on conviction by imprisonment for a term not exceeding 2 years.
- (3) Strict liability applies to the element of an offence against subsection (1) that a person not authorised to do something is not authorised by or under the social security law or the *Farm Household Support Act 1992* to do that thing.

**204 Offence—unauthorised use of protected information**

- (1) If:
  - (a) a person intentionally:
    - (i) makes a record of; or
    - (ii) discloses to any other person; or
    - (iii) otherwise makes use of; information; and
  - (b) the person is not authorised or required by or under the social security law, the family assistance law or the *Farm Household Support Act 1992* to make the record, disclosure or use of the information that is made by the person; and
  - (c) the person knows or ought reasonably to know that the information is protected information;the person is guilty of an offence.
- (2) An offence against subsection (1) is punishable on conviction by imprisonment for a term not exceeding 2 years.
- (3) Strict liability applies to the element of an offence against subsection (1) that a person not authorised or required to do something is not authorised or required by or under the social security law or the *Farm Household Support Act 1992* to do that thing.

**204A Use of tax file numbers**

- (1) The Secretary may require the Commissioner of Taxation to provide the Secretary with information about people, including tax file numbers, that was contained in TFN declarations lodged with the Commissioner under Division 3 of Part VA of the *Income Tax Assessment Act 1936*.

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- (2) Information provided to the Secretary under a requirement made under subsection (1) may be used only for the following purposes:
- (a) to detect cases in which amounts of social security payments under the social security law have been paid when they should not have been paid;
  - (b) to verify, in respect of persons who have made claims for social security payments under the social security law, the qualification of those persons for those payments;
  - (c) to establish whether the rates at which social security payments under the social security law are being, or have been, paid are, or were, correct.

**204B Secretary may require Commissioner to provide information in relation to claimants for low income supplement**

- (1) The Secretary may, in relation to claims for low income supplement, require the Commissioner of Taxation to provide the Secretary with information about people, including tax file numbers, being information:
- (a) that is in the possession of the Commissioner; and
  - (b) that relates to any of the following for an income year:
    - (i) taxable income;
    - (ii) tax offsets (within the meaning of the *Income Tax Assessment Act 1997*);
    - (iii) adjusted taxable income (within the meaning of the *Family Assistance Act*);
    - (iv) income tax (within the meaning of the *Income Tax Assessment Act 1997*); and
  - (c) that the Secretary is not otherwise able to require the Commissioner to provide under section 204A.
- (2) Information provided to the Secretary under a requirement made under subsection (1) may be used only for the purposes of ascertaining whether a person is or was qualified for low income supplement for an income year.

**205 Offence—soliciting disclosure of protected information**

- (1) If:
- (a) a person (the ***first person***) solicits the disclosure of protected information from an officer or another person; and

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- (b) the disclosure would be in contravention of this Division; and
  - (c) the first person knows or ought reasonably to know that the information is protected information;
- the first person is guilty of an offence, whether or not any protected information is actually disclosed.
- (2) An offence against subsection (1) is punishable on conviction by imprisonment for a term not exceeding 2 years.
- (3) Strict liability applies to the element of an offence against subsection (1) that a contravention is a contravention of this Division.

**206 Offence—offering to supply protected information**

- (1) A person who offers to supply (whether to a particular person or otherwise) information about another person, knowing the information to be protected information, is guilty of an offence.
- (2) A person who holds himself or herself out as being able to supply (whether to a particular person or otherwise) information about another person, knowing the information to be protected information, is guilty of an offence.
- (3) An offence against subsection (1) or (2) is punishable on conviction by imprisonment for a term not exceeding 2 years.
- (4) Nothing in subsection (1) or (2) renders an officer acting in the performance or exercise of his or her duties, functions or powers under the social security law or the *Farm Household Support Act 1992* guilty of an offence.

**207 Protection of certain documents etc. from production to court etc.**

An officer must not, except for the purposes of the social security law or the *Farm Household Support Act 1992*, be required:

- (a) to produce any document in his or her possession; or
  - (b) to disclose any matter or thing of which he or she had notice;
- because of the performance or exercise of his or her duties, functions or powers under the social security law or the *Farm Household Support Act 1992*, to:

- (c) a court; or
- (d) a tribunal; or
- (e) an authority; or
- (f) a person;  
having power to require the production of documents or the  
answering of questions.

## **208 Disclosure of information by Secretary**

- (1) Despite sections 204 and 207, the Secretary may:
  - (a) if the Secretary certifies that it is necessary in the public interest to do so in a particular case or class of cases—disclose information acquired by an officer in the performance of his or her functions or duties or in the exercise of his or her powers under the social security law or the *Farm Household Support Act 1992* to such persons and for such purposes as the Secretary determines; or
  - (b) disclose any such information:
    - (i) to the Secretary of a Department of State of the Commonwealth or to the head of an authority of the Commonwealth for the purposes of that Department or authority; or
    - (ii) to a person who is expressly or impliedly authorised by the person to whom the information relates to obtain it; or
    - (iii) to a competent authority or competent institution of a foreign country that is a party to a scheduled international social security agreement for any purpose relating to giving effect to that agreement; or
    - (iv) to the Chief Executive Centrelink for the purposes of a centrelink program; or
    - (v) to the Chief Executive Medicare for the purposes of a medicare program.
- (2) In giving certificates for the purposes of paragraph (1)(a), the Secretary must act in accordance with guidelines (if any) from time to time in force under section 209.
- (3) In disclosing information under subparagraph (1)(b)(i), the Secretary must act in accordance with guidelines (if any) from time to time in force under section 209.

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- (3A) In spite of any other provision of this Part, the Secretary may disclose information of a kind referred to in paragraph (a) or (b) of the definition of *protected information* in subsection 23(1) of the 1991 Act to a person who is the payment nominee or correspondence nominee, within the meaning of Part 3A, of the person to whom the information relates (the *principal*) as if the nominee were the principal.
- (4) If an expression used in subsection (1) in relation to a foreign country is defined in a scheduled international social security agreement to which that country is a party, the expression has the same meaning, when used in this section, in relation to that country as it has in the agreement.

**208A Disclosure of information by Secretary—education expenses tax offset**

- (1) The Secretary may, for the purposes of the administration of the education expenses tax offset provided by Subdivision 61-M of the *Income Tax Assessment Act 1997*, give the Commissioner of Taxation relevant information about people, including their tax file numbers, acquired by an officer in the exercise of the officer's powers, or the performance of the officer's duties or functions, under the social security law.
- (2) Information (including tax file numbers) given to the Commissioner of Taxation under subsection (1) may be used only for purposes relating to the education expenses tax offset provided by Subdivision 61-M of the *Income Tax Assessment Act 1997*.
- (3) This section does not limit the powers of the Secretary under section 208.

**209 Guidelines for exercise of Secretary's disclosure powers**

The Minister may, by legislative instrument, make guidelines for the exercise of either or both of the following:

- (a) the Secretary's power to give certificates for the purposes of paragraph 208(1)(a);
- (b) the Secretary's power under subsection 208(1) to disclose information to a person referred to in subparagraph 208(1)(b)(i).



## **210 Officer's declaration**

An officer must make a declaration in a form approved by the Minister or the Secretary if required to do so by the Minister or the Secretary.

## **Part 6—Offences**

### **Division 1—Preliminary**

#### **211 Application of Part**

This Part extends to:

- (a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
- (b) all persons, irrespective of their nationality, who are making, or have made, a claim for a social security payment under the social security law; and
- (c) all persons, irrespective of their nationality, who are receiving, or have received, a payment of a social security payment under the social security law.

## **Division 2—Offences**

### **212 False statement in connection with claim or hardship request**

- (1) A person contravenes this subsection if:
  - (a) the person makes a statement; and
  - (b) the statement is false or misleading; and
  - (c) the person is reckless as to whether the statement is false or misleading; and
  - (d) the statement is made in connection with, or in support of, the person's or any other person's:
    - (i) claim for a social security payment under the social security law; or
    - (ii) request under paragraph 1129(1)(d) of the 1991 Act that section 1129 of that Act apply to the person; or
    - (iii) request under paragraph 1131(1)(f) of the 1991 Act that section 1131 of that Act apply to the person.
- (2) For the purposes of an offence against section 217 that relates to subsection (1) of this section, strict liability applies to the following elements of the offence:
  - (a) the element that a payment is a social security payment under the social security law;
  - (b) the element that a request is a request under paragraph 1129(1)(d) of the 1991 Act;
  - (c) the element that a request is a request under paragraph 1131(1)(f) of the 1991 Act;

### **213 False statement to deceive or affect rates**

- (1) A person contravenes this subsection if:
  - (a) the person makes a statement; and
  - (b) the statement is false or misleading; and
  - (c) the person is reckless as to whether the statement is false or misleading; and
  - (d) the person is reckless as to whether the statement:
    - (i) deceives, or might deceive, an officer doing duty in relation to the social security law; or

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- (ii) affects, or might affect, the rate of a social security payment under the social security law.
- (2) For the purposes of an offence against section 217 that relates to subsection (1) of this section, strict liability applies to the following elements of the offence:
  - (a) the element that a duty is a duty in relation to the social security law;
  - (b) the element that a rate of payment is a rate of social security payment under the social security law.

**214 False statement or document**

- (1) A person contravenes this subsection if:
  - (a) the person makes a statement to an officer; and
  - (b) the statement is false or misleading in any particular; and
  - (c) the person is reckless as to whether the statement is false or misleading in any particular.
- (2) A person contravenes this subsection if:
  - (a) the person presents a document to an officer; and
  - (b) the document is false or misleading in any particular; and
  - (c) the person is reckless as to whether the document is false or misleading in any particular.

**215 Obtaining payment that is not payable**

- (1) A person must not obtain:
  - (a) payment of a social security payment under the social security law; or
  - (b) payment of an instalment of a social security payment under the social security law;knowing that the payment is:
  - (c) not payable at all; or
  - (d) only payable in part.
- (2) For the purposes of an offence against section 217 that relates to subsection (1) of this section, strict liability applies to the following elements of the offence:
  - (a) the element that a payment is a social security payment under the social security law;

- (b) the element that an instalment is an instalment of a social security payment under the social security law.

## **216 Payment obtained through fraud etc.**

- (1) A person contravenes this subsection if:
  - (a) the person obtains:
    - (i) payment of a social security payment under the social security law; or
    - (ii) payment of an instalment of a social security payment under the social security law; and
  - (b) the person does so:
    - (i) by means of impersonation; or
    - (ii) by means of a fraudulent device.
- (2) For the purposes of an offence against section 217 that relates to subsection (1) of this section, strict liability applies to the following elements of the offence:
  - (a) the element that a payment is a social security payment under the social security law;
  - (b) the element that an instalment is an instalment of a social security payment under the social security law.
- (3) A person contravenes this subsection if:
  - (a) the person makes a statement; and
  - (b) the statement is false or misleading; and
  - (c) the person is reckless as to whether the statement is false or misleading; and
  - (d) as a result the person obtains:
    - (i) payment of a social security payment under the social security law; or
    - (ii) payment of an instalment of a social security payment under the social security law.
- (4) For the purposes of an offence against section 217 that relates to subsection (3) of this section, strict liability applies to the following elements of the offence:
  - (a) the element that a payment is a social security payment under the social security law;

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- (b) the element that an instalment is an instalment of a social security payment under the social security law.

## **Division 3—Penalties**

### **217 Penalty for contravention of Division 2**

A person who contravenes a provision of Division 2 is guilty of an offence punishable on conviction by imprisonment for a term not exceeding 12 months.

### **218 Repayment of social security payment**

- (1) If a person is convicted of an offence against section 217, the court may:
  - (a) impose a penalty in respect of the offence; and
  - (b) order the person to pay the Commonwealth an amount equal to any amount paid by way of social security payment because of the act, failure or omission that constituted the offence.
- (2) In spite of anything in the social security law or any other law, a person is not to be imprisoned for failing to pay an amount payable to the Commonwealth under paragraph (1)(b).

### **219 Penalty where person convicted of more than one offence**

- (1) Subject to subsection (2), if a person is convicted of more than one offence against section 217, the court may, if it thinks fit, impose one penalty for all the offences.
- (2) A single penalty imposed under subsection (1) must not exceed the sum of the maximum penalties that could be imposed if a separate penalty were imposed for each offence.

## **Division 4—Procedural matters**

### **220 Joining of charges**

Charges against the same person for a number of offences against section 217 may be joined in one complaint, information or declaration if those charges:

- (a) are founded on the same facts; or
- (b) form a series of offences of the same or a similar character; or
- (c) are part of a series of offences of the same or a similar character.

### **221 Particulars of each offence**

If 2 or more charges are included in the same complaint, information or declaration, particulars of each offence charged are to be set out in a separate paragraph.

### **222 Trial of joined charges**

If charges are joined, the charges are to be tried together unless:

- (a) the court considers it just that any charge should be tried separately; and
- (b) the court makes an order to that effect.

### **223 Evidentiary effect of Secretary's certificate**

- (1) For the purposes of paragraph 218(1)(b), a certificate signed by the Secretary is evidence of the matters specified in the certificate.
- (2) Without limiting subsection (1), a certificate may specify:
  - (a) a person; and
  - (b) an amount that has been paid to the person by way of social security payment because of:
    - (i) an act; or
    - (ii) a failure; or
    - (iii) an omission; and
  - (c) the act, failure or omission that caused the amount to be paid.



## **224 Enforcement of court certificate as judgment**

If:

- (a) a court makes an order under paragraph 218(1)(b), under paragraph 1351(1)(b) of the 1991 Act as in force before 20 March 2000 or under subsection 239(7) of the 1947 Act; and
- (b) the clerk or other appropriate officer of the court gives a certificate specifying:
  - (i) the amount ordered to be paid to the Commonwealth; and
  - (ii) the person by whom the amount is to be paid; and
- (c) the certificate is filed in a court (which may be the court that made the order) that has civil jurisdiction to the extent of the amount to be paid;

the certificate is enforceable in all respects as a final judgment of the court in which the certificate is filed.

## **Division 5—Liability of certain employers and principals for offences**

### **Subdivision A—Interpretation**

#### **225 State of mind of a person**

A reference in this Division to the state of mind of a person includes a reference to:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

#### **228 Offence**

A reference in this Division to an offence against the social security law includes a reference to:

- (a) an offence against the social security law that is taken to have been committed because of section 11.2 or 11.2A of the *Criminal Code*; or
- (b) an offence created by:
  - (i) section 11.1, 11.4 or 11.5 of the *Criminal Code*; or
  - (ii) section 6 of the *Crimes Act 1914*;that relates to the social security law.

### **Subdivision C—Proceedings against non-corporations**

#### **231 State of mind of individual**

If, in proceedings for an offence against the social security law in respect of conduct engaged in by a person other than a corporation, it is necessary to establish the state of mind of the person, it is sufficient to show that:

- (a) the conduct was engaged in by an employee or agent of the person within the scope of his or her actual or apparent authority; and
- (b) the employee or agent had that state of mind.

### **232 Conduct of employee or agent**

If:

- (a) conduct is engaged in on behalf of a person other than a corporation by an employee or agent of the person; and
- (b) the conduct is within the scope of the employee's actual or apparent authority;

the conduct is taken, for the purposes of a prosecution for an offence against the social security law, to have been engaged in by the person unless the person establishes that he or she took reasonable precautions, and exercised due diligence, to avoid the conduct.

### **233 Exclusion of imprisonment as penalty for certain offences**

In spite of any other provision of the social security law, if:

- (a) a person is convicted of an offence; and
- (b) the person would not have been convicted if sections 231 and 232 had not been in force;

the person is not liable to be punished by imprisonment for that offence.

## Part 7—Miscellaneous

### 234 Delegation

- (1) Subject to subsection (3), the Secretary may, in writing, delegate to an officer all or any of the powers of the Secretary under the social security law.
- (2) Subject to subsection (3), the Secretary may, in writing, delegate to the Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*) all or any of the powers of the Secretary under the social security law.
- (3) The Secretary cannot delegate to anyone except the Chief Executive Centrelink the Secretary's power under subsection 208(1) to disclose information to a person referred to in subparagraph 208(1)(b)(i).
- (4) If the Secretary delegates to the Chief Executive Centrelink the Secretary's power under subsection 208(1) to disclose information to a person referred to in subparagraph 208(1)(b)(i), the Chief Executive Centrelink cannot, in spite of any provision to the contrary in the *Human Services (Centrelink) Act 1997*, delegate the power to a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*).
- (5) The Health Secretary may, in writing, delegate to an officer of the Health Department all or any of the powers and functions of the Health Secretary under this Act.
- (6) The Employment Secretary may, in writing, delegate the power of the Employment Secretary under section 28 of the 1991 Act to declare particular programs of work to be programs of work for unemployment payment:
  - (a) to an officer of the Employment Department or the Department of Family and Community Services; or
  - (b) to a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*).

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- (7) Without limiting the operation of the definition of **officer** in subsection 23(1) of the 1991 Act, in this section **officer** includes a person engaged (whether as an employee or otherwise) by:
- (a) an Agency (within the meaning of the *Public Service Act 1999*); or
  - (b) another authority of the Commonwealth; or
  - (c) an organisation that performs services for the Commonwealth;
- but does not include the Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*).

**235 Authorised review officers**

The Secretary may, in writing, authorise an officer to perform duties as an authorised review officer for the purposes of the social security law.

**236 Decisions to be in writing**

- (1) A decision of an officer under the social security law must be in writing.
- (2) A decision under the social security law is taken to be in writing if it is made, or recorded, by means of a computer.

**237 Notice of decisions**

- (1) If notice of a decision under the social security law is:
  - (a) delivered to a person personally; or
  - (b) left at the address of the place of residence or business of the person last known to the Secretary; or
  - (c) sent by prepaid post to the postal address of the person last known to the Secretary;notice of the decision is taken, for the purposes of the social security law, to have been given to the person.
- (2) Notice of a decision under the social security law may be given to a person by properly addressing, prepaying and posting the document as a letter.

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- (3) If notice of a decision is given in accordance with subsection (2), notice of the decision is taken to have been given to the person at the time at which the notice would be delivered in the ordinary course of the post unless the contrary is proved.
- (4) This section only applies to notices of decisions, and nothing in this section affects the operation of sections 28A and 29 of the *Acts Interpretation Act 1901* in relation to other notices under the social security law (for example, a notice that requires a person to inform the Department about some matter or a notice that requires a person to give the Secretary a statement about some matter).

### **238 Payments to Commissioner of Taxation or the Child Support Registrar**

- (1) The Secretary must, in accordance with section 218 of the *Income Tax Assessment Act 1936*, or Subdivision 260-A in Schedule 1 to the *Taxation Administration Act 1953*, for the purpose of enabling the collection of an amount that is, or may become, payable by a recipient of a social security payment:
  - (a) make deductions from the instalments of, or make a deduction from, the social security payment payable to a person; and
  - (b) pay the amount deducted to the Commissioner of Taxation.
- (1A) Subsection (1) does not apply to a social security payment that is a payment of low income supplement or an essential medical equipment payment.
- (2) The Secretary must, in accordance with a notice given to the Secretary under section 72AA of the *Child Support (Registration and Collection) Act 1988* in relation to the recipient of a social security pension or a social security benefit:
  - (a) make deductions from the instalments of the pension or benefit payable to the person; and
  - (b) pay the amounts deducted to the Registrar.

### **239 Judicial notice of certain matters**

- (1) All courts are to take judicial notice of a signature that purports to be attached or appended to any official document if the signature is of a person who:

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- (a) holds or has held the office of:
    - (i) Secretary; or
    - (ii) Director-General of Social Security; or
    - (iii) Director-General of Social Services; or
  - (b) is or has been an officer.
- (2) If the signature of a person referred to in subsection (1) purports to be attached or appended to any official document, all courts are to take judicial notice of the fact that the person holds, or has held, an office referred to in subsection (1) or is, or has been, an officer.

**240 Documentary evidence**

- (1) If the signature of any person who:
- (a) holds or has held the office of:
    - (i) Secretary; or
    - (ii) Director-General of Social Security; or
    - (iii) Director-General of Social Services; or
  - (b) is or has been an officer;
- purports to be attached or appended to any official document, the document is to be received in all courts as prima facie evidence of the facts and statements contained in it.
- (2) A statement in writing signed by a person referred to in subsection (1) that a person is or was receiving a social security payment under the social security law or the 1947 Act on a certain date at a certain rate is to be received in all courts as prima facie evidence that the person is or was receiving the social security payment on the date, and at the rate, stated.
- (3) A certificate given by the Secretary stating:
- (a) that a specified amount was the principal sum at a particular time under a specified financial supplement contract; or
  - (b) that a specified amount was the sum of the amounts repaid, or the sum of the amounts notionally repaid, before a particular time or during a particular period in respect of a specified financial supplement contract; or
  - (c) that a specified amount was the amount, or the total of the amounts, of subsidy paid by the Commonwealth to a specified participating corporation in respect of a specified financial supplement contract in lieu of interest on the

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principal sum or in lieu of interest on the principal sum in relation to a specified period; or

- (d) that a specified amount was, at a particular time, the amount outstanding under a specified financial supplement contract; or
- (e) that a specified amount was, at a particular time, the indexation amount in relation to a specified financial supplement contract; or
- (f) that the rights, or specified rights, of a specified participating corporation in respect of a specified person under a specified financial supplement contract were transferred by the corporation to the Commonwealth on a specified date; or
- (g) that, on a specified day, a person had an FS debt or FS debts to the Commonwealth of a specified amount or specified amounts; or
- (h) that, on a specified day, a notice, to a specified effect, under a provision of Chapter 2B was given to a specified person by the Secretary;

is to be received in all courts as prima facie evidence of the matters stated in the certificate.

- (4) In any proceeding, a document purporting to be a certificate by the Secretary under subsection (3) is to be taken, unless the contrary is established, to be such a certificate and to have been duly given.

### 240A Form of cards

- (1) A pensioner concession card, a seniors health card or a health care card must be in a form approved in writing by the Secretary for that card.
- (2) Subject to subsection (3), an approval under subsection (1) may extend to:
  - (a) the inclusion on a card of information in a form not capable of being read except by the use of equipment of a particular kind; and
  - (b) the specification in a card of a day as the day at the end of which the card will expire; and
  - (c) a form of card that is not an actual card carrying visible information.



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- (3) In the case of a concession card other than an automatic issue card:
  - (a) the card must specify the day at the end of which the card expires; and
  - (b) the day to be so specified is the last day of the period specified, for the purposes of subsection 37(9) or (10), in the determination granting the card.
- (4) Subject to section 240B, a concession card is to include the name of each person (if any) who is a dependant of the holder of the card.
- (5) The specification of a day in a card under paragraph (2)(b) does not affect the qualification of the person to whom the card is issued for a card of the same or any other type.
- (6) The expiry of a card on a day specified under paragraph (2)(b) does not affect the qualification of the person to whom the card was issued for a card of the same or any other type.
- (7) A failure to comply with subsection (4) in relation to a concession card does not alone render the card ineffective for the purposes of this or any other Act.
- (8) In this section:

*dependant* has the same meaning as in Part 2A.1 of the 1991 Act.

**240B Restrictions on listing of dependants**

- (1) A seniors health card is not to include the name of any person as a dependant of the holder of the card.
- (2) A health care card issued to a person by virtue of subsection 1061ZK(7) or 1061ZO(9) of the 1991 Act is not to include the name of any person as a dependant of the holder of the card.
- (3) A health care card is not to include the name of a person (other than the partner of the holder of the card) as a dependant of the holder of the card if the person is the holder of a pensioner concession card or a health care card.

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- (4) A pensioner concession card or a health care card is not to include the name of the partner of the holder of the card as a dependant of the holder of the card unless:
- (a) the partner is in Australia and is:
    - (i) an Australian resident; or
    - (ia) is a special category visa holder residing in Australia; or
    - (ii) the holder of a visa included in a class of visas determined by the Minister for the purposes of this paragraph; or
    - (iii) a person declared by the Minister to be a person to whom this subparagraph applies; or
  - (b) the partner is a New Zealand citizen and the holder of the card:
    - (i) is in Australia; and
    - (ii) is receiving a social security pension or benefit solely because of the operation of the scheduled international agreement between Australia and New Zealand.
- (4A) The Minister may, by legislative instrument, determine a class of visas for the purposes of paragraph (4)(a).
- (5) The Minister may, by legislative instrument, declare that a person who:
- (a) is included in a specified class of persons; and
  - (b) is, or has been, in Australia in specified circumstances;
- is a person to whom subparagraph (4)(a)(iii) applies.
- (6) The circumstances that may be specified in a declaration under subsection (5) include circumstances that existed or exist at any time before or after the making of the declaration.
- (8) In this section:

*dependant* has the same meaning as in Part 2A.1 of the 1991 Act.

**240C Issue of replacement card on expiry of automatic issue card**

- (1) If:
- (a) a day is specified in an automatic issue card under paragraph 240A(2)(b); and

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- (b) on the day following that day, the person who was the holder of the card remains qualified for the card; and
  - (c) a further card has not been issued to the person under subsection (2);the Secretary must issue a further card to the person.
- (2) If:
  - (a) a day (the *expiry day*) is specified in an automatic issue card under paragraph 240A(2)(b); and
  - (b) the Secretary is satisfied that the person is likely to remain qualified for the card after the end of the expiry day;the Secretary may, at any time before the expiry day, issue to the person a further card to take effect on the day following the expiry day.

**241 Annual report**

- (1) As soon as practicable after 30 June in each year, the Secretary must give to the Minister a written report on the administrative operation of the social security law during the financial year that ended on that 30 June.
- (2) The Minister is to cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

**242 Appropriation**

Payments under the social security law and payments by the Commonwealth to financial corporations under the Student Financial Supplement Scheme established under Chapter 2B of the 1991 Act are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

**243 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
  - (a) required or permitted by this Act or the 1991 Act to be prescribed; or
  - (b) necessary or convenient for carrying out or giving effect to this Act or the 1991 Act and, in particular, may make

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regulations prescribing penalties of a fine not exceeding 10 penalty units for any breach of the regulations.

- (2) Without limiting subsection (1), the matters that may be prescribed by regulations include:
  - (a) ways (other than ways involving the use of a document) in which a claim, application, submission, declaration or determination may be made or withdrawn, or information or a notice, statement, certificate, direction or consent may be given, for the purposes of a provision of the social security law; and
  - (b) matters relating to the doing of anything in a way referred to in paragraph (a), including matters relating to proof of the doing of things in such a way.
- (3) The reference in subsection (2) to ways by which something may be made, withdrawn or given includes, but is not limited to:
  - (a) the use of electronic equipment; and
  - (b) ways that involve the use of a telecommunications system.
- (4) Anything made, withdrawn or given in a way prescribed by regulations made by virtue of subsection (2) is taken, for the purposes of the social security law:
  - (a) to have been made, withdrawn or given in writing; and
  - (b) to have been made, withdrawn or given in accordance with the social security law.
- (5) The reference in paragraph (2)(a) to a determination does not include a reference to a determination that is an instrument that is a legislative instrument.

## **Part 8—Transitional and saving provisions**

### **244 Construction of references to 1991 Act**

A reference in:

- (a) a provision of a law of the Commonwealth or a Territory enacted before 20 March 2000 (whether or not the provision has come into operation); or
- (b) an instrument or a document;

to a provision of the 1991 Act that has been repealed by the *Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999* is, on and after 20 March 2000, to be construed as a reference to the corresponding provision of this Act.

### **245 Correspondence of provisions**

- (1) If one provision of the 1991 Act and one provision of this Act have the same legal effect, the 2 provisions correspond to each other.
- (2) If:
  - (a) a provision of the 1991 Act has a particular legal effect in relation to a number of payment types; and
  - (b) a provision of this Act has that legal effect in relation to one or more, but not all, of those payment types;the provisions correspond to each other, for the purpose of subsection (1), in relation to the payment types referred to in paragraph (b).
- (3) In this section:
  - legal effect* includes conferring the power to issue an instrument.
  - payment type* means a pension, benefit or allowance.

### **246 Saving of social security payments and concession cards**

- (1) If a determination under the 1991 Act granting a claim for a social security payment or concession card is in force immediately before 20 March 2000, the determination has effect, on and from

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20 March 2000, as if it were a determination under this Act granting a claim for the payment or card.

- (2) If a determination under the 1991 Act directing the making of a payment of a social security payment is in force immediately before 20 March 2000, the determination has effect, on and from 20 March 2000, as if it were a determination under this Act directing the making of a payment of the social security payment.

### **247 Saving of instruments under 1991 Act**

- (1) An instrument that was in force, immediately before 20 March 2000, under a provision of the 1991 Act that is amended or repealed by the *Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999* has effect, on and from 20 March 2000, as if it were an instrument made under the corresponding provision of this Act.
- (2) Without limiting subsection (1), the instrument may be:
- (a) a determination; or
  - (b) a direction; or
  - (c) an approval; or
  - (d) a notice; or
  - (e) a declaration; or
  - (f) an authorisation.
- (3) Subsection (1) does not apply to:
- (a) a determination to which section 246 applies; or
  - (b) a delegation under section 1299 of the 1991 Act.
- (4) If an instrument to which subsection (1) applies was, when made, to have effect only for a limited period, the instrument has effect under subsection (1) only for so much of the period as had not already expired before 20 March 2000.

### **248 Saving of claims for social security payments and concession cards**

- (1) If:
- (a) a person has lodged a claim for a social security payment or a concession card under the 1991 Act before 20 March 2000; and

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(b) the claim has not been determined before 20 March 2000; the claim has effect, on and from 20 March 2000, as if it were a claim under this Act for the payment or card.

(2) If:

(a) subsection (1) applies to a claim; and

(b) the claim is granted under this Act;

the determination granting the claim may have a date of effect before 20 March 2000.

(3) If:

(a) subsection (1) applies to a claim; and

(b) the claim is granted under this Act; and

(c) the determination granting the claim has a date of effect before 20 March 2000;

the payment of instalments during the period that starts on the date of effect of the determination and ends on 19 March 2000 is taken to be made under this Act and the person making the claim has no rights under the 1991 Act arising from the claim.

**249 Transitional instalment period**

If:

(a) an instalment period relating to an instalment of a social security payment payable to a person under the 1991 Act commenced before 20 March 2000; and

(b) the instalment period would have ended after 20 March 2000; this Act has effect in relation to that period and that instalment as if:

(c) this Act had been in force throughout the whole of the instalment period; and

(d) the instalment period had been a period determined under subsection 43(1) of this Act.

**250 Application for amount owing at recipient's death**

If:

(a) before 20 March 2000, a person made an application under a provision of the 1991 Act that relates to the payment of a social security payment after a person has died; and

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- (b) the application was not determined before 20 March 2000; then:
- (c) the application has effect, on and from 20 March 2000, as if it had been made under the corresponding provision of this Act and:
- (d) this Act has effect as if the amount in respect of which the application was made were an amount payable under this Act; and
- (e) the application has no effect for the purposes of the 1991 Act.

### **251 Power to obtain information about events etc. before 20 March 2000**

If a provision of this Act gives the Secretary power to request a person to give information or produce a document, the power extends to requesting a person:

- (a) to give information about matters that arose before 20 March 2000; or
- (b) to produce a document that came into existence, or relates to matters that arose, before 20 March 2000.

### **252 Unfinished reviews by Secretary**

- (1) If:
  - (a) a person made an application under section 1240 of the 1991 Act before 20 March 2000; and
  - (b) the application was not determined before 20 March 2000; the application has effect, from 20 March 2000, as if it were an application under section 129 of this Act.
- (2) The date of effect of the decision made in response to the application may be before 20 March 2000.
- (3) If:
  - (a) subsection (1) applies to an application; and
  - (b) the date of effect of the decision made in response to the application is before 20 March 2000; the decision has effect, for the period that starts on the date of effect of the decision and ends on 19 March 2000, as if it were a decision made under the 1991 Act.



**253 Unfinished reviews by SSAT**

- (1) If:
  - (a) a person made an application under section 1247 of the 1991 Act before 20 March 2000; and
  - (b) the application was not determined before 20 March 2000; the application has effect, on and from 20 March 2000, as if it were an application under section 142 of this Act.
- (2) The date of effect of the decision made in response to the application may be before 20 March 2000.
- (3) If:
  - (a) subsection (1) applies to an application; and
  - (b) the date of effect of the decision made in response to the application is before 20 March 2000; the decision has effect, for the period that starts on the date of effect of the decision and ends on 19 March 2000, as if it were a decision made under the 1991 Act.

**254 Unfinished reviews by AAT**

- (1) If:
  - (a) a person made an application under section 1283 of the 1991 Act before 20 March 2000; and
  - (b) the application was not determined before 20 March 2000; the application has effect, on and from 20 March 2000, as if it were an application under section 179 of this Act.
- (2) The date of effect of the decision made in response to the application may be before 20 March 2000.
- (3) If:
  - (a) subsection (1) applies to an application; and
  - (b) the date of effect of the decision made in response to the application is before 20 March 2000; the decision has effect, for the period that starts on the date of effect of the decision and ends on 19 March 2000, as if it were a decision made under the 1991 Act.

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**255 Saving of steps in review process**

If:

- (a) a person made an application under section 1240, 1247 or 1283 of the 1991 Act before 20 March 2000; and
  - (b) the application was not determined before 20 March 2000;
- anything done under, or for the purposes of, a provision of the 1991 Act before 20 March 2000 has effect, on and after that date, as if it had been done under, or for the purposes of, the corresponding provision of this Act.

**256 Entitlements and liabilities**

- (1) Subsection (2) applies to an amount that:
  - (a) would have been payable on or after 20 March 2000; and
  - (b) represents an entitlement that arose before 20 March 2000 under a provision of the 1991 Act as in force before that date.
- (2) For the purposes of section 242, an amount to which this subsection applies is taken to be payable, on and after 20 March 2000, under the social security law.
- (3) A debt due under the 1991 Act before 20 March 2000 and remaining unpaid on that date is taken to be a debt due under the social security law.

**257 Transitional regulations**

- (1) The Governor-General may make regulations prescribing matters in relation to any transitional matters (including prescribing any saving or application provisions) arising out of the enactment of this Act.
- (2) Without limiting subsection (1), and in spite of any other provision of this or any other Act, regulations made by virtue of subsection (1) may:
  - (a) modify the effect of a provision of this Part (other than this section); or
  - (b) substitute another provision for any provision of this Part (other than this section); or
  - (c) add a provision to this Part (other than this section).

## Schedule 1—Dictionary

Note: See section 3.

### 1 Definitions

(1) In this Act:

**1991 Act** means the *Social Security Act 1991*.

**AAT** means the Administrative Appeals Tribunal.

**Agriculture Department** means the Department administered by the Agriculture Minister.

**Agriculture Minister** means the Minister administering the *Farm Household Support Act 1992*.

**attendance**, at a school, for the purposes of Part 3C (schooling requirements), has the meaning given by section 124A.

**attendance notice** has the meaning given by section 124K.

**authorised review officer** means an officer authorised under section 235 to perform duties as an authorised review officer for the purposes of the social security law.

**compliance notice** has the meaning given by section 124ND.

**connection failure** has the meaning given by subsection 42E(1).

**CSC** (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**Digital Switch-over Household Assistance Program** means the program that:

- (a) is administered by the Commonwealth; and
- (b) involves the provision and/or installation of any or all of the following:
  - (i) set-top boxes;
  - (ii) cables;
  - (iii) antennas;

Clause 1

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for the purposes of enabling the members of certain households to view television programs transmitted in digital mode (within the meaning of Schedule 4 to the *Broadcasting Services Act 1992*).

**enrolment**, at a school, for the purposes of Part 3C (schooling requirements), has the meaning given by section 124A.

**enrolment notice** has the meaning given by section 124F.

**further reconnection requirement** has the meaning given by section 42J.

**no show no pay failure** has the meaning given by subsection 42C(1).

**participation payment** is any of the following payments that are paid to a person:

- (a) newstart allowance;
- (b) if the person is neither undertaking full-time study (see section 541B of the 1991 Act) nor is a new apprentice—youth allowance;
- (c) if the person is subject to participation requirements—parenting payment;
- (d) if the person is a nominated visa holder—special benefit.

**penalty amount** for a person for a no show no pay failure or a reconnection failure means the amount worked out for the person in accordance with the legislative instrument made under section 42T.

**person responsible**, for the operation of a school, for the purposes of Part 3C (schooling requirements), has the meaning given by section 124A.

**Principal Member** means the Principal Member of the SSAT.

Note: Schedule 3 deals with the constitution and membership of the SSAT.

**reconnection failure** has the meaning given by subsection 42H(1).

**reconnection failure period** has the meaning given by subsection 42H(4).

**reconnection requirement** has the meaning given by section 42G.

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Clause 1

***schooling requirement child*** has the meaning given by section 124B.

***schooling requirement determination*** has the meaning given by section 124C.

***schooling requirement payment*** has the meaning given by section 124D.

***schooling requirement person*** has the meaning given by section 124.

***serious failure*** has the meanings given by subsections 42M(1) and 42N(1).

***serious failure period*** has the meaning given by subsection 42P(2).

***serious failure requirement*** has the meaning given by subsection 42P(3).

***social security periodic payment*** means:

- (a) a social security benefit; or
- (b) a social security pension; or
- (c) carer allowance; or
- (f) double orphan pension; or
- (g) mobility allowance; or
- (i) pensioner education supplement; or
- (j) Northern Territory CDEP transition payment; or
- (k) Disaster Recovery Allowance.

***SSAT*** means the Social Security Appeals Tribunal.

Note: Schedule 3 deals with the constitution and membership of the SSAT.

***transfer day***, in relation to a transferee to a social security pension or benefit, has the meaning given by subclause (2) or (3), as the case requires.

***transferee***, in relation to a social security pension or benefit, has the meaning given by subclause (2) or (3), as the case requires.

***unemployment non-payment period*** has the meaning given by subsection 42S(3).

Clause 1

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(2) If:

- (a) a social security pension or benefit (the *old payment*) ceases to be payable to a person otherwise than because another social security payment becomes payable to the person; and
  - (b) immediately after the old payment ceases to be payable, the person is qualified for another social security pension or benefit (the *new payment*); and
  - (c) the person makes a claim for the new payment;
- the person is a transferee to the new payment and the person's transfer day is the day that immediately follows the last day on which the old payment is payable to the person.

(3) If:

- (a) a person becomes qualified for a social security pension or benefit (the *new payment*); and
  - (b) immediately before becoming qualified for the new payment:
    - (i) the person is a member of a couple; and
    - (ii) the person's partner is receiving a social security benefit; and
  - (c) the person makes a claim for the new payment;
- the person is a transferee to the new payment and the person's transfer day is the day on which the person becomes qualified for the new payment.

## **Schedule 2—Rules for working out start day**

Note: See section 42.

### **Part 1—Introductory**

#### **1 Definitions**

In this Schedule, unless the contrary intention appears:

*benefit* means a social security benefit.

*pension* means a social security pension.

#### **2 Different start days under Parts 2 and 3**

(1) If:

(a) but for this subclause, a person would have a start day under Part 2 of this Schedule in relation to a social security payment and would also have a start day under Part 3 of this Schedule in relation to the same payment; and

(b) the start day under Part 3 would be earlier than the start day under Part 2;

the day worked out under Part 3 is the person's start day in relation to the social security payment.

(2) If, but for this subclause, a person would have 2 start days under Part 3 of this Schedule in relation to the same social security payment, one day earlier than the other, the earlier day is the person's start day under Part 3 in relation to the social security payment.

(3) If:

(a) 2 or more clauses of Part 3 of this Schedule apply to the working out of a person's start day in relation to a social security payment; and

(b) the person's start day under both or all of those clauses is the same day;

that day is the person's start day under Part 3 in relation to the social security payment.

**Clause 2**

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(4) If:

- (a) but for this subclause, a person would have a start day under Part 2 of this Schedule in relation to a concession card and would also have a start day under Part 3 of this Schedule in relation to the same card; and
- (b) the start day under Part 3 would be earlier than the start day under Part 2;

the day worked out under Part 3 is the person's start day in relation to the concession card.



## **Part 2—General rules**

### **3 Start day—general rule**

- (1) If:
  - (a) a person makes a claim for a social security payment; and
  - (b) the person is qualified for the payment on the day on which the claim is made;the person's start day in relation to the payment is the day on which the claim is made.
- (2) A person's start day in relation to a concession card for which the person is qualified under:
  - (a) Division 1 of Part 2A.1 of the 1991 Act; or
  - (b) Subdivision A of Division 3 of that Part;is the first day on which the person is qualified for the card.
- (3) If:
  - (a) a person makes a claim for a seniors health card or a health care card under Subdivision B of Division 3 of Part 2A.1 of the 1991 Act; and
  - (b) the person is qualified for the card on the day on which the claim is made;the person's start day in relation to the card is the day on which the claim is made.

### **4 Start day—early claim**

- (1) If:
  - (a) a person (other than a detained person) makes a claim for a relevant social security payment; and
  - (b) the person is not, on the day on which the claim is made, qualified for the payment; and
  - (c) assuming the person does not sooner die, the person will, because of the passage of time or the occurrence of an event, become qualified for the payment within the period of 13 weeks after the day on which the claim is made; and

**Clause 4**

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- (d) the person becomes so qualified within that period;  
the claim is taken to be made on the first day on which the person is qualified for the social security payment.
- (2) For the purposes of subclause (1), the following provisions have effect:
  - (a) subject to paragraph (b), any social security payment, other than special benefit, is a relevant social security payment;
  - (b) parenting payment is not a relevant social security payment in the case of a person who becomes qualified for the payment because of the birth of a child.
- (3) If:
  - (a) a detained person makes a claim for a social security payment; and
  - (b) the person is not, on the day on which the claim is made, qualified for the payment; and
  - (c) the person becomes qualified for the payment within 3 weeks after the claim is made;the claim is taken to be made on the first day on which the person is qualified for the payment.
- (4) Subclause (3) does not have effect in relation to a claim for a crisis payment or for a social security pension or benefit.
- (6) If:
  - (a) a person makes a claim for a newstart allowance or youth allowance; and
  - (b) when the claim is made, the person is serving a liquid assets test waiting period;the claim is taken to be made on the first day on which the person is qualified for a newstart allowance or youth allowance, as the case may be.
- (7) In this clause:

***detained person*** means a person who:

  - (a) is in gaol; or
  - (b) is undergoing psychiatric confinement because the person has been charged with an offence.

## 5 Effect of exclusion period

- (1) If, on the day that would, but for this clause, be a person's start day under this Schedule in relation to a social security payment, the person is subject to one or more exclusion periods, the person's start day in relation to the payment is worked out as follows:
- (a) if the person is subject to one exclusion period—the start day is the first day after the end of that period;
  - (b) if the person is subject to 2 or more exclusion periods—the start day is the first day after all the periods have ended.

- (1A) This clause does not apply in relation to payment of parenting payment to a person who is a member of a couple if the Secretary is satisfied that it should not so apply.

Note: Clause 5A deals with the start day of parenting payment where one member of a couple commits a serious failure or is unemployed as a result of a voluntary act or misconduct.

- (1B) If the exclusion period to which a person is subject is a serious failure period or an unemployment non-payment period, subclause (1) applies only in relation to a start day for a participation payment to the person.

- (2) In this clause:

***exclusion period*** means a period during which, because of a provision of the social security law, a social security payment that would otherwise be payable to a person is not payable to the person, including:

- (a) a waiting period; and
- (b) a non-payment period (including a compliance penalty period); and
- (c) a compensation preclusion period; and
- (d) a period during which a person is in gaol; and
- (e) if the payment is a youth allowance or newstart allowance—a period during which the payment is not payable because of the operation of section 547AA or 615 of the 1991 Act; and
- (f) if the payment is a schooling requirement payment within the meaning of Part 3C—a period during which the payment is suspended under section 124H, 124M or 124NF.

Clause 5A

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**5A Start day for parenting payment where one member of a couple commits a serious failure or is unemployed as a result of a voluntary act or misconduct**

If:

- (a) one member of a couple is receiving parenting payment; and
  - (b) the other member of the couple is receiving a participation payment; and
  - (c) either:
    - (i) the Secretary determines that the other member of the couple commits a serious failure; or
    - (ii) the Secretary makes a determination under subsection 42S(1) (unemployment as a result of a voluntary act or misconduct) in relation to the other member of the couple; and
  - (d) the other member of the couple claims parenting payment;
- then, the other member's start day under this Schedule in relation to the parenting payment is the first day after the end of the person's serious failure period or unemployment non-payment period.

**6 Saving**

Nothing in this Schedule operates to make a social security payment payable to a person on a day on which, because of another provision of the social security law, the payment is not payable to the person.

## **Part 3—Backdated start day**

### **Division 1—Explanatory**

#### **7 Explanation of Part**

In some circumstances, a person's start day in relation to a social security payment may be earlier than the day worked out under Part 2 of this Schedule. This Part contains rules that enable the start day to be worked out in those circumstances.

## **Division 2—Rules applying to all or most social security payments**

### **8 Claim made soon after partner's claim**

If:

- (a) a person makes a claim for a social security benefit or pension within 14 days after the person's partner makes a claim for a social security benefit or pension; and
  - (b) the person's claim and the partner's claim are both granted;
- the person's start day in relation to the benefit or pension is the first day on which the person is qualified for the pension or benefit in the period starting on the partner's start day in relation to the pension or benefit granted to the partner and ending on the day on which the person made the claim for the pension or benefit.

### **9 Claim by transferee**

(1) If:

- (a) a person is a transferee to a benefit or pension; and
  - (b) the person makes a claim for the benefit or pension within 14 days after the day that is the person's transfer day in relation to the benefit or pension;
- the transfer day is also the person's start day in relation to the benefit or pension.

(2) If:

- (a) a person is a transferee to a benefit or pension; and
- (b) the person makes a claim for the benefit or pension more than 14 days, but not more than 13 weeks, after the person's transfer day; and
- (c) the Secretary determines that:
  - (i) during the period beginning on the person's transfer day and ending on the day on which the person made the claim, the person suffered from an illness or from an incapacity due to a medical condition; and

- (ii) the illness or incapacity was the sole or principal cause of the person's failure to make the claim within 14 days after the person's transfer day;  
the person's transfer day is also the person's start day in relation to the benefit or pension.

## **10 Claim soon after childbirth**

If a woman makes a claim for a social security payment within 4 weeks after giving birth to a child, the woman's start day in relation to the payment is the first day on which the woman is qualified for the payment in the period starting on the birth of the child and ending on the day on which the claim is made.

## **11 Incapacitated claimant**

(1) If:

- (a) a person becomes incapacitated for work as a result of a medical condition; and
- (b) the person makes a claim for a benefit or pension within 5 weeks after the day on which the incapacity begins; and
- (c) the person continues to suffer the medical condition from the day on which the incapacity begins until the claim is made;

the person's start day in relation to the benefit or pension is the first day on which the person was qualified for the benefit or pension in the period starting on the day on which the incapacity began and ending on the day on which the claim was made.

(2) If:

- (a) a person becomes incapacitated for work as a result of a medical condition; and
- (b) the person makes a claim for a benefit or pension more than 5 weeks after the day on which the incapacity begins; and
- (c) the Secretary is satisfied that:
  - (i) the person has continued to suffer the medical condition from the day on which the incapacity began until the claim was made; and
  - (ii) the medical condition was the sole or principal cause of the person's failure to make the claim within 5 weeks after the day on which the incapacity began;

**Clause 12**

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the person's start day in relation to the pension or benefit is the first day on which the person was qualified for the benefit or pension in the period of 4 weeks ending immediately before the day on which the claim was made.

**12 Claim after death of partner**

If:

- (a) a person's partner dies; and
- (b) the person makes a claim for a social security payment within 4 weeks after the death of the partner;

the person's start day in relation to the payment is the first day on which the person was qualified for the payment in the period starting on the day on which the partner died and ending on the day on which the claim was made.

**13 Claim for social security payment following claim for AGDRP**

If a person:

- (a) is qualified for an AGDRP; and
- (b) makes a claim for the payment; and
- (ba) is in Australia when making that claim; and
- (c) within 14 days after making that claim, makes a claim for another social security payment;

the person's start day in relation to that other social security payment is the day on which the person became qualified for the AGDRP.

**14 Claim where Part 3.14A of the 1991 Act applies**

(1) If:

- (a) a person, or a person's partner, has reached pension age; and
- (b) Part 3.14A of the 1991 Act applies to the person or the person's partner because of a transfer of qualifying interests by the person or the person's partner; and
- (c) the transfer was completed on or after 20 March 2000 but before 15 September 2000; and
- (d) the person makes a claim for a social security payment within the period of 3 months starting on the day on which the transfer was completed;



Clause 14A

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the claimant's start day in relation to the social security payment is:

- (e) the day on which the transfer was completed; or
- (f) the day on which the person becomes qualified for the social security payment;

whichever is later.

(2) If:

- (a) a person, or a person's partner, has reached pension age; and
- (b) Part 3.14A of the 1991 Act applies to the person or the person's partner because of a transfer of qualifying interests by the person or the person's partner; and
- (c) the transfer was completed on or after 15 September 2000; and
- (d) the person makes a claim for a social security payment;

the claimant's start day in relation to the social security payment is the day on which the claim is made.

**14A Claim where Part 3.14B of the 1991 Act applies**

If:

- (a) a person, or a person's partner, has reached pension age; and
- (b) Part 3.14B of the 1991 Act applies to the person or the person's partner because of a transfer of eligible interests by the person or the person's partner; and
- (c) the person makes a claim for a social security payment within the period of 13 weeks starting on the day on which the transfer was completed;

the claimant's start day in relation to the social security payment is:

- (d) the day on which the transfer was completed; or
- (e) the day on which the person becomes qualified for the social security payment;

whichever is later.

Clause 15

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**Division 3—Rules applying to particular social security payments**

**15 Certain persons subject to cancellation of austudy payment, newstart allowance, youth allowance or special benefit**

If:

- (a) a person receives an austudy payment, newstart allowance, youth allowance or special benefit; and
- (b) either:
  - (i) the payment, allowance or benefit is not payable to the person because of subsection 63(4); or
  - (ii) a compliance penalty period applies to the person; and
- (c) payment of the payment, allowance or benefit is cancelled; and
- (d) the person lodges a claim for an austudy payment, newstart allowance, youth allowance or special benefit within 14 days after the day (the ***cancellation day***) on which the cancellation of the payment, allowance or benefit referred to in paragraph (a) takes effect:

the person's start day in relation to the payment, allowance or benefit to which the claim referred to in paragraph (d) relates is the day after the cancellation day.

**15A Carer payment claimed on or after 1 July 2009 and before 1 October 2009**

If:

- (a) a person is qualified for a carer payment other than under section 198 of the 1991 Act; and
- (b) the person makes a claim for a carer payment on or after 1 July 2009 and before 1 October 2009;

the person's start day in relation to the payment is the day on which the person became qualified for a carer payment other than under section 198 of that Act.

## **16 Carer allowance for disabled child or children**

(1) If:

- (a) a person is qualified for carer allowance for a care receiver who is a disabled child or for 2 care receivers who are disabled children; and
- (b) the person makes a claim for carer allowance within 12 weeks after the day on which the person became qualified for the allowance;

the person's start day in relation to the allowance is the day on which the person became qualified for carer allowance.

(2) If:

- (a) a person is qualified for carer allowance for a care receiver who is a disabled child or for 2 care receivers who are disabled children; and
- (b) the person makes a claim for carer allowance more than 12 weeks after the day on which the person became qualified for the allowance;

the person's start day in relation to the allowance is the first day of the period of 12 weeks ending immediately before the day on which the claim was made.

## **17 Carer allowance for disabled adult**

(1) If:

- (a) a person is qualified for carer allowance for a care receiver who is a disabled adult in circumstances where the disability affecting the adult is due to an acute onset; and
- (b) the person makes a claim for carer allowance within 12 weeks after the day on which the person became qualified for the allowance in the circumstances mentioned in paragraph (a);

the person's start day in relation to the allowance is the day on which the person became qualified for carer allowance in the circumstances mentioned in paragraph (a).

(2) If:

- (a) a person is qualified for carer allowance for a care receiver who is a disabled adult in circumstances where the disability affecting the adult is due to an acute onset; and

Clause 18

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- (b) the person makes a claim for carer allowance more than 12 weeks after the day on which the person became qualified for the allowance in the circumstances mentioned in paragraph (a);

the person's start day in relation to the allowance is the first day of the period of 12 weeks ending immediately before the day on which the claim was made.

**18 Double orphan pension**

If:

- (a) a person (the *claimant*) is qualified for a double orphan pension for a young person; and
- (b) the claimant makes a claim for double orphan pension for the young person within 13 weeks after the birth of the young person;

the claimant's start day in relation to the pension is the first day on which the person was qualified for the pension in the period starting on the day of the young person's birth and ending on the day on which the claim was made.

**19 Double orphan pension—claim following death of former recipient**

If:

- (a) a person (the *former recipient*) who is receiving double orphan pension for a young person dies; and
- (b) another person (the *claimant*) makes a claim for double orphan pension for the young person within 13 weeks after the death of the former recipient;

the claimant's start day in relation to the double orphan pension is the first day on which the claimant was qualified for the pension in the period starting on the day of the former recipient's death and ending on the day on which the claim was made.

**28 Newstart allowance—claimant for disability support pension**

If:

- (a) a person makes a claim for a newstart allowance; and
- (b) the person is qualified for a newstart allowance under subsection 593(1B) of the 1991 Act;

the person's start day in relation to the newstart allowance is the day on which the person made the claim for a disability support pension referred to in paragraph 593(1B)(d) of that Act.

## **29 Parenting payment**

If:

- (a) a person has a PP child; and
- (b) the person makes a claim for parenting payment within 4 weeks after the day on which the child became a PP child of the person;

the person's start day in relation to the parenting payment is the first day on which the person was qualified for the payment in the period starting on the day on which the child became a dependent child of the person and ending on the day on which the claim was made.

## **30 Pensioner education supplement**

If:

- (a) a person makes a claim for a pensioner education supplement; and
- (b) when the claim is made, the person is qualified for the supplement; and
- (c) the claim is made within 4 weeks after the person became qualified for the supplement;

the person's start day in relation to the pensioner education supplement is the day on which the person became qualified for the supplement.

## **31 Pensioner education supplement: claim before 1 April**

If:

- (a) a person makes a claim for a pensioner education supplement after the beginning of a calendar year but before 1 April in that year; and
- (b) the person's course of education is a full year course that begins before 1 April in that year;

the person's start day in relation to the pensioner education supplement is the first day on which the person is qualified for pensioner education supplement on or after 1 January in that year.

Clause 32

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**32 Pensioner education supplement: claim before 1 August**

If:

- (a) a person makes a claim for a pensioner education supplement after the beginning of a calendar year but before 1 August in that year; and
- (b) the person's course of education is a full year course that starts in the month of July in that year;

the person's start day in relation to the pensioner education supplement is the first day on which the person is qualified for pensioner education supplement on or after 1 July in that year.

**33 Sickness allowance: incapacitated claimant**

If:

- (a) a person stops receiving sickness allowance because the person fails to give the Secretary a certificate referred to in paragraph 669(5)(b) of the 1991 Act before the end of the person's maximum allowance period; and
- (b) the sole or principal cause of the person's failure is either:
  - (i) the person's medical condition; or
  - (ii) an act or omission of an officer of the Department; and
- (c) after the end of the person's maximum allowance period, the person makes a claim for sickness allowance in respect of the incapacity for which the allowance was previously granted;

the person's start day in relation to the sickness allowance is the first day on which the person was qualified for the allowance after the end of the person's maximum allowance period but not earlier than 4 weeks before the day on which the claim was made.

**34 Youth allowance: incapacitated claimant**

If:

- (a) a person who is undertaking a course of full-time study becomes incapacitated for study as a result of a medical condition; and
- (b) the person makes a claim for a youth allowance within 5 weeks after the day on which the incapacity begins; and

(c) the person continues to suffer the medical condition from the day on which the incapacity begins until the claim is made; the person's start day in relation to the youth allowance is the first day on which the person was qualified for youth allowance in the period starting on the day on which the incapacity began and ending on the day on which the claim was made.

### **35 Youth allowance—claimant for disability support pension**

If:

- (a) a person makes a claim for a youth allowance; and
- (b) the person is qualified for a youth allowance under subsection 540A(1) of the 1991 Act;

the person's start day in relation to the youth allowance is the day on which the person made the claim for a disability support pension referred to in paragraph 540A(1)(c) of that Act.

### **36 Youth allowance—initial claim for family tax benefit**

If:

- (a) a claim is made for family tax benefit in respect of a person (the *initial claim*); and
- (b) on the day on which the initial claim is made, the person is qualified for youth allowance; and
- (c) the person afterwards makes a claim for youth allowance; and
- (d) the Secretary is satisfied that it is reasonable for this clause to apply to the person;

the person's start day in relation to youth allowance is the day on which the initial claim was made.

## Division 4—Rules applying to health care cards

### 37 Health care cards, other than automatic issue health care cards

- (1) If:
- (a) a person makes a claim for a health care card under Subdivision B of Division 3 of Part 2A.1 of the 1991 Act; and
  - (b) within the claim period, a professional service has been rendered to, or hospital treatment has been provided for, the person or a dependant of the person; and
  - (c) when the service was rendered or the treatment provided, as the case may be, the person was qualified for the card; and
  - (d) the person remained so qualified until the claim was made;
- the person's start day in relation to the health care card is:
- (e) the day on which the professional service was rendered or the hospital treatment was provided, as the case may be; or
  - (f) if there were 2 or more such days within the claim period, the earlier or earliest of those days, as the case may be.
- (2) For the purposes of subclause (1), any period earlier than 1 September 1981 that would, but for this subclause, be included in the claim period in respect of a particular claim is to be disregarded.
- (3) In this clause:

***claim period*** means:

- (a) the period of 13 weeks ending on the day on which a claim is made; or
- (b) such longer period as the Secretary, having regard to all the circumstances of the case, approves.

***dependant*** has the same meaning as in Part 2A.1 of the 1991 Act.

***hospital treatment*** has the same meaning as in the *Health Insurance Act 1973*.

***professional service*** has the same meaning as in the *Health Insurance Act 1973*.



- (4) The Secretary must not approve, under subclause (3), a period that includes a period earlier than 1 September 1981.

Clause 1

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## **Schedule 3—Constitution and membership of the Social Security Appeals Tribunal**

Note: See section 139.

### **Part 1—Membership of the SSAT**

#### **1 Composition of the SSAT**

The SSAT consists of the following members:

- (a) a Principal Member; and
- (aa) such number of Deputy Principal Members as are appointed in accordance with this Act; and
- (b) such number of Senior Members as are appointed in accordance with this Act; and
- (ba) such number of Assistant Senior Members as are appointed in accordance with this Act; and
- (c) such number of other members as are appointed in accordance with this Act.

#### **2 The Principal Member**

- (1) The Principal Member is responsible for the overall operation and administration of the SSAT.
- (2) The Principal Member is to:
  - (a) monitor the operations of the SSAT; and
  - (b) take reasonable steps to ensure that decisions of the SSAT are consistent; and
  - (c) take reasonable steps to ensure that the SSAT efficiently and effectively performs its functions.
- (3) The Principal Member may give directions:
  - (a) for the purpose of increasing the efficiency of the operations of the SSAT; and
  - (b) as to the arrangement of the business of the SSAT.

### **3 Appointment of members**

- (1) A member of the SSAT is to be appointed by the Governor-General.
- (2) The Principal Member is to be appointed as a full-time member.
- (3) Any other member may be appointed either as a full-time member or as a part-time member.

### **4 Period of appointment**

- (1) Subject to this Schedule, a member holds office for such period as is specified in the instrument of appointment, but is eligible for re-appointment.
- (2) The period specified under subclause (1) must not exceed 5 years.

### **5 Conditions of appointment**

A member of the SSAT holds office on such terms and conditions (if any) in respect of matters not provided for by this Schedule as are determined by the Governor-General in writing.

### **6 Acting appointment: Principal Member**

- (1) The Governor-General may appoint a person to act as Principal Member:
  - (a) during a vacancy in the office of Principal Member, whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when the Principal Member is absent from duty or from Australia or is, for any reason, unable to perform the duties of his or her office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (2) The Minister may appoint a person to act as Principal Member:
  - (a) during a vacancy in the office of Principal Member, whether or not an appointment has previously been made to the office; or

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- (b) during any period, or during all periods, when the Principal Member is absent from duty or from Australia or is, for any reason, unable to perform the duties of his or her office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

**7 Acting appointments: other members**

- (1) The Governor-General may appoint a person to act as a member referred to in paragraph 1(aa), (b), (ba) or (c) of this Schedule:
  - (a) in the place of a person who has ceased to be such a member;  
or
  - (b) in the place of such a member during any period, or during all periods, when the member is absent from duty or from Australia or is, for any reason, unavailable to perform the duties of his or her office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (2) The Minister may appoint a person to act as a member referred to in paragraph 1(aa), (b), (ba) or (c) of this Schedule:
  - (a) in the place of a person who has ceased to be such a member;  
or
  - (b) in the place of such a member during any period, or during all periods, when the member is absent from duty or from Australia or is, for any reason, unavailable to perform the duties of his or her office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (3) A person appointed to act under subclause (1) or (2) must not continue to act for more than 12 months.

**8 Extension of acting appointments**

- (1) If a person has been appointed under subclause 6(1) or paragraph 7(1)(b), the Governor-General may direct that the person is to continue to act in the appointment after the normal terminating event occurs.
- (2) If a person has been appointed under subclause 6(2) or paragraph 7(2)(b), the Minister may direct that the person is to

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Clause 9

continue to act in the appointment after the normal terminating event occurs.

- (3) A direction under subclause (1) or (2) must specify the period during which the person may continue to act in the appointment.
- (4) The period specified in accordance with subclause (3) may be specified by reference to the happening of a particular event or the existence of particular circumstances.
- (5) A direction under subclause (1) or (2):
  - (a) is to be given only if there is a pending review or other special circumstances justifying the giving of the direction; and
  - (b) may only be given before the normal terminating event occurs.
- (6) A person continuing to act in accordance with a direction under subclause (1) or (2) must not continue to act for more than 12 months after the normal terminating event occurs.
- (7) For the purposes of this clause, the normal terminating event for an appointment under clause 6 or 7 is:
  - (a) if the appointment is made under paragraph 6(1)(a) or (2)(a)—the filling of the vacancy in the office of Principal Member; or
  - (b) if the appointment is made under paragraph 6(1)(b) or (2)(b)—the Principal Member ceasing to be absent or ceasing to be unable to perform the duties of his or her office; or
  - (c) if the appointment is made under paragraph 7(1)(b)—the member ceasing to be absent or ceasing to be unable to perform the duties of his or her office; or
  - (d) if the appointment is made under paragraph 7(2)(b)—the member ceasing to be absent or ceasing to be unable to perform the duties of his or her office.

## **9 Effect of acts done by persons appointed to act**

If the SSAT as constituted for the purposes of a review includes a person acting or purporting to act by virtue of an appointment under clause 6 or 7, any decision of, or any direction given or any other act done by, the SSAT as so constituted is not invalid merely because:

Clause 9

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- (a) the occasion for the appointment had not arisen; or
- (b) there was a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

## **Part 2—Organisation of the business of the SSAT**

### **10 Constitution of SSAT for each hearing**

- (1) Subject to clause 11, the Principal Member may give directions as to the member who is, or members who are, to constitute the SSAT for the purposes of:
  - (a) a particular review; or
  - (b) reviews of a particular kind.
- (2) Without limiting subclause (1), the Principal Member may give a direction under that subclause as to the member who is, or members who are, to constitute the SSAT for the purposes of all reviews, or reviews of a particular kind, that are listed for hearing at a particular place during a particular period or during particular periods.
- (2A) If the Principal Member gives a direction under subclause (1) in relation to a particular review, he or she may at any time before the commencement of the hearing of the review:
  - (a) revoke the direction; and
  - (b) give a further direction under subclause (1) as to the member who is, or the members who are, to constitute the SSAT for the purposes of the review.
- (2B) If the Principal Member gives a direction under subclause (1) in relation to reviews of a particular kind, he or she may:
  - (a) revoke the direction; and
  - (b) give a further direction under subclause (1) as to the member who is, or the members who are, to constitute the SSAT for the purposes of reviews of that kind that commence after the further direction is given.
- (3) For the purposes of a review, the SSAT is to be constituted by the member or members ascertained in accordance with the directions given under subclause (1).

Clause 11

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**11 Number of members for hearings**

The maximum number of members to constitute the SSAT for the purposes of a review is 4.

**12 Reconstitution of SSAT if member unavailable to complete review**

- (1) This clause applies if:
- (a) the hearing of a review of a decision has been commenced or completed by the SSAT; and
  - (b) before a decision on the review has been made by the SSAT, a member (the ***unavailable member***) who constitutes, or is one of the members who constitute, the SSAT for the purposes of the review has:
    - (i) ceased to be a member; or
    - (ii) for any reason, ceased to be available for the purposes of the review; or
    - (iii) been directed by the Principal Member not to continue to take part in the review.

- (1AA) The Principal Member must not give a direction under subparagraph (1)(b)(iii) unless the Principal Member:
- (a) is satisfied, having regard to the objective of conducting reviews in a manner that is fair, just, economical, informal and quick, that the direction is in the interests of justice; and
  - (b) has consulted the member concerned.

*Single member Tribunal*

- (1A) If the unavailable member constituted the SSAT for the purposes of the review, the Principal Member must:
- (a) give a direction reconstituting the SSAT for the purposes of the review; and
  - (b) either:
    - (i) direct that the hearing and determination, or the determination, of the review must be completed by the SSAT as so reconstituted; or
    - (ii) direct that the review must be reheard by the SSAT as so reconstituted.



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Clause 12A

*Multiple member Tribunal*

- (1B) If the unavailable member was one of the members who constituted the SSAT for the purposes of the review:
- (a) if the Principal Member does not give a direction reconstituting the SSAT for the purposes of the review—the hearing and determination, or the determination, of the review must be completed by the SSAT constituted by the remaining member or members; or
  - (b) if the Principal Member does give a direction reconstituting the SSAT for the purposes of the review—the review must be reheard by the SSAT as so reconstituted.

*SSAT may have regard to record of previous review*

- (2) If the SSAT is reconstituted in accordance with this clause, the SSAT may, for the purposes of the review, have regard to any record of:
- (a) the hearing of the review before the SSAT as previously constituted (including a record of any evidence taken); and
  - (b) any directions hearings convened by the Principal Member with the parties to the review.

*Reconstituted Tribunal must continue review*

- (3) The SSAT as reconstituted in accordance with a direction under this clause must continue the review.

**12A Reconstitution of SSAT to achieve expeditious and efficient conduct of review**

*Scope*

- (1) This clause applies if:
- (a) the hearing of a review of a decision has commenced or is completed; and
  - (b) the SSAT has not made a decision on the review.

## Clause 12B

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*Reconstitution to achieve expeditious and efficient conduct of review*

- (2) The Principal Member may direct that the SSAT as constituted for the purposes of the review be reconstituted by one or more of the following:
- (a) adding one or more members;
  - (b) removing one or more members;
  - (c) substituting one or more other members;
- if the Principal Member thinks that the reconstitution is in the interests of achieving the expeditious and efficient conduct of the review.
- (3) The SSAT as reconstituted in accordance with a direction under this clause must continue the review.

*SSAT may have regard to record of previous review*

- (4) If the SSAT is reconstituted in accordance with this clause, the SSAT may, for the purposes of the review, have regard to any record of:
- (a) the hearing of the review before the SSAT as previously constituted (including a record of any evidence taken); and
  - (b) any directions hearings convened by the Principal Member with the parties to the review.

### **12B Reconstituted SSAT—who is to preside**

If a direction is given under clause 10, 12 or 12A reconstituting the SSAT for the purposes of a particular review, any necessary direction may be given under this clause as to the member who is to preside for the purposes of the review.

## **Part 3—Administrative matters**

### **13 Remuneration and allowances of members**

- (1) A member is to be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) If no determination of a member's remuneration by the Remuneration Tribunal is in operation, the member is to be paid such remuneration as is prescribed.
- (3) This clause has effect subject to the *Remuneration Tribunal Act 1973*.

### **14 Leave of absence**

- (1) A member has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Principal Member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.
- (3) The Principal Member may grant another full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.
- (4) A determination under subclause (2) or (3) must be in writing.

### **15 Approval to engage in outside employment**

- (1) The Principal Member may approve another full-time member's engaging in paid employment outside the duties of the member's office.
- (2) The Minister may give the Principal Member directions as to the exercise of the Principal Member's power under subclause (1), and the Principal Member must comply with any such directions.
- (3) A direction under subclause (2) must be in writing.

Clause 16

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**16 Resignation**

A member may resign his or her office by writing signed by the member and delivered to the Minister.

**17 Removal from office**

- (1) The Governor-General may remove a member from office on the ground of proved misbehaviour or physical or mental incapacity.
- (2) The Minister may suspend a member from office on the ground of proved misbehaviour or physical or mental incapacity.
- (3) If the Minister suspends a member from office, the Governor-General may, on the recommendation of the Minister:
  - (a) remove the member from office; or
  - (b) direct that the suspension continue for such further period as the Governor-General specifies; or
  - (c) direct that the suspension terminate.
- (4) The suspension of a member from office under this clause does not affect any entitlement of the member to be paid remuneration and allowances.
- (5) The Governor-General may remove a member from office if:
  - (a) the member becomes bankrupt; or
  - (b) the member applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
  - (c) the member compounds with the member's creditors; or
  - (d) the member makes an assignment of the member's remuneration for the benefit of the member's creditors; or
  - (e) the member is a full-time member and:
    - (i) engages, except in accordance with an approval under clause 15, in paid employment outside the duties of the member's office; or
    - (ii) is absent from duty, except on leave of absence, for 14 consecutive days or 28 days in any 12 months; or
  - (f) the member fails, without reasonable excuse, to comply with the member's obligations under clause 18.

Clause 17

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- (6) If a member is:
- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
  - (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; or
  - (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;
- the Governor-General may, with the consent of the member, by signed instrument, retire the member from office on the ground of physical or mental incapacity on a date specified in the instrument.
- (7) The date specified under subclause (6) must not be earlier than the date on which the instrument is signed.
- (8) A member must not be suspended, removed or retired from office except as provided by this clause.
- (9) In spite of anything in this clause, a member (including the Principal Member) who:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
  - (b) has not reached his or her maximum retiring age (within the meaning of that Act);
- is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless CSC has given a certificate under section 54C of that Act.
- (10) In spite of anything in this clause, a member (including the Principal Member) who:
- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
  - (b) is under 60 years of age;
- is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless CSC has given a certificate under section 13 of that Act.
- (11) In spite of anything in this clause, a member (including the Principal Member) who:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
  - (b) is under 60 years of age;

## Clause 18

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is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless CSC has given an approval and certificate under section 43 of that Act.

### **18 Disclosure of interests**

- (1) If:
- (a) a member is, or is to be, a member of the SSAT as constituted for the purposes of a review; and
  - (b) the member has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of the member's functions in relation to that review;
- the following provisions have effect:
- (c) the member must disclose the interest to the applicant and to the Secretary;
  - (d) except with the consent of the applicant and the Secretary, the member must not take part in the review or exercise any powers in relation to the review by the SSAT of the relevant decision.
- (2) If the Principal Member becomes aware that:
- (a) a member is, or is to be, a member of the SSAT as constituted for the purposes of a review; and
  - (b) the member has, in relation to that review, an interest of the kind referred to in paragraph (1)(b) of this clause;
- the following provisions have effect:
- (c) if the Principal Member considers that the member should not take part, or should not continue to take part, in the review—the Principal Member must give a direction to the member accordingly;
  - (d) in any other case—the Principal Member must cause the interest of the member to be disclosed to the applicant and the Secretary.

### **19 Disclosure of confidential information**

- (1) This clause applies to a person who is or has been:
- (a) a member of the SSAT; or
  - (b) a person acting as a member of the SSAT; or

Clause 19

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- (c) a person (other than a member of the staff of the SSAT) providing services at the hearing of a review by the SSAT.
- (2) This clause applies to information or a document if the information or document concerns a person and is obtained by a person to whom this clause applies in the course of performing functions or duties, or exercising powers, under the social security law, the family assistance law or the *Student Assistance Act 1973*.
- (3) A person to whom this clause applies must not:
  - (a) make a record of any information to which this clause applies; or
  - (b) divulge or communicate to any person any information to which this clause applies;unless the record is made or the information is divulged or communicated:
  - (c) for the purposes of the social security law, the family assistance law or the *Student Assistance Act 1973*; or
  - (d) for the purposes of, or in connection with, the performance of a function or duty or the exercise of a power under the social security law, the family assistance law or the *Student Assistance Act 1973*.
- (4) Subclause (3) applies to the divulging or communicating of information, whether directly or indirectly.
- (5) A person to whom this clause applies is not to be required:
  - (a) to produce to a court any document to which this clause applies; or
  - (b) to divulge or communicate to a court any information to which this clause applies;except where it is necessary to do so for the purpose of carrying into effect the provisions of the social security law, the family assistance law or the *Student Assistance Act 1973*.
- (6) A person to whom this clause applies must make an oath or declaration in a form approved by the Minister if required by the Minister to do so.

## Clause 19A

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- (7) For the purposes of this clause, a person who is providing services at the hearing of a review by the SSAT is to be taken to be performing a function under the social security law, the family assistance law or the *Student Assistance Act 1973*.
- (8) In this clause:
- court* includes any tribunal, authority or person having power to require the production of documents or the answering of questions.
- produce* includes permit access to.

### **19A Disclosure of confidential information—threat to life, health or welfare**

- (1) A member of the SSAT may divulge or communicate information if the information concerns a threat to the life, health or welfare of a person and either of the following applies:
- (a) the member believes on reasonable grounds that the divulging or the communication is necessary to prevent or lessen the threat;
  - (b) there is reason to suspect that the threat may afford evidence that an offence may be, or has been, committed against a person and the member divulges or communicates the information for the purpose of preventing, investigating or prosecuting such an offence.
- (2) Subclause (1) applies despite subclause 19(3) and any other provision of the social security law or the family assistance law.

### **20 Delegation by the Principal Member**

The Principal Member may, in writing, delegate to a member of the SSAT, or a member of the staff of the SSAT, all or any of the powers and functions of the Principal Member under this Act, the family assistance law, the *Paid Parental Leave Act 2010*, the *Student Assistance Act 1973*, the *Employment Services Act 1994*, the *Child Support (Assessment) Act 1989* or the *Child Support (Registration and Collection) Act 1988*.



## **21 Protection of members and witnesses**

- (1) A member has, in the performance of his or her duties as a member, the same protection and immunity as a member of the Administrative Appeals Tribunal.
- (1A) A person who is, or has been, a member must not be required to give evidence to a court in relation to any SSAT review of a decision. For the purposes of this subclause, *court* includes any tribunal, authority or person having power to require the production of documents or the answering of questions.
- (2) A person representing a party at a hearing of a review before the SSAT has the same protection and immunity as a barrister has in appearing before the Administrative Appeals Tribunal on behalf of a party.
- (3) A person appearing before the SSAT as a witness has the same protection as a person appearing before the Administrative Appeals Tribunal as a witness.

## **22 Fees for witnesses**

- (1) If a person appears before the SSAT as a witness at the request of the Principal Member, the person is entitled to be paid, in respect of the person's attendance, fees and allowances ascertained in accordance with a determination under subclause (2).
- (2) The Minister may, by legislative instrument, determine the amounts of fees and allowances to be paid under subclause (1).
- (4) The fees and allowances referred to in subclause (1) are to be paid by the Commonwealth.

## **23 Oath or affirmation of office**

- (1) A person who is appointed as a member, or to act as a member, of the SSAT must not discharge the duties of the office unless the person has taken an oath, or made an affirmation, in accordance with the form of oath or affirmation in Schedule 4.
- (2) The oath or affirmation must be taken or made before a justice of the peace or a commissioner for taking affidavits.

Clause 24

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**24 Staff of the SSAT**

Any staff required to assist the SSAT are to be persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary.

**25 Annual report**

- (1) The Principal Member must, as soon as practicable after the end of a financial year, give to the Minister a report of the operations of the SSAT during that year.
- (2) The Minister must cause the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

## **Part 4—Saving provisions**

### **26 Saving of appointments**

- (1) Subject to subclauses (2) and (3), an appointment of a person as a member of the SSAT that was:
  - (a) made before the commencement of this Schedule; and
  - (b) in force immediately before that commencement;has the same effect (if any) after the commencement of this Schedule as it would have had if:
  - (c) this Schedule had been in force when the appointment was made; and
  - (d) the appointment had been made under this Act.
- (2) If, because of subclause (1), the appointment of a person as National Convenor has effect after the commencement of this Schedule, the person holds office after that commencement as Executive Director.
- (3) If, because of subclause (1), the appointment of a person as a senior member of the SSAT has effect after the commencement of this Schedule, the person holds office after that commencement as a Director.

### **27 Saving of acts done**

- (1) Anything done before the commencement of this Schedule by, or in relation to, a person holding office as National Convenor has the same effect (if any) after that commencement as it would have had if:
  - (a) this Schedule had been in force when the thing was done; and
  - (b) the thing had been done under, or for the purposes of, this Act by, or in relation to, the Executive Director.
- (2) Anything done before the commencement of this Schedule by, or in relation to, a senior member of the SSAT has the same effect (if any) after that commencement as it would have had if:
  - (a) this Schedule had been in force when the thing was done; and

**Clause 28**

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- (b) the thing had been done under, or for the purposes of, this Act by, or in relation to, a Director.
- (3) Anything done before the commencement of this Schedule by, or in relation to, a member of the SSAT, other than the National Convenor or a senior member, has the same effect (if any) after that commencement as it would have had if:
  - (a) this Schedule had been in force when the thing was done; and
  - (b) the thing had been done under, or for the purposes of this Act, by, or in relation to, a member of the SSAT, other than the Executive Director or a Director.

**28 Saving of reviews in progress**

- (1) A review by the SSAT that commenced before the commencement of this Schedule may be continued, after that commencement, as if:
  - (a) this Act had not been enacted; and
  - (b) the 1991 Act continued in force as it was in force immediately before the commencement of this Schedule.
- (2) For the purposes of subclause (1), the SSAT, as constituted under this Act, is taken to be the SSAT as constituted under the 1991 Act as in force immediately before the commencement of this Schedule.

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## **Schedule 4—Forms of oath and affirmation**

Note: See clause 23, Schedule 3.

### **OATH**

I, \_\_\_\_\_, swear that I will faithfully and impartially perform the duties of the office of Principal Member (or Deputy Principal Member or Senior Member or Assistant Senior Member or member) of the Social Security Appeals Tribunal without fear or favour, affection or ill-will. So help me God.

### **AFFIRMATION**

I, \_\_\_\_\_, solemnly and sincerely promise and declare that I will faithfully and impartially perform the duties of the office of Principal Member (or Deputy Principal Member or Senior Member or Assistant Senior Member or member) of the Social Security Appeals Tribunal without fear or favour, affection or ill-will.

Clause 1

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## **Schedule 5—Provisions relating to the Chief Executive Centrelink etc.**

### **1 References to the Secretary and the Department—requirements etc. by delegate**

- (1) If the Secretary delegates to the CEO or an employee of the Agency a power under the social security law to require or request a person to give the Secretary a document or information, the delegate may, in exercising the power, require or request the person to give the document or information to the Chief Executive Centrelink instead of the Secretary.
- (2) If the Secretary delegates to the Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*) a power under the social security law to require or request a person to give or send to, or lodge with, the Department a document or information, the delegate may, in exercising the power, require or request the person to give or send the document or information to the Human Services Department, or lodge it with the Human Services Department, instead of the Department.
- (3) A person who:
  - (a) gives a document or information to the Chief Executive Centrelink; or
  - (b) gives or sends a document or information to the Human Services Department, or lodges it with the Human Services Department;in compliance with a requirement or a request by a delegate of the Secretary is to be treated for all purposes as if the person had:
  - (c) given the document or information to the Secretary; or
  - (d) given or sent the document or information to the Department, or lodged it with the Department;as the case may be, in compliance with a requirement or request by the Secretary.
- (4) A person who:
  - (a) does not give a document or information to the Chief Executive Centrelink; or

- (b) does not give or send a document or information to the Human Services Department, or lodge it with the Human Services Department;
- in compliance with a requirement or request by a delegate of the Secretary is to be treated for all purposes as if the person:
- (c) had not given the document or information to the Secretary;
  - or
  - (d) had not given or sent the document or information to the Department, or lodged it with the Department;
- as the case may be, in compliance with a requirement or request by the Secretary.

## **2 References to the Secretary and the Department—directions by Secretary**

- (1) Subject to subclause (3), if:
  - (a) the Secretary delegates to the Chief Executive Centrelink or a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*) all or any of the Secretary's powers under the social security law; and
  - (b) the delegation makes a reference to the Secretary, the Department, or an officer of the Department, in another provision of the social security law inappropriate, whether for administrative reasons or any other reason;the provision has effect as if:
  - (c) the reference to the Secretary were a reference to the Chief Executive Centrelink; or
  - (d) the reference to the Department were a reference to the Human Services Department; or
  - (e) the reference to an officer of the Department were a reference to a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*);as the case requires.
- (2) The Secretary may, by legislative instrument, direct that a provision to which subclause (1) applies is to have an operation different from that provided for by that subclause.
- (3) If the Secretary gives a direction under subclause (2) in relation to a provision, the provision has effect in accordance with the direction while the direction is in force.

**Clause 2**

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- (4) A direction under subclause (2) comes into force on the first moment of the day next following the day when it is registered in the Federal Register of Legislative Instruments under the *Legislative Instruments Act 2003*, or on such later day as is specified in it, and remains in force until it is revoked.



## Endnotes

### Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes  
Endnote 2—Abbreviation key  
Endnote 3—Legislation history  
Endnote 4—Amendment history  
Endnote 5—Uncommenced amendments  
Endnote 6—Modifications  
Endnote 7—Misdescribed amendments  
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

### Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

### Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law, but the text of the amendments is included in endnote 5.

## Endnotes

### Endnote 1—About the endnotes

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#### **Modifications—Endnote 6**

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

#### **Misdescribed amendments—Endnote 7**

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

#### **Miscellaneous—Endnote 8**

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

**Endnote 2—Abbreviation key**

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

## Endnotes

### Endnote 3—Legislation history

#### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Social Security (Administration) Act 1999	191, 1999	23 Dec 1999	ss. 1–6 and 257: Royal Assent s. 54: 1 July 2000 Remainder: 20 Mar 2000	
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Schedule 1 (items 824, 825): (a)	—
A New Tax System (Tax Administration) Act 1999	179, 1999	22 Dec 1999	Schedule 5 (items 67, 68): 1 July 2000 (b)	—
<b>as amended by</b>				
Family and Community Services Legislation Amendment Act 2003	30, 2003	15 Apr 2003	Schedule 2 (item 90): (ba)	—
Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999	192, 1999	23 Dec 1999	Schedules 1 and 2: 20 Mar 2000 Schedules 3 and 4: 1 July 2000 Remainder: Royal Assent	—
A New Tax System (Tax Administration) Act (No. 1) 2000	44, 2000	3 May 2000	Schedule 3 (item 48): 20 Mar 2000 (c)	—
A New Tax System (Family Assistance and Related Measures) Act 2000	45, 2000	3 May 2000	Schedule 3 (items 16–55), Schedules 5 and 6: (d)	Sch. 5 and Sch. 6
Family and Community Services Legislation Amendment Act 2000	70, 2000	27 June 2000	Schedule 4 (item 1): 20 Mar 2000 (e) Schedule 4 (items 2, 3): Royal Assent (e)	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Social Security and Veterans' Entitlements Legislation Amendment (Miscellaneous Matters) Act 2000	94, 2000	30 June 2000	Schedule 2 (Part 1): 1 July 2000 ( <i>f</i> ) Schedule 2 (Parts 2, 3): 20 Sept 2000 ( <i>f</i> )	Sch. 2 (item 14)
Family and Community Services Legislation Amendment (New Zealand Citizens) Act 2001	18, 2001	30 Mar 2001	Schedule 2 (items 16, 17): Royal Assent ( <i>g</i> ) Schedule 2 (item 18): ( <i>g</i> )	—
Family and Community Services and Veterans' Affairs Legislation Amendment (Further Assistance for Older Australians) Act 2001	42, 2001	25 May 2001	Schedule 2: 1 Sept 2001 Remainder: 1 July 2001	—
Family and Community Services Legislation Amendment (One-off Payment to the Aged) Act 2001	43, 2001	25 May 2001	25 May 2001	—
Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Act 2001	47, 2001	12 June 2001	Schedule 2: Royal Assent ( <i>h</i> )	Sch. 2 (item 3)
Family and Community Services Legislation (Simplification and Other Measures) Act 2001	71, 2001	30 June 2001	Schedule 1 (item 30): 20 Sept 2001 ( <i>i</i> )	—
Child Support Legislation Amendment Act 2001	75, 2001	30 June 2001	Schedule 5 (item 70): Royal Assent ( <i>j</i> )	—

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Social Security Legislation Amendment (Concession Cards) Act 2001	80, 2001	30 June 2001	1 July 2001	Sch. 1 (item 25)
Family and Community Services Legislation Amendment (Application of Criminal Code) Act 2001	137, 2001	1 Oct 2001	2 Oct 2001	s. 4
Veterans' Affairs Legislation Amendment Act (No. 1) 2002	73, 2002	6 Sept 2002	Schedule 2: Royal Assent	—
Family and Community Services Legislation Amendment (Budget Initiatives and Other Measures) Act 2002	95, 2002	10 Nov 2002	Schedules 1 and 2: 1 July 2003 Remainder: Royal Assent	Sch. 1 (item 11)
Family and Community Services Legislation Amendment (Special Benefit Activity Test) Act 2002	147, 2002	19 Dec 2002	Schedule 1 (items 28– 41): 1 Jan 2003	—
Family and Community Services Legislation Amendment Act 2003	30, 2003	15 Apr 2003	Schedule 1 (items 77– 111) and Schedule 4 (item 117): Royal Assent Schedule 1 (items 117– 123): <i>(k)</i>	—
Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Act 2003	35, 2003	24 Apr 2003	Schedules 1, 1A, 2 and 4–6: 20 Sept 2003 Schedule 3: 22 May 2003 Remainder: Royal Assent	s. 4 (rep. by 154, 2005, Sch. 23 [item 6])

## Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
<b>as amended by</b>				
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005	154, 2005	14 Dec 2005	Schedule 23 (item 6): Royal Assent	—
Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003	122, 2003	5 Dec 2003	Schedule 2 (item 23): Royal Assent Schedule 3 (items 15–17) and Schedule 4 (items 1, 5–8): 1 July 2004 Schedule 7 (item 1): (I) Schedule 7 (item 9): (I)	Sch. 4 (item 1)
Family Assistance Legislation Amendment (More Help for Families—One-off Payments) Act 2004	60, 2004	26 May 2004	26 May 2004	Sch. 3 (item 1)
Family and Community Services and Veterans' Affairs Legislation Amendment (Sugar Reform) Act 2004	109, 2004	13 July 2004	13 July 2004	—
Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Act 2004	132, 2004	8 Dec 2004	Schedule 1 (items 8–16) and Schedule 2 (items 10–13): 1 Dec 2004	Sch. 2 (item 13)
Social Security Legislation Amendment (One-off Payments for Carers) Act 2005	55, 2005	25 May 2005	25 May 2005	Sch. 2 (item 1) (am. by 19, 2008, Sch. 3 [item 70])

## Endnotes

### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
<b>as amended by</b>				
Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008	19, 2008	26 May 2008	Schedule 3 (item 70): Royal Assent	—
<b>as amended by</b>				
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Schedule 2 (item 20): (see 8, 2010 below)	—
Family and Community Services Legislation Amendment (Family Assistance and Related Measures) Act 2005	61, 2005	26 June 2005	Schedule 4 (items 19, 28): 1 July 2005 Schedule 4 (items 36–41): Royal Assent	Sch. 4 (item 28)
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005	154, 2005	14 Dec 2005	Schedule 22 (items 1–10, 43–45): Royal Assent Schedule 22 (items 11–42): 1 July 2006 Schedule 22 (items 46, 47): 20 Sept 2006	Sch. 22 (items 15–17, 25, 33, 45, 47)
<b>as amended by</b>				
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments) Act 2006	64, 2006	22 June 2006	Schedule 14 (items 11, 12): (m)	—



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance, Social Security and Veterans' Affairs Legislation Amendment (2005 Budget and Other Measures) Act 2006	36, 2006	3 May 2006	Schedule 6: 1 July 2006	—
Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments to Increase Assistance for Older Australians and Carers and Other Measures) Act 2006	41, 2006	22 May 2006	22 May 2006	—
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments) Act 2006	64, 2006	22 June 2006	Schedule 13: (n)	Sch. 13 (item 15)
Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006	82, 2006	30 June 2006	Schedule 4 (items 19– 27): 1 Dec 2006 Schedule 13 (items 2–4): Royal Assent	—
Social Security and Family Assistance Legislation Amendment (Miscellaneous Measures) Act 2006	108, 2006	27 Sept 2006	Schedule 4 and Schedule 8 (items 204– 224): Royal Assent	Sch. 4 (item 12)

## Endnotes

### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Child Support Legislation Amendment (Reform of the Child Support Scheme—New Formula and Other Measures) Act 2006	146, 2006	6 Dec 2006	Schedule 3 (item 76): 1 Jan 2007	—
Families, Community Services and Indigenous Affairs and Veterans' Affairs Legislation Amendment (2006 Budget Measures) Act 2006	156, 2006	8 Dec 2006	Schedule 1: 1 Jan 2007 Remainder: Royal Assent	—
Statute Law Revision Act 2007	8, 2007	15 Mar 2007	Schedule 1 (items 22–24): (o)	—
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Act 2007	65, 2007	15 Apr 2007	Schedule 1 (items 53, 54): Royal Assent	Sch. 1 (item 54)
Social Security and Veterans' Affairs Legislation Amendment (One-off Payments and Other 2007 Budget Measures) Act 2007	66, 2007	11 May 2007	Schedule 1 (items 12–14) and Schedule 3 (items 7–9): Royal Assent	—
Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007	82, 2007	21 June 2007	Schedule 12 (items 14, 15): (p) Schedule 12 (item 16): (p) Schedule 12 (item 17): Royal Assent	Sch. 12 (item 15)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Families, Community Services and Indigenous Affairs Legislation Amendment (Child Care and Other 2007 Budget Measures) Act 2007	113, 2007	28 June 2007	Schedule 1: 1 July 2007 Schedule 2: 1 Oct 2007 Remainder: Royal Assent	—
Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007	130, 2007	17 Aug 2007	18 Aug 2007	ss. 4–7 (rep. by 93, 2010, Sch. 1 [item 3])
<b>as amended by</b>				
Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010	93, 2010	29 June 2010	Schedule 1 (items 3, 4): 31 Dec 2010	Sch. 1 (item 4)
Social Security Amendment (2007 Measures No. 2) Act 2007	173, 2007	28 Sept 2007	Schedule 1 (items 1–5, 8–34, 36–48): 1 Jan 2008 Schedule 1 (items 6, 7): 29 Sept 2007 Schedule 1 (item 35): 20 Mar 2000 Remainder: Royal Assent	Sch. 1 (item 48)
Families, Community Services and Indigenous Affairs Legislation Amendment (Child Disability Assistance) Act 2007	182, 2007	28 Sept 2007	Schedule 1: 1 Oct 2007 Remainder: Royal Assent	—

## Endnotes

### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Families, Community Services and Indigenous Affairs Legislation Amendment (Further 2007 Budget Measures) Act 2007	183, 2007	28 Sept 2007	1 Jan 2008	Sch. 1 (items 33, 36)
Social Security and Veterans' Affairs Legislation Amendment (Enhanced Allowances) Act 2008	5, 2008	20 Mar 2008	20 Mar 2008	—
Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008	19, 2008	26 May 2008	Schedule 1 (items 11–14): (q) Schedule 3 (items 7–10): (q) Schedule 5 (items 13, 25): 1 July 2008	Sch. 1 (item 14), Sch. 3 (item 10) and Sch. 5 (item 25)
Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008	26, 2008	23 June 2008	Schedule 1 (items 113–116): Royal Assent	—
Dental Benefits (Consequential Amendments) Act 2008	42, 2008	25 June 2008	Schedule 1 (items 19, 20): 26 June 2008 ( <i>see s. 2(1)</i> )	—
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008	63, 2008	30 June 2008	s. 4 and Schedule 4 (items 11–13): Royal Assent Schedule 3 (items 4–11): 1 Sept 2008 Schedule 4 (items 1–10): 1 July 2008	s. 4, Sch. 3 (item 11) and Sch. 4 (item 13)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Social Security and Other Legislation Amendment (Employment Entry Payment) Act 2008	64, 2008	30 June 2008	1 July 2008	Sch. 1 (item 11(3), (5), (6))
Statute Law Revision Act 2008	73, 2008	3 July 2008	Schedule 1 (item 46): <i>(r)</i>	—
Social Security and Other Legislation Amendment (Economic Security Strategy) Act 2008	131, 2008	1 Dec 2008	Schedule 1 (items 5–7) and Schedule 5 (items 15, 16): Royal Assent	—
Tax Laws Amendment (Education Refund) Act 2008	141, 2008	9 Dec 2008	Schedule 1 (items 6, 10): Royal Assent	Sch. 1 (item 10)
Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Act 2008	149, 2008	11 Dec 2008	Schedule 1 (items 3–21, 34): Royal Assent	Sch. 1 (item 34)
Household Stimulus Package Act (No. 2) 2009	4, 2009	18 Feb 2009	Schedule 1 (items 6–10), Schedule 4 and Schedule 5 (items 18– 20): Royal Assent	Sch. 4
Social Security Legislation Amendment (Employment Services Reform) Act 2009	7, 2009	24 Feb 2009	Schedule 1 (items 1, 34– 55, 56(1), (3), (4)), Schedule 2 (items 200– 208) and Schedule 4 (items 11–14): 1 July 2009	Sch. 1 (item 56(1), (3), (4)), Sch. 2 (item 208) and Sch. 4 (item 12)
Social Security Amendment (Liquid Assets Waiting Period) Act 2009	25, 2009	26 Mar 2009	Schedule 1 (item 12): <i>(s)</i>	—

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Social Security and Family Assistance Legislation Amendment (2009 Budget Measures) Act 2009	35, 2009	27 May 2009	Schedule 1 (items 5–12): Royal Assent	—
Employment and Workplace Relations Amendment Act 2009	37, 2009	3 June 2009	Schedule 2 (item 35): 4 June 2009	—
Social Security Legislation Amendment (Improved Support for Carers) Act 2009	44, 2009	23 June 2009	Schedule 2: 1 July 2009	Sch. 2 (item 4)
Social Security Legislation Amendment (Improved Support for Carers) (Consequential and Transitional) Act 2009	45, 2009	23 June 2009	Schedule 2: (i)	—
Family Assistance and Other Legislation Amendment (2008 Budget and Other Measures) Act 2009	48, 2009	24 June 2009	Schedule 2: Royal Assent	Sch. 2 (item 2)
Social Security Legislation Amendment (Digital Television Switch-over) Act 2009	58, 2009	26 June 2009	Schedule 1: 27 June 2009 Remainder: Royal Assent	—
Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Act 2009	60, 2009	29 June 2009	Schedule 4 (items 34, 94–102, 104): 20 Sept 2009	Sch. 4 (item 104)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Veterans' Affairs and Other Legislation Amendment (Pension Reform) Act 2009	81, 2009	10 Sept 2009	Schedule 4 (items 144– 148): (u) Schedule 4 (items 210(5), 211(4), 215(3)): 20 Sept 2009	Sch. 4 (items 210(5), 211(4), 215(3))
Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010	4, 2010	19 Feb 2010	Schedule 10 (item 28): 20 Feb 2010	—
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Schedule 2 (item 20) and Schedule 5 (items 137(a), 138): (v)	Sch. 5 (item 138)
Social Security and Other Legislation Amendment (Income Support for Students) Act 2010	17, 2010	24 Mar 2010	Schedule 2 (items 24– 31): 1 Apr 2010	—
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Miscellaneous Measures) Act 2010	33, 2010	13 Apr 2010	Schedule 1 (items 15– 24): 14 Apr 2010 Schedule 3 (item 7): Royal Assent	Sch. 1 (item 24)
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Act 2010	38, 2010	13 Apr 2010	Schedule 2 and Schedule 7 (items 34, 35): 14 Apr 2010 Schedule 3 (items 6–17, 95–134, 136–163): 11 May 2010 Schedule 3 (item 135): (w)	Sch. 2 (items 9, 10) and Sch. 3 (items 16, 17, 157–163)

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Social Security and Family Assistance Legislation Amendment (Weekly Payments) Act 2010	45, 2010	14 Apr 2010	Schedule 1 (items 9, 11) and Schedule 2: Royal Assent	—
Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Act 2010	89, 2010	29 June 2010	Schedule 2 (items 1–14, 16, 18, 20–37, 45–63): 30 June 2010 Schedule 2 (items 15, 19): (x) Schedule 2 (item 17): (x)	Sch. 2 (items 37, 50, 57, 60, 63)
Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010	93, 2010	29 June 2010	Schedule 2 (items 1–53, 62–64) and Schedule 6 (items 59–63): 1 July 2010	Sch. 2 (items 22–24, 51, 53)
Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010	103, 2010	13 July 2010	Schedule 6 (items 1, 96– 99): 1 Jan 2011	—
Social Security Legislation Amendment (Connecting People with Jobs) Act 2010	130, 2010	24 Nov 2010	Schedule 1: 1 Jan 2011 Remainder: Royal Assent	Sch. 1 (item 5)
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Schedule 5 (items 202– 204), Schedule 6 (items 102–104) and Schedule 7 (items 127, 128): 19 Apr 2011	—
Human Services Legislation Amendment Act 2011	32, 2011	25 May 2011	Schedule 4 (items 575– 606, 656): 1 July 2011	—



## Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Act 2011	34, 2011	26 May 2011	Schedule 7 (items 2, 3): Royal Assent	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (items 1055–1058) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Social Security Legislation Amendment (Job Seeker Compliance) Act 2011	48, 2011	27 June 2011	Schedule 1: 1 July 2011 Remainder: Royal Assent	Sch. 1 (item 20)
Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Election Commitments and Other Measures) Act 2011	50, 2011	27 June 2011	Schedule 5 (items 3–96): 28 June 2011	Sch. 5 (item 61)
<b>as amended by</b>				
Statute Law Revision Act 2013	103, 2013	29 June 2013	Schedule 2 (item 8): (xa)	—
Family Assistance and Other Legislation Amendment Act 2011	52, 2011	28 June 2011	Schedule 4: Royal Assent	—
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011	58, 2011	28 June 2011	Schedule 1 (items 158, 159): (y)	—

## Endnotes

### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011	79, 2011	25 July 2011	Schedule 4 (item 8): (z) Schedule 4 (items 9–11): 26 July 2011	Sch. 4 (item 11) s. 2(1) (item 5) (rs. by 32, 2011, Sch. 4 [item 658]) s. 2(1) (items 6–12) (ad. by 32, 2011, Sch. 4 [item 658])
<b>as amended by</b>				
Human Services Legislation Amendment Act 2011	32, 2011	25 May 2011	Schedule 4 (item 658): (za)	—
Social Security and Other Legislation Amendment (Miscellaneous Measures) Act 2011	91, 2011	4 Aug 2011	Schedule 1: 20 Mar 2000 Schedule 3: Royal Assent	Sch. 1 (item 3) and Sch. 3
Clean Energy (Household Assistance Amendments) Act 2011	141, 2011	29 Nov 2011	Schedule 1 (item 11) and Schedule 10 (items 24– 30): 14 May 2012 Schedule 1 (items 37, 50, 58, 59, 81–84): 20 Mar 2013 Schedule 6 (items 4–8) and Schedule 7 (items 10, 35, 36): (zb)	Sch. 6 (item 8) and Sch. 7 (items 35, 36)
Social Security Legislation Amendment (Family Participation Measures) Act 2011	173, 2011	5 Dec 2011	Schedule 1 (items 10– 20): 1 Jan 2012	—
Family Assistance and Other Legislation Amendment Act 2012	49, 2012	26 May 2012	Schedule 1 (items 48–51, 52(5)): 1 July 2012	Sch. 1 (item 52(5))

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Family Assistance and Other Legislation Amendment (Schoolkids Bonus Budget Measures) Act 2012	50, 2012	26 May 2012	Schedule 1 (items 16, 17) and Schedule 2 (item 18): 27 May 2012	—
Social Security and Other Legislation Amendment (Disability Support Pension Participation Reforms) Act 2012	51, 2012	26 May 2012	Schedule 1 (items 5–8): 1 July 2012	Sch. 1 (item 8)
Social Security and Other Legislation Amendment (Income Support and Other Measures) Act 2012	52, 2012	26 May 2012	Schedule 4: Royal Assent Schedule 7: 1 July 2012	Sch. 4 (item 3) and Sch. 7 (item 2)
Social Security and Other Legislation Amendment (2012 Budget and Other Measures) Act 2012	98, 2012	29 June 2012	Schedule 2 (items 65, 88(1)): 1 Jan 2013	Sch. 2 (item 88(1))
Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Act 2012	101, 2012	29 June 2012	Schedule 5: 16 July 2012 (see s. 2(1))	—
Social Security Legislation Amendment Act 2012	102, 2012	29 June 2012	Schedule 1 (items 2–32): 27 July 2012 Schedule 2: 1 July 2012	Sch. 1 (items 18, 32 and Sch. 2 (item 18))
Social Security Amendment (Supporting Australian Victims of Terrorism Overseas) Act 2012	106, 2012	22 July 2012	Schedule 1 (items 12–14, 23–27): 22 Jan 2013	—

## Endnotes

### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Act 2012	154, 2012	17 Nov 2012	Schedule 1: Royal Assent Schedule 3 (items 117–158, 176–188): 15 Dec 2012	Sch. 3 (items 176–188)
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Schedule 5 (item 79): [see Endnote 5]	—
Social Security and Other Legislation Amendment (Income Support Bonus) Act 2013	5, 2013	5 Mar 2013	Schedule 1 (items 8–10, 22, 23): Royal Assent	—
Social Security Legislation Amendment (Disaster Recovery Allowance) Act 2013	62, 2013	26 June 2013	Sch 1 (items 7–10): 1 Oct 2013	—
Family Assistance and Other Legislation Amendment Act 2013	70, 2013	27 June 2013	Sch 2A (items 53–61, 67): [see Endnote 5] Sch 3 (items 68–76, 98–100): 28 June 2013 Sch 3 (items 92–95): (zc)	Sch 2A (item 67)
Aged Care (Living Longer Living Better) Act 2013	76, 2013	28 June 2013	Sch 4 (items 27–32): [see Endnote 5]	—

(a) The *Social Security (Administration) Act 1999* was amended by Schedule 1 (items 824 and 825) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1), (2) and (4) of which provide as follows:

- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
- (2) Subject to this section, this Act commences at the commencing time.
- (4) If:

## Endnote 3—Legislation history

- (a) an item (the **amending item**) of a Schedule to this Act is expressed to amend, or to amend a part of, a section (the **amended section**) of another Act; and
- (b) at the time when the *Public Service Act 1999* commences, the amended section:
- (i) has not yet been enacted; or
  - (ii) has been enacted but has not yet commenced;
- then the amending item commences immediately after the commencement of the amended section.
- Schedule 1 (items 824 and 825) commenced on 20 March 2000.
- (b) The *Social Security (Administration) Act 1999* was amended by Schedule 5 (items 67 and 68) only of the *A New Tax System (Tax Administration) Act 1999*, subsection 2(9)(a) of which provides as follows:
- (9) The following provisions commence on 1 July 2000:
- (a) the provisions of Schedule 5 (other than Part 2 of that Schedule and the amendments of the *Taxation Administration Act 1953* made by Part 1 of that Schedule);
- (ba) Subsection 2(1) (item 14) of the *Family and Community Services Legislation Amendment Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
14. Schedule 2, item 90	Immediately after the commencement of the provisions of Schedule 5 to the <i>A New Tax System (Tax Administration) Act 1999</i> that commenced in accordance with subsection 2(9) of that Act	1 July 2000
(c)	The <i>Social Security (Administration) Act 1999</i> was amended by Schedule 3 (item 48) only of the <i>A New Tax System (Tax Administration) Act (No. 1) 2000</i> , subsection 2(7)(a) of which provides as follows:	
	(7) Item 48 of Schedule 3 commences, or is taken to have commenced:	
	(a) on 20 March 2000; or	
(d)	The <i>Social Security (Administration) Act 1999</i> was amended by Schedule 3 (items 16–55) only of the <i>A New Tax System (Family Assistance and Related Measures) Act 2000</i> , subsection 2(4) of which provides as follows:	

Endnote 3—Legislation history

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- (4) Schedule 2, items 3 to 5 and 15 to 57 of Schedule 3 and Schedules 5 and 6 commence immediately after the commencement of the provisions referred to in subsection 2(2) of the *A New Tax System (Family Assistance) (Administration) Act 1999*.
- The provisions referred to in subsection 2(2) of the *A New Tax System (Family Assistance) (Administration) Act 1999* commenced on 1 July 2000.
- (e) The *Social Security (Administration) Act 1999* was amended by Schedule 4 (items 1–3) only of the *Family and Community Services Legislation Amendment Act 2000*, subsections 2(5) and (6) of which provide as follows:
- (5) Item 1 of Schedule 4 commences, or is taken to have commenced, on 20 March 2000, immediately after the commencement of Part 3 of the *Social Security (Administration) Act 1999*.
- (6) Items 2 and 3 of Schedule 4 commence on 20 March 2000, immediately after the commencement of Schedule 2 to the *Social Security (Administration) Act 1999* or on the day on which this Act receives the Royal Assent, whichever is the later.
- (f) The *Social Security (Administration) Act 1999* was amended by Schedule 2 only of the *Social Security and Veterans' Entitlements Legislation Amendment (Miscellaneous Matters) Act 2000*, subsections 2(2)(b) and (5) of which provide as follows:
- (2) The following provisions commence, or are taken to have commenced, on 20 September 2000:
- (b) Parts 2 and 3 of Schedule 2;
- (5) Part 1 of Schedule 2, and Schedules 4 and 5, commence, or are taken to have commenced, on 1 July 2000.
- (g) The *Social Security (Administration) Act 1999* was amended by Schedule 2 (items 16–18) only of the *Family and Community Services Legislation Amendment (New Zealand Citizens) Act 2001*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) If this section commences before, or at the same time as, the commencement of the *Social Security Legislation Amendment (Concession Cards) Act 2001*, Part 2 of Schedule 1 and item 18 of Schedule 2 commence immediately after the commencement of that Act.
- The *Social Security Legislation Amendment (Concession Cards) Act 2001* came into operation on 1 July 2001.
- (h) The *Social Security (Administration) Act 1999* was amended by Schedule 2 (items 1 and 2) only of the *Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Act 2001*, subsection 2(1) of which provides as follows:

## Endnote 3—Legislation history

- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (i) The *Social Security (Administration) Act 1999* was amended by Schedule 1 (item 30) only of the *Family and Community Services Legislation (Simplification and Other Measures) Act 2001*, subsection 2(2) of which provides as follows:
- (2) Schedule 1 (other than item 15) commences on 20 September 2001.
- (j) The *Social Security (Administration) Act 1999* was amended by Schedule 5 (item 70) only of the *Child Support Legislation Amendment Act 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (k) Subsection 2(1) (item 5) of the *Family and Community Services Legislation Amendment Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Provision(s)	Commencement	Date/Details
5. Schedule 1, items 117 to 123	Immediately after the commencement of those provisions of the <i>Social Security (Administration) Act 1999</i> that commenced in accordance with subsection 2(1) of that Act	20 March 2000

- (l) Subsection 2(1) (items 4 and 12) of the *Family and Community Services and Veterans' Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
4. Schedule 7, item 1	Immediately after the commencement of Schedule 3 to the <i>Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Act 2003</i> .	22 May 2003

## Endnotes

### Endnote 3—Legislation history

Provision(s)	Commencement	Date/Details
12. Schedule 7, item 9	Immediately after the commencement of item 59 of Schedule 6 to the <i>Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Act 2003</i> .	20 September 2003

- (m) Subsection 2(1) (item 30) of the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments) Act 2006* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
30. Schedule 14, items 11 and 12	Immediately before the commencement of Part 4 of Schedule 22 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006

- (n) Subsection 2(1) (items 24–26) of the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments) Act 2006* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
24. Schedule 13, items 1 to 20	Immediately after the commencement of Part 4 of Schedule 22 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006
25. Schedule 13, item 21	Immediately after the commencement of Part 5 of Schedule 22 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	14 December 2005
26. Schedule 13, items 22 to 24	Immediately after the commencement of Part 4 of Schedule 22 to the <i>Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005</i> .	1 July 2006



## Endnote 3—Legislation history

(o) Subsection 2(1) (items 19 and 20) of the *Statute Law Revision Act 2007* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
19. Schedule 1, item 22	Immediately after the commencement of item 42 of Schedule 3 to the <i>A New Tax System (Family Assistance and Related Measures) Act 2000</i> .	1 July 2000
20. Schedule 1, items 23 and 24	Immediately after the commencement of Schedule 3 to the <i>Social Security (Administration) Act 1999</i> .	20 March 2000

(p) Subsection 2(1) (items 38 and 39) of the *Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
38. Schedule 12, items 14 and 15	Immediately after the commencement of item 5 of Schedule 4 to the <i>Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act 2006</i> .	1 December 2006
39. Schedule 12, item 16	Immediately after the commencement of item 42 of Schedule 3 to the <i>A New Tax System (Family Assistance and Related Measures) Act 2000</i> .	1 July 2000

(q) Subsection 2(1) (items 2, 3, 5 and 6) of the *Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
2. Schedule 1, Part 1	Immediately after the commencement of the provision(s) covered by table item 3.	26 May 2008

## Endnotes

### Endnote 3—Legislation history

Provision(s)	Commencement	Date/Details
3. Schedule 1, Part 2	The day on which this Act receives the Royal Assent.	26 May 2008
5. Schedule 3, Part 1	Immediately after the commencement of the provision(s) covered by table item 6.	26 May 2008
6. Schedule 3, Part 2	The day on which this Act receives the Royal Assent.	26 May 2008

- (r) Subsection 2(1) (item 30) of the *Statute Law Revision Act 2008* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
30. Schedule 1, item 46	Immediately after the commencement of item 39 of Schedule 1 to the <i>Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Act 2003</i> .	20 September 2003

- (s) Subsection 2(1) (item 3) of the *Social Security Amendment (Liquid Assets Waiting Period) Act 2009* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
3. Schedule 1, Part 3	Immediately after the time specified in the <i>Household Stimulus Package Act (No. 2) 2009</i> for the commencement of Schedule 5 to that Act.	18 February 2009

- (t) Subsection 2(1) (item 2) of the *Social Security Legislation Amendment (Improved Support for Carers) (Consequential and Transitional) Act 2009* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

## Endnote 3—Legislation history

Provision(s)	Commencement	Date/Details
2. Schedules 1, 2 and 3	Immediately after the commencement of the <i>Social Security Legislation Amendment (Improved Support for Carers) Act 2009</i> .	1 July 2009

- (u) Subsection 2(1) (item 11) of the *Veterans' Affairs and Other Legislation Amendment (Pension Reform) Act 2009* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
11. Schedule 4, items 113 to 206	Immediately after the commencement of Schedule 4 to the <i>Social Security and Other Legislation Amendment (Pension Reform and Other 2009 Budget Measures) Act 2009</i> .	20 September 2009

- (v) Subsection 2(1) (items 21, 31 and 38) of the *Statute Law Revision Act 2010* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
21. Schedule 2, item 20	Immediately after the time specified in the <i>Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008</i> for the commencement of item 70 of Schedule 3 to that Act.	26 May 2008
31. Schedule 5, items 1 to 51	The day this Act receives the Royal Assent.	1 March 2010
38. Schedule 5, Parts 2 and 3	Immediately after the provision(s) covered by table item 31.	1 March 2010

- (w) Subsection 2(1) (item 8) of the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Act 2010* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

## Endnotes

### Endnote 3—Legislation history

Provision(s)	Commencement	Date/Details
8. Schedule 3, item 135	The 28th day after this Act receives the Royal Assent.  However, if Schedule 1 to the <i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Miscellaneous Measures) Act 2010</i> commences on or before that day, the provision(s) do not commence at all.	Does not commence
(x)	<p>Subsection 2(1) (items 6, 8 and 10) of the <i>Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Act 2010</i> provides as follows:</p> <p>(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.</p>	
Provision(s)	Commencement	Date/Details
6. Schedule 2, item 15	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 42 of Schedule 2 to the <i>Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2010 (paragraph (b) applies)
8. Schedule 2, item 17	Immediately after the commencement of item 12 of Schedule 1 to the <i>Carbon Pollution Reduction Scheme Amendment (Household Assistance) Act 2010</i> .	Does not commence

## Endnote 3—Legislation history

Provision(s)	Commencement	Date/Details
10. Schedule 2, item 19	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 64 of Schedule 2 to the <i>Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2010 (paragraph (b) applies)

- (xa) Subsection 2(1) (item 9) of the *Statute Law Revision Act 2013* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
9. Schedule 2, item 8	Immediately after the time specified in the <i>Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Election Commitments and Other Measures) Act 2011</i> for the commencement of Schedule 5 to that Act.	28 June 2011

- (y) Subsection 2(1) (item 2) of the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
2. Schedules 1 and 2	Immediately after the commencement of section 2 of the <i>Governance of Australian Government Superannuation Schemes Act 2011</i> .	1 July 2011

- (z) Subsection 2(1) (item 8) of the *Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011* provides as follows:

## Endnotes

### Endnote 3—Legislation history

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
8. Schedule 4, item 8	The day after this Act receives the Royal Assent. However, if item 656 of Schedule 4 to the <i>Human Services Legislation Amendment Act 2011</i> commences before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.	Does not commence

(za) Subsection 2(1) (item 7B) of the *Human Services Legislation Amendment Act 2011* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
7B. Schedule 4, Part 6	Immediately after the commencement of section 2 of the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> . However, if section 2 of the <i>Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011</i> commences before the day this Act receives the Royal Assent, the provision(s) do not commence at all.	25 July 2011

(zb) Subsection 2(1) (items 2, 14 and 15) of the *Clean Energy (Household Assistance Amendments) Act 2011* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
2. Schedule 1, Part 1	14 May 2012. However, if section 3 of the <i>Clean Energy Act 2011</i> does not commence before 14 May 2012, the provision(s) do not commence at all.	14 May 2012

## Endnote 3—Legislation history

Provision(s)	Commencement	Date/Details
14. Schedule 6	Immediately after the commencement of the provision(s) covered by table item 2.	14 May 2012
15. Schedule 7	Immediately after the commencement of the provision(s) covered by table item 14.	14 May 2012
(zc) Subsection 2(1) (item 15) of the <i>Family Assistance and Other Legislation Amendment Act 2013</i> provides as follows:		
(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.		
Provision(s)	Commencement	Date/Details
15. Schedule 3, Part 4, Division 2	Immediately after the commencement of Part 5 of Schedule 1 to the <i>Clean Energy (Household Assistance Amendments) Act 2011</i> .	20 March 2013

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s. 2A .....	ad. No. 137, 2001
s. 3 .....	am. No. 45, 2000
s. 6A .....	ad. No. 47, 2001
<b>Part 2</b>	
s. 9 .....	am. No. 38, 2010
s. 10 .....	am. No. 45, 2000; No. 38, 2010
<b>Part 3</b>	
<b>Division 1</b>	
<b>Subdivision A</b>	
s. 11 .....	am. No. 80, 2001
<b>Subdivision B</b>	
s. 12 .....	rs. No. 173, 2007
s. 12A .....	ad. No. 43, 2001
s. 12AAA.....	ad. No. 41, 2006
	rs. No. 66, 2007
	am. No. 19, 2008
s. 12AA.....	ad. No. 60, 2004
	rs. No. 19, 2008
Heading to s. 12AB.....	am. No. 4, 2009
s. 12AB.....	ad. No. 55, 2005
	rep. No. 19, 2008
	ad. No. 131, 2008
	am. No. 4, 2009
s. 12AC.....	ad. No. 41, 2006
	rep. No. 19, 2008
s. 12AD.....	ad. No. 66, 2007
	rep. No. 19, 2008
s. 12B.....	ad. No. 35, 2003
s. 12C.....	ad. No. 132, 2004



## Endnote 4—Amendment history

Provision affected	How affected
s. 12D .....	ad. No. 132, 2004 rs. No. 60, 2009
s. 12DA.....	ad. No. 60, 2009
s. 12DB.....	ad. No. 141, 2011
s. 12E.....	ad. No. 182, 2007
s. 12F.....	ad. No. 44, 2009
s. 12G .....	ad. No. 35, 2009
s. 12H .....	ad. No. 17, 2010
s. 12J.....	ad. No. 93, 2010
s. 12K .....	ad. No. 141, 2011
s. 12L.....	ad. No. 5, 2013
s. 13 .....	am. No. 30, 2003
s. 14 .....	am. No. 30, 2003; No. 108, 2006
Heading to s. 15 .....	am. No. 30, 2003
s. 15 .....	am. No. 45, 2000; No. 30, 2003; No. 64, 2008
s. 15A .....	ad. No. 44, 2009
<b>Subdivision C</b>	
s. 16 .....	am. No. 82, 2006; No. 141, 2011; No. 106, 2012
s. 17 .....	am. No. 183, 2007
s. 18 .....	am. No. 37, 2009
s. 19 .....	rep. No. 45, 2000 ad. No. 141, 2011
Heading to Subdiv. D..... of Div. 1 of Part 3	rep. No. 33, 2010
<b>Subdivision E</b>	
s. 21 .....	am. No. 183, 2007
<b>Subdivision EA</b>	
Subdiv. EA of Div. 1 of..... Part 3	ad. No. 183, 2007
ss. 26A, 26B .....	ad. No. 183, 2007
<b>Subdivision F</b>	
Heading to Subdiv. F .....	rs. No. 30, 2003
of Div. 1 of Part 3	

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
s. 27 .....	rep. No. 45, 2000 ad. No. 30, 2003
<b>Sdiv FAA</b>	
Sdiv FAA of Div 1 of Pt 3 .....	ad No 62, 2013
s 27AA.....	ad No 62, 2013
<b>Subdivision FA</b>	
Subdiv. FA of Div. 1 of .....	ad. No. 82, 2006
Part 3	
s. 27A .....	ad. No. 82, 2006
<b>Subdivision FB</b>	
Subdiv. FB of Div. 1 of.....	ad. No. 106, 2012
Part 3	
s. 27B.....	ad. No. 106, 2012
<b>Subdivision FC</b>	
Subdiv. FC of Div. 1 of.....	ad. No. 141, 2011
Part 3	
s. 27C.....	ad. No. 141, 2011
<b>Subdivision H</b>	
s. 29 .....	am. No. 18, 2001; No. 108, 2006
s. 30 .....	am. No. 108, 2006
s. 30A .....	ad. No. 108, 2006
s. 31 .....	am. No. 45, 2000; No. 30, 2003; No. 82, 2006; No. 82, 2007; No. 106, 2012; No 62, 2013
s. 31A .....	ad. No. 18, 2001
s. 32 .....	am. No. 98, 2012
<b>Subdivision J</b>	
Heading to Subdiv. J.....	rs. No. 30, 2003
of Div. 1 of Part 3	
Heading to s. 35 .....	rs. No. 30, 2003
s. 35A .....	ad. No. 30, 2003
s. 35B.....	ad. No. 106, 2012
<b>Division 2</b>	
s. 36 .....	am. No. 106, 2012

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## Endnote 4—Amendment history

Provision affected	How affected
s. 37 .....	am. No. 80, 2001; No. 35, 2003; No. 154, 2005; Nos. 64 and 108, 2006
Note to s. 37(8) .....	ad. No. 63, 2008
s. 37AA .....	ad. No. 149, 2008
	am. No. 102, 2012
Note 2 to s. 37AA .....	am. No. 102, 2012
Note 3 to s. 37AA .....	am. No. 102, 2012
s. 37A .....	ad. No. 80, 2001
s. 39 .....	am. No. 45, 2000; No. 30, 2003; No. 106, 2012
<b>Division 3</b>	
s. 41 .....	am. No. 80, 2001
<b>Division 3A</b>	
Div. 3A of Part 3 .....	ad. No. 7, 2009
<b>Subdivision A</b>	
s. 42A .....	ad. No. 7, 2009
	am. No. 130, 2010; No. 48, 2011
s. 42B .....	ad. No. 7, 2009
<b>Subdivision B</b>	
s. 42C .....	ad. No. 7, 2009
	am. Nos. 48 and 173, 2011
Note to s. 42C(4) .....	am. No. 48, 2011
s. 42D .....	ad. No. 7, 2009
<b>Subdivision C</b>	
s. 42E .....	ad. No. 7, 2009
	am. Nos. 48 and 173, 2011
Note to s. 42E(4) .....	am. No. 48, 2011
s. 42F .....	ad. No. 7, 2009
s. 42G .....	ad. No. 7, 2009
	rs. No. 48, 2011
s. 42H .....	ad. No. 7, 2009
	am. Nos. 48 and 173, 2011
Note to s. 42H(4) .....	am. No. 48, 2011
ss. 42J, 42K .....	ad. No. 7, 2009

## Endnotes

### Endnote 4—Amendment history

Provision affected	How affected
	am. No. 48, 2011
s. 42L.....	ad. No. 7, 2009
<b>Subdivision D</b>	
ss. 42M, 42N.....	ad. No. 7, 2009
	am. No. 173, 2011
s. 42NA.....	ad. No. 7, 2009
s. 42NC.....	ad. No. 7, 2009
ss. 42P–42R.....	ad. No. 7, 2009
<b>Subdivision E</b>	
s. 42S.....	ad. No. 7, 2009
	am. No. 130, 2010; No. 173, 2011
<b>Subdivision EA</b>	
Subdiv. EA of Div. 3A of ..... Part 3	ad. No. 48, 2011
s. 42SA .....	ad. No. 48, 2011
	am. No. 173, 2011
<b>Subdivision EB</b>	
Subdiv. EB of Div. 3A of..... Part 3	ad. No. 173, 2011
s. 42SB .....	ad. No. 173, 2011
<b>Subdivision F</b>	
s. 42T.....	ad. No. 7, 2009
	am. No. 52, 2012
s. 42U .....	ad. No. 7, 2009
	am. No. 173, 2011
s. 42UA.....	ad. No. 48, 2011
	am. No. 173, 2011
ss. 42V–42X.....	ad. No. 7, 2009
s. 42Y .....	ad. No. 7, 2009
	am. No. 130, 2010
s. 42YA.....	ad. No. 48, 2011
s. 42Z.....	ad. No. 7, 2009

## Endnote 4—Amendment history

Provision affected	How affected
Subdiv. G of Div. 3A of..... Part 3	rep. No. 48, 2011
s. 42ZA .....	ad. No. 7, 2009 rep. No. 48, 2011
<b>Division 4</b>	
Subheads. to s. 43(1)–(3) .....	ad. No. 45, 2010
Subhead. to s. 43(4) .....	ad. No. 45, 2010
Subhead. to s. 43(5A) .....	ad. No. 45, 2010
Subhead. to s. 43(6) .....	ad. No. 45, 2010
s. 43 .....	am. No. 60, 2009; No. 45, 2010; No. 141, 2011; No 70, 2013
ss. 44, 45 .....	am. No. 95, 2002
s. 46A .....	ad. No. 82, 2006
s. 46B.....	ad. No. 106, 2012
s. 47 .....	am. Nos. 45 and 70, 2000; No. 43, 2001; No. 95, 2002; No. 60, 2004; No. 55, 2005; Nos. 41 and 82, 2006; Nos. 66, 182 and 183, 2007; Nos. 19, 64 and 131, 2008; Nos. 4 and 35, 2009; Nos. 17 and 93, 2010; No. 141, 2011; No. 106, 2012; No. 5, 2013
s. 47A .....	ad. No. 43, 2001
s. 47AA.....	ad. No. 41, 2006 rs. No. 19, 2008
s. 47AB.....	ad. No. 66, 2007 rep. No. 19, 2008 ad. No. 35, 2009
s. 47B.....	ad. No. 60, 2004 rs. No. 19, 2008
Heading to s. 47C .....	am. No. 4, 2009
s. 47C.....	ad. No. 55, 2005 rep. No. 19, 2008 ad. No. 131, 2008 am. No. 4, 2009
s. 47D .....	ad. No. 41, 2006 rep. No. 19, 2008 ad. No. 141, 2011

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
s. 47DAA.....	ad. No. 141, 2011
s. 47DAB.....	ad. No. 5, 2013
s. 47DA.....	ad. No. 17, 2010
s. 47E.....	ad. No. 66, 2007 rep. No. 19, 2008
s. 48.....	am. No. 42, 2001
s. 48A.....	ad. No. 132, 2004 am. No. 5, 2008
s. 48B.....	ad. No. 132, 2004 am. No. 5, 2008 rs. No. 60, 2009 am. No. 141, 2011; No 70, 2013
s. 48C.....	ad. No. 60, 2009 am. No. 81, 2009; No 70, 2013
s. 48D.....	ad. No. 141, 2011 am No 70, 2013
s. 50A.....	ad. No. 182, 2007
s. 52.....	am. No. 130, 2007
s. 54.....	am. No. 45, 2010
s. 55.....	am. No. 95, 2002; No. 30, 2003; No. 132, 2004; No. 60, 2009; No. 141, 2011
Heading to s. 58.....	am. No. 183, 2007
s. 58.....	am. No. 183, 2007
Heading to s. 59.....	am. No. 183, 2007
s. 59.....	am. No. 183, 2007
<b>Division 5</b>	
s. 60.....	am. No. 130, 2007
<b>Division 6</b>	
Heading to Div. 6 of Part 3.....	rs. No. 30, 2003
<b>Subdivision A</b>	
s. 63.....	am. No. 147, 2002; Nos. 35 and 122, 2003; No. 154, 2005 rs. No. 7, 2009
Note to s. 63(7).....	rep. No. 48, 2011

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## Endnote 4—Amendment history

Provision affected	How affected
s. 64 .....	am. No. 147, 2002; No. 30, 2003; No. 154, 2005 (as am. by No. 64, 2006) rs. No. 7, 2009 am. No. 48, 2011
s. 66 .....	am. No. 94, 2000
<b>Subdivision B</b>	
s. 66A .....	ad. No. 91, 2011
s. 67 .....	am. No. 130, 2007
s. 68 .....	am. No. 35, 2003; No. 132, 2004; No. 130, 2007; No. 60, 2009
s. 69 .....	am. No. 132, 2004; No. 60, 2009
s. 70 .....	am. No. 108, 2006; No. 45, 2009
s. 70A .....	ad. No. 130, 2007
s. 71 .....	rep. No. 45, 2000
s. 72 .....	am. No. 45, 2000; No. 137, 2001; No. 35, 2003; No. 130, 2007
Heading to s. 73 .....	am. No. 91, 2011
s. 73 .....	am. No. 91, 2011
s. 74 .....	am. No. 137, 2001; No. 130, 2007
<b>Subdivision C</b>	
s. 75 .....	am. No. 132, 2004; No. 63, 2008; No. 60, 2009
s. 76 .....	am. No. 179, 1999 (as am. by No. 30, 2003); No. 30, 2003; No. 63, 2008
s. 77 .....	am. No. 63, 2008
<b>Division 7</b>	
<b>Subdivision A</b>	
s. 78A .....	ad. No. 132, 2004 am. No. 60, 2009
s. 80 .....	am. No. 122, 2003; No. 154, 2005 (as am. by No. 64, 2006)
s. 81 .....	am. No. 45, 2000; Nos. 30 and 122, 2003
s. 81A .....	ad. No. 61, 2005
Heading to s. 82 .....	am. No. 94, 2000
s. 82 .....	am. No. 94, 2000
s. 85 .....	am. No. 35, 2003; No. 149, 2008
Note to s. 85(1)(a) .....	am. No. 102, 2012
s. 85A .....	ad. No. 61, 2005

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
<b>Subdivision B</b>	
Note to s. 86(1).....	ad. No. 63, 2008
<b>Division 8</b>	
<b>Subdivision A</b>	
s. 90A .....	ad. No. 132, 2004
	am. No. 60, 2009
ss. 90, 91 .....	am. No. 73, 2002
s. 92 .....	rep. No. 30, 2003
ss. 93–95 .....	am. No. 35, 2003
s. 95A .....	ad. No. 108, 2006
s. 95B.....	ad. No. 44, 2009
Heading to s. 96 .....	rs. No. 154, 2005
s. 96 .....	am. No. 73, 2002; No. 154, 2005; No. 51, 2012
s. 97 .....	am. No. 154, 2005; No. 51, 2012
s. 97A .....	ad. No. 154, 2005
	am. No. 51, 2012
s. 97B.....	ad. No. 154, 2005
s. 98 .....	am. No. 73, 2002; No. 35, 2003
s. 99 .....	am. No. 35, 2003; No. 108, 2006
s. 100 .....	am. No. 35, 2003
s. 101 .....	am. No. 73, 2002
s. 102 .....	rep. No. 30, 2003
<b>Subdivision B</b>	
s. 106A.....	ad. No. 80, 2001
<b>Subdivision C</b>	
Subdiv. C of Div. 8 of.....	ad. No. 80, 2001
Part 3	
s. 106B.....	ad. No. 80, 2001
	am. No. 64, 2006
<b>Division 9</b>	
<b>Subdivision A</b>	
s. 107 .....	am. No. 30, 2003
<b>Subdivision B</b>	

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## Endnote 4—Amendment history

Provision affected	How affected
Heading to Subdiv. B of ..... Div. 9 of Part 3	rs. No. 61, 2005
s. 108 .....	am. No. 61, 2005
s. 109 .....	am. No. 94, 2000; No. 154, 2005; No. 65, 2007
Heading to s. 110 .....	am. No. 30, 2003
s. 110 .....	am. No. 45, 2000; No. 73, 2002; Nos. 30 and 35, 2003; No. 154, 2005
s. 110A.....	ad. No. 154, 2005
	am. No. 7, 2009; No. 130, 2010
s. 112 .....	rep. No. 35, 2003
s. 113 .....	rep. No. 45, 2000
s. 114 .....	am. No. 30, 2003; No. 154, 2005
<b>Subdivision D</b>	
s. 117 .....	am. No. 61, 2005
s. 118 .....	am. Nos. 45 and 94, 2000; No. 71, 2001; Nos. 30, 35 and 122, 2003; Nos. 61 and 154, 2005; No. 7, 2009
s. 119 .....	rep. No. 45, 2000
s. 120 .....	am. No. 45, 2009
<b>Subdivision E</b>	
s. 121 .....	am. No. 63, 2008
<b>Division 10</b>	
s. 123 .....	am. No. 47, 2001; No. 30, 2003; No. 61, 2005; Nos. 63 and 149, 2008; No. 102, 2012
<b>Part 3A</b>	
Part 3A.....	ad. No. 95, 2002
<b>Division 1</b>	
s. 123A.....	ad. No. 95, 2002
	am. No. 132, 2004; No. 60, 2009; No. 141, 2011
<b>Division 2</b>	
ss. 123B–123D.....	ad. No. 95, 2002
s. 123E.....	ad. No. 95, 2002
	am. No. 130, 2007; No. 50, 2011
<b>Division 3</b>	
s. 123F .....	ad. No. 95, 2002

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
<b>Division 4</b>	
ss. 123G–123L.....	ad. No. 95, 2002
<b>Division 5</b>	
ss. 123M–123S.....	ad. No. 95, 2002
<b>Part 3B</b>	
Part 3B.....	ad. No. 130, 2007
<b>Division 1</b>	
s. 123TA.....	ad. No. 130, 2007 am. No. 63, 2008; No. 93, 2010; No. 102, 2012
s. 123TB.....	ad. No. 130, 2007 rs. No. 93, 2010
s. 123TC.....	ad. No. 130, 2007 am. No. 182, 2007; Nos. 63 and 131, 2008; Nos. 4, 25, 35 and 81, 2009; Nos. 38, 89, 93 and 103, 2010; Nos. 32, 50 and 141, 2011; Nos. 49, 50 and 102, 2012; No. 5, 2013
ss. 123TD, 123TE.....	ad. No. 130, 2007 rep. No. 93, 2010
s. 123TF.....	ad. No. 130, 2007
s. 123TFA.....	ad. No. 93, 2010 rep. No. 102, 2012
s. 123TG.....	ad. No. 130, 2007
s. 123TGAA.....	ad. No. 102, 2012
s. 123TGAB.....	ad. No. 102, 2012
s. 123TGA.....	ad. No. 63, 2008
ss. 123TH–123TK.....	ad. No. 130, 2007
<b>Division 2</b>	
<b>Subdivision A</b>	
s. 123UA.....	ad. No. 130, 2007
s. 123UB.....	ad. No. 130, 2007 rep. No. 93, 2010
s. 123UC.....	ad. No. 130, 2007 am. No. 50, 2011
s. 123UCA.....	ad. No. 93, 2010

## Endnote 4—Amendment history

Provision affected	How affected
	am. No. 50, 2011; No. 102, 2012
s. 123UCB .....	ad. No. 93, 2010
	am. No. 50, 2011; No. 102, 2012
s. 123UCC .....	ad. No. 93, 2010
	am. No. 50, 2011; No. 102, 2012
ss. 123UD, 123UE .....	ad. No. 130, 2007
	am. No. 50, 2011
s. 123UF .....	ad. No. 130, 2007
	am. No. 38, 2010; Nos. 50 and 52, 2011; No. 154, 2012
s. 123UFAA .....	ad. No. 102, 2012
s. 123UFA .....	ad. No. 63, 2008
Subdiv. B of Div. 2 of..... Part 3B	rep. No. 93, 2010
s. 123UG .....	ad. No. 130, 2007
	rep. No. 93, 2010
<b>Subdivision BA</b>	
Subdiv. BA of Div. 2 of..... Part 3B	ad. No. 93, 2010
s. 123UGA .....	ad. No. 93, 2010
<b>Subdivision BB</b>	
Subdiv. BB of Div. 2 of..... Part 3B	ad. No. 93, 2010
s. 123UGB .....	ad. No. 93, 2010
s. 123UGC .....	ad. No. 93, 2010
Subhead. to s. 123UGD(7) .....	rs. No. 102, 2012
s. 123UGD .....	ad. No. 93, 2010
	am. No. 102, 2012
s. 123UGE .....	ad. No. 93, 2010
s. 123UGF .....	ad. No. 93, 2010
s. 123UGG .....	ad. No. 93, 2010
<b>Subdivision C</b>	
ss. 123UH–123UL .....	ad. No. 130, 2007
<b>Subdivision D</b>	

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
Subdiv. D of Div. 2 of..... Part 3B	ad. No. 63, 2008
s. 123UM.....	ad. No. 63, 2008 am. No. 93, 2010; No. 50, 2011; No. 102, 2012
s. 123UN.....	ad. No. 63, 2008 am. No. 93, 2010; No. 50, 2011; No. 102, 2012
s. 123UO.....	ad. No. 63, 2008 am. No. 93, 2010; No. 50, 2011; No. 102, 2012
s. 123UP .....	ad. No. 63, 2008 rep. No. 50, 2011
<b>Division 3</b>	
Heading to Div. 3 of Part 3B.....	rs. No. 89, 2010
s. 123VA.....	ad. No. 130, 2007 rs. No. 89, 2010
s. 123VB.....	ad. No. 130, 2007 rep. No. 89, 2010
s. 123VC.....	ad. No. 130, 2007 am. No. 89, 2010
<b>Division 4</b>	
<b>Subdivision A</b>	
s. 123WA.....	ad. No. 130, 2007 am. No. 89, 2010
ss. 123WB–123WF.....	ad. No. 130, 2007
<b>Subdivision B</b>	
s. 123WG.....	ad. No. 130, 2007 am. No. 8, 2010
ss. 123WH, 123WI .....	ad. No. 130, 2007
<b>Subdivision C</b>	
s. 123WJ .....	ad. No. 130, 2007 am. No. 63, 2008; Nos. 38, 89 and 93, 2010; No. 102, 2012
s. 123WJA .....	ad. No. 38, 2010
s. 123WK.....	ad. No. 130, 2007
s. 123WL .....	ad. No. 130, 2007

## Endnote 4—Amendment history

Provision affected	How affected
	am. No. 63, 2008; Nos. 38 and 89, 2010
s. 123WM .....	ad. No. 130, 2007
	am. No. 63, 2008; No. 38, 2010
s. 123WN.....	ad. No. 130, 2007
	am. No. 89, 2010
<b>Division 5</b>	
Subdiv. A of Div. 5 of.....	rep. No. 93, 2010
Part 3B	
ss. 123XA–123XH.....	ad. No. 130, 2007
	am. No. 89, 2010
	rep. No. 93, 2010
<b>Subdivision B</b>	
ss. 123XI, 123XJ .....	ad. No. 130, 2007
	am. No. 89, 2010
<b>Subdivision BA</b>	
Subdiv. BA of Div. 5 .....	ad. No. 93, 2010
of Part 3B	
ss. 123XJA, 123XJB.....	ad. No. 93, 2010
	am. No. 89, 2010
<b>Subdivision BB</b>	
Subdiv. BB of Div. 5 .....	ad. No. 93, 2010
of Part 3B	
ss. 123XJC, 123XJD.....	ad. No. 93, 2010
	am. No. 89, 2010
<b>Subdivision C</b>	
ss. 123XK, 123XL .....	ad. No. 130, 2007
	am. No. 89, 2010
<b>Subdivision D</b>	
ss. 123XM–123XP.....	ad. No. 130, 2007
	am. No. 89, 2010
<b>Subdivision DAA</b>	
s. 123XPAA.....	ad. No. 102, 2012
s. 123XPAB.....	ad. No. 102, 2012

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
<b>Subdivision DA</b>	
Subdiv. DA of Div. 5 of..... Part 3B	ad. No. 63, 2008
ss. 123XPA, 123XPB .....	ad. No. 63, 2008 am. No. 89, 2010
<b>Subdivision DB</b>	
Heading to Subdiv. DB of..... Div. 5 of Part 3B	rs. No. 4, 2009
Subdiv. DB of Div. 5 of..... Part 3B	ad. No. 131, 2008
s. 123XPC.....	ad. No. 131, 2008 am. Nos. 89 and 93, 2010
s. 123XPD .....	ad. No. 4, 2009 am. No. 89, 2010
<b>Subdivision DC</b>	
Subdiv. DC of Div. 5 of..... Part 3B	ad. No. 17, 2010
ss. 123XPF, 123XPG.....	ad. No. 17, 2010 am. No. 89, 2010
<b>Subdivision DD</b>	
Subdiv. DD of Div. 5 .....	ad. No. 93, 2010
of Part 3B	
ss. 123XPH, 123XPI.....	ad. No. 93, 2010 am. No. 89, 2010
<b>Subdivision DE</b>	
Subdiv. DE of Div. 5 .....	ad. No. 141, 2011
of Part 3B	
s. 123XPJ.....	ad. No. 141, 2011
<b>Subdivision DF</b>	
Subdiv. DF of Div. 5 of .....	ad. No. 50, 2012
Part 3B	
s. 123XPK .....	ad. No. 50, 2012
<b>Subdivision DG</b>	

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## Endnote 4—Amendment history

Provision affected	How affected
Subdiv. DG of Div. 5 of..... Part 3B	ad. No. 50, 2012
s. 123XPL.....	ad. No. 50, 2012
<b>Subdivision E</b>	
s. 123XQ.....	ad. No. 130, 2007
<b>Division 6</b>	
<b>Subdivision A</b>	
s. 123YA.....	ad. No. 130, 2007 am. No. 93, 2010
s. 123YB.....	ad. No. 130, 2007
<b>Subdivision B</b>	
Subhead. to s. 123YC(4).....	am. No. 89, 2010
s. 123YC.....	ad. No. 130, 2007 am. No. 89, 2010; No. 50, 2011
Heading to s. 123YD .....	am. No. 50, 2011
Subhead. to s. 123YD(4).....	am. No. 89, 2010
s. 123YD.....	ad. No. 130, 2007 am. No. 89, 2010; No. 50, 2011
Subhead. to s. 123YE(4).....	am. No. 89, 2010
s. 123YE .....	ad. No. 130, 2007 am. No. 89, 2010; No. 50, 2011
Note to s. 123YE(2).....	ad. No. 93, 2010 rep. No. 101, 2012
Heading to s. 123YF .....	am. No. 50, 2011
Subhead. to s. 123YF(4) .....	am. No. 89, 2010
s. 123YF .....	ad. No. 130, 2007 am. No. 89, 2010; No. 50, 2011
Note to s. 123YF(2).....	ad. No. 93, 2010 rep. No. 101, 2012
Subhead. to s. 123YG(3).....	am. No. 89, 2010
s. 123YG.....	ad. No. 130, 2007 am. No. 89, 2010; No. 50, 2011
Heading to s. 123YH .....	am. No. 50, 2011

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### Endnote 4—Amendment history

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Provision affected	How affected
Subhead. to s. 123YH(3).....	am. No. 89, 2010
s. 123YH.....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011
Subhead. to s. 123YI(4) .....	am. No. 89, 2010
s. 123YI .....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011
Note to s. 123YI(2) .....	ad. No. 93, 2010
	rep. No. 101, 2012
Heading to s. 123YJ.....	am. No. 50, 2011
Subhead. to s. 123YJ(4).....	am. No. 89, 2010
s. 123YJ .....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011
Note to s. 123YJ(2).....	ad. No. 93, 2010
	rep. No. 101, 2012
Subhead. to s. 123YK(4).....	am. No. 89, 2010
s. 123YK.....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011
Heading to s. 123YL.....	am. No. 50, 2011
Subhead. to s. 123YL(4) .....	am. No. 89, 2010
s. 123YL .....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011
Subhead. to s. 123YM(3).....	am. No. 89, 2010
s. 123YM.....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011
Heading to s. 123YN .....	am. No. 50, 2011
Subhead. to s. 123YN(3).....	am. No. 89, 2010
s. 123YN.....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011
<b>Subdivision C</b>	
Subhead. to s. 123YO(4).....	am. No. 89, 2010
s. 123YO.....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011

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## Endnote 4—Amendment history

Provision affected	How affected
Heading to s. 123YP .....	am. No. 50, 2011
Subhead. to s. 123YP(4) .....	am. No. 89, 2010
s. 123YP .....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011
<b>Subdivision D</b>	
Subhead. to s. 123YQ(3) .....	am. No. 89, 2010
s. 123YQ .....	ad. No. 130, 2007
	am. Nos. 89 and 93, 2010
s. 123YR .....	ad. No. 89, 2010
<b>Division 7</b>	
s. 123ZA .....	ad. No. 130, 2007
	rep. No. 93, 2010
s. 123ZB .....	ad. No. 130, 2007
s. 123ZC .....	ad. No. 130, 2007
	am. No. 50, 2011
s. 123ZD .....	ad. No. 130, 2007
s. 123ZDA .....	ad. No. 102, 2012
s. 123ZE .....	ad. No. 130, 2007
	am. No. 50, 2011
s. 123ZEA .....	ad. No. 130, 2007
s. 123ZEAA .....	ad. No. 102, 2012
s. 123ZEB .....	ad. No. 130, 2007
<b>Division 8</b>	
Subhead. to s. 123ZF(3) .....	am. No. 89, 2010
	rs. No. 50, 2011
s. 123ZF .....	ad. No. 130, 2007
	am. No. 89, 2010; No. 50, 2011
Note to s. 123ZF(2) .....	ad. No. 89, 2010
s. 123ZG .....	ad. No. 130, 2007
	am. No. 89, 2010
Notes to s. 123ZG(2), (3) .....	ad. No. 89, 2010
s. 123ZH .....	ad. No. 130, 2007

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### Endnote 4—Amendment history

Provision affected	How affected
	am. No. 89, 2010
Note to s. 123ZH(2).....	ad. No. 89, 2010
Note to s. 123ZH(2).....	ad. No. 93, 2010
	rep. No. 101, 2012
s. 123ZI.....	ad. No. 130, 2007
	am. No. 89, 2010
Note to s. 123ZI(2) .....	ad. No. 89, 2010
s. 123ZIA.....	ad. No. 89, 2010
s. 123ZJ .....	ad. No. 130, 2007
	am. No. 89, 2010
Note to s. 123ZJ(5) .....	ad. No. 89, 2010
<b>Division 9</b>	
s. 123ZK .....	ad. No. 130, 2007
Subhead. to s. 123ZL(3) .....	am. No. 89, 2010
s. 123ZL.....	ad. No. 130, 2007
	am. No. 89, 2010
ss. 123ZM, 123ZN.....	ad. No. 130, 2007
s. 123ZNA .....	ad. No. 89, 2010
	am. No. 32, 2011
s. 123ZO .....	ad. No. 130, 2007
<b>Part 3C</b>	
Part 3C.....	ad. No. 149, 2008
<b>Division 1</b>	
s. 124 .....	ad. No. 149, 2008
	am. No. 102, 2012
s. 124A.....	ad. No. 149, 2008
	am. No. 102, 2012
s. 124B.....	ad. No. 149, 2008
s. 124C.....	ad. No. 149, 2008
s. 124D.....	ad. No. 149, 2008
s. 124E.....	ad. No. 149, 2008
<b>Division 2</b>	

## Endnote 4—Amendment history

Provision affected	How affected
ss. 124F–124H, 124J.....	ad. No. 149, 2008
<b>Division 3</b>	
Heading to Div. 3 of ..... Part 3C	rs. No. 102, 2012
ss. 124K–124N .....	ad. No. 149, 2008
<b>Division 3A</b>	
Div. 3A of Part 3C.....	ad. No. 102, 2012
s. 124NA.....	ad. No. 102, 2012
s. 124NB.....	ad. No. 102, 2012
s. 124NC.....	ad. No. 102, 2012
s. 124ND.....	ad. No. 102, 2012
s. 124NE .....	ad. No. 102, 2012
s. 124NF .....	ad. No. 102, 2012
s. 124NG.....	ad. No. 102, 2012
<b>Division 4</b>	
s. 124P .....	ad. No. 149, 2008 am. No. 102, 2012
<b>Division 5</b>	
Div. 5 of Part 3C.....	ad. No. 102, 2012
s. 124PA .....	ad. No. 102, 2012
<b>Part 4</b>	
<b>Division 1</b>	
s. 124 (2nd occurring) Renumbered s. 124Q .....	No. 149, 2008
s. 125 .....	am. No. 108, 2006
<b>Division 2</b>	
s. 126 .....	am. No. 45, 2000; No. 80, 2001
s. 127 .....	am. No. 35, 2003; No. 73, 2008; No. 5, 2011
Heading to s. 128 .....	am. No. 38, 2010
s. 128 .....	am. No. 30, 2003; No. 38, 2010
s. 129 .....	am. No. 45, 2000; No. 80, 2001; No. 30, 2003; No. 38, 2010; Nos. 5, 32 and 141, 2011
s. 131 .....	am. No. 35, 2003; No. 154, 2005; No. 64, 2006; No. 7, 2009

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
s. 132 .....	am. No. 35, 2003; Nos. 64 and 108, 2006
s. 132A.....	ad. No. 35, 2003
	rep. No. 154, 2005
ss. 133, 134.....	rep. No. 154, 2005
s. 134A.....	ad. No. 147, 2002
	rep. No. 154, 2005
s. 135 .....	am. No. 94, 2000; No. 30, 2003; No. 32, 2011
s. 136 .....	rs. No. 45, 2000
s. 138 .....	am. No. 130, 2007
<b>Division 3</b>	
<b>Subdivision B</b>	
s. 140 .....	am. No. 45, 2000; No. 80, 2001; No. 147, 2002; No. 35, 2003; No. 64, 2006; No. 7, 2009
s. 141 .....	am. No. 154, 2012
s. 142 .....	am. No. 45, 2000; No. 32, 2011
s. 143 .....	am. No. 147, 2002; No. 35, 2003; No. 64, 2006; No. 7, 2009
s. 144 .....	am. Nos. 45 and 94, 2000; No. 122, 2003; No. 108, 2006; No. 130, 2007; Nos. 7 and 48, 2009; No. 38, 2010; No. 5, 2011; No. 62, 2013
s. 145 .....	am. No. 35, 2003; No. 64, 2006; No. 7, 2009; No. 154, 2012
s. 146 .....	am. No. 35, 2003; Nos. 64 and 108, 2006
s. 146A.....	ad. No. 35, 2003
	rep. No. 154, 2005
ss. 147, 148.....	rep. No. 154, 2005
s. 148A.....	ad. No. 147, 2002
	rep. No. 154, 2005
s. 149 .....	am. No. 147, 2002; No. 35, 2003; No. 64, 2006; No. 183, 2007; No. 7, 2009; No. 32, 2011
Heading to s. 150 .....	am. No. 7, 2009
s. 150 .....	am. No. 147, 2002; No. 35, 2003; No. 64, 2006; No. 7, 2009; No. 32, 2011
s. 151 .....	am. No. 94, 2000; No. 147, 2002; Nos. 35 and 122, 2003; No. 64, 2006; No. 7, 2009
Heading to s. 152 .....	am. No. 7, 2009

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## Endnote 4—Amendment history

Provision affected	How affected
s. 152 .....	am. No. 147, 2002; No. 35, 2003; No. 64, 2006; No. 7, 2009
Heading to s. 153 .....	am. No. 7, 2009
s. 153 .....	am. No. 147, 2002; No. 35, 2003; No. 64, 2006; No. 7, 2009
s. 154 .....	am. No. 32, 2011
s. 155 .....	am. No. 154, 2012
s. 156 .....	am. No. 45, 2000; No. 8, 2007; No. 38, 2010; No. 32, 2011
<b>Division 4</b>	
<b>Subdivision A</b>	
s. 157 .....	am. No. 38, 2010; No. 32, 2011
s. 158 .....	am. No. 38, 2010; No. 154, 2012
s. 159 .....	am. No. 38, 2010
s. 160 .....	am. No. 45, 2000; No. 38, 2010
<b>Subdivision B</b>	
Heading to Subdiv. B of .....	rs. No. 33, 2010
Div. 4 of Part 4	
s. 160A.....	ad. No. 33, 2010
s. 161 .....	am. Nos. 33 and 38, 2010; No. 154, 2012
s. 162 .....	am. Nos. 33 and 38, 2010
s. 163 .....	am. No. 38, 2010
<b>Subdivision BA</b>	
Subdiv. BA of Div. 4 .....	ad. No. 33, 2010
of Part 4	
s. 163A.....	ad. No. 33, 2010
	am. No. 38, 2010; No. 154, 2012
<b>Subdivision BB</b>	
Heading to Subdiv. BB of.....	ad. No. 33, 2010
Div. 4 of Part 4	
s. 165 .....	am. No. 38, 2010
ss. 165A–165C.....	ad. No. 38, 2010
s. 166 .....	am. No. 38, 2010
<b>Subdivision BC</b>	
Heading to Subdiv. BC of.....	rs. No. 154, 2012
Div. 4 of Part 4	

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### Endnote 4—Amendment history

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Provision affected	How affected
Subdiv. BC of Div. 4 of..... Part 4	ad. No. 38, 2010
Heading to s. 166A .....	rs. No. 154, 2012
s. 166A.....	ad. No. 38, 2010 am. No. 154, 2012
s. 166B.....	ad. No. 38, 2010 am. No. 154, 2012
<b>Subdivision C</b>	
s. 167 .....	am. No. 154, 2012
s. 168 .....	am. No. 38, 2010
s. 169 .....	am. No. 38, 2010 rep. No. 154, 2012
<b>Subdivision D</b>	
s. 170 .....	am. No. 154, 2012
s. 171 .....	am. No. 38, 2010 rs. No. 154, 2012
s. 172 .....	am. No. 38, 2010 rs. No. 154, 2012
s. 173 .....	rs. No. 38, 2010
s. 174 .....	am. No. 38, 2010
s. 175 .....	am. No. 45, 2000; No. 30, 2003; No. 38, 2010; No. 154, 2012
<b>Subdivision E</b>	
Subheads. to s. 177(1), (2) .....	ad. No. 33, 2010
s. 177 .....	am. No. 82, 2007; Nos. 33 and 38, 2010
<b>Subdivision F</b>	
Subdiv. F of Div. 4 of..... Part 4	ad. No. 38, 2010
s. 177A.....	ad. No. 38, 2010
<b>Subdivision G</b>	
Subdiv. G of Div. 4 of..... Part 4	ad. No. 154, 2012
s. 177B.....	ad. No. 154, 2012
s. 177C.....	ad. No. 154, 2012

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## Endnote 4—Amendment history

Provision affected	How affected
s. 177D.....	ad. No. 154, 2012
<b>Division 5</b>	
<b>Subdivision A</b>	
s. 178.....	am. No. 45, 2000
<b>Subdivision B</b>	
s. 179.....	am. No. 45, 2000
<b>Subdivision C</b>	
s. 186.....	am. No. 32, 2011
s. 187.....	am. No. 38, 2010
s. 190.....	rep. No. 94, 2000
<b>Part 5</b>	
<b>Division 1</b>	
s. 192.....	am. Nos. 30 and 122, 2003; No. 130, 2007; No. 7, 2009
s. 195.....	am. No. 156, 2006; No. 130, 2007; No. 149, 2008; No. 17, 2010; No. 102, 2012
s. 197.....	am. No. 137, 2001
<b>Division 2</b>	
s. 200.....	am. No. 137, 2001
<b>Division 3</b>	
s. 201A.....	ad. No. 122, 2003
s. 202.....	am. No. 45, 2000; No. 35, 2003; No. 154, 2005; No. 108, 2006; No. 130, 2007; Nos. 42 and 149, 2008; No. 58, 2009; No. 17, 2010; Nos. 32 and 34, 2011; No. 102, 2012
Note to s. 202(2A).....	rep. No. 149, 2008
s. 203.....	am. No. 137, 2001
s. 204.....	am. No. 137, 2001; No. 30, 2003
s. 204A.....	ad. No. 94, 2000
s. 204B.....	ad. No. 141, 2011
s. 205.....	am. No. 137, 2001
s. 207.....	am. No. 45, 2000
s. 208.....	am. No. 45, 2000; No. 95, 2002; Nos. 32 and 79, 2011
s. 208A.....	ad. No. 141, 2008
s. 209.....	am. No. 30, 2003; No. 108, 2006

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### Endnote 4—Amendment history

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Provision affected	How affected
	rs. No. 79, 2011
<b>Part 6</b>	
<b>Division 2</b>	
s. 212 .....	rs. No. 137, 2001
	am. No. 82, 2006
ss. 213, 214 .....	rs. No. 137, 2001
Heading to s. 215 .....	am. No. 137, 2001
s. 215 .....	am. No. 137, 2001
s. 216 .....	rs. No. 137, 2001
<b>Division 5</b>	
Heading to Div. 5 of Part 6 .....	rs. No. 137, 2001
<b>Subdivision A</b>	
ss. 226, 227 .....	rep. No. 137, 2001
s. 228 .....	rs. No. 137, 2001
	am. No. 4, 2010
Subdiv. B of Div. 5 of.....	rep. No. 137, 2001
Part 6	
ss. 229, 230 .....	rep. No. 137, 2001
<b>Part 7</b>	
s. 234 .....	am. No. 94, 2000; No. 30, 2003; No. 154, 2005; No. 64, 2006; No. 32, 2011
Heading to s. 238 .....	am. No. 75, 2001
s. 238 .....	am. No. 44, 2000; No. 75, 2001; No. 141, 2011
s. 240 .....	am. No. 30, 2003
s. 240A .....	ad. No. 80, 2001
s. 240B .....	ad. No. 80, 2001
	am. No. 18, 2001; No. 108, 2006; No. 113, 2007
s. 208A .....	ad. No. 141, 2008
s. 209 .....	am. No. 30, 2003; No. 108, 2006
	rs. No. 79, 2011
<b>Part 6</b>	
<b>Division 2</b>	
s. 212 .....	rs. No. 137, 2001

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## Endnote 4—Amendment history

Provision affected	How affected
	am. No. 82, 2006
ss. 213, 214 .....	rs. No. 137, 2001
Heading to s. 215 .....	am. No. 137, 2001
s. 215 .....	am. No. 137, 2001
s. 216 .....	rs. No. 137, 2001
<b>Division 5</b>	
Heading to Div. 5 of Part 6 .....	rs. No. 137, 2001
<b>Subdivision A</b>	
ss. 226, 227 .....	rep. No. 137, 2001
s. 228 .....	rs. No. 137, 2001
	am. No. 4, 2010
Subdiv. B of Div. 5 of..... Part 6	rep. No. 137, 2001
ss. 229, 230 .....	rep. No. 137, 2001
<b>Part 7</b>	
s. 234 .....	am. No. 94, 2000; No. 30, 2003; No. 154, 2005; No. 64, 2006; No. 32, 2011
Heading to s. 238 .....	am. No. 75, 2001
s. 238 .....	am. No. 44, 2000; No. 75, 2001; No. 141, 2011
s. 240 .....	am. No. 30, 2003
s. 240A .....	ad. No. 80, 2001
s. 240B .....	ad. No. 80, 2001
	am. No. 18, 2001; No. 108, 2006; No. 113, 2007
s. 240C .....	ad. No. 80, 2001
s. 242 .....	am. No. 30, 2003
s. 243 .....	am. No. 108, 2006
Part 9 .....	rep. No. 192, 1999
ss. 258–260 .....	rep. No. 192, 1999
<b>Schedule 1</b>	
c. 1 .....	am. No. 45, 2000; No. 80, 2001; No. 30, 2003; No. 130, 2007; Nos. 19 and 149, 2008; Nos. 7 and 58, 2009; Nos. 5 and 58, 2011; Nos. 102 and 154, 2012; No 62, 2013

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
<b>Schedule 2</b>	
<b>Part 1</b>	
c. 2 .....	am. No. 80, 2001
<b>Part 2</b>	
c. 3 .....	am. No. 80, 2001
c. 4 .....	am. No. 45, 2000; No. 52, 2012
c. 5 .....	am. No. 154, 2005; No. 64, 2006; No. 149, 2008; No. 7, 2009; No. 102, 2012
Note to c. 5(1A) .....	ad. No. 7, 2009
c. 5A .....	ad. No. 7, 2009
<b>Part 3</b>	
<b>Division 2</b>	
Heading to c. 13 .....	am. No. 82, 2006
c. 13 .....	am. No. 82, 2006
c. 14A .....	ad. No. 109, 2004
<b>Division 3</b>	
c. 15 .....	rs. No. 147, 2002
	am. No. 30, 2003; No. 64, 2006
c. 15A .....	ad. No. 45, 2009
cc. 16, 17 .....	am. No. 36, 2006
cc. 20–27 .....	rep. No. 45, 2000
cc. 31, 32 .....	am. No. 70, 2000
Heading to c. 36 .....	am. No. 45, 2000
c. 36 .....	
<b>Division 4</b>	
Div. 4 of Part 3 .....	ad. No. 80, 2001
c. 37 .....	ad. No. 80, 2001
<b>Schedule 3</b>	
<b>Part 1</b>	
c. 1 .....	am. No. 38, 2010; No. 154, 2012
Heading to c. 2 .....	am. No. 38, 2010
cc. 2, 3 .....	am. No. 38, 2010
c. 4 .....	am. No. 33, 2010

## Endnote 4—Amendment history

Provision affected	How affected
Heading to c. 6.....	am. No. 38, 2010
c. 6.....	am. No. 38, 2010
Notes to c. 6(1), (2).....	ad. No. 46, 2011
Heading to c. 7.....	am. No. 38, 2010
c. 7.....	am. No. 38, 2010; No. 154, 2012
Notes to c. 7(1), (2).....	ad. No. 46, 2011
c. 8.....	am. No. 38, 2010
c. 9.....	am. No. 46, 2011
<b>Part 2</b>	
c. 10.....	am. No. 38, 2010; No. 154, 2012
Heading to c. 12.....	rs. No. 154, 2012
Subhead. to c. 12(2).....	ad. No. 38, 2010
c. 12.....	am. No. 8, 2007; No. 38, 2010; No. 154, 2012
c. 12A.....	ad. No. 154, 2012
c. 12B.....	ad. No. 154, 2012
<b>Part 3</b>	
c. 14.....	am. No. 146, 1999; No. 38, 2010
c. 15.....	am. No. 38, 2010
c. 17.....	am. No. 26, 2008; No. 38, 2010; No. 58, 2011
c. 18.....	am. No. 38, 2010
c. 19.....	am. No. 45, 2000; No. 154, 2012
c. 19A.....	ad. No. 154, 2012
Heading to c. 20.....	am. No. 38, 2010
c. 20.....	am. No. 45, 2000; No. 146, 2006; No. 82, 2007; No. 38, 2010; No. 154, 2012
c. 21.....	am. No. 38, 2010
c. 22.....	am. No. 108, 2006; No. 38, 2010
c. 24.....	am. No. 146, 1999
c. 25.....	am. No. 38, 2010
<b>Schedule 4</b>	
Schedule 4.....	am. No. 38, 2010; No. 154, 2012
<b>Schedule 5</b>	
Heading to Schedule 5.....	rs. No. 32, 2011

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
c. 1 .....	am. No. 32, 2011
c. 2 .....	am. No. 108, 2006; No. 32, 2011

**Endnote 5—Uncommenced amendments**

**Privacy Amendment (Enhancing Privacy Protection) Act 2012 (No. 197, 2012)**

**Schedule 5****79 Subsection 202(8) (note)**

Omit “section 14 of the *Privacy Act 1988*”, substitute “the Australian Privacy Principles”.

**Family Assistance and Other Legislation Amendment Act 2013 (No. 70, 2013)**

**Schedule 2A****53 Section 123TC (paragraph (e) of the definition of *category I welfare payment*)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**54 Section 123TC (paragraph (p) of the definition of *category Q welfare payment*)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**55 Section 123TC (paragraph (c) of the definition of *category S welfare payment*)**

Omit “baby bonus”, substitute “stillborn baby payment”.

**56 Subsection 123XJA(3)**

Repeal the subsection.

**57 Subsection 123XJA(4) (heading)**

Omit “—*instalments of other category I welfare payments*”.

**58 Subsection 123XJA(4)**

Omit “(other than baby bonus under the Family Assistance Act)”.

**59 Subsection 123XJC(3)**

Repeal the subsection.

**60 Subsection 123XJC(4) (heading)**

Omit “—instalments of other category I welfare payments”.

**61 Subsection 123XJC(4)**

Omit “(other than baby bonus under the Family Assistance Act)”.

**Aged Care (Living Longer Living Better) Act 2013 (No. 76, 2013)**

**Schedule 4**

**27 At the end of paragraph 126(1)(e)**

Add “or”.

**28 After paragraph 126(1)(e)**

Insert:

- (f) a decision under section 44-24 of the *Aged Care (Transitional Provisions) Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act;

**29 At the end of paragraph 129(1)(e)**

Add “or”.

**30 After paragraph 129(1)(e)**

Insert:

- (f) a decision under section 44-24 of the *Aged Care (Transitional Provisions) Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act;

**31 At the end of subsection 140(1)**

Add:

- ; and (g) all decisions under section 44-24 of the *Aged Care (Transitional Provisions) Act 1997* by the Secretary or by a

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Endnote 5—Uncommenced amendments

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person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act.

**32 At the end of subsection 178(1)**

Add:

- ; and (c) all decisions under section 44-24 of the *Aged Care (Transitional Provisions) Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act.

## Endnotes

Endnote 6—Modifications [none]

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**Endnote 6—Modifications [none]**



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Endnote 7—Misdescribed amendments

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**Endnote 7—Misdescribed amendments**

**Family Assistance and Other Legislation Amendment Act 2013 (No. 70, 2013)**

**Schedule 3**

**98 Paragraph 43(4)(a)**

Omit “of the following amounts (an *added amount*) is”, substitute “or both of the following amounts (the *added amounts*) are”.

## Endnotes

Endnote 8—Miscellaneous [none]

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**Endnote 8—Miscellaneous [none]**