Social Security Act 1991

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This compilation is in 6 volumes

Volume 1: sections 1–514F
Volume 2: sections 540–1061ZUC
Volume 3: sections 1061ZVAA–1157
Volume 4: sections 1157A–1263
Schedule 1A
Volume 5: Endnotes 1–4
Volume 6: Endnotes 5 and 6

Each volume has its own contents

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 Act 1991* that shows the text of the law as amended and in force on 1 November 2025 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

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

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Chapter 2—Pensions, benefits and allowances 1

Part 2.11—Youth allowance 1

Division 1—Qualification for youth allowance 1

Subdivision A—Basic qualifications 1

540 Qualification for youth allowance—general rule 1
540A Qualification for youth allowance—claimants for disability support pension 2
540AA Qualification for youth allowance—new apprentices 4
540AB Qualification for youth allowance—claimants with medical conditions affecting their capacity to work 4
540B Qualification for youth allowance—transferee from social security pension 6
540BA Qualification for youth allowance—coronavirus 7
540C Qualification for youth allowance may continue to end of payment period 8

Subdivision B—Undertaking full-time study 8

541B Undertaking full-time study 8
541C One course of education 12

Subdivision C—Exemptions from undertaking full-time study 12

542 Situations in which a person is exempt from undertaking full-time study 12
542A Temporary incapacity exemption 13
542B Failure to attend interview etc. may result in cessation of temporary incapacity exemption 14
542C Time limit for temporary incapacity exemptions—maximum exemption period 15
542D Pre-natal and post-natal exemptions 18
542EA Exemption from undertaking full-time study—death of person's partner 19
542F Domestic violence or other special family circumstances exemption 20
542FA Disabled children or other family circumstances exemption 22
542G Training camp exemption 25
542H Special circumstances exemption 25

Authorised Version C2025C00595 registered 03/11/2025

Subdivision D—Youth allowance age 27
543 Youth allowance age 27
543A Minimum age for youth allowance 27
543B Maximum age for youth allowance....30
Subdivision G—Miscellaneous 31
546 Prospective determinations for some allowance recipients 31
Division 2—Situations in which youth allowance is not payable 33
Subdivision A—Situations in which allowance not payable (general) 33
547 Youth allowance not payable if allowance rate nil 33
547AA Youth allowance not payable if person fails to attend interview etc. in certain circumstances....33
547AB Situations where allowance not payable for failure to comply with certain requirements....35
Subdivision AB—Assets test 35
547A Allowance not payable if assets value limit exceeded....35
547B Who is excluded from application of assets test?....35
547C Assets value limit 35
547D Value of person's assets to include value of assets of partner in certain circumstances....36
Subdivision C—Waiting periods 36
549 Waiting periods 36
549A Liquid assets test waiting period 36
549B Start of liquid assets test waiting period....39
549C Length of liquid assets test waiting period....39
549CA Ordinary waiting period 40
549CB Duration of ordinary waiting period....41
549D Newly arrived resident's waiting period 43
549E Length of newly arrived resident's waiting period 45
549F Effect of being subject to multiple waiting periods 45
Subdivision D—Situations where allowance not payable because of youth allowance participation failure 45
549G Application of Subdivision....45
550 Youth allowance participation failures....45
550B Allowance not payable because of youth allowance participation failure 47
550C When the period of non-payment starts 49

Authorised Version C2025C00595 registered 03/11/2025

550D When the period of non-payment ends....49
Subdivision E—Situations where allowance not payable because of repeated failure 49
550E Application of Subdivision....49
551 Allowance not payable because of repeated failure....50
551A When the period of non-payment starts....50
Subdivision F—Multiple entitlement exclusions 51
552 Multiple entitlement exclusions....51
552A Person receiving payment under certain schemes....51
552B Assurance of support....52
Subdivision G—Employment-related exclusions 53
553 Employment-related exclusions....53
553A Unemployment due to industrial action....53
553B Move to area of lower employment prospects....54
553C Seasonal workers....57
Division 5—Rate of youth allowance 59
556 How to work out a person's youth allowance rate....59
556A Approved program of work supplement....59
Division 10—Bereavement payments 60
Subdivision A—Ongoing payments for death of partner 60
567 Qualification for payments under this Subdivision....60
567A Continued payment of partner's pension or benefit....61
567B Lump sum payable in some circumstances....62
567C Adjustment of person's youth allowance rate....63
567D Effect of death of person entitled to payments under this Subdivision....63
567E Matters affecting payments under this Subdivision....65
Subdivision AA—One-off payment for death of partner 66
567FA Qualification for payment under this Subdivision....66
567FB Amount of payment....67
Subdivision B—Continuation of youth allowance rate after death of child 68
567G Death of child—continuation of youth allowance rate for 14 weeks....68

Authorised Version C2025C00595 registered 03/11/2025

Part 2.11A—Austudy payment 70

Division 1—Qualification for austudy payment 70

Subdivision A—Basic qualifications 70

568 Qualification for austudy payment—general rule 70
568AA Qualification for austudy payment—new apprentices 70
568A Qualification for austudy payment—transferee from social security pension 70

Subdivision B—Activity test 71

569 Activity test 71
569A Undertaking qualifying study 71
569AA One course of education 72
569B Approved course of education or study 73
569C Full-time students 73
569D Concessional study-load students 73
569E Normal amount of full-time study 75
569F First fortnight of classes 76
569G Progress rules—secondary students 76
569H Progress rules—tertiary students 78

Subdivision C—Austudy age 85

570 Austudy age 85

Division 2—Situations in which austudy payment is not payable 86

Subdivision A—Situation in which austudy payment not payable (general) 86

572 Austudy payment not payable if payment rate nil 86
572A Situations where austudy payment not payable for failure to comply with certain requirements 86

Subdivision B—Assets test 86

573 Austudy payment not payable if assets value limit exceeded 86
573B Assets value limit 87
573C Value of person's assets to include value of assets of partner 87

Subdivision D—Waiting periods 87

575 Waiting periods 87
575A Liquid assets test waiting period 88
575B Start of liquid assets test waiting period 89
575C Length of liquid assets test waiting period 89

Authorised Version C2025C00595 registered 03/11/2025

575D Newly arrived resident's waiting period 90
575E Length of newly arrived resident's waiting period 91
575EA Seasonal workers—preclusion period 92
575F Effect of being subject to 2 waiting periods 93
Subdivision E—Situations where austudy payment not payable because of austudy participation failure 93
576 Austudy participation failures 93
576A Allowance not payable because of austudy participation failure 95
576B When the period of non-payment starts 96
576C When the period of non-payment ends 96
Subdivision F—Situations where payment not payable because of repeated failure 97
577 Payment not payable because of repeated failure 97
577A When the period of non-payment starts 97
Subdivision G—Multiple entitlement exclusions 98
578 Multiple entitlement exclusions 98
578A Person receiving payment under certain schemes 99
578B Assurance of support 100
Division 5—Rate of austudy payment 101
581 How to work out a person's austudy payment rate 101
Division 10—Bereavement payments on death of partner 102
592 Qualification for payments under this Division 102
592A Continued payment of partner's pension or benefit 103
592B Lump sum payable in some circumstances 104
592C Adjustment of person's austudy payment rate 105
592D Effect of death of person entitled to payments under this Division 105
592E Matters affecting payments under this Division 107
Part 2.11B—Scholarship payments for students 109
Division 2—Relocation scholarship payment 109
592J Qualification for relocation scholarship payment 109
592K Circumstances in which person is not qualified for relocation scholarship payment 110
592L Amount of relocation scholarship payment 112
Division 3—Approved scholarship course 116
592M Definition 116

Authorised Version C2025C00595 registered 03/11/2025

592N Approved scholarship course 116

Part 2.12—Jobseeker payment 117

Division 1—Qualification for and payability of jobseeker payment 117

Subdivision A—Basic qualifications 117

593 Qualification for jobseeker payment 117
595 Persons may be treated as unemployed 123
596 Unemployment due to industrial action 124
596A Assurance of support 125
598 Liquid assets test waiting period 126
600 Prospective determinations for some jobseeker payment recipients 131

Subdivision D—Situations where jobseeker payment not payable (general) 132

608 Jobseeker payment not payable if payment rate nil 132
611 Assets test—jobseeker payment not payable if assets value limit exceeded 132
612 Value of assets of members of couples 134
613 Full-time students 135
614 Multiple entitlement exclusion 135
615 Jobseeker payment not payable if person fails to attend interview etc. in certain circumstances 138

Subdivision E—Situations where jobseeker payment not payable (waiting periods) 139

620 Ordinary waiting period 139
621 Duration of ordinary waiting period 140
623A Newly arrived resident's waiting period 142
623B Duration of newly arrived resident's waiting period 143

Subdivision G—Situations where jobseeker payment not payable (administrative breaches) 143

631 Situations where jobseeker payment not payable for failure to comply with certain requirements 143

Subdivision H—Other situations where jobseeker payment not payable 143

633 Seasonal workers 143
634 Move to area of lower employment prospects 145

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Rate of jobseeker payment 148
643 How to work out a person's jobseeker payment rate 148
644AAA Approved program of work supplement 148
654 Rate of jobseeker payment for former recipients of wife pension 148
655 Wife pension transition rate—method 1 150
656 Wife pension transition rate—method 2 151
Division 9—Bereavement payments 153
Subdivision AA—Ongoing payments for death of partner 153
660LA Qualification for payments under this Subdivision 153
660LB Continued payment of partner's pension or benefit 154
660LC Lump sum payable in some circumstances 154
660LD Adjustment of a person's jobseeker payment rate 156
660LE Effect of death of person entitled to payments under this Subdivision 156
660LF Matters affecting payments under this Subdivision 158
Subdivision A—One-off payment for death of partner 159
660LH Qualification for payment under this Subdivision 159
660LI Amount of payment 160
Subdivision B—Continuation of jobseeker payment rate after death of child 161
660M Death of child—continuation of jobseeker payment rate for 14 weeks 161
Part 2.13—Remote engagement program payment 163
Division 1—Qualification for and payability of remote engagement program payment 163
Subdivision A—Qualification 163
661A Qualification for remote engagement program payment 163
661B Definition of *qualifying remote income support payment* 163
Subdivision B—Payability 165
661C Remote engagement program payment not payable in specified circumstances 165
661D Time limits on payability of remote engagement program payment 165

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Rate of remote engagement program payment 166
661E Remote engagement program payment—determination of rate 166
Division 3—Miscellaneous matters 167
661F Effect of undertaking activities under the remote engagement program 167
Part 2.13A—Education entry payment 168
Division 1—Recipients of pension PP (single) 168
665A Payment to recipient of pension PP (single) 168
665B Amount of section 665A payment....168
665C Need for claim....168
Division 2—Recipients of disability support pension 169
665E Payment to a disability support pensioner....169
665F Amount of section 665E payment....169
665G Need for claim....169
Division 4—Special benefit recipients 170
665M Payment to a special benefit recipient....170
665N Amount of section 665M payment....170
665P Need for claim....170
Division 6—Jobseeker payment recipients 171
665U Payment to recipient....171
665V Amount of section 665U payment....172
665W Need for claim....172
Division 8A—Carer payment recipients 173
665ZFA Payment to a carer payment recipient 173
665ZFB Amount of section 665ZFA payment....173
665ZFC Need for claim....173
Division 12—Recipients of PP (partnered) 174
665ZU Payment to recipient of PP (partnered) 174
665ZV Amount of section 665ZU payment....175
665ZW Need for claim....175
Division 13—Protection of education entry payment 176
665ZY Education entry payment to be absolutely inalienable 176
665ZZ Effect of garnishee or attachment order 176

Authorised Version C2025C00595 registered 03/11/2025

Part 2.15—Special benefit 178

Division 1—Qualification for and payability of special benefit 178

Subdivision A—Qualification 178

729 Qualification for special benefit 178
729A Time limit on qualification for certain recipients of special benefit 184
729AA Effect of industrial action on qualification conditions of certain claimants for special benefit 185
729B Certain recipients of special benefit cease to be qualified for special benefit after 52 weeks 187
729C Consequence of subsection 729B(2) determination 187
730 Determination of period 188

Subdivision B—Payability 188

732 Special benefit not payable if benefit rate nil 188
733 Assets test—benefit not payable if assets value limit exceeded 188
734 Value of assets of members of couples 190
735 Multiple entitlement exclusion 191
736 Secretary may require certain persons to attend courses or undertake work 192
737 Full-time students 193
738 Payments under certain education schemes 194
739 SPB homeless person 195
739A Newly arrived resident's waiting period 195
739B Secretary to act in accordance with guidelines 198
739C Guidelines for exercise of Secretary's powers under subsection 739A(7) 198

Subdivision D—Situations where special benefit not payable to persons who are nominated visa holders (administrative breaches) 198

745H Situations where special benefit not payable for failure to comply with certain requirements 198

Subdivision F—Other situations where special benefit not payable to persons who are nominated visa holders 199

745M Seasonal workers 199
745N Move to area of lower employment prospects 200

Division 4—Rate of special benefit 202

746 Rate of special benefit 202

Authorised Version C2025C00595 registered 03/11/2025

747 Approved program of work supplement for persons who are nominated visa holders 202
759 Effect of industrial action on rate of special benefit payable to persons who are nominated visa holders 203

Division 9—Bereavement payments 205

Subdivision AA—Death of partner 205

768A Qualification for payments under this Subdivision 205
768B Continued payment of partner's pension or benefit 206
768C Lump sum payable in some circumstances 206
768D Adjustment of a person's special benefit rate 208
768E Effect of death of person entitled to payments under this Subdivision 208
768F Matters affecting payments under this Subdivision 210

Part 2.16—Special needs pensions 212

Division 1A—Time limit on grant of special needs wife pension 212

771P Special needs wife pension not to be granted after 30 June 1995 212

Division 1B—Time limit on grant of other special needs pensions 213

771PA Special needs pensions not to be granted after 20 September 2000 213

Division 1—Qualifications for and payability of special needs pensions 214

Subdivision A—Qualification 214

772 Qualification for special needs age pension 214
773 Qualification for special needs disability support pension 215
774 Qualification for special needs wife pension 215

Subdivision B—Payability 215

779 Special needs pension not payable if pension rate nil 215
783 Second special needs pension generally not payable after cancellation of initial pension 216
787 Multiple entitlement exclusion 216

Division 5—Rate of special needs pension 218

796 How to work out a person's special needs pension rate 218

Authorised Version C2025C00595 registered 03/11/2025

Special Needs Proportional Rate Calculator 219
Module A—Overall rate calculation process 219
Module B—Australian working life residence 220
Module C—Residence factor 222
Division 10—Bereavement payments 223
Subdivision A—Death of partner 223
822 Qualification for payments under this Subdivision 223
823 Continued payment of deceased partner's previous entitlement 225
824 Lump sum payable in some circumstances 226
825 Adjustment of rate of person's special needs pension.....227
826 Effect of death of person entitled to payments under this Subdivision 228
827 Matters affecting payment of benefits under this Subdivision 229
Subdivision C—Death of recipient 230
830 Death of recipient 230
Part 2.17—Economic security strategy payment 232
900 Qualification for economic security strategy payment 232
901 Amount of economic security strategy payment—general 233
902 Amount of economic security strategy payment—person receiving carer allowance 234
Part 2.18—Training and learning bonus 236
910 Qualification for training and learning bonus 236
911 Amount of training and learning bonus.....237
Part 2.18A—Clean energy payments 239
Division 1—Clean energy advances 239
Subdivision A—Qualifying for clean energy advances 239
914 Recipients of certain social security payments.....239
914A Recipients of austudy, youth allowance, some disability support pensions and some special benefits 240
914B Disregard nil rate in certain circumstances 242

Authorised Version C2025C00595 registered 03/11/2025

914C Limits on qualifying for multiple advances 242
Subdivision B—Amount of a clean energy advance 243
914D Amount of a clean energy advance 243
914E *Clean energy advance daily rate* 243
914F *Number of advance days* 248
Subdivision C—Top-up payments of clean energy advance 248
914G Top-up payments of clean energy advance 248
Division 2—Quarterly energy supplement 250
915 When quarterly energy supplement is payable 250
915A Electing to receive quarterly energy supplement 250
915B Rate of quarterly energy supplement 251
Division 4—Essential medical equipment payment 252
917A Definitions 252
917B Qualification for essential medical equipment payment 252
917C The medical needs requirement 254
917D The concession card requirement 255
917E The energy account requirement 255
917F Availability of payments 256
917G Amount of payment 257
917H Non-receipt of social security payment 257
Division 5—Multiple qualification exclusions 258
918 Multiple qualification exclusions 258
Part 2.19—Carer allowance 259
Division 1—Interpretation 259
952 Carer allowance definitions 259
Division 2—Qualification for and payability of carer allowance 260
Subdivision A—Qualification 260
953 Qualification for carer allowance—caring for either 1 or 2 disabled children 260
953A Remaining qualified for carer allowance after child turns 16 262
954 Qualification for carer allowance—caring for a disabled adult in a private home of both the adult and the carer 263

Authorised Version C2025C00595 registered 03/11/2025

954A Qualification for carer allowance—caring for a disabled adult in a private home not shared by the adult and carer 264
954B Qualification for carer allowance—receiving carer payment for caring for child or children 266
955 Qualification for carer allowance—hospitalisation....266
956 Absence from Australia....267
957 Effect of cessation of care etc. on carer allowance 268
957A Carer allowance income test....269
957B Adjusted taxable income 271
957C Accepted estimates 274
957D Income from long-term financial assets 275
Subdivision B—Limitations on payability 276
958 Carer allowance not payable if allowance rate nil 276
964 Carer allowance not payable to 2 people for the same care receiver or care receivers unless declaration made....277
965 Carer allowance not payable to more than one member of a couple 277
966 Newly arrived resident's waiting period 278
967 Duration of newly arrived resident's waiting period....279
Division 5—Rate of carer allowance 281
974 Rate of carer allowance 281
Division 6—Multiple qualification for carer allowance for same care receiver or receivers 283
981 Secretary may make declaration where 2 people are qualified for carer allowance for the same care receiver or care receivers....283
Division 10—Bereavement payments (death of disabled child or adult) 284
Subdivision A—Death of disabled child 284
992J Continued carer allowance during bereavement rate continuation period where disabled child dies 284
992K Lump sum payable in some circumstances 284

Authorised Version C2025C00595 registered 03/11/2025

Subdivision B—Death of disabled child (special short-term assistance) 285
992L Continuation of qualification for carer allowance for 4 weeks in some cases where recipient's disabled child dies 285
Subdivision BA—Death of disabled adult 286
992LA Continued carer allowance during bereavement rate continuation period where disabled adult dies 286
992LB Lump sum payable in some circumstances 287
Subdivision C—Death of recipient 288
992M Death of recipient 288
Part 2.19AA—Child disability assistance 290
992MA Child disability assistance definitions 290
992MB Qualification for child disability assistance 290
992MC Eligible care receivers 291
992MD Amount of child disability assistance....291
Part 2.19A—One-off payments to carers eligible for carer allowance 292
Division 1—One-off payment to carers eligible for carer allowance 292
992N One-off payment to carers (carer allowance related)....292
992O In respect of what care receivers is the payment payable?....292
992P What is the amount of the payment? 293
Division 2—2005 one-off payment to carers eligible for carer allowance 294
992Q 2005 one-off payment to carers (carer allowance related)....294
992R In respect of what care receivers is the payment payable?....294
992S What is the amount of the payment? 295
Division 3—2006 one-off payment to carers eligible for carer allowance 296
992T 2006 one-off payment to carers (carer allowance related)....296
992U In respect of which care receivers is the payment payable?....296

Authorised Version C2025C00595 registered 03/11/2025

992V Amount of the one-off payment 297
Division 4—2007 one-off payment to carers eligible for carer allowance 298
992WA 2007 one-off payment to carers (carer allowance related)....298
992WB Eligible care receivers 298
992WC Amount of the one-off payment 299
Division 5—2008 one-off payment to carers eligible for carer allowance 300
992WD 2008 one-off payment to carers (carer allowance related)....300
992WE Eligible care receivers 300
992WF Amount of the one-off payment 301
Part 2.19B—Carer supplement 302
992X Carer supplement....302
Part 2.20—Double orphan pension 306
Division 1—DOP child status 306
993 Double orphan—not refugee 306
994 Double orphan—refugee 307
995 Refugee child....308
996 Long-term prisoner....308
997 Patient on a long-term basis 309
998 Person uncontactable....309
Division 2—Qualification for and payability of double orphan pension 310
Subdivision A—Qualification 310
999 Qualification for double orphan pension....310
Subdivision B—Payability 311
1003 Double orphan pension not payable for child receiving a pension under the Veterans' Entitlements Act 311
Division 5—Rate of double orphan pension 312
1010 Rate of double orphan pension....312

Authorised Version C2025C00595 registered 03/11/2025

Division 10—Bereavement payments (death of DOP child) 315
Subdivision A—Death of DOP child (General) 315
1033 Continued double orphan pension during bereavement rate continuation period where DOP child dies....315
1034 Lump sum payable in some circumstances....315
Subdivision AA—Death of dependent child (special short-term assistance) 316
1034AA Continuation of qualification for double orphan pension for 4 weeks in some cases where recipient's DOP child dies....316
Subdivision B—Death of recipient 317
1034A Death of recipient....317
Part 2.21—Mobility allowance 319
Division 1—Qualification for and payability of mobility allowance 319
Subdivision A—Qualification 319
1035 Qualification for mobility allowance (rate specified in subsection 1044(1))....319
1035A Qualification for mobility allowance (rate specified in subsection 1044(1A))....324
Subdivision B—Payability 330
1036 Mobility allowance not payable at 2 rates....330
1037 Mobility allowance not payable where person receiving motor vehicle assistance....330
1038 Mobility allowance not payable when person is NDIS participant....330
1039AA Newly arrived resident's waiting period....331
1039AB Duration of newly arrived resident's waiting period....332
Division 2—Rate of mobility allowance 333
1044 Rate of mobility allowance....333
1044A Reduction of the advance payment period....333
Division 3—Mobility allowance advance 335
1045 Qualification for mobility advance....335

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Continuation 336
1046 Continuation of mobility allowance when person ceases to be qualified....336
Part 2.21A—Language, literacy and numeracy supplement 340
Division 1—Preliminary 340
1047 Definition....340
Division 2—Qualification for language, literacy and numeracy supplement 341
1048 General statement of qualification....341
Division 3—Circumstances where language, literacy and numeracy supplement not payable 342
1049 Language, literacy and numeracy supplement not payable in certain circumstances....342
Division 4—Rate increase relating to language, literacy and numeracy supplement 343
1050 Rate increase attributable to language, literacy and numeracy supplement....343
Part 2.22—Advance payments of social security entitlements 344
Division 1—Qualification for advance payment 344
1061A Qualification for advance payment....344
Division 2—Applying for advance payment 347
1061B Application....347
1061C Form of application....347
1061D Lodgment of application....347
1061E Application may be withdrawn....347
Division 3—Determination of application and payment of advance payment 348
1061EA Secretary to determine application....348
1061EB Payment of advance payment....348
Division 4—Amount of advance payment 349
1061ECA Amount of advance payment—age and disability support pensions and carer payment....349
1061ED Amount of advance payment—pension PP (single)....350
1061EE Amount of advance payment—certain other social security payments....352

Authorised Version C2025C00595 registered 03/11/2025

Division 5—Payment of advance payment 354
1061EI Advance payment to be paid to person or nominee 354
1061EJ Payment into bank account etc. 354
Division 6—Protection of advance payment 356
1061EK Advance payment to be absolutely inalienable 356
Division 7—Repayment of advance payment 357
1061EL Repayment of advance payment.....357
Part 2.22A—Special employment advances 358
Division 1—Qualification for special employment advance 358
1061EM Qualification for special employment advance 358
1061EN Meaning of *in severe financial hardship*.....360
1061EO Person not qualified in certain circumstances 360
Division 4—Amount of special employment advance 362
1061EW Where claim based on effect of unreceived income on special employment advance qualifying entitlement 362
1061EX Where claim based on claimant's need for financial assistance to take up offered employment.....362
Division 7—Repayment of special employment advance 365
1061EZC Repayment of special employment advance 365
Part 2.23—Advance pharmaceutical allowance 366
Division 1—Qualification for and payability of advance pharmaceutical allowance 366
1061F Qualification for advance pharmaceutical allowance.....366
1061G Advance pharmaceutical allowance not payable in some circumstances.....366
Division 3—Amount of advance pharmaceutical allowance 368
1061JC Amount of advance pharmaceutical allowance.....368
1061JD Annual limit.....368
Part 2.23A—Crisis payment 369
Division 1—Qualification for crisis payment 369
1061JG Qualification—release from gaol or psychiatric confinement 369

Authorised Version C2025C00595 registered 03/11/2025

1061JH Qualification—extreme circumstances forcing departure from home 370
1061JHA Qualification—remaining in home after removal of family member due to domestic or family violence 371
1061JI Qualification—humanitarian entrant to Australia 372
1061JIA Qualification—national health emergency 372
1061JJ Crisis payment not payable in addition to disaster relief payment 373
1061JK Crisis payment not payable if assurance of support in force 373
1061JL Person not qualified for crisis payment if qualified for crisis payment under ABSTUDY scheme 373
Division 4—Amount of crisis payment 375
1061JU Amount of payment 375
Part 2.23B—Disaster Recovery Allowance 377
Division 1—Qualification for Disaster Recovery Allowance 377
1061KA Qualification for Disaster Recovery Allowance 377
1061KB Disaster Recovery Allowance not payable if assurance of support in force 379
Division 2—Rate of Disaster Recovery Allowance 380
1061KC Rate of Disaster Recovery Allowance 380
Division 3—Other matters 381
1061KD Period that Disaster Recovery Allowance is payable 381
1061KE Non-receipt of social security payment 381
Part 2.24—Australian Government Disaster Recovery Payment 382
Division 1—Qualification for Australian Government Disaster Recovery Payment 382
1061K Qualification for Australian Government Disaster Recovery Payment 382
1061L Meaning of *adversely affected* 383
Division 2—Amount of Australian Government Disaster Recovery Payment 384
1061M Amount of payment for disasters in Australia 384
1061N Amount of payment for disasters outside Australia 385
1061P Determinations of rates 386

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Recoverable payments etc. 387
1061PAAA Recoverable payments....387
1061PAAB Recoverable death payments....387
1061PAAC Reports about recoverable payments and recoverable death payments....388
1061PAAD Review of decisions....391
1061PAAE Department official....391

Part 2.24AA—Australian Victim of Terrorism Overseas Payment 392

Division 1—Qualification for Australian Victim of Terrorism Overseas Payment 392
1061PAA Qualification for Australian Victim of Terrorism Overseas Payment....392
1061PAB Whether a person can be qualified for more than one AVTOP in relation to the same terrorist act....393

Division 2—Payability of Australian Victim of Terrorism Overseas Payment to secondary victims 395
1061PAC When AVTOP for secondary victims is not payable....395

Division 3—Amount of Australian Victim of Terrorism Overseas Payment 396
1061PAD Amount of AVTOP for a primary victim....396
1061PAE Amount of AVTOP for a secondary victim....396
1061PAF AVTOP Principles....397

Division 4—Other 399
1061PAG Consultation on the AVTOP Principles....399
1061PAH AVTOP is not compensation or damages....399

Part 2.24A—Pensioner education supplement 400

Division 1—Qualification for pensioner education supplement 400

Subdivision A—The basic rules 400
1061PA Qualification for pensioner education supplement....400

Subdivision B—Undertaking qualifying study 400
1061PB Undertaking qualifying study....400
1061PC Approved course of education or study....403
1061PD Full-time students....404
1061PE Concessional study-load students....404

Authorised Version C2025C00595 registered 03/11/2025

1061PF Normal amount of full-time study....407
1061PG First fortnight of classes....407
1061PH Progress rules—secondary students....408
1061PI Progress rules—tertiary students....409
Subdivision C—Payments attracting pensioner education supplement 415
1061PJ Payments attracting pensioner education supplement....415
Subdivision D—Pensioner education supplement age 420
1061PK Pensioner education supplement age....420
1061PL When a person is regarded as independent....420
Subdivision E—Residency 422
1061PM Residency requirements....422
1061PN Absence of persons overseas....423
Division 2—Situations in which pensioner education supplement is not payable 424
Subdivision C—Newly arrived resident's waiting period 424
1061PT Pensioner education supplement not payable during newly arrived resident's waiting period....424
1061PU Newly arrived resident's waiting period....424
1061PV Length of newly arrived resident's waiting period....425
Subdivision D—Multiple entitlement exclusion 426
1061PW Meaning of multiple entitlement exclusion....426
1061PX Multiple entitlement exclusion....426
Division 5—Rate of pensioner education supplement 427
1061PZG Rate of pensioner education supplement....427
Part 2.25—Telephone allowance 429
Division 1—Qualification for and payability of telephone allowance 429
1061Q Qualification for telephone allowance....429
1061R Telephone allowance not payable in some circumstances....436
Division 2—Rate of telephone allowance 438
1061S Standard rate of telephone allowance....438
1061SA Increased rate of telephone allowance....440
1061SB Increased rate of telephone allowance for home internet....442

Authorised Version C2025C00595 registered 03/11/2025

Part 2.25A—Utilities allowance 444

Division 1—Qualification for and payability of utilities allowance 444

1061T Qualification for utilities allowance 444
1061TA When utilities allowance is payable 444

Division 2—Rate of utilities allowance 446

1061TB Rate of utilities allowance 446

Part 2.25B—Energy supplement 447

Division 1—Qualification and payability 447

1061U Qualification for energy supplement 447
1061UA When energy supplement is payable 449

Division 2—Rate of energy supplement 451

1061UB Rate of energy supplement 451

Part 2.25C—Quarterly pension supplement 452

1061V When this Part applies 452
1061VA Quarterly pension supplement 452
1061VB Rate of quarterly pension supplement 453

Part 2.26—Fares allowance 454

Division 1—Qualification for fares allowance 454

1061ZAAA Qualification for fares allowance 454
1061ZAAB Journey by person who is not an external student 456
1061ZAAC Journey by person who is an external student 456

Division 3—Amount of fares allowance 458

1061ZAAJ Fares allowance for public transport 458
1061ZAAK Fares allowance for private transport 458

Chapter 2A—Benefits and concessions other than payments 461

Part 2A.1—Concession cards 461

Division 1—Qualification for, and issue of, pensioner concession card 461

1061ZA General qualification rules 461
1061ZC Extended qualification rule: long-term recipient of social security benefits 464

Authorised Version C2025C00595 registered 03/11/2025

1061ZCA Extended qualification rule: former recipient of age pension and partner 467
1061ZCB Extended qualification rule: former recipient of carer payment 469
1061ZD Extended qualification rule: former recipient of disability support pension and partner 472
1061ZDA Extended qualification rule: former recipient of pension PP (single) 474
1061ZDB Extended qualification rule: partner of former recipient of veterans' entitlement 476
1061ZEA Further extended qualification rule: loss of payment because of employment income 478
1061ZEB Extended qualification rule: persons with a partial capacity to work 481
1061ZEC Effect of compliance penalty periods 482
1061ZF Issue of pensioner concession card 483

Division 2—Qualification for seniors health card 484
1061ZG Qualification rules 484
1061ZH Newly arrived resident's waiting period 485
1061ZI Duration of newly arrived resident's waiting period 486
1061ZJ Giving of copy of assessment of taxable income to Secretary 486
1061ZJA Modifications if person's rate of social security pension is nil on 1 January 2017 486
1061ZJB Other modifications because of Veterans' Entitlements Act 487

Division 3—Qualification for health care card 488

Subdivision A—Qualification for automatic issue health care card 488
1061ZK Qualification: general rules 488
1061ZM Qualification for health care card: employment-affected person 490
1061ZMA Further extended qualification rule: loss of payment because of employment income 493
1061ZN Residence requirement 494
1061ZNA Effect of compliance penalty periods 495

Subdivision B—Qualification for health care card in other circumstances 496
1061ZO Qualification 496

Authorised Version C2025C00595 registered 03/11/2025

1061ZP Person subject to newly arrived resident's waiting period....498
1061ZQ Newly arrived resident's waiting period....498
1061ZR Duration of newly arrived resident's waiting period....499
Subdivision C—Miscellaneous provisions relating to health care cards 500
1061ZS Issue of health care cards....500
1061ZT Certain dependants not qualified for health care card....500
Division 4—Non-cancellation of concession cards for temporary overseas absences 502
1061ZUA Persons to whom Division applies....502
1061ZUB Non-cancellation of concession cards for temporary overseas absences....502
1061ZUC Extension cards....503

Authorised Version C2025C00595 registered 03/11/2025

Chapter 2—Pensions, benefits and allowances

Part 2.11—Youth allowance

Division 1—Qualification for youth allowance

Subdivision A—Basic qualifications

540 Qualification for youth allowance—general rule

(1) Subject to this Subdivision, a person is qualified for a youth allowance in respect of a period if:

(a) throughout the period:

(i) the person is undertaking full-time study (see section 541B); or

(ii) the person is exempt from undertaking full-time study (see Subdivision C) but the person satisfies the Secretary that the person would otherwise be undertaking full-time study (see section 541B); or

(iii) the person satisfies subsection (2); and

(b) throughout the period the person is of youth allowance age (see Subdivision D); and

(d) throughout the period, the person:

(i) is an Australian resident; or

(ii) is exempt from the residence requirement within the meaning of subsection 7(7).

Note 1: Subdivision G provides for prospective qualification for youth allowance.

Note 2: Division 2 sets out situations in which youth allowance is not payable even if the person qualifies for it.

(2) A person satisfies this subsection if:

(a) the following apply:

(i) the person satisfies the employment pathway plan requirements;

Authorised Version C2025C00595 registered 03/11/2025

(ii) the person satisfies the Employment Secretary that the person is willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person;

(iii) the person is not undertaking full-time paid work for at least 35 hours per week; or

(b) the following apply:

(i) the person is, under Subdivision C of Division 2A of Part 3 of the Administration Act, not required to satisfy the employment pathway plan requirements;

(ii) the person satisfies the Employment Secretary that the person would otherwise be willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person;

(iii) the person is not undertaking full-time paid work for at least 35 hours per week.

Note 1: For ***satisfies the employment pathway plan requirements***, see subsection 23(1).

Note 2: See Division 2B of Part 3 of the Administration Act for the circumstances in which paid work is unsuitable to be done by a person.

Note 3: A person receiving youth allowance, and who receives employment services from a remote engagement program provider, may also qualify for a remote engagement program payment: see Part 2.13.

540A Qualification for youth allowance—claimants for disability support pension

General rule

(1) Subject to this Subdivision, a person is qualified for a youth allowance in respect of a period if:

(b) throughout the period, the person is of youth allowance age (see Subdivision D); and

Authorised Version C2025C00595 registered 03/11/2025

(c) the person made a claim for disability support pension at or before the start of the period and the claim was not determined before the end of the period; and

(d) the Secretary is satisfied that, throughout the period, the person suffers from a medical condition that had a significant adverse effect on the person's ability to work or study; and

(e) throughout the period, the person satisfies the residency requirements that apply to the person under Subdivision F; and

(f) the person satisfies any one of the conditions in subsection (2).

Conditions for qualification

(2) The conditions referred to in paragraph (1)(f) are:

(a) a condition that the person was an Australian resident when the significant adverse effect of the medical condition on the person's ability to work or study first occurred; and

(b) a condition that at the start of the period the person had 10 years qualifying Australian residence or had a qualifying residence exemption for a social security benefit or youth training allowance; and

(c) a condition that:

(i) the person was born outside Australia; and

(ii) when the significant adverse effect of the medical condition first occurred the person was not an Australian resident but was a dependent child of an Australian resident; and

(iii) the person became an Australian resident while a dependent child of an Australian resident.

Note 1: Subdivision G provides for prospective qualification for youth allowance.

Note 2: Division 2 sets out situations in which youth allowance is not payable even if the person qualifies for it.

Authorised Version C2025C00595 registered 03/11/2025

540AA Qualification for youth allowance—new apprentices

Subject to this Subdivision, a person is qualified for a youth allowance in respect of a period if, throughout the period:

(a) the person is a new apprentice; and

(b) the person is of youth allowance age (see Subdivision D); and

(c) the person:

(i) is an Australian resident; or

(ii) is exempt from the residence requirement within the meaning of subsection 7(7).

Note 1: Subdivision G provides for prospective qualification for youth allowance.

Note 2: Division 2 sets out situations in which youth allowance is not payable even if the person qualifies for it.

540AB Qualification for youth allowance—claimants with medical conditions affecting their capacity to work

General rule

(1) Subject to this Subdivision, a person is qualified for a youth allowance in respect of the period starting in accordance with subsection (2) and ending in accordance with subsection (3) if:

(a) the person satisfies the Secretary that throughout the period the person is unemployed; and

(b) throughout the period, the person is of youth allowance age (see Subdivision D); and

(c) the person has made a claim, or is taken to have made a claim, for youth allowance; and

(d) the person satisfies the Secretary that it is likely that the person has a permanent medical condition that would prevent the person from undertaking full-time work; and

(e) the person satisfies the Secretary that it would be unreasonable to expect the person to enter into an

Authorised Version C2025C00595 registered 03/11/2025

employment pathway plan until an assessment of the person's capacity to work has been undertaken; and

(f) throughout the period, the person:

(i) is an Australian resident; or

(ii) is exempt from the residence requirement within the meaning of subsection 7(7).

Note 1: Subdivision G provides for prospective qualification for youth allowance.

Note 2: Division 2 sets out situations in which youth allowance is not payable even if the person qualifies for it.

Period for which person is qualified

(2) The period for which the person is qualified for a youth allowance under this section starts:

(a) if the person is already receiving youth allowance when the Secretary becomes aware of the medical condition referred to in paragraph (1)(d)—when the Secretary becomes aware of the medical condition; or

(b) otherwise—when the person made, or is taken to have made, the claim for youth allowance.

(3) The period for which the person is qualified for a youth allowance under this section ends:

(a) if the person has failed to comply with a requirement to enter into a Youth Allowance Employment Pathway Plan—on the day on which the person so failed; or

(b) in any other case—when the person enters into a Youth Allowance Employment Pathway Plan.

Extending the meaning of who is unemployed

(4) The Secretary may, for the purposes of this section, treat a person as being unemployed throughout a period if:

(a) during the period, the person undertakes:

(i) paid work that, in the Secretary's opinion, is suitable for the person to undertake; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) any other activity;

as a result of which he or she would, but for this subsection, not be taken to be unemployed; and

(b) the Secretary is of the opinion that, taking into account:

(i) the nature of the work or other activity; and

(ii) the duration of the work or other activity; and

(iii) any remuneration received for the work or other activity; and

(iv) any other matters relating to the work or other activity, or to the person's circumstances, that the Secretary considers relevant;

the activity should be disregarded.

(5) However, the activity must not be or include an activity of a kind that the Secretary determines under subsection (6).

(6) The Secretary may determine, by legislative instrument, kinds of activities that are not to be taken into account for the purposes of subsection (4).

540B Qualification for youth allowance—transferee from social security pension

If:

(a) a person was receiving a social security pension; and

(b) the person claims a youth allowance within 14 days after the day on which the last instalment of the person's pension was paid; and

(c) the person becomes qualified for a youth allowance at some time during the 14 day period but after the first day of that period;

the person is taken to be qualified for a youth allowance for the whole of the 14 day period.

Authorised Version C2025C00595 registered 03/11/2025

540BA Qualification for youth allowance—coronavirus

A person is qualified for a youth allowance in respect of a period that occurs between 1 April 2021 and 30 June 2021 if:

(a) the Secretary is satisfied that the person is in quarantine or self-isolation as a result of advice from, or a requirement made by, the Commonwealth, a State or a Territory or a health professional regarding the coronavirus known as COVID-19, or is caring for an immediate family member or a member of the person's household who is in such quarantine or self-isolation, throughout the period; and

(b) the Secretary is satisfied that, as a result of the circumstance in paragraph (a), the person's working hours were reduced (including to zero); and

(c) throughout the period the person satisfies the activity test (see Subdivision B) or is not required to satisfy the activity test (see Subdivision C); and

(d) the Secretary is satisfied that:

(i) the person is not entitled to receive a leave payment in respect of the period; or

(ii) the person has taken reasonable steps to access any leave payment to which the person may be entitled in respect of the period; or

(iii) the person is receiving a leave payment in respect of the period but, as a result of the adverse economic effects of the coronavirus known as COVID-19, the payment is less than it would otherwise have been; or

(iv) the person is receiving a leave payment in respect of the period, but the total amount of the leave payment in the period is less than the amount of youth allowance that would be payable to the person in the period if the person's claim were granted; and

(e) throughout the period the person is of youth allowance age (see Subdivision D); and

(f) throughout the period the person:

(i) is an Australian resident; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) is exempt from the residence requirement within the meaning of subsection 7(7).

540C Qualification for youth allowance may continue to end of payment period

If:

(a) a person is receiving a youth allowance; and

(b) apart from this section, the person would cease on a particular day to be qualified for the allowance because the person has attained the maximum age for youth allowance; and

(c) the day falls in, but is not the last day of, a period for which an instalment of youth allowance is payable to the person;

the person continues to be qualified for the allowance until the end of that period.

Subdivision B—Undertaking full-time study

541B Undertaking full-time study

General

(1) For the purposes of this Act, a person is undertaking full-time study if:

(a) the person:

(i) is enrolled in a course of education at an educational institution; or

(ii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to re-enrol in the course when re-enrolments in the course are next accepted; or

(iii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to enrol in another course of education (at the same or a different educational

Authorised Version C2025C00595 registered 03/11/2025

institution) when enrolments in the other course are next accepted; and

(b) the person:

(i) is undertaking in the particular study period (such as, for example, a semester) for which he or she is enrolled for the course; or

(ii) intends to undertake in the next study period for which he or she intends to enrol for the course;

either:

(iii) in a case to which subsection (1A) does not apply—at least three-quarters of the normal amount of full-time study in respect of the course for that period (see subsections (2) to (4)); or

(iv) in a case to which subsection (1A) applies—at least two-thirds of the normal amount of full-time study in respect of the course for that period (see subsections (2) to (4)); and

(c) the course in question is an approved course of education or study (see subsection (5)); and

(ca) if the course is an accelerator program course or a combined course that includes an accelerator program course—the person is entitled to STARTUP-HELP assistance for the accelerator program course; and

(d) if the course is a combined course or a course other than an accelerator program course—in the Secretary's opinion, the person is making satisfactory progress towards completing the course.

Note 1: Only one course of education can be considered in deciding if a person satisfies the undertaking full-time study requirement: see section 541C.

Note 2: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

Authorised Version C2025C00595 registered 03/11/2025

When two-thirds study load applies

(1A) This subsection applies for the purposes of subparagraph (1)(b)(iv) if the person cannot undertake the normal amount of full-time study in respect of the course for that period:

(a) because of the usual requirements of the institution in question in respect of the course; or

(b) because of a specific direction in writing to the student from the academic registrar, or an equivalent officer, of the institution in question; or

(c) because the academic registrar, or an equivalent officer, of the institution in question recommends in writing that the person undertake the amount of study mentioned in subparagraph (1)(b)(iv) in respect of the course for specified academic or vocational reasons.

Paragraph (c) applies for no longer than half of the academic year.

Meaning of normal amount of full-time study

(2) For the purposes of paragraph (1)(b), the normal amount of full-time study in respect of a course is:

(a) if:

(i) the course is a course of study within the meaning of the *Higher Education Support Act 2003*; and

(ii) there are Commonwealth supported students (within the meaning of that Act) enrolled in the course;

the full-time student load for the course; or

(b) if the course is not such a course and the institution defines an amount of full-time study that a full-time student should typically undertake in respect of the course—the amount so defined; or

(c) otherwise—an amount of full-time study equivalent to the average amount of full-time study that a person would have to undertake for the duration of the course in order to complete the course in the minimum amount of time needed to complete it.

Authorised Version C2025C00595 registered 03/11/2025

Alternative meaning of normal amount of full-time study

(3) For the purposes of paragraph (1)(b), and without limiting subsection (2), the normal amount of full-time study in respect of a course is an average, taken over the duration of the period for which the person in question is enrolled in the course, of 20 contact hours per week.

Meaning of satisfactory progress

(3A) In forming an opinion about whether a person is making satisfactory progress for the purpose of paragraph (1)(d), the Secretary is to have regard to the guidelines.

(3B) The Minister, by legislative instrument:

(a) is to set guidelines for the exercise of the Secretary's discretion under subsection (3A); and

(b) may revoke or vary those guidelines.

First fortnight of classes

(4) For the purposes of paragraph (1)(b), a person is taken to be undertaking full-time study in respect of a course during the period (the ***relevant period***):

(a) starting on the first day of classes in a study period; and

(b) ending on the Friday of the second week of classes in the study period;

if the person is enrolled in the course and undertakes study in respect of the course on at least one day in the relevant period.

Meaning of approved course of education or study

(5) For the purposes of paragraph (1)(c), the course is an approved course of education or study if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course or a tertiary course for the purposes of that Act.

Authorised Version C2025C00595 registered 03/11/2025

541C One course of education

(1) Whether subparagraph 541B(1)(a)(i) or (ii) and paragraphs 541B(1)(b), (c) and (d) are satisfied in relation to a person is to be determined in relation to only one course of education.

(2) Whether a person satisfies the Secretary of the person's intention mentioned in subparagraph 541B(1)(a)(iii) and whether paragraphs 541B(1)(b), (c) and (d) are satisfied in relation to the person is to be determined in relation to only one course of education.

Note 1: The effect of this section is that 2 or more courses of education for a person cannot be aggregated to satisfy the undertaking full-time study requirement.

Note 2: The one course of education may be a combined course: see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

Subdivision C—Exemptions from undertaking full-time study

542 Situations in which a person is exempt from undertaking full-time study

For the purposes of this Part, a person is exempt from undertaking full-time study in respect of a period if, throughout the period:

(a) the person has a temporary incapacity exemption under section 542A; or

(b) the person has a pre-natal exemption or a post-natal exemption under section 542D; or

(ca) the person has a death of partner exemption under section 542EA; or

(d) the person has a domestic violence or other special family circumstances exemption under section 542F; or

(da) the person has a disabled children or other family circumstances exemption under section 542FA; or

(e) the person has a training camp exemption under section 542G; or

Authorised Version C2025C00595 registered 03/11/2025

(f) the person has a special circumstances exemption under section 542H.

542A Temporary incapacity exemption

General

(1) Subject to subsection (2) of this section and sections 542B and 542C, a person has a temporary incapacity exemption if:

(a) throughout the period the person does not have the capacity to undertake the course of education in respect of which the person is undertaking full-time study because of sickness or an accident; and

(b) the incapacity is caused wholly, or virtually wholly, by a medical condition arising from the sickness or accident; and

(c) the incapacity is, or is likely to be, of a temporary nature; and

(d) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner, in a form approved by the Secretary, stating:

(i) the medical practitioner's diagnosis; and

(ii) the medical practitioner's prognosis; and

(iii) that the person is incapacitated for study; and

(iv) the period for which the person is incapacitated for study; and

(e) the Secretary is satisfied that the incapacity has not been brought about with a view to obtaining an exemption from undertaking full-time study.

(1AA) Subsection (1) does not apply to sickness, or an accident, wholly or predominantly attributable to the person's dependence on alcohol or another drug, unless the person is a declared program participant, a new apprentice or undertaking full-time study.

(1A) The Secretary must comply with the guidelines (if any) determined and in force under subsection (1B) in deciding whether paragraph (1)(b) or (c) applies to a person in respect of a period.

Authorised Version C2025C00595 registered 03/11/2025

(1B) The Minister may, by legislative instrument, determine guidelines to be complied with by the Secretary in making a decision referred to in subsection (1A).

Claimants for disability support pension

(2) This section does not apply to a person who is qualified for a youth allowance under section 540A.

542B Failure to attend interview etc. may result in cessation of temporary incapacity exemption

General

(1) A person ceases to have a temporary incapacity exemption if:

(a) the Secretary is of the opinion that the person should:

(i) contact a particular officer of the Department; or

(ii) attend an interview at a particular place; or

(iii) complete a questionnaire; or

(iv) attend a medical, psychiatric or psychological examination; and

(b) the Secretary gives the person a written notice stating that the person is required, within a period stated in the notice, being a period of not less than 14 days, to:

(i) contact the officer; or

(ii) attend the interview; or

(iii) complete the questionnaire; or

(iv) attend the examination; or

(v) if the person has undergone an examination—give the Secretary a report on the examination in the approved form; and

(c) the Secretary is satisfied that it is reasonable for this section to apply to the person; and

(d) the person does not comply with the requirement.

Authorised Version C2025C00595 registered 03/11/2025

Contents of notice

(2) A notice under paragraph (1)(b) must inform the person to whom it is given of the effect of failure by the person to comply with the requirement set out in the notice.

542C Time limit for temporary incapacity exemptions—maximum exemption period

General

(1) A person ceases to have a temporary incapacity exemption if the person's maximum exemption period ends.

Maximum exemption period

(2) Subject to this section, a person's maximum exemption period is:
  (a) if the person has, whether before or after the commencement of this section, given the Secretary a medical certificate for the purpose of enabling the Secretary to decide whether the person was exempt from undertaking full-time study—the lesser of the following periods:
    (i) the period stated in the certificate as the period for which the person would be incapacitated for study;
    (ii) the period of 13 weeks that started or starts on the first day of the period so stated in the certificate; or
  (b) otherwise—the period of 4 weeks that started or starts on the day determined by the Secretary to have been the day on which the person's incapacity for study began.

Extension where paragraph 542A(1)(d) certificate given

(3) If:
  (a) a person has a temporary incapacity exemption; and
  (b) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner that states the matters listed in

Authorised Version C2025C00595 registered 03/11/2025

paragraph 542A(1)(d) and is in accordance with the form approved under that paragraph; and

(c) the Secretary is satisfied that the person's incapacity for study will continue after the end of the person's maximum exemption period;

the Secretary may extend the person's maximum exemption period by a period that is not more than the lesser of the following periods:

(d) a period equal to the period stated in the certificate as the period for which the person would be incapacitated for study;

(e) 13 weeks.

Extension where paragraph 542A(1)(d) certificate given after end of maximum exemption period

(4) If:

(a) a person had a temporary incapacity exemption; and

(b) within 14 days after the end of the person's maximum exemption period, the person gives the Secretary a certificate of a medical practitioner that states the matters listed in paragraph 542A(1)(d) and is in accordance with the form approved under that paragraph; and

(c) the Secretary is satisfied that the person's incapacity for study has continued after the end of the person's maximum exemption period and that the incapacity will continue;

the Secretary may extend the maximum exemption period by a period of not more than the lesser of the following periods:

(d) a period equal to the period stated in the certificate as the period for which the person would be incapacitated for study;

(e) 13 weeks.

Extension where other written evidence given

(5) If:

(a) a person has a temporary incapacity exemption; and

(b) the person gives the Secretary written evidence (other than a certificate referred to in paragraph (3)(b)) that the person's

Authorised Version C2025C00595 registered 03/11/2025

incapacity for study will continue after the end of the person's maximum exemption period; and

(c) the Secretary is satisfied that:

(i) the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in paragraph (3)(b) before the end of the maximum exemption period; and

(ii) the person's incapacity for study will continue after the end of the person's maximum exemption period;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

Extension where other written evidence given after end of maximum exemption period

(6) If:

(a) a person had a temporary incapacity exemption; and

(b) within 14 days after the end of the person's maximum exemption period, the person gives the Secretary written evidence (other than a certificate referred to in paragraph (4)(b)) that the person's incapacity for study will continue after the end of the person's maximum exemption period; and

(c) the Secretary is satisfied that:

(i) the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in paragraph (4)(b); and

(ii) the person's incapacity for study has continued after the end of the person's maximum exemption period and that the incapacity will continue;

the Secretary may extend the maximum exemption period by a period of not more than 4 weeks from the end of the previous maximum exemption period.

Authorised Version C2025C00595 registered 03/11/2025

Extension where paragraph 542A(1)(d) certificate not considered in a timely manner

(7) If:

(a) a person has a temporary incapacity exemption; and

(b) the person has, whether before or after the commencement of this section, given the Secretary a certificate referred to in paragraph (3)(b) before the end of the person's maximum exemption period; and

(c) before the end of the person's maximum exemption period, the Secretary does not satisfy himself or herself that the person's incapacity for study will continue after the end of that period; and

(d) the sole or dominant cause of the Secretary failing so to satisfy himself or herself is an act or omission of an officer of the Department;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

542D Pre-natal and post-natal exemptions

Pre-natal exemption

(1) A pregnant woman has a pre-natal exemption for the period that starts 6 weeks before the woman's expected date of confinement and ends on the day on which the woman gives birth to the child (whether or not the child is born alive).

Post-natal exemption

(2) If a woman gives birth to a child (whether or not the child is born alive), the woman has a post-natal exemption for the period that starts on the day on which she gives birth to the child and ends 6 weeks after that day.

Authorised Version C2025C00595 registered 03/11/2025

542EA Exemption from undertaking full-time study—death of person's partner

Claimants

(1) If:

(a) a person makes a claim for youth allowance on or after the commencement of this section; and

(b) the person makes the claim after the death of the person's partner on or after the commencement of this section; and

(c) if the person is a man or a woman who was not pregnant when her partner died—the person makes the claim in the period of 14 weeks starting on the day of the death of the partner; and

(d) if the person is a woman who was pregnant when her partner died—the person makes the claim:

(i) in the period of 14 weeks starting on the day of the death of the partner; or

(ii) in the period starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

whichever ends later;

then the person has a death of partner exemption in respect of the period applicable under paragraph (c) or (d).

Recipients

(2) If:

(a) a person is receiving youth allowance on or after the commencement of this section; and

(b) while the person is receiving youth allowance, the person's partner dies on or after the commencement of this section; and

(c) if the person is a man or a woman who was not pregnant when her partner died—the person notifies the Secretary of the person's partner's death in the period of 14 weeks starting on the day of the death of the partner; and

Authorised Version C2025C00595 registered 03/11/2025

(d) if the person is a woman who was pregnant when her partner died—the person notifies the Secretary of the person's partner's death:

(i) in the period of 14 weeks starting on the day of the death of the partner; or

(ii) in the period starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

whichever ends later; and

(e) the person is receiving youth allowance on the day of the notification;

then the person has a death of partner exemption in respect of the period applicable under paragraph (c) or (d).

542F Domestic violence or other special family circumstances exemption

General

(1) A person has a domestic violence or other special family circumstances exemption in respect of a period that the Secretary determines under this section in relation to the person.

Circumstances in which a determination may be made

(2) The Secretary may make a determination under this section in relation to the person if the Secretary is satisfied that:

(a) the person:

(i) is the principal carer of one or more children; and

(ii) was subjected to domestic violence in the 26 weeks before the making of the determination; or

(b) the person is the principal carer of one or more children, and there are special circumstances relating to the person's family that make it appropriate to make the determination.

Note: For ***principal carer*** see subsections 5(15) to (24).

Authorised Version C2025C00595 registered 03/11/2025

(2A) The Secretary must, by legislative instrument, specify matters that the Secretary must take into account in deciding whether there are special circumstances relating to a person's family that make it appropriate to make a determination under this section.

(2B) To avoid doubt, an instrument made under subsection (2A) does not limit the matters that the Secretary may take into account in making a determination under subsection (2).

Duration of period

(3) The period that the Secretary determines under this section must be the lesser of:
  (a) the period that the Secretary considers to be appropriate; or
  (b) 16 weeks.

(4) Any such period may be followed by one or more other periods (not exceeding 16 weeks) determined under this section in relation to the person.

(5) The period that the Secretary determines under this section must, despite subsection (3), be 16 weeks if the determination:
  (a) is made on grounds referred to in paragraph (2)(a) (or on grounds that include those grounds); and
  (b) is the first determination made on those grounds (or on grounds that include those grounds) in relation to the person on or after 1 July 2010.

Revocation of determination

(6) The Secretary may revoke a determination under this section in relation to a person if the Secretary is satisfied that the grounds on which the determination was made no longer exist.

(7) Subsection (6) does not affect any operation that subsection 33(3) of the *Acts Interpretation Act 1901* has in relation to a determination under this section.

Authorised Version C2025C00595 registered 03/11/2025

542FA Disabled children or other family circumstances exemption

General

(1) A person has a disabled children or other family circumstances exemption in respect of a period that the Secretary determines under this section in relation to the person.

Circumstances in which a determination may be made

(2) The Secretary may make a determination under this section in relation to the person if the Secretary is satisfied that the person is the principal carer of one or more children:
  (a) who suffer from a physical, intellectual or psychiatric disability or illness; and
  (b) whose care needs are such that the person should, for the period specified in the determination, be exempt from undertaking full-time study.

Note: For ***principal carer*** see subsections 5(15) to (24).

(3) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that the person is the principal carer of one or more children, and that:
  (a) the person is a registered and active foster carer; or
  (b) the person is a home educator of that child, or one or more of those children; or
  (c) the person is a distance educator of that child, or one or more of those children; or
  (d) under a family law order that the person is complying with, a child, of whom the person is a relative (other than a parent), is to live with the person.

Note 1: For ***principal carer*** see subsections 5(15) to (24).

Note 2: For ***registered and active foster carer*** see section 5B.

Note 3: For ***home educator*** see section 5C.

Note 4: For ***distance educator*** see section 5D.

Note 5: For ***family law order*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

Note 6: For ***relative (other than a parent)*** see section 5E.

(3A) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that:

(a) the person is the principal carer of a child; and

(b) the person is one or both of the following:

(i) the principal carer of one or more other children;

(ii) the main supporter of one or more secondary pupil children; and

(c) there are 4 or more of the children of whom the person is the principal carer or main supporter.

Note 1: For ***principal carer*** see subsections 5(15) to (24).

Note 2: For ***main supporter*** see section 5G.

Note 3: For ***secondary pupil child*** see section 5F.

(3B) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that the person:

(a) is not the principal carer of one or more children; and

(b) is a registered and active foster carer; and

(c) is providing foster care to a child temporarily in an emergency or to give respite to another person from caring for the child.

Note 1: For ***principal carer*** see subsections 5(15) to (24).

Note 2: For ***registered and active foster carer*** see section 5B.

(3C) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that the person:

(a) is the main supporter of one or more secondary pupil children; and

(b) is a home educator or distance educator of one or more of those children.

Note 1: For ***main supporter*** see section 5G.

Note 2: For ***secondary pupil child*** see section 5F.

Note 3: For ***home educator*** see section 5C.

Note 4: For ***distance educator*** see section 5D.

Authorised Version C2025C00595 registered 03/11/2025

(3D) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that:

(a) the person is the principal carer of one or more children; and

(b) the person is a relative (other than a parent) of a child (the ***kin child***); and

(c) there is a document that:

(i) provides for the kin child to live with the person for the care and wellbeing of the kin child; and

(ii) is prepared or accepted by an authority of a State or Territory that has responsibility for the wellbeing of children; and

(d) the person is acting in accordance with the document.

Note 1: For ***principal carer*** see subsections 5(15) to (24).

Note 2: For ***relative (other than a parent)*** see section 5E.

(4) The Secretary may make a determination under this section in relation to the person if the Secretary is satisfied that:

(a) the person is a person included in a class of persons specified under subsection (5); and

(b) the person's circumstances are such that the person should be exempt from undertaking full-time study for the period.

(5) The Secretary may, by legislative instrument, specify classes of persons in respect of whom determinations under this section may be made.

Duration of period

(6) The period that the Secretary determines under this section, except subsection (3B), must be the lesser of:

(a) the period that the Secretary considers to be appropriate; or

(b) 12 months.

(6A) The period that the Secretary determines under subsection (3B) in relation to the person must be the lesser of:

(a) the period:

Authorised Version C2025C00595 registered 03/11/2025

(i) starting when the person starts to provide foster care to the child; and

(ii) ending 12 weeks, or a shorter period determined by the Secretary, after the person ceases to provide foster care to the child; and

(b) 12 months.

(7) A period determined by the Secretary under this section in relation to the person may be followed by one or more other periods (not exceeding 12 months) determined under this section in relation to the person.

Revocation of determination

(8) The Secretary may revoke a determination under this section in relation to a person if the Secretary is satisfied that the grounds on which the determination was made no longer exist.

(9) Subsection (8) does not affect any operation that subsection 33(3) of the *Acts Interpretation Act 1901* has in relation to a determination under this section.

542G Training camp exemption

A person has a ***training camp exemption*** if the person is attending a training camp as a member of:

(a) the Naval Reserve; or

(b) the Army Reserve; or

(c) the Air Force Reserve.

542H Special circumstances exemption

General

(1) Subject to subsections (2) and (3), a person has a special circumstances exemption in respect of a period if:

(a) the Secretary is satisfied that special circumstances, beyond the person's control, exist; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the Secretary is satisfied that in those circumstances it would be unreasonable to expect the person to undertake full-time study for that period.

(1AA) Subsection (1) does not apply to circumstances wholly or predominantly attributable to the person's misuse of alcohol or another drug, unless the person is a declared program participant, a new apprentice or undertaking full-time study.

Meaning of special circumstances

(1A) In making a decision under subsection (1), the Secretary is to have regard to the guidelines.

(1B) The Minister, by legislative instrument:

(a) is to set guidelines for the exercise of the Secretary's discretion under subsection (1A); and

(b) may revoke or vary those guidelines.

Duration of period

(2) The period referred to in subsection (1) is not to be more than 13 weeks.

Duration where a number of determinations made

(3) If:

(a) the Secretary makes more than one decision under subsection (1) or under subsection 731E(1); and

(b) the periods to which the decisions relate form a continuous period;

the continuous period is not to be more than 13 weeks, unless the Secretary decides otherwise, having regard to the continued existence, or likely continued existence, of the special circumstances on which the last preceding decision was based.

Authorised Version C2025C00595 registered 03/11/2025

Subdivision D—Youth allowance age

543 Youth allowance age

For the purposes of this Part, a person is of youth allowance age if the person:

(a) has attained the minimum age for youth allowance (see section 543A); and

(b) has not yet attained the maximum age for youth allowance (see section 543B).

543A Minimum age for youth allowance

General

(1) Subject to this section, the person has attained the minimum age for youth allowance if the person:

(a) is at least 16 years old; or

(b) is 15 years old and is independent.

Note: For ***independent*** see section 1067A.

(2) Subject to subsections (2AA), (2A) and (2B), a person who satisfies paragraph (1)(a) or (b) but is not yet 18 years old is not taken under subsection (1) to have attained the minimum age for youth allowance unless the person:

(a) has completed the final year of secondary school, or an equivalent level of education; or

(b) is undertaking full-time study; or

(c) has entered into or agreed to enter into an employment pathway plan; or

(d) is a new apprentice.

(2AA) Paragraph (2)(b) does not apply to a person who is aged 16 or 17 and who is undertaking full-time study in respect of a secondary course at a secondary school (within the meaning of the *Student Assistance Act 1973*) or at a TAFE institution unless:

(a) the person is independent (see section 1067A); or

Authorised Version C2025C00595 registered 03/11/2025

(b) the person is taken by section 1067D to be required to live away from home; or

(c) the person was receiving youth allowance immediately before starting that course; or

(d) the Secretary determines that the person is not benefiting from family tax benefit that is being paid to the person's parents.

(2AB) For the purposes of subsection (2AA), a ***secondary course*** is a course that is determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act.

(2A) Subject to subsection (2B), subsection (2) does not apply to the person if the Secretary considers that the person does not have the capacity to undertake full-time study or training because he or she:

(a) is ill or has had an accident and the incapacity is, or is likely to be, of a temporary nature; or

(b) has a physical, psychiatric or intellectual disability, or a learning difficulty such as attention deficit disorder; or

(c) is pregnant and the expected date of confinement is within 6 weeks; or

(d) has given birth within the previous 6 weeks; or

(f) has been refused enrolment and no other education or training place is available within a reasonable distance; or

(g) is required to provide full-time care for a family member who is incapacitated due to illness or accident and the incapacity is, or is likely to be, of a temporary nature; or

(h) has suffered a personal crisis such as the death of an immediate family member, a marriage breakup, family dislocation or physical, emotional or sexual abuse; or

(i) is homeless and unable to obtain stable accommodation; or

(j) has suffered a major disruption of their home such as fire damage, flooding, earthquake damage, vandalism or burglary; or

Authorised Version C2025C00595 registered 03/11/2025

(k) suffers from alcohol or drug abuse sufficient to cause intermittent or temporary absences from full-time study or training; or

(l) is engaged in part-time work, education, training or a combination of these for not less than 25 hours per week; or

(m) is a refugee whose capacity to undertake full-time education is reduced because:

(i) the person has suffered torture, imprisonment or other traumatic circumstances; or

(ii) lacks sufficient English skills; or

(iii) is recently arrived and lacks stable accommodation; or

(n) is the subject of a community service or juvenile justice order which reduces the person's capacity to engage in full-time education; or

(p) is receiving Commonwealth funded intensive assistance for jobseekers or State, Territory or community provided case management approved by the Secretary or, where no intensive assistance or case management place is available to the person, is suitable for and agrees to undertake intensive assistance or case management; or

(q) is in other circumstances which, in the opinion of the Secretary, make it unreasonable for the person to be in full-time education or training.

(2B) If the following circumstances exist in relation to the person in respect of a period (the ***qualifying period***):

(a) except for paragraph 540(1)(b), the person would be qualified for a youth allowance in respect of the qualifying period;

(b) the person is taken to have attained the minimum age for youth allowance in respect of the qualifying period only because one or more of the grounds (the ***precluding grounds***) referred to in subsection (2A) preclude subsection (2) from applying to the person;

the person is qualified for youth allowance under section 540 only in respect of so much of the qualifying period as does not exceed:

Authorised Version C2025C00595 registered 03/11/2025

(c) if the only precluding ground is the ground referred to in paragraph (2A)(c) or (d)—6 weeks; or

(d) if the only precluding ground is the ground referred to in paragraph (2A)(h) or (j)—2 weeks; or

(e) if the only precluding ground is the ground referred to in paragraph (2A)(l)—the period for which the work, education or training lasts; or

(f) if the only precluding grounds are 2 or more of the grounds referred to in paragraphs (2A)(c), (d), (h), (j) and (l)—the longer or longest period prescribed by paragraphs (c), (d) and (e) of this subsection in relation to those precluding grounds; or

(g) otherwise—13 weeks or such longer period as the Secretary approves.

Independent persons

(3) For the purposes of this section, the person cannot be taken to be independent unless the person:

(a) has reached the minimum school leaving age for the State or Territory in which the person is living; or

(b) is the subject of a formal exemption from attending school granted by the education authority of that State or Territory.

543B Maximum age for youth allowance

General

(1) Subject to subsection (2), the person has attained the maximum age for youth allowance if:

(a) the person is not undertaking full-time study and is at least 22 years old; or

(b) the person:

(i) is undertaking full-time study in respect of a course of education that is to last for less than 12 months; and

(ii) was, immediately before starting the course of education, receiving jobseeker payment; and

Authorised Version C2025C00595 registered 03/11/2025

(iii) is at least 22 years old; or

(c) the person is undertaking full-time study and is at least 25 years old; or

(d) the person is not a new apprentice and is at least 22 years old; or

(e) the person is a new apprentice and is at least 25 years old.

Continuance of full-time study after turning 25

(2) If the person is at least 25 years old, the person is taken not to have attained the maximum age for youth allowance if the person:

(a) was receiving youth allowance immediately before turning 25; and

(b) is either:

(i) undertaking full-time study in respect of a course of education that the person had commenced before turning 25; or

(ii) a new apprentice and became a new apprentice before turning 25.

Subdivision G—Miscellaneous

546 Prospective determinations for some allowance recipients

Recipients may qualify in advance in some cases

(1) A person is qualified for youth allowance for a period determined by the Secretary if:

(a) the person is receiving youth allowance; and

(b) the Secretary considers at the start of the period that:

(i) the person may reasonably be expected to satisfy the qualification requirements for youth allowance (see Subdivision A) during the period; and

(ii) it is reasonable to expect that youth allowance will be payable to the person for the period; and

(iii) the person will comply with this Act during the period; and

Authorised Version C2025C00595 registered 03/11/2025

(c) the person is not indebted at the start of the period to the Commonwealth under or as a result of:
  (i) this Act; or
  (ii) the *Student Assistance Act 1973* as in force immediately before the commencement of this section; and
(d) the Secretary is satisfied that the person should be qualified under this section for youth allowance for the period.

(2) The Minister, by legislative instrument:
(a) must determine guidelines for making decisions under paragraph (1)(b); and
(b) may revoke or vary the determination.

If the Minister revokes a determination, the Minister must determine guidelines that commence immediately after the revocation.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Situations in which youth allowance is not payable

Subdivision A—Situations in which allowance not payable (general)

547 Youth allowance not payable if allowance rate nil

(1) Subject to subsection (2), a youth allowance is not payable to a person if the person's youth allowance rate would be nil.

(2) Subsection (1) does not apply to a person if the person's rate would be nil merely because:

(a) an election by the person under subsection 915A(1) (about quarterly energy supplement) is in force; or

(b) an advance pharmaceutical allowance has been paid to the person under the social security law.

547AA Youth allowance not payable if person fails to attend interview etc. in certain circumstances

General

(1) A youth allowance is not payable to a person if:

(a) before or after the person made a claim for a youth allowance, the Department is contacted by or on behalf of the person in relation to a claim for a youth allowance; and

(b) as a result of the contact, the Department required the person to do one or both of the following:

(i) attend an interview with a specified person or organisation at a time and place specified in the requirement;

(ii) enter into an employment pathway plan; and

(c) the person fails to comply with that requirement, or those requirements; and

Authorised Version C2025C00595 registered 03/11/2025

(d) the person is not undertaking full-time study and is not a new apprentice.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

Secretary may decide that this section does not apply

(2) This section does not apply to a person if the Secretary is satisfied, in accordance with any guidelines under subsection (3), that it should not apply to the person.

(3) The Secretary may, by legislative instrument, make guidelines to be complied with in deciding under subsection (2) whether this section applies to a person.

When this section ceases to apply

(4) This section ceases to apply:

(a) when the person complies with:

(i) that requirement, or those requirements; or

(ii) any requirements that the Secretary has required the person to undertake in place of that requirement, or those requirements; or

(b) at such earlier time as the Secretary determines, in accordance with any guidelines under subsection (5).

(5) The Secretary may, by legislative instrument, make guidelines to be complied with in making determinations under paragraph (4)(b).

This section is unaffected by date of claim

(6) To avoid doubt, the fact that a person is taken, because of section 13 of the Administration Act, to have made a claim for a youth allowance on the day on which the Department was contacted by or on behalf of the person in relation to the claim does not affect the operation of this section.

Authorised Version C2025C00595 registered 03/11/2025

547AB Situations where allowance not payable for failure to comply with certain requirements

A youth allowance is not payable to a person if the person refuses or fails, without reasonable excuse, to comply with a requirement made of the person under section 67, 68 or 192 of the Administration Act.

Subdivision AB—Assets test

547A Allowance not payable if assets value limit exceeded

A youth allowance is not payable to a person if:

(a) the person is not excluded from the application of the youth allowance assets test; and

(b) the value of the person's assets is more than the person's assets value limit.

Note 1: For persons excluded from application of test see section 547B.

Note 2: For ***assets value limit*** see section 547C.

547B Who is excluded from application of assets test?

A person is excluded from the application of the youth allowance assets test if the person is not independent.

547C Assets value limit

A person's ***assets value limit*** is:

(b) $250,000 if the person:

(ii) is not a member of a couple (see section 4); and

(iii) is a homeowner; or

(c) $450,000 if the person:

(ii) is not a member of a couple; and

(iii) is not a homeowner; or

(d) $375,000 if the person:

Authorised Version C2025C00595 registered 03/11/2025

(ii) is a member of a couple; and
(iii) is a homeowner; or

(e) $575,000 if the person:
(ii) is a member of a couple; and
(iii) is not a homeowner.

Note 1: For ***homeowner*** see subsection 11(4).

Note 2: The amounts in paragraphs (b), (c), (d) and (e) are indexed annually on 1 July (see sections 1191 to 1194).

547D Value of person's assets to include value of assets of partner in certain circumstances

The value of a person's assets is the sum of the following values:
(a) the value of the person's assets (disregarding paragraph (b));
(b) if the person is a member of a couple (see section 4)—the value of the assets of the person's partner.

Subdivision C—Waiting periods

549 Waiting periods

(1) A youth allowance is not payable to a person who is qualified for youth allowance while the person is subject to a waiting period.

(2) For the purposes of this Part, a person may be subject to the following waiting periods:
(a) a liquid assets test waiting period (see sections 549A, 549B and 549C);
(aa) an ordinary waiting period (see sections 549CA and 549CB);
(b) a newly-arrived resident's waiting period (see sections 549D and 549E).

549A Liquid assets test waiting period

When person subject to liquid assets test waiting period—general

(1) Subject to this section, if:

Authorised Version C2025C00595 registered 03/11/2025

(a) the value of a person's liquid assets is more than the person's maximum reserve on:

(i) the day on which the person becomes qualified for youth allowance; or

(ii) the day on which the person claims a youth allowance; and

(b) the person is not a transferee to a youth allowance;

the person is subject to a liquid assets test waiting period.

Note: For ***liquid assets*** and ***maximum reserve*** see section 14A.

Exception—person already subject to liquid assets test waiting period in previous 12 months

(2) Subsection (1) does not apply to a person if, at any time during the 12 months before:

(a) the day on which the person becomes qualified for youth allowance; or

(b) the day on which the person claims youth allowance;

the person:

(c) was subject to a liquid assets test waiting period under this Part and that period has ended; or

(d) has served a liquid assets test waiting period under another Part of this Act;

that started during that 12 months.

Exception—waiver for hardship

(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while serving a liquid assets test waiting period, the Secretary may determine that the person does not have to serve the whole, or any part, of the waiting period.

Note 1: For ***in severe financial hardship*** see subsections 19C(2) (person who is not a member of a couple) and 19C(3) (person who is a member of a couple).

Note 2: For ***unavoidable or reasonable expenditure*** see subsection 19C(4).

Authorised Version C2025C00595 registered 03/11/2025

Exception—certain transferees to youth allowance

(4) Subsection (1) does not apply to a person if:
  (a) the person is a transferee to a youth allowance; and
  (b) the person claims the youth allowance within 14 days of the transfer day.

Exemption—person undertaking specified activity

(5) Subsection (1) does not apply to a person who:
  (a) is undertaking an activity specified in an instrument made under subsection (6); and
  (b) has been exempted from the application of subsection (1) by the Secretary.

(6) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (5)(a).

Exception—death of person's partner

(7) Subsection (1) does not apply to a person if:
  (a) the person makes a claim for youth allowance on or after the commencement of this subsection; and
  (b) the person makes the claim after the death of the person's partner on or after the commencement of this subsection; and
  (c) if the person is a man or a woman who was not pregnant when her partner died—the person makes the claim in the period of 14 weeks starting on the day of the death of the partner; and
  (d) if the person is a woman who was pregnant when her partner died—the person makes the claim:
    (i) in the period of 14 weeks starting on the day of the death of the partner; or
    (ii) in the period starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

  whichever ends later.

Authorised Version C2025C00595 registered 03/11/2025

549B Start of liquid assets test waiting period

General

(1) The liquid assets test waiting period of a person who does not have a temporary incapacity exemption starts on the day on which the person became qualified for youth allowance.

Person has temporary incapacity exemption

(2) If a person has a temporary incapacity exemption, the person's liquid assets test waiting period starts on the day on which the person became incapacitated.

549C Length of liquid assets test waiting period

Number of weeks

(1) A person's liquid assets test waiting period is:
  (a) if the result obtained under subsection (2) is 13 or more whole weeks—13 weeks; or
  (b) if the result obtained under subsection (2) is fewer than 13 whole weeks—the number of whole weeks obtained under that subsection.

Working out number of weeks

(2) Subject to subsection (3), the number of weeks is worked out by using the following formula:

$$\frac{\text{Liquid assets} - \text{Maximum reserve amount}}{\text{Divisor}}$$

where:

divisor, in relation to the person, means:
  (a) if the person is not a member of a couple and does not have a dependent child—$500; or
  (b) otherwise—$1,000.

Authorised Version C2025C00595 registered 03/11/2025

liquid assets means the person's liquid assets on the day referred to in subparagraph 549A(1)(a)(i) or (ii) (as the case requires).

maximum reserve amount means the maximum reserve in relation to the person under subsection 14A(1).

Weeks etc. to be disregarded

(3) For the purposes of subsection (2), disregard:
  (a) any weeks after the person claimed youth allowance during which the person was not qualified for youth allowance; and
  (b) any fractions of a week.

549CA Ordinary waiting period

(1) This section applies if a person is qualified for a youth allowance, where neither subparagraph 540(1)(a)(i) (about full-time study) nor section 540AA (about new apprentices) applies.

(2) Subject to subsections (3), (5) and (6), the person is subject to an ordinary waiting period unless:
  (a) at some time in the 13 weeks immediately before the person's start day (worked out disregarding clauses 4A and 5 of Schedule 2 to the Administration Act), the person received an income support payment; or
  (b) the Secretary is satisfied that the person is experiencing a personal financial crisis; or
  (c) on the day before the day the person qualified for the youth allowance mentioned in subsection (1), the person was qualified for a youth allowance where subparagraph 540(1)(a)(i) or section 540AA applied.

Note 1: For ***income support payment*** see subsection 23(1).

Note 2: For ***experiencing a personal financial crisis*** see section 19DA.

(3) Subsection (2) does not apply to a person who:
  (a) is undertaking an activity specified in an instrument made under subsection (4); and

Authorised Version C2025C00595 registered 03/11/2025

(b) has been exempted from the application of subsection (2) by the Secretary.

(4) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (3)(a).

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

(a) the person makes a claim for youth allowance on or after the commencement of this subsection; and

(b) the person makes the claim after the death of the person's partner on or after the commencement of this subsection; and

(c) if the person is a man or a woman who was not pregnant when her partner died—the person makes the claim in the period of 14 weeks starting on the day of the death of the partner; and

(d) if the person is a woman who was pregnant when her partner died—the person makes the claim:

(i) in the period of 14 weeks starting on the day of the death of the partner; or

(ii) in the period starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

whichever ends later.

(6) If a person makes a claim for youth allowance during the period beginning on 1 April 2021 and ending at the end of 30 June 2021, then, despite subsection (2), the person is not subject to the whole of the ordinary waiting period.

549CB Duration of ordinary waiting period

(1) Subject to subsections (2) and (4), if a person is subject to an ordinary waiting period, the ordinary waiting period is the period of 7 days that starts on the person's start day (worked out disregarding clauses 4A and 5 of Schedule 2 to the Administration Act).

(2) Subject to subsection (4), if:

Authorised Version C2025C00595 registered 03/11/2025

(a) a person is subject to an ordinary waiting period; and
(b) apart from this subsection, the ordinary waiting period would be the period of 7 days that starts on the person's start day (worked out disregarding clauses 4A and 5 of Schedule 2 to the Administration Act); and
(c) that start day falls within one or more of the following periods (each of which is an ***exclusion period***) that the person is subject to:
(i) a liquid assets test waiting period;
(ii) a newly arrived resident's waiting period;
(iii) a seasonal work preclusion period;
(iv) a lump sum preclusion period under Part 3.14;
(v) an income maintenance period, where the person's rate of youth allowance on that start day would be nil;

then the ordinary waiting period is the period of 7 days that starts on the first day after all the exclusion periods have ended.

(3) If:
(a) subparagraph (2)(c)(v) applies to a person; and
(b) on a day in that income maintenance period, the person's rate of youth allowance would be greater than nil if youth allowance were payable to the person on that day;

then, for the purposes of subsection (2), that income maintenance period is taken to have ended at the end of the day before that day.

(4) If:
(a) a person qualifies for a social security payment (other than youth allowance); and
(b) because the person is subject to an ordinary waiting period relating to that payment, that payment is not payable to the person for a period starting on a particular day (the ***initial day***); and
(c) during that period the person:
(i) ceases to be qualified for that payment; and
(ii) claims youth allowance and is qualified for youth allowance, where neither subparagraph 540(1)(a)(i)

Authorised Version C2025C00595 registered 03/11/2025

(about full-time study) nor section 540AA (about new apprentices) applies;

the person's ordinary waiting period relating to that youth allowance is the period of 7 days that starts on the initial day.

Note: Ordinary waiting periods apply to parenting payment, youth allowance and jobseeker payment.

549D Newly arrived resident's waiting period

Basic rule

(1) Subject to this section, a person is subject to a newly arrived resident's waiting period if the person:

(a) has entered Australia; and

(b) has not been an Australian resident in Australia for a period of, or periods totalling, 208 weeks.

Note: For ***Australian resident*** see subsection 7(2).

Exception—qualifying residence exemption

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a youth allowance.

Note: For ***qualifying residence exemption*** in relation to youth allowance, see paragraph 7(6AA)(f).

Exception—lone parent

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

(a) is the principal carer of one or more children; and

(b) is not a member of a couple; and

(c) is not undertaking full-time study; and

(d) is not a new apprentice; and

(e) was not a lone parent at the start of the person's current period as an Australian resident.

Note 1: For ***principal carer*** see subsections 5(15) to (24).

Note 2: For ***undertaking full-time study*** see section 541B.

Authorised Version C2025C00595 registered 03/11/2025

Note 3: For ***new apprentice*** see subsection 23(1).

Note 4: For ***lone parent*** and ***current period as an Australian resident*** see subsection 23(1).

Exception—other

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for a youth allowance; or

(b) the following apply:

(i) before the person made the claim for a youth allowance, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for a youth allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(ba) the following apply:

(i) the person is undertaking full-time study or is a new apprentice;

(ii) the person is the holder of a Pacific engagement visa at the time the person made the claim for a youth allowance; or

(c) the person is an Australian citizen at the time the person made the claim for a youth allowance.

(8) For the purposes of subsection (7):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

Authorised Version C2025C00595 registered 03/11/2025

549E Length of newly arrived resident's waiting period

If a person is subject to a newly arrived resident's waiting period, the period:

(a) starts on the day the person first became an Australian resident; and

(b) ends when the person has been an Australian resident in Australia for a period of, or periods totalling, 208 weeks after that day.

Note: For ***Australian resident*** see subsection 7(2).

549F Effect of being subject to multiple waiting periods

For the avoidance of doubt, if a person is subject to 2 or more waiting periods under this Subdivision, a youth allowance is not payable to the person until all of those waiting periods have ended.

Subdivision D—Situations where allowance not payable because of youth allowance participation failure

549G Application of Subdivision

This Subdivision applies to a person only if the person is undertaking full-time study (see section 541B).

Note: If the person is not undertaking full-time study, Division 3AA or 3A of Part 3 of the Administration Act might apply.

550 Youth allowance participation failures

Meaning of youth participation failure

(1) A person commits a ***youth allowance participation failure*** if the person:

(a) fails to comply with a requirement:

(i) that was notified to the person under subsection 63(2) or (4) of the Administration Act; and

(ii) that was reasonable; and

Authorised Version C2025C00595 registered 03/11/2025

(iii) the notification of which included a statement to the effect that a failure to comply with the requirement could constitute a youth allowance participation failure; or

(b) ceases to undertake full-time study and is not exempt from undertaking full-time study (see Subdivision C of Division 1); or

(k) fails to comply with a requirement to undertake another activity referred to in paragraph 550B(1)(b).

Reasonable excuse

(2) Despite subsection (1), a failure of a kind referred to in that subsection is not a youth allowance participation failure if the person satisfies the Secretary that the person had a reasonable excuse for the failure.

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing a youth allowance participation failure.

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the youth allowance participation failure referred to in subsection (1).

Subsequent failures in the same instalment period

(3) Despite subsection (1), if a failure of a kind referred to in that subsection occurs in an instalment period of the person in which the person has already committed a youth allowance participation failure, the failure is not a youth allowance participation failure if:

(a) the instalment period is the person's first instalment period for youth allowance; or

(b) the instalment period is not the person's first instalment period for youth allowance, and:

Authorised Version C2025C00595 registered 03/11/2025

(i) the person did not commit a youth allowance participation failure in the immediately preceding instalment period of the person; or

(ii) in respect of each youth allowance participation failure that the person committed in the immediately preceding instalment period of the person, the person acted in accordance with a requirement of the Secretary notified in respect of that failure.

Failures covered by section 547AA

(4) Despite subsection (1), a failure of a kind referred to in that subsection is not a youth allowance participation failure if it results in youth allowance not being payable to the person under section 547AA.

New apprentices

(6) Subsection (1) does not apply to a failure if the person is a new apprentice.

Note: For ***new apprentice*** see subsection 23(1).

550B Allowance not payable because of youth allowance participation failure

General

(1) A youth allowance is not payable to a person, for the period starting in accordance with section 550C and ending in accordance with section 550D, if:

(a) the person commits a youth allowance participation failure; and

(b) the Secretary requires the person:

(i) to comply with the requirement, or undertake the activity, to which the youth allowance participation failure relates; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) to comply with a particular requirement, or undertake a particular activity, in place of the requirement or activity to which the failure relates;

during the participation failure instalment period for the failure, or at a particular time during that period; and

(c) the person fails to comply with the requirement.

Reasonable excuse etc.

(2) This section does not apply in relation to the failure if:

(a) the Secretary is satisfied that the person had a reasonable excuse for the failure referred to paragraph (1)(c); or

(b) the Secretary is for any other reason satisfied that subsection (1) should not apply to the failure.

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind referred to in paragraph (1)(c).

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

*Meaning of **participation failure instalment period***

(3) The ***participation failure instalment period*** for the youth allowance participation failure is the next instalment period of the person to start after the day on which the Secretary first became aware that the person committed the failure.

Failures covered by section 551

(4) This section does not apply to a youth allowance participation failure if section 551 applies to the failure.

Authorised Version C2025C00595 registered 03/11/2025

550C When the period of non-payment starts

The period for which youth allowance is not payable to the person because of section 550B is taken to have started at the start of the participation failure instalment period for the youth allowance participation failure.

550D When the period of non-payment ends

The period for which youth allowance is not payable to the person because of section 550B ends when:

(a) in accordance with a requirement of the Secretary that the person comply with the requirement, or undertake the activity, to which the youth allowance participation failure related, the person has complied with the requirement or undertaken the activity; or

(b) in accordance with a requirement of the Secretary that the person undertake another activity in place of the requirement or activity to which the youth allowance participation failure related, the person has undertaken the other activity; or

(c) in accordance with a requirement of the Secretary that the person comply with another requirement in place of the requirement or activity to which the youth allowance participation failure related, the person has complied with the other requirement.

Subdivision E—Situations where allowance not payable because of repeated failure

550E Application of Subdivision

This Subdivision applies to a person only if the person is undertaking full-time study (see section 541B).

Note: If the person is not undertaking full-time study, Division 3AA or 3A of Part 3 of the Administration Act might apply.

Authorised Version C2025C00595 registered 03/11/2025

551 Allowance not payable because of repeated failure

General

(1) A youth allowance is not payable to a person, for the period of 8 weeks starting in accordance with section 551A, if the person commits a youth allowance participation failure (the ***repeated failure***), having committed youth allowance participation failures (the ***earlier failures***) on 2 or more other occasions during the period of 12 months preceding that failure.

Reasonable excuse etc.

(2) Disregard any earlier failure that is a failure to which subsection 550B(1) does not apply because of subsection 550B(2).

(3) Subsection (1) does not apply in relation to the repeated failure if the Secretary is for any other reason satisfied that subsection (1) should not apply to the failure.

551A When the period of non-payment starts

The period for which youth allowance is not payable to the person because of subsection 551(1) is taken to start, or to have started:

(a) if the repeated failure occurs during a participation failure instalment period for an earlier failure—at the start of the participation failure instalment period for the earlier failure; or

(b) otherwise—at the start of the next instalment period of the person to start after the day on which the Secretary first became aware that the person committed the failure.

Note: For ***participation failure instalment period*** see subsection 550B(3).

Authorised Version C2025C00595 registered 03/11/2025

Subdivision F—Multiple entitlement exclusions

552 Multiple entitlement exclusions

(1) Youth allowance is not payable to a person who is qualified for youth allowance while the person is subject to a multiple entitlement exclusion.

(2) For the purposes of this Division, a person is subject to a multiple entitlement exclusion if:

(a) the person is receiving a youth allowance and another social security benefit, a social security pension, a service pension, income support supplement or a veteran payment becomes payable to the person; or

(b) a payment under a scheme referred to in section 552A has been or may be made to the person or to someone else in respect of the person; or

(c) an assurance of support applies to the person.

(3) Youth allowance is not payable to a person if:

(a) the person is an armed services widow or an armed services widower; and

(b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

Note 1: For ***armed services widow*** and ***armed services widower*** see subsection 4(1).

Note 2: For ***MRCA*** see subsection 23(1).

552A Person receiving payment under certain schemes

General

(1) Subject to subsection (2), the schemes for the purposes of paragraph 552(2)(b) are:

Authorised Version C2025C00595 registered 03/11/2025

(a) a prescribed educational scheme other than the ABSTUDY Scheme to the extent that it applies to part-time students; and

(aa) the Assistance for Isolated Children Scheme; and

(b) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; and

(c) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; and

(d) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students; and

(e) the scheme known as the Ready Reserve Education Assistance Scheme; and

(f) the scheme to provide an allowance known as the Living Away from Home Allowance.

Note: For ***prescribed educational scheme*** see section 5.

Application made under ABSTUDY Scheme

(2) If:

(a) a person is undertaking full-time study in respect of a course of education that is to last for 6 months or more; and

(b) an application is made for a payment in respect of the person under the ABSTUDY Scheme; and

(c) the person was receiving youth allowance immediately before the start of the course;

the Secretary may decide that the person is not subject to a multiple entitlement exclusion, because of subsection (1), before:

(d) the application is determined; or

(e) the end of the period of 3 weeks beginning on the day on which the course starts;

whichever happens first.

552B Assurance of support

An assurance of support applies to a person if:

Authorised Version C2025C00595 registered 03/11/2025

(a) an assurance of support is in force in respect of the person (***assuree***); and
(b) the person who gave the assurance was willing and able to provide an adequate level of support to the assuree; and
(c) it was reasonable for the assuree to accept that support.

Note: For ***assurance of support*** see subsection 23(1).

Subdivision G—Employment-related exclusions

553 Employment-related exclusions

(1) Youth allowance is not payable to a person who is qualified for youth allowance while the person is subject to an employment-related exclusion.

(2) For the purposes of this Division, a person is subject to an employment-related exclusion:
(a) if the person is not undertaking full-time study and is not a new apprentice—while one or more of sections 553A to 553C apply to the person; or
(b) if the person is undertaking full-time study or is a new apprentice—while section 553C applies to the person.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

553A Unemployment due to industrial action

Engaged in industrial action

(1) Subject to subsection (2), a person who is unemployed is subject to an employment-related exclusion unless the person satisfies the Secretary that the person's unemployment was not due to the person being, or having been, engaged in industrial action or in a series of industrial actions.

Authorised Version C2025C00595 registered 03/11/2025

Other people engaged in industrial action

(2) If:

(a) a person's unemployment was due to other people being, or having been, engaged in industrial action or in a series of industrial actions; and

(b) the people, or some of the people, were members of a trade union that was involved in the industrial action;

the person is subject to an employment-related exclusion unless the person satisfies the Secretary that the person was not a member of the trade union during the person's period of unemployment.

Length of employment-related exclusion

(3) Subject to subsection (4), the employment-related exclusion to which a person is subject under subsection (1) or (2) ends when the industrial action or series of industrial actions stop.

Industrial action etc. in breach of order, direction or injunction

(4) Where the industrial action or series of industrial actions concerned is in breach of an order, direction or injunction issued by:

(a) a prescribed State industrial authority within the meaning of the *Fair Work Act 2009*; or

(b) the Fair Work Commission or the Australian Industrial Relations Commission; or

(c) the Federal Court of Australia; or

(d) the Federal Circuit and Family Court of Australia (Division 2);

the person's employment-related exclusion under subsection (1) or (2) of this section ends 6 weeks after the day on which the industrial action or series of industrial actions stop.

Note: For ***industrial action***, ***trade union*** and ***unemployment*** see section 16.

553B Move to area of lower employment prospects

(1) Subject to subsection (1B), if the Secretary considers that a person has reduced his or her employment prospects by moving to a new

Authorised Version C2025C00595 registered 03/11/2025

place of residence without sufficient reason, the person is subject to an employment-related exclusion for a period of 26 weeks.

(1A) Subsection (1) extends to a person who makes a claim for youth allowance on or after the day on which the person moved to the new place of residence and before the end of the period referred to in that subsection.

(1B) If a person who is subject to an employment-related exclusion under subsection (1) (including that subsection as it applies by subsection (1A)) does either of the following during the period of the exclusion:

(a) moves back to the place of residence (the ***original place of residence***) the movement from which made him or her subject to the exclusion;

(b) moves to another place of residence a movement to which from the original place of residence would not have made him or her subject to the exclusion;

the period of the exclusion ends at the time of the movement back to the original place of residence or the movement to the other place of residence, as the case may be.

Exemption for person undertaking specified activity

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

(a) is undertaking an activity specified in an instrument made under subsection (2A); and

(b) has been exempted from the application of subsection (1) by the Secretary.

(2A) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (2)(a).

Sufficient reason for moving

(3) For the purposes of subsection (1), a person has a sufficient reason for moving to a new place of residence if, and only if, the person:

(a) moves to live with a family member who has already established his or her residence in that place of residence; or

Authorised Version C2025C00595 registered 03/11/2025

(b) moves to live near a family member who has already established residence in the same area; or

(c) is receiving youth allowance at the rate that applies to a person who:

(i) is not independent; and

(ii) lives at home;

and moves to accompany his or her parents who wish to establish, or have established, a place of residence; or

(d) satisfies the Secretary that the move is necessary for the purposes of treating or alleviating a disease or illness suffered by the person or by a family member; or

(e) satisfies the Secretary that the person has moved from his or her original place of residence because of an extreme circumstance which made it reasonable for the person to move to the new place of residence (for example, the person had been subjected to domestic or family violence in the original place of residence).

Note 1: For ***independent*** see section 1067A.

Note 2: For parent see subsection 5(1), paragraph (b) of the definition of ***parent***.

Note 3: For ***family member*** see subsection 23(1).

Secretary may determine when period begins

(4) The Secretary may determine in writing the day on which the period referred to in subsection (1) begins. The day may be before the day of the determination.

Living away from home

(5) A person lives away from home for the purposes of this section if he or she lives away from home for the purposes of Part 3.5.

Authorised Version C2025C00595 registered 03/11/2025

553C Seasonal workers

Application

(1) This section applies if, at any time during the 6 months immediately before the day on which a person lodges a claim for youth allowance, the person, or, if the person is a member of a couple, the person or the person's partner, has been engaged in seasonal work.

Note: For ***seasonal work*** see subsection 16A(1).

Exclusion during seasonal work preclusion period

(2) The person is subject to an employment-related exclusion:

(a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person's seasonal work preclusion period; or

(b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person's seasonal work preclusion period to which the person is subject as a result of the determination.

Note: For ***seasonal work preclusion period*** see subsection 16A(1).

Exemption in cases of severe financial hardship

(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):

(a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and

(b) the determination has effect accordingly.

Note 1: For ***in severe financial hardship*** see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Authorised Version C2025C00595 registered 03/11/2025

Note 2: For ***unavoidable or reasonable expenditure*** see subsection 19C(4).

Exemption for person undertaking specified activity

(4) Subsection (2) does not apply to a person who:
  (a) is undertaking an activity specified in an instrument made under subsection (5); and
  (b) has been exempted from the application of subsection (2) by the Secretary.

(5) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (4)(a).

Exemption for death of person's partner

(6) Subsection (2) does not apply to a person if:
  (a) the person makes a claim for youth allowance on or after the commencement of this subsection; and
  (b) the person makes the claim after the death of the person's partner on or after the commencement of this subsection; and
  (c) if the person is a man or a woman who was not pregnant when her partner died—the person makes the claim in the period of 14 weeks starting on the day of the death of the partner; and
  (d) if the person is a woman who was pregnant when her partner died—the person makes the claim:
    (i) in the period of 14 weeks starting on the day of the death of the partner; or
    (ii) in the period starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

  whichever ends later.

Authorised Version C2025C00595 registered 03/11/2025

Division 5—Rate of youth allowance

556 How to work out a person's youth allowance rate

Subject to this section, the rate of a person's youth allowance is to be worked out in accordance with the Youth Allowance Rate Calculator in section 1067G.

556A Approved program of work supplement

If a person:

(a) is receiving youth allowance; and

(b) is participating in an approved program of work for income support payment;

the rate of the person's youth allowance is increased by an amount of $20.80, to be known as the approved program of work supplement, for each fortnight during which the person participates in the program.

Authorised Version C2025C00595 registered 03/11/2025

Division 10—Bereavement payments

Subdivision A—Ongoing payments for death of partner

567 Qualification for payments under this Subdivision

Qualification for payment

(1) If:

(a) a person is receiving youth allowance; and

(b) the person is a long-term social security recipient; and

(c) the person is a member of a couple; and

(d) the person's partner dies; and

(e) immediately before the partner died, the partner:

(i) was receiving a social security pension; or

(ii) was receiving a service pension, income support supplement or a veteran payment; or

(iii) was a long-term social security recipient; and

(f) on the person's payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

(i) the amount that would otherwise be payable to the person under section 567C (person's continued rate) on that payday; and

(ii) the amount (if any) that would otherwise be payable to the person under section 567A (continued payment of partner's pension or benefit) on the partner's payday immediately before the first available bereavement adjustment payday;

the person is qualified for payments under this Subdivision to cover the bereavement period.

Note 1: Section 567A provides for the payment to the person, up to the first available bereavement adjustment payday, of amounts equal to the

Authorised Version C2025C00595 registered 03/11/2025

instalments that would have been paid to the person's partner during that period if the partner had not died.

Note 2: Section 567B provides for a lump sum that represents the instalments that would have been paid to the person's partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the partner had not died.

Note 3: For ***first available bereavement adjustment payday*** and ***bereavement period*** see section 21.

Choice not to receive payments

(2) A person who is qualified for payments under this Subdivision may choose not to receive payments under this Subdivision.

Note: By making such a choice, the person may qualify for a payment under Subdivision AA.

Form of choice

(3) A choice under subsection (2):
(a) must be made by written notice to the Secretary; and
(b) may be made after the person has been paid an amount or amounts under this Subdivision; and
(c) cannot be withdrawn after the Department has taken all the action required to give effect to that choice.

Rate during bereavement period

(4) If a person is qualified for payments under this Subdivision in relation to the partner's death, the rate at which youth allowance is payable to the person during the bereavement period is, unless the person has made a choice under subsection (2), governed by section 567C.

567A Continued payment of partner's pension or benefit

If a person is qualified for payments under this Subdivision in relation to the death of the person's partner, there is payable to the person, on each of the partner's paydays in the bereavement rate continuation period, an amount equal to the amount that would

Authorised Version C2025C00595 registered 03/11/2025

have been payable to the partner on that payday if the partner had not died.

Note: For ***bereavement rate continuation period*** see section 21.

567B Lump sum payable in some circumstances

If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the person as a lump sum an amount worked out using the lump sum calculator at the end of this section.

Lump sum calculator

Method statement

Step 1. Add up:

(a) the amount that, if the person's partner had not died, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday; and

(b) the amount (if any) that, if the partner had not died, would have been payable to the partner on the partner's payday immediately before the first available bereavement adjustment payday;

the result is the ***combined rate***.

Step 2. Work out the amount that, apart from section 567C, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday: the result is the ***person's individual rate***.

Authorised Version C2025C00595 registered 03/11/2025

Step 3.	Take the person's individual rate away from the combined rate: the result is the ***partner's instalment component***.
Step 4.	Work out the number of the partner's paydays in the ***bereavement lump sum period***.
Step 5.	Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the person under this section.

567C Adjustment of person's youth allowance rate

If:

(a) a person is qualified for payments under this Subdivision; and

(b) the person does not elect under subsection 567(2) not to receive payments under this Subdivision;

the rate of the person's youth allowance during the bereavement period is worked out as follows:

(c) during the bereavement rate continuation period, the rate of youth allowance payable to the person is the rate at which the allowance would have been payable to the person if the person's partner had not died;

(d) during the bereavement lump sum period (if any), the rate at which youth allowance is payable to the person is the rate at which the allowance would be payable to the person apart from this Subdivision.

567D Effect of death of person entitled to payments under this Subdivision

If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) the person dies within the bereavement period; and

Authorised Version C2025C00595 registered 03/11/2025

(c) the Secretary does not become aware of the death of the person's partner before the person dies;

there is payable, to any person that the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

Lump sum calculator

Method statement

Step 1. Add up:

(a) the amount that, if neither the person nor the person's partner had died, would have been payable to the person on the person's payday immediately after the day on which the person dies; and

(b) the amount (if any) that, if neither the person nor the person's partner had died, would have been payable to the person's partner on the partner's payday immediately after the day on which the person died;

the result is the ***combined rate***.

Step 2. Work out the amount that, apart from section 567C, would have been payable to the person on the person's payday immediately after the day on which the person died if the person had not died: the result is the ***person's individual rate***.

Step 3. Take the person's individual rate away from the combined rate: the result is the ***partner's instalment component***.

Authorised Version C2025C00595 registered 03/11/2025

Step 4.	Work out the number of paydays of the partner in the period that begins on the day on which the person dies and ends on the day on which the bereavement period ends.
Step 5.	Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable under this section.

567E Matters affecting payments under this Subdivision

Recovery/reduction of amount payable

(1) If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) after the person's partner died, an amount to which the partner would have been entitled if the partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act; and

(c) the Secretary is not satisfied that the person has not had the benefit of that amount;

the following provisions have effect:

(d) the amount referred to in paragraph (b) is not recoverable from the person or from the personal representative of the person's partner, except to the extent (if any) that the amount is more than the amount payable to the person under this Subdivision;

(e) the amount payable to the person under this Subdivision is to be reduced by the amount referred to in paragraph (b).

Bank not liable

(2) If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the amount to which the person's partner would have been entitled if the person's partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank; and

(c) the bank pays to the person, out of the account, an amount not more than the total of the amounts paid as mentioned in paragraph (b);

the bank is, despite anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the person's partner or anyone else in respect of the payment of that money to the person.

Subdivision AA—One-off payment for death of partner

567FA Qualification for payment under this Subdivision

A person is qualified for a lump sum payment under this Subdivision if:

(a) the person is qualified for youth allowance on a day (the ***relevant day***); and

(b) youth allowance is payable to the person on the relevant day; and

(c) on or before the relevant day but after the commencement of this section, the person was a member of a couple and stopped being a member of a couple because the person's partner died; and

(d) the person is not a member of a couple on the relevant day; and

(e) when the person's partner died, both the person and the person's partner were Australian residents; and

(f) if the person is a man or a woman who was not pregnant when her partner died—the relevant day occurs in the period of 14 weeks starting on the day of the death of the partner; and

(g) if the person is a woman who was pregnant when her partner died—the relevant day occurs:

Authorised Version C2025C00595 registered 03/11/2025

(i) in the period of 14 weeks starting on the day of the death of the partner; or

(ii) in the period (the ***relevant period***) starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

whichever ends later; and

(h) the relevant day is the day that the person first notifies the Secretary of the person's partner's death; and

(i) if the person is qualified for payments under section 567 in respect of the person's partner's death—the person has made a choice under subsection 567(2).

567FB Amount of payment

(1) The amount of the person's payment is worked out using the following formula (except if paragraph 567FA(g) applies in relation to the person):

$$\text{Daily rate of person's youth allowance on the relevant day} \times 14 \times 7$$

(2) If subparagraph 567FA(g)(i) applies in relation to the person, the amount of the person's payment is worked out using the following formula:

$$\left[\text{Daily rate of person's youth allowance on the relevant day} \times 14 \times 3\right] + \$2{,}000$$

(3) If subparagraph 567FA(g)(ii) applies in relation to the person, the amount of the person's payment is worked out using the following formula:

$$\left[\text{Daily rate of person's youth allowance on the relevant day} \times 14 \times 3\right] + \text{Additional amount}$$

where:

additional amount means the amount worked out in accordance with the following table:

Authorised Version C2025C00595 registered 03/11/2025

Additional amount		
Item	**If the relevant period is:**	**the additional amount is:**
1	More than 14 weeks but not more than 16 weeks	$2,250
2	More than 16 weeks but not more than 18 weeks	$2,700
3	More than 18 weeks but not more than 20 weeks	$3,150
4	More than 20 weeks but not more than 22 weeks	$3,550
5	More than 22 weeks but not more than 24 weeks	$4,000
6	More than 24 weeks but not more than 26 weeks	$4,450
7	More than 26 weeks but not more than 28 weeks	$4,900
8	More than 28 weeks but not more than 30 weeks	$5,350
9	More than 30 weeks but not more than 32 weeks	$5,800
10	More than 32 weeks	$6,250

Subdivision B—Continuation of youth allowance rate after death of child

567G Death of child—continuation of youth allowance rate for 14 weeks

If:

(a) a person is receiving youth allowance; and

(b) the person is the principal carer of a child who dies; and

(c) the person is not undertaking full-time study and is not a new apprentice; and

Authorised Version C2025C00595 registered 03/11/2025

(d) apart from this section, the person's rate of youth allowance would be reduced because the person is no longer the child's principal carer;

the person's rate of youth allowance, during the period of 14 weeks that starts on the day of the child's death, is to be worked out as if the child had not died.

Note 1: For ***principal carer*** see subsections 5(15) to (24).

Note 2: For ***undertaking full-time study*** see section 541B.

Note 3: For ***new apprentice*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

Part 2.11A—Austudy payment

Division 1—Qualification for austudy payment

Subdivision A—Basic qualifications

568 Qualification for austudy payment—general rule

Subject to this Subdivision, a person is qualified for an austudy payment in respect of a period if, throughout the period:

(a) the person satisfies the activity test (see Subdivision B); and

(b) the person is of austudy age (see Subdivision C); and

(c) the person is an Australian resident.

Note: Division 2 sets out situations in which an austudy payment is not payable even if the person qualifies for it.

568AA Qualification for austudy payment—new apprentices

Subject to this Subdivision, a person is qualified for an austudy payment in respect of a period if, throughout the period:

(a) the person is a new apprentice; and

(b) the person is of austudy age (see Subdivision C); and

(c) the person is an Australian resident.

Note: Division 2 sets out situations in which an austudy payment is not payable even if the person qualifies for it.

568A Qualification for austudy payment—transferee from social security pension

If:

(a) a person was receiving a social security pension; and

(b) the person claims an austudy payment within 14 days after the day on which the last instalment of the person's pension was paid; and

Authorised Version C2025C00595 registered 03/11/2025

(c) the person becomes qualified for an austudy payment at some time during the 14 day period but after the first day of that period;

the person is taken to be qualified for an austudy payment for the whole of the 14 day period.

Subdivision B—Activity test

569 Activity test

General

(1) Subject to subsection (2), a person satisfies the activity test in respect of a period if the person satisfies the Secretary that, throughout the period, the person is undertaking qualifying study (see section 569A).

Persons who do not satisfy the activity test

(2) A person cannot be taken to satisfy the activity test if the person:
(a) is a new apprentice; or
(b) has completed a course for:
(i) a degree of Doctor at an educational institution; or
(ii) a qualification at a foreign institution that is, in the Secretary's opinion, of the same standing as a degree of Doctor at an educational institution.

Note: For ***educational institution*** see subsection 23(1).

569A Undertaking qualifying study

For the purposes of this Part, a person is ***undertaking qualifying study*** if:
(a) the person:
(i) is enrolled in a course of education at an educational institution; or
(ii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being

Authorised Version C2025C00595 registered 03/11/2025

enrolled) always intended, to re-enrol in the course when re-enrolments in the course are next accepted; or

(iii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to enrol in another course of education (at the same or a different educational institution) when enrolments in the other course are next accepted; and

(b) the course in which the person is enrolled, or intends to enrol, is an approved course of education or study (see section 569B); and

(ba) if the course is an accelerator program course or a combined course that includes an accelerator program course—the person is entitled to STARTUP-HELP assistance for the accelerator program course; and

(c) the person is a full-time student or a concessional study-load student in respect of that course (see sections 569C and 569D); and

(d) if the course is a combined course or a course other than an accelerator program course—the person satisfies the progress rules (see sections 569G and 569H).

Note 1: Only one course of education can be considered in deciding if a person satisfies the undertaking qualifying study requirement: see section 569AA.

Note 2: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

569AA One course of education

(1) Whether subparagraph 569A(a)(i) or (ii) and paragraphs 569A(b), (c) and (d) are satisfied in relation to a person is to be determined in relation to only one course of education.

(2) Whether a person satisfies the Secretary of the person's intention mentioned in subparagraph 569A(a)(iii) and whether paragraphs 569A(b), (c) and (d) are satisfied in relation to the person is to be determined in relation to only one course of education.

Authorised Version C2025C00595 registered 03/11/2025

Note 1: The effect of this section is that 2 or more courses of education for a person cannot be aggregated to satisfy the undertaking qualifying study requirement.

Note 2: The one course of education may be a combined course: see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

569B Approved course of education or study

For the purposes of paragraph 569A(b), a course is an approved course of education or study if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course or a tertiary course for the purposes of that Act.

569C Full-time students

For the purposes of this Subdivision, a person is a ***full-time student*** in respect of a course if:

(a) in the case of a person who is enrolled in the course for a particular study period (such as, for example, a semester)—the person is undertaking at least three quarters of the normal amount of full-time study in respect of the course for that period; or

(b) in the case of a person who intends to enrol in the course for a particular study period—the person intends to undertake at least three quarters of the normal amount of full-time study in respect of the course for that period.

Note: For ***normal amount of full-time study*** see section 569E.

569D Concessional study-load students

(1) For the purposes of this Subdivision, there are 2 classes of concessional study-load students, namely:

(a) 25% concessional study-load students; and

(b) 66% concessional study-load students.

Authorised Version C2025C00595 registered 03/11/2025

(2) For the purposes of this Subdivision, a person is a ***25% concessional study-load student*** in respect of a course if this subsection applies to the person and:

(a) in the case of a person who is enrolled in the course for a particular study period (such as, for example, a semester)—the person is undertaking at least one quarter, but less than three quarters, of the normal amount of full-time study in respect of the course for that period; or

(b) in the case of a person who intends to enrol in the course for a particular study period—the person intends to undertake at least one quarter, but less than three quarters, of the normal amount of full-time study in respect of the course for that period.

(3) For the purposes of this Subdivision, a person is a ***66% concessional study-load student*** in respect of a course if this subsection applies to the person and:

(a) in the case of a person who is enrolled in the course for a particular study period (such as, for example, a semester)—the person is undertaking at least two thirds, but less than three quarters, of the normal amount of full-time study in respect of the course for that period; or

(b) in the case of a person who intends to enrol in the course for a particular study period—the person intends to undertake at least two thirds, but less than three quarters, of the normal amount of full-time study in respect of the course for that period.

Note: For ***normal amount of full-time study*** see section 569E.

(4) Subsection (2) applies to a person if:

(a) an officer in the Commonwealth Rehabilitation Service or an appropriate medical practitioner who has a detailed knowledge of the person's physical condition has stated in writing that:

(i) the person has a substantial physical disability; and

Authorised Version C2025C00595 registered 03/11/2025

(ii) the person cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability; or

(b) a medical practitioner specialising in psychiatry has stated in writing that:

(i) the person has a substantial psychiatric disability; and

(ii) the person cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability; or

(c) a psychologist who is registered with the Board established under the law of a State or Territory that registers psychologists has stated in writing that the person:

(i) is intellectually disabled; and

(ii) cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability.

(5) Subsection (3) applies to a person if:

(a) the person cannot undertake the course as a full-time student because of:

(i) the relevant educational institution's usual requirements for the course; or

(ii) a specific direction in writing to the person from the academic registrar or an equivalent officer; or

(b) the academic registrar (or an equivalent officer) of the relevant educational institution recommends in writing that the person undertake less than the normal amount of full-time study in respect of the course for specified academic or vocational reasons for a period not exceeding half an academic year.

569E Normal amount of full-time study

(1) For the purposes of this Subdivision, the ***normal amount of full-time study*** in respect of a course is:

(a) if:

Authorised Version C2025C00595 registered 03/11/2025

(i) the course is a course of study within the meaning of the *Higher Education Support Act 2003*; and

(ii) there are Commonwealth supported students (within the meaning of that Act) enrolled in the course;

the full-time student load for the course; or

(b) if the course is not such a course and the institution defines an amount of full-time study that a full-time student should typically undertake in respect of the course—the amount so defined; or

(c) otherwise—an amount of full-time study equivalent to the average amount of full-time study that a person would have to undertake for the duration of the course in order to complete the course in the minimum amount of time needed to complete it.

(2) Without limiting subsection (1), the ***normal amount of full-time study*** in respect of a course is an average, taken over the duration of the period for which the person in question is enrolled in the course, of 20 contact hours per week.

569F First fortnight of classes

A person is taken to be undertaking full-time study or a concessional study-load (as the case may be) in respect of a course during the period (the ***relevant period***):

(a) starting on the first day of classes in a study period; and

(b) ending on the Friday of the second week of classes in the study period;

if the person is enrolled in the course and undertakes study in respect of the course on at least one day in the relevant period.

569G Progress rules—secondary students

General rule

(1) Subject to subsection (2), a person enrolled in, or intending to enrol in, a secondary course satisfies the progress rules for the purposes

Authorised Version C2025C00595 registered 03/11/2025

of paragraph 569A(d) if, in the Secretary's opinion, the person is making satisfactory progress towards completing the course.

Students repeating year 12

(2) A person does not satisfy the progress rules if:

(a) the person is enrolled in a secondary course that is at year 12 level, or the overall level of which is at year 12 level (see subsections (3) and (4)); and

(b) the person has been a full-time student in respect of a course at that level (a ***previous course***) in each of 2 previous years; and

(c) none of the following circumstances apply:

(i) the person failed a previous course because of an illness that had not been diagnosed when the person began that course;

(ii) the person failed a previous course because of other circumstances beyond the person's control that were not apparent when the person began that course;

(iii) the person failed a previous course because English is not the person's native language;

(iv) the person completed or discontinued a previous course within 6 months after the relevant academic year started;

(v) each of the previous courses was undertaken more than 10 years before the present study.

Course at year 12 level

(3) A secondary course is at year 12 level if the institution in which the course is undertaken regards it as being at year 12 level.

Overall level of course at year 12 level

(4) The overall level of a secondary course is at year 12 level if the institution in which the course is undertaken regards at least 50% of the course as being at year 12 level.

Authorised Version C2025C00595 registered 03/11/2025

*Meaning of **secondary course***

(5) For the purposes of this section, a course is a secondary course if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act.

569H Progress rules—tertiary students

Full-time students

(1) A person who is a full-time student in respect of a tertiary course satisfies the progress rules if:

(a) in the case of a person who is enrolled in the course—on the day on which the person enrolled in the course; or

(b) in the case of a person who is not yet enrolled in the course but intends to enrol in the course—on the day on which enrolments in the course are next accepted;

the time already spent by the student on the course, or on one or more other tertiary courses at the same level as that course, does not exceed the allowable study time for that course.

Note: For allowable study time for a course see subsection (3).

Concessional study-load students

(2) A person who is a concessional study-load student in respect of a tertiary course satisfies the progress rules if:

(a) in the case of a person who is enrolled in the course—on the day on which the person enrolled in the course; or

(b) in the case of a person who is not yet enrolled in the course but intends to enrol in the course—on the day on which enrolments in the course are next accepted;

the time already spent by the person on the course, or on one or more other tertiary courses at the same level as that course, does not exceed the allowable study time for the course.

Note: For allowable study time for a course see subsections (3) and (4).

Authorised Version C2025C00595 registered 03/11/2025

Combined course including accelerator program course

(2A) If the tertiary course is a combined course that combines an accelerator program course with a course at a particular level, the references in subsections (1) and (2) to other tertiary courses at the same level is a reference to other tertiary courses at that particular level.

Note 1: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

Note 2: This section does not apply if the tertiary course is an accelerator program course that is not part of a combined course: see paragraph 569A(d).

Allowable study time—full-time students and 66% concessional study-load students

(3) The allowable study time for a course undertaken by a full-time student or a 66% concessional study-load student is:

(a) if the minimum amount of time needed to complete the course as a full-time student is one year or less—that minimum amount of time; or

(b) if the minimum amount of time needed to complete the course as a full-time student is more than 1 year and:

(i) the student is enrolled, or intends to enrol, in a year-long subject; or

(ii) the student's further progress in the course depends on passing a whole year's work in the course;

the minimum amount of time plus 1 year; or

(c) in any other case—the minimum amount of time needed to complete the course as a full-time student plus half an academic year.

Allowable study time—25% concessional study-load students

(4) The allowable study time for a course undertaken by a 25% concessional study-load student is twice the minimum period in which it is possible to complete the course as a full-time student but the Secretary may approve, in particular cases, an allowable

Authorised Version C2025C00595 registered 03/11/2025

study time of up to four times the minimum period in which it is possible to complete the course as a full-time student.

Time spent by person studying part-time

(5) If a student has studied part-time for a course over a certain period, the time spent by the student on that course is taken to be the proportion of that period calculated by using the formula:

$$\frac{\text{Study undertaken}}{\text{Normal full-time study}}$$

where:

normal full-time study means the normal amount of full-time study for the course.

study undertaken means the amount of study undertaken part-time by the student for the course.

Current full-time students who have previously undertaken courses as concessional study-load students

(6) If:

(a) a person is undertaking a course as a full-time student; and

(b) the person has previously undertaken:

(i) part of the course; or

(ii) one or more than one other course at the same level as that course;

as a concessional study-load student; and

(c) the time spent by the person undertaking the part of the course referred to in subparagraph (b)(i), or the course or courses referred to in subparagraph (b)(ii), (the ***previous study***) is not to be disregarded under subsection (7);

the time spent by the person undertaking the previous study is taken to be equal to the minimum amount of time that a full-time student would have taken to complete the previous study.

Authorised Version C2025C00595 registered 03/11/2025

Current 25% concessional study-load students who have previously undertaken courses on a different basis

(6A) If:

(a) a person is undertaking a course as a 25% concessional study-load student; and

(b) the person has previously undertaken:

(i) part of that course; or

(ii) one or more than one other course at the same level as that course;

in any of the following ways:

(iii) as a full-time student;

(iv) as a 66% concessional study-load student;

(v) on a part-time basis; and

(c) the time spent by the person undertaking the part of the course referred to in subparagraph (b)(i), or the course or courses referred to in subparagraph (b)(ii), (the ***previous study***) is not to be disregarded under subsection (7);

the time spent by the person undertaking the previous study is taken to be:

(d) twice the time that the person took to complete the previous study; or

(e) if the Secretary has approved, under subsection (4), a longer allowable study time in relation to the person for the course—the time taken by the person to complete the previous study multiplied by the factor used by the Secretary for the purposes of the approval under that subsection.

Matters to be disregarded in determining whether someone has exceeded the allowable study time

(7) In determining whether a person has exceeded the allowable study time (for a full-time student or a concessional study-load student), disregard the following:

(a) if the person has completed a course (a pre-requisite course) the completion of which is the normal requirement for admission to the course in which the person is enrolled or

Authorised Version C2025C00595 registered 03/11/2025

intends to enrol—time spent undertaking the pre-requisite course;

(b) a failed year of study, or a failed part of a year of study, if the failure is because of:
  (i) the person's illness; or
  (ii) other circumstances beyond the person's control;

(c) time spent undertaking a course that has been permanently discontinued because of:
  (i) the person's illness; or
  (ii) other circumstances beyond the person's control;

(d) time spent undertaking a course that has been completed but which, because of the person's illness, the person cannot use in any of the trades or profession to which the course is appropriate;

(e) time spent undertaking a TAFE course or a course provided by a VET provider if the normal length of the course for a full-time student is one year or less;

(f) time spent undertaking a course more than 10 years ago, unless the course has since been completed;

(g) time spent undertaking a course after 1973 if the course was not:
  (i) approved for the Tertiary Education Assistance Scheme; or
  (ii) approved for the AUSTUDY scheme; or
  (iii) an approved course for the purposes of paragraph 541B(1)(c), 569A(b) or 1061PB(1)(b) of this Act;

(h) time spent undertaking a course at a foreign institution;

(i) time spent undertaking a subject from which the student withdrew, if the educational institution in which the subject was undertaken did not record the withdrawal from the subject as a failure;

(j) any time spent undertaking a course during which the person was ineligible to receive:
  (i) AUSTUDY; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) a benefit under the Tertiary Education Assistance Scheme; or
(iii) youth allowance; or
(iv) austudy payment;
because of the application of rules in respect of academic progress.

Levels of tertiary courses

(8) There are 5 levels of tertiary courses: levels M, A, B, C and D.

Level M courses

(8A) A course for a degree of Master (or equivalent) is a Level M course.

Level A courses

(9) The following are Level A courses:
(a) a postgraduate bachelor degree course, with or without honours;
(b) a graduate or postgraduate diploma course;
(c) a course of practical legal training at a higher education institution;
(d) a course of advanced education regarded by an accrediting authority as being at PG1 level;
(e) a graduate certificate course.

Level B courses

(10) The following are Level B courses:
(a) a bachelor degree course (other than a postgraduate course), with or without honours;
(b) the bachelor level component of a masters degree course with concurrent bachelor and masters level study;
(c) a diploma course other than:
(i) a graduate or postgraduate diploma course; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) a course for which an entry requirement is successful completion of year 10 of secondary studies; or

(iii) a TAFE course or a course provided by a VET provider;

(d) a Master's qualifying course;

(e) the Barristers or Solicitors Admission Board's course;

(f) a course of advanced education regarded by an accrediting authority as being at UG1 or UG2 level.

Level C courses

(11) The following are Level C courses:

(a) an associate degree course;

(b) an associate diploma course;

(c) a diploma course at a TAFE institution or provided by a VET provider for which an entry requirement is successful completion of year 12 of secondary studies;

(d) a 2-year undergraduate diploma course.

Level D courses

(12) The following are Level D courses:

(a) a TAFE course at a higher education institution;

(b) a TAFE course or a course provided by a VET provider, unless the course is in Level M, A, B or C.

*Meaning of **tertiary course***

(13) For the purposes of this section, a course is a tertiary course if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a tertiary course for the purposes of that Act.

Authorised Version C2025C00595 registered 03/11/2025

Subdivision C—Austudy age

570 Austudy age

General

(1) Subject to subsection (2), a person is of austudy age for the purposes of this Part if the person is at least 25 years old.

Study begun before turning 25

(2) Even if the person is at least 25 years old, the person is taken not to be of austudy age if the person:
  (a) was receiving youth allowance immediately before turning 25; and
  (b) has not yet attained the maximum age for youth allowance (see subsection 543B(2)).

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Situations in which austudy payment is not payable

Subdivision A—Situation in which austudy payment not payable (general)

572 Austudy payment not payable if payment rate nil

(1) Subject to subsection (2), an austudy payment is not payable to a person if the person's austudy payment rate would be nil.

(2) Subsection (1) does not apply to a person if the person's rate would be nil merely because:

(a) an election by the person under subsection 915A(1) (about quarterly energy supplement) or 1061VA(1) (about quarterly pension supplement) is in force; or

(b) the person has been paid an advance pharmaceutical allowance under the social security law.

572A Situations where austudy payment not payable for failure to comply with certain requirements

Austudy payment is not payable to a person if the person refuses or fails, without reasonable excuse, to comply with a requirement made of the person under section 67, 68 or 192 of the Administration Act.

Subdivision B—Assets test

573 Austudy payment not payable if assets value limit exceeded

An austudy payment is not payable to a person if the value of the person's assets is more than the person's assets value limit.

Note: For ***assets value limit*** see section 573B.

Authorised Version C2025C00595 registered 03/11/2025

573B Assets value limit

A person's ***assets value limit*** is:

(a) $250,000 if the person:
  (i) is not a member of a couple (see section 4); and
  (ii) is a homeowner; or

(b) $450,000 if the person:
  (i) is not a member of a couple; and
  (ii) is not a homeowner; or

(c) $375,000 if the person:
  (i) is a member of a couple; and
  (ii) is a homeowner; or

(d) $575,000 if the person:
  (i) is a member of a couple; and
  (ii) is not a homeowner.

Note 1: For ***homeowner*** see subsection 11(4).

Note 2: The amounts in this section are indexed annually on 1 July (see sections 1191 to 1194).

573C Value of person's assets to include value of assets of partner

The value of a person's assets is the sum of the following values:

(a) the value of the person's assets (disregarding paragraph (b));

(b) if the person is a member of a couple (see section 4)—the value of the assets of the person's partner.

Subdivision D—Waiting periods

575 Waiting periods

(1) An austudy payment is not payable to a person who is qualified for an austudy payment while the person is subject to a waiting period.

(2) For the purposes of this Part, a person may be subject to the following waiting periods:

Authorised Version C2025C00595 registered 03/11/2025

(a) a liquid assets test waiting period (see sections 575A, 575B and 575C);
(b) a newly arrived resident's waiting period (see sections 575D and 575E).

575A Liquid assets test waiting period

When person subject to liquid assets test waiting period—general

(1) Subject to this section, if:
(a) the value of a person's liquid assets is more than the person's maximum reserve on:
(i) the day on which the person becomes qualified for austudy payment; or
(ii) the day on which the person claims austudy payment; and
(b) the person is not a transferee to austudy payment;
the person is subject to a liquid assets test waiting period.

Note: For ***liquid assets*** and ***maximum reserve*** see section 14A.

Exception—person already subject to liquid assets test waiting period in previous 12 months

(2) Subsection (1) does not apply to a person if, at any time during the 12 months before:
(a) the day on which the person becomes qualified for austudy payment; or
(b) the day on which the person claims austudy payment;
the person:
(c) was subject to a liquid assets test waiting period under this Part and that period has ended; or
(d) has served a liquid assets test waiting period under another Part of this Act; or
(e) has served a liquid assets test waiting period under the *Student Assistance Act 1973* as previously in force.

Authorised Version C2025C00595 registered 03/11/2025

Exception—waiver for hardship

(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while serving a liquid assets test waiting period, the Secretary may determine that the person does not have to serve the whole, or any part, of the waiting period.

Note 1: For ***in severe financial hardship*** see subsections 19C(2) (person who is not a member of a couple) and 19C(3) (person who is a member of a couple).

Note 2: For ***unavoidable or reasonable expenditure*** see subsection 19C(4).

Exception—certain transferees to austudy payment

(4) Subsection (1) does not apply to a person if:
(a) the person is a transferee to austudy payment; and
(b) the person claims austudy payment within 14 days of the transfer day.

575B Start of liquid assets test waiting period

The liquid assets test waiting period of a person starts on the day on which the person became qualified for austudy payment.

575C Length of liquid assets test waiting period

Number of weeks

(1) A person's liquid assets test waiting period is:
(a) if the result obtained under subsection (2) is 13 or more whole weeks—13 weeks; or
(b) if the result obtained under subsection (2) is fewer than 13 whole weeks—the number of whole weeks obtained under that subsection.

Authorised Version C2025C00595 registered 03/11/2025

Working out number of weeks

(2) Subject to subsection (3), the number of weeks is worked out by using the following formula:

$$\frac{\text{Liquid assets} - \text{Maximum reserve amount}}{\text{Divisor}}$$

where:

divisor, in relation to the person, means:

(a) if the person is not a member of a couple and does not have a dependent child—$500; or

(b) otherwise—$1,000.

liquid assets means the person's liquid assets on the day referred to in subparagraph 575A(1)(a)(i) or (ii) (as the case requires).

maximum reserve amount means the maximum reserve in relation to the person under subsection 14A(1).

Weeks etc. to be disregarded

(3) For the purposes of subsection (2), disregard:

(a) any weeks after the person claimed austudy payment during which the person was not qualified for austudy payment; and

(b) any fractions of a week.

575D Newly arrived resident's waiting period

Basic rule

(1) Subject to this section, a person is subject to a newly arrived resident's waiting period if the person:

(a) has entered Australia; and

(b) has not been an Australian resident in Australia for a period of, or periods totalling, 208 weeks.

Note: For ***Australian resident*** see subsection 7(2).

Authorised Version C2025C00595 registered 03/11/2025

Exception—qualifying residence exemption

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for an austudy payment.

Note: For ***qualifying residence exemption*** in relation to austudy payment, see paragraph 7(6AA)(f).

Exception—other

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for an austudy payment; or

(b) the following apply:

(i) before the person made the claim for an austudy payment, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for an austudy payment or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(ba) the person is the holder of a Pacific engagement visa at the time the person made the claim for an austudy payment; or

(c) the person is an Australian citizen at the time the person made the claim for an austudy payment.

(4) For the purposes of subsection (3):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

575E Length of newly arrived resident's waiting period

If a person is subject to a newly arrived resident's waiting period, the period:

Authorised Version C2025C00595 registered 03/11/2025

(a) starts on the day the person first became an Australian resident; and

(b) ends when the person has been an Australian resident in Australia for a period of, or periods totalling, 208 weeks after that day.

Note: For ***Australian resident*** see subsection 7(2).

575EA Seasonal workers—preclusion period

Application

(1) This section applies if:

(a) a person has lodged a claim for austudy payment; and

(b) at any time during the 6 months immediately before the day on which the person lodged the claim, the person, or the person's partner, has been engaged in seasonal work.

Note: For ***seasonal work*** see subsection 16A(1).

Exclusion during seasonal work preclusion period

(2) Austudy payment is not payable to the person:

(a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person's seasonal work preclusion period; or

(b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person's seasonal work preclusion period to which the person is subject as a result of the determination.

Note: For ***seasonal work preclusion period*** see subsection 16A(1).

Exemption in cases of severe financial hardship

(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal

Authorised Version C2025C00595 registered 03/11/2025

work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):

(a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and

(b) the determination has effect accordingly.

Note 1: For ***in severe financial hardship*** see subsection 19C(2) (person who is not a member of a couple) or subsection 19C(3) (person who is a member of a couple).

Note 2: For ***unavoidable or reasonable expenditure*** see subsection 19C(4).

575F Effect of being subject to 2 waiting periods

For the avoidance of doubt, if a person is subject to 2 waiting periods under this Subdivision, an austudy payment is not payable to the person until both of those waiting periods have ended.

Subdivision E—Situations where austudy payment not payable because of austudy participation failure

576 Austudy participation failures

Meaning of austudy participation failure

(1) A person commits an ***austudy participation failure*** if the person:

(a) fails to comply with a requirement:

(i) that was notified to the person under subsection 63(2) or (4) of the Administration Act; and

(ii) that was reasonable; and

(iii) the notification of which included a statement to the effect that a failure to comply with the requirement could constitute an austudy participation failure; or

(b) fails to satisfy the activity test; or

(c) fails to comply with a requirement to undertake another activity referred to in paragraph 576A(1)(b).

Authorised Version C2025C00595 registered 03/11/2025

Reasonable excuse

(2) Despite subsection (1), a failure of a kind referred to in that subsection is not an austudy participation failure if the person satisfies the Secretary that the person had a reasonable excuse for the failure.

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing an austudy participation failure.

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the austudy participation failure referred to in subsection (1).

Subsequent failures in the same instalment period

(3) Despite subsection (1), if a failure of a kind referred to in that subsection occurs in an instalment period of the person in which the person has already committed an austudy participation failure, the failure is not an austudy participation failure if:

(a) the instalment period is the person's first instalment period for austudy payment; or

(b) the instalment period is not the person's first instalment period for austudy payment, and:

(i) the person did not commit an austudy participation failure in the immediately preceding instalment period of the person; or

(ii) in respect of each austudy participation failure that the person committed in the immediately preceding instalment period of the person, the person acted in accordance with a requirement of the Secretary that was notified in respect of that failure.

Authorised Version C2025C00595 registered 03/11/2025

576A Allowance not payable because of austudy participation failure

General

(1) Austudy payment is not payable to a person, for the period starting in accordance with section 576B and ending in accordance with section 576C, if:

(a) the person commits an austudy participation failure; and

(b) the Secretary requires the person:

(i) to comply with the requirement, or undertake the activity, to which the austudy participation failure relates; or

(ii) to comply with a particular requirement, or undertake a particular activity, in place of the requirement or activity to which the failure relates;

during the participation failure instalment period for the failure, or at a particular time during that period; and

(c) the person fails to comply with the requirement.

Reasonable excuse etc.

(2) This section does not apply in relation to the failure if:

(a) the Secretary is satisfied that the person had a reasonable excuse for the failure referred to paragraph (1)(c); or

(b) the Secretary is for any other reason satisfied that subsection (1) should not apply to the failure.

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind mentioned in paragraph (1)(c).

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

Authorised Version C2025C00595 registered 03/11/2025

Meaning of participation failure instalment period

(3) The ***participation failure instalment period*** for the austudy participation failure is the next instalment period of the person to start after the day on which the Secretary first became aware that the person committed the failure.

Failures covered by section 577

(4) This section does not apply to an austudy participation failure if section 577 applies to the failure.

576B When the period of non-payment starts

The period for which austudy payment is not payable to the person because of section 576A is taken to have started at the start of the participation failure instalment period for the austudy participation failure.

576C When the period of non-payment ends

The period for which austudy payment is not payable to the person because of section 576A ends when:

(a) in accordance with a requirement of the Secretary that the person comply with the requirement, or undertake the activity, to which the austudy participation failure related, the person has complied with the requirement or undertaken the activity; or

(b) in accordance with a requirement of the Secretary that the person undertake another activity in place of the requirement or activity to which the austudy participation failure related, the person has undertaken the other activity; or

(c) in accordance with a requirement of the Secretary that the person comply with another requirement in place of the requirement or activity to which the austudy participation failure related, the person has complied with the other requirement.

Authorised Version C2025C00595 registered 03/11/2025

Subdivision F—Situations where payment not payable because of repeated failure

577 Payment not payable because of repeated failure

General

(1) Austudy payment is not payable to a person, for the period of 8 weeks starting in accordance with section 577A, if the person commits an austudy participation failure (the ***repeated failure***), having committed austudy participation failures (the ***earlier failures***) on 2 or more other occasions during the period of 12 months preceding that failure.

Reasonable excuse etc.

(2) Disregard any earlier failure that is a failure to which subsection 576A(1) does not apply because of subsection 576A(2).

(3) Subsection (1) does not apply in relation to the repeated failure if the Secretary is for any other reason satisfied that subsection (1) should not apply to the failure.

577A When the period of non-payment starts

The period for which austudy payment is not payable to the person is taken to start, or to have started:

(a) if the repeated failure occurs during a participation failure instalment period for an earlier failure—at the start of the participation failure instalment period for the earlier failure; or

(b) otherwise—at the start of the next instalment period of the person to start after the day on which the Secretary first became aware that the person committed the failure.

Note: For ***participation failure instalment period*** see subsection 576A(3).

Authorised Version C2025C00595 registered 03/11/2025

Subdivision G—Multiple entitlement exclusions

578 Multiple entitlement exclusions

(1) An austudy payment is not payable to a person who is qualified for an austudy payment while the person is subject to a multiple entitlement exclusion.

(2) For the purposes of this Division, a person is subject to a multiple entitlement exclusion if:

(a) the person is receiving an austudy payment and another social security benefit, a social security pension, a service pension, income support supplement or a veteran payment becomes payable to the person; or

(b) a payment under a scheme referred to in section 578A has been, or may be, made to the person; or

(c) an assurance of support applies to the person.

(4) An austudy payment is not payable to a person if:

(a) the person is an armed services widow or an armed services widower; and

(b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

Note 1: For ***armed services widow*** and ***armed services widower*** see subsection 4(1).

Note 2: For ***MRCA*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

578A Person receiving payment under certain schemes

General

(1) Subject to subsection (2), the schemes for the purposes of paragraph 578(2)(b) are:

(a) a prescribed educational scheme other than the ABSTUDY Scheme to the extent that it applies to part-time students; and

(b) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; and

(c) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; and

(d) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students; and

(e) the scheme known as the Ready Reserve Education Assistance Scheme; and

(f) the scheme to provide an allowance known as the Living Away from Home Allowance.

Note: For ***prescribed educational scheme*** see section 5.

Application made under ABSTUDY Scheme

(2) If:

(a) a person is undertaking qualifying study in respect of a course of education that is to last for 6 months or more; and

(b) an application is made for a payment in respect of the person under the ABSTUDY Scheme; and

(c) the person was receiving an austudy payment immediately before the start of the course;

the Secretary may decide that the person is not subject to a multiple entitlement exclusion, because of subsection (1), before:

(d) the application is determined; or

(e) the end of the period of 3 weeks beginning on the day on which the course starts;

whichever happens first.

Authorised Version C2025C00595 registered 03/11/2025

578B Assurance of support

An assurance of support applies to a person if:

(a) an assurance of support is in force in respect of the person (***assuree***); and

(b) the person who gave the assurance was willing and able to provide an adequate level of support to the assuree; and

(c) it was reasonable for the assuree to accept that support.

Note: For ***assurance of support*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

Division 5—Rate of austudy payment

581 How to work out a person's austudy payment rate

Subject to this section, the rate of a person's austudy payment is to be worked out in accordance with the Austudy Payment Rate Calculator in section 1067L.

Authorised Version C2025C00595 registered 03/11/2025

Division 10—Bereavement payments on death of partner

592 Qualification for payments under this Division

Qualification for payment

(1) If:

(a) a person is receiving an austudy payment; and

(b) the person is a long-term social security recipient; and

(c) the person is a member of a couple; and

(d) the person's partner dies; and

(e) immediately before the partner died, the partner:

(i) was receiving a social security pension; or

(ii) was receiving a service pension, income support supplement or a veteran payment; or

(iii) was a long-term social security recipient; and

(f) on the person's payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Division is less than the sum of:

(i) the amount that would otherwise be payable to the person under section 592C (person's continued rate) on that payday; and

(ii) the amount (if any) that would otherwise be payable to the person under section 592A (continued payment of partner's pension or benefit) on the partner's payday immediately before the first available bereavement adjustment payday;

the person is qualified for payments under this Division to cover the bereavement period.

Note 1: Section 592A provides for the payment to the person, up to the first available bereavement adjustment payday, of amounts equal to the instalments that would have been paid to the person's partner during that period if the partner had not died.

Authorised Version C2025C00595 registered 03/11/2025

Note 2: Section 592B provides for a lump sum that represents the instalments that would have been paid to the person's partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the partner had not died.

Note 3: For ***first available bereavement adjustment payday*** and ***bereavement period*** see section 21.

Choice not to receive payments

(2) A person who is qualified for payments under this Division may choose not to receive payments under this Division.

Form of choice

(3) A choice under subsection (2):
  (a) must be made by written notice to the Secretary; and
  (b) may be made after the person has been paid an amount or amounts under this Division; and
  (c) cannot be withdrawn after the Department has taken all the action required to give effect to that choice.

Rate during bereavement period

(4) If a person is qualified for payments under this Division in relation to the partner's death, the rate at which austudy payment is payable to the person during the bereavement period is, unless the person has made a choice under subsection (2), governed by section 592C.

592A Continued payment of partner's pension or benefit

If a person is qualified for payments under this Division in relation to the death of the person's partner, there is payable to the person, on each of the partner's paydays in the bereavement rate continuation period, an amount equal to the amount that would have been payable to the partner on that payday if the partner had not died.

Note: For ***bereavement rate continuation period*** see section 21.

Authorised Version C2025C00595 registered 03/11/2025

592B Lump sum payable in some circumstances

If:

(a) a person is qualified for payments under this Division in relation to the death of the person's partner; and

(b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the person as a lump sum an amount worked out using the lump sum calculator at the end of this section.

Lump sum calculator

Method statement

Step 1. Add up:

(a) the amount that, if the person's partner had not died, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday; and

(b) the amount (if any) that, if the partner had not died, would have been payable to the partner on the partner's payday immediately before the first available bereavement adjustment payday;

the result is the ***combined rate***.

Step 2. Work out the amount that, apart from section 592C, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday: the result is the ***person's individual rate***.

Step 3. Take the person's individual rate away from the combined rate: the result is the ***partner's instalment component***.

Authorised Version C2025C00595 registered 03/11/2025

Step 4.	Work out the number of the partner's paydays in the ***bereavement lump sum period***.
Step 5.	Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the person under this section.

592C Adjustment of person's austudy payment rate

If:

(a) a person is qualified for payments under this Division; and

(b) the person does not elect under subsection 592(2) not to receive payments under this Division;

the rate of the person's austudy payment during the bereavement period is worked out as follows:

(c) during the bereavement rate continuation period, the rate of austudy payment payable to the person is the rate at which the austudy payment would have been payable to the person if the person's partner had not died;

(d) during the bereavement lump sum period (if any), the rate at which austudy payment is payable to the person is the rate at which austudy payment would be payable to the person apart from this Division.

592D Effect of death of person entitled to payments under this Division

If:

(a) a person is qualified for payments under this Division in relation to the death of the person's partner; and

(b) the person dies within the bereavement period; and

(c) the Secretary does not become aware of the death of the person's partner before the person dies;

there is payable, to any person that the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

Authorised Version C2025C00595 registered 03/11/2025

Lump sum calculator

Method statement

Step 1. Add up:

(a) the amount that, if neither the person nor the person's partner had died, would have been payable to the person on the person's payday immediately after the day on which the person dies; and

(b) the amount (if any) that, if neither the person nor the person's partner had died, would have been payable to the person's partner on the partner's payday immediately after the day on which the person died;

the result is the ***combined rate***.

Step 2. Work out the amount that, apart from section 592C, would have been payable to the person on the person's payday immediately after the day on which the person died if the person had not died: the result is the ***person's individual rate***.

Step 3. Take the person's individual rate away from the combined rate: the result is the ***partner's instalment component***.

Step 4. Work out the number of paydays of the partner in the period that begins on the day on which the person dies and ends on the day on which the bereavement period ends.

Step 5. Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable under this section.

Authorised Version C2025C00595 registered 03/11/2025

592E Matters affecting payments under this Division

Recovery/reduction of amount payable

(1) If:

(a) a person is qualified for payments under this Division in relation to the death of the person's partner; and

(b) after the person's partner died, an amount to which the partner would have been entitled if the partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act; and

(c) the Secretary is not satisfied that the person has not had the benefit of that amount;

the following provisions have effect:

(d) the amount referred to in paragraph (b) is not recoverable from the person or from the personal representative of the person's partner, except to the extent (if any) that the amount is more than the amount payable to the person under this Division;

(e) the amount payable to the person under this Division is to be reduced by the amount referred to in paragraph (b).

Bank not liable

(2) If:

(a) a person is qualified for payments under this Division in relation to the death of the person's partner; and

(b) the amount to which the person's partner would have been entitled if the person's partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank; and

(c) the bank pays to the person, out of the account, an amount not more than the total of the amounts paid as mentioned in paragraph (b);

the bank is, despite anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal

Authorised Version C2025C00595 registered 03/11/2025

representative of the person's partner or anyone else in respect of the payment of that money to the person.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.11B—Scholarship payments for students

Division 2—Relocation scholarship payment

592J Qualification for relocation scholarship payment

A person is qualified for a relocation scholarship payment at a time (the ***qualification time***) if:

(a) at the qualification time, the person is qualified for youth allowance and youth allowance is payable to the person; and

(b) at the qualification time, the person is receiving youth allowance and would be receiving youth allowance if steps 2 and 3 of the method statement in point 1067G-A1 of the Youth Allowance Rate Calculator were disregarded for the purposes of working out the person's rate of that allowance; and

(c) the person:

(i) is independent because of subsection 1067A(3), (5), (6), (7), (8), (9) or (11); or

(ii) is not independent (see section 1067A) but is required to live away from home (see section 1067D); and

(d) the person is receiving youth allowance because the person is undertaking full-time study in an approved scholarship course; and

(e) the Secretary is satisfied that in the period of 35 days starting immediately after the qualification time, the person proposes to start to undertake the course or to continue to undertake the course; and

(f) the Secretary is satisfied that the person is not likely to receive the amount or value of a disqualifying accommodation scholarship in the period of 12 months starting immediately after the qualification time.

Note: For ***approved scholarship course***, see section 592M.

Authorised Version C2025C00595 registered 03/11/2025

592K Circumstances in which person is not qualified for relocation scholarship payment

Previous qualification for, or receipt of, same or similar payment

(1) Despite section 592J, a person is not qualified for a relocation scholarship payment if 1 or more of the circumstances listed in subsection (2) apply to the person in the period of 12 months (or shorter period determined under subsection (3)) ending immediately before the person's qualification time.

(2) The circumstances are:

(a) the person has qualified for a relocation scholarship payment; or

(b) the person has qualified for a payment under the ABSTUDY Scheme known as an ABSTUDY relocation scholarship payment; or

(c) the person has qualified for a payment known as a relocation scholarship payment under the scheme referred to in section 117 of the Veterans' Entitlements Act; or

(d) the person has qualified for a payment known as a relocation scholarship payment under the scheme referred to in section 258 of the Military Rehabilitation and Compensation Act; or

(e) the person has received the amount or value of a disqualifying accommodation scholarship; or

(f) the person was entitled to the amount or value of a disqualifying accommodation scholarship but has not received the full entitlement only because the scholarship was suspended.

(3) For the purposes of subsection (1), the Secretary may determine a period in relation to a person that is at least 3 months but less than 12 months if the Secretary considers that the determination would enable the person to qualify for a relocation scholarship payment on or near 1 January in a year.

Authorised Version C2025C00595 registered 03/11/2025

(4) However, the Secretary must not make a determination under subsection (3) if the effect of the determination would be to enable the person to receive more than 2 relocation scholarship payments in a period of 2 successive calendar years.

Independent but did not receive same or similar payment

(5) Despite section 592J, a person is not qualified for a relocation scholarship payment if:

(a) at the person's qualification time, the person has attained the age at which the person is independent (see subsection 1067A(4)); and

(b) before the qualification time, the person has not received any of the following:

(i) a relocation scholarship payment;

(ii) a payment under the ABSTUDY Scheme known as an ABSTUDY relocation scholarship;

(iii) a payment known as a relocation scholarship payment under the scheme referred to in section 117 of the Veterans' Entitlements Act;

(iv) a payment known as a relocation scholarship payment under the scheme referred to in section 258 of the Military Rehabilitation and Compensation Act;

(v) the amount or value of a disqualifying accommodation scholarship.

Person's place of study is in a major city location

(6) Despite section 592J, a person is not qualified for a relocation scholarship payment if:

(a) at the person's qualification time, the person is not independent (see section 1067A); and

(b) at the person's qualification time, the person is required to live away from home (see section 1067D); and

(c) on the day the person started to undertake the course referred to in paragraph 592J(d), the home of each parent of the person was in a major city location; and

Authorised Version C2025C00595 registered 03/11/2025

(d) at the person's qualification time, the person's place of study, worked out in accordance with an instrument in force under subsection (8), is in a major city location.

Note: For ***parent*** see subsection 5(1) and for ***major city location*** see subsection (9).

(7) Despite section 592J, a person is not qualified for a relocation scholarship payment if:

(a) at the person's qualification time, the person is independent because of subsection 1067A(3), (5), (6), (7), (8), (9) or (11); and

(b) on the day 6 months before the person started to undertake the course referred to in paragraph 592J(d), the person's usual place of residence was in a major city location; and

(c) at the person's qualification time, the person's place of study, worked out in accordance with an instrument in force under subsection (8), is in a major city location.

Note: For ***major city location*** see subsection (9).

(8) The Secretary may, by legislative instrument, make principles that must be complied with when working out a person's place of study at a particular time.

(9) In this section:

major city location means a location categorised as one of the Major Cities of Australia, under the Remoteness Structure as defined in subsection 1067A(10F).

592L Amount of relocation scholarship payment

(1) The amount of a relocation scholarship payment to a person is $4,000 if the person has not received a student relocation payment (see subsection (7)) before.

Note: The amount of a relocation scholarship payment for which a person is qualified on or after 1 January 2013 is indexed annually in line with CPI increases (see sections 1190 to 1194).

(2) Subsection (1) does not apply if:

Authorised Version C2025C00595 registered 03/11/2025

(a) the person has, at any time before the calendar year containing the qualification time, undertaken full-time study in a course that, had the person undertaken it at the qualification time, would have been an approved scholarship course at that time; and

(b) at a time that was both while the person was undertaking that study and more than 6 months before the qualification time, the person was either:

(i) independent because of subsection 1067A(3), (5), (6), (7), (8), (9) or (11); or

(ii) required to live away from home (see section 1067D).

(3) The amount of a relocation scholarship payment to a person is $1,000 if neither subsection (1) nor subsection (4) applies.

Note: The amount of a relocation scholarship payment for which a person is qualified on or after 1 January 2013 is indexed annually in line with CPI increases (see sections 1190 to 1194).

(4) The amount of a relocation scholarship payment to a person is $2,000 if:

(a) in 1 or more calendar years (the ***prior years***) that precede the calendar year containing the qualification time, the person undertook full-time study in a course that, had the person undertaken it at the qualification time, would have been an approved scholarship course at that time; and

(b) in 1 or 2 (but no more) of the prior years:

(i) the person was, while undertaking such study, either independent because of subsection 1067A(3), (5), (6), (7), (8), (9) or (11) or required to live away from home (see section 1067D); or

(ii) the person received a student relocation payment (see subsection (7)); and

(c) subsection (5) or (6) applies to the person.

Note: The amount of a relocation scholarship payment for which a person is qualified on or after 1 January 2013 is indexed annually in line with CPI increases (see sections 1190 to 1194).

(5) This subsection applies to a person if, at the qualification time:

Authorised Version C2025C00595 registered 03/11/2025

(a) the person is not independent (see section 1067A); and
(b) the person is required to live away from home (see section 1067D); and
(c) the home of a parent of the person is in a regional or remote location (see subsection (7)).

Note: For ***parent*** see subsection 5(1).

(6) This subsection applies to a person if:
(a) at the qualification time, the person is independent because of subsection 1067A(3), (5), (6), (7), (8), (9) or (11); and
(b) at the time 6 months before the person first undertook study described in paragraph (4)(a) of this section, the person's usual place of residence was in a location that at the qualification time is a regional or remote location (see subsection (7)).

Definitions

(7) In this section:

regional or remote location means:
(a) a location categorised as Inner Regional Australia, Outer Regional Australia, Remote Australia or Very Remote Australia, under the Remoteness Structure as defined in subsection 1067A(10F); or
(b) Norfolk Island.

student relocation payment means any of the following:
(a) a relocation scholarship payment;
(b) a payment under the ABSTUDY Scheme known as an ABSTUDY relocation scholarship payment;
(c) a payment known as a relocation scholarship payment under the scheme referred to in section 117 of the Veterans' Entitlements Act;
(d) a payment known as a relocation scholarship payment under the scheme referred to in section 258 of the Military Rehabilitation and Compensation Act;

Authorised Version C2025C00595 registered 03/11/2025

(e) the amount or value of a disqualifying accommodation scholarship.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Approved scholarship course

592M Definition

In this Act:

approved scholarship course means:

(a) a course of study or instruction approved by the Minister under a determination made for the purposes of section 592N; or

(b) if no determination is in force—a course determined to be a tertiary course under section 5D of the *Student Assistance Act 1973* for the purposes of that Act.

592N Approved scholarship course

(1) The Minister may, by legislative instrument, determine that a course of study or instruction is an ***approved scholarship course*** for the purposes of this Act.

(1A) To avoid doubt, a course of study or instruction includes an accelerator program course.

(2) Despite subsection 14(2) of the *Legislation Act 2003*, a determination made for the purposes of subsection (1) may make provision for, or in relation to, a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing:

(a) as in force or existing at a particular time; or

(b) as in force or existing from time to time.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.12—Jobseeker payment

Division 1—Qualification for and payability of jobseeker payment

Subdivision A—Basic qualifications

593 Qualification for jobseeker payment

(1) Subject to sections 596, 596A, 597 and 598, a person is qualified for a jobseeker payment in respect of a period if:

(a) the person satisfies the Secretary that:

(i) throughout the period the person is unemployed; or

(ii) subsection (1A) applies in relation to the person for the period; and

(b) throughout the period the person satisfies subsection (1AC); and

(g) throughout the period the person:

(i) is at least 22 years of age and has not reached the pension age; and

(ii) is an Australian resident or is exempt from the residence requirement within the meaning of subsection 7(7); and

(i) the person was not in receipt of a youth allowance during the period.

Note 1: A person may be treated as unemployed (see section 595).

Note 5: For ***pension age*** see section 23.

Note 6: For ***Australian resident*** see section 7.

Note 8: A person may not be qualified if the person's unemployment is due to industrial action (see section 596).

Note 9: A person may not be qualified if the person has reduced the person's employment prospects by moving to an area of lower employment prospects (see section 597).

Note 12: A person could be in receipt of a youth allowance during a period for which the person would qualify for a jobseeker payment, if

Authorised Version C2025C00595 registered 03/11/2025

paragraph (i) was disregarded, because of section 540C (extension of youth allowance to end of payment period).

Note 13: A jobseeker payment is not payable in certain situations even if the person is qualified (see Subdivisions D, E and F and Part 4.2).

Note 14: A person receiving a jobseeker payment, and who receives employment services from a remote engagement program provider, may also qualify for a remote engagement program payment: see Part 2.13.

(1A) This subsection applies in relation to a person for a period if:

(a) the person is incapacitated for work or study throughout the period because of sickness or an accident; and

(b) the incapacity is caused wholly or virtually wholly by a medical condition arising from the sickness or accident; and

(c) the incapacity is, or is likely to be, of a temporary nature; and

(d) one of the following applies:

(i) immediately before the incapacity occurred the person was in employment (whether the person was self-employed, or was employed by another person, on a full-time, part-time, casual or temporary basis) and the Secretary is satisfied that, when the incapacity ends, the employment will be again available to the person (whether or not the same kind of work will be available);

(ii) immediately before the incapacity occurred the person was in full-time education and was receiving payments under the ABSTUDY scheme and the Secretary is satisfied that the person is committed to resuming full-time study under that scheme when the incapacity ends;

(iii) immediately before the incapacity occurred the person was undertaking qualifying study and receiving austudy payment, and the Secretary is satisfied that the person is committed to resuming qualifying study when the incapacity ends.

(1AA) Subsection (1A) does not apply in relation to a person if the Secretary is satisfied that the incapacity is brought about with a

Authorised Version C2025C00595 registered 03/11/2025

view to obtaining jobseeker payment, youth allowance, austudy payment or disability support pension.

(1AB) In subsection (1A):

work, in relation to a person, means work that the person has contracted to perform under a contract of employment that:

(a) the person had immediately before the person becomes incapacitated; and

(b) continues after the person becomes incapacitated.

(1AC) A person satisfies this subsection if:

(a) the following apply:

(i) the person satisfies the employment pathway plan requirements;

(ii) the person satisfies the Employment Secretary that the person is willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person; or

(b) the following apply:

(i) the person is, under Subdivision C of Division 2A of Part 3 of the Administration Act, not required to satisfy the employment pathway plan requirements;

(ii) the person satisfies the Employment Secretary that the person would otherwise be willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person.

Note 1: For ***satisfies the employment pathway plan requirements***, see subsection 23(1).

Note 2: See Division 2B of Part 3 of the Administration Act for the circumstances in which paid work is unsuitable to be done by a person.

(1B) Subject to sections 596, 596A, 597 and 598, a person is qualified for a jobseeker payment in respect of a period if:

(a) the person satisfies the Secretary that throughout the period the person is unemployed; and

Authorised Version C2025C00595 registered 03/11/2025

(b) throughout the period the person:
  (i) has reached the age of 22 years and has not reached the pension age; and
  (ii) is an Australian resident; and
(c) the person was not in receipt of a youth allowance during the period; and
(d) the person made a claim for disability support pension at or before the start of the period and the claim was not determined before the end of the period; and
(e) the Secretary is satisfied that throughout the period the person suffered from a medical condition that had a significant adverse effect on the person's ability to work; and
(f) the person satisfies any one of the conditions in subsection (1C).

(1C) The conditions referred to in paragraph (1B)(f) are:
(a) a condition that the person was an Australian resident when the significant adverse effect of the medical condition on the person's ability to work first occurred; and
(b) a condition that at the start of the period the person had 10 years qualifying Australian residence or had a qualifying residence exemption for jobseeker payment; and
(c) a condition that:
  (i) the person was born outside Australia; and
  (ii) when the significant adverse effect of the medical condition first occurred the person was not an Australian resident but was a dependent child of an Australian resident; and
  (iii) the person became an Australian resident while a dependent child of an Australian resident.

(1D) Subject to sections 596, 596A and 598, a person is qualified for a jobseeker payment, in respect of the period starting in accordance with subsection (1E) and ending in accordance with subsection (1F), if:
(a) the person satisfies the Secretary that throughout the period the person is unemployed; and

Authorised Version C2025C00595 registered 03/11/2025

(b) throughout the period the person:
  (i) has reached the age of 22 years and has not reached the pension age; and
  (ii) is an Australian resident or is exempt from the residence requirement within the meaning of subsection 7(7); and
(c) the person was not in receipt of a youth allowance during the period; and
(d) the person has made, or is taken to have made, a claim for jobseeker payment; and
(e) the person satisfies the Secretary that it is likely that the person has a permanent medical condition that would prevent the person from undertaking full-time work; and
(f) the person satisfies the Secretary that it would be unreasonable to expect the person to enter into an employment pathway plan until an assessment of the person's capacity to work has been undertaken.

(1E) The period for which the person is qualified for a jobseeker payment under subsection (1D) starts:
(a) if the person is already receiving jobseeker payment when the Secretary becomes aware of the medical condition referred to in paragraph (1D)(e)—when the Secretary becomes aware of the medical condition; or
(b) otherwise—when the person made, or is taken to have made, the claim for jobseeker payment.

(1F) The period for which the person is qualified for a jobseeker payment under subsection (1D) ends:
(a) if the person has failed to comply with a requirement to enter into an employment pathway plan—on the day on which the person so failed; or
(b) in any other case—when the person enters into an employment pathway plan.

(4) If:

Authorised Version C2025C00595 registered 03/11/2025

(a) a person was receiving a social security pension, a service pension, income support supplement or a veteran payment; and

(b) the person claims a jobseeker payment within 14 days of the day on which the last instalment of the person's social security pension, service pension, income support supplement or veteran payment was paid; and

(c) the person becomes qualified for a jobseeker payment at some time during the 14 day period but after the first day of that period;

the person is taken to be qualified for a jobseeker payment for the whole of the 14 day period.

Note: Subsection (4) operates when a person transfers from a social security pension, a service pension, income support supplement or a veteran payment to a jobseeker payment and the person is not qualified for a jobseeker payment immediately after the day on which the person's last instalment of social security pension, service pension, income support supplement or veteran payment is paid. The subsection deems the person to be so qualified. As a result, the person may be paid a jobseeker payment for the period beginning on the day after the day on which the person's last instalment of social security pension, service pension, income support supplement or veteran payment was paid. The subsection aims to ensure that there is minimal disruption to a person's payments when a person transfers from a social security pension, a service pension, income support supplement or a veteran payment to a jobseeker payment.

Coronavirus

(5) A person is qualified for a jobseeker payment in respect of a period that occurs between 1 April 2021 and 30 June 2021 if:

(a) the Secretary is satisfied that the person is in quarantine or self-isolation as a result of advice from, or a requirement made by, the Commonwealth, a State or a Territory or a health professional regarding the coronavirus known as COVID-19, or is caring for an immediate family member or a member of the person's household who is in such quarantine or self-isolation, throughout the period; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the Secretary is satisfied that, as a result of the circumstance in paragraph (a), the person's working hours were reduced (including to zero); and

(c) throughout the period the person satisfies the activity test or is not required to satisfy the activity test; and

(d) the Secretary is satisfied that:

(i) the person is not entitled to receive a leave payment in respect of the period; or

(ii) the person has taken reasonable steps to access any leave payment to which the person may be entitled in respect of the period; or

(iii) the person is receiving a leave payment in respect of the period but, as a result of the adverse economic effects of the coronavirus known as COVID-19, the payment is less than it would otherwise have been; or

(iv) the person is receiving a leave payment in respect of the period, but the total amount of the leave payment in the period is less than the amount of jobseeker payment that would be payable to the person in the period if the person's claim were granted; and

(e) throughout the period the person:

(i) is at least 22 years of age and has not reached the pension age; and

(ii) is an Australian resident or is exempt from the residence requirement within the meaning of subsection 7(7); and

(f) the person was not in receipt of a youth allowance during the period.

595 Persons may be treated as unemployed

(1) The Secretary may treat a person as being unemployed throughout a period if:

(a) during the period, the person undertakes:

(i) paid work that, in the Secretary's opinion, is suitable for the person to undertake; or

(ii) any other activity;

Authorised Version C2025C00595 registered 03/11/2025

as a result of which he or she would, but for this subsection, not be taken to be unemployed; and

(b) the Secretary is of the opinion that, taking into account:

(i) the nature of the work or other activity; and

(ii) the duration of the work or other activity; and

(iii) any remuneration received for the work or other activity; and

(iv) any other matters relating to the work or other activity, or to the person's circumstances, that the Secretary considers relevant;

the activity should be disregarded.

(1A) However, the work or other activity must not be or include any work or other activity of a kind that the Secretary determines under subsection (1B).

(1B) The Secretary may determine, by legislative instrument, kinds of work or other activity that are not to be taken into account for the purposes of subsection (1).

(2) A person complying with an employment pathway plan may be treated by the Secretary as being unemployed.

(3) In deciding whether to treat a person as being unemployed, the Secretary is to take into account:

(a) the nature of the activity undertaken by the person so as to comply with a requirement in an employment pathway plan; and

(b) the duration of the activity; and

(c) any other matters relating to the activity that the Secretary considers relevant.

596 Unemployment due to industrial action

(1) A person is not qualified for a jobseeker payment in respect of a period unless the person satisfies the Secretary that the person's unemployment during the period was not due to the person being,

Authorised Version C2025C00595 registered 03/11/2025

or having been, engaged in industrial action or in a series of industrial actions.

(2) A person is not qualified for a jobseeker payment in respect of a period unless the Secretary is satisfied:

(a) that the person's unemployment during the period was due to other people being, or having been, engaged in industrial action or in a series of industrial actions; and

(b) the people, or some of the people, were members of a trade union which was involved in the industrial action; and

(c) the person was not a member of the trade union during the period.

(3) Subject to subsection (4), subsections (1) and (2) do not prevent a person from being qualified for a jobseeker payment in respect of a period that occurs after the relevant industrial action or series of industrial actions has stopped.

Note: For ***industrial action***, ***trade union*** and ***unemployment*** see section 16.

(4) Where the relevant industrial action or series of industrial actions is in breach of an order, direction or injunction issued by:

(a) a prescribed State industrial authority within the meaning of the *Fair Work Act 2009*; or

(b) the Fair Work Commission or the Australian Industrial Relations Commission; or

(c) the Federal Court of Australia; or

(d) the Federal Circuit and Family Court of Australia (Division 2);

a person is not qualified for a jobseeker payment in respect of a period unless that period occurs 6 weeks or more after the relevant industrial action or series of industrial actions has stopped.

596A Assurance of support

A person is not qualified for jobseeker payment in respect of a period if the Secretary is satisfied that throughout the period:

Authorised Version C2025C00595 registered 03/11/2025

(a) an assurance of support was in force in respect of the person (in this section called the ***assuree***); and

(b) the person who gave the assurance of support was willing and able to provide an adequate level of support to the assuree; and

(c) it was reasonable for the assuree to accept that support.

Note: For ***assurance of support*** see subsection 23(1).

598 Liquid assets test waiting period

(1) Subject to subsections (4A), (5), (6), (7), (8) and (8B), if:

(a) the value of a person's liquid assets exceeds the person's maximum reserve on:

(i) if subparagraph 593(1)(a)(ii) does not apply in relation to the person—the day following the day on which the person ceased work or ceased to be enrolled in a full time course of education or of vocational training; or

(ia) if subparagraph 593(1)(a)(ii) applies in relation to the person—the day on which the person becomes incapacitated for work or study; or

(ii) in any case—the day on which the person claims a jobseeker payment; and

(b) the person is not a transferee to a jobseeker payment;

the person is not qualified for a jobseeker payment for a period unless the person has served the liquid assets test waiting period in relation to the claim before the beginning of that period.

Note 1: For ***liquid assets*** see section 14A.

Note 2: For ***maximum reserve*** see section 14A.

Note 3: For ***served the waiting period*** in relation to a liquid assets test waiting period, see subsection 23(10A).

(2) The liquid assets test waiting period in relation to the claim is to be worked out under subsections (2A), (2B) and (2C).

(2A) Work out the number of formula weeks (disregarding any fractions of a week) in relation to the claim using the formula:

Authorised Version C2025C00595 registered 03/11/2025

$$\frac{\text{Liquid assets} - \text{Maximum reserve amount}}{\text{Divisor}}$$

where:

liquid assets means the person's liquid assets.

maximum reserve amount means the maximum reserve in relation to the person under subsection 14A(1).

divisor means, in relation to a person:

(a) if the person is not a member of a couple and does not have a dependent child—$500; or

(b) otherwise—$1,000.

(2B) If the number of formula weeks is equal to or greater than 13 weeks, the liquid assets test waiting period in relation to the claim is 13 weeks.

(2C) If subsection (2B) does not apply, the liquid assets test waiting period in relation to the claim is the number of weeks equal to the number of formula weeks.

(3) If the person is not a member of a couple, the liquid assets test waiting period in relation to the claim starts on:

(a) if subparagraph 593(1)(a)(ii) does not apply in relation to the person—subject to subsection (3AA), the day following the day on which the person ceased work or ceased to be enrolled in a full time course of education or of vocational training; or

(b) if subparagraph 593(1)(a)(ii) applies in relation to the person—subject to subsection (4), the day on which the person became incapacitated for work or study.

(3AA) If subparagraph 593(1)(a)(ii) does not apply in relation to the person and the person:

(a) is not a member of a couple; and

(b) is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has

Authorised Version C2025C00595 registered 03/11/2025

been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act;

the liquid assets test waiting period in relation to the claim starts on the day on which the person became incapacitated.

(3A) If the person is a member of a couple, the liquid assets test waiting period in relation to the claim starts on the last occurring of the following days:

(a) either:

(i) if subparagraph 593(1)(a)(ii) does not apply in relation to the person—subject to subsection (3B), the day following the day on which the person ceased work or ceased to be enrolled in a full time course of education or of vocational training; or

(ii) if subparagraph 593(1)(a)(ii) applies in relation to the person—subject to subsection (4), the day on which the person became incapacitated for work or study;

(b) if, when the claim is made, the person's partner has ceased work—the day following the day on which the person's partner ceased work;

(ba) if, when the claim is made, the person's partner has ceased to be enrolled in a full time course of education or of vocational training—the day following the day on which the person's partner so ceased;

(c) if, when the claim is made, the person's partner is incapacitated for work—the day on which the person's partner became incapacitated for work.

(3B) If subparagraph 593(1)(a)(ii) does not apply in relation to the person and the person:

(a) is a member of a couple; and

(b) is not required to satisfy the employment pathway plan requirements because of a determination that is in effect under section 40L of the Administration Act and that has been made because of the circumstance referred to in paragraph 40L(5)(a) of that Act;

Authorised Version C2025C00595 registered 03/11/2025

the liquid assets test waiting period in relation to the claim starts on the last occurring of the following days:

(c) the day on which the person became incapacitated for work;

(d) if, when the claim is made, the person's partner has ceased work—the day following the day on which the person's partner ceased work;

(da) if, when the claim is made, the person's partner has ceased to be enrolled in a full time course of education or of vocational training—the day following the day on which the person's partner so ceased;

(e) if, when the claim is made, the person's partner is incapacitated for work—the day on which the person's partner became incapacitated for work.

(4) If:

(a) a person becomes qualified for austudy payment; and

(b) because of paragraph 575(2)(a), austudy payment is not payable to the person while the person is subject to a liquid assets test waiting period; and

(c) within the liquid assets test waiting period referred to in paragraph (b):

(i) the person becomes incapacitated for study; and

(ii) the person claims jobseeker payment; and

(d) subparagraph 593(1)(a)(ii) applies in relation to the person;

the liquid assets test waiting period in relation to the claim for jobseeker payment starts on the day on which the person becomes qualified for austudy payment.

(4A) Subsection (1) does not apply to a person if, at any time during the 12 months preceding:

(a) if subparagraph 593(1)(a)(ii) does not apply in relation to the person—the day following the day on which the person ceased work or ceased to be enrolled in a full time course of education or of vocational training; or

(aa) if subparagraph 593(1)(a)(ii) applies in relation to the person—the day on which the person becomes incapacitated for work or study; or

Authorised Version C2025C00595 registered 03/11/2025

(b) in any case—the day on which the person claims a jobseeker payment;

the person or their partner was serving a liquid assets test waiting period that started during that 12 months.

(5) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while serving a liquid assets test waiting period, the Secretary may determine that the person does not have to serve the whole, or any part, of the waiting period.

Note 1: For ***in severe financial hardship*** see subsection 19C(2) (person who is not a member of a couple) and 19C(3) (person who is a member of a couple).

Note 2: For ***unavoidable or reasonable expenditure*** see subsection 19C(4).

(6) Subsection (1) does not apply to a person who becomes qualified for jobseeker payment at the end of a continuous period in respect of which the person received income support payments (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this subsection).

Note 1: For ***income support payment*** see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

(8) Subsection (1) does not apply to a person who:

(a) is undertaking an activity specified in an instrument made under subsection (8A); and

(b) has been exempted from the application of subsection (1) by the Secretary.

(8A) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (8)(a).

(8B) Subsection (1) does not apply to a person if:

(a) the person makes a claim for jobseeker payment on or after the commencement of this subsection; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the person makes the claim after the death of the person's partner on or after the commencement of this subsection; and

(c) if the person is a man or a woman who was not pregnant when her partner died—the person makes the claim in the period of 14 weeks starting on the day of the death of the partner; and

(d) if the person is a woman who was pregnant when her partner died—the person makes the claim:

(i) in the period of 14 weeks starting on the day of the death of the partner; or

(ii) in the period starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

whichever ends later.

(9) A reference in this section to the day on which a person ceased work (whether the person ceases work permanently, temporarily or by reason of being on unpaid leave) is a reference:

(a) except where the person is on paid leave immediately after last performing work—to the day on which the person last performed work before so ceasing; and

(b) if the person is on paid leave—to the last day on which the person is on that paid leave.

600 Prospective determinations for some jobseeker payment recipients

(1) A person is qualified for jobseeker payment for a period determined by the Secretary if:

(a) the person is receiving jobseeker payment; and

(b) the Secretary considers at the start of the period that:

(i) the person may reasonably be expected to satisfy the qualification requirements for jobseeker payment (sections 593 to 598) during the period; and

(ii) it is reasonable to expect that jobseeker payment will be payable to the person for the period; and

Authorised Version C2025C00595 registered 03/11/2025

(iii) the person will comply with the Act during the period; and

(c) the person is not indebted at the start of the period to the Commonwealth under or as a result of this Act; and

(d) the Secretary is satisfied that the person should be qualified under this section for a jobseeker payment for the period.

(2) The Minister, by legislative instrument:

(a) must determine guidelines for making decisions under paragraph (1)(b); and

(b) may revoke or vary the determination.

If the Minister revokes a determination, the Minister must determine guidelines that commence immediately after the revocation.

Subdivision D—Situations where jobseeker payment not payable (general)

608 Jobseeker payment not payable if payment rate nil

(1) Subject to subsection (2), a jobseeker payment is not payable to a person if the person's jobseeker payment rate would be nil.

(2) Subsection (1) does not apply to a person if the person's rate would be nil merely because:

(a) an election by the person under subsection 915A(1) (about quarterly energy supplement) or 1061VA(1) (about quarterly pension supplement) is in force; or

(b) the person has been paid an advance pharmaceutical allowance under the social security law.

611 Assets test—jobseeker payment not payable if assets value limit exceeded

(1) Subject to section 654, a jobseeker payment is not payable to a person if the value of the person's assets is more than the person's assets value limit.

Authorised Version C2025C00595 registered 03/11/2025

(2) A person's assets value limit is worked out using the following table: work out which family situation applies to the person; the assets value limit is the corresponding amount in the ***assets value limit*** column.

Assets value limit table

Column 1	Column 2	Column 3	
		Assets value limit	
Item	**Person's family situation**	**Column 3A** **Either person or partner homeowner**	**Column 3B** **Neither person nor partner homeowner**
1.	Not member of a couple	$250,000	$450,000
2.	Partnered (partner getting neither pension nor benefit)	$375,000	$575,000
3.	Partnered (partner getting pension or benefit)	$187,500	$287,500

Note 1: For ***member of a couple***, ***partnered (partner getting neither pension nor benefit)*** and ***partnered (partner getting pension or benefit)*** see section 4.

Note 2: For ***homeowner*** see section 11.

Note 3: If item 2 applies to a person, the value of *all* the assets of the person's partner are to be taken as being included in the value of the person's assets (see subsection 612(1))—this is why the assets value limit is so high. If, on the other hand, item 3 applies to a person, the value of the person's assets is only *half* the combined value of the person's assets and the assets of the person's partner (see subsection 612(2)).

Note 4: If a jobseeker payment is not payable to a person because of the value of the person's assets, the person may be able to take advantage of provisions dealing with financial hardship (see sections 1131 and 1132).

Authorised Version C2025C00595 registered 03/11/2025

Note 5: The assets value limits of items 1 and 3 in column 3A and item 3 in column 3B are indexed annually in line with CPI increases (see sections 1191 to 1194).

Note 6: The assets value limit of item 1 in column 3B is adjusted annually (see subsection 1204(1)).

Note 7: The item 2 assets value limits are adjusted annually so that they are twice the corresponding item 3 limits (see subsections 1204(2) and (3)).

612 Value of assets of members of couples

(1) If:

(a) a person is a member of a couple; and

(b) the person's partner:

(i) is not in receipt of a social security or service pension, income support supplement or a veteran payment; and

(ii) is not in receipt of a social security benefit;

the value of the person's assets, or of assets of a particular kind of the person, includes the value of the partner's assets or of assets of that kind of the partner.

Note: For ***social security pension*** see subsection 23(1).

(2) If:

(a) a person is a member of a couple; and

(b) the person's partner is in receipt of:

(i) a social security or service pension, income support supplement or a veteran payment; or

(ii) a social security benefit;

the value of:

(c) the person's assets is taken to be 50% of the sum of the value of the assets of the person and the value of the assets of the person's partner; and

(d) the person's assets of a particular kind are taken to be 50% of the sum of the value of the assets of that kind of the person and the value of the assets of that kind of the person's partner.

Authorised Version C2025C00595 registered 03/11/2025

613 Full-time students

(1) Subject to subsection (2), a jobseeker payment is not payable to a person who is enrolled in a full-time course of education or of vocational training for the period that:

(a) starts when the person starts the course; and

(b) finishes when the person:

(i) completes the course; or

(ii) abandons the course; or

(iii) gives notice to the provider of the course that the person:

(A) wishes to withdraw from the course; or

(B) wishes to withdraw from such number of subjects that the person's course will no longer be a full-time course; and

(c) includes periods of vacation.

(2) Subsection (1) does not prevent a jobseeker payment from being payable for any period during which:

(b) the person is engaged in a course undertaken under an employment pathway plan; or

(c) the person has deferred a course of education.

614 Multiple entitlement exclusion

(1) A jobseeker payment is not payable to a person if the person is already receiving a service pension, income support supplement or a veteran payment.

(2) If:

(a) a person is receiving a jobseeker payment; and

(b) a social security pension, another social security benefit, a service pension, income support supplement or a veteran payment becomes payable to the person;

a jobseeker payment is not payable to the person.

Note 1: Another payment type will generally not become payable to the person until the person claims it.

Authorised Version C2025C00595 registered 03/11/2025

Note 2: For ***social security pension*** and ***social security benefit*** see subsection 23(1).

Note 3: For the day on which the jobseeker payment ceases to be payable see section 660.

(3) A jobseeker payment is not payable to a woman if:

(a) the woman is an armed services widow; and

(b) the woman is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act;

unless:

(c) the woman has been receiving a payment referred to in paragraph (b) continuously since before 1 November 1986; and

(d) before 1 November 1986 the woman was also receiving a social security benefit.

Note 1: For ***armed services widow*** see subsection 4(1).

Note 2: A widow receiving a payment under the Veterans' Entitlements Act who is not covered by paragraph (b) may be paid at a lower rate—see subsection 1068(3).

(3A) A jobseeker payment is not payable to a man if:

(a) the man is an armed services widower; and

(b) the man is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.

Note: For ***armed services widower*** see subsection 4(1).

(3B) A jobseeker payment is not payable to a person if:

(a) the person is an armed services widow or armed services widower; and

(b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

Authorised Version C2025C00595 registered 03/11/2025

Note 1: For ***armed services widow*** and ***armed services widower*** see subsection 4(1).

Note 2: For ***MRCA*** see subsection 23(1).

(4) Subject to subsections (5) and (6), a jobseeker payment is not payable to a person for a period if a payment has been or may be made in respect of the person for that period under:

(a) a prescribed educational scheme other than the ABSTUDY Scheme to the extent that it applies to part-time students; or

(b) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; or

(ba) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; or

(bb) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students.

Note: For ***prescribed educational scheme*** see section 5.

(5) If:

(a) a person may enrol in a full-time course of education; and

(b) a payment under a scheme referred to in subsection (4) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (4), jobseeker payment is payable to the person for a period before the person starts the course.

(6) If:

(a) a person enrols in a full-time course of education; and

(c) an application is made for a payment in respect of the person under the ABSTUDY Scheme; and

(d) the person was receiving jobseeker payment immediately before the start of the course;

the Secretary may decide that, in spite of subsection (4), jobseeker payment is payable to the person for the period of 3 weeks commencing on the day on which the course starts.

Authorised Version C2025C00595 registered 03/11/2025

615 Jobseeker payment not payable if person fails to attend interview etc. in certain circumstances

(1) A jobseeker payment is not payable to a person if:
  (a) before or after the person made a claim for a jobseeker payment, the Department is contacted by or on behalf of the person in relation to a claim for a jobseeker payment; and
  (b) as a result of the contact, the Department required the person to do one or both of the following:
    (i) attend an interview with a specified person or organisation at a time and place specified in the requirement;
    (ii) enter into an employment pathway plan; and
  (c) the person fails to comply with that requirement, or those requirements.

(2) This section does not apply to a person if the Secretary is satisfied, in accordance with any guidelines under subsection (3), that it should not apply to the person.

(3) The Secretary may, by legislative instrument, make guidelines to be complied with in deciding under subsection (2) whether this section applies to a person.

(4) This section ceases to apply:
  (a) when the person complies with:
    (i) that requirement, or those requirements; or
    (ii) any requirements that the Secretary has required the person to undertake in place of that requirement, or those requirements; or
  (b) at such earlier time as the Secretary determines, in accordance with any guidelines under subsection (5).

(5) The Secretary may, by legislative instrument, make guidelines to be complied with in making determinations under paragraph (4)(b).

(6) To avoid doubt, the fact that a person is taken, because of section 13 of the Administration Act, to have made a claim for a

Authorised Version C2025C00595 registered 03/11/2025

newstart allowance on the day on which the Department was contacted by or on behalf of the person in relation to the claim does not affect the operation of this section.

Subdivision E—Situations where jobseeker payment not payable (waiting periods)

620 Ordinary waiting period

(1) Subject to subsections (2), (4) and (5), a person is subject to an ordinary waiting period unless:

(a) at some time in the 13 weeks immediately before the person's start day (worked out disregarding clauses 4A and 5 of Schedule 2 to the Administration Act), the person received an income support payment; or

(g) the Secretary is satisfied that the person is experiencing a personal financial crisis.

Note 1: For ***income support payment*** see subsection 23(1).

Note 2: For ***experiencing a personal financial crisis*** see section 19DA.

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

(a) is undertaking an activity specified in an instrument made under subsection (3); and

(b) has been exempted from the application of subsection (1) by the Secretary.

(3) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (2)(a).

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

(a) the person makes a claim for jobseeker payment on or after the commencement of this subsection; and

(b) the person makes the claim after the death of the person's partner on or after the commencement of this subsection; and

(c) if the person is a man or a woman who was not pregnant when her partner died—the person makes the claim in the

Authorised Version C2025C00595 registered 03/11/2025

period of 14 weeks starting on the day of the death of the partner; and

(d) if the person is a woman who was pregnant when her partner died—the person makes the claim:

(i) in the period of 14 weeks starting on the day of the death of the partner; or

(ii) in the period starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

whichever ends later.

(5) If a person makes a claim for jobseeker payment during the period beginning on 1 April 2021 and ending at the end of 30 June 2021, then, despite subsection (1), the person is not subject to the whole of the ordinary waiting period.

621 Duration of ordinary waiting period

(1) Subject to subsections (3) and (5), if a person:

(a) is subject to an ordinary waiting period; and

(b) is not disqualified for jobseeker payment under section 598 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the person's start day (worked out disregarding clauses 4A and 5 of Schedule 2 to the Administration Act).

(2) Subject to subsections (3) and (5), if a person:

(a) is subject to an ordinary waiting period; and

(b) is disqualified for jobseeker payment under section 598 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the day after the end of the liquid assets test waiting period referred to in subsection 598(2).

(3) Subject to subsection (5), if:

(a) a person is subject to an ordinary waiting period; and

Authorised Version C2025C00595 registered 03/11/2025

(b) apart from this subsection, the ordinary waiting period would be the period of 7 days that starts on the person's start day (worked out disregarding clauses 4A and 5 of Schedule 2 to the Administration Act); and

(c) that start day falls within one or more of the following periods (each of which is an ***exclusion period***) that the person is subject to:

(i) a newly arrived resident's waiting period;

(ii) a seasonal work preclusion period;

(iii) a lump sum preclusion period under Part 3.14;

(iv) an income maintenance period, where the person's rate of jobseeker payment on that start day would be nil;

then the ordinary waiting period is the period of 7 days that starts on the first day after all the exclusion periods have ended.

(4) If:

(a) subparagraph (3)(c)(iv) applies to a person; and

(b) on a day in that income maintenance period, the person's rate of jobseeker payment would be greater than nil if jobseeker payment were payable to the person on that day;

then, for the purposes of subsection (3), that income maintenance period is taken to have ended at the end of the day before that day.

(5) If:

(a) a person qualifies for a social security payment (other than jobseeker payment); and

(b) because the person is subject to an ordinary waiting period relating to that social security payment, that social security payment is not payable to the person for a period starting on a particular day (the ***initial day***); and

(c) during that period the person:

(i) ceases to be qualified for that social security payment; and

(ii) claims jobseeker payment;

the person's ordinary waiting period relating to jobseeker payment is the period of 7 days that starts on the initial day.

Authorised Version C2025C00595 registered 03/11/2025

Note: Ordinary waiting periods apply to parenting payment, youth allowance and jobseeker payment.

623A Newly arrived resident's waiting period

(1) Subject to this section, a person who:
  (a) has entered Australia; and
  (b) has not been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks;
is subject to a newly arrived resident's waiting period.

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a jobseeker payment.

Note: For ***qualifying residence exemption*** in relation to jobseeker payment, see paragraph 7(6AA)(f).

(7) Subsection (1) does not apply to a person if the person:
  (a) is the principal carer of one or more children; and
  (b) is not a member of a couple; and
  (c) was not a lone parent at the start of the person's current period as an Australian resident.

Note 1: For ***principal carer*** see subsections 5(15) to (24).

Note 2: For ***lone parent*** and ***current period as an Australian resident*** see subsection 23(1).

(8) Subsection (1) does not apply to a person if:
  (a) the person is a refugee, or a former refugee, at the time the person made the claim for a jobseeker payment; or
  (b) the following apply:
    (i) before the person made the claim for a jobseeker payment, the person was a family member of another person at the time the other person became a refugee;
    (ii) the person is a family member of that other person at the time the person made the claim for a jobseeker payment or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

Authorised Version C2025C00595 registered 03/11/2025

(c) the person is an Australian citizen at the time the person made the claim for a jobseeker payment.

(9) For the purposes of subsection (8):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

623B Duration of newly arrived resident's waiting period

(1) If a person is subject to a newly arrived resident's waiting period, the period starts on the day the person first became an Australian resident.

(3) The newly arrived resident's waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks.

Subdivision G—Situations where jobseeker payment not payable (administrative breaches)

631 Situations where jobseeker payment not payable for failure to comply with certain requirements

A jobseeker payment is not payable to a person if the person refuses or fails, without reasonable excuse, to comply with a requirement made of the person under section 67, 68 or 192 of the Administration Act.

Subdivision H—Other situations where jobseeker payment not payable

633 Seasonal workers

(1) This section applies if, at any time during the 6 months immediately before the day on which a person lodges a claim for

Authorised Version C2025C00595 registered 03/11/2025

jobseeker payment, the person, or, if the person is a member of a couple, the person or the person's partner, has been engaged in seasonal work.

Note: For ***seasonal work*** see subsection 16A(1).

(2) Jobseeker payment is not payable to the person:

(a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person's seasonal work preclusion period; or

(b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person's seasonal work preclusion period to which the person is subject as a result of the determination.

Note: For ***seasonal work preclusion period*** see subsection 16A(1).

(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):

(a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and

(b) the determination has effect accordingly.

Note 1: For ***in severe financial hardship*** see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Note 2: For ***unavoidable or reasonable expenditure*** see subsection 19C(4).

(4) Subsection (2) does not apply to a person who:

(a) is undertaking an activity specified in an instrument made under subsection (5); and

(b) has been exempted from the application of subsection (2) by the Secretary.

Authorised Version C2025C00595 registered 03/11/2025

(5) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (4)(a).

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

(a) the person makes a claim for jobseeker payment on or after the commencement of this subsection; and

(b) the person makes the claim after the death of the person's partner on or after the commencement of this subsection; and

(c) if the person is a man or a woman who was not pregnant when her partner died—the person makes the claim in the period of 14 weeks starting on the day of the death of the partner; and

(d) if the person is a woman who was pregnant when her partner died—the person makes the claim:

(i) in the period of 14 weeks starting on the day of the death of the partner; or

(ii) in the period starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

whichever ends later.

634 Move to area of lower employment prospects

(1) Subject to subsections (1B) and (2), if, in the opinion of the Secretary, a person has reduced his or her employment prospects by moving to a new place of residence without sufficient reason, a jobseeker payment is not payable to the person for 26 weeks.

(1A) Subsection (1) extends to a person who makes a claim for jobseeker payment on or after the day on which the person moved to the new place of residence and before the end of the period referred to in that subsection.

(1B) If a person to whom a jobseeker payment is not payable under subsection (1) for a period of 26 weeks (including that subsection as it applies by subsection (1A)) does either of the following during that period:

Authorised Version C2025C00595 registered 03/11/2025

(a) moves back to the place of residence (the ***original place of residence***) the movement from which resulted in jobseeker payment not being payable to him or her;

(b) moves to another place of residence a movement to which from the original place of residence would not have resulted in jobseeker payment not being payable to him or her;

the period of 26 weeks ends at the time of the movement back to the original place of residence or the movement to the other place of residence, as the case may be.

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

(a) is undertaking an activity specified in an instrument made under subsection (2A); and

(b) has been exempted from the application of subsection (1) by the Secretary.

(2A) The Secretary may, by legislative instrument, specify activities for the purpose of paragraph (2)(a).

(3) For the purposes of subsection (1), a person has a sufficient reason for moving to a new place of residence if and only if the person:

(a) moves to live with a family member who has already established his or her residence in that place of residence; or

(b) moves to live near a family member who has already established residence in the same area; or

(c) satisfies the Secretary that the move is necessary for the purposes of treating or alleviating a physical disease or illness suffered by the person or by a family member; or

(d) satisfies the Secretary that the person has moved from his or her original place of residence because of an extreme circumstance which made it reasonable for the person to move to the new place of residence (for example, the person had been subjected to domestic or family violence in the original place of residence).

Note: For ***family member*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

(4) The Secretary may determine in writing the day on which the period of non-payment imposed by subsection (1) commences and that day may be before the day of the determination.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Rate of jobseeker payment

643 How to work out a person's jobseeker payment rate

Subject to this Division, a person's jobseeker payment rate is to be worked out using Benefit Rate Calculator B at the end of section 1068.

644AAA Approved program of work supplement

If a person:

(a) is receiving jobseeker payment; and

(b) is participating in an approved program of work for income support payment;

the rate of the person's jobseeker payment is increased by an amount of $20.80, to be known as the approved program of work supplement, for each fortnight during which the person participates in the program.

654 Rate of jobseeker payment for former recipients of wife pension

(1) This section applies if:

(a) a woman was receiving wife pension under Part 2.4 immediately before 20 March 2020; and

(b) the Secretary makes a determination under section 12 of the Administration Act that the woman is taken to have made a claim for jobseeker payment because the woman became qualified for that payment immediately after ceasing to receive wife pension.

(2) The Secretary must, in determining the claim, disregard section 611.

(3) Subject to this section, if:

(a) the Secretary determines that the claim is to be granted; and

Authorised Version C2025C00595 registered 03/11/2025

(b) as a result of that determination and disregarding section 611, jobseeker payment is payable to the woman on a day (a ***transition day***) on or after 20 March 2020;

the woman's jobseeker payment rate on the transition day is worked out in accordance with the following method statement:

Method statement

Step 1. Work out the woman's jobseeker payment rate on the transition day in accordance with sections 643 and 644AAA.

Step 2. Work out the woman's wife pension transition rate on the transition day.

Note: See subsection (4) for the wife pension transition rate.

Step 3. If the rate at step 2 exceeds the rate at step 1, the woman's jobseeker payment rate on the transition day is the rate at step 2.

Step 4. If the rate at step 2 does not exceed the rate at step 1, the woman's jobseeker payment rate on the transition day is the rate at step 1.

(4) The woman's wife pension transition rate on a transition day is the rate worked out in accordance with section 655 or 656.

(5) If, for a period of 42 consecutive days, the following apply:

(a) the woman's jobseeker payment rate is the rate at step 1 of the method statement in subsection (3);

(b) if section 611 had applied in relation to the woman throughout that period, the value of the woman's assets throughout that period is less than or equal to the woman's asset value limit under that section;

then for any day after the end of that period:

(c) section 611 applies in relation to the woman; and

Authorised Version C2025C00595 registered 03/11/2025

(d) the woman's jobseeker payment rate is to be worked out in accordance with sections 643 and 644AAA (and not under this section).

(6) If, on a day (the ***cessation day***) on or after 20 March 2020, the woman would not have qualified for a wife pension if Part 2.4 (as in force immediately before 20 March 2020) were still in force on the cessation day, then on and after the cessation day:

(a) section 611 applies in relation to the woman; and

(b) the woman's jobseeker payment rate is to be worked out in accordance with sections 643 and 644AAA (and not under this section).

655 Wife pension transition rate—method 1

(1) A woman's wife pension transition rate on a day is worked out in accordance with this section if:

(a) on 19 March 2020, there was no reduction under step 5 of the method statement in point 1064-A1, and there was no reduction under step 9 of that method statement, in relation to the woman's rate of wife pension on that day; and

(b) assuming the woman were receiving newstart allowance on each day in the period starting on 6 February 2020 and ending at the end of 19 March 2020, there would have been no reduction under step 5 of the method statement in point 1068-A1 on any day in that period.

(2) The woman's wife pension transition rate on a day is the rate that would have been the woman's rate of wife pension on that day under Module A of the Pension Rate Calculator A in section 1064 if the woman had been receiving wife pension on that day.

(3) However, subsection (2) applies with the following modifications:

(a) in working out the amount at step 1 of the method statement in point 1064-A1, assume each amount in the table in point 1064-B1 were that amount as at 19 March 2020;

(b) in working out the amount at step 1A of the method statement in point 1064-A1:

Authorised Version C2025C00595 registered 03/11/2025

(i) assume the combined couple rate of pension supplement were that amount as at 19 March 2020; and

(ii) assume the combined couple rate of minimum pension supplement were that amount as at 19 March 2020;

(c) assume the amount at step 5 of the method statement in point 1064-A1 were the amount worked out at step 5 of the method statement in point 1068-A1, multiplied by 26;

(d) in working out the amount at step 9 of the method statement in point 1064-A1, assume each amount in the table in point 1064-G3 were that amount as at 19 March 2020.

656 Wife pension transition rate—method 2

(1) A woman's wife pension transition rate on a day is worked out in accordance with this section if:

(a) on 19 March 2020, there was a reduction under either or both of steps 5 and 9 of the method statement in point 1064-A1 in relation to the woman's rate of wife pension on that day; or

(b) assuming the woman were receiving newstart allowance on each day in the period starting on 6 February 2020 and ending at the end of 19 March 2020, there would have been a reduction under step 5 of the method statement in point 1068-A1 on at least one day in that period.

(2) The woman's wife pension transition rate on a day is the rate that would have been the woman's rate of wife pension on that day under Module A of the Pension Rate Calculator A in section 1064 if the woman had been receiving wife pension on that day.

(3) However, subsection (2) applies with the following modifications:

(a) in working out the amount at step 1 of the method statement in point 1064-A1, assume each amount in the table in point 1064-B1 were that amount as at 19 March 2020;

(b) in working out the amount at step 1A of the method statement in point 1064-A1:

(i) assume the combined couple rate of pension supplement were that amount as at 19 March 2020; and

Authorised Version C2025C00595 registered 03/11/2025

(ii) assume the combined couple rate of minimum pension supplement were that amount as at 19 March 2020;

(c) in working out the amount at step 5 of the method statement in point 1064-A1, assume each amount in the table in point 1064-E4 were that amount as at 19 March 2020;

(d) in working out the amount at step 9 of the method statement in point 1064-A1, assume each amount in the table in point 1064-G3 were that amount as at 19 March 2020.

(4) For the purposes of this section, take into account clause 146 of Schedule 1A as in force immediately before 20 March 2020. However, in taking that clause into account, assume each amount referred to in subparagraph 146(4)(a)(i) of Schedule 1A were that amount as at 19 March 2020.

Authorised Version C2025C00595 registered 03/11/2025

Division 9—Bereavement payments

Subdivision AA—Ongoing payments for death of partner

660LA Qualification for payments under this Subdivision

(1) If:

(a) a person is receiving a jobseeker payment; and

(b) the person is a long-term social security recipient; and

(c) the person is a member of a couple; and

(d) the person's partner dies; and

(e) immediately before the partner died, the partner:

(i) was receiving a social security pension; or

(ii) was receiving a service pension or a veteran payment; or

(iii) was a long-term social security recipient; and

(f) on the person's payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

(i) the amount that would otherwise be payable to the person under section 660LD (person's continued rate) on that payday; and

(ii) the amount (if any) that would otherwise be payable to the person, under section 660LB (continued payment of partner's pension or allowance) on the partner's payday immediately before the first available bereavement adjustment payday;

the person is qualified for payments under this Subdivision to cover the bereavement period.

Note 1: Section 660LB provides for the payment to the person, up to the first available bereavement adjustment payday, of amounts equal to the instalments that would have been paid to the person's partner during that period if the partner had not died.

Authorised Version C2025C00595 registered 03/11/2025

Note 2: Section 660LC provides for a lump sum that represents the instalments that would have been paid to the person's partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the partner had not died.

Note 3: For ***long-term social security recipient*** see subsection 23(1).

(2) A person who is qualified for payments under this Subdivision may choose not to receive payments under this Subdivision.

Note: By making such an election, the person may qualify for a payment under Subdivision A.

(3) An election under subsection (2):

(a) must be made by written notice to the Secretary; and

(b) may be made after the person has been paid an amount or amounts under this Subdivision; and

(c) cannot be withdrawn after the Department has taken all the action required to give effect to that election.

(4) If a person is qualified for payments under this Subdivision in relation to the partner's death, the rate at which jobseeker payment is payable to the person during the bereavement period is, unless the person has made an election under subsection (2), governed by section 660LD.

660LB Continued payment of partner's pension or benefit

If a person is qualified for payments under this Subdivision in relation to the death of the person's partner, there is payable to the person, on each of the partner's paydays in the bereavement rate continuation period, an amount equal to the amount that would have been payable to the partner on that payday if the partner had not died.

660LC Lump sum payable in some circumstances

If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the person as a lump sum an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Add up:

(a) the amount that, if the person's partner had not died, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday; and

(b) the amount (if any) that, if the partner had not died, would have been payable to the partner on the partner's payday immediately before the first available bereavement adjustment payday;

the result is called the ***combined rate***.

Step 2. Work out the amount that, but for section 660LD, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday: the result is called the ***person's individual rate***.

Step 3. Take the person's individual rate away from the combined rate: the result is called the ***partner's instalment component***.

Step 4. Work out the number of the partner's paydays in the bereavement lump sum period.

Authorised Version C2025C00595 registered 03/11/2025

Step 5.	Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the person under this section.

660LD Adjustment of a person's jobseeker payment rate

If:

(a) a person is qualified for payments under this Subdivision; and

(b) the person does not elect under subsection 660LA(2) not to receive payments under this Subdivision;

the rate of the person's jobseeker payment during the bereavement period is worked out as follows:

(c) during the bereavement rate continuation period, the rate of jobseeker payment payable to the person is the rate at which the payment would have been payable to the person if the person's partner had not died;

(d) during the bereavement lump sum period (if any), the rate at which jobseeker payment is payable to the person is the rate at which the payment would be payable to the person apart from this Subdivision.

660LE Effect of death of person entitled to payments under this Subdivision

If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) the person dies within the bereavement period; and

(c) the Secretary does not become aware of the death of the person's partner before the person dies;

there is payable, to such person as the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

Authorised Version C2025C00595 registered 03/11/2025

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Add up:

(a) the amount that, if neither the person nor the person's partner had died, would have been payable to the person on the person's payday immediately after the day on which the person dies; and

(b) the amount (if any) that, if neither the person nor the person's partner had died, would have been payable to the person's partner on the partner's payday immediately after the day on which the person died;

the result is called the ***combined rate***.

Step 2. Work out the amount that, but for section 660LD, would have been payable to the person on the person's payday immediately after the day on which the person died if the person had not died: the result is called the ***person's individual rate***.

Step 3. Take the person's individual rate away from the combined pensioner couple rate: the result is called the ***partner's instalment component***.

Step 4. Work out the number of paydays of the partner in the period that commences on the day on which the person dies and ends on the day on which the bereavement period ends.

Authorised Version C2025C00595 registered 03/11/2025

Step 5.	Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable under this section.

660LF Matters affecting payments under this Subdivision

(1) If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) after the person's partner died, an amount to which the partner would have been entitled if the partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act; and

(c) the Secretary is not satisfied that the person has not had the benefit of that amount;

the following provisions have effect:

(d) the amount referred to in paragraph (b) is not recoverable from the person or from the personal representative of the person's partner, except to the extent (if any) that the amount exceeds the amount payable to the person under this Subdivision;

(e) the amount payable to the person under this Subdivision is to be reduced by the amount referred to in paragraph (b).

(2) If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) the amount to which the person's partner would have been entitled if the person's partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank; and

Authorised Version C2025C00595 registered 03/11/2025

(c) the bank pays to the person, out of the account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (b);

the bank is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the person's partner or anyone else in respect of the payment of that money to the person.

Subdivision A—One-off payment for death of partner

660LH Qualification for payment under this Subdivision

A person is qualified for a lump sum payment under this Subdivision if:

(a) the person is qualified for jobseeker payment on a day (the ***relevant day***); and

(b) jobseeker payment is payable to the person on the relevant day; and

(c) on or before the relevant day but after the commencement of this section, the person was a member of a couple and stopped being a member of a couple because the person's partner died; and

(d) the person is not a member of a couple on the relevant day; and

(e) when the person's partner died, both the person and the person's partner were Australian residents; and

(f) if the person is a man or a woman who was not pregnant when her partner died—the relevant day occurs in the period of 14 weeks starting on the day of the death of the partner; and

(g) if the person is a woman who was pregnant when her partner died—the relevant day occurs:

(i) in the period of 14 weeks starting on the day of the death of the partner; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) in the period (the ***relevant period***) starting on the day of the death of the partner and ending when the child is born or the woman otherwise stops being pregnant;

whichever ends later; and

(h) the relevant day is the day that the person first notifies the Secretary of the person's partner's death; and

(i) if the person is qualified for payments under section 660LA in respect of the person's partner's death—the person has made an election under subsection 660LA(2).

660LI Amount of payment

(1) The amount of the person's payment is worked out using the following formula (except if paragraph 660LH(g) applies in relation to the person):

$$\text{Daily rate of person's jobseeker payment on the relevant day} \times 14 \times 4.5$$

(2) If subparagraph 660LH(g)(i) applies in relation to the person, the amount of the person's payment is worked out using the following formula:

$$\left[\text{Daily rate of person's jobseeker payment on the relevant day} \times 14 \times 3\right] + \$1{,}000$$

(3) If subparagraph 660LH(g)(ii) applies in relation to the person, the amount of the person's payment is worked out using the following formula:

$$\left[\text{Daily rate of person's jobseeker payment on the relevant day} \times 14 \times 3\right] + \text{Additional amount}$$

where:

additional amount means the amount worked out in accordance with the following table:

Authorised Version C2025C00595 registered 03/11/2025

Additional amount		
Item	**If the relevant period is:**	**the additional amount is:**
1	More than 14 weeks but not more than 16 weeks	$1,150
2	More than 16 weeks but not more than 18 weeks	$1,500
3	More than 18 weeks but not more than 20 weeks	$1,850
4	More than 20 weeks but not more than 22 weeks	$2,150
5	More than 22 weeks but not more than 24 weeks	$2,500
6	More than 24 weeks but not more than 26 weeks	$2,850
7	More than 26 weeks but not more than 28 weeks	$3,200
8	More than 28 weeks but not more than 30 weeks	$3,550
9	More than 30 weeks but not more than 32 weeks	$3,900
10	More than 32 weeks	$4,250

Subdivision B—Continuation of jobseeker payment rate after death of child

660M Death of child—continuation of jobseeker payment rate for 14 weeks

If:

(a) a person is receiving jobseeker payment; and

(b) the person is the principal carer of a child who dies; and

(c) apart from this section, the person's rate of jobseeker payment would be reduced because the person is no longer the child's principal carer;

Authorised Version C2025C00595 registered 03/11/2025

the person's rate of jobseeker payment, during the period of 14 weeks that starts on the day of the child's death, is to be worked out as if the child had not died.

Note: For ***principal carer*** see subsections 5(15) to (24).

Authorised Version C2025C00595 registered 03/11/2025

Part 2.13—Remote engagement program payment

Division 1—Qualification for and payability of remote engagement program payment

Subdivision A—Qualification

661A Qualification for remote engagement program payment

(1) A person qualifies for a remote engagement program payment for a period if, throughout the period:

(a) the person is receiving a qualifying remote income support payment; and

(b) the person is receiving employment services from a remote engagement program provider; and

(c) the Secretary is satisfied that the person has agreed to participate, and is participating, in a remote engagement placement for at least 15 hours per week under the remote engagement program; and

(d) the person satisfies the qualification requirements (if any) determined by the Minister under paragraph (2)(c).

Note: For ***qualifying remote income support payment*** see section 661B.

(2) The Minister may, by legislative instrument, determine one or more of the following:

(a) an arrangement to be the remote engagement program;

(b) a part of the remote engagement program to be a remote engagement placement under the program;

(c) a qualification requirement for the purposes of paragraph (1)(d).

661B Definition of *qualifying remote income support payment*

(1) A ***qualifying remote income support payment*** is an income support payment:

Authorised Version C2025C00595 registered 03/11/2025

(a) of a kind set out in column 2 of an item in the following table; and

(b) for which a person qualifies in the circumstances set out in column 3 of the item.

Remote engagement program payment—qualifying remote income support payments

Column 1 Item	Column 2 Kind of payment	Column 3 Circumstances
1	Disability support pension	The person qualifies under subsection 94(1) and either: (a) is required, under paragraph 94(1)(da), to meet participation requirements under section 94A; or (b) is covered by a participation exemption under section 94C, 94D, 94E or 94F
2	Parenting payment	The person qualifies under subsection 500(1) and either: (a) is covered by paragraph 500(1)(c) and satisfies subsection 500(2A); or (b) is covered by paragraph 500(1)(ca) and satisfies subsection 500(2B)
3	Youth allowance	The person qualifies under subsection 540(1) and either: (a) is exempt, under subparagraph 540(1)(a)(ii), from undertaking full-time study but satisfies the Secretary that the person would otherwise be undertaking full-time study; or (b) is covered by subparagraph 540(1)(a)(iii) and satisfies subsection 540(2)

Authorised Version C2025C00595 registered 03/11/2025

Remote engagement program payment—qualifying remote income support payments		
Column 1 **Item**	**Column 2** **Kind of payment**	**Column 3** **Circumstances**
4	Jobseeker payment	The person qualifies under subsection 593(1) or (4)
5	Any other income support payment	The person is in a class of persons determined by the Minister under subsection (2)

(2) The Minister may, by legislative instrument, determine a class of persons for the purposes of column 3 of item 5 of the table in subsection (1).

Subdivision B—Payability

661C Remote engagement program payment not payable in specified circumstances

(1) A remote engagement program payment is not payable to a person in the circumstances (if any) specified by a legislative instrument made under subsection (2).

(2) The Minister may, by legislative instrument, specify circumstances in which a remote engagement program payment is not payable to a person.

661D Time limits on payability of remote engagement program payment

(1) A remote engagement program payment is not payable to a person who has received a remote engagement program payment for a continuous period of 104 weeks starting at the start time.

(2) A remote engagement program payment is not payable to a person in respect of any period starting on or after 1 July 2024.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Rate of remote engagement program payment

661E Remote engagement program payment—determination of rate

(1) Subject to subsection (3), the rate of a person's remote engagement program payment is the rate determined in accordance with a legislative instrument (if any) made under subsection (2).

(2) The Minister may, by legislative instrument, determine the rate of payment of a remote engagement program payment.

(3) The rate per fortnight of a remote engagement program payment must be:
  (a) not less than $100; and
  (b) not more than $190.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Miscellaneous matters

661F Effect of undertaking activities under the remote engagement program

A person is not taken to be any of the following merely because the person undertakes an activity in accordance with a remote engagement placement under the remote engagement program:

(a) a worker carrying out work in any capacity for the Commonwealth, or an employee of the Commonwealth, for the purposes of the *Work Health and Safety Act 2011*;

(b) an employee within the meaning of section 5 of the *Safety, Rehabilitation and Compensation Act 1988*;

(c) an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*;

(d) an employee for the purposes of the *Fair Work Act 2009*.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.13A—Education entry payment

Division 1—Recipients of pension PP (single)

665A Payment to recipient of pension PP (single)

A person is qualified for an education entry payment under this section if:

(a) the person is receiving a pension PP (single); and

(b) a pensioner education supplement is payable to the person; and

Note: Pensioner education supplement is payable to a person even if a person's whole payment has been traded in, or traded back, under the Student Financial Supplement Scheme established under Chapter 2B.

(c) the person has not received a payment under this Part for which he or she made a claim in the current calendar year.

665B Amount of section 665A payment

The amount of an education entry payment under section 665A is $208.

665C Need for claim

A person is not qualified for an education entry payment under section 665A unless the person has made a claim for the payment.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Recipients of disability support pension

665E Payment to a disability support pensioner

A person is qualified for an education entry payment under this section if:

(a) the person is receiving a disability support pension; and

(b) a pensioner education supplement is payable to the person; and

Note: Pensioner education supplement is payable to a person even if a person's whole payment has been traded in, or traded back, under the Student Financial Supplement Scheme established under Chapter 2B.

(d) the person has not received a payment under this Part for which he or she made a claim in the current calendar year.

665F Amount of section 665E payment

The amount of an education entry payment under section 665E is $208.

665G Need for claim

A person is not qualified for an education entry payment under section 665E unless the person has made a claim for the payment.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Special benefit recipients

665M Payment to a special benefit recipient

A person is qualified for an education entry payment under this section if:

(a) the person would be qualified for a pension PP (single) apart from paragraphs 500(1)(b) and (d) (Australian residency requirements); and

(b) the person is receiving special benefit; and

(c) a pensioner education supplement is payable to the person; and

Note: Pensioner education supplement is payable to a person even if a person's whole payment has been traded in, or traded back, under the Student Financial Supplement Scheme established under Chapter 2B.

(e) the person has not received a payment under this Part for which he or she made a claim in the current calendar year.

665N Amount of section 665M payment

The amount of an education entry payment under section 665M is $208.

665P Need for claim

A person is not qualified for an education entry payment under section 665M unless the person has made a claim for the payment.

Authorised Version C2025C00595 registered 03/11/2025

Division 6—Jobseeker payment recipients

665U Payment to recipient

(1) A person is qualified for an education entry payment under this section if:

(a) either:

(i) the Secretary is satisfied that the person intends to enrol in a full-time course of education that is an approved course under the ABSTUDY scheme or an approved course of education or study for the purposes of paragraph 541B(1)(c) or 569A(b); or

(ii) the person is enrolled in such a course; and

(b) immediately before starting the course of education:

(i) the person is receiving a jobseeker payment; and

(ii) the person had been receiving income support payments in respect of a continuous period of at least 12 months (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after the commencement of this section); and

Note 1: For ***income support payment*** see subsection 23(1).

Note 2: For the determination of whether a person received income support payments in respect of a continuous period of at least 12 months see section 38B.

(c) the person:

(i) ceases to be qualified for jobseeker payment because the person takes part in the course of education; or

(ii) is not qualified for youth allowance as a full-time student, austudy payment or payments under the ABSTUDY scheme because the person takes part in the course to comply with a requirement in an employment pathway plan; and

(d) the person has not, within the last 12 months, received a payment under this Part.

Authorised Version C2025C00595 registered 03/11/2025

(2) A person is also taken to be qualified for an education entry payment under this section if:

(a) immediately before 20 September 1996, the person:

(i) was qualified for an education entry payment under section 665Q of this Act, or under this section, as in force immediately before that date; or

(ii) would have been so qualified if the person had, before that date, duly made a claim for the payment; and

(b) the person has not received the payment.

Reduction of qualification period during designated period

(3) Subsection (1) has effect during the designated period as if the reference in subparagraph (b)(ii) to 12 months were a reference to 4 weeks.

(4) For the purposes of subsection (3), the ***designated period*** is the period beginning on 1 January 2009 and ending at the end of:

(a) 30 June 2010; or

(b) if a later date is determined by the Minister by legislative instrument—that later date.

665V Amount of section 665U payment

The amount of an education entry payment under section 665U is $208.

665W Need for claim

A person is not qualified for an education entry payment under section 665U unless the person has made a claim for the payment.

Authorised Version C2025C00595 registered 03/11/2025

Division 8A—Carer payment recipients

665ZFA Payment to a carer payment recipient

A person is qualified for an education entry payment under this section if:

(a) the person is receiving a carer payment; and

(b) a pensioner education supplement is payable to the person; and

Note: Pensioner education supplement is payable to a person even if a person's whole payment has been traded in, or traded back, under the Student Financial Supplement Scheme established under Chapter 2B.

(d) the person has not received a payment under this Part for which he or she made a claim in the current calendar year.

665ZFB Amount of section 665ZFA payment

The amount of an education entry payment under section 665ZFA is $208.

665ZFC Need for claim

A person is not qualified for an education entry payment under section 665ZFA unless the person has made a claim for the payment.

Authorised Version C2025C00595 registered 03/11/2025

Division 12—Recipients of PP (partnered)

665ZU Payment to recipient of PP (partnered)

(1) A person is qualified for an education entry payment under this section if:

(a) either:

(i) the Secretary is satisfied that the person intends to enrol in a full-time or part-time course of education that is an approved course under the AUSTUDY scheme or ABSTUDY scheme; or

(ii) the person is enrolled in such a course; and

(b) immediately before the person commences the course of education, the person:

(i) is receiving benefit PP (partnered); and

(ii) is a long-term social security recipient; and

(c) the person has not, within the last 12 months, received a payment under this Part.

Note 1: For ***long-term social security recipient*** see subsection 23(1).

Note 2: For ***benefit PP (partnered)*** see section 18.

Note 3: Transitional provisions apply to this section for 3 months after 1 July 1995 (see section 12 of the *Social Security (Parenting Allowance and Other Measures) Legislation Amendment Act 1994*).

Reduction of qualification period during designated period

(2) Subsection (1) has effect during the designated period as if it were modified as follows:

(a) by omitting subparagraph (b)(ii) and substituting the following subparagraph:

(ii) had been receiving income support payments in respect of a continuous period of at least 4 weeks (whether or not the kind of payment received has changed over the period and whether the period or any part of it occurred before or after 1 January 2009); and

Authorised Version C2025C00595 registered 03/11/2025

(b) by omitting Note 1 and substituting the following notes:

Note 1: For ***income support payment*** see subsection 23(1).

Note 1A: For the determination of whether a person received income support payments in respect of a continuous period of at least 4 weeks see section 38B.

(3) For the purposes of subsection (2), the ***designated period*** is the period beginning on 1 January 2009 and ending at the end of:

(a) 30 June 2010; or

(b) if a later date is determined by the Minister by legislative instrument—that later date.

665ZV Amount of section 665ZU payment

The amount of an education entry payment under section 665ZU is $208.

665ZW Need for claim

A person is not qualified for an education entry payment under section 665ZU unless the person has made a claim for the payment.

Authorised Version C2025C00595 registered 03/11/2025

Division 13—Protection of education entry payment

665ZY Education entry payment to be absolutely inalienable

(1) Subject to subsections (2) and (3) and section 238 of the Administration Act, an education entry payment is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

(2) The Secretary may make a deduction from an education entry payment payable to a person if the person asks the Secretary:
  (a) to make the deduction; and
  (b) to pay the amount to be deducted to the Commissioner of Taxation.

(3) The Secretary may make a deduction from a person's education entry payment if the person consents under section 1234A to the Secretary making that deduction.

Note: Section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a social security payment.

665ZZ Effect of garnishee or attachment order

(1) If:
  (a) a person has an account with a financial institution; and
  (b) a court order in the nature of a garnishee order comes into force in respect of the account; and
  (c) an education entry payment payable to the person (whether on the person's own behalf or not) has been paid to the credit of the account during the 4-week period immediately before the court order came into force;

the court order does not apply to the saved amount (if any) in the account.

Authorised Version C2025C00595 registered 03/11/2025

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

Method statement	
Step 1.	Work out the amount of education entry payment paid to the credit of the account as mentioned in paragraph (1)(c).
Step 2.	Subtract from that amount the total amount withdrawn from the account during the 4-week period referred to in paragraph (1)(c): 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.

Note: A person affected by a garnishee order may have other saved amounts.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.15—Special benefit

Division 1—Qualification for and payability of special benefit

Subdivision A—Qualification

729 Qualification for special benefit

(1) A person is qualified for a special benefit for a period if the Secretary determines, in accordance with subsection (2), that a special benefit should be granted to the person for the period.

Note: Special benefit is a discretionary benefit and is available only to a person who is not able to get any other income support payment (see paragraphs (2)(a) and (b) below).

(2) The Secretary may, in his or her discretion, determine that a special benefit should be granted to a person for a period if:

(a) no social security pension is payable to the person during the period; and

(b) no other social security benefit is payable to the person for the period; and

(bb) the person is not disqualified for a benefit PP (partnered) for the period solely because of the operation of section 500C (unemployment due to industrial action); and

(bc) the person is not disqualified from parenting payment for the period solely because of a failure to meet the requirement of paragraph 500(1)(c) or (1)(ca) (participation requirements); and

(bd) if the person is qualified for parenting payment but the payment is not payable because of the operation of any of the following provisions of the Administration Act:

(i) subsection 42AL(1) (payment suspension periods—persons other than declared program participants);

Authorised Version C2025C00595 registered 03/11/2025

(ii) subsection 42AO(1) (unemployment preclusion periods—persons other than declared program participants);

(iii) subsection 42AP(5) (post-cancellation non-payment periods—persons other than declared program participants);

(iv) subsection 42P(1) (serious failures—declared program participants);

(v) subsection 42S(1) (unemployment non-payment periods—declared program participants); and

(c) the person is not disqualified for a jobseeker payment for the period because of the operation of section 596; and

(d) if the person is qualified for a jobseeker payment but the payment is not payable to the person for the period—that result is not produced because of the operation of one or more of the following:

(i) subsection 42AL(1) of the Administration Act (payment suspension periods—persons other than declared program participants);

(ii) subsection 42AO(1) of that Act (unemployment preclusion periods—persons other than declared program participants);

(iia) subsection 42AP(5) of that Act (post-cancellation non-payment periods—persons other than declared program participants);

(iib) subsection 42P(1) of that Act (serious failures—declared program participants);

(iic) subsection 42S(1) of that Act (unemployment non-payment periods—declared program participants);

(iii) section 631 of this Act (person failing to comply with notification requirement);

(iv) section 633 of this Act (seasonal workers);

(v) section 634 of this Act (move to area of lower employment prospects); and

Authorised Version C2025C00595 registered 03/11/2025

(da) the person is not disqualified for a youth allowance for the period because the person fails to satisfy the employment pathway plan requirements; and

(db) the person is not disqualified for an austudy payment for the period because the person fails to satisfy the activity test within the meaning of section 569; and

(dc) youth allowance is not payable to the person for the period and that result is not because of the operation of:

(i) section 550B (youth allowance participation failure); or

(ia) section 551 (repeated failure); or

(ii) section 553B (move to an area of lower employment prospects); or

(iii) subsection 42AL(1) of the Administration Act (payment suspension periods—persons other than declared program participants); or

(iv) subsection 42AO(1) of that Act (unemployment preclusion periods—persons other than declared program participants); or

(v) subsection 42AP(5) of that Act (post-cancellation non-payment periods—persons other than declared program participants); or

(vi) subsection 42P(1) of that Act (serious failures—declared program participants); or

(vii) subsection 42S(1) of that Act (unemployment non-payment periods—declared program participants); or

(viii) section 81 of that Act; and

(dd) austudy payment is not payable to the person for the period and that result is not because of the operation of:

(i) section 576A (austudy participation failure); or

(ia) section 577 (repeated failure); or

(ii) section 81 of the Administration Act; and

(e) the Secretary is satisfied that the person is unable to earn a sufficient livelihood for the person and the person's dependants (if any) because of age, disability or domestic circumstances or for any other reason; and

Authorised Version C2025C00595 registered 03/11/2025

(f) the person:
  (i) is an Australian resident; or
  (v) is the holder of a visa that is in a class of visas determined by the Minister for the purposes of this subparagraph; and

(g) if the person is:
  (i) the holder of a visa included in a class of visas that is issued for temporary protection, humanitarian, or safe haven purposes and that is determined by the Minister to be a class of visas to which this subparagraph applies; and
  (ii) a person to whom subsection (2A) applies;

the person meets the additional criteria set out in subsection (2B); and

(h) an assurance of support does not apply to the person at any time during the period (see subsection (2C)).

Note: For ***Australian resident*** see subsection 7(2).

(2A) For the purposes of paragraph (2)(g), the holder of a visa included in a class of visas that is issued for temporary protection, humanitarian, or safe haven purposes and that is determined by the Minister to be a class of visas to which subparagraph (2)(g)(i) applies is a person to whom that first-mentioned paragraph applies only if:

(a) the person would not qualify for disability support pension under section 94 or 95 if the person were an Australian resident; and

(b) the person has attained the minimum age for youth allowance as determined in accordance with subsection 543A(1) but has not attained pension age; and

(c) the person:
  (i) claims, or has claimed, special benefit on or after 1 January 2003 that is not continuous with any previous grant of special benefit; or
  (ii) if the person had not attained the minimum age for youth allowance as defined by subsection 543A(1)

Authorised Version C2025C00595 registered 03/11/2025

before 1 January 2003—is receiving special benefit granted before, or continuous with special benefit granted before, that date.

(2B) A person referred to in paragraph (2)(g) is qualified for special benefit in respect of a period only if, in addition to meeting any relevant requirement in paragraphs (2)(a) to (f), throughout the period:

(a) the following apply:

(i) the person satisfies the employment pathway plan requirements;

(ii) the person satisfies the Employment Secretary that the person is willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person; or

(b) the following apply:

(i) the person is, under Subdivision C of Division 2A of Part 3 of the Administration Act, not required to satisfy the employment pathway plan requirements;

(ii) the person satisfies the Employment Secretary that the person would otherwise be willing to actively seek and to accept and undertake paid work in Australia, except particular paid work that is unsuitable to be done by the person.

Note 1: For ***satisfies the employment pathway plan requirements***, see subsection 23(1).

Note 2: See Division 2B of Part 3 of the Administration Act for the circumstances in which paid work is unsuitable to be done by a person.

(2C) For the purposes of paragraph (2)(h), an assurance of support applies to a person at a particular time if:

(a) an assurance of support is in force in respect of the person (the ***assuree***) at that time; and

(b) the person who gave the assurance was willing and able to provide an adequate level of support to the assuree; and

(c) it was reasonable for the assuree to accept that support.

Authorised Version C2025C00595 registered 03/11/2025

Note: For ***assurance of support*** see subsection 23(1).

(2D) For the avoidance of doubt, if, at any time during the period for which special benefit is granted to a person, the person's circumstances change such that, if the person were to be making a claim for special benefit on the basis of the changed circumstances, the person would not be qualified for special benefit, special benefit ceases to be payable.

(3) The Secretary is not to determine that a special benefit should be granted to a person for a period if the Secretary is satisfied that the benefit is not payable to the person for that period.

(4) For the purposes of paragraph (2)(d), a jobseeker payment is to be taken to be not payable to a person for a period because of the operation of a provision if:

(a) the person has claimed the payment for the period and the payment is not payable to the person because of the operation of the provision; or

(b) were the person to claim the payment for the period the payment would not be payable to the person because of the operation of the provision.

(4A) For the purposes of paragraph (2)(dc) a youth allowance is taken to be not payable to a person for a period because of the operation of a provision if:

(a) the person has claimed the allowance for the period and the allowance is not payable to the person because of the operation of the provision; or

(b) were the person to claim the allowance for the period the allowance would not be payable to the person because of the operation of the provision.

(4B) For the purposes of paragraph (2)(dd), an austudy payment is taken not to be payable to a person for a period because of the operation of a provision if:

(a) the person has claimed the payment for the period and the payment is not payable to the person because of the operation of the provision; or

Authorised Version C2025C00595 registered 03/11/2025

(b) were the person to claim the payment for the period, the payment would not be payable to the person because of the operation of the provision.

(6) If:

(a) a person was receiving a social security pension, a service pension, income support supplement or a veteran payment; and

(b) the person claims a special benefit within 14 days of the day on which the last instalment of the person's social security pension, service pension, income support supplement or veteran payment was paid; and

(c) the person becomes qualified for a special benefit at some time during the 14 day period but after the first day of that period;

the person is taken to be qualified for a special benefit for the whole of the 14 day period.

Note: Subsection (6) operates when a person transfers from a social security pension, a service pension, income support supplement or a veteran payment to a special benefit and the person is not qualified for a special benefit immediately after the day on which the person's last instalment of social security pension, service pension, income support supplement or veteran payment is paid. The subsection deems the person to be so qualified. As a result, the person may be paid a special benefit for the period beginning on the day after the day on which the person's last instalment of social security pension, service pension, income support supplement or veteran payment was paid. The subsection aims to ensure that there is minimal disruption to a person's payments when a person transfers from a social security pension, a service pension, income support supplement or a veteran payment to a special benefit.

729A Time limit on qualification for certain recipients of special benefit

(1) This section applies to a person who is receiving special benefit if:

(a) the person's maximum benefit period is 13 weeks or less; and

(b) the Secretary determines that this section should apply to the person.

Authorised Version C2025C00595 registered 03/11/2025

(2) The ***maximum benefit period*** for a person is the period specified in the determination granting the person's claim for special benefit as the maximum period for which the special benefit is payable to the person.

(3) If:

(a) the section applies to a person; and

(b) the Secretary is satisfied that the person's qualification for special benefit will continue after the end of the person's maximum benefit period; and

(c) the Secretary determines that this subsection should apply to the person;

the Secretary may determine that special benefit should be granted to the person for a period of not more than 13 weeks.

(4) Subject to section 729B, if:

(a) the Secretary has determined that special benefit should be granted to the person for a period of not more than 13 weeks under subsection (3) or this subsection; and

(b) the Secretary is satisfied that the person's qualification for special benefit will continue after the end of that period; and

(c) the Secretary determines that this subsection should apply to the person;

the Secretary may determine that special benefit should be granted to the person for a further period of not more than 13 weeks.

729AA Effect of industrial action on qualification conditions of certain claimants for special benefit

(1) A person who:

(a) has claimed special benefit; and

(b) is:

(i) the holder of a visa included in a class of visas that is issued for temporary protection, humanitarian, or safe haven purposes and that is determined by the Minister to be a class of visas to which subparagraph 729(2)(g)(i) applies; and

Authorised Version C2025C00595 registered 03/11/2025

(ii) a person to whom subsection 729(2A) applies;

is not, for the purposes of paragraph 729(2)(e), taken to be unable to earn a sufficient livelihood for the person and the person's dependants (if any) if:

(c) that inability arises because the person has ceased to be employed, or to be employed at a particular level of income; and

(d) that cessation is attributable to the person's being, or having been, engaged in industrial action, or in a series of industrial actions.

(2) Subsection (1) does not apply in relation to a person if the Secretary is satisfied that:

(a) the person's unemployment or the effect on the person's level of income was due to other people being, or having been, engaged in industrial action or in a series of industrial actions; and

(b) the people or some of the people were members of a trade union that was involved in the industrial action; and

(c) the person was not a member of the trade union during the period of the industrial action.

(3) Subject to subsection (4), subsections (1) and (2) do not prevent a person from being qualified for special benefit in respect of a period that occurs after the relevant industrial action or series of industrial actions has stopped.

(4) If the relevant industrial action or series of industrial actions is in breach of an order, direction or injunction issued by:

(a) a prescribed State industrial authority within the meaning of the *Fair Work Act 2009*; or

(b) the Fair Work Commission or the Australian Industrial Relations Commission; or

(c) the Federal Court of Australia; or

(d) the Federal Circuit and Family Court of Australia (Division 2);

Authorised Version C2025C00595 registered 03/11/2025

a person is not qualified for special benefit in respect of a period unless that period occurs 6 weeks or more after the relevant industrial action or series of industrial actions has stopped.

729B Certain recipients of special benefit cease to be qualified for special benefit after 52 weeks

(1) A person to whom subsection 729A(4) applies ceases to be qualified for special benefit if the person has received special benefit in respect of the immediately preceding period of 52 weeks.

(2) The Secretary may make a written determination that subsection (1) does not apply to a person if the Secretary is satisfied:

(a) that the person's qualification for special benefit will end during the next 13 weeks; or

(b) that the person's qualification for special benefit will continue after the end of the period of 65 weeks commencing on the person's start day.

729C Consequence of subsection 729B(2) determination

(1) If the Secretary:

(a) is satisfied of the matter mentioned in paragraph 729B(2)(a); and

(b) makes a determination under subsection 729B(2) in relation to a person;

then the person ceases to be qualified for special benefit if:

(c) the person has received special benefit in respect of the immediately preceding 65 weeks; and

(d) the Secretary is satisfied that this subsection should apply to the person.

(2) If the Secretary:

(a) is satisfied of the matter mentioned in paragraph 729B(2)(b); and

Authorised Version C2025C00595 registered 03/11/2025

(b) makes a determination under subsection 729B(2) in relation to a person;

the Secretary may determine that special benefit should be granted to the person for a period.

730 Determination of period

The period determined by the Secretary under subsection 729(2) is not to begin before the person's start day.

Subdivision B—Payability

732 Special benefit not payable if benefit rate nil

(1) Subject to subsection (2), special benefit is not payable to a person if the person's special benefit rate would be nil.

(2) Subsection (1) does not apply to a person if the person's rate would be nil merely because:

(a) an election by the person under subsection 915A(1) (about quarterly energy supplement) or 1061VA(1) (about quarterly pension supplement) is in force; or

(b) the person has been paid an advance pharmaceutical allowance under the social security law.

733 Assets test—benefit not payable if assets value limit exceeded

(1) A special benefit is not payable to a person if:

(a) the person is not excluded from the special benefit assets test; and

(b) the value of the person's assets exceeds the person's assets value limit.

(2) A person is excluded from the special benefit assets test if the person:

(a) has not turned 18; and

(b) is not independent within the meaning of section 1067A.

Authorised Version C2025C00595 registered 03/11/2025

(3) A person's assets value limit is worked out using the following table: work out which family situation applies to the person; the assets value limit is the corresponding amount in the ***assets value limit*** column.

Assets value limit table

Column 1	Column 2	Column 3	
		Assets value limit	
Item	**Person's family situation**	**Column 3A** **Either person or partner homeowner**	**Column 3B** **Neither person nor partner homeowner**
1.	Not member of a couple	$250,000	$450,000
2.	Partnered (partner getting neither pension nor benefit)	$375,000	$575,000
3.	Partnered (partner getting pension or benefit)	$187,500	$287,500

Note 1: For ***member of a couple***, ***partnered (partner getting neither pension nor benefit)*** and ***partnered (partner getting pension or benefit)*** see section 4.

Note 2: For ***homeowner*** see section 11.

Note 3: If item 2 applies to a person, the value of *all* the assets of the person's partner is to be taken as being included in the value of the person's assets (see subsection 734(1)—this is why the assets value limit is so high. If, on the other hand, item 3 applies to a person, the value of the person's assets is only *half* the combined value of the person's assets and the assets of the person's partner (see subsection 734(2)).

Authorised Version C2025C00595 registered 03/11/2025

Note 4: If a special benefit is not payable to a person because of the value of the person's assets, the person may be able to take advantage of provisions dealing with financial hardship (see sections 1131 and 1132).

Note 5: The assets value limits of items 1 and 3 in column 3A and item 3 in column 3B are indexed annually in line with CPI increases (see sections 1191 to 1194).

Note 6: The assets value limit of item 1 in column 3B is adjusted annually (see subsection 1204(1)).

Note 7: The item 2 assets value limits are adjusted annually so that they are twice the corresponding item 3 limits (see subsections 1204(2) and (3)).

734 Value of assets of members of couples

(1) If:

(a) the person is a member of a couple; and

(b) the person's partner:

(i) is not in receipt of a social security pension, a service pension, income support supplement or a veteran payment; and

(ii) is not in receipt of a social security benefit;

the value of the person's assets, or of assets of a particular kind of the person, includes the value of the partner's assets or of assets of that kind of the partner.

Note: For ***social security pension*** see subsection 23(1).

(2) If:

(a) the person is a member of a couple; and

(b) the person's partner is in receipt of:

(i) a social security pension, a service pension, income support supplement or a veteran payment; or

(ii) a social security benefit;

the following provisions have effect:

(c) the value of the person's assets is taken to be 50% of the sum of the value of the assets of the person and the value of the assets of the person's partner; and

Authorised Version C2025C00595 registered 03/11/2025

(d) the value of the person's assets of a particular kind is taken to be 50% of the sum of the value of the assets of that kind of the person and the value of assets of that kind of the person's partner.

735 Multiple entitlement exclusion

(1) Special benefit is not payable to a person if the person is already receiving a service pension, income support supplement or a veteran payment.

(2) If:

(a) a person is receiving special benefit; and

(b) a social security pension, another social security benefit, a service pension, income support supplement or a veteran payment becomes payable to the person;

the special benefit is not payable to the person.

Note 1: Another payment type will generally not become payable to the person until the person claims it.

Note 2: For ***social security pension*** and ***social security benefit*** see subsection 23(1).

(3) Special benefit is not payable to a woman if:

(a) the woman is an armed services widow; and

(b) the woman is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act;

unless:

(c) the woman has been receiving a payment referred to in paragraph (b) continuously since before 1 November 1986; and

(d) before 1 November 1986 the woman was also receiving a social security benefit.

Note: For ***armed services widow*** see subsection 4(1).

(4) Special benefit is not payable to a man if:

(a) the man is an armed services widower; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the man is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.

Note: For ***armed services widower*** see subsection 4(1).

(5) Special benefit is not payable to a person if:

(a) the person is an armed services widow or an armed services widower; and

(b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

Note 1: For ***armed services widow*** and ***armed services widower*** see subsection 4(1).

Note 2: For ***MRCA*** see subsection 23(1).

736 Secretary may require certain persons to attend courses or undertake work

(1) If:

(a) a person, other than a person who is a nominated visa holder, is receiving, or has lodged a claim for, special benefit; and

(b) the Secretary is of the opinion that the person should:

(i) undertake a course of vocational training; or

(ii) undertake a course:

(A) which the person could reasonably undertake; and

(B) to which the person has been referred by the Secretary; or

(iii) do any work suitable to be done by the person; and

(c) the Secretary notifies the person that the person is required to:

(i) undertake that course; or

(ii) do that work; and

Authorised Version C2025C00595 registered 03/11/2025

(d) the person does not comply with the Secretary's requirements;

special benefit is not payable to the person for a period determined by the Secretary.

(2) The Secretary may determine that special benefit is payable for a period for which he or she had previously determined that it was not payable under subsection (1) if, within a reasonable period, the person complies with the Secretary's requirements.

737 Full-time students

(1) Subject to subsection (3), a special benefit is not payable to a person:

(a) who has turned 18; or

(b) who satisfies both of the following:

(i) the person has not turned 16; and

(ii) the person is not a SPB homeless person;

if the person is enrolled in a full-time course of education or of vocational training.

Note: For ***SPB homeless person*** see section 739.

Period for which benefit not payable

(2) The period for which a special benefit is not payable under subsection (1) is the period that:

(a) starts when the person starts the course; and

(b) finishes when the person:

(i) completes the course; or

(ii) abandons the course; or

(iii) gives notice to the provider of the course that the person:

(A) wishes to withdraw from the course; or

(B) wishes to withdraw from such number of subjects that the person's course will no longer be a full-time course; and

Authorised Version C2025C00595 registered 03/11/2025

(c) includes periods of vacation.

Subsection (1) does not apply in certain cases

(3) Subsection (1) does not prevent a special benefit from being payable for any period during which:
(a) a person is enrolled in a course of study that the Secretary has required the person to undertake under section 736; or
(b) the person is engaged in a course undertaken under an employment pathway plan; or
(c) the person has deferred a course of education.

738 Payments under certain education schemes

(1) Subject to subsections (2) and (3), a special benefit is not payable to a person:
(a) who has turned 18; or
(b) who satisfies both of the following:
(i) the person has not turned 16;
(ii) the person is not a SPB homeless person;
if a payment has been made or may be made in respect of the person for the same period under:
(c) a prescribed educational scheme other than the ABSTUDY scheme to the extent that it applies to part-time students; or
(d) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; or
(e) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; or
(f) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students.

Note 1: For ***prescribed educational scheme*** see section 5.

Note 2: For ***SPB homeless person*** see section 739.

(2) If:

Authorised Version C2025C00595 registered 03/11/2025

(a) a person may start a course of education on a full-time basis; and
(b) a payment under a scheme referred to in subsection (1) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (1), a special benefit is payable to the person for a period before the person starts the course.

(3) If:
(a) a person enrols in a full-time course of education; and
(b) an application is made for a payment in respect of the person under:
(ii) the ABSTUDY Schooling scheme; or
(iii) the ABSTUDY Tertiary scheme; and
(c) the person was receiving special benefit immediately before the start of the course;

the Secretary may decide that, in spite of subsection (1), special benefit is payable to the person for the period of 3 weeks commencing on the day on which the course starts.

739 SPB homeless person

For the purposes of subparagraphs 737(1)(b)(ii) and 738(1)(b)(ii), a person is an ***SPB homeless person*** if:
(a) the person is not a member of a couple; and
(b) the person does not have a dependent child; and
(c) the person meets the conditions in subsection 1067A(9) (which is about being independent).

739A Newly arrived resident's waiting period

(1) Subject to this section, a person who, on or after the commencement of this subsection:
(a) enters Australia; or
(b) becomes the holder of a permanent visa; or

Authorised Version C2025C00595 registered 03/11/2025

(e) becomes the holder of a visa that is in a class of visas determined by the Minister, by legislative instrument, for the purposes of this paragraph;

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

(2) Subject to this section, if, immediately before the commencement of this subsection, a person was the holder of a visa that is in a class of visas determined by the Minister for the purposes of this subsection, the person is subject to a newly arrived resident's waiting period.

(3) If:

(a) a person is subject to a newly arrived resident's waiting period; and

(b) before, on or after the commencement of this subsection, the person applies for a visa that is in a class of visas determined by the Minister, by legislative instrument, for the purposes of this paragraph;

the waiting period:

(c) starts on the day on which the person applied for that visa; and

(d) ends when the person has been in Australia for a period of, or periods totalling, 208 weeks after that day.

(4) If:

(a) a person is subject to a newly arrived resident's waiting period; and

(b) before, on or after the commencement of this subsection, the person was the holder of a visa that is in a class of visas determined by the Minister, by legislative instrument, for the purposes of this paragraph;

the period:

(c) starts on the day on which the person applied for that visa; and

(d) ends when the person has been in Australia for a period of, or periods totalling, 208 weeks after that day.

Authorised Version C2025C00595 registered 03/11/2025

(5) If:

(a) a person is subject to a newly arrived resident's waiting period; and

(b) neither subsection (3) nor (4) apply to the person;

the waiting period starts on the day on which the person:

(c) first entered Australia; or

(d) becomes the holder of a permanent visa;

whichever occurs last, and ends on the day after the person has been in Australia for a period of, or periods totalling, 208 weeks after that day.

(6) Neither subsection (1) nor (2) applies to a person if the person holds, or was the former holder of, a visa in a class of visas determined by the Minister, by legislative instrument, for the purposes of this subsection.

(7) Neither subsection (1) nor (2) apply to a person if the person, in the Secretary's opinion, has suffered a substantial change in circumstances beyond the person's control after the person first entered Australia.

Note: For ***permanent visa*** see subsection 7(1).

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for a special benefit; or

(b) the following apply:

(i) before the person made the claim for a special benefit, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for a special benefit or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for a special benefit.

Authorised Version C2025C00595 registered 03/11/2025

(9) For the purposes of subsection (8):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

739B Secretary to act in accordance with guidelines

The Secretary must exercise the powers under subsection 739A(7), in accordance with guidelines from time to time in force under section 739C.

739C Guidelines for exercise of Secretary's powers under subsection 739A(7)

The Minister, by legislative instrument:

(a) is to set guidelines for the exercise of the Secretary's powers under subsection 739A(7); and

(b) may revoke or vary those guidelines.

Subdivision D—Situations where special benefit not payable to persons who are nominated visa holders (administrative breaches)

745H Situations where special benefit not payable for failure to comply with certain requirements

Special benefit is not payable to a person who is a nominated visa holder if the person refuses or fails, without reasonable excuse, to comply with a requirement made of the person under section 67, 68 or 192 of the Administration Act.

Authorised Version C2025C00595 registered 03/11/2025

Subdivision F—Other situations where special benefit not payable to persons who are nominated visa holders

745M Seasonal workers

(1) This section applies if, at any time during the 6 months immediately before the day on which a person who is a nominated visa holder lodges a claim for special benefit, the person or, if the person is a member of a couple, the person or the person's partner, has been engaged in seasonal work within the meaning of subsection 16A(1).

(2) Special benefit is not payable to the person:

(a) if the person is subject to a seasonal work preclusion period within the meaning of subsection 16A(1) (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person's seasonal work preclusion period; or

(b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person's seasonal work preclusion period to which the person is subject as a result of the determination.

(3) If the Secretary is satisfied that a person is in severe financial hardship within the meaning of subsection 19C(2) or (3), whichever is appropriate, because the person has incurred unavoidable or reasonable expenditure within the meaning of subsection 19C(4) while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):

(a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and

(b) the determination has effect accordingly.

Authorised Version C2025C00595 registered 03/11/2025

745N Move to area of lower employment prospects

(1) Subject to subsection (3), if, in the opinion of the Secretary, a person who is a nominated visa holder has reduced his or her employment prospects by moving to a new place of residence without sufficient reason, special benefit is not payable to the person for 26 weeks.

(2) Subsection (1) extends to a person who makes a claim for special benefit on or after the day on which the person moved to the new place of residence and before the end of the period referred to in that subsection.

(3) If a person to whom special benefit is not payable under subsection (1) for a period of 26 weeks (including that subsection as it applies by virtue of subsection (2)) does either of the following during that period:

(a) moves back to the place of residence (the ***original place of residence***) the movement from which resulted in special benefit not being payable to him or her;

(b) moves to another place of residence a movement to which from the original place of residence would not have resulted in special benefit not being payable to him or her;

the period of 26 weeks ends at the time of the movement back to the original place of residence or the movement to the other place of residence, as the case may be.

(4) For the purposes of subsection (1), a person has a sufficient reason for moving to a new place of residence if and only if the person:

(a) moves to live with a family member who has already established his or her residence in that place of residence; or

(b) moves to live near a family member who has already established residence in the same area; or

(c) satisfies the Secretary that the move is necessary for the purposes of treating or alleviating a physical disease or illness suffered by the person or by a family member; or

(d) satisfies the Secretary that the person has moved from his or her original place of residence because of an extreme

Authorised Version C2025C00595 registered 03/11/2025

circumstance which made it reasonable for the person to move to the new place of residence (for example, the person had been subjected to domestic or family violence in the original place of residence).

(5) The Secretary may determine in writing the day on which the period of non-payment imposed by subsection (1) commences and that day may be before the day of the determination.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Rate of special benefit

746 Rate of special benefit

(1) The rate of a person's special benefit is the fortnightly rate determined by the Secretary in his or her discretion.

(2) The rate of a person's special benefit is not to exceed the rate at which youth allowance, austudy payment or jobseeker payment would be payable to the person if:

(a) the person were qualified for youth allowance, austudy payment or jobseeker payment; and

(b) youth allowance, austudy payment or jobseeker payment were payable to the person.

(3) In working out, for the purposes of subsection (2), the rate at which youth allowance would be payable to a person, disregard any amount by which the rate would be increased because of point 1067G-B3A or 1067G-D1 of the Youth Allowance Rate Calculator.

(4) In working out, for the purposes of subsection (2), the rate at which jobseeker payment would be payable to a person, disregard any amount by which the rate would be increased because of point 1068-B5 of Benefit Rate Calculator B.

747 Approved program of work supplement for persons who are nominated visa holders

If a person who is a nominated visa holder:

(a) is receiving special benefit; and

(b) is participating in an approved program of work for income support payment;

the rate of the person's special benefit is increased by an amount of $20.80, to be known as the approved program of work supplement, for each fortnight during which the person participates in the program.

Authorised Version C2025C00595 registered 03/11/2025

759 Effect of industrial action on rate of special benefit payable to persons who are nominated visa holders

(1) If:

(a) a person who is a nominated visa holder is receiving special benefit; and

(b) while the person is receiving that benefit the person becomes engaged in industrial action, or in a series of industrial actions, that leads to the person's unemployment or to a decrease in the person's level of income;

the rate of special benefit payable to the person is to be determined as if the person had continued, for the period of that industrial action, to be employed and to receive income at the level at which it would have been received if the person had not engaged in that action.

(2) Subsection (1) does not apply in relation to a person if the Secretary is satisfied:

(a) that the person's unemployment or the effect on the person's level of income was due to other people being, or having been, engaged in industrial action or in a series of industrial actions; and

(b) the people or some of the people were members of a trade union that was involved in the industrial action; and

(c) the person was not a member of the trade union during the period of the industrial action.

(3) Subject to subsection (4), subsections (1) and (2) do not affect the rate of special benefit payable to a person in respect of a period that occurs after the relevant industrial action or series of industrial actions has stopped.

(4) If the relevant industrial action or series of industrial actions is in breach of an order, direction or injunction issued by:

(a) a prescribed State industrial authority within the meaning of the *Fair Work Act 2009*; or

(b) the Fair Work Commission or the Australian Industrial Relations Commission; or

Authorised Version C2025C00595 registered 03/11/2025

(c) the Federal Court of Australia; or

(d) the Federal Circuit and Family Court of Australia (Division 2);

the rate of special benefit payable to a person is to continue to be determined in accordance with subsection (1) but subject to subsection (2) until the end of a period of 6 weeks after the relevant industrial action or series of industrial actions has stopped.

Authorised Version C2025C00595 registered 03/11/2025

Division 9—Bereavement payments

Subdivision AA—Death of partner

768A Qualification for payments under this Subdivision

(1) If:

(a) a person is receiving a special benefit; and

(b) the person is a long-term social security recipient; and

(c) the person is a member of a couple; and

(d) the person's partner dies; and

(e) immediately before the partner died, the partner:

(i) was receiving a social security pension; or

(ii) was receiving a service pension, income support supplement or a veteran payment; or

(iii) was a long-term social security recipient; and

(f) on the person's payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

(i) the amount that would otherwise be payable to the person under section 768D (person's continued rate) on that payday; and

(ii) the amount (if any) that would otherwise be payable to the person, under section 768B (continued payment of partner's pension or benefit) on the partner's payday immediately before the first available bereavement adjustment payday;

the person is qualified for payments under this Subdivision to cover the bereavement period.

Note 1: Section 768B provides for the payment to the person, up to the first available bereavement adjustment payday, of amounts equal to the instalments that would have been paid to the person's partner during that period if the partner had not died.

Authorised Version C2025C00595 registered 03/11/2025

Note 2: Section 768C provides for a lump sum that represents the instalments that would have been paid to the person's partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the partner had not died.

Note 3: For ***long-term social security recipient*** see subsection 23(1).

(2) A person who is qualified for payments under this Subdivision may choose not to receive payments under this Subdivision.

(3) An election under subsection (2):
  (a) must be made by written notice to the Secretary; and
  (b) may be made after the person has been paid an amount or amounts under this Subdivision; and
  (c) cannot be withdrawn after the Department has taken all the action required to give effect to that election.

(4) If a person is qualified for payments under this Subdivision in relation to the partner's death, the rate at which special benefit is payable to the person during the bereavement period is, unless the person has made an election under subsection (2), governed by section 768D.

768B Continued payment of partner's pension or benefit

If a person is qualified for payments under this Subdivision in relation to the death of the person's partner, there is payable to the person, on each of the partner's paydays in the bereavement rate continuation period, an amount equal to the amount that would have been payable to the partner on that payday if the partner had not died.

768C Lump sum payable in some circumstances

If:
  (a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and
  (b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

Authorised Version C2025C00595 registered 03/11/2025

there is payable to the person as a lump sum an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Add up:

(a) the amount that, if the person's partner had not died, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday; and

(b) the amount (if any) that, if the partner had not died, would have been payable to the partner on the partner's payday immediately before the first available bereavement adjustment payday;

the result is called the ***combined rate***.

Step 2. Work out the amount that, but for section 768D, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday: the result is called the ***person's individual rate***.

Step 3. Take the person's individual rate away from the combined rate: the result is called the ***partner's instalment component***.

Step 4. Work out the number of the partner's paydays in the bereavement lump sum period.

Authorised Version C2025C00595 registered 03/11/2025

Step 5.	Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the person under this section.

768D Adjustment of a person's special benefit rate

If:

(a) a person is qualified for payments under this Subdivision; and

(b) the person does not elect under subsection 768A(2) not to receive payments under this Subdivision;

the rate of the person's special benefit during the bereavement period is worked out as follows:

(c) during the bereavement rate continuation period, the rate of special benefit payable to the person is the rate at which the allowance would have been payable to the person if the person's partner had not died;

(d) during the bereavement lump sum period (if any), the rate at which special benefit is payable to the person is the rate at which the allowance would be payable to the person apart from this Subdivision.

768E Effect of death of person entitled to payments under this Subdivision

If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) the person dies within the bereavement period; and

(c) the Secretary does not become aware of the death of the person's partner before the person dies;

there is payable, to such person as the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

Authorised Version C2025C00595 registered 03/11/2025

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Add up:

(a) the amount that, if neither the person nor the person's partner had died, would have been payable to the person on the person's payday immediately after the day on which the person dies; and

(b) the amount (if any) that, if neither the person nor the person's partner had died, would have been payable to the person's partner on the partner's payday immediately after the day on which the person died;

the result is called the ***combined rate***.

Step 2. Work out the amount that, but for section 768D, would have been payable to the person on the person's payday immediately after the day on which the person died if the person had not died: the result is called the ***person's individual rate***.

Step 3. Take the person's individual rate away from the combined pensioner couple rate: the result is called the ***partner's instalment component***.

Step 4. Work out the number of paydays of the partner in the period that commences on the day on which the person dies and ends on the day on which the bereavement period ends.

Authorised Version C2025C00595 registered 03/11/2025

Step 5.	Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable under this section.

768F Matters affecting payments under this Subdivision

(1) If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) after the person's partner died, an amount to which the partner would have been entitled if the partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act; and

(c) the Secretary is not satisfied that the person has not had the benefit of that amount;

the following provisions have effect:

(d) the amount referred to in paragraph (b) is not recoverable from the person or from the personal representative of the person's partner, except to the extent (if any) that the amount exceeds the amount payable to the person under this Subdivision;

(e) the amount payable to the person under this Subdivision is to be reduced by the amount referred to in paragraph (b).

(2) If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) the amount to which the person's partner would have been entitled if the person's partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank; and

(c) the bank pays to the person, out of the account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (b);

Authorised Version C2025C00595 registered 03/11/2025

the bank is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the person's partner or anyone else in respect of the payment of that money to the person.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.16—Special needs pensions

Division 1A—Time limit on grant of special needs wife pension

771P Special needs wife pension not to be granted after 30 June 1995

(1) In spite of any other provision of this Part or any provision of the Administration Act, other than section 85, a woman is not to be granted a special needs wife pension unless:

(a) her claim for the pension is lodged on or before 30 June 1995; and

(b) she qualifies for the pension on or before 30 June 1995.

(2) For the purposes of paragraph (1)(a), if section 15 of the Administration Act applies, the woman is taken to have lodged her claim on the day on which she makes her initial claim.

(3) In subsection (2):

initial claim has the same meaning as in section 15 of the Administration Act.

Authorised Version C2025C00595 registered 03/11/2025

Division 1B—Time limit on grant of other special needs pensions

771PA Special needs pensions not to be granted after 20 September 2000

In spite of any other provision of this Part, a person is not to be granted a special needs age pension or special needs disability pension unless:

(a) the person's claim for the pension is lodged, or is taken to have been lodged, on or before 20 September 2000; and

(b) the person qualifies for the pension on or before 20 September 2000.

Authorised Version C2025C00595 registered 03/11/2025

Division 1—Qualifications for and payability of special needs pensions

Subdivision A—Qualification

772 Qualification for special needs age pension

A person is qualified for a special needs age pension if:

(a) the person has not resided in Australia at any time after 7 May 1973; and

(b) the person has turned:

(i) if the person is a woman—60; or

(ii) if the person is a man—65; and

(c) the person ceased to reside in Australia after the person had turned:

(i) if the person is a woman—55; or

(ii) if the person is a man—60; and

(d) the person had resided in Australia for a period that was, or for periods that in the aggregate were, not less than 30 years; and

(e) the person would:

(i) if the person had lodged a claim immediately before the person ceased to reside in Australia—have been qualified under section 25 of the 1947 Act to receive an age pension; or

(ii) if the person had not ceased to reside in Australia, were physically present in Australia and lodged a claim for an age pension—be qualified under section 25 of the 1947 Act to receive an age pension; and

(f) the person is, in the opinion of the Secretary, in special need of financial assistance.

Authorised Version C2025C00595 registered 03/11/2025

773 Qualification for special needs disability support pension

A person is qualified for a special needs disability support pension if:

(a) the person has not resided in Australia at any time after 7 May 1973; and

(b) the person is severely disabled; and

(c) the person has turned 16; and

(d) at the time when the person first satisfied paragraph (b), the person was in Australia or temporarily absent from Australia; and

(e) the person is, in the opinion of the Secretary, in special need of financial assistance.

Note: A person who is receiving a special needs disability support pension may be automatically transferred to the special needs age pension if the person becomes qualified for the special needs age pension (see subsection 789(3)).

774 Qualification for special needs wife pension

A person is qualified for a special needs wife pension if the person:

(a) is a woman who is a member of a couple; and

(b) has a partner who is receiving a special needs age pension or a special needs disability support pension.

Note 1: For ***member of a couple*** see subsections 4(2), (3) and (6).

Note 2: A person who is receiving a special needs wife pension may be automatically transferred to the special needs age pension if the person becomes qualified for the special needs age pension (see subsection 789(3)).

Subdivision B—Payability

779 Special needs pension not payable if pension rate nil

A special needs pension is not payable to a person if the person's special needs pension rate would be nil.

Authorised Version C2025C00595 registered 03/11/2025

783 Second special needs pension generally not payable after cancellation of initial pension

If:

(a) a special needs pension is payable to a person; and

(b) the special needs pension is cancelled;

another special needs pension is not payable to the person unless the person is qualified to receive another special needs pension at the time the initial pension is cancelled.

787 Multiple entitlement exclusion

(1) A special needs pension is not payable to a person if the person is already receiving a service pension or a veteran payment.

(2) If:

(a) a person is receiving a special needs pension; and

(b) another social security pension, a social security benefit, a service pension or a veteran payment becomes payable to the person;

the special needs pension is not payable to the person.

Note 1: Another payment type will generally not become payable to the person until the person claims it.

Note 2: For ***social security pension*** and ***social security benefit*** see subsection 23(1).

(3) A special needs pension is not payable to a woman if:

(a) the woman is an armed services widow; and

(b) the woman is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.

Note: For ***armed services widow*** see subsection 4(1).

(4) A special needs pension is not payable to a man if:

(a) the man is an armed services widower; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the man is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.

Note: For ***armed services widower*** see subsection 4(1).

(5) A special needs pension is not payable to a person if:

(a) the person is an armed services widow or an armed services widower; and

(b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

Note 1: For ***armed services widow*** and ***armed services widower*** see subsection 4(1).

Note 2: For ***MRCA*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

Division 5—Rate of special needs pension

796 How to work out a person's special needs pension rate

(1) Subject to subsection (2), the rate of a person's special needs pension is:

(a) if the pension is a special needs age pension—the rate at which an age pension would be payable to the person if the person were qualified for an age pension; or

(b) if the pension is a special needs disability support pension—the rate at which a disability support pension would be payable to the person if the person were qualified for a disability support pension; or

(c) if the pension is a special needs wife pension—the rate at which a wife pension would be payable to the person if the person were qualified for a wife pension.

(2) If:

(a) the person was absent from Australia on 1 July 1986; and

(b) the person commences after 1 July 1986 to receive a special needs pension; and

(c) the person is absent from Australia;

the rate of the person's special needs pension is, subject to subsections (3) and (4), the person's special needs proportional rate worked out using the Special Needs Proportional Rate Calculator at the end of this section.

(3) Subsection (2) does not apply to a person's special needs disability support pension if the person became qualified for the pension because the person became permanently incapacitated for work or permanently blind while the person was an Australian resident.

(4) Subsection (2) does not apply to a person's special needs sole parent pension if:

(a) the person became qualified for the pension because of the death of the person's former partner; and

Authorised Version C2025C00595 registered 03/11/2025

(b) at the time when the former partner died the former partner was an Australian resident; and

(c) the person would, apart from subsections 249(2) and 362(2) of this Act, and section 46 of the 1947 Act as in force at any time before 1 March 1989, have become so qualified for that pension.

Special Needs Proportional Rate Calculator

Module A—Overall rate calculation process

Overall rate calculation process

796-A1 This is how to work out a person's special needs proportional rate:

Method statement

Step 1. Work out the period of the person's Australian working life residence using Module B: the result is called the ***residence period***.

Step 2. Use the person's residence period to work out the person's ***residence factor*** using Module C below.

Step 3. Work out the rate that would be the person's pension or allowance rate if this Rate Calculator did not apply to the person: the result is called the person's ***notional domestic rate***.

Step 4. Multiply the person's notional domestic rate by the person's residence factor: the result is the person's special needs proportional rate.

Authorised Version C2025C00595 registered 03/11/2025

Module B—Australian working life residence

Working life

796-B1 For the purposes of this Module, a person's **working life** is the period commencing when the person turns 16 and ending:

(a) if the person is a woman—when she turns 60; or

(b) if the person is a man—when he turns 65.

Australian working life residence (general)

796-B2 Subject to points 796-B3 to 796-B9, a person's ***period of Australian working life residence*** as at a particular time is the number of months in the period, or the aggregate of the periods, during the person's working life during which the person has, up to that time, been an Australian resident.

Calculation of number of months

796-B3 If a person's period of Australian working life residence would, apart from this subsection, be a number of whole months, the period is to be increased by one month.

796-B4 If a person's period of Australian working life residence would, apart from this subsection, be a number of whole months and a day or days, the period is to be increased so that it is equal to the number of months plus one month.

Australian working life residence (special needs age or disability support pensioner couples)

796-B5 If:

(a) a person is receiving a special needs age pension or a special needs disability support pension; and

(b) the person is a member of a couple; and

(c) the person's partner is receiving an age or disability support pension or a special needs age or disability support pension; and

Authorised Version C2025C00595 registered 03/11/2025

(d) the partner's period of Australian working life residence is longer than the period that would be the person's period of Australian working life residence under point 796-B2;

the person's period of Australian working life residence is to be equal to the partner's period of Australian working life residence.

Australian working life residence (member of former special needs age or disability support pensioner couple)

796-B6 If:

(a) a person is receiving a special needs age pension or a special needs disability support pension; and

(b) the person is a member of a couple; and

(c) the person ceases to be a member of a couple; and

(d) immediately before the person ceases to be a member of a couple:

(i) the person was receiving an age or disability support pension or a special needs age or disability support pension; and

(ii) the partner was receiving an age or disability support pension or a special needs age or disability support pension; and

(e) the partner's period of Australian working life residence (immediately before the person ceases to be a member of a couple) is longer than the period that would be the person's period of Australian working life residence under point 796-B2;

the person's period of Australian working life residence is to be equal to the partner's period of Australian working life residence (immediately before the person ceases to be a member of a couple).

Australian working life residence (special needs wife pensioner)

796-B7 If a person is receiving a special needs wife pension, the person's period of Australian working life residence is equal to the period of Australian working life residence of the person's partner.

Authorised Version C2025C00595 registered 03/11/2025

Australian working life residence—second special needs pension

796-B9 If:

(a) a special needs pension is payable to a person (in this point called the ***initial pension***); and

(b) the special needs pension is cancelled or ceases to be payable automatically; and

(c) another special needs pension is payable to the person (in this point called the ***second pension***); and

(d) the person's period of Australian working life residence in respect of the second pension is shorter than the period that was the person's period of Australian working life residence for the purposes of calculating the person's initial special needs pension;

the person's period of Australian working life residence for the second pension is to be equal to the period of Australian working life residence used in calculating the person's initial pension.

Module C—Residence factor

Residence factor (period of Australian working life residence 25 years or more)

796-C1 If a person's period of Australian working life residence is 300 months (25 years) or more, the person's residence factor is 1.

Note: If a person's residence factor is 1, the person's overseas pension will be payable overseas at the full domestic rate (less any rent assistance and any and remote area allowance).

Residence factor (period of Australian working life residence under 25 years)

796-C2 If a person's period of Australian working life residence is less than 300 months (25 years), the person's residence factor is:

$$\frac{\text{person's Australian working life residence}}{300}$$

Authorised Version C2025C00595 registered 03/11/2025

Division 10—Bereavement payments

Subdivision A—Death of partner

822 Qualification for payments under this Subdivision

(1) If:

(a) a person is receiving a special needs age, disability support or wife pension; and

(b) the person is a member of a couple; and

(c) the person's partner dies; and

(d) immediately before the partner died, the partner:

(i) was receiving a social security pension; or

(ii) was receiving a service pension, income support supplement or a veteran payment; or

(iii) was a long-term social security recipient; and

(e) on the person's payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Subdivision is less than the sum of:

(i) the amount that would otherwise be payable to the person under section 825 (person's continued rate) on that payday; and

(ii) the amount that would otherwise be payable to the person under section 823 (continued payment of partner's pension or benefit) on the partner's payday immediately before the first available bereavement adjustment payday;

the person is qualified for payments under this Subdivision to cover the bereavement period.

Note 1: Section 823 provides for the payment to the person, up to the first available bereavement adjustment payday, of amounts equal to the instalments that would have been paid to the person's partner during that period if the partner had not died.

Authorised Version C2025C00595 registered 03/11/2025

Note 2: Section 824 provides for a lump sum that represents the instalments that would have been paid to the person's partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the partner had not died.

(1A) If:

(a) a person is receiving a special needs pension; and

(b) immediately before starting to receive the special needs pension the person was receiving partner bereavement payments; and

(c) the bereavement rate continuation period in relation to the death of the person's partner has not ended;

the person is qualified for payments under this Subdivision to cover the remainder of the bereavement period.

(2) A person who is qualified for payments under this Subdivision may choose not to receive payments under this Subdivision.

(3) An election under subsection (2):

(a) must be made by written notice to the Secretary; and

(b) may be made after the person has been paid an amount or amounts under this Subdivision; and

(c) cannot be withdrawn after the Department has taken all the action required to give effect to that election.

(4) If a person is qualified for payments under this Subdivision in relation to the partner's death, the rate at which special needs pension is payable to the person during the bereavement period is, unless the person has made an election under subsection (2), governed by section 825.

(5) For the purposes of this section, a person is a ***long-term social security recipient*** if:

(a) the person is receiving a social security benefit; and

(b) in respect of the previous 12 months, the person:

(i) was receiving a social security pension; or

(ii) was receiving a social security benefit; or

(iia) was receiving a youth training allowance; or

Authorised Version C2025C00595 registered 03/11/2025

(iii) was receiving a service pension, income support supplement or a veteran payment.

(6) A person is taken to satisfy the requirements of paragraph (5)(b) if:

(a) the person was receiving one or a combination of the payments referred to in that paragraph for a continuous period of 12 months; or

(b) the person was receiving one or a combination of the payments referred to in that paragraph for 46 weeks of the previous 52.

823 Continued payment of deceased partner's previous entitlement

(1) If a person is qualified for payments under this Subdivision in relation to the death of the person's partner, there is payable to the person, on each of the partner's paydays in the bereavement rate continuation period:

(a) where the partner was receiving a social security pension or social security benefit—the amount that would have been payable to the partner on the payday if the partner had not died; or

(b) where the partner was receiving a service pension, income support supplement or a veteran payment—the amount that would have been payable to the partner under Part III, IIIA or IIIAA of the Veterans' Entitlements Act on the service payday that:

(i) where the first Thursday after the partner's death was a service payday—precedes the partner's payday; or

(ii) in any other case—follows the partner's payday;

if the partner had not died.

(2) For the purposes of subsection (1), if the couple were, immediately before the partner's death, an illness separated couple or a respite care couple, the amounts are to be worked out as if they were not such a couple.

Authorised Version C2025C00595 registered 03/11/2025

824 Lump sum payable in some circumstances

If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the person as a lump sum an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the amount that would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday if:

(a) the person's partner had not died; and

(b) where immediately before the partner's death the couple were an illness separated couple or a respite care couple—they were not such a couple.

Step 2. Work out the amount that would have been payable to the person's partner on the partner's payday or service payday immediately before the first available bereavement adjustment payday if:

(a) the partner had not died; and

(b) where immediately before the partner's death the couple were an illness separated couple or a respite care couple—they were not such a couple.

Authorised Version C2025C00595 registered 03/11/2025

Step 3.	Add the results of Step 1 and Step 2: the result is called the ***combined rate***.
Step 4.	Work out the amount that, but for subsection 825, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday: the result is called the ***person's individual rate***.
Step 5.	Take the person's individual rate away from the combined rate: the result is called the ***partner's instalment component***.
Step 6.	Work out the number of paydays of the partner in the bereavement lump sum period.
Step 7.	Multiply the partner's instalment component by the number obtained in Step 6: the result is the amount of the lump sum payable to the person under this section.

825 Adjustment of rate of person's special needs pension

If:

(a) a person is qualified for payments under this Subdivision; and

(b) the person does not elect under subsection 822(2) not to receive payments under this Subdivision;

the rate of the person's special needs pension during the bereavement period is worked out as follows:

(c) during the bereavement rate continuation period, the rate of special needs pension payable to the person is the rate at which the pension would have been payable to the person if:

(i) the person's partner had not died; and

(ii) where immediately before the partner's death the couple were an illness separated couple or a respite care couple—they were not such a couple;

Authorised Version C2025C00595 registered 03/11/2025

(d) during the bereavement lump sum period (if any), the rate at which special needs pension is payable to the person is the rate at which the special needs pension would be payable to the person apart from this Subdivision.

826 Effect of death of person entitled to payments under this Subdivision

If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) the person dies within the bereavement period; and

(c) the Secretary does not become aware of the death of the person's partner before the person dies;

there is payable, to such person as the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the amount that would have been payable to the person on the person's payday immediately after the day on which the person died if:

(a) neither the person nor the person's partner had died; and

(b) where immediately before the partner's death the couple were an illness separated couple or a respite care couple—they were not such a couple.

Step 2. Work out the amount that would have been payable to the partner on the partner's payday or service payday immediately after the day on which the person died if:

Authorised Version C2025C00595 registered 03/11/2025

(a) neither the person nor the partner had died; and

(b) where immediately before the partner's death the couple were an illness separated couple or a respite care couple—they were not such a couple.

Step 3. Add the results of Step 1 and Step 2: the result is called the ***combined rate***.

Step 4. Work out the amount that, but for section 825, would have been payable to the person on the person's payday immediately after the day on which the person died if the person had not died: the result is called the ***person's individual rate***.

Step 5. Take the person's individual rate away from the combined rate: the result is called the ***partner's instalment component***.

Step 6. Work out the number of paydays of the partner in the period that starts on the day on which the person dies and ends on the day on which the bereavement period ends.

Step 7. Multiply the partner's instalment component by the number obtained in Step 6: the result is the amount of the lump sum payable under this section.

827 Matters affecting payment of benefits under this Subdivision

(1) If:

(a) a person is qualified for payments under this Subdivision and in relation to the death of the person's partner; and

(b) after the person's partner died, an amount to which the partner would have been entitled if the partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act; and

Authorised Version C2025C00595 registered 03/11/2025

(c) the Secretary is not satisfied that the person has not had the benefit of that amount;

the following provisions have effect:

(d) the amount referred to in paragraph (b) is not recoverable from the person or from the personal representative of the person's partner except to the extent (if any) that the amount exceeds the amount payable to the person under this Subdivision;

(e) the amount payable to the person under this Subdivision is to be reduced by the amount referred to in paragraph (b).

(2) If:

(a) a person is qualified for payments under this Subdivision in relation to the death of the person's partner; and

(b) an amount to which the person's partner would have been entitled if the person's partner had not died has been paid under this Act or under Part III or IIIA of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank; and

(c) the bank pays to the person, out of the account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (b);

the bank is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the person's partner or anyone else in respect of the payment of that money to the person.

Subdivision C—Death of recipient

830 Death of recipient

(1) If:

(a) a person is receiving a special needs pension; and

(b) either:

(i) the person is not a member of a couple; or

(ii) the person is a member of a couple and the person's partner:

Authorised Version C2025C00595 registered 03/11/2025

(A) is not receiving a social security pension; and

(C) is not receiving a service pension, income support supplement or a veteran payment; and

(c) the person dies;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the amount that would have been payable to the person under this Act on the person's payday after the person's death if the person had not died.

(2) If an amount is paid under subsection (1) in respect of a person, the Commonwealth is not liable to any action, claim or demand for any further payment under that subsection in respect of the person.

Note: For the death of a person qualified for bereavement payments under Subdivision A, see section 826.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.17—Economic security strategy payment

900 Qualification for economic security strategy payment

Qualified if this section applies

(1) A person is qualified for an economic security strategy payment if subsection (2), (3) or (4) applies to the person.

Receipt of certain payments

(2) This subsection applies to a person if:
  (a) the person was receiving one of the following payments in respect of 14 October 2008:
    (i) an age pension;
    (ii) a disability support pension;
    (iii) a wife pension;
    (iv) a carer payment;
    (v) a bereavement allowance;
    (vi) a widow B pension;
    (vii) a widow allowance;
    (viii) partner allowance;
    (ix) carer allowance; and
  (b) except in the case of carer allowance, the person was receiving that payment because of a claim the person made on or before 14 October 2008.

Note: For ***receive*** see subsections 23(2) and (4).

Pension age and receipt of other payments

(3) This subsection applies to a person if:
  (a) the person reached pension age on or before 14 October 2008; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the person was receiving one of the following payments in respect of 14 October 2008:
  (i) a parenting payment;
  (ii) austudy payment;
  (iii) special benefit;
  (iv) a payment under the ABSTUDY Scheme that includes an amount identified as living allowance; and
(c) the person was receiving that payment because of a claim the person made on or before 14 October 2008.

Note: For ***receive*** see subsections 23(2) and (4).

Qualified for seniors health card

(4) This subsection applies to a person if:
(a) on or before 14 October 2008, the person made a claim for a seniors health card under Division 1 of Part 3 of the Administration Act and had not withdrawn that claim on or before 14 October 2008; and
(b) on 14 October 2008, the person was qualified for the card.

One payment under this section only

(5) A person cannot receive more than one payment under this section, regardless of how many times the person qualifies under this section.

(6) Despite anything else in this section, a person who is eligible for a payment under section 118ZZQ of the Veterans' Entitlements Act is not qualified for a payment under this section unless the person is so qualified because he or she was receiving carer allowance in respect of 14 October 2008.

901 Amount of economic security strategy payment—general

(1) The amount of a person's economic security strategy payment under this Part is the amount, specified in column 3 of the following table, that corresponds to the family situation, specified

Authorised Version C2025C00595 registered 03/11/2025

in column 2 of the table, that applied to the person on 14 October 2008:

Amount of economic security strategy payment		
Item	**Person's family situation on 14 October 2008**	**Amount**
1	Not member of couple	$1,400.00
2	Partnered	$1,050.00
3	Member of illness separated couple	$1,400.00
4	Member of respite care couple	$1,400.00
5	Partnered (partner in gaol)	$1,400.00

Note: For ***member of couple***, ***partnered***, ***illness separated couple***, ***respite care couple*** and ***partnered (partner in gaol)*** see section 4.

(2) However, this section does not apply to a person if he or she is qualified under section 900 for an economic security strategy payment because he or she was receiving carer allowance in respect of 14 October 2008.

902 Amount of economic security strategy payment—person receiving carer allowance

(1) If a person:

(a) is qualified under section 900 for an economic security strategy payment because he or she was receiving carer allowance in respect of 14 October 2008; and

(b) would not be so qualified if he or she had not been receiving carer allowance in respect of 14 October 2008;

the amount of the person's economic security strategy payment under this Part is the amount worked out under subsection (3) for the person's carer allowance.

(2) If a person:

(a) is qualified under section 900 for an economic security strategy payment because he or she was receiving carer allowance in respect of 14 October 2008; and

Authorised Version C2025C00595 registered 03/11/2025

(b) would be so qualified even if he or she had not been receiving carer allowance in respect of 14 October 2008;

the amount of the person's economic security strategy payment under this Part is the sum of the amount worked out under subsection (3) for the person's carer allowance and the amount that would have been worked out under section 901 for the person if subsection 901(2) had not applied.

(3) Subject to subsection (4), the amount for a person's carer allowance is worked out by adding together the amount applicable under this section for each person (***care receiver***) whose care qualified the person for carer allowance in respect of 14 October 2008.

(4) If subsection 953(2) applied in relation to the carer allowance in respect of 14 October 2008, the 2 disabled children whose care qualified the person for carer allowance in respect of 14 October 2008 are to be treated as if they were a single care receiver in relation to the person qualified for the economic security strategy payment.

(5) Subject to subsection (6), the amount applicable for a care receiver is $1,000.

(6) If the rate at which carer allowance in respect of 14 October 2008 was paid took account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to a care receiver, the amount applicable for the care receiver is that share of $1,000.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.18—Training and learning bonus

910 Qualification for training and learning bonus

Qualified if this section applies

(1) A person is qualified for a training and learning bonus if subsection (2) or (4) applies to the person.

Receipt of certain payments

(2) This subsection applies to a person if the person was receiving one or more of the following payments in respect of 3 February 2009:
  (a) youth allowance;
  (b) austudy payment;
  (c) special benefit;
  (d) sickness allowance;
  (e) a payment under the ABSTUDY Scheme that included an amount identified as living allowance;
  (f) an education allowance under section 3.2, 3.3, 3.4, 3.5, 3.6 or 3.6A of the Veterans' Children Education Scheme;
  (g) an education allowance under section 3.2, 3.3, 3.4, 3.5 or 3.6 of the Military Rehabilitation and Compensation Act Education and Training Scheme.

(3) However:
  (a) paragraph (2)(a) does not apply to the person unless the person was receiving youth allowance on the basis that, on 3 February 2009:
    (i) the person was undertaking full-time study; or
    (ii) the person was qualified for a youth allowance under section 540AA; and
  (b) paragraph (2)(c) does not apply if the person had reached pension age on or before 14 October 2008.

Authorised Version C2025C00595 registered 03/11/2025

Person entitled to family tax benefit Part A

(4) This subsection applies to a person if:
  (a) on 3 February 2009 the person was entitled to family tax benefit; and
  (b) the rate of family tax benefit payable in relation to that day consisted of or included a Part A rate greater than nil worked out taking into account at least one FTB child who was aged 21 or more and less than 25 on that day; and
  (c) the person would have been entitled to a back to school bonus under section 95 of the Family Assistance Act if any such child were aged 4 or more and less than 19 on that day.

One payment under this section only

(5) A person cannot receive more than one payment under this section, regardless of how many times the person qualifies under this section.

No qualification under subsection (2) in certain circumstances

(6) Despite anything else in this section, a person who is:
  (a) an FTB child in respect of whom another person is entitled to a back to school bonus under section 95 of the Family Assistance Act; or
  (b) entitled to a back to school bonus under section 98 of the Family Assistance Act;

is not qualified for a training and learning bonus under subsection (2) of this section.

911 Amount of training and learning bonus

(1) The amount of a person's training and learning bonus is:
  (a) if the person qualifies for a training and learning bonus under subsection 910(2) but not under subsection 910(4)—$950; or
  (b) if the person qualifies for a training and learning bonus under subsection 910(4) but not under subsection 910(2)—$950 for each FTB child because of whom the person so qualifies; or

Authorised Version C2025C00595 registered 03/11/2025

(c) if the person qualifies for a training and learning bonus under subsection 910(2) and also qualifies under subsection 910(4)—the sum of:

(i) $950; and

(ii) $950 for each FTB child because of whom the person so qualifies.

(2) Despite paragraph (1)(b) and subparagraph (1)(c)(ii) of this section, subsections 97(3), (4) and (5) of the Family Assistance Act apply in relation to the amount of a person's training and learning bonus in relation to an FTB child in the same way as they would apply in relation to the amount of a back to school bonus under that Act.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.18A—Clean energy payments

Division 1—Clean energy advances

Subdivision A—Qualifying for clean energy advances

914 Recipients of certain social security payments

Qualification for days 14 May 2012 to 30 June 2012

(1) The Secretary may, on a day during the period starting on 14 May 2012 and ending on 30 June 2012, determine that a person is qualified for a clean energy advance if, on that day:
  (a) the person receives one of the social security payments set out in subsection (4); and
  (b) the person's rate of payment is greater than nil; and
  (ba) the person is residing in Australia; and
  (c) the person is in Australia.

Qualification for days 1 July 2012 to 19 March 2013

(2) The Secretary may determine that a person is qualified for a clean energy advance if, on a day during the period starting on 1 July 2012 and ending on 19 March 2013:
  (a) the person receives one of the social security payments set out in subsection (4); and
  (b) the person's rate of payment is greater than nil; and
  (ba) the person is residing in Australia; and
  (c) the person is in Australia.

(3) A determination under subsection (2) must specify the first day during the period set out in that subsection for which the person:
  (a) satisfies paragraphs (2)(a), (b) and (ba); and
  (b) is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 6 weeks.

Authorised Version C2025C00595 registered 03/11/2025

Clean energy qualifying payments

(4) The social security payments (the ***clean energy qualifying payments***) are as follows:

(a) age pension;
(b) benefit PP (partnered);
(c) bereavement allowance;
(d) carer payment;
(e) disability support pension (other than for a person who is under 21 with no dependent children);
(f) newstart allowance;
(g) pension PP (single);
(h) partner allowance;
(i) seniors supplement;
(j) sickness allowance;
(k) special benefit, whose rate is worked out as if the person were qualified for newstart allowance;
(l) widow allowance;
(m) widow B pension;
(n) wife pension.

914A Recipients of austudy, youth allowance, some disability support pensions and some special benefits

Qualification for days 14 May 2012 to 30 June 2012

(1) The Secretary may, on a day during the period starting on 14 May 2012 and ending on 30 June 2012, determine that a person is qualified for a clean energy advance if, on that day:

(a) the person receives one of the social security payments set out in subsection (5); and
(b) the person's rate of payment is greater than nil; and
(ba) the person is residing in Australia; and
(c) the person is in Australia.

Authorised Version C2025C00595 registered 03/11/2025

Qualification for days 1 July 2012 to 30 June 2013

(2) The Secretary may determine that a person is qualified for a clean energy advance if, on a day during the period starting on 1 July 2012 and ending on 30 June 2013:

(a) the person receives one of the social security payments set out in subsection (5); and

(b) the person's rate of payment is greater than nil; and

(ba) the person is residing in Australia; and

(c) the person is in Australia.

Qualification for days 1 July 2013 to 31 December 2013

(3) The Secretary may determine that a person is qualified for a clean energy advance if, on a day during the period starting on 1 July 2013 and ending on 31 December 2013:

(a) the person receives one of the social security payments set out in subsection (5); and

(b) the person's rate of payment is greater than nil; and

(ba) the person is residing in Australia; and

(c) the person is in Australia.

First day of qualification under subsection (2) or (3)

(4) A determination under subsection (2) or (3) must specify the first day during the period set out in that subsection for which the person:

(a) satisfies paragraphs (a), (b) and (ba) of that subsection; and

(b) is in Australia, disregarding any temporary absence from Australia for a continuous period not exceeding 6 weeks.

Clean energy qualifying payments

(5) The social security payments (the ***clean energy qualifying payments***) are as follows:

(a) austudy payment;

Authorised Version C2025C00595 registered 03/11/2025

(b) disability support pension for a person who is under 21 with no dependent children;
(c) special benefit, whose rate is worked out as if the person were qualified for austudy payment or youth allowance;
(d) youth allowance.

914B Disregard nil rate in certain circumstances

(1) For the purposes of section 914 or 914A, a person is taken to receive a social security payment at a rate greater than nil even if the person's rate would be nil merely because:
(a) an election by the person under subsection 1061VA(1) is in force; or
(b) the person has been paid an advance pharmaceutical allowance under the social security law.

(2) For the purposes of section 914 or 914A, if a social security payment is payable to a person because of subsection 23(1D), the person is taken to receive that payment at a rate greater than nil.

914C Limits on qualifying for multiple advances

(1) A person cannot qualify for more than one clean energy advance under section 914.

(2) A person can qualify for at most 2 clean energy advances under section 914A:
(a) one under either subsection 914A(1) or (2); and
(b) one under subsection 914A(3).

(3) A person who has qualified for a clean energy advance under subsection 914(1) or 914A(1) cannot qualify for a clean energy advance under the other of those subsections.

Note 1: Further limits may be determined under section 918.

Note 2: Top-up payments of clean energy advance may be payable under Subdivision C if the person's circumstances change during the person's clean energy advance period.

Authorised Version C2025C00595 registered 03/11/2025

Subdivision B—Amount of a clean energy advance

914D Amount of a clean energy advance

(1) On the day (the ***decision day***) that the Secretary determines that a person (the ***recipient***) is qualified for a clean energy advance, the Secretary must work out the amount of the advance.

Note: The advance will be paid in a lump sum as soon as is reasonably practicable (see section 47D of the Administration Act).

(2) The amount of the advance is the result of the following formula rounded up to the nearest multiple of $10:

Clean energy advance daily rate × Number of advance days

914E *Clean energy advance daily rate*

(1) The recipient's ***clean energy advance daily rate*** is worked out as follows:

Working out the recipient's *clean energy advance daily rate*

	If the recipient's clean energy qualifying payment is:	Use this provision:
1	(a) age pension; or (b) bereavement allowance; or (c) disability support pension to which neither subsection 1066A(1) nor 1066B(1) applies; or (d) wife pension; or (e) carer payment; or (f) seniors supplement; or (g) widow B pension; or (h) another payment, and the recipient reached pension age on or before the decision day	subsection (2)

Authorised Version C2025C00595 registered 03/11/2025

Working out the recipient's *clean energy advance daily rate*		
	If the recipient's clean energy qualifying payment is:	**Use this provision:**
2	one of the following payments, and the recipient is under pension age on the decision day: (a) newstart allowance, if the recipient's maximum basic rate is worked out under point 1068-B5; (b) pension PP (single); (c) youth allowance, if the recipient's maximum basic rate is worked out under point 1067G-B3A	subsection (3)
3	one of the following payments, and the recipient is under pension age on the decision day: (a) newstart allowance, if the recipient's maximum basic rate is not worked out under point 1068-B5; (b) sickness allowance; (c) partner allowance; (d) widow allowance; (e) benefit PP (partnered); (f) special benefit, whose rate is worked out as if the recipient were qualified for newstart allowance	subsection (4)
4	disability support pension to which subsection 1066A(1) or 1066B(1) applies	subsection (5)
5	one of the following payments, and the recipient is under pension age on the decision day: (a) austudy payment; (b) youth allowance, if: (i) the recipient's maximum basic rate is not worked out under point 1067G-B3A; and (ii) the recipient's rate of youth allowance is not worked out by adding a youth disability supplement; (c) special benefit, whose rate is worked out as if the recipient were qualified for austudy payment or youth allowance	subsection (6)
6	youth allowance, whose rate is worked out by adding a youth disability supplement	subsection (7)

Authorised Version C2025C00595 registered 03/11/2025

Note: For ***recipient*** and ***decision day***, see subsection 914D(1).

Rate for payments set out in item 1 of the table

(2) The recipient's ***clean energy advance daily rate*** is worked out by:

(a) working out 1.7% of the total of:

(i) double the maximum basic rate under Pension Rate Calculator A, worked out for 1 July 2012 for a person who is partnered; and

(ii) the combined couple rate of pension supplement for 1 July 2012; and

(b) rounding the result of paragraph (a) up or down to the nearest multiple of $5.20 (rounding up if that result is not a multiple of $5.20 but is a multiple of $2.60); and

(c) adding $5.20 to the result of paragraph (b); and

(d) applying the applicable percentage in the following table to the result of paragraph (c); and

(e) rounding the result of paragraph (d) up or down to the nearest multiple of $2.60 (rounding up if that rate is not a multiple of $2.60 but is a multiple of $1.30); and

(f) dividing the result of paragraph (e) by 364.

Percentage to be applied

Item	Recipient's family situation on the advance qualification day	Use this %
1	Not a member of a couple	66.33%
2	Partnered	50%
3	Member of an illness separated couple	66.33%
4	Member of a respite care couple	66.33%
5	Partnered (partner in gaol)	66.33%

Note: This subsection covers payments covered by Pension Rate Calculator A, B or C, seniors supplement, recipients of other payments who have reached pension age and recipients of pensions covered by clause 146 of Schedule 1A.

Authorised Version C2025C00595 registered 03/11/2025

Rate for payments set out in item 2 of the table

(3) The recipient's ***clean energy advance daily rate*** is worked out by:

(a) working out 1.7% of the total of the maximum basic rate, and the pension supplement basic amount, for the clean energy qualifying payment, worked out:

(i) for 1 July 2012; and

(ii) for a person in circumstances the same as the recipient's on the advance qualification day; and

(b) rounding the result of paragraph (a) up or down to the nearest multiple of $2.60 (rounding up if that result is not a multiple of $2.60 but is a multiple of $1.30); and

(c) adding $5.20 to the result of paragraph (b); and

(d) dividing the result of paragraph (c) by 364.

Rate for payments set out in item 3 of the table

(4) The recipient's ***clean energy advance daily rate*** is worked out by:

(a) working out 1.7% of the maximum basic rate for the clean energy qualifying payment, worked out:

(i) for 1 July 2012; and

(ii) for a person in circumstances the same as the recipient's on the advance qualification day; and

(b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and

(c) adding 20 cents to the result of paragraph (b); and

(d) dividing the result of paragraph (c) by 14.

Rate for payments set out in item 4 of the table

(5) The recipient's ***clean energy advance daily rate*** is worked out by:

(a) working out 1.7% of the total of the maximum basic rate, and the youth disability supplement, for the clean energy qualifying payment, worked out:

(i) for the first day of the recipient's clean energy advance period; and

Authorised Version C2025C00595 registered 03/11/2025

(ii) for a person in circumstances the same as the recipient's on the advance qualification day; and

(b) rounding the result of paragraph (a) up or down to the nearest multiple of $2.60 (rounding up if that result is not a multiple of $2.60 but is a multiple of $1.30); and

(c) adding $5.20 to the result of paragraph (b); and

(d) dividing the result of paragraph (c) by 364.

Rate for payments set out in item 5 of the table

(6) The recipient's ***clean energy advance daily rate*** is worked out by:

(a) working out 1.7% of the maximum basic rate for the clean energy qualifying payment, worked out:

(i) for the first day of the recipient's clean energy advance period; and

(ii) for a person in circumstances the same as the recipient's on the advance qualification day; and

(b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and

(c) adding 20 cents to the result of paragraph (b); and

(d) dividing the result of paragraph (c) by 14.

Rate for payments set out in item 6 of the table

(7) The recipient's ***clean energy advance daily rate*** is worked out by:

(a) working out 1.7% of the total of the maximum basic rate, and the youth disability supplement, for the clean energy qualifying payment, worked out:

(i) for the first day of the recipient's clean energy advance period; and

(ii) for a person in circumstances the same as the recipient's on the advance qualification day; and

(b) rounding the result of paragraph (a) up or down to the nearest multiple of 10 cents (rounding up if that result is not a multiple of 10 cents but is a multiple of 5 cents); and

Authorised Version C2025C00595 registered 03/11/2025

(c) adding 20 cents to the result of paragraph (b); and
(d) dividing the result of paragraph (c) by 14.

914F *Number of advance days*

The recipient's ***number of advance days*** is the number of days in the recipient's clean energy advance period that are on or after:
(a) if the recipient qualifies for the clean energy advance before 1 July 2012—1 July 2012; or
(b) otherwise—the advance qualification day.

Subdivision C—Top-up payments of clean energy advance

914G Top-up payments of clean energy advance

(1) The Minister may by legislative instrument determine that persons:
(a) who have been paid the amount (the ***original payment***) of a specified clean energy advance worked out under Subdivision B in relation to a clean energy qualifying payment (the ***original qualifying payment***); and
(b) whose circumstances change, within a period specified in the instrument, in a way that is specified in the instrument and is covered by subsection (2) or (3);

qualify for a further payment, of the amount worked out in accordance with the instrument, of clean energy advance.

(2) This subsection covers a person's circumstances changing in a way such that:
(a) on the day (the ***change day***) the change happens, the person was still receiving the original qualifying payment; and
(b) had the amount of the original payment been worked out by reference to the person's circumstances on the change day (rather than those on the advance qualification day), a greater clean energy advance daily rate would have been used for working out that amount than the rate actually used for working out that amount.

Authorised Version C2025C00595 registered 03/11/2025

(3) This subsection covers a change in a person's circumstances that, apart from a multiple qualification exclusion, would (if any necessary administrative decisions were made) qualify the person for a clean energy bonus, under an Act or a scheme, relating to a payment other than the original qualifying payment.

(4) For the purposes of subsection (3), a ***multiple qualification exclusion*** is an instrument that:

(a) provides a person is not qualified for a clean energy bonus under an Act or a scheme because of the person's qualification for or receipt of the original payment or the original qualifying payment; and

(b) is made under:

(i) section 918; or

(ii) section 424L of the MRCA; or

(iii) section 65A of the Veterans' Entitlements Act;

or is an instrument establishing qualifications for a clean energy bonus under a scheme.

(5) An instrument under subsection (1) may provide for:

(a) different periods for changes in circumstances depending on different changes in circumstances; and

(b) different ways of working out further amounts of the original payment depending on different changes in circumstances.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Quarterly energy supplement

915 When quarterly energy supplement is payable

Quarterly energy supplement is payable to a person for each day for which an election by the person under subsection 915A(1) or 1061VA(1) is in force in relation to a social security payment the person is receiving.

Note: Section 918 may affect the person's qualification for quarterly energy supplement.

915A Electing to receive quarterly energy supplement

(1) If:

(a) Part 2.25C (about quarterly pension supplement) does not apply to a person in relation to a social security payment the person is receiving; and

(b) energy supplement is used to work out the rate of that social security payment;

the person may, in a manner or way approved by the Secretary, make an election to receive the person's energy supplement under this Division as a separate social security payment.

Note: The person could make an election under subsection 1061VA(1) if Part 2.25C applies to the person in relation to the social security payment. That election would cause quarterly energy supplement to be payable (see section 915).

(2) An election comes into force as soon as practicable after it is made.

(3) An election ceases to be in force if the person ceases to receive a social security payment (a ***main payment***) calculated using a Rate Calculator that has an energy supplement Module.

(4) The person may, in a manner or way approved by the Secretary, revoke an election. A revocation takes effect as soon as practicable after it happens.

Authorised Version C2025C00595 registered 03/11/2025

915B Rate of quarterly energy supplement

(1) The person's daily rate of quarterly energy supplement, for a particular day, is:

(a) if the Rate Calculator for the main payment received on that day produces an annual rate—$^{1}/_{364}$ of the amount that, apart from this Division, would be the person's energy supplement for that day; or

(b) if the Rate Calculator for the main payment received on that day produces a fortnightly rate—$^{1}/_{14}$ of the amount that, apart from this Division, would be the person's energy supplement for that day.

(2) This section has effect subject to subsection 1210(3A).

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Essential medical equipment payment

917A Definitions

In this Division:

EMEP residence has the meaning given by subsection 917C(1).

essential medical equipment payment:

(a) means an essential medical equipment payment under this Division (except in section 917F); and

(b) in section 917F—has the meaning given by that section.

medical equipment, in relation to a person who satisfies the medical needs requirement under paragraph 917C(1)(b), means the heating or cooling system (as the case requires) of the residence described in that paragraph.

person with medical needs has the meaning given by paragraph 917C(2)(b).

917B Qualification for essential medical equipment payment

(1) A person (the ***claimant***) is qualified for an essential medical equipment payment for an income year if:

(a) the Secretary is satisfied that the claimant satisfies each of the following on the EMEP test day:

(i) the medical needs requirement in section 917C;

(ii) the concession card requirement in section 917D;

(iii) the energy account requirement in section 917E; and

(b) a medical practitioner has (subject to subsection (2)) certified that:

(i) the claimant meets the medical needs requirement under subsection 917C(1) on a day; or

(ii) another specified person meets the medical needs requirement under subsection 917C(1) on a day;

(as the case requires); and

Authorised Version C2025C00595 registered 03/11/2025

(c) the claimant is not prevented from receiving an essential medical equipment payment by section 917F; and

(d) the claimant is not a dependent child of another person on the EMEP test day; and

(e) the claimant is in Australia on the EMEP test day.

(2) Paragraph (1)(b) does not apply if the Secretary is otherwise satisfied that the claimant or another specified person meets the medical needs requirement in section 917C.

*Meaning of **EMEP test day***

(3) For the purposes of subsection (1), the ***EMEP test day*** is either:

(a) the day in the income year referred to in subsection (1) on which the claimant makes the claim for the payment; or

(b) an anniversary (in the income year referred to in subsection (1)) of the day on which the claimant made a claim for the payment if:

(i) the claimant made the claim in a previous income year; and

(ii) since the claimant made the claim, the Secretary has not determined that the claimant has ceased to be qualified for the payment.

Note 1: Under section 11 of the Administration Act, a person is required to make a claim for a social security payment.

Note 2: For additional rules relating to the claim, see section 19 of the Administration Act.

Determining qualification for later income years

(4) In determining whether a person is qualified for an essential medical equipment payment for an income year after the income year in which the claim for the payment is made, the Secretary:

(a) may act on the basis of the documents and information in his or her possession; and

(b) is not required to conduct any inquiries or investigations into the matter or to require (whether under this Act or otherwise)

Authorised Version C2025C00595 registered 03/11/2025

the giving of any information or the production of any document.

(5) Despite subsection (4), the Secretary may require a further certification for the purposes of paragraph (1)(b), or further information or a further document for the purposes of subsection (2), in an income year after the income year in which the claim is made.

917C The medical needs requirement

Person who has medical needs

(1) A person satisfies the medical needs requirement on a day if:
  (a) the person has a medical condition on that day, and as a result:
    (i) the person requires the use of specified essential medical equipment in a residence (the ***EMEP residence***) that is the person's home and is either a private residence or a specified residence; and
    (ii) the person uses that equipment in that residence; or
  (b) the person has a specified medical condition on that day, and as a result:
    (i) the person is unable to regulate his or her body temperature; and
    (ii) additional heating or cooling is required, in a residence (the ***EMEP residence***) that is the person's home and is either a private residence or a specified residence, to manage the person's condition; and
    (iii) the person uses additional heating or cooling in that residence.

Caring for a person who has medical needs

(2) A person (the ***carer***) also satisfies the medical needs requirement on a day if:
  (a) the carer provides care and attention on a regular and ongoing basis for a person; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the person (the ***person with medical needs***) satisfies the medical needs requirement under subsection (1) on the day; and

(c) the person with medical needs is specified in the certification under subparagraph 917B(1)(b)(ii) or is the person specified for the purposes of subsection 917B(2) (as the case requires); and

(d) the carer's home is the EMEP residence that is the home of the person with medical needs.

Legislative instrument

(3) The Minister may, by legislative instrument, specify:

(a) essential medical equipment for the purposes of paragraph (1)(a); and

(b) medical conditions for the purposes of paragraph (1)(b); and

(c) residences for the purposes of paragraphs (1)(a) and (b).

917D The concession card requirement

A person satisfies the concession card requirement on a day if:

(a) the person is a holder of a concession card, or the person's name is included on a concession card, on that day; or

(b) both of the following apply:

(i) the person satisfies the medical needs requirement under subsection 917C(2) (caring for a person) on that day in relation to a person with medical needs;

(ii) the person with medical needs is a holder of a concession card, or the name of the person with medical needs is included on a concession card, on that day.

917E The energy account requirement

(1) A person satisfies the energy account requirement on a day if:

(a) on that day, the energy account for the relevant EMEP residence is in the name of that person; or

Authorised Version C2025C00595 registered 03/11/2025

(b) on that day, the energy account for the relevant EMEP residence is in the name of that person's partner; or

(c) the person contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence; or

(d) if the person is not the person with medical needs—the person with medical needs contributes (whether wholly or partly) to paying the energy account for the relevant EMEP residence.

(2) For the purposes of subsection (1), an ***energy account*** for a residence means any account for:

(a) electricity; or

(b) any other specified form of energy;

that is supplied to the residence.

(3) The Minister may, by legislative instrument, specify forms of energy for the purposes of paragraph (2)(b).

917F Availability of payments

(1) No essential medical equipment payment may be made for an income year in relation to medical equipment that is used in an EMEP residence if an essential medical equipment payment has already been made for that income year in relation to the same equipment and the same residence.

(2) No more than 2 essential medical equipment payments may be made in relation to the same medical equipment for an income year (subject to subsection (1)).

(3) Essential medical equipment payments for an income year may not be made, in relation to a person with medical needs, in relation to more than 2 EMEP residences.

Meaning of ***essential medical equipment payment***

(4) In this section, an ***essential medical equipment payment*** means an essential medical equipment payment under this Division or Division 3 of Part IIIE of the Veterans' Entitlements Act.

Authorised Version C2025C00595 registered 03/11/2025

917G Amount of payment

The amount of an essential medical equipment payment for an income year is $140.

Note: The amount specified is indexed on each 1 July (see sections 1190 and 1191).

917H Non-receipt of social security payment

(1) This section applies for the purposes of a provision of this or another Act if:

(a) the provision provides a benefit (whether the benefit is a pension, benefit, payment, supplement or any other sort of benefit) if a person meets specified criteria; and

(b) one of the specified criteria is that the person is receiving a social security payment, or is a recipient of a social security payment.

(2) For the purposes of the provision, a person is not taken to be receiving a social security payment, or to be a recipient of a social security payment, merely because the person receives an essential medical equipment payment.

Authorised Version C2025C00595 registered 03/11/2025

Division 5—Multiple qualification exclusions

918 Multiple qualification exclusions

(1) The Minister may by legislative instrument determine that persons in circumstances specified in the instrument cannot qualify for a clean energy bonus under this Act that is specified in the instrument.

(2) Those circumstances must relate to persons' qualification for or receipt of one or more of the following:

(a) a clean energy bonus under this Act;

(b) a clean energy bonus under the MRCA;

(c) a clean energy bonus under the Veterans' Entitlements Act;

(d) a clean energy bonus under a scheme (however described), whether or not the scheme is provided for, by or under an Act.

(3) An instrument under subsection (1) has effect according to its terms, despite any other provision of this Act.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.19—Carer allowance

Division 1—Interpretation

952 Carer allowance definitions

In this Part, unless the contrary intention appears:

Adult Disability Assessment Tool has the meaning given by subsection 38C(3).

care receiver has the meaning given by subsections 953(1) and (2), 954(1) and 954A(1) and section 954B.

Disability Care Load Assessment (Child) Determination has the meaning given by subsection 38E(1).

disabled adult means a person aged 16 or more who:

(a) has a physical, intellectual or psychiatric disability; and

(b) is likely to suffer from that disability permanently or for an extended period.

disabled child means a person aged under 16 who:

(a) has a physical, intellectual or psychiatric disability; and

(b) is likely to suffer from that disability permanently or for an extended period.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Qualification for and payability of carer allowance

Subdivision A—Qualification

953 Qualification for carer allowance—caring for either 1 or 2 disabled children

Single child

(1) A person is qualified for carer allowance for a disabled child (the ***care receiver***) if:

(a) the care receiver is a dependent child (disregarding subsection 5(3)) of the person; and

(b) the care receiver is an Australian resident; and

(d) because of the disability from which the care receiver is suffering, the care receiver receives care and attention on a daily basis from:

(i) if the person is a member of a couple—the person, the person's partner or the person together with another person (whether or not the person's partner); or

(ii) if the person is not a member of a couple—the person or the person together with another person;

in a private home that is the residence of the person and the care receiver; and

(e) either of the following applies:

(i) the disability from which the care receiver is suffering is declared, under subsection 38E(3), to be a recognised disability for the purposes of this section;

(ii) the person has been given a qualifying rating of intense under the Disability Care Load Assessment (Child) Determination for caring for the care receiver; and

(f) the person is an Australian resident; and

(g) the person satisfies the carer allowance income test under section 957A.

Authorised Version C2025C00595 registered 03/11/2025

2 children

(2) A person is qualified for carer allowance for 2 disabled children (the ***care receivers***) if:

(a) each care receiver is a dependent child (disregarding subsection 5(3)) of the person; and

(b) each care receiver is an Australian resident; and

(d) because of the disability from which each care receiver is suffering, each care receiver receives care and attention on a daily basis from:

(i) if the person is a member of a couple—the person, the person's partner or the person together with another person (whether or not the person's partner); or

(ii) if the person is not a member of a couple—the person or the person together with another person;

in a private home that is the residence of the person and each care receiver; and

(e) the person has been given a qualifying rating of intense under the Disability Care Load Assessment (Child) Determination for caring for the care receivers; and

(f) the person is an Australian resident; and

(g) the person satisfies the carer allowance income test under section 957A.

Note 1: For ***Australian resident*** see section 7.

Note 2: For qualification for carer allowance in circumstances of hospitalisation, see section 955.

Note 4: For the effect of temporary cessation of care and attention on carer allowance, see section 957.

Note 5: For the effect of 2 people being qualified for carer allowance, see sections 964 and 965.

Authorised Version C2025C00595 registered 03/11/2025

953A Remaining qualified for carer allowance after child turns 16

Single child

(1) If:

(a) a person is qualified for carer allowance under subsection 953(1) for a disabled child; and

(b) the child turns 16; and

(c) apart from the child turning 16, the person would remain qualified for carer allowance under that subsection for that child;

then the person remains qualified for carer allowance under that subsection for that child until the later of the following:

(d) the end of the period of 3 months starting on the day the child turns 16;

(e) if the person ensures that, on or before the day the child turns 16, the Secretary is given all the information, statements and other materials that are needed in order for the child to be assessed and rated and given a score under the Adult Disability Assessment Tool—the end of the day before the first day on which the child is given such a score.

Two children

(2) If:

(a) a person is qualified for carer allowance under subsection 953(2) for 2 disabled children; and

(b) on a particular day (the ***relevant day***), either or both of those children turn 16; and

(c) apart from either or both of those children turning 16, the person would remain qualified for carer allowance under that subsection for those children;

then the person remains qualified for carer allowance under that subsection for those children until the later of the following:

(d) the end of the period of 3 months starting on the relevant day;

(e) if the person ensures that, on or before the relevant day, the Secretary is given all the information, statements and other

Authorised Version C2025C00595 registered 03/11/2025

materials that are needed in order for each child who turns 16 on the relevant day to be assessed and rated and given a score under the Adult Disability Assessment Tool—the end of the day before the first day on which such a score is given to such a child.

(3) Subsection (2) can apply only once in relation to the same 2 disabled children.

954 Qualification for carer allowance—caring for a disabled adult in a private home of both the adult and the carer

(1) A person is qualified for carer allowance for a disabled adult (the ***care receiver***) if:

(a) the care receiver is an Australian resident; and

(b) the care receiver is a family member of the person or is a person approved in writing by the Secretary for the purposes of this paragraph; and

(c) the care receiver has been assessed and rated under the Adult Disability Assessment Tool and given a score under that assessment tool of at least 30, being a score calculated on the basis of a professional questionnaire score of at least 12; and

(d) because of the disability from which the care receiver is suffering, the care receiver receives care and attention on a daily basis from the person, or the person together with another person, in a private home that is the residence of the person and the care receiver; and

(f) the person is an Australian resident; and

(g) the person satisfies the carer allowance income test under section 957A.

Note 1: For ***family member*** see subsection 23(1). For ***Australian resident*** see section 7.

Note 2: For qualification for carer allowance in circumstances of hospitalisation, see section 955.

Note 4: For the effect of temporary cessation of care and attention on carer allowance, see section 957.

Authorised Version C2025C00595 registered 03/11/2025

Note 5: For the effect of 2 people being qualified for carer allowance, see sections 964 and 965.

Disabled adult does not qualify for carer allowance for another disabled adult

(2) If a person is qualified for carer allowance for a disabled adult, the disabled adult is not able to qualify for carer allowance for another disabled adult.

Person cannot qualify for more than 2 carer allowances

(3) A person may qualify for carer allowance under this section and/or section 954A for 2, but no more than 2, disabled adults.

954A Qualification for carer allowance—caring for a disabled adult in a private home not shared by the adult and carer

(1) A person is qualified for carer allowance for a disabled adult (the ***care receiver***) if:

(a) the care receiver is an Australian resident; and

(b) the care receiver is a family member of the person or is a person approved in writing by the Secretary for the purposes of this paragraph; and

(c) the care receiver has been assessed and rated under the Adult Disability Assessment Tool and given a score under that assessment tool of at least 30, being a score calculated on the basis of a professional questionnaire score of at least 12; and

(d) the care receiver receives care and attention that meet the requirements in subsection (2); and

(e) the person is an Australian resident; and

(ea) the person satisfies the carer allowance income test under section 957A; and

(f) the person's work in providing the care and attention is not on wages that are at or above the relevant minimum wage; and

(g) neither the person nor anyone else is qualified for carer allowance for the care receiver under section 954.

Authorised Version C2025C00595 registered 03/11/2025

Note 1: For ***Australian resident*** see section 7. For ***family member*** see subsection 23(1).

Note 2: For qualification for carer allowance in circumstances of hospitalisation, see section 955.

Note 3: For the effect of temporary cessation of care and attention on carer allowance, see section 957.

Note 4: For the effect of 2 people being qualified for carer allowance, see sections 964 and 965.

(2) The care and attention:

(a) must address special care needs:

(i) that the care receiver is assessed under the Adult Disability Assessment Tool as having; and

(ii) that relate to the care receiver's bodily functions or to sustaining the care receiver's life; and

(b) must be received by the care receiver on a daily basis, for a total of at least 20 hours a week; and

(c) must:

(i) be received by the care receiver from the person alone; or

(ii) be received by the care receiver from the person together with another person whose work in providing the care and attention is not on wages that are at or above the wages mentioned in paragraph (1)(f), whether or not both persons are present every day when the care receiver receives the care and attention; and

(d) must be received in a private home that is the residence of the care receiver, the person or the other person (if any), but not the residence of both the care receiver and the person; and

(e) must not be care and attention of a kind (if any) specified, by legislative instrument, by the Secretary for the purposes of this paragraph.

Authorised Version C2025C00595 registered 03/11/2025

Disabled adult does not qualify for carer allowance for another disabled adult

(4) If a person is qualified for carer allowance for a disabled adult, the disabled adult is not able to qualify for carer allowance for another disabled adult.

Person cannot qualify for more than 2 carer allowances

(5) A person may qualify for carer allowance under this section and/or section 954 for 2, but no more than 2, disabled adults.

954B Qualification for carer allowance—receiving carer payment for caring for child or children

While:

(a) a person is receiving a carer payment for caring for one or more persons (the ***care receiver*** or ***care receivers***) other than:

(i) a care receiver referred to in subparagraph 197D(1)(a)(i); or

(ii) a care receiver referred to in paragraph 198(2)(a) or (d); and

(b) the person is not, apart from this section, qualified for carer allowance for the care receiver or care receivers;

the person is qualified for carer allowance for each care receiver.

Note: For the effect of 2 people being qualified for carer allowance for the same care receiver, see sections 964 and 965.

955 Qualification for carer allowance—hospitalisation

Participating in care of person in hospital

(1) If:

(a) a person (the ***carer***) is participating in the care of a disabled child, or a disabled adult, (the ***hospitalised person***) in hospital; and

(b) it is reasonable to assume that, if the hospitalised person were not in hospital, one or more persons would qualify, under

Authorised Version C2025C00595 registered 03/11/2025

section 953, 954 or 954A, for carer allowance for the hospitalised person or for the hospitalised person and another person; and

(c) either the hospitalised person is terminally ill or it is reasonable to expect that, upon the hospitalised person leaving hospital:

(i) the hospitalised person will reside in the private home of the carer and the hospitalised person; or

(ii) the carer will qualify under section 954A for carer allowance for the hospitalised person;

the one or more persons who would qualify for carer allowance as mentioned in paragraph (b) qualify for carer allowance.

Limit on qualification under subsection (1) for disabled adult

(2) However, the period, or the sum of the periods, for which the one or more persons can be qualified under subsection (1) for a hospitalised person who is a disabled adult is 63 days in any calendar year.

Note: There is no limit for a hospitalised person who is a child.

956 Absence from Australia

During any period of absence from Australia:

(a) throughout which Division 2 of Part 4.2 applies to the person; and

(b) that is before the end of the person's portability period for carer allowance (within the meaning of that Division);

the person does not cease to be qualified, under section 953, 954 or 954A, for carer allowance merely because the care and attention of the care receiver or care receivers is not provided in a private home that is described in whichever one of paragraphs 953(1)(d) and (2)(d), 954(1)(d) and 954A(2)(d) is relevant.

Authorised Version C2025C00595 registered 03/11/2025

957 Effect of cessation of care etc. on carer allowance

Continuation of allowance where temporary cessation of care

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

(a) a person is qualified, under section 953, 954 or 954A, for carer allowance because a care receiver or care receivers are receiving care and attention on a daily basis; and

(b) the care receiver or care receivers temporarily cease to receive care and attention that would qualify the person for carer allowance;

the person does not cease to be qualified for carer allowance merely because of that cessation.

Continuation of allowance after hospitalisation—section 955 ceases to apply

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

(a) a person is qualified for carer allowance under section 955 because the person or another person is participating in the care of a disabled child or disabled adult in hospital; and

(b) apart from this subsection, the person would later cease to be qualified for carer allowance under that section; and

(c) the person would not cease to be qualified for carer allowance if the disabled child or disabled adult were receiving care and attention on a daily basis;

the person does not cease to be qualified for carer allowance merely because of the lack of receipt of that care and attention.

Limit on subsections (1) and (2)

(3) However, the period, or the sum of the periods, for which subsection (1) or (2), or a combination of those subsections, can apply is:

(a) 63 days in any calendar year; or

(b) another period that the Secretary, for any special reason in the particular case, decides to be appropriate.

Authorised Version C2025C00595 registered 03/11/2025

Cessation of care in order to undertake training etc.

(4) If:

(a) a person is qualified under section 953 for carer allowance for a care receiver who is a disabled child or for care receivers who are 2 disabled children; and

(b) the care receiver or either or both of the care receivers then are, or are likely to be, receiving education, training or treatment (other than treatment in hospital) for a period; and

(c) during the period the care receiver or care receivers are not receiving the care and attention that would qualify the person for carer allowance; and

(d) subsection (1) does not apply to the period;

the person does not cease to be qualified for carer allowance during the period merely because of the lack of receipt of that care and attention.

Note: A person who continues to be qualified for carer allowance because of subsection (4) will receive a reduced rate of carer allowance: see subsection 974(3).

957A Carer allowance income test

(1) This is how to work out whether a person satisfies the carer allowance income test on a day (the ***test day***).

Method statement

Step 1. Work out the amount of the person's adjusted taxable income for the reference tax year.

Note 1: Section 957B deals with how to work out adjusted taxable income.

Note 2: For ***reference tax year*** see subsections (2) and (3).

Step 2. If, on the test day, the person is a member of a couple, work out the amount of the person's partner's adjusted taxable income for the reference tax year applicable under step 1.

Authorised Version C2025C00595 registered 03/11/2025

Note 1: Section 957B deals with how to work out adjusted taxable income.

Note 2: For ***reference tax year*** see subsections (2) and (3).

Step 3. If, on the test day, the person is not a member of a couple, the person has reached the minimum age mentioned in section 301-10 of the *Income Tax Assessment Act 1997* and the person has at least one long-term financial asset, work out the person's deemed income amount under subsection 957D(1).

Note: For ***long-term financial asset*** see subsection (5).

Step 4. If, on the test day, the person is a member of a couple and the person, or the person's partner, or both, have reached the minimum age mentioned in section 301-10 of the *Income Tax Assessment Act 1997* and have at least one long-term financial asset, work out the person's deemed income amount under subsection 957D(2).

Note: For ***long-term financial asset*** see subsection (5).

Step 5. Work out the sum of the amounts at steps 1, 2, 3 and 4 (as applicable).

Step 6. The person satisfies the carer allowance income test if the amount at step 5 is less than $250,000.

Reference tax year

(2) For the purposes of this section, a person's ***reference tax year*** is:

(a) if the person has received a notice of assessment of the person's taxable income for the base tax year—the base tax year; or

(b) otherwise—the tax year immediately preceding the base tax year.

Note: For ***base tax year*** see subsection (4).

Authorised Version C2025C00595 registered 03/11/2025

(3) However, if the person has informed the Secretary in writing that the person wishes to have the person's qualification for carer allowance determined by reference to the person's adjusted taxable income for the tax year (the ***current tax year***) in which the test day occurred, the person's ***reference tax year*** is the current tax year.

(4) The ***base tax year*** is the tax year immediately preceding the tax year in which the test day occurred.

Note: For ***tax year*** see subsection 23(1).

Long-term financial asset

(5) For the purposes of this Subdivision, a ***long-term financial asset*** is:

(a) a financial investment within the meaning of paragraph (i) of the definition of ***financial investment*** in subsection 9(1), where the asset-tested income stream (long term) arises under a complying superannuation plan (within the meaning of the *Income Tax Assessment Act 1997*) that is not a constitutionally protected fund (within the meaning of that Act); or

(b) a financial investment within the meaning of paragraph (j) of the definition of ***financial investment*** in subsection 9(1).

957B Adjusted taxable income

(1) For the purposes of this Subdivision, a person's ***adjusted taxable income*** for a particular tax year is the sum of the following amounts (each of which is an ***income component***):

(a) the person's taxable income for that year, disregarding the person's assessable FHSS released amount (within the meaning of the *Income Tax Assessment Act 1997*) for that year;

(b) the person's fringe benefits value for that year;

(c) the person's target foreign income for that year;

(d) the person's total net investment loss for that year;

(e) the person's tax free pensions or benefits for that year;

Authorised Version C2025C00595 registered 03/11/2025

(f) the person's reportable superannuation contributions for that year;

less the amount of the person's deductible child maintenance expenditure (the ***deductible component***) for that year.

Note: For ***tax year*** see subsection 23(1).

Taxable income

(2) For the purposes of this section, a person's ***taxable income*** for a particular tax year is:

(a) the person's assessed taxable income for that year; or

(b) if the person does not have an assessed taxable income for that year—the person's accepted estimate of taxable income for that year.

Note: For ***accepted estimate*** see section 957C.

(3) For the purposes of this section, a person's ***assessed taxable income*** for a particular tax year at a particular time is the most recent of:

(a) if, at that time, the Commissioner of Taxation has made an assessment or an amended assessment of that taxable income—that taxable income according to the assessment or amended assessment; or

(b) if, at that time, a tribunal has amended an assessment or an amended assessment made by the Commissioner—that taxable income according to the amendment made by the tribunal; or

(c) if, at that time, a court has amended an assessment or an amended assessment made by the Commissioner or an amended assessment made by a tribunal—that taxable income according to the amendment made by the court.

Fringe benefits value

(4) For the purposes of this section, a person's ***fringe benefits value*** for a particular tax year is the person's accepted estimate of the

Authorised Version C2025C00595 registered 03/11/2025

amount by which the total of the assessable fringe benefits received or to be received by the person in the tax year exceeds $1,000.

Note 1: For ***assessable fringe benefit*** see subsection 10A(2) and Part 3.12A.

Note 2: For ***accepted estimate*** see section 957C.

Target foreign income

(5) For the purposes of this section, a person's ***target foreign income*** for a particular tax year is the person's accepted estimate of the amount of the person's target foreign income for that year.

Note 1: For ***target foreign income*** see subsection 10A(2).

Note 2: For ***accepted estimate*** see section 957C.

Total net investment loss

(6) For the purposes of this section, a person's ***total net investment loss*** for a particular tax year is the person's accepted estimate of the amount of the person's total net investment loss (within the meaning of the *Income Tax Assessment Act 1997*) for that year.

Note: For ***accepted estimate*** see section 957C.

Tax free pensions or benefits

(7) For the purposes of this section, a person's ***tax free pensions or benefits*** for a particular tax year is the person's accepted estimate of the total of the person's tax free pensions or benefits (worked out under clause 7 of Schedule 3 to the *A New Tax System (Family Assistance) Act 1999*) for that year.

Note: For ***accepted estimate*** see section 957C.

Reportable superannuation contributions

(8) For the purposes of this section, a person's ***reportable superannuation contributions*** for a particular tax year is the person's accepted estimate of the amount of the person's reportable superannuation contributions (within the meaning of the *Income Tax Assessment Act 1997*) for that year.

Authorised Version C2025C00595 registered 03/11/2025

Note: For ***accepted estimate*** see section 957C.

Deductible child maintenance expenditure

(9) For the purposes of this section, a person's ***deductible child maintenance expenditure*** for a particular tax year is the person's accepted estimate of the amount worked out under subclause 8(1) of Schedule 3 to the *A New Tax System (Family Assistance) Act 1999* for the person for that year.

Note: For ***accepted estimate*** see section 957C.

957C Accepted estimates

(1) For the purposes of section 957B, a person's ***accepted estimate*** of an income component, or the deductible component, for a particular tax year is that income component, or deductible component, according to the most recent notice given by the person to the Secretary under subsection (2) and accepted by the Secretary for the purposes of this section.

Note: For ***income component*** and ***deductible component*** see subsection 957B(1).

(2) A person may give the Secretary a notice, in a form approved by the Secretary, setting out the person's estimate of an income component, or the deductible component, of the person for a tax year.

(3) The notice is to contain, or be accompanied by, such information as is required by the form to be contained in it or to accompany it, as the case may be.

(4) The Secretary is to accept a notice only if the Secretary is satisfied that the estimate is reasonable.

Authorised Version C2025C00595 registered 03/11/2025

957D Income from long-term financial assets

Person is not a member of a couple

(1) This is how to work out the person's deemed income amount under this subsection:

Method statement

Step 1. Work out the total value of all of the person's long-term financial assets on the test day.

Note: For ***long-term financial asset*** see subsection 957A(5).

Step 2. Work out under section 1076 the amount of ordinary income the person would be taken to receive per year on the financial assets:

(a) on the assumption that the only financial assets of the person were the financial assets referred to in step 1; and

(b) on the assumption that the total value of the person's financial assets were the amount at step 1.

Step 3. The result at step 2 is the person's ***deemed income amount***.

Person is a member of a couple

(2) This is how to work out the person's deemed income amount under this subsection:

Method statement

Step 1. If, on the test day, the person has reached the minimum age mentioned in section 301-10 of the *Income Tax*

Authorised Version C2025C00595 registered 03/11/2025

Assessment Act 1997, work out the total value of all of the person's long-term financial assets on the test day.

Note: For ***long-term financial asset*** see subsection 957A(5).

Step 2. If, on the test day, the person's partner has reached the minimum age mentioned in section 301-10 of the *Income Tax Assessment Act 1997*, work out the total value of all of the person's partner's long-term financial assets on the test day.

Step 3. Work out under section 1077 the amount of ordinary income the couple would be taken to receive per year on the financial assets:

(a) on the assumption that section 1077 applied to the person and the person's partner; and

(b) on the assumption that the only financial assets of the person and the person's partner were the financial assets referred to in steps 1 and 2 (as applicable); and

(c) on the assumption that the total value of the couple's financial assets were the sum of the amounts at steps 1 and 2 (as applicable).

Step 4. The result at step 3 is the person's ***deemed income amount***.

Subdivision B—Limitations on payability

958 Carer allowance not payable if allowance rate nil

A carer allowance is not payable to a person if the person's carer allowance rate would be nil.

Authorised Version C2025C00595 registered 03/11/2025

964 Carer allowance not payable to 2 people for the same care receiver or care receivers unless declaration made

If:

(a) 2 persons who are not members of the same couple are each qualified for carer allowance for the same care receiver or care receivers; and

(b) the Secretary has not made a declaration under subsection 981(1) in respect of carer allowance for the care receiver or care receivers; and

(c) one of the persons is receiving carer allowance for the care receiver or care receivers;

carer allowance is not payable to the other person for the care receiver or care receivers.

965 Carer allowance not payable to more than one member of a couple

(1) Subject to this section, if one member of a couple is receiving carer allowance for a care receiver or care receivers, carer allowance is not payable to the other member of the couple for the same care receiver or care receivers.

(2) If:

(a) the Secretary is satisfied that each of the members of a couple is qualified for carer allowance for the same care receiver or care receivers; and

(b) both members of the couple are qualified under section 953, 954 or 954A for carer allowance—each of them has made a claim for carer allowance (whether or not one of them is receiving carer allowance); and

(ba) only one of the members of the couple is qualified under section 953, 954 or 954A for carer allowance—that member has made a claim for carer allowance (whether or not one of them is receiving carer allowance);

the Secretary is to make a declaration:

Authorised Version C2025C00595 registered 03/11/2025

(c) stating that the Secretary is satisfied that each of them is qualified for carer allowance for the care receiver or care receivers; and

(d) naming one of them as the member of the couple to whom carer allowance is payable for the care receiver or care receivers.

(3) If such a declaration is made, carer allowance for the care receiver or care receivers to which the declaration relates is not payable to the member of the couple who is not named in the declaration as mentioned in paragraph (2)(d).

(4) The Secretary is to give notice of the declaration to each of the members of the couple involved.

(5) In making the declaration, the Secretary must have regard to whether one member of the couple is the primary carer for the care receiver or care receivers.

966 Newly arrived resident's waiting period

(1) A person is subject to a newly arrived resident's waiting period if the person:

(a) has entered Australia; and

(b) has not been an Australian resident and in Australia for a period of, or periods totalling, 52 weeks.

Note: For ***Australian resident*** see subsection 7(2).

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for carer allowance.

Note: For ***qualifying residence exemption*** in relation to carer allowance see paragraph 7(6AA)(f).

(3) Subsection (1) does not apply to a person if, at the time the person made the claim for carer allowance, the person holds a visa that is in a class of visas determined by the Minister for the purposes of subsection 201AA(5).

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

Authorised Version C2025C00595 registered 03/11/2025

(a) the person is receiving a social security pension or a social security benefit; or

(b) the person is receiving farm household allowance under the *Farm Household Support Act 2014*; or

(c) parental leave pay under the *Paid Parental Leave Act 2010* is payable to the person.

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for carer allowance; or

(b) the following apply:

(i) before the person made the claim for carer allowance, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for carer allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for carer allowance.

(6) For the purposes of subsection (5):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

967 Duration of newly arrived resident's waiting period

(1) If a person is subject to a newly arrived resident's waiting period, the period starts on the day the person first became an Australian resident.

Authorised Version C2025C00595 registered 03/11/2025

Section 967

(2) The newly arrived resident's waiting period ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 52 weeks.

Authorised Version C2025C00595 registered 03/11/2025

Division 5—Rate of carer allowance

974 Rate of carer allowance

Daily rate

(1) A person's rate of carer allowance is a daily rate worked out by dividing the person's fortnightly rate of carer allowance by 14.

Fortnightly rate

(2) Subject to subsections (3) and (4), a person's fortnightly rate of carer allowance for a care receiver or care receivers is $75.60.

Note: The rate of carer allowance is indexed annually (see sections 1190 and 1191).

Reduced fortnightly rate if care receiver undertakes training etc.

(3) If on one or more days (each of which is a ***training day***) in an instalment period in relation to carer allowance a person would have stopped being qualified under section 953, apart from subsection 957(4) (care receiver undertakes training etc.), the person's fortnightly rate of carer allowance for that period is to be reduced by the following amount:

$$\text{Number of training days} \times \text{Daily rate of carer allowance applicable to each training day}$$

Rate where carer allowance shared

(4) If:

(a) 2 people who are not members of the same couple are each qualified for carer allowance for the same care receiver or care receivers; and

(b) the Secretary has made a declaration under subsection 981(1) in respect of carer allowance for the care receiver or care receivers;

Authorised Version C2025C00595 registered 03/11/2025

the person's rate of carer allowance is the share specified in the declaration under paragraph 981(1)(b) of the carer allowance rate that would otherwise apply in respect of the care receiver or care receivers.

Authorised Version C2025C00595 registered 03/11/2025

Division 6—Multiple qualification for carer allowance for same care receiver or receivers

981 Secretary may make declaration where 2 people are qualified for carer allowance for the same care receiver or care receivers

(1) If the Secretary is satisfied that 2 people who are not members of the same couple are each qualified for carer allowance for the same care receiver or care receivers, the Secretary is to make a declaration:

(a) stating that the Secretary is satisfied that the 2 people are each qualified for carer allowance for the care receiver or care receivers; and

(b) specifying the share of the carer allowance for the care receiver or care receivers that each of the 2 people is to receive.

(2) If the Secretary makes a declaration under subsection (1), the Secretary is to give each of the 2 people involved notice of the declaration.

Note 1: Until the declaration under this section is made, only one of the 2 people involved can receive carer allowance for the care receiver or care receivers—see section 964.

Note 2: For the effect of a declaration under this section on the calculation of carer allowance rates see subsection 974(4).

Authorised Version C2025C00595 registered 03/11/2025

Division 10—Bereavement payments (death of disabled child or adult)

Subdivision A—Death of disabled child

992J Continued carer allowance during bereavement rate continuation period where disabled child dies

(1) If:

(a) a person is receiving carer allowance (other than because of this section or section 954B) for a care receiver who is a disabled child or for care receivers who are 2 disabled children; and

(b) the disabled child or one of the disabled children dies; and

(c) immediately before the child's death, the child was an FTB child, or a regular care child, of the person;

the person is to be qualified for carer allowance during the bereavement rate continuation period as if the child had not died and had received the care and attention referred to in paragraph 953(1)(d) or 953(2)(d) (as the case may be).

Note 1: For ***bereavement rate continuation period*** see subsection 21(2).

Note 2: If a person fails to satisfy paragraph (1)(c), the person may still be qualified for carer allowance for 4 weeks after the death of the child under section 992L.

(2) The rate at which the carer allowance is to be paid during the bereavement rate continuation period is the rate at which the allowance was payable to the person immediately before the day on which the child died.

992K Lump sum payable in some circumstances

(1) If:

(a) a person is qualified for carer allowance under section 992J in relation to a disabled child, or one of 2 disabled children, who has died; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the first available bereavement adjustment payday occurs before the end of the bereavement period; and

(c) immediately before the child's death, the child was an FTB child, or a regular care child, of the person;

a lump sum (worked out using the lump sum calculator at the end of this subsection) is payable to the person.

Lump Sum Calculator

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the rate at which carer allowance was payable to the person immediately before the child died.

Step 2. Work out the number of paydays of the person in the bereavement lump sum period.

Step 3. Multiply the rate obtained in Step 1 by the number obtained in Step 2: the result is the amount of the lump sum payable to the person under this section.

Note: For ***first available bereavement adjustment payday***, ***bereavement period*** and ***bereavement lump sum period*** see subsection 21(2).

(2) However, if a person is qualified for carer allowance under section 992J in relation to 2 disabled children both of whom have died at the same time, only one lump sum is payable to the person under this section.

Subdivision B—Death of disabled child (special short-term assistance)

992L Continuation of qualification for carer allowance for 4 weeks in some cases where recipient's disabled child dies

(1) If:

Authorised Version C2025C00595 registered 03/11/2025

(a) a person is receiving carer allowance (other than because of this section or section 954B) for a care receiver who is a disabled child or for care receivers who are 2 disabled children; and
(b) the disabled child or one of the disabled children dies; and
(c) the person is not qualified under section 992J for carer allowance for the disabled child or disabled children;

the person is to be qualified for carer allowance for the period of 4 weeks that starts on the day on which the child died as if the child had not died and had received the care and attention referred to in paragraph 953(1)(d) or 953(2)(d) (as the case may be).

(2) The rate at which the carer allowance is to be paid during the 4 week period is the rate at which the allowance was payable to the person immediately before the day on which the child died.

Subdivision BA—Death of disabled adult

992LA Continued carer allowance during bereavement rate continuation period where disabled adult dies

(1) If:
(a) a person is receiving carer allowance (other than because of this section) for a care receiver who is a disabled adult; and
(b) the disabled adult dies; and
(c) the person is receiving an income support payment (other than carer payment) at the time of the death of the disabled adult; and
(d) the person is not qualified for a payment under a provision of this Act (other than this section), or of the Veterans' Entitlements Act, in respect of the death of the disabled adult;

the person is qualified for carer allowance during the bereavement rate continuation period as if the disabled adult had not died and had received the care and attention referred to in paragraph 954(1)(d) or 954A(1)(d) (as the case may be).

Note: For ***bereavement rate continuation period*** see subsection 21(2).

Authorised Version C2025C00595 registered 03/11/2025

(2) The rate at which the carer allowance is to be paid during the bereavement rate continuation period is the rate at which the allowance was payable to the person immediately before the day on which the disabled adult died.

992LB Lump sum payable in some circumstances

If:

(a) a person is qualified for carer allowance under section 992LA in relation to a disabled adult who has died; and

(b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

a lump sum (worked out using the lump sum calculator at the end of this section) is payable to the person.

Lump Sum Calculator

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the rate at which carer allowance was payable to the person immediately before the disabled adult died.

Step 2. Work out the number of paydays of the person in the bereavement lump sum period.

Step 3. Multiply the rate obtained in step 1 by the number obtained in step 2: the result is the amount of the lump sum payable to the person under this section.

Note: For ***first available bereavement adjustment payday***, ***bereavement period*** and ***bereavement lump sum period*** see subsection 21(2).

Authorised Version C2025C00595 registered 03/11/2025

Subdivision C—Death of recipient

992M Death of recipient

(1) If:

(a) a person is receiving carer allowance; and

(b) the person is a member of a couple; and

(c) the person dies; and

(d) the person:

(i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a disabled child or under Subdivision BA in relation to the death of a disabled adult; or

(ii) would have been so qualified if the person had not died;

there is payable to the partner an amount equal to the sum of the following amounts:

(e) the amount of carer allowance that would have been payable to the person under subsection 992J(2) or 992LA(2), as the case requires, if the person had not died;

(f) any lump sum that would have been payable to the person under section 992K or 992LB, as the case requires, if the person had not died.

(2) If:

(a) a person is receiving carer allowance; and

(b) the person is not a member of a couple; and

(c) the person dies; and

(d) the person:

(i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a disabled child or under Subdivision BA in relation to the death of a disabled adult; or

(ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

Authorised Version C2025C00595 registered 03/11/2025

(e) the amount of carer allowance that would have been payable to the person under subsection 992J(2) or 992LA(2), as the case requires, if the person had not died;

(f) any lump sum that would have been payable to the person under section 992K or 992LB, as the case requires, if the person had not died.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.19AA—Child disability assistance

992MA Child disability assistance definitions

In this Part:

care receiver has the same meaning as in Part 2.19.

disabled child has the same meaning as in Part 2.19.

eligible care receiver has the meaning given by section 992MC.

qualified person has the meaning given by subsection 992MB(1).

qualifying instalment has the meaning given by subsection 992MB(2).

992MB Qualification for child disability assistance

(1) A person (the ***qualified person***) is qualified for child disability assistance in respect of a particular 1 July if the following conditions are satisfied in respect of one or more instalments of carer allowance:

(a) the person was paid the instalment in respect of a period that included that 1 July;

(b) either:

(i) the instalment was for a care receiver who was a disabled child or for care receivers who were 2 disabled children; or

(ii) the instalment was for a care receiver referred to in paragraph 954B(a).

(2) Each instalment in respect of which the conditions in subsection (1) are satisfied is a ***qualifying instalment***.

Authorised Version C2025C00595 registered 03/11/2025

992MC Eligible care receivers

(1) Each person to whose care a qualifying instalment relates is an ***eligible care receiver*** in relation to the qualified person.

(2) However, if subsection 953(2) applied in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single ***eligible care receiver*** in relation to the qualified person.

992MD Amount of child disability assistance

(1) The amount of child disability assistance for the qualified person in respect of the 1 July is worked out by adding together the amount applicable under subsection (2) for each eligible care receiver in relation to the qualified person.

(2) The amount applicable under this subsection for an eligible care receiver is:

(a) $1,000; or

(b) if the rate at which the qualifying instalment was paid took account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to an eligible care receiver—that share of $1,000.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.19A—One-off payments to carers eligible for carer allowance

Division 1—One-off payment to carers eligible for carer allowance

992N One-off payment to carers (carer allowance related)

(1) A person (the ***qualified person***) is qualified for a one-off payment to carers (carer allowance related) if the following conditions are satisfied in relation to one or more instalments of carer allowance that have been paid to the person:

(a) the instalment was in respect of a period that included 11 May 2004;

(b) the reason why the instalment covered 11 May 2004 was not only because of clause 16 or 17 of Schedule 2 to the *Social Security (Administration) Act 1999*.

(2) For the purposes of this Part, the instalment, or each instalment, in relation to which paragraphs (1)(a) and (b) are satisfied is a ***qualifying instalment***.

Note: The person may also be qualified for a one-off payment to carers (carer payment related) under Division 1 of Part 2.5A.

992O In respect of what care receivers is the payment payable?

(1) Subject to subsection (2), each person to whose care a qualifying instalment relates is an ***eligible care receiver*** in relation to the qualified person.

(2) If subsection 953(2) applied in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single ***eligible care receiver*** in relation to the qualified person.

Authorised Version C2025C00595 registered 03/11/2025

992P What is the amount of the payment?

Add together the amounts applicable under this section for each eligible care receiver

(1) The amount of the one-off payment to the qualified person is worked out by adding together the amounts applicable under this section for each eligible care receiver.

Amount is $600 unless subsection (3) applies

(2) Subject to subsection (3), the amount applicable for an eligible care receiver is $600.

Reduced amount if instalment rate took account of a subsection 981(1) determination

(3) If the rate at which a qualifying instalment was paid took account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to an eligible care receiver, the amount applicable for the eligible care receiver is that share of $600.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—2005 one-off payment to carers eligible for carer allowance

992Q 2005 one-off payment to carers (carer allowance related)

(1) A person (the ***qualified person***) is qualified for a 2005 one-off payment to carers (carer allowance related) if the following conditions are satisfied in relation to one or more instalments of carer allowance that have been paid to the person:

(a) the instalment was in respect of a period that included 10 May 2005;

(b) the reason why the instalment covered 10 May 2005 was not only because of clause 16 or 17 of Schedule 2 to the *Social Security (Administration) Act 1999*.

(2) For the purposes of this Part, the instalment, or each instalment, in relation to which paragraphs (1)(a) and (b) are satisfied is a ***qualifying instalment***.

Note: The person may also be qualified for a 2005 one-off payment to carers (carer payment related) under Division 2 of Part 2.5A.

992R In respect of what care receivers is the payment payable?

(1) Subject to subsection (2), each person to whose care a qualifying instalment relates is an ***eligible care receiver*** in relation to the qualified person.

(2) If subsection 953(2) applied in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single ***eligible care receiver*** in relation to the qualified person.

Authorised Version C2025C00595 registered 03/11/2025

992S What is the amount of the payment?

Add together the amounts applicable under this section for each eligible care receiver

(1) The amount of the one-off payment to the qualified person is worked out by adding together the amounts applicable under this section for each eligible care receiver.

Amount is $600 unless subsection (3) applies

(2) Subject to subsection (3), the amount applicable for an eligible care receiver is $600.

Reduced amount if instalment rate took account of a subsection 981(1) determination

(3) If the rate at which a qualifying instalment was paid took account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to an eligible care receiver, the amount applicable for the eligible care receiver is that share of $600.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—2006 one-off payment to carers eligible for carer allowance

992T 2006 one-off payment to carers (carer allowance related)

(1) A person (the ***qualified person***) is qualified for a 2006 one-off payment to carers (carer allowance related) if the following conditions are satisfied in relation to one or more instalments of carer allowance that have been paid to the person:

(a) the instalment was in respect of a period that includes 9 May 2006;

(b) the reason why that instalment covered 9 May 2006 was not only because of clause 16 or 17 of Schedule 2 to the Administration Act;

(c) the person was paid that instalment because of a claim the person made on or before 9 May 2006.

(2) For the purposes of this Part, the instalment, or each instalment, in relation to which paragraphs (1)(a), (b) and (c) are satisfied is a ***qualifying instalment***.

992U In respect of which care receivers is the payment payable?

(1) Subject to subsection (2), each person to whose care a qualifying instalment relates is an ***eligible care receiver*** in relation to the qualified person.

(2) If subsection 953(2) applied in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single ***eligible care receiver*** in relation to the qualified person.

Authorised Version C2025C00595 registered 03/11/2025

992V Amount of the one-off payment

Add together the amounts applicable under this section for each eligible care receiver

(1) The amount of the one-off payment to the qualified person is worked out by adding together the amounts applicable under this section for each eligible care receiver.

Amount is $600 unless subsection (3) applies

(2) Subject to subsection (3), the amount applicable for an eligible care receiver is $600.

Reduced amount if instalment rate took account of a subsection 981(1) determination

(3) If the rate at which a qualifying instalment was paid took account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to an eligible care receiver, the amount applicable for the eligible care receiver is that share of $600.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—2007 one-off payment to carers eligible for carer allowance

992WA 2007 one-off payment to carers (carer allowance related)

(1) A person (the ***qualified person***) is qualified for a 2007 one-off payment to carers (carer allowance related) if the following conditions are satisfied in relation to one or more instalments of carer allowance that have been paid to the person:

(a) the instalment was in respect of a period that includes 8 May 2007;

(b) the reason why that instalment covered 8 May 2007 was not only because of clause 16 or 17 of Schedule 2 to the Administration Act;

(c) the person was paid that instalment because of a claim the person made on or before 8 May 2007.

(2) For the purposes of this Part, the instalment, or each instalment, in relation to which paragraphs (1)(a), (b) and (c) are satisfied is a ***qualifying instalment***.

992WB Eligible care receivers

(1) Subject to subsection (2), each person to whose care a qualifying instalment relates is an ***eligible care receiver*** in relation to the qualified person.

(2) If subsection 953(2) applied in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single ***eligible care receiver*** in relation to the qualified person.

Authorised Version C2025C00595 registered 03/11/2025

992WC Amount of the one-off payment

Add together the amounts applicable under this section for each eligible care receiver

(1) The amount of the one-off payment to the qualified person is worked out by adding together the amounts applicable under this section for each eligible care receiver.

Amount is $600 unless subsection (3) applies

(2) Subject to subsection (3), the amount applicable for an eligible care receiver is $600.

Reduced amount if instalment rate took account of a subsection 981(1) determination

(3) If the rate at which a qualifying instalment was paid took account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to an eligible care receiver, the amount applicable for the eligible care receiver is that share of $600.

Authorised Version C2025C00595 registered 03/11/2025

Division 5—2008 one-off payment to carers eligible for carer allowance

992WD 2008 one-off payment to carers (carer allowance related)

(1) A person (the ***qualified person***) is qualified for a 2008 one-off payment to carers (carer allowance related) if the following conditions are satisfied in relation to one or more instalments of carer allowance that have been paid to the person:

(a) the instalment was in respect of a period that includes 13 May 2008;

(b) the reason why that instalment covered 13 May 2008 was not only because of clause 16 or 17 of Schedule 2 to the Administration Act;

(c) the person was paid that instalment because of a claim the person made on or before 13 May 2008.

(2) For the purposes of this Part, the instalment, or each instalment, in relation to which paragraphs (1)(a), (b) and (c) are satisfied is a ***qualifying instalment***.

992WE Eligible care receivers

(1) Subject to subsection (2), each person to whose care a qualifying instalment relates is an ***eligible care receiver*** in relation to the qualified person.

(2) If subsection 953(2) applied in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single ***eligible care receiver*** in relation to the qualified person.

Authorised Version C2025C00595 registered 03/11/2025

992WF Amount of the one-off payment

Add together the amounts applicable under this section for each eligible care receiver

(1) The amount of the one-off payment to the qualified person is worked out by adding together the amounts applicable under this section for each eligible care receiver.

Amount is $600 unless subsection (3) applies

(2) Subject to subsection (3), the amount applicable for an eligible care receiver is $600.

Reduced amount if instalment rate took account of a subsection 981(1) determination

(3) If the rate at which a qualifying instalment was paid took account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to an eligible care receiver, the amount applicable for the eligible care receiver is that share of $600.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.19B—Carer supplement

992X Carer supplement

Qualifying for carer supplement

(1) A person (the ***qualified person***) is qualified for carer supplement for a year if the person was or is paid an instalment (the ***qualifying instalment***) of carer allowance, carer payment or carer service pension in respect of a period that includes 1 July in the year.

Note: There may be more than one qualifying instalment for carer supplement for a year. For example, if a person is paid both an instalment of carer allowance and an instalment of carer payment in respect of a period including 1 July in the year, both instalments are qualifying instalments for carer supplement for the year for the person.

Amount of carer supplement

(2) The amount of carer supplement for the qualified person for the year is the total worked out in accordance with the table (taking account of every relevant item of the table):

Amount of carer supplement

Item	If:	Include this amount in the total:
1	The qualifying instalment is of carer allowance	The amount worked out under subsection (3) for each eligible care receiver (see subsections (4) and (5))
2	The qualifying instalment is of carer payment	$600
3	The qualifying instalment is of carer service pension	$600

Authorised Version C2025C00595 registered 03/11/2025

Amount of carer supplement		
Item	**If:**	**Include this amount in the total:**
5	Both of the following apply: (a) the qualifying instalment is of carer allowance; (b) the qualified person was or is also paid an instalment of partner service pension under the Veterans' Entitlements Act in respect of a period that includes the day described in subsection (1) for the year	$600

Amount for eligible care receiver

(3) The amount for an eligible care receiver is:

(a) $600; or

(b) if the rate at which the qualifying instalment was paid takes account of a determination under subsection 981(1) of a particular share (being a percentage or proportion) in relation to the eligible care receiver—that share of $600.

Example 1: Assume that:

(a) the qualified person qualifies for carer supplement for 2010 because he or she is paid a qualifying instalment of carer allowance relating to 3 eligible care receivers; and

(b) the rate of the qualifying instalment takes account of a determination under subsection 981(1) of a half share in relation to one of those eligible care receivers; and

(c) the qualified person is also paid an instalment of partner service pension for a period including 1 July 2010.

The amount of carer supplement for the qualified person for 2010 is $2,100, made up of $600 each for 2 of the eligible care receivers, $300 (which is half of $600) for the eligible care receiver to whom the half-share determination relates and $600 relating to the partner service pension.

Authorised Version C2025C00595 registered 03/11/2025

Example 2: Assume that the qualified person qualifies for carer supplement for 2011 because he or she is paid a qualifying instalment of carer allowance relating to one eligible care receiver and also because the qualifying person is paid a qualifying instalment of carer payment.

The amount of carer supplement for the qualified person for 2011 is $1,200, made up of $600 relating to carer allowance relating to the eligible care receiver and $600 relating to carer payment.

Effect of nil rates of carer payment, partner service pension and carer service pension

(3A) If:

(a) a person:

(i) is not paid an instalment of carer payment under this Act in respect of a period that includes 1 July in a year because the person's rate of that payment in respect of that period is nil; or

(ii) is not paid an instalment of partner service pension or carer service pension under the Veterans' Entitlements Act in respect of a period that includes 1 July in a year because the person's rate of that pension in respect of that period is nil; and

(b) the person's rate of that payment or pension in respect of that period is worked out having regard to an income test module of a rate calculator in this Act or the Veterans' Entitlements Act; and

(c) either:

(i) if subparagraph (a)(i) applies—the person has employment income (within the meaning of this Act) in respect of that period; or

(ii) if subparagraph (a)(ii) applies—the person has employment income (within the meaning of section 46AB of the Veterans' Entitlements Act) in respect of that period; and

(d) the person would have been paid an instalment of that payment or pension in respect of that period if all of the person's income, and all of the person's partner's income (if any), in respect of that period were disregarded;

Authorised Version C2025C00595 registered 03/11/2025

the person is taken, for the purposes of this section, to have been paid an instalment of that payment or pension in respect of that period.

Definition of ***eligible care receiver***

(4) Each person to whose care a qualifying instalment of carer allowance relates is an ***eligible care receiver*** in relation to the qualified person.

(5) However, if subsection 953(2) applies in relation to a qualifying instalment, the 2 disabled children to whom the instalment relates are to be treated as if they were a single ***eligible care receiver*** in relation to the qualified person.

Definition of ***carer service pension***

(6) In this section:

carer service pension means carer service pension that is payable because of subclause 8(2) or (4) of Schedule 5 to the Veterans' Entitlements Act.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.20—Double orphan pension

Division 1—DOP child status

993 Double orphan—not refugee

(1) A young person is a double orphan if:
  (a) the young person is not a refugee child; and
  (b) each parent of the young person is dead.

Note 1: For ***young person*** and ***parent*** see section 5.

Note 2: For ***refugee child*** see section 995.

Note 3: If the young person does not qualify as a double orphan under this subsection, and the young person is a refugee child, the young person may qualify as a double orphan under section 994.

(2) A young person is a double orphan if:
  (a) the young person is not a refugee child; and
  (b) one parent of the young person is dead; and
  (c) the other parent of the young person is:
    (i) a long-term prisoner; or
    (ii) a mental hospital patient on a long-term basis; or
    (iii) in residential care on a long-term basis; or
    (iv) uncontactable.

Note 1: For ***young person*** and ***parent*** see section 5.

Note 2: For ***refugee child*** see section 995.

Note 3: For ***long-term prisoner*** see section 996.

Note 4: For ***mental hospital patient on a long-term basis***, see subsection 997(1).

Note 4A: For ***in residential care on a long-term basis***, see subsection 997(2).

Note 5: For ***uncontactable*** see section 998.

(3) If a young person (other than an adopted child) is a relationship child of a person because he or she is a child of the person, and of

Authorised Version C2025C00595 registered 03/11/2025

another person, within the meaning of the *Family Law Act 1975*, the person and the other person are taken to be the young person's only parents for the purposes of this section.

994 Double orphan—refugee

(1) A young person is a double orphan if:

(a) the young person is a refugee child; and

(b) one parent of the young person is:

(i) dead; or

(ii) living outside Australia; or

(iii) uncontactable; and

(c) the other parent, if any, is:

(i) dead; or

(ii) living outside Australia; or

(iii) uncontactable; or

(iv) a long-term prisoner; or

(v) a mental hospital patient on a long-term basis; or

(vi) in residential care on a long-term basis.

Note 1: For ***young person*** and ***parent*** see section 5.

Note 2: For ***refugee child*** see section 995.

Note 3: For ***uncontactable*** see section 998.

Note 4: For ***long-term prisoner*** see section 996.

Note 5: For ***mental hospital patient on a long-term basis***, see subsection 997(1).

Note 5A: For ***in residential care on a long-term basis***, see subsection 997(2).

(2) If a young person (other than an adopted child) is a relationship child of a person because he or she is a child of the person, and of another person, within the meaning of the *Family Law Act 1975*, the person and the other person are taken to be the young person's only parents for the purposes of this section.

Authorised Version C2025C00595 registered 03/11/2025

995 Refugee child

(1) A young person is a refugee child if:

(a) the young person is not an adopted child by virtue of an adoption under a law in force in a State or Territory of the Commonwealth; and

(b) the young person has not, at any time, lived in Australia with one or both of his or her parents; and

(c) the young person:

(i) has been granted refugee status by the Australian Government; or

(ii) has, at any time, been admitted into Australia as a refugee by the Australian Government; or

(iii) the young person has been, at any time, admitted into Australia in accordance with the terms of a special humanitarian program of the Australian Government that has been approved by the Minister for the purposes of this definition.

(2) An approval of a special humanitarian program for the purposes of subparagraph (1)(c)(iii) may be expressed to have retrospective effect to the date of the establishment of the program.

(3) If a young person (other than an adopted child) is a relationship child of a person because he or she is a child of the person, and of another person, within the meaning of the *Family Law Act 1975*, the person and the other person are taken to be the young person's only parents for the purposes of this section.

996 Long-term prisoner

(1) For the purposes of this Division, a person is a ***long-term prisoner*** if the person:

(a) has been convicted of an offence; and

(b) has been sentenced to imprisonment:

(i) for life; or

(ii) for a term of at least 10 years; and

Authorised Version C2025C00595 registered 03/11/2025

(c) is serving the sentence.

(2) For the purposes of this Division, a person is a long-term prisoner if:

(a) the person has been charged with an offence punishable by imprisonment for life or for a term of at least 10 years; and

(b) the person has not been convicted of the offence; and

(c) the person is in custody; and

(d) the person is not serving a sentence of imprisonment for life or for a term of 10 years or more imposed as a result of conviction of another offence.

997 Patient on a long-term basis

Mental hospital patient

(1) For the purposes of this Division, a person is a ***mental hospital patient on a long-term basis*** if:

(a) the person is a mental hospital patient; and

(b) the Secretary is satisfied that the person will require care and treatment for an indefinite period.

Note: For ***mental hospital patient*** see section 23.

Nursing home patient

(2) For the purposes of this Division, a person is ***in residential care on a long-term basis*** if:

(a) the person is in residential care; and

(b) the Secretary is satisfied that the person will be in residential care for an indefinite period.

998 Person uncontactable

For the purposes of this Division, a person is ***uncontactable*** if the person's whereabouts are not known to the person or approved care organisation claiming or receiving the double orphan pension concerned.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Qualification for and payability of double orphan pension

Subdivision A—Qualification

999 Qualification for double orphan pension

Persons other than approved care organisations

(1) A person is qualified for a double orphan pension for a young person if:

(a) the young person is an FTB child of the person, or would be an FTB child of the person except that the young person, or someone on behalf of the young person, is receiving payments under a prescribed educational scheme; and

(b) the person is eligible for family tax benefit, or would be so eligible except that:

(i) the young person is not an FTB child of the person, but only because of the receipt of the payments referred to in paragraph (a); or

(ii) the person's rate of family tax benefit, worked out under Division 1 of Part 4 of the Family Assistance Act, is nil; and

(c) on the day on which the person claims the double orphan pension, the young person is a double orphan; and

(d) either:

(i) the young person continues to be a double orphan; or

(ii) if the young person is no longer a double orphan, the person has not become aware that the young person is no longer a double orphan.

Approved care organisations

(2) An approved care organisation is qualified for a double orphan pension for a young person if:

Authorised Version C2025C00595 registered 03/11/2025

(a) the organisation is eligible for family tax benefit for the young person, or would be eligible for family tax benefit for the young person except that the young person, or someone on behalf of the young person, is receiving payments under a prescribed education scheme; or

(b) on the day on which the organisation claims the double orphan pension, the young person is a double orphan; and

(c) either:

(i) the young person continues to be a double orphan; or

(ii) if the young person is no longer a double orphan—the organisation has not become aware that the young person is no longer a double orphan.

Note 1: For ***double orphan*** see sections 993 and 994.

Note 2: For ***approved care organisation*** see sections 6 and 35.

Subdivision B—Payability

1003 Double orphan pension not payable for child receiving a pension under the Veterans' Entitlements Act

(1) A double orphan pension is not payable for a child in relation to an instalment period for family tax benefit if the child is receiving a pension under Part II or IV of the Veterans' Entitlements Act.

(2) In subsection (1):

instalment period for family tax benefit means a period that is an instalment period for the purposes of section 23 of the Family Assistance Administration Act.

Authorised Version C2025C00595 registered 03/11/2025

Division 5—Rate of double orphan pension

1010 Rate of double orphan pension

(1) Subject to subsections (1A) to (3A), the rate of double orphan pension is a daily rate calculated by dividing $37.90 by 14.

(1A) If a person who is qualified for double orphan pension for a child has, under section 59 of the Family Assistance Act, a shared care percentage for the child, the rate of double orphan pension under subsection (1) is the person's shared care percentage of the rate of double orphan pension that would otherwise apply under that subsection to the child.

Children who became double orphans before 1 July 2000

(2) If:

(a) a child became a double orphan before 1 July 2000; and

(b) the person who is qualified for double orphan pension for the child does not, under section 59 of the Family Assistance Act, have a shared care percentage for the child; and

(c) the current family tax benefit rate in respect of the child is less than the prior family allowance rate in respect of the child;

then the rate calculated under subsection (1) in relation to the child is increased by an amount equal to the difference between the prior family allowance rate and the current family tax benefit rate.

(2A) If:

(a) a child became a double orphan before 1 July 2000; and

(b) the person who is qualified for double orphan pension for the child has, under section 59 of the Family Assistance Act, a shared care percentage for the child; and

(c) the current family tax benefit rate in respect of the child is less than the shared care percentage of the prior family allowance rate in respect of the child;

Authorised Version C2025C00595 registered 03/11/2025

then the rate calculated under subsections (1) and (1A) in relation to the child is increased by an amount equal to the difference between:

(d) the person's shared care percentage of the prior family allowance rate; and

(e) the current family tax benefit rate.

Children who become double orphans on or after 1 July 2000

(3) If:

(a) a child becomes a double orphan on or after 1 July 2000; and

(b) the person who is qualified for double orphan pension for the child does not, under section 59 of the Family Assistance Act, have a shared care percentage for the child; and

(c) the current family tax benefit rate in respect of the child is less than the prior family tax benefit rate in respect of the child;

then the rate calculated under subsection (1) in relation to the child is increased by an amount equal to the difference between the prior family tax benefit rate and the current family tax benefit rate.

(3A) If:

(a) a child becomes a double orphan on or after 1 July 2000; and

(b) the person who is qualified for double orphan pension for the child has, under section 59 of the Family Assistance Act, a shared care percentage for the child; and

(c) the current family tax benefit rate in respect of the child is less than the shared care percentage of the prior family tax benefit rate in respect of the child;

then the rate calculated under subsections (1) and (1A) in relation to the child is increased by an amount equal to the difference between:

(d) the person's shared care percentage of the prior family tax benefit rate; and

(e) the current family tax benefit rate.

Authorised Version C2025C00595 registered 03/11/2025

(4) Subsections (2) and (3) do not have effect in relation to a child at any time at which double orphan pension in respect of the child is payable to an approved care organisation.

(5) In this section:

current family tax benefit rate, in relation to a child, means the rate represented by so much of an individual's Part A rate of family tax benefit as relates to the child.

prior family allowance rate, in relation to a child, means the rate at which family allowance was payable in respect of the child immediately before the child became a double orphan.

prior family tax benefit rate, in relation to a child, means the rate represented by so much of an individual's Part A rate of family tax benefit as related to the child immediately before the child became a double orphan.

Authorised Version C2025C00595 registered 03/11/2025

Division 10—Bereavement payments (death of DOP child)

Subdivision A—Death of DOP child (General)

1033 Continued double orphan pension during bereavement rate continuation period where DOP child dies

If:

(a) a person is receiving double orphan pension for a young person; and

(b) the young person dies; and

(c) immediately before the young person died:

(ii) the young person was an FTB child of the person; or

(iii) the person was receiving a service pension or income support supplement whose rate included:

(A) a dependent child add-on for the young person; or

(B) guardian allowance in respect of the young person;

the person is to be qualified for double orphan pension for the young person during the bereavement rate continuation period as if the young person had not died.

1034 Lump sum payable in some circumstances

If:

(a) a person is qualified for double orphan pension under section 1033 in relation to the death of a DOP child; and

(b) the first available bereavement adjustment payday occurs before the end of the bereavement period; and

(c) immediately before the child died, the child was an FTB child;

a lump sum (worked out using the lump sum calculator at the end of this section) is payable to the person.

Authorised Version C2025C00595 registered 03/11/2025

LUMP SUM CALCULATOR

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the rate at which double orphan pension was payable immediately before the first available bereavement adjustment payday: the result is called the ***continued rate***.

Step 2. Work out the number of the person's paydays in the bereavement lump sum period.

Step 3. Multiply the continued rate by the number obtained in Step 2: the result is the amount of the lump sum payable to the person under this section.

Subdivision AA—Death of dependent child (special short-term assistance)

1034AA Continuation of qualification for double orphan pension for 4 weeks in some cases where recipient's DOP child dies

If:

(a) a person is receiving double orphan pension for a young person; and

(b) the young person dies; and

(c) the person is not qualified for double orphan pension under section 1033 in respect of the young person;

the person is to be qualified for double orphan pension, for the period of 4 weeks that starts on the day after the day on which the young person died, as if the young person had not died.

Authorised Version C2025C00595 registered 03/11/2025

Subdivision B—Death of recipient

1034A Death of recipient

(1) If:

(a) a person is receiving a double orphan pension; and

(b) the person is a member of a couple; and

(c) the person dies; and

(d) the person:

(i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a DOP child; or

(ii) would have been so qualified if the person had not died; and

(e) the person's partner claims the payments referred to in paragraph (d) within 3 months after the death of the child;

there is payable to the partner an amount equal to the sum of the following amounts:

(f) the amount of double orphan pension that would have been payable to the person under section 1033 if the person had not died;

(g) any lump sum that would have been payable to the person under section 1034 if the person had not died.

(2) If:

(a) a person is receiving a double orphan pension; and

(b) the person is not a member of a couple; and

(c) the person dies; and

(d) the person:

(i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a DOP child; or

(ii) would have been so qualified if the person had not died;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the sum of the following amounts:

Authorised Version C2025C00595 registered 03/11/2025

(e) the amount of double orphan pension that would have been payable to the person under section 1033 if the person had not died; and

(f) any lump sum that would have been payable to the person under section 1034 if the person had not died.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.21—Mobility allowance

Division 1—Qualification for and payability of mobility allowance

Subdivision A—Qualification

1035 Qualification for mobility allowance (rate specified in subsection 1044(1))

(1) A person is qualified for a mobility allowance at the rate specified in subsection 1044(1) if the person satisfies the travel test set out in subsection (2) of this section, the person is a person with disability, the person has turned 16 and:

(a) all of the following apply:

(ii) the person is engaged in gainful employment;

(iii) the Secretary is of the opinion that:

(A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and

(B) the person's inability to use public transport without substantial assistance is due to the person's disability; and

(C) the person is engaged in the gainful employment for at least 32 hours in every 4 weeks on a continuing basis;

(iv) the person is an Australian resident; or

(b) all of the following apply:

(ii) the person is undertaking vocational training;

(iii) the Secretary is of the opinion that:

(A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and

Authorised Version C2025C00595 registered 03/11/2025

(B) the person's inability to use public transport without substantial assistance is due to the person's disability; and

(C) the person is undertaking the vocational training for at least 32 hours in every 4 weeks on a continuing basis;

(iv) the person is an Australian resident; or

(c) all of the following apply:

(ii) the person is receiving jobseeker payment, youth allowance or austudy payment;

(iii) the Secretary is of the opinion that:

(A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and

(B) the person's inability to use public transport without substantial assistance is due to the person's disability; and

(iv) if the person is receiving jobseeker payment—the person is required to satisfy the employment pathway plan requirements;

(iva) if the person is receiving youth allowance—the person is undertaking full-time study (see section 541B) or is required to satisfy the employment pathway plan requirements;

(ivb) if the person is receiving austudy payment—the person is required to satisfy the activity test;

(v) the person is an Australian resident; or

(d) all of the following apply:

(ii) the Secretary is of the opinion that:

(A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and

(B) the person's inability to use public transport without substantial assistance is due to the person's disability; and

Authorised Version C2025C00595 registered 03/11/2025

(C) the person is undertaking job search activities under an agreement between the Secretary and a service provider nominated by the Secretary;

(iii) the person is an Australian resident; or

(e) all of the following apply:

(ii) the Secretary is of the opinion that:

(A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and

(B) the person's inability to use public transport without substantial assistance is due to the person's disability; and

(C) the person is undertaking job search activities under the Competitive Employment Placement and Training Program administered by the Department;

(iii) the person is an Australian resident; or

(f) all of the following apply:

(ii) the Secretary is of the opinion that:

(A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and

(B) the person's inability to use public transport without substantial assistance is due to the person's disability; and

(C) the person is engaged in voluntary work for at least 32 hours in every 4 weeks on a continuing basis;

(iii) the person is an Australian resident; or

(g) all of the following apply:

(ii) the Secretary is of the opinion that:

(A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and

Authorised Version C2025C00595 registered 03/11/2025

(B) the person's inability to use public transport without substantial assistance is due to the person's disability;

(iii) the Secretary is of the opinion that the person is undertaking a combination of any 2 or more of the following:

(A) gainful employment;

(B) vocational training;

(C) voluntary work;

for at least 32 hours in every 4 weeks on a continuing basis;

(iv) the person is an Australian resident; or

(h) all of the following apply:

(ii) the person is undertaking a vocational rehabilitation program or the person is being provided with supports or services that are specified in an instrument under subsection (2A) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*;

(iii) the Secretary is of the opinion that:

(A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and

(B) the person's inability to use public transport without substantial assistance is due to the person's disability;

(iv) the person is an Australian resident.

(2) A person satisfies the travel test mentioned in subsection (1) if the person is required to travel to and from the person's home for the purpose of:

(a) undertaking gainful employment; or

(b) undertaking vocational training; or

(c) undertaking job search activities; or

(d) undertaking voluntary work; or

Authorised Version C2025C00595 registered 03/11/2025

(e) undertaking a vocational rehabilitation program or being provided with supports or services that are specified in an instrument under subsection (2A) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*.

(2A) The Secretary may, by legislative instrument, specify supports or services for the purposes of subparagraph (1)(h)(ii) or paragraph (2)(e). The supports or services must be employment supports or services within the meaning of the *Disability Services and Inclusion Act 2023*.

(3) In this section:

vocational rehabilitation program means a rehabilitation program (or follow-up program) under Part III of the former *Disability Services Act 1986* that provides a person with assistance to obtain or retain unsupported paid employment.

Note: A vocational rehabilitation program may include vocational training within the meaning of section 19.

vocational training means vocational training within the meaning of section 19, other than training provided as:

(a) part of a rehabilitation program or follow-up program under Part III of the former *Disability Services Act 1986*; or

(b) part of supports or services that are covered by an instrument in force under subsection (2A) of this section and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*.

voluntary work means work approved by the Secretary undertaken in a voluntary capacity for charitable, welfare or community organisations.

Authorised Version C2025C00595 registered 03/11/2025

1035A Qualification for mobility allowance (rate specified in subsection 1044(1A))

General principle

(1) A person is qualified for a mobility allowance at the rate specified in subsection 1044(1A) if:

(a) the person is a person with disability; and

(aa) the person has turned 16; and

(b) the Secretary is of the opinion that the person is unable to use public transport without substantial assistance (either permanently or for an extended period) due to the person's disability; and

(c) the person is an Australian resident; and

(d) the person satisfies one or more of subsections (2) to (9).

Disability support pension

(2) A person satisfies this subsection if:

(a) at a particular time, the person's hours of work per week, on wages that are at or above the relevant minimum wage increase to at least 30 hours per week; and

(b) immediately before that time, the person was receiving disability support pension as a result of a claim made before 1 July 2006; and

(c) the person ceased to be qualified for disability support pension because of the increase in the number of hours worked; and

(d) since the time mentioned in paragraph (a), the person:

(i) has been working at least 30 hours per week on wages that are at or above the relevant minimum wage; and

(ii) has not received another income support payment; and

(e) the person is required to travel to and from the person's home for the purpose of performing that work.

However, this subsection ceases to apply to a transitional DSP applicant from the date of effect of the first decision about the

Authorised Version C2025C00595 registered 03/11/2025

person's capacity to perform work made on or after 1 July 2006 following a review of the person's capacity to perform work.

(3) A person satisfies this subsection if:

(a) the person is receiving disability support pension; and

(b) one or both of the following applies to the person:

(i) the person is working for at least 15 hours per week on wages that are at or above the relevant minimum wage;

(ii) the person is undertaking job search activities under an agreement between the Secretary and the person, or an employment pathway plan that is in force in relation to the person, for work of at least 15 hours per week on wages that are at or above the relevant minimum wage; and

(c) if the person is working as mentioned in subparagraph (b)(i)—the person is required to travel to and from the person's home for the purpose of performing the work; and

(d) if the person is undertaking job search activities as mentioned in subparagraph (b)(ii)—the person is required to travel to and from the person's home for the purpose of undertaking those activities.

(4) A person satisfies this subsection if:

(a) subsection (2) does not apply (or has ceased to apply) to the person; and

(b) the person is working for at least 30 hours per week on wages that are at or above the relevant minimum wage; and

(c) immediately before the person started that work, the person was receiving disability support pension; and

(d) the person ceased to be qualified for disability support pension because of the number of hours worked; and

(e) since starting that work, the person:

(i) has been working at least 30 hours per week on wages that are at or above the relevant minimum wage; and

(ii) has not received another income support payment; and

Authorised Version C2025C00595 registered 03/11/2025

(f) the person is required to travel to and from the person's home for the purpose of performing that work.

(5) A person satisfies this subsection if:

(a) subsection (2) does not apply (or has ceased to apply) to the person; and

(b) at a particular time, the person starts to earn income from work or the person's income from work increases; and

(c) immediately before that time, the person was receiving disability support pension; and

(d) the disability support pension ceased to be payable to the person because the rate of the pension is nil due to the income, or increased income, the person earned from the work; and

(e) since the time mentioned in paragraph (b), the person has been working at least 15 hours per week on wages that are at or above the relevant minimum wage; and

(f) the person is required to travel to and from the person's home for the purpose of performing that work; and

(g) since the time mentioned in paragraph (b), no income support payment has been payable to the person because the rate of the payment is nil due to the income, or increased income, the person has been earning from the work.

Jobseeker payment, youth allowance or parenting payment recipients

(6) A person satisfies this subsection if:

(a) the person:

(i) is receiving jobseeker payment; or

(ii) is receiving youth allowance, but is not undertaking full-time study and is not a new apprentice; or

(iii) is receiving parenting payment; and

(b) one or both of the following applies to the person:

(i) the person is working for at least 15 hours per week on wages that are at or above the relevant minimum wage;

Authorised Version C2025C00595 registered 03/11/2025

(ii) the person is undertaking job search activities under an agreement between the Secretary and the person, or an employment pathway plan that is in force in relation to the person, for work of at least 15 hours per week on wages that are at or above the relevant minimum wage; and

(c) if the person is working as mentioned in subparagraph (b)(i)—the person is required to travel to and from the person's home for the purpose of performing the work; and

(d) if the person is undertaking job search activities as mentioned in subparagraph (b)(ii)—the person is required to travel to and from the person's home for the purpose of undertaking those activities.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

(7) A person satisfies this subsection if:

(a) at a particular time, the person starts to earn income from work or the person's income from work increases; and

(b) immediately before that time, the person:

(i) was receiving jobseeker payment; or

(ii) was receiving youth allowance, but was not undertaking full-time study and was not a new apprentice; or

(iii) was receiving parenting payment; and

(c) the jobseeker payment, youth allowance or parenting payment ceased to be payable to the person because the rate of the payment or allowance was nil due to the income, or increased income, the person earned from his or her work; and

(d) since the time mentioned in paragraph (a), the person has been working at least 15 hours per week on wages that are at or above the relevant minimum wage; and

(e) the person is required to travel to and from the person's home for the purpose of performing that work; and

Authorised Version C2025C00595 registered 03/11/2025

(f) since the time mentioned in paragraph (a), no income support payment has been payable to the person because the rate of the payment is nil due to the income, or increased income, the person has been earning from the work.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

Jobseeker payment, youth allowance, disability support pension and parenting payment recipients

(8) A person satisfies this subsection if:

(a) the person:

(i) is receiving jobseeker payment; or

(ii) is receiving youth allowance, but is not undertaking full-time study and is not a new apprentice; or

(iii) is receiving disability support pension; or

(iv) is receiving parenting payment; and

(b) the person is working for at least 15 hours per week on wages set in accordance with the program administered by the Commonwealth known as the supported wage system; and

(c) the work is not performed by the person in the course of employment that is supported by supported employment services within the meaning of section 7 of the former *Disability Services Act 1986*; and

(ca) the work is not performed by the person in the course of employment that is supported by supports or services that are specified in an instrument under subsection (10) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*; and

(d) the person is required to travel to and from the person's home for the purpose of performing the work.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

(9) A person satisfies this subsection if:

Authorised Version C2025C00595 registered 03/11/2025

(a) at a particular time, the person starts to earn income from work or the person's income from work increases; and

(b) immediately before that time, the person:

(i) was receiving jobseeker payment; or

(ii) was receiving youth allowance, but was not undertaking full-time study and was not a new apprentice; or

(iii) was receiving disability support pension; or

(iv) was receiving parenting payment; and

(c) the jobseeker payment, youth allowance, disability support pension or parenting payment ceased to be payable to the person because the rate of the payment, allowance or pension was nil due to the income, or increased income, the person earned from his or her work; and

(d) since the time mentioned in paragraph (a), the person has been working:

(i) for at least 15 hours per week on wages set in accordance with the program administered by the Commonwealth known as the supported wage system; or

(ii) at least 15 hours per week on wages that are at or above the relevant minimum wage; and

(e) the work has not been performed by the person in the course of employment that is or was supported by supported employment services within the meaning of section 7 of the former *Disability Services Act 1986*; and

(ea) the work has not been performed by the person in the course of employment that is or was supported by supports or services that are specified in an instrument under subsection (10) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*; and

(f) the person has been required to travel to and from the person's home for the purpose of performing that work; and

(g) since the time mentioned in paragraph (a), no income support payment has been payable to the person because the rate of

Authorised Version C2025C00595 registered 03/11/2025

the payment is nil due to the income, or increased income, the person has been earning from the work.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

(10) The Secretary may, by legislative instrument, specify supports or services for the purposes of paragraph (8)(ca) or (9)(ea). The supports or services must be employment supports or services within the meaning of the *Disability Services and Inclusion Act 2023*.

Subdivision B—Payability

1036 Mobility allowance not payable at 2 rates

Mobility allowance at the rate specified in subsection 1044(1) is not payable to a person while mobility allowance at the rate specified in subsection 1044(1A) is payable to the person.

1037 Mobility allowance not payable where person receiving motor vehicle assistance

A mobility allowance is not payable to a person:

(a) if the person is provided with a motor vehicle under the Vehicle Assistance Scheme prepared under section 105 of the VEA—during any period during which the vehicle is provided; or

(aa) if the person is provided with a motor vehicle under the Motor Vehicle Compensation Scheme under section 212 of the MRCA—during any period during which the vehicle is provided.

Note: For ***VEA*** and ***MRCA*** see section 23.

1038 Mobility allowance not payable when person is NDIS participant

A mobility allowance is not payable to a person if:

Authorised Version C2025C00595 registered 03/11/2025

(a) the person is an NDIS participant; and
(b) an NDIS plan is in effect for the NDIS participant; and
(c) the NDIS plan contains a statement specifying the reasonable and necessary supports that will be funded under the National Disability Insurance Scheme (within the meaning of the *National Disability Insurance Scheme Act 2013*).

1039AA Newly arrived resident's waiting period

(1) Subject to this section, a person who:
(a) enters Australia; and
(b) has not been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks;
is subject to a newly arrived resident's waiting period.

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a mobility allowance.

Note: For ***qualifying residence exemption*** in relation to mobility allowance, see paragraph 7(6AA)(f).

(4) Subsection (1) does not apply to a person who, while in Australia, becomes a person with disability who has turned 16.

(5) Subsection (1) does not apply to a person if:
(a) the person is a refugee, or a former refugee, at the time the person made the claim for a mobility allowance; or
(b) the following apply:
(i) before the person made the claim for a mobility allowance, the person was a family member of another person at the time the other person became a refugee;
(ii) the person is a family member of that other person at the time the person made the claim for a mobility allowance or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
(c) the person is an Australian citizen at the time the person made the claim for a mobility allowance.

Authorised Version C2025C00595 registered 03/11/2025

(6) For the purposes of subsection (5):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

1039AB Duration of newly arrived resident's waiting period

If a person is subject to a newly arrived resident's waiting period, the period:

(a) starts on the day the person first became an Australian resident; and

(b) ends when the person has been an Australian resident and in Australia for a period of, or periods totalling, 208 weeks.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Rate of mobility allowance

1044 Rate of mobility allowance

(1AA) The rate of mobility allowance is a daily rate worked out by dividing the fortnightly rate by 14.

(1) The fortnightly rate of mobility allowance for a person who qualifies for the allowance under section 1035 is $50.50.

(1A) The fortnightly rate of mobility allowance for a person who qualifies for the allowance under section 1035A is $100.

(2) A person's mobility allowance rate is nil if:

(a) the person has received mobility allowance advance under section 1045; and

(b) the person's advance payment period has not ended.

Note: The rate of mobility allowance is indexed annually in line with CPI increases (see sections 1191 to 1194).

(3) In this section:

advance payment period, in relation to a person, means the period of:

(a) 26 weeks; or

(b) if section 1044A applies—such number of days as is provided for in that section;

that starts at the beginning of the advance entitlement period.

1044A Reduction of the advance payment period

(1) A person's advance payment period is the period worked out using the following Method statement if:

(a) the person has received a mobility allowance advance; and

(b) the amount of the advance was calculated on the basis that the person qualified for mobility allowance under section 1035; and

Authorised Version C2025C00595 registered 03/11/2025

(c) the person qualifies for mobility allowance under section 1035A, during the period of 26 weeks starting on the day on which the person qualified for the advance; and

(d) this section has not previously applied to the person in relation to the same advance.

Method statement

Step 1. Work out the number of days that, at the time of qualification under section 1035A, remain from the period of 26 weeks referred to in paragraph (c) (counting the day on which that qualification occurs as a whole day).

Step 2. Multiply the result under Step 1 by the amount worked out under the following formula:

$$\frac{\text{Rate of mobility allowance specified in subsection 1044(1)}}{\text{Rate of mobility allowance specified in subsection 1044(1A)}}$$

If the result is not a whole number, round the result down to the next whole number.

Step 3. Subtract the result under Step 2 from the result under Step 1.

Step 4. Subtract the result under Step 3 from the number 182. The result is the number of days in the person's advance payment period.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Mobility allowance advance

1045 Qualification for mobility advance

(1) A person is qualified for a mobility allowance advance if:

(a) the person is receiving mobility allowance; and

(b) the person has requested the advance; and

(c) the Secretary is satisfied that the person will continue to be qualified for mobility allowance for at least 26 weeks from the day on which the person receives the advance; and

(d) if the person has previously received a mobility allowance advance, a period of not less than 12 months has elapsed since the person last received a mobility allowance advance.

(2) If a person has previously received a mobility allowance advance, a request is not effective for the purpose of paragraph (1)(b) if it was made within 11 months after the person received a mobility allowance advance.

(3) The amount of the advance is calculated by multiplying the mobility allowance rate by 13.

(4) For the purpose of subsection (3):

mobility allowance rate is the rate of mobility allowance on the advance payday.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Continuation

1046 Continuation of mobility allowance when person ceases to be qualified

(1) This section applies to a person if:

(a) a mobility allowance at the rate specified in subsection 1044(1) is payable to a person; and

(b) the person would, apart from this section, cease to be qualified for the mobility allowance because he or she ceases, in the Secretary's opinion:

(i) to undertake gainful employment, vocational training or voluntary work; or

(ii) to undertake a combination of any 2 or more of the following:

(A) gainful employment;

(B) vocational training;

(C) voluntary work;

for at least 32 hours in every 4 weeks on a continuing basis.

(2) This section applies to a person if:

(a) a mobility allowance at the rate specified in subsection 1044(1) is payable to a person; and

(b) the person would, apart from this section, cease to be qualified for the mobility allowance because he or she ceases, in the Secretary's opinion:

(i) to receive jobseeker payment for a reason other than because the person ceases to satisfy the employment pathway plan requirements and other than the application of subsection 42AL(1), 42AO(1), 42AP(5), 42P(1) or 42S(1), or section 81, of the Administration Act; or

(ii) to receive youth allowance for a reason other than because the person ceases to satisfy the employment pathway plan requirements and other than the

Authorised Version C2025C00595 registered 03/11/2025

application of section 550B, 551 or 553B of this Act, or subsection 42AL(1), 42AO(1), 42AP(5), 42P(1) or 42S(1), or section 81, of the Administration Act; or

(iii) to receive an austudy payment for a reason other than the application of section 569 or 576 of this Act or section 81 of the Administration Act; or

(vi) to undertake a vocational rehabilitation program or to be provided with supports or services that are specified in an instrument under subsection (2AA) and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*.

(2AA) The Secretary may, by legislative instrument, specify supports or services for the purposes of subparagraph (2)(b)(vi). The supports or services must be employment supports or services within the meaning of the *Disability Services and Inclusion Act 2023*.

(2A) This section applies to a person if:

(a) a mobility allowance is payable to a person at the rate specified in subsection 1044(1A); and

(b) the person would, apart from this section, cease to be qualified for the mobility allowance because he or she ceases, in the Secretary's opinion, to satisfy one or more of subsections 1035A(2), (3), (4), (5), (6), (7), (8) and (9).

(2B) This section applies to a person if:

(a) a mobility allowance is payable to a person at the rate specified in subsection 1044(1A) because the person satisfies one or both of subsections 1035A(6) and (7); and

(b) the person would, apart from this section, cease to be qualified for the mobility allowance because he or she ceases, in the Secretary's opinion:

(i) to receive jobseeker payment for a reason other than because the person ceases to satisfy the employment pathway plan requirements and other than the application of subsection 42AL(1), 42AO(1), 42AP(5), 42P(1) or 42S(1), or section 81, of the Administration Act; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) to receive youth allowance for a reason other than because the person ceases to satisfy the employment pathway plan requirements and other than the application of section 550B, 551 or 553B of this Act, or subsection 42AL(1), 42AO(1), 42AP(5), 42P(1) or 42S(1), or section 81, of the Administration Act; or

(iia) to receive parenting payment for a reason other than the application of section 500J of this Act, or subsection 42AL(1), 42AO(1), 42AP(5), 42P(1) or 42S(1), or section 81, of the Administration Act; or

(iii) to undertake job search activities, under an agreement between the Secretary and a service provider nominated by the Secretary, for work of at least 15 hours per week on wages that are at or above the relevant minimum wage.

(3) A person to whom this section applies continues to be qualified for the mobility allowance for 12 weeks after the person would, apart from this section, have ceased to be qualified for the mobility allowance.

(4) If:

(a) a mobility allowance is payable to a person; and

(b) the person would, apart from this section, cease to be qualified for the allowance because of circumstances other than those described in subsections (1), (2), (2A) and (2B);

the person continues to be qualified for the mobility allowance for 2 weeks after the person would, apart from this section, have ceased to be qualified for the mobility allowance.

(5) If:

(a) a mobility allowance is payable to a person because of subsection (3); and

(b) circumstances occur that would, if the person were still qualified for the allowance, result in the person ceasing to be qualified;

the mobility allowance ceases to be payable to the person on the day on which those circumstances occur.

Authorised Version C2025C00595 registered 03/11/2025

(6) In this section:

vocational rehabilitation program means a rehabilitation program (or follow-up program) under Part III of the former *Disability Services Act 1986* that provides a person with assistance to obtain or retain unsupported paid employment.

Note: A vocational rehabilitation program may include vocational training within the meaning of section 19.

vocational training means vocational training within the meaning of section 19, other than training provided as:

(a) part of a rehabilitation program or follow-up program under Part III of the former *Disability Services Act 1986*; or

(b) part of supports or services that are covered by an instrument in force under subsection (2AA) of this section and are provided under an arrangement or grant under the *Disability Services and Inclusion Act 2023*.

voluntary work means work approved by the Secretary undertaken in a voluntary capacity for charitable, welfare or community organisations.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.21A—Language, literacy and numeracy supplement

Division 1—Preliminary

1047 Definition

In this Part:

designated social security payment means:

(a) disability support pension; or

(c) jobseeker payment; or

(d) parenting payment; or

(g) youth allowance.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Qualification for language, literacy and numeracy supplement

1048 General statement of qualification

A person is qualified to receive a language, literacy and numeracy supplement in respect of a fortnight if:

(a) the person is receiving a designated social security payment in respect of that fortnight; and

(b) the Secretary is satisfied that, on a day during that fortnight, the person was attending a course included in the language, literacy and numeracy program administered by the Department of State responsible for education and training.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Circumstances where language, literacy and numeracy supplement not payable

1049 Language, literacy and numeracy supplement not payable in certain circumstances

(1) Language, literacy and numeracy supplement is not payable to a person in respect of a fortnight if pensioner education supplement under Part 2.24A or under ABSTUDY is payable to the person in respect of a day in the fortnight.

(2) Language, literacy and numeracy supplement is not payable to a person in respect of a fortnight if an approved program of work supplement is payable to the person in respect of that fortnight.

(3) Language, literacy and numeracy supplement is not payable to a person in respect of a fortnight in relation to attendance at a second or subsequent language, literacy or numeracy course in that fortnight.

(4) For the avoidance of doubt, language, literacy and numeracy supplement is payable in respect of a person's attendance at a language, literacy or numeracy course whether that attendance is voluntary or is required under the provisions of, or of an agreement made under, any other provision of this Act.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Rate increase relating to language, literacy and numeracy supplement

1050 Rate increase attributable to language, literacy and numeracy supplement

If a person:

(a) is qualified to receive language, literacy and numeracy supplement in respect of a fortnight; and

(b) nothing in section 1049 precludes the payability of that supplement to that person in respect of that fortnight;

the rate of the person's designated social security payment in respect of that fortnight, worked out under Chapter 3 and taking account of any rate reduction provided for in this Act, is increased by $20.80, being the fortnightly rate of the supplement.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.22—Advance payments of social security entitlements

Division 1—Qualification for advance payment

1061A Qualification for advance payment

Qualifications

(1) Subject to this section, a person is qualified for an advance payment of a social security entitlement only if:

(a) the social security entitlement is payable to the person; and

(b) the person has been receiving an income support payment for a continuous period of 3 months immediately before the day on which the person's application for the advance payment is lodged; and

(d) the Secretary is satisfied that the person will not suffer financial hardship from reductions in instalments of the social security entitlement as a result of receiving the advance payment.

Note 1: Other provisions of this Act deal with advances of social security payments that are not social security entitlements. For example, Division 3 of Part 2.21 deals with mobility allowance advance and Part 2.23 deals with advance pharmaceutical allowance.

Note 2: For ***income support payment*** and ***social security entitlement*** see subsection 23(1).

Note 3: For the determination of the continuous period in respect of which a person received an income support payment see section 38B.

(2) The Secretary may, by legislative instrument, determine that paragraph (1)(b) does not apply to a person who has applied for an advance of youth allowance or austudy payment and the determination has effect accordingly.

Authorised Version C2025C00595 registered 03/11/2025

Disqualification—age and disability support pensions and carer payment

(3) A person is not qualified for an advance payment of an age pension, disability support pension or carer payment if:

(a) the maximum amount of advance payment to which the person would be entitled under Division 4 is less than 1/52 of the person's advance payment qualifying amount; or

(b) the amount of an advance payment of a social security entitlement that the person received in full (whether as a single lump sum or in instalments) more than 12 months ago has not been fully repaid; or

(c) the person owes a debt to the Commonwealth (whether arising under this Act or not) that is recoverable under Part 5.2 by means of deductions from the person's social security payment.

The amount worked out under paragraph (a) must be rounded to the nearest cent (rounding 0.5 cents upwards).

Note 1: Paragraph (a) does not prevent payment of an advance payment in instalments of less than the amount worked out under that paragraph.

Note 2: For ***advance payment qualifying amount***, see subsection 23(1).

Disqualification—other social security entitlements

(4) A person is not qualified for an advance payment of a social security entitlement not covered by subsection (3) if:

(a) the maximum amount of advance payment to which the person would be entitled under Division 4 is less than $250; or

(b) the person has received an advance payment, or an instalment of an advance payment, of a social security entitlement and has not fully repaid the advance payment; or

(c) the person has received the amount of an advance payment in a single lump sum, or has received the first instalment of such an amount, on or after 1 January 1997, and the period of 12 months from the day the lump sum or instalment was paid has not elapsed; or

Authorised Version C2025C00595 registered 03/11/2025

(d) the person owes a debt to the Commonwealth (whether arising under this Act or not) that is recoverable under Part 5.2 by means of deductions from the person's social security payment.

Note: Paragraph (a) does not prevent payment of an advance payment in instalments of less than $250.

(5) Paragraph (4)(c) does not apply to a person:

(a) who is receiving a pension PP (single); and

(b) who applies for an advance payment within the period of 28 days after ceasing to be a member of a couple.

(6) Paragraph (4)(d) does not apply to a person if:

(a) the debt the person owes to the Commonwealth arose as a result of the person's parenting payment rate changing from benefit PP (partnered) to pension PP (single); and

(b) the amount of the debt is smaller than the amount of advance payment to which the person would be entitled under Division 4.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Applying for advance payment

1061B Application

A person who wants an advance payment of a social security entitlement under this Part must apply for the advance payment in accordance with this Division.

1061C Form of application

(1) The application must be in writing and must be in accordance with a form approved by the Secretary.

(2) The application must specify the amount of advance payment sought.

1061D Lodgment of application

(1) The application must be lodged:
  (a) at an office of the Department; or
  (b) at a place approved for the purpose by the Secretary; or
  (c) with a person approved for the purpose by the Secretary.

(2) A place or person approved under subsection (1) must be a place or person in Australia.

(3) The applicant must be in Australia when the application is lodged.

1061E Application may be withdrawn

(1) An applicant for an advance payment or a person acting on behalf of an applicant may withdraw an application that has not been determined.

(2) An application that is withdrawn is taken not to have been lodged.

(3) A withdrawal may be made orally or in writing.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Determination of application and payment of advance payment

1061EA Secretary to determine application

(1) The Secretary must determine the application in accordance with this Act.

(2) The Secretary must grant the application if the Secretary is satisfied that the person is qualified for the advance payment.

1061EB Payment of advance payment

(1) Subject to subsection (3), if the application is granted, the advance payment of the social security entitlement is to be paid on the next day on which the person is paid an instalment of the social security entitlement.

(2) Subject to subsection (3), the advance payment is to be paid as a single lump sum.

(3) The Secretary may determine that:
  (a) an advance payment is to be paid on the day specified in the determination; or
  (b) an advance payment is to be paid in the two instalments specified in the determination on the days specified in the determination.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Amount of advance payment

1061ECA Amount of advance payment—age and disability support pensions and carer payment

Application

(1) The amount of an advance payment of any of the following social security pensions is worked out according to this section:
  (a) age pension;
  (b) disability support pension;
  (d) carer payment.

Amount of advance

(2) The amount of the advance payment is the smaller of the following amounts:
  (a) the amount of advance payment sought;
  (b) the maximum amount of advance payment payable to the person as worked out as follows:

Method statement

Step 1. Work out $^{3}/_{52}$ of the person's advance payment qualifying amount.

Step 2. Work out the annual rate at which the social security pension was payable to the person on the last payday before the application for the advance payment was lodged, disregarding:

(a) any amount payable by way of remote area allowance; and

(b) so much of the person's pension supplement amount (if any) as is equal to the person's minimum pension supplement amount; and

Authorised Version C2025C00595 registered 03/11/2025

	(c) the person's energy supplement (if any).
Step 3.	Work out the smaller of the result of step 1 and 7.5% of the result of step 2.
Step 4.	Subtract the following from the result of step 3: (a) each advance payment (if any) of a social security entitlement paid to the person during any of the 13 fortnights immediately before the application for the current advance payment was lodged; (b) each other advance payment (if any) of a social security entitlement paid to the person that has not been fully repaid.
Step 5.	The result of step 4 (rounded to the nearest cent (rounding 0.5 cents upwards)) is the maximum amount of advance payment payable to the person.

Note 1: The amount of the advance payment will be more than the minimum qualifying amount for the person (see paragraph 1061A(3)(a)).

Note 2: For ***advance payment qualifying amount***, see subsection 23(1).

1061ED Amount of advance payment—pension PP (single)

Application

(1) The amount of an advance payment of pension PP (single) is worked out according to this section.

Amount of advance

(2) The amount of the advance payment is the smallest of the following amounts:
  (a) the amount of advance payment sought;
  (b) the maximum amount of advance payment payable to the person as worked out under subsection (3);
  (c) $500.

Authorised Version C2025C00595 registered 03/11/2025

Note: The amount of the advance payment will be at least $250 (see paragraph 1061A(4)(a)).

Formula for maximum amount of advance under paragraph (2)(b)

(3) For the purposes of paragraph (2)(b), the maximum amount of advance payment payable to the person is the amount worked out using the following formula:

6% × annual payment rate

where:

annual payment rate means:

(a) if the person was receiving pension PP (single) on the last payday before the application for the advance payment was lodged—the rate at which the pension was payable under the Pension PP (Single) Rate Calculator to the person on that payday, disregarding any amount payable by way of remote area allowance; or

(b) if the person was receiving benefit PP (partnered) on the last payday before the application for the advance payment was lodged—the rate at which pension PP (single) is payable to the person under the Pension PP (Single) Rate Calculator on the person's first pension PP (single) payday after the application for the advance payment was lodged, disregarding any amount payable by way of remote area allowance.

Rounding

(4) Amounts worked out under subsection (3) must be rounded to the nearest cent (rounding 0.5 cents upwards).

Example:

Facts: Geoff has, at all times during the past 5 months, been receiving pension PP (single). His annual payment rate is $4,680. He applies for an advance payment of $290.

Application: The maximum amount of advance payment payable to Geoff is worked out under subsection (3) as follows: 6% × $4680 = $280.80. This is the smallest of the 3 amounts referred to in

Authorised Version C2025C00595 registered 03/11/2025

subsection (2). Geoff can therefore be paid an advance payment of $280.80.

1061EE Amount of advance payment—certain other social security payments

Application

(1) The amount of an advance payment of benefit PP (partnered), youth allowance, austudy payment or jobseeker payment is worked out according to this section.

Amount of advance

(2) The amount of the advance payment is the smallest of the following amounts:
  (a) the amount of advance payment sought;
  (b) the maximum amount of advance payment payable to the person as worked out under subsection (4);
  (c) $500.

Note: The amount of the advance payment will be at least $250 (see paragraph 1061A(4)(a)).

Formula for maximum amount of advance: benefit PP (partnered), youth allowance, austudy payment or jobseeker payment

(4) For the purpose of paragraph (2)(b), the maximum amount of advance payment of benefit PP (partnered), youth allowance, austudy payment or jobseeker payment payable to the person is the amount worked out under the following formula:

$$7\% \times \text{Fortnightly payment rate} \times 26$$

Rounding

(5) Amounts worked out under subsection (4) must be rounded to the nearest cent (rounding 0.5 cents upwards).

Authorised Version C2025C00595 registered 03/11/2025

*Meaning of **fortnightly payment rate***

(6) For the purposes of the formula in subsection (4):

fortnightly payment rate means:

(a) in relation to benefit PP (partnered)—the fortnightly rate of that benefit payable under the Benefit PP (Partnered) Rate Calculator to the person on the last payday before the application for the advance payment was lodged, excluding any amount payable by way of remote area allowance; or

(b) in relation to jobseeker payment—the fortnightly rate of that benefit payable under Benefit Rate Calculator B to the person on the last payday before the application for the advance payment was lodged, excluding any amount payable by way of remote area allowance; or

(c) in relation to youth allowance—the fortnightly rate of that benefit payable under the Youth Allowance Rate Calculator to the person on the last payday before the application for the advance payment was made, excluding any amount payable by way of remote area allowance; or

(d) in relation to austudy payment—the fortnightly rate of that benefit payable under the Austudy Payment Rate Calculator to the person on the last payday before the application for the advance payment was made, excluding any amount payable by way of remote area allowance.

Authorised Version C2025C00595 registered 03/11/2025

Division 5—Payment of advance payment

1061EI Advance payment to be paid to person or nominee

(1) Subject to subsection (3), an advance payment of a person's social security entitlement is to be paid to that person.

(2) The Secretary may direct that the whole or part of the advance payment of a person's social security entitlement is to be paid to someone else on behalf of the person.

(3) If the Secretary makes a direction under subsection (2), the advance payment is to be paid in accordance with the direction.

1061EJ Payment into bank account etc.

(1) An amount that is to be paid to a person under section 1061EI may only be paid in accordance with this section.

(2) Subject to this section, the amount is to be paid, at the time or times worked out under section 1061EB, 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) Where the person has not nominated an account for the purposes of subsection (2), then, subject to subsections (5) and (7), the amount is not to be paid.

(5) Where:
   (a) an amount has not been paid because of subsection (4); and
   (b) the person nominates an account for the purposes of subsection (2);

the amount is to be paid under subsection (2).

Authorised Version C2025C00595 registered 03/11/2025

(6) 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).

(7) If the Secretary gives a direction under subsection (6), the amount is to be paid in accordance with the direction.

Authorised Version C2025C00595 registered 03/11/2025

Division 6—Protection of advance payment

1061EK Advance payment to be absolutely inalienable

Inalienability

(1) Subject to subsections (2) and (3) and section 238 and Parts 3AA and 3B of the Administration Act, an advance payment under this Part is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

Note: The effect of a garnishee order on an advance payment of a social security entitlement is dealt with in the Part of this Chapter that deals with that social security entitlement. For example, the effect of a garnishee order on an advance payment of age pension is dealt with in Part 2.2 (which deals with age pension).

Payments to Commissioner of Taxation at recipient's request

(2) The Secretary may make deductions from an advance payment payable to a person under this Part if the recipient asks the Secretary:

(a) to make the deductions; and

(b) to pay the amounts to be deducted to the Commissioner of Taxation.

Deductions from advance payment with recipient's consent

(3) The Secretary may make deductions from an advance payment payable to a person under this Part if the recipient consents under section 1234A to the Secretary making the deductions.

Note: Section 1234A enables the Secretary to recover a debt from a person other than the debtor if the person is receiving a social security payment.

Authorised Version C2025C00595 registered 03/11/2025

Division 7—Repayment of advance payment

1061EL Repayment of advance payment

(1) If a person receives an advance payment or an instalment of an advance payment under this Part, the person must repay the advance payment or instalment to the Commonwealth by one or more of the following methods:

(a) deductions from the person's social security entitlement under Chapter 3 (General provisions relating to payability and rates);

(b) a method provided for by Chapter 5 (Overpayments and debt recovery);

(c) a method (other than a method described in paragraph (a) or (b)) that is acceptable to both the person and the Secretary.

(2) Subsection (1) does not affect:

(a) the operation of subsection 1224E(1) (Debts arising from advance payments of social security entitlements); or

(b) the Secretary's powers and duties under Part 5.4 (Non-recovery of debts) if the amount of the advance payment or instalment that has not been repaid becomes a debt due to the Commonwealth.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.22A—Special employment advances

Division 1—Qualification for special employment advance

1061EM Qualification for special employment advance

(1) Subject to section 1061EO, a person is qualified for a special employment advance at a particular time (the ***relevant time***) only if:

(a) the person is qualified for a special employment advance qualifying entitlement at the relevant time; and

(b) the person has been receiving an income support payment for a continuous period of 3 months immediately before the day on which the person's claim for the special employment advance is made; and

(c) either of the following applies:

(i) the person or, if the person is a member of a couple, the person's partner has earned from casual work in Australia, but has not received, income (the ***unreceived income***);

(ii) the Secretary is satisfied that the person has received a definite offer of employment in Australia (the ***offered employment***) for a period of not less than 6 weeks and needs financial assistance from the Commonwealth to enable him or her to take up the employment; and

(d) subsection (2) or (3), as the case requires, applies for the purpose of determining whether the person is qualified for a special employment advance at the relevant time; and

(e) where subparagraph (c)(i) applies—the person is in severe financial hardship; and

(f) the Secretary is satisfied that the person will not suffer financial hardship as a result of the recovery by the Commonwealth of the special employment advance.

Authorised Version C2025C00595 registered 03/11/2025

(2) This subsection applies for the purpose of determining whether a person is qualified for a special employment advance at the relevant time only where:

(a) the person's claim for the advance was based on the effect of the unreceived income on the person's special employment advance qualifying entitlement; and

(c) either of the following subparagraphs applies:

(i) if the person were qualified for the special employment qualifying entitlement on the next payday for the entitlement at a rate equal to the maximum basic rate of the entitlement, the rate of the entitlement on that payday would be reduced by at least 50% as a result of the person or the person's partner having earned the unreceived income;

(ii) subparagraph (i) does not apply in respect of the person but, if the person were qualified for the special employment qualifying entitlement on 2 or more paydays for the entitlement at a rate equal to the maximum basic rate of the entitlement, the average of the rates of the entitlement on those paydays would be reduced by at least 50% as a result of the person or the person's partner having earned the unreceived income.

(3) This subsection applies for the purpose of determining whether a person is qualified for a special employment advance at the relevant time only where the person's claim for the advance was based on the person's need for financial assistance from the Commonwealth to enable him or her to take up the offered employment and:

(a) if the person were qualified for the special employment qualifying entitlement on each of the paydays for the entitlement that occur in the period of 6 weeks referred to in subparagraph (1)(c)(ii) at a rate equal to the maximum basic rate of the entitlement, the average of the rates of the entitlement on those paydays:

(i) would be reduced by at least 50% as a result of the person having taken up the offered employment; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) would be so reduced if Module J of the Youth Allowance Rate Calculator in section 1067G or Module E of the Austudy Payment Rate Calculator were disregarded; or

(b) the person would cease to be qualified for the special employment advance qualification upon his or her taking up the offered employment.

1061EN Meaning of *in severe financial hardship*

For the purposes of paragraph 1061EM(1)(e) as it applies to a person who makes a claim for special employment advance, the person is ***in severe financial hardship*** if:

(a) where the person is not a member of a couple—the value of the person's liquid assets (within the meaning of subsection 14A(1)) is less than the fortnightly amount of the maximum payment rate of the special employment advance qualifying entitlement that is payable to the person; or

(b) where the person is a member of a couple—the value of the person's liquid assets (within the meaning of subsection 14A(2)) is less than twice the fortnightly amount of the maximum payment rate of the special employment advance qualifying entitlement that is payable to the person.

1061EO Person not qualified in certain circumstances

A person is not qualified for a special employment advance if:

(b) the lump sum amount, or the total of the amounts of the instalments, as the case may be, of the special employment advance to which the person would be entitled under Division 4 is less than $50; or

(c) the person owes a debt to the Commonwealth (whether arising under this Act or not) and the debt is recoverable under Part 5.2 by means of deductions from the person's social security payment; or

(d) where subparagraph 1061EM(1)(c)(ii) applies in respect of the person—the person is participating in a program for the

Authorised Version C2025C00595 registered 03/11/2025

placing of people in employment and the program has been declared by the Secretary, by legislative instrument, to be a program to which this paragraph applies.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Amount of special employment advance

1061EW Where claim based on effect of unreceived income on special employment advance qualifying entitlement

(1) This section applies where the claim was based on the effect of the unreceived income on the claimant's special employment advance qualifying entitlement.

(2) The total amount of the special employment advance payable to the claimant is to be the smallest of the following amounts:

(a) the amount sought in the claim for the advance;

(b) the amount by which the instalment, or the sum of the amounts by which the instalments, of the claimant's special employment advance qualifying entitlement is or will be reduced because of the unreceived income;

(c) $500;

(d) if an amount of special employment advance previously paid to the claimant has not been repaid to, or recovered by, the Commonwealth—the difference between that amount and $500.

1061EX Where claim based on claimant's need for financial assistance to take up offered employment

(1) This section applies where the claim was based on the claimant's need for financial assistance to take up offered employment.

(2) Subject to the following provisions of this section, the total amount of the special employment advance payable to the claimant is to be the smallest of the following amounts:

(a) the amount sought in the claim for the advance;

(b) the amount of financial assistance needed by the claimant from the Commonwealth to take up the offered employment;

(c) $500.

Authorised Version C2025C00595 registered 03/11/2025

(3) If:

(a) an amount of special employment advance previously paid to the claimant has not been repaid to, or recovered by, the Commonwealth; and

(b) the sum of:

(i) the amount referred to in paragraph (a); and

(ii) the amount of financial assistance needed by the claimant from the Commonwealth to take up the offered employment;

is not more than $500;

the total amount of the special employment advance payable to the claimant is the amount referred to in subparagraph (b)(ii).

(4) If:

(a) an amount of special employment advance previously paid to the claimant has not been repaid to, or recovered by, the Commonwealth; and

(b) the sum of:

(i) the amount referred to in paragraph (a); and

(ii) the amount of financial assistance needed by the claimant from the Commonwealth to take up the offered employment;

is more than $500;

the following paragraphs have effect:

(c) where the amount referred to in paragraph (a) is less than $500 and the claimant satisfies the Secretary that the claimant would have sufficient financial resources to enable him or her to take up the offered employment if the total amount of the special employment advance payable were an amount equal to the difference between $500 and the amount referred to in paragraph (a)—the total amount of the special employment advance payable to the claimant is an amount equal to that difference;

(d) where paragraph (c) does not apply—no amount of special employment advance is payable to the claimant.

Authorised Version C2025C00595 registered 03/11/2025

(5) If:

(a) the claimant is not a member of a couple; and

(b) the value of the claimant's liquid assets (within the meaning of subsection 14A(1)) exceeds the fortnightly amount of the maximum payment rate of the special employment advance qualifying entitlement that is payable to the claimant;

the total amount of the special employment advance that, apart from this subsection, would be payable to the claimant under subsections (2) to (4) is reduced by the amount of the excess.

(6) If:

(a) the claimant is a member of a couple; and

(b) the value of the claimant's liquid assets (within the meaning of subsection 14A(2)) exceeds twice the fortnightly amount of the maximum payment rate of the special employment advance qualifying entitlement that is payable to the claimant;

the total amount of the special employment advance that, apart from this subsection, would be payable to the claimant under subsections (2) to (4) is reduced by the amount of the excess.

Authorised Version C2025C00595 registered 03/11/2025

Division 7—Repayment of special employment advance

1061EZC Repayment of special employment advance

(1) If a person receives a special employment advance or an instalment of a special employment advance under this Part, the person must repay the special employment advance or instalment to the Commonwealth by one or more of the following methods:

(a) deductions from the person's special employment advance qualifying entitlement under Chapter 3 (General provisions relating to payability and rates);

(b) a method provided for by Chapter 5 (Overpayments and debt recovery);

(c) a method (other than a method described in paragraph (a) or (b)) that is acceptable to both the person and the Secretary.

(2) Subsection (1) does not affect the Secretary's powers and duties under Part 5.4 (Non-recovery of debts) if the amount of the special employment advance or instalment that has not been repaid becomes a debt due to the Commonwealth.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.23—Advance pharmaceutical allowance

Division 1—Qualification for and payability of advance pharmaceutical allowance

1061F Qualification for advance pharmaceutical allowance

(1) A person is qualified for an advance pharmaceutical allowance if:
  (a) the person is receiving a social security pension; and
  (b) the Secretary is satisfied that the person's ordinary income is not more than $20.50 per fortnight.

(2) For the purposes of this section, a person's ***ordinary income*** does not include:
  (a) a payment:
    (i) that the person is entitled to under the law of a foreign country; and
    (ii) that results in the person's social security pension rate being reduced by an amount equal to the amount of the payment; or
  (b) a periodic compensation payment to which Part 3.14 applies.

(3) For the purposes of this section, if a person is a member of a couple the amount of the person's ***ordinary income*** is worked out by adding the couple's ordinary incomes (on a fortnightly basis) and dividing by 2.

1061G Advance pharmaceutical allowance not payable in some circumstances

(1) Even though a person is qualified for an advance pharmaceutical allowance, the allowance is not payable to the person if the person is not an Australian resident.

(3) Even though a person is qualified for an advance pharmaceutical allowance, the allowance is not payable to the person if

Authorised Version C2025C00595 registered 03/11/2025

pharmaceutical allowance is not used to work out the rate of the person's social security pension.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Amount of advance pharmaceutical allowance

1061JC Amount of advance pharmaceutical allowance

Subject to section 1061JD, the amount of a person's advance pharmaceutical allowance is:

$$\frac{\text{pharmaceutical allowance rate} \times 7}{26}$$

where:

pharmaceutical allowance rate is the yearly amount of pharmaceutical allowance that would be added to the person's maximum basic rate if a pharmaceutical allowance advance were not being paid to the person.

Note: Pharmaceutical rates are to be found at:
(d) point 1066A-D8 of Pension Rate Calculator D;
(e) point 1066B-D8 of Pension Rate Calculator E;
(f) point 1068A-C7 of Pension PP (Single) Rate Calculator.

1061JD Annual limit

The amount paid to a person in a calendar year by way of:
(a) pharmaceutical allowance; and
(b) advance pharmaceutical allowance;
is not to exceed the total amount of pharmaceutical allowance that would have been paid to the person during that year if the person had not received any advance pharmaceutical allowance.

Note: For the amount ***paid*** to a person by way of pharmaceutical allowance see subsections 19A(2) to (6).

Authorised Version C2025C00595 registered 03/11/2025

Part 2.23A—Crisis payment

Division 1—Qualification for crisis payment

1061JG Qualification—release from gaol or psychiatric confinement

(1) A person is qualified for a crisis payment if, after the commencement of this section:

(a) the person spends at least 14 days in gaol, or in psychiatric confinement that starts because he or she has been charged with an offence, and is released so that he or she is neither in gaol nor in psychiatric confinement; and

(b) the person claims the crisis payment either while the person was in gaol or psychiatric confinement, or within 7 days after being released; and

(c) on the day on which the claim for the crisis payment is made (including the day on which it is taken to have been made under Schedule 2 to the Administration Act):

(i) the person is qualified for a social security pension or social security benefit; and

(ii) the person is in severe financial hardship (see section 19D).

Note: A person does not cease to be in gaol merely because he or she is transferred between a prison and a psychiatric institution where he or she is lawfully detained while still under sentence. See subsection 23(5).

(2) Disregard subsection 23(9) in determining whether a person meets the condition in paragraph (1)(a) of this section.

Note: Subsection 23(9) provides that the confinement of a person in a psychiatric institution when the person is undertaking a course of rehabilitation is not to be taken to be psychiatric confinement.

Authorised Version C2025C00595 registered 03/11/2025

1061JH Qualification—extreme circumstances forcing departure from home

(1) A person is qualified for a crisis payment if, after the commencement of this section:

(a) the person has left, or cannot return to, his or her home because of an extreme circumstance; and

(b) the extreme circumstance makes it unreasonable to expect the person to remain in, or return to, the home; and

(c) the person has established, or intends to establish, a new home; and

(d) at the time the extreme circumstance occurred, the person was in Australia; and

(e) the person makes a claim for a crisis payment within 7 days after the extreme circumstance occurred; and

(f) on the day on which the claim is made:

(i) the person is in severe financial hardship (see section 19D); and

(ii) the person has made a claim (whether on the same day or on an earlier day) for a social security pension or benefit and the person is qualified for the pension or benefit; and

(g) during the 12 months immediately preceding the day on which the claim is made, no more than 3 crisis payments have been payable to the person based on:

(i) the qualifications set out in this section; or

(ii) the qualifications set out in section 1061JHA (remaining in home after removal of family member due to domestic or family violence).

Note: Examples of extreme circumstances that would qualify a person for crisis payment are the person's house being burnt down, or the person being subjected to domestic or family violence.

(2) A person is not qualified for a crisis payment in respect of an extreme circumstance if the Secretary is satisfied that the extreme circumstance is brought about with a view to obtaining a crisis payment.

Authorised Version C2025C00595 registered 03/11/2025

1061JHA Qualification—remaining in home after removal of family member due to domestic or family violence

(1) A person is qualified for a crisis payment if:

(a) the person has been subjected to domestic or family violence, in Australia, by a family member of the person; and

(b) at the time of the domestic or family violence the person was living with that family member; and

(c) the family member leaves, or is removed from, the person's home because of the domestic or family violence; and

(d) the person remains living in the person's home after the family member leaves or is removed; and

(e) the person's home is in Australia; and

(f) the person makes a claim for a crisis payment within 7 days after the day on which the family member left or was removed; and

(g) on the day on which the claim is made:

(i) the person is in severe financial hardship (see section 19D); and

(ii) the person has made a claim (whether on the same day or on an earlier day) for a social security pension or benefit and the person is qualified for the pension or benefit; and

(h) during the 12 months immediately preceding the day on which the claim is made, no more than 3 crisis payments have been payable to the person based on:

(i) the qualifications set out in this section; or

(ii) the qualifications set out in section 1061JH (extreme circumstances forcing departure from home).

Note: For ***family member*** see subsection 23(14).

(2) A person is not qualified for a crisis payment if the Secretary is satisfied that the family member left the person's home with a view to the person obtaining a crisis payment.

Authorised Version C2025C00595 registered 03/11/2025

1061JI Qualification—humanitarian entrant to Australia

(1) A person is qualified for a crisis payment if:
  (a) the person arrives in Australia; and
  (b) that arrival is the first time the person has arrived in Australia as the holder of a qualifying humanitarian visa (see subsection (2)); and
  (c) the person makes a claim for a crisis payment within 7 days of that arrival; and
  (d) on the day on which the claim is made:
    (i) the person is in severe financial hardship (see section 19D); and
    (ii) the person has made a claim (whether on the same day or on an earlier day) for a social security pension or benefit and the person is qualified for the pension or benefit.

(2) The Minister may, by legislative instrument, specify visas that are qualifying humanitarian visas for the purposes of paragraph (1)(b).

1061JIA Qualification—national health emergency

(1) A person is qualified for a crisis payment if:
  (a) on the day on which the claim for the crisis payment is made:
    (i) the person has made a claim (whether on the same day or on an earlier day) for a social security pension or benefit; and
    (ii) the person is qualified for the pension or benefit; and
  (b) the person satisfies the requirements determined in an instrument under subsection (2).

(2) The Minister may, by legislative instrument, determine requirements for the purposes of paragraph (1)(b). The Minister must be satisfied that the requirements relate to a national health emergency.

(3) Without limiting subsection (2), the requirements may depend on the Secretary being satisfied of one or more specified matters.

Authorised Version C2025C00595 registered 03/11/2025

1061JJ Crisis payment not payable in addition to disaster relief payment

(1) A crisis payment is not payable to a person in respect of an extreme circumstance if the person is qualified for an AGDRP, a Disaster Recovery Allowance or other disaster relief payment (whether under this Act or otherwise) in respect of the same extreme circumstance.

(2) However, this section does not affect a person's entitlement to a crisis payment in respect of an extreme circumstance if:

(a) the person has claimed the crisis payment; and

(b) the person subsequently qualifies for an AGDRP, a Disaster Recovery Allowance or other disaster relief payment in respect of the same extreme circumstance.

1061JK Crisis payment not payable if assurance of support in force

A person is not qualified for a crisis payment if the Secretary is satisfied that at the time the person would otherwise have been qualified for crisis payment:

(a) an assurance of support was in force in respect of the person (the ***assuree***); and

(b) the person who gave the assurance of support was willing and able to provide an adequate level of support to the assuree; and

(c) it was reasonable for the assuree to accept that support.

Note: For ***assurance of support*** see subsection 23(1).

1061JL Person not qualified for crisis payment if qualified for crisis payment under ABSTUDY scheme

A person is not qualified for a crisis payment under section 1061JG, 1061JH, 1061JHA, 1061JI or 1061JIA in respect of a circumstance if the Secretary is satisfied that:

(a) the person is qualified under the ABSTUDY scheme for a crisis payment in respect of that same circumstance; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the crisis payment is payable under that scheme in respect of that circumstance.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Amount of crisis payment

1061JU Amount of payment

(1) The amount of a crisis payment payable to a person is half the fortnightly amount at the maximum basic rate of the social security pension or social security benefit that is payable to the person.

(4) In this section:

maximum basic rate, in relation to each of the following social security payments, means (unless otherwise stated below) the rate worked out at Module B of the relevant Rate Calculator:

(a) for the following pensions if the recipient is not blind:
  (i) age pension;
  (ii) disability support pension (recipient has turned 21, or is under 21 and has one or more dependent children);
  (iii) carer pension;

  the Rate Calculator at the end of section 1064; or

(b) for age pension and disability support pension (recipient has turned 21, or is under 21 and has one or more dependent children) if the recipient is blind—the Rate Calculator at the end of section 1065; or

(d) for disability support pension if the recipient is under 21, is not blind and does not have any dependent children—the Rate Calculator at the end of section 1066A; or

(e) for disability support pension if the recipient is under 21, is blind and does not have any dependent children—the Rate Calculator at the end of section 1066B; or

(f) for jobseeker payment—the Rate Calculator at the end of section 1068; or

(h) for a pension PP (single)—the Rate Calculator at the end of section 1068A; or

(i) for benefit PP (partnered)—Module C of the Rate Calculator at the end of section 1068B; or

(k) for special benefit—section 746; or

Authorised Version C2025C00595 registered 03/11/2025

(l) for youth allowance—the Rate Calculator at the end of section 1067G; or

(m) for austudy payment—Step 3 of the Method statement in Module A of the Rate Calculator at the end of section 1067L.

Note: For ***dependent child*** see section 5.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.23B—Disaster Recovery Allowance

Division 1—Qualification for Disaster Recovery Allowance

1061KA Qualification for Disaster Recovery Allowance

(1) A person is qualified for a Disaster Recovery Allowance if:

(a) the person is at least 16 years of age; and

(b) the person:

(i) is an Australian resident; or

(ii) 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); and

(c) under subsection 36A(1), the Minister determines that an event is a Part 2.23B major disaster; and

(d) if the person is under 22 years of age—the Secretary is satisfied that subsection (2) of this section does not apply in relation to the person; and

(e) the Secretary is satisfied that subsection (3) or (4) of this section applies in relation to the person; and

(f) the Secretary is satisfied that the person has suffered a loss of income as a direct result of the event; and

(g) the person is not receiving a social security entitlement; and

(h) the person is not receiving a payment prescribed in an instrument under subsection (5) of this section; and

(i) the Secretary is satisfied that the person satisfies the requirements (if any) prescribed in an instrument under subsection (6) of this section; and

(j) the person's rate of Disaster Recovery Allowance, worked out under section 1061KC, is greater than nil at the time the claim for payment of Disaster Recovery Allowance is determined by the Secretary.

Authorised Version C2025C00595 registered 03/11/2025

Qualification rule for persons under 22 years of age

(2) This subsection applies in relation to a person if:
  (a) on the day of the determination under subsection 36A(1), the person is wholly or substantially dependent on another person (except the person's partner); and
  (b) on that day, the person is not a parent of another person; and
  (c) the person's income in the financial year in which that day occurs will not be more than $6,403.

Qualification rule if affected industries and areas

(3) This subsection applies in relation to a person if:
  (a) under paragraph 36A(5)(a), the Minister specifies, in a determination under section 36A, one or more industries affected by the event and one or more areas affected by the event; and
  (b) the person earns, derives or receives income from one of those industries and the person does so by working in one of those areas.

Qualification rule if affected areas only

(4) This subsection applies in relation to a person if:
  (a) under paragraph 36A(5)(b), the Minister specifies, in a determination under section 36A, one or more areas affected by the event; and
  (b) either or both of the following apply:
    (i) the person earns, derives or receives income from one of those areas and the person does so by working in one of those areas;
    (ii) the person resides in one of those areas.

Legislative instruments

(5) The Minister may, in writing, prescribe payments for the purposes of paragraph (1)(h).

Authorised Version C2025C00595 registered 03/11/2025

(6) The Minister may, in writing, prescribe requirements for the purposes of paragraph (1)(i).

(7) An instrument made under subsection (5) or (6) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the instrument.

1061KB Disaster Recovery Allowance not payable if assurance of support in force

A person is not qualified for a Disaster Recovery Allowance if the Secretary is satisfied that at the time the person would otherwise have been so qualified:

(a) an assurance of support was in force in respect of the person (the ***assuree***); and

(b) the person who gave the assurance of support was willing and able to provide an adequate level of support to the assuree; and

(c) it was reasonable for the assuree to accept that support.

Note: For ***assurance of support*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Rate of Disaster Recovery Allowance

1061KC Rate of Disaster Recovery Allowance

(1) The rate of a person's Disaster Recovery Allowance is a daily rate. That rate is worked out by dividing the fortnightly rate worked out in accordance with an instrument under subsection (2) by 14.

(2) The Minister must, by legislative instrument, specify a method for working out the fortnightly rate of Disaster Recovery Allowance for the purposes of subsection (1).

(3) That fortnightly rate may be nil.

Maximum rates

(4) For a person who is under 22 years of age, that fortnightly rate is not to exceed the maximum basic rate of youth allowance that would be payable to the person if:
  (a) the person were qualified for youth allowance; and
  (b) youth allowance were payable to the person.

(5) For a person who is at least 22 years of age, that fortnightly rate is not to exceed the maximum basic rate of jobseeker payment that would be payable to the person if:
  (a) the person were qualified for jobseeker payment; and
  (b) jobseeker payment were payable to the person.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Other matters

1061KD Period that Disaster Recovery Allowance is payable

A person's Disaster Recovery Allowance is payable to the person for a period of 13 weeks.

1061KE Non-receipt of social security payment

(1) This section applies for the purposes of a provision of this or another Act if:

(a) the provision provides a benefit (whether the benefit is a pension, benefit, payment, supplement or any other sort of benefit) if a person meets specified criteria; and

(b) one of the specified criteria is that the person is receiving a social security payment, or is a recipient of a social security payment.

(2) For the purposes of the provision, a person is not taken to be receiving a social security payment, or to be a recipient of a social security payment, merely because the person receives a Disaster Recovery Allowance.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.24—Australian Government Disaster Recovery Payment

Division 1—Qualification for Australian Government Disaster Recovery Payment

1061K Qualification for Australian Government Disaster Recovery Payment

(1) A person is qualified for an Australian Government Disaster Recovery Payment if:

(a) the person is at least 16 years old, or is receiving a social security payment; and

(b) the person:

(i) is an Australian resident; or

(ii) 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); or

(iii) is receiving a social security payment; or

(iv) is an Australian citizen who is not an Australian resident and who is covered by a determination under subsection (2); or

(v) is covered by a determination under subsection (3A); and

(c) the person is adversely affected by a major disaster.

Note 1: For ***Australian resident*** see section 7.

Note 2: For ***adversely affected*** see section 1061L.

Note 3: For ***major disaster*** see section 36.

(2) The Minister may determine in writing that a specified class of Australian citizens who are not Australian residents can qualify for an AGDRP.

Note: For ***Australian resident*** see section 7.

Authorised Version C2025C00595 registered 03/11/2025

(3) A determination made under subsection (2) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

(3A) The Minister may determine, by notifiable instrument, that a person can qualify for an AGDRP if:

(a) the person has been in Australia for a specified period, or for a period or periods within a specified period, ending on the day a major disaster is determined under subsection 36(1); and

(b) the person is one of the following:

(i) an Australian citizen;

(ii) the holder of a permanent visa;

(iii) a special category visa holder who is a protected SCV holder.

(4) A person cannot be qualified for more than one AGDRP in relation to the same major disaster.

1061L Meaning of *adversely affected*

(1) For the purposes of this Act, a person is ***adversely affected*** by a major disaster if the person is affected by the disaster in a way determined by the Minister in relation to the disaster.

(2) The Minister may determine in writing, in relation to a major disaster, the circumstances in which persons are to be taken to be adversely affected by the disaster.

(3) A determination made under this section is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Amount of Australian Government Disaster Recovery Payment

1061M Amount of payment for disasters in Australia

(1) The amount of an AGDRP payable to a person in relation to a major disaster that occurs in Australia is the sum of:

(a) the adult rate for the financial year in which the major disaster is determined under subsection 36(1); and

(b) if the person is the carer of one or more children on the first day the person is adversely affected by a major disaster—the amount worked out by multiplying the child rate for that financial year by the number of children for whom the person is the carer on that day.

Note: For ***major disaster*** see section 36.

(1A) For the purposes of this Division, a person is a ***carer*** of a child on a day if, on that day:

(a) the person is the principal carer of the child; or

(b) the person is receiving another social security payment and is treated as the principal carer of the child for the purposes of that payment; or

(c) the person is entitled to be paid family tax benefit by instalment (within the meaning of the Family Assistance Administration Act) and:

(i) the child is treated as an FTB child of the person for the purposes of that benefit; and

(ii) the child is under 16 years of age; and

(iii) the person does not, under section 59 of the Family Assistance Act, have a shared care percentage for the child.

Note: For ***principal carer*** see subsections 5(15) to (24).

(2) For the purposes of this Division, the ***adult rate*** for a financial year is:

Authorised Version C2025C00595 registered 03/11/2025

(a) the amount that the Minister determines under subsection 1061P(1) to be the adult rate for the financial year; or

(b) if the Minister has not determined an adult rate for the financial year—the amount that the Minister last determined to be the adult rate for a previous financial year; or

(c) if the Minister has never determined an adult rate for any financial year—$1,000.

(3) For the purposes of this Division, the ***child rate*** for a financial year is:

(a) the amount that the Minister determines under subsection 1061P(2) to be the child rate for the financial year; or

(b) if the Minister has not determined a child rate for the financial year—the amount that the Minister last determined to be the child rate for a previous financial year; or

(c) if the Minister has never determined a child rate for any financial year—$400.

1061N Amount of payment for disasters outside Australia

The amount of an AGDRP payable to a person in relation to a major disaster that occurs outside Australia is the sum of:

(a) the amount that the Minister determines under subsection 1061P(4) in relation to the disaster; and

(b) if the person is the carer of one or more children on the first day the person is adversely affected by a major disaster—the amount worked out by multiplying the amount that the Minister determines under subsection 1061P(5) in relation to the disaster by the number of children for whom the person is the carer on that day.

Note 1: For ***major disaster*** see section 36.

Note 2: For ***carer*** see subsection 1061M(1A).

Authorised Version C2025C00595 registered 03/11/2025

1061P Determinations of rates

(1) The Minister may determine in writing for the purposes of subsection 1061M(2) the adult rate for a financial year.

(2) The Minister may determine in writing for the purposes of subsection 1061M(3) the child rate for a financial year.

(3) A determination under subsection (1) or (2) must be made in the financial year preceding the year to which the determination relates.

(4) The Minister may determine in writing for the purposes of paragraph 1061N(a) an amount not exceeding the adult rate for the financial year in which the determination is made.

(5) The Minister may determine in writing for the purposes of paragraph 1061N(b) an amount not exceeding the child rate for the financial year in which the determination is made.

(6) A determination made under this section is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Recoverable payments etc.

1061PAAA Recoverable payments

(1) If, apart from this subsection, the Commonwealth does not have power under the social security law to pay an amount (the ***relevant amount***) to a person (the ***recipient***) purportedly as an Australian Government Disaster Recovery Payment, then the Commonwealth may pay the relevant amount to the recipient.

Recovery

(2) If a payment is made under subsection (1) to the recipient, the relevant amount:
  (a) is a debt due to the Commonwealth by the recipient; and
  (b) may be recovered by the Secretary, on behalf of the Commonwealth, in a court of competent jurisdiction.

1061PAAB Recoverable death payments

(1) If, apart from this subsection, the Commonwealth does not have power under the social security law to pay an amount (the ***relevant amount***) in any of the following circumstances:
  (a) the relevant amount is deposited to an account kept in the name of a deceased person;
  (b) the relevant amount is deposited to an account kept in the names of a deceased person and another person;
  (c) the relevant amount is paid by way of a cheque made out to a deceased person;

the Commonwealth may pay the relevant amount in the circumstances mentioned in paragraph (a), (b) or (c), so long as:
  (d) on the last day on which changes could reasonably be made to the payment of the relevant amount, no Department official knew that the deceased person had died; and
  (e) apart from this subsection, the relevant amount would have been payable as an Australian Government Disaster

Authorised Version C2025C00595 registered 03/11/2025

Recovery Payment to the deceased person if the deceased person had not died.

Note: For ***Department official***, see section 1061PAAE.

(2) If a payment is made under subsection (1), the relevant amount is taken to have been paid to the deceased person's estate.

Recovery

(3) If a payment is made under subsection (1), the relevant amount:
(a) is a debt due to the Commonwealth by the legal personal representative of the deceased person; and
(b) may be recovered by the Secretary, on behalf of the Commonwealth, in a court of competent jurisdiction.

1061PAAC Reports about recoverable payments and recoverable death payments

(1) During the applicable publication period for a reporting period, the Secretary must cause to be published, in such manner as the Secretary thinks fit, a report that sets out:
(a) both:
(i) the number of payments made under subsection 1061PAAA(1) during the reporting period; and
(ii) the total amount of those payments; and
(b) both:
(i) the number of payments made under subsection 1061PAAB(1) during the reporting period; and
(ii) the total amount of those payments.

(2) However, a report is not required if:
(a) the number mentioned in subparagraph (1)(a)(i) is zero; and
(b) the number mentioned in subparagraph (1)(b)(i) is zero.

Authorised Version C2025C00595 registered 03/11/2025

Deferred reporting

(3) Paragraph (1)(a) of this section does not require a report to deal with a payment unless, before the preparation of the report, a Department official was aware the payment was made under subsection 1061PAAA(1).

Note: For ***Department official***, see section 1061PAAE.

(4) Paragraph (1)(b) of this section does not require a report to deal with a payment unless, before the preparation of the report, a Department official was aware the payment was made under subsection 1061PAAB(1).

Note: For ***Department official***, see section 1061PAAE.

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

(a) a payment was made under subsection 1061PAAA(1) or 1061PAAB(1) in a reporting period; and

(b) either:

(i) because of subsection (3) of this section, paragraph (1)(a) of this section did not require a report to deal with the payment; or

(ii) because of subsection (4) of this section, paragraph (1)(b) of this section did not require a report to deal with the payment; and

(c) during a later reporting period, a Department official becomes aware that the payment was made under subsection 1061PAAA(1) or 1061PAAB(1), as the case may be;

the payment is subject to a ***deferred reporting obligation*** in relation to the later reporting period.

Note: For ***Department official***, see section 1061PAAE.

(6) If one or more payments made under subsection 1061PAAA(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Secretary must, during the applicable publication period for the later reporting period:

Authorised Version C2025C00595 registered 03/11/2025

(a) prepare a report that sets out:
(i) the number of those payments; and
(ii) the total amount of those payments; and
(iii) the reporting period during which the payments were made; and
(b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
(c) if paragraph (b) does not apply—publish, in such manner as the Secretary thinks fit, the paragraph (a) report.

(7) If one or more payments made under subsection 1061PAAB(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Secretary must, during the applicable publication period for the later reporting period:
(a) prepare a report that sets out:
(i) the number of those payments; and
(ii) the total amount of those payments; and
(iii) the reporting period during which the payments were made; and
(b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
(c) if paragraph (b) does not apply—publish, in such manner as the Secretary thinks fit, the paragraph (a) report.

Reporting period

(8) For the purposes of this section, a ***reporting period*** is:
(a) a financial year; or
(b) if a shorter recurring period is prescribed in an instrument under subsection (9)—that period.

(9) The Minister may, by legislative instrument, prescribe a recurring period for the purposes of paragraph (8)(b).

Authorised Version C2025C00595 registered 03/11/2025

Applicable publication period

(10) For the purposes of this section, the ***applicable publication period*** for a reporting period is the period of:

(a) 4 months; or

(b) if a lesser number of months is prescribed, in relation to the reporting period, in an instrument under subsection (11)—that number of months;

beginning immediately after the end of the reporting period.

(11) The Minister may, by legislative instrument, prescribe a number of months, in relation to a reporting period, for the purposes of paragraph (10)(b).

1061PAAD Review of decisions

Part 4 of the *Social Security (Administration) Act 1999* does not apply to a decision under this Division.

1061PAAE Department official

For the purposes of this Division, ***Department official*** means a person:

(a) who:

(i) is an official (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) of the Department; or

(ii) is a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*); and

(b) whose duties consist of, or include, matters relating to Australian Government Disaster Recovery Payments.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.24AA—Australian Victim of Terrorism Overseas Payment

Division 1—Qualification for Australian Victim of Terrorism Overseas Payment

1061PAA Qualification for Australian Victim of Terrorism Overseas Payment

Qualification for AVTOP

(1) A person is qualified for an Australian Victim of Terrorism Overseas Payment if:

(a) the person is a primary victim or a secondary victim of a declared overseas terrorist act; and

(b) the person and the person's close family members were not involved in the commission of the terrorist act; and

(c) the person:

(i) is an Australian resident on the day the terrorist act occurred; or

(ii) is covered by a determination under subsection (6).

Note: For declared overseas terrorist act see section 35B.

*Meaning of **primary victim***

(2) A person is a ***primary victim*** of a declared overseas terrorist act if the person:

(a) was in the place where the terrorist act occurred; and

(b) was harmed (within the meaning of the *Criminal Code*) as a direct result of the terrorist act.

*Meaning of **secondary victim***

(3) A person is a ***secondary victim*** of a declared overseas terrorist act if the person is a close family member of a person who:

Authorised Version C2025C00595 registered 03/11/2025

(a) was in the place where the terrorist act occurred; and
(b) died, before the end of 2 years starting on the day the terrorist act occurred, as a direct result of the terrorist act.

*Meaning of **close family members***

(4) The following are a person's ***close family members***:
(a) the person's partner;
(b) the person's child;
(c) the person's parent;
(d) the person's sibling;
(e) the person's legal guardian.

*Meaning of **involved***

(5) A person was ***involved*** in the commission of a declared overseas terrorist act if the person:
(a) aided, abetted, counselled or procured the terrorist act; or
(b) induced the terrorist act, whether through threats or promises or otherwise; or
(c) was in any way (directly or indirectly) knowingly concerned in, or a party to, the terrorist act; or
(d) conspired with others to effect the terrorist act.

Ministerial determination

(6) The Minister may, by legislative instrument, determine a specified class of persons for the purposes of subparagraph (1)(c)(ii).

1061PAB Whether a person can be qualified for more than one AVTOP in relation to the same terrorist act

Only one AVTOP for primary victim as primary victim

(1) A person cannot be qualified as a primary victim for more than one AVTOP in relation to the same declared overseas terrorist act.

Authorised Version C2025C00595 registered 03/11/2025

Only one AVTOP for secondary victims for same family member

(2) A person cannot be qualified as a secondary victim for more than one AVTOP in relation to the same close family member.

When victims can qualify for more than one AVTOP

(3) A person can be qualified for more than one AVTOP in relation to the same declared overseas terrorist act if the person:

(a) is a primary victim and a secondary victim of the terrorist act (whether as a secondary victim in relation to one, or more than one, close family member); or

(b) is a secondary victim of the terrorist act in relation to more than one close family member.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Payability of Australian Victim of Terrorism Overseas Payment to secondary victims

1061PAC When AVTOP for secondary victims is not payable

If:

(a) a person makes a claim for an AVTOP as a secondary victim in relation to a close family member who has died as a direct result of a declared overseas terrorist act; and

(b) either:

(i) before the claim was made, one or more persons were granted an AVTOP as secondary victims in relation to the close family member; or

(ii) the Secretary had notified the person under subsection 35B(2) of the Administration Act of the person's entitlement to make a claim, but the person did not make the claim before the day specified in the notice;

then the AVTOP is not payable to the person.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Amount of Australian Victim of Terrorism Overseas Payment

1061PAD Amount of AVTOP for a primary victim

(1) The Secretary must determine the amount of an AVTOP payable to a person who is a primary victim of a declared overseas terrorist act.

(2) The determination must be made in accordance with subsection (3) and the AVTOP Principles under section 1061PAF.

(3) The amount must not exceed $75,000.

1061PAE Amount of AVTOP for a secondary victim

Secretary to determine amount of AVTOP

(1) The Secretary must determine the amount of an AVTOP (the ***relevant AVTOP***) payable to a person who is a secondary victim in relation to a close family member who has died as a direct result of a declared overseas terrorist act.

(2) The determination must be made in accordance with subsections (3) to (5) and the AVTOP Principles under section 1061PAF.

(3) The amount must not exceed $75,000.

Limit on total payments in relation to close family member

(4) If the person is not the only secondary victim who has made a claim as a secondary victim in relation to the close family member, then, when working out the amount of the relevant AVTOP, the Secretary must ensure that the sum of all the AVTOPs (including the relevant AVTOP) that are paid in relation to the close family member does not exceed $75,000.

Authorised Version C2025C00595 registered 03/11/2025

Limit on total payments to secondary victim

(5) If:

(a) the person is also a secondary victim of the terrorist act in relation to one or more other close family members; and

(b) an AVTOP has been paid to the person in relation to any of those other family members;

then, when working out the amount of the relevant AVTOP, the Secretary must ensure that the sum of all the AVTOPs (including the relevant AVTOP) that are paid to the person as a secondary victim of the terrorist act does not exceed $75,000.

1061PAF AVTOP Principles

(1) The Minister must, by legislative instrument, determine the principles (the ***AVTOP Principles***) to be applied for the purposes of determining the amount of an AVTOP payable to a person in relation to a declared overseas terrorist act.

(2) Without limiting subsection (1), the AVTOP Principles may provide that the following factors are to be taken into account when determining the amount of the payment:

(a) for a primary victim:

(i) the nature of the injury or disease suffered as a direct result of the terrorist act; and

(ii) the duration of the injury or disease; and

(iii) the impact of the injury or disease on the person's bodily and mental functions; and

(iv) the impact of the injury or disease on the person's life; and

(v) the likelihood of the person suffering future loss, injury or disease as a direct result of the terrorist act; and

(vi) the circumstances in which the injury or disease was incurred; and

(vii) whether the person was directed by an official of Australia or a foreign country not to go to the place where the terrorist act occurred;

Authorised Version C2025C00595 registered 03/11/2025

(b) for a secondary victim in relation to a close family member who has died:

(i) whether the person was dependant on the close family member; and

(ii) the nature of the relationship between the person and the close family member; and

(iii) the circumstances in which the close family member died; and

(iv) whether the close family member was directed by an official of Australia or a foreign country not to go to the place where the terrorist act occurred; and

(v) whether there are other persons who have made a claim for an AVTOP as a secondary victim in relation to the close family member; and

(vi) if there are such other secondary victims and the person and each of the other secondary victims agree on the amount of the AVTOP that each should be paid—that agreement; and

(vii) if there are such other secondary victims and the person and each of the other secondary victims have not agreed on the amount of the AVTOP that each should be paid—whether the person has also made a claim as a secondary victim of the terrorist act in relation to another close family member;

(c) for a primary victim or a secondary victim:

(i) whether there was travel advice on an Australian government website advising against travelling to the foreign country, region or place where the terrorist act occurred; and

(ii) whether the person has been paid or is likely to be paid an amount by the Commonwealth, a State, a Territory, a foreign country or any other person or entity in relation to the terrorist act.

(3) The AVTOP Principles may specify circumstances in which the amount of an AVTOP is nil.

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Other

1061PAG Consultation on the AVTOP Principles

(1) Before determining the AVTOP Principles under section 1061PAF, the Minister must consult with representatives of the following groups (the ***consultation groups***):

(a) victims of overseas terrorist acts and their families;

(b) community or welfare organisations;

(c) health professionals;

(d) international humanitarian agencies;

(e) any other persons the Minister considers appropriate to consult.

(2) The Minister must also consult representatives of the consultation groups each year after the year in which the AVTOP Principles commence.

(3) A failure to consult as required by this section does not affect the validity of the AVTOP Principles.

1061PAH AVTOP is not compensation or damages

For the purposes of any law of the Commonwealth, a payment of AVTOP is not to be treated as being a payment of compensation or damages.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.24A—Pensioner education supplement

Division 1—Qualification for pensioner education supplement

Subdivision A—The basic rules

1061PA Qualification for pensioner education supplement

A person is qualified for a pensioner education supplement if the person:

(a) is undertaking qualifying study (see Subdivision B); and

(b) is receiving a payment attracting pensioner education supplement (see Subdivision C); and

(c) is of pensioner education supplement age (see Subdivision D); and

(d) meets the residency requirements under Subdivision E.

Note: Division 2 sets out situations in which pensioner education supplement is not payable even if the person qualifies for it.

Subdivision B—Undertaking qualifying study

1061PB Undertaking qualifying study

General

(1) For the purposes of this Part, a person is ***undertaking qualifying study*** if the Secretary is satisfied that:

(a) the person:

(i) is enrolled in a course of education at an educational institution; or

(ii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to re-enrol in the course when re-enrolments in the course are next accepted; or

Authorised Version C2025C00595 registered 03/11/2025

(iii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to enrol in another course of education (at the same or a different educational institution) when enrolments in the other course are next accepted; and

(b) the course in which the person is enrolled, or intends to enrol, is an approved course of education or study (see section 1061PC); and

(ba) if the course is an accelerator program course or a combined course that includes an accelerator program course—the person is entitled to STARTUP-HELP assistance for the accelerator program course; and

(c) the person is a full-time student or a concessional study-load student in respect of that course (see sections 1061PD and 1061PE); and

(d) if the course is a combined course or a course other than an accelerator program course—the person satisfies the progress rules (see sections 1061PH and 1061PI).

Note: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

Persons not undertaking qualifying study

(2) A person is not undertaking qualifying study if the person:

(a) is employed on a full-time basis as an apprentice or trainee under an industrial instrument or the National Employment Standards, and has a training agreement (however described) with a training authority (by whatever name called) of a State or Territory; or

(b) has completed a course for:

(i) a degree of Master or Doctor at an educational institution; or

(ii) a qualification at a foreign institution that is, in the Secretary's opinion, of the same standing as a degree of Master or Doctor at an educational institution.

Note: For ***educational institution*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

Taken to be undertaking qualifying study from 1 January

(3) For the purpose of subsection (1), a person is taken to have been undertaking qualifying study from 1 January in a particular year if:

(a) the person is enrolled in a course of education that is a full year course starting before 1 April in that year; and

(b) the person starts his or her full year course before that day; and

(c) either:

(i) the person did not undertake full-time or part-time study for the whole, or a part, of the immediately preceding semester (excluding vacations); or

(ii) the person did not undertake full-time or part-time study for more than one semester (excluding vacations) during the immediately preceding 12 months and the Secretary is satisfied that this was due to the person's illness or to other circumstances beyond the person's control.

Taken to be undertaking qualifying study from 1 July

(4) For the purpose of subsection (1), a person is taken to have been undertaking qualifying study from 1 July in a particular year if:

(a) the person is enrolled in a course of education that is a full year course starting on or after 1 July in that year; and

(b) the person starts his or her full year course on or after that day; and

(c) either:

(i) the person did not undertake full-time or part-time study for the whole, or a part, of the immediately preceding semester (excluding vacations); or

(ii) the person did not undertake full-time or part-time study for more than one semester (excluding vacations) during the immediately preceding 12 months and the Secretary is satisfied that this was due to the person's illness or to other circumstances beyond the person's control.

Authorised Version C2025C00595 registered 03/11/2025

Taken to be undertaking qualifying study until 31 December

(5) For the purpose of subsection (1), a person is taken to be undertaking qualifying study until the end of 31 December in a particular year if:

(a) the person completes his or her course of education after 15 September but before 31 December in that year; and

(b) the person's course of education is a full year course or a late starting course.

Industrial instruments

(6) In paragraph (2)(a):

industrial instrument means an award, determination or agreement (however described) that:

(a) is made under or recognised by a law of the Commonwealth or of a State or Territory that:

(i) regulates the relationships between employers and employees; or

(ii) provides for the prevention or settlement of disputes between employers and employees; and

(b) concerns the relationship between an employer and the employer's employees, or provides for the prevention or settlement of a dispute between an employer and the employer's employees.

National Employment Standards has the same meaning as in the *Fair Work Act 2009*.

1061PC Approved course of education or study

For the purposes of paragraph 1061PB(1)(b), a course is an approved course of education or study if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course or a tertiary course for the purposes of that Act.

Authorised Version C2025C00595 registered 03/11/2025

1061PD Full-time students

For the purposes of this Subdivision, a person is a ***full-time student*** in respect of a course if:

(a) in the case of a person who is enrolled in the course for a particular study period (such as, for example, a semester)—the person is undertaking at least three quarters of the normal amount of full-time study in respect of the course for that period; or

(b) in the case of a person who intends to enrol in the course for a particular study period—the person intends to undertake at least three quarters of the normal amount of full-time study in respect of the course for that period.

Note: For ***normal amount of full-time study*** see section 1061PF.

1061PE Concessional study-load students

(1) For the purposes of this Subdivision, there are 2 classes of concessional study-load students, namely:

(a) 25% concessional study-load students; and

(b) 66% concessional study-load students.

(2) For the purposes of this Subdivision, a person is a ***25% concessional study-load student*** in respect of a course if this subsection applies to the person and:

(a) in the case of a person who is enrolled in the course for a particular study period (such as, for example, a semester)—the person is undertaking at least one quarter, but less than three quarters, of the normal amount of full-time study in respect of the course for that period; or

(b) in the case of a person who intends to enrol in the course for a particular study period—the person intends to undertake at least one quarter, but less than three quarters, of the normal amount of full-time study in respect of the course for that period.

Authorised Version C2025C00595 registered 03/11/2025

(3) For the purposes of this Subdivision, a person is a ***66% concessional study-load student*** in respect of a course if this subsection applies to the person and:

(a) in the case of a person who is enrolled in the course for a particular study period (such as, for example, a semester)—the person is undertaking at least two thirds, but less than three quarters, of the normal amount of full-time study in respect of the course for that period; or

(b) in the case of a person who intends to enrol in the course for a particular study period—the person intends to undertake at least two thirds, but less than three quarters, of the normal amount of full-time study in respect of the course for that period.

Note: For ***normal amount of full-time study*** see section 1061PF.

(4) Subsection (2) applies to a person if:

(a) an officer in the Commonwealth Rehabilitation Service or an appropriate medical practitioner who has a detailed knowledge of the person's physical condition has stated in writing that:

(i) the person has a substantial physical disability; and

(ii) the person cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability; or

(b) a medical practitioner specialising in psychiatry has stated in writing that:

(i) the person has a substantial psychiatric disability; and

(ii) the person cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability; or

(c) a psychologist who is registered with the Australian Psychologist Society has stated in writing that the person:

(i) has an intellectual disability; and

(ii) cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability; or

Authorised Version C2025C00595 registered 03/11/2025

(d) the person is receiving:
  (i) a disability support pension, a carer payment, a pension PP (single), a youth allowance or a jobseeker payment under this Act; or
  (ii) an invalidity service pension or a carer service pension under the Veterans' Entitlements Act; or
(e) the person has a dependent child aged less than 16 years and:
  (ii) is a sole parent and is receiving a special benefit under this Act; or
  (iv) is receiving a pension under Part II of the Veterans' Entitlements Act; or
  (v) is receiving pension under Part IV of the Veterans' Entitlements Act; or
  (vi) has received, or is entitled to receive, compensation for permanent impairment under section 68, 71 or 75 of the Military Rehabilitation and Compensation Act; or
  (vii) is receiving a Special Rate Disability Pension under Part 6 of Chapter 4 of the Military Rehabilitation and Compensation Act; or
  (viii) is receiving, or has received, the weekly amount mentioned in paragraph 234(1)(b) of the Military Rehabilitation and Compensation Act (including a reduced weekly amount because of a choice under section 236 of that Act) or a lump sum mentioned in subsection 236(5) of that Act.

(5) Subsection (3) applies to a person if:
(a) the person cannot undertake the course as a full-time student because of:
  (i) the relevant educational institution's usual requirements for the course; or
  (ii) a specific direction in writing to the person from the academic registrar or an equivalent officer; or
(b) the academic registrar (or an equivalent officer) of the relevant educational institution recommends in writing that the person undertake less than the normal amount of full-time

Authorised Version C2025C00595 registered 03/11/2025

study in respect of the course for specified academic or vocational reasons for a period not exceeding half an academic year.

1061PF Normal amount of full-time study

(1) For the purposes of this Subdivision, the ***normal amount of full-time study*** in respect of a course is:

(a) if:

(i) the course is a course of study within the meaning of the *Higher Education Support Act 2003*; and

(ii) there are Commonwealth supported students (within the meaning of that Act) enrolled in the course;

the full-time student load for the course; or

(b) if the course is not such a course and the institution defines an amount of full-time study that a full-time student should typically undertake in respect of the course—the amount so defined; or

(c) otherwise—an amount of full-time study equivalent to the average amount of full-time study that a person would have to undertake for the duration of the course in order to complete the course in the minimum amount of time needed to complete it.

(2) Without limiting subsection (1), the ***normal amount of full-time study*** in respect of a course is an average, taken over the duration of the period for which the person in question is enrolled in the course, of 20 contact hours per week.

1061PG First fortnight of classes

A person is taken to be undertaking full-time study or a concessional study-load (as the case may be) in respect of a course during the period (the ***relevant period***):

(a) starting on the first day of classes in a study period; and

(b) ending on the Friday of the second week of classes in the study period;

Authorised Version C2025C00595 registered 03/11/2025

if the person is enrolled in the course and undertakes study in respect of the course on at least one day in the relevant period.

1061PH Progress rules—secondary students

General rule

(1) Subject to subsection (2), a person enrolled in, or intending to enrol in, a secondary course satisfies the progress rules for the purposes of paragraph 1061PB(1)(d) if, in the Secretary's opinion, the person is making satisfactory progress towards completing the course.

Students repeating year 12

(2) A person does not satisfy the progress rules if:
  (a) the person is enrolled in a secondary course that is at year 12 level, or the overall level of which is at year 12 level (see subsections (3) and (4)); and
  (b) the person has been a full-time student in respect of a course at that level (a ***previous course***) in each of 2 previous years; and
  (c) none of the following circumstances apply:
    (i) the person failed a previous course because of an illness that had not been diagnosed when the person began that course;
    (ii) the person failed a previous course because of other circumstances beyond the person's control that were not apparent when the person began that course;
    (iii) the person failed a previous course because English is not the person's native language;
    (iv) the person completed or discontinued a previous course within 6 months after the relevant academic year started;
    (v) each of the previous courses was undertaken more than 10 years before the present study.

Authorised Version C2025C00595 registered 03/11/2025

Course at year 12 level

(3) A secondary course is at year 12 level if the institution in which the course is undertaken regards it as being at year 12 level.

Overall level of course at year 12 level

(4) The overall level of a secondary course is at year 12 level if the institution in which the course is undertaken regards at least 50% of the course as being at year 12 level.

*Meaning of **secondary course***

(5) For the purposes of this section, a course is a secondary course if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course for the purposes of that Act.

1061PI Progress rules—tertiary students

Full-time students

(1) A person who is a full-time student in respect of a tertiary course satisfies the progress rules if:

(a) in the case of a person who is enrolled in the course—on the day on which the person enrolled in the course; or

(b) in the case of a person who is not yet enrolled in the course but intends to enrol in the course—on the day on which enrolments in the course are next accepted;

the time already spent by the student on the course, or on one or more other tertiary courses at the same level as that course, does not exceed the allowable study time for that course.

Note: For allowable study time for a course see subsection (3).

Concessional study-load students

(2) A person who is a concessional study-load student in respect of a tertiary course satisfies the progress rules if:

(a) in the case of a person who is enrolled in the course—on the day on which the person enrolled in the course; or

Authorised Version C2025C00595 registered 03/11/2025

(b) in the case of a person who is not yet enrolled in the course but intends to enrol in the course—on the day on which enrolments in the course are next accepted;

the time already spent by the person on the course, or on one or more other tertiary courses at the same level as that course, does not exceed the allowable study time for the course.

Note: For allowable study time for a course see subsections (3) and (4).

Combined course including accelerator program course

(2A) If the tertiary course is a combined course that combines an accelerator program course with a course at a particular level, the references in subsections (1) and (2) to other tertiary courses at the same level is a reference to other tertiary courses at that particular level.

Note 1: For combined courses, see the legislative instrument made under section 5D of the *Student Assistance Act 1973*.

Note 2: This section does not apply if the tertiary course is an accelerator program course that is not part of a combined course: see paragraph 1061PB(1)(d).

Allowable study time—full-time students and 66% concessional study-load students

(3) The allowable study time for a course undertaken by a full-time student or a 66% concessional study-load student is:

(a) if the minimum amount of time needed to complete the course as a full-time student is one year or less—that minimum amount of time; or

(b) if the minimum amount of time needed to complete the course as a full-time student is more than 1 year and:

(i) the student is enrolled, or intends to enrol, in a year-long subject; or

(ii) the student's further progress in the course depends on passing a whole year's work in the course;

the minimum amount of time plus 1 year; or

Authorised Version C2025C00595 registered 03/11/2025

(c) in any other case—the minimum amount of time needed to complete the course as a full-time student plus half an academic year.

Allowable study time—25% concessional study-load students

(4) The allowable study time for a course undertaken by a 25% concessional study-load student is twice the minimum period in which it is possible to complete the course as a full-time student.

Time spent by person studying part-time

(5) If a student has studied part-time for a course over a certain period, the time spent by the student on that course is taken to be the proportion of that period calculated by using the formula:

$$\frac{\text{Study undertaken}}{\text{Normal full-time study}}$$

where:

normal full-time study means the normal amount of full-time study for the course.

study undertaken means the amount of study undertaken part-time by the student for the course.

Current full-time students who have previously undertaken courses as concessional study-load students

(6) If:

(a) a person is undertaking a course as a full-time student; and

(b) the person has previously undertaken:

(i) part of the course; or

(ii) one or more than one other course at the same level as that course;

as a concessional study-load student; and

(c) the time spent by the person undertaking the part of the course referred to in subparagraph (b)(i), or the course or

Authorised Version C2025C00595 registered 03/11/2025

courses referred to in subparagraph (b)(ii), (the ***previous study***) is not to be disregarded under subsection (7);

the time spent by the person undertaking the previous study is taken to be equal to the minimum amount of time that a full-time student would have taken to complete the previous study.

Matters to be disregarded in determining whether someone has exceeded the allowable study time

(7) In determining whether a person has exceeded the allowable study time (for a full-time student or a concessional study-load student), disregard the following:

(a) if the person has completed a course (a ***pre-requisite course***), the completion of which is the normal requirement for admission to the course in which the person is enrolled, or intends to enrol—time spent undertaking the pre-requisite course;

(b) a failed year of study, or a failed part of a year of study, if the failure is because of:

(i) the person's illness; or

(ii) other circumstances beyond the person's control;

(c) time spent undertaking a course that has been permanently discontinued because of:

(i) the person's illness; or

(ii) other circumstances beyond the person's control;

(d) time spent undertaking a course that has been completed but which, because of the person's illness, the person cannot use in any of the trades or profession to which the course is appropriate;

(e) time spent undertaking a TAFE course if the normal length of the course for a full-time student is one year or less;

(f) time spent undertaking a course more than 10 years ago, unless the course has since been completed;

(g) time spent undertaking a course after 1973 if the course was not:

Authorised Version C2025C00595 registered 03/11/2025

(i) approved for the Tertiary Education Assistance Scheme; or

(ii) approved for the AUSTUDY scheme; or

(iii) an approved course for the purposes of paragraph 541B(1)(c), 569A(b) or 1061PB(1)(b) of this Act;

(h) time spent undertaking a course at a foreign institution;

(i) time spent undertaking a subject from which the student withdrew, if the educational institution in which the subject was undertaken did not record the withdrawal from the subject as a failure;

(j) any time spent undertaking a course during which the person was ineligible to receive:

(i) AUSTUDY; or

(ii) a benefit under the Tertiary Education Assistance Scheme; or

(iii) youth allowance; or

(iv) austudy payment;

because of the application of rules in respect of academic progress.

Levels of tertiary courses

(8) There are 4 levels of tertiary courses—levels A, B, C and D.

Level A courses

(9) The following are Level A courses:

(a) a postgraduate bachelor degree course, with or without honours;

(b) a graduate or postgraduate diploma course;

(c) a course of practical legal training at a higher education institution;

(d) a course of advanced education regarded by an accrediting authority as being at PG1 level;

(e) a graduate certificate course.

Authorised Version C2025C00595 registered 03/11/2025

Level B courses

(10) The following are Level B courses:

(a) a bachelor degree course (other than a postgraduate course), with or without honours;

(b) the bachelor level component of a masters degree course with concurrent bachelor and masters level study;

(c) a diploma course other than:

(i) a graduate or postgraduate diploma course; or

(ii) a course for which an entry requirement is successful completion of year 10 of secondary studies; or

(iii) a TAFE course;

(d) a Master's qualifying course;

(e) the Barristers or Solicitors Admission Board's course;

(f) a course of advanced education regarded by an accrediting authority as being at UG1 or UG2 level.

Level C courses

(11) The following are Level C courses:

(a) an associate degree course;

(b) an associate diploma course;

(c) a diploma course at a TAFE institution for which an entry requirement is successful completion of year 12 of secondary studies;

(d) a 2-year undergraduate diploma course.

Level D courses

(12) The following are Level D courses:

(a) a TAFE course at a higher education institution;

(b) a TAFE course, unless the course is in Level A, B or C.

Authorised Version C2025C00595 registered 03/11/2025

*Meaning of **tertiary course***

(13) For the purposes of this section, a course is a tertiary course if it is a course determined, under section 5D of the *Student Assistance Act 1973*, to be a tertiary course for the purposes of that Act.

Subdivision C—Payments attracting pensioner education supplement

1061PJ Payments attracting pensioner education supplement

General

(1) A person is receiving a payment attracting pensioner education supplement if the person is receiving:
  (a) a payment under this Act set out in subsection (2); or
  (b) a payment under the Veterans' Entitlements Act set out in subsection (3); or
  (c) in the case of a person who has a dependent child—compensation under the Military Rehabilitation and Compensation Act set out in subsection (4).

Payments under this Act

(2) The payments under this Act are the following:
  (a) a disability support pension;
  (c) a carer payment;
  (d) a pension (PP) single;
  (da) subject to subsection (2A), a youth allowance;
  (db) subject to subsection (2B), a jobseeker payment;
  (dc) subject to subsection (2D), a benefit PP (partnered);
  (g) in the case of a person who is a sole parent—a special benefit.

(2A) Paragraph (2)(da) only applies if:
  (a) the person receiving the payment:
    (i) has a partial capacity to work; and

Authorised Version C2025C00595 registered 03/11/2025

(ii) on the day (being a day occurring on or after 1 July 2006) immediately before the person first qualified for a youth allowance, was a transitional DSP applicant and was receiving a disability support pension; and

(iii) ceased to be qualified for that disability support pension because he or she no longer had a continuing inability to work within the meaning of section 94; and

(iiia) ceased to be so qualified as a result of the first decision about the person's capacity to work made on or after 1 July 2006; and

(iv) on the day immediately before ceasing to be qualified for that disability support pension, was qualified for a pensioner education supplement in relation to a particular course of education or study; or

(b) the person receiving the payment:

(i) is the principal carer of at least one child and is not a member of a couple; and

(ii) on the day (being a day occurring on or after 1 July 2006) immediately before the person last qualified for a youth allowance, was qualified for parenting payment and was receiving a pension (PP) single; and

(iii) ceased to be qualified for that parenting payment because he or she no longer had a PP child for the reason that his or her youngest dependent child had turned 14; and

(iv) on the day immediately before ceasing to be qualified for that parenting payment, was qualified for a pensioner education supplement in relation to a particular course of education or study;

and the person has:

(c) at all times since that day, been qualified both for:

(i) a youth allowance; and

(ii) a pensioner education supplement in relation to that particular course of education or study; and

(d) at no time since that day, either undertaken full-time study or been a new apprentice.

Authorised Version C2025C00595 registered 03/11/2025

Note 1: For ***partial capacity to work*** see section 16B.

Note 2: For ***transitional DSP applicant*** see subsection 23(1).

Note 3: For ***principal carer*** see subsections 5(15) to (24). See also subsection (2C) of this section.

Note 4: For ***undertaking full-time study*** see section 541B.

Note 5: For ***new apprentice*** see subsection 23(1).

(2B) Paragraph (2)(db) only applies if subsection (2BA) or (2BB) applies.

(2BA) This subsection applies if the person receiving the payment:

(a) has a partial capacity to work; and

(b) on the day (the ***relevant day***) (being a day occurring on or after 1 July 2006) immediately before the person first qualified for a jobseeker payment, was a transitional DSP applicant and was:

(i) receiving a disability support pension; or

(ii) receiving a youth allowance in respect of which subsection (2A) applied; and

(c) if he or she was receiving a disability support pension—ceased to be qualified for it because he or she no longer had a continuing inability to work within the meaning of section 94; and

(d) if he or she was receiving a disability support pension—ceased to be so qualified as a result of the first decision about the person's capacity to work made on or after 1 July 2006; and

(e) was, on the relevant day, qualified for a pensioner education supplement in relation to a particular course of education or study; and

(f) at all times since the relevant day, has been qualified both for:

(i) a jobseeker payment; and

(ii) a pensioner education supplement in relation to that particular course of education or study.

Note 1: For ***partial capacity to work*** see section 16B.

Authorised Version C2025C00595 registered 03/11/2025

Note 2: For ***transitional DSP applicant*** see subsection 23(1).

(2BB) This subsection applies if the person receiving the payment is the principal carer of at least one child and is not a member of a couple.

Note: For ***principal carer*** see subsections 5(15) to (24). See also subsection (2C) of this section.

(2C) If a person is the principal carer of a child who dies, the person is taken, for the purposes of subparagraph (2A)(b)(i) and subsection (2BB), to continue to be the principal carer of the child during the period of 14 weeks that starts on the day of the child's death.

(2D) Paragraph (2)(dc) only applies if the person receiving the payment:

(a) has a partial capacity to work; and

(b) on the day (the ***relevant day***) (being a day occurring on or after 1 July 2006) immediately before the person first qualified for parenting payment, was a transitional DSP applicant and was:

(i) receiving a disability support pension; or

(ii) receiving a youth allowance in respect of which subsection (2A) applied; or

(iii) receiving a jobseeker payment in respect of which subsection (2B) applied; and

(c) if he or she was receiving a disability support pension—ceased to be qualified for it because he or she no longer had a continuing inability to work within the meaning of section 94; and

(d) if he or she was receiving a disability support pension—ceased to be so qualified as a result of the first decision about the person's capacity to work made on or after 1 July 2006; and

(e) was, on the relevant day, qualified for a pensioner education supplement in relation to a particular course of education or study; and

(f) at all times since the relevant day, has been a member of a couple; and

Authorised Version C2025C00595 registered 03/11/2025

(g) at all times since the relevant day, has been qualified both for:
(i) parenting payment; and
(ii) a pensioner education supplement in relation to that particular course of education or study.

Note 1: For ***partial capacity to work*** see section 16B.

Note 2: For ***transitional DSP applicant*** see subsection 23(1).

Payments under the Veterans' Entitlements Act

(3) The payments under the Veterans' Entitlements Act are the following:
(a) in the case of a person who has a dependent child—a pension under Part II of that Act;
(b) an invalidity service pension;
(ba) income support supplement;
(bb) a veteran payment;
(c) in the case of a person whose partner is receiving an invalidity service pension—a partner service pension;
(d) a carer service pension;
(e) in the case of a person who has a dependent child—a pension under Part IV of that Act.

Compensation under the Military Rehabilitation and Compensation Act

(4) For a person who has a dependent child, the compensation under the Military Rehabilitation and Compensation Act is the following:
(a) compensation for permanent impairment paid as a weekly amount under section 68, 71 or 75 of the Military Rehabilitation and Compensation Act;
(b) a Special Rate Disability Pension under Part 6 of Chapter 4 of the Military Rehabilitation and Compensation Act;
(c) the weekly amount mentioned in paragraph 234(1)(b) of the Military Rehabilitation and Compensation Act (including a

Authorised Version C2025C00595 registered 03/11/2025

reduced weekly amount because of a choice under section 236 of that Act).

Subdivision D—Pensioner education supplement age

1061PK Pensioner education supplement age

For the purposes of this Part, a person is of pensioner education supplement age if the person:

(a) is at least 16 years old; or

(b) is independent and has reached the minimum school leaving age for the State or Territory in which the person is living.

1061PL When a person is regarded as independent

Application

(1) This section applies to determine whether a person is to be regarded as independent for the purposes of this Part. A person is not to be regarded as independent except as provided by this section.

Person with a dependent child

(2) A person is independent if:

(a) the person has a natural child, adopted child or relationship child who is wholly or substantially dependent on the person or his or her partner; or

(b) the person previously had a natural child, adopted child or relationship child who was wholly or substantially dependent on the person or on a person who, at the time, was the person's partner.

Orphan

(3) A person is independent if both the person's parents are dead, whether or not the person is dependent, or was last dependent, on someone other than his or her parents.

Authorised Version C2025C00595 registered 03/11/2025

If parents cannot exercise responsibilities

(4) A person is independent if both of the person's parents are (or, if the person has only one parent, that parent is):

(a) serving a prison sentence of at least 10 years; or

(b) mentally incapacitated and likely to remain so incapacitated for an indefinite period; or

(c) living in a nursing home and likely to remain there for an indefinite period; or

(d) missing;

whether or not the person is dependent, or was last dependent, on someone other than a parent of the person.

Refugee

(5) A person is independent if the person:

(a) is the holder, within the meaning of the Migration (1993) Regulations, of a Group 1.3 entry permit (permanent resident) (refugee and humanitarian); or

(b) while the holder of such a permit, was granted Australian citizenship.

However, a person is not independent under this subsection if the person has a parent living in Australia, or is wholly or substantially dependent on someone else on a long-term basis.

Person in State care

(6) A person is independent if the person is not living with a parent, and:

(a) the person is in the guardianship, care or custody of a court, a Minister, or a Department, of the Commonwealth, a State or a Territory; or

(b) there is a current direction from such a court, Minister or Department placing the person in the guardianship, care or custody of someone who is not the person's parent; or

(c) the person stopped being in a situation described in paragraph (a) or (b) only because of his or her age.

Authorised Version C2025C00595 registered 03/11/2025

A person to whom this subsection applies is taken, for the purposes of this Part, to be ***in State care***.

Unreasonable to live at home

(7) A person is independent if:

(a) the person cannot live at the home of either or both of his or her parents:

(i) because of extreme family breakdown or other similar exceptional circumstances; or

(ii) because it would be unreasonable to expect the person to do so as there would be a serious risk to his or her physical or mental well-being due to violence, sexual abuse or other similar exceptional circumstances; and

(b) the person is not receiving continuous support, whether directly or indirectly and whether financial or otherwise, from a parent of the person or from another person who is acting as the person's guardian on a long-term basis; and

(c) the person is not receiving, on a continuous basis, any payments in the nature of income support (other than a social security benefit) from the Commonwealth, a State or a Territory.

Parents of relationship children

(8) If a person (other than a person who is an adopted child) is a relationship child of another person because he or she is a child of the other person, and of a third person, within the meaning of the *Family Law Act 1975*, the other person and the third person are taken to be the person's only parents for the purposes of subsections (3), (4), (5), (6) and (7).

Subdivision E—Residency

1061PM Residency requirements

For the purposes of this Part, a person meets the residency requirements if the person:

Authorised Version C2025C00595 registered 03/11/2025

(a) is an Australian resident; and
(b) subject to section 1061PN, is in Australia.

1061PN Absence of persons overseas

General

(1) A person who is undertaking qualifying study is taken to be in Australia while the person:
(a) is absent from Australia for the purpose of undertaking part of the studies for the course of education in respect of which the person is undertaking qualifying study; or
(b) is absent from Australia, for any other purpose, for not more than 6 weeks.

Temporary return to Australia

(2) If the person:
(a) returns to Australia after having been outside Australia (whether before or after the commencement of this section) for more than 6 weeks; and
(b) leaves Australia before the end of 6 weeks after he or she so returned to Australia;

the person is taken to have continued to be absent from Australia throughout the period from the time of the person's return to the time when the person so left Australia.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Situations in which pensioner education supplement is not payable

Subdivision C—Newly arrived resident's waiting period

1061PT Pensioner education supplement not payable during newly arrived resident's waiting period

A pensioner education supplement is not payable to a person while the person is subject to a newly arrived resident's waiting period (see sections 1061PU and 1061PV).

1061PU Newly arrived resident's waiting period

Basic rule

(1) Subject to this section, a person is subject to a newly arrived resident's waiting period if the person:
  (a) has entered Australia; and
  (b) has not been an Australian resident in Australia for a period of, or periods totalling, 208 weeks.

Note: For ***Australian resident*** see subsection 7(2).

Exception—qualifying resident exemption

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for an austudy payment.

Note: For ***qualifying residence exemption*** in relation to austudy payment, see paragraph 7(6AA)(f).

Exception—other

(3) Subsection (1) does not apply to a person if:
  (a) the person is a refugee, or a former refugee, at the time the person made the claim for a pensioner education supplement; or

Authorised Version C2025C00595 registered 03/11/2025

(b) the following apply:
(i) before the person made the claim for a pensioner education supplement, the person was a family member of another person at the time the other person became a refugee;
(ii) the person is a family member of that other person at the time the person made the claim for a pensioner education supplement or, if that other person has died, the person was a family member of that other person immediately before that other person died; or
(c) the person is an Australian citizen at the time the person made the claim for a pensioner education supplement.

(4) For the purposes of subsection (3):
(a) ***family member*** has the meaning given by subsection 7(6D); and
(b) ***former refugee*** has the meaning given by subsection 7(1); and
(c) ***refugee*** has the meaning given by subsection 7(6B).

1061PV Length of newly arrived resident's waiting period

If a person is subject to a newly arrived resident's waiting period, the period:
(a) starts on the day the person first became an Australian resident; and
(b) ends when the person has been an Australian resident in Australia for a period of, or periods totalling, 208 weeks after that day.

Note: For ***Australian resident*** see subsection 7(2).

Authorised Version C2025C00595 registered 03/11/2025

Subdivision D—Multiple entitlement exclusion

1061PW Meaning of multiple entitlement exclusion

For the purposes of this Division, a person is subject to a multiple entitlement exclusion if the person is receiving a pensioner education supplement under the ABSTUDY scheme.

1061PX Multiple entitlement exclusion

A pensioner education supplement is not payable to a person if the person is subject to a multiple entitlement exclusion.

Authorised Version C2025C00595 registered 03/11/2025

Division 5—Rate of pensioner education supplement

1061PZG Rate of pensioner education supplement

(1) If a person:

(a) is a sub-50% concessional study-load student in respect of a course; and

(b) is not receiving any of the following:

(i) a disability support pension under this Act;

(ia) a youth allowance, newstart allowance or benefit PP (partnered) under this Act, in a case where the person has a partial capacity to work;

(ii) an invalidity service pension under the Veterans' Entitlements Act;

(iii) an income support supplement under the Veterans' Entitlements Act on the grounds of permanent incapacity;

(iv) a veteran payment;

the pensioner education supplement fortnightly rate for the person is $31.20.

Note 1: Recipients of youth allowance, newstart allowance or benefit PP (partnered) only qualify for pensioner education supplement in the limited circumstances set out in subsection 1061PJ(2A), (2B) or (2D).

Note 2: For ***partial capacity to work*** see section 16B.

(2) The pensioner education supplement fortnightly rate for a person to whom subsection (1) does not apply is $62.40.

(3) The rate of pensioner education supplement for a person is a daily rate worked out by dividing the person's fortnightly rate by 14.

(4) For the purposes of this section, a person is a ***sub-50% concessional study-load student*** in respect of a course if the person is a 25% concessional study-load student in respect of the course for the purposes of Subdivision B of Division 1 of this Part who is undertaking, or who intends to undertake, less than one half of the

Authorised Version C2025C00595 registered 03/11/2025

normal amount of full-time study, determined in accordance with section 1061PF, in respect of that course.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.25—Telephone allowance

Division 1—Qualification for and payability of telephone allowance

1061Q Qualification for telephone allowance

(1) A person is qualified for a telephone allowance if:
  (a) the person is receiving a social security pension; and
  (c) the person is a telephone subscriber.

Note: For ***telephone subscriber*** see subsection (5).

(2) A person is qualified for a telephone allowance if:
  (a) the person is receiving a youth allowance; and
  (b) the person is not undertaking full-time study; and
  (c) the person is not a new apprentice; and
  (d) the person:
    (i) has a partial capacity to work; or
    (ii) is the principal carer of at least one child and is not a member of a couple; and
  (e) the person is a telephone subscriber.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

Note 3: For ***partial capacity to work*** see section 16B.

Note 4: For ***principal carer*** see subsections 5(15) to (24). See also subsection (2C) of this section.

Note 5: For ***telephone subscriber*** see subsection (5).

(2A) A person is qualified for a telephone allowance if:
  (a) the person is receiving a jobseeker payment; and
  (b) the person:
    (i) has a partial capacity to work; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) is the principal carer of at least one child and is not a member of a couple; and

(c) the person is a telephone subscriber.

Note 1: For ***partial capacity to work*** see section 16B.

Note 2: For ***principal carer*** see subsections 5(15) to (24). See also subsection (2C) of this section.

Note 3: For ***telephone subscriber*** see subsection (5).

(2B) A person is qualified for a telephone allowance if:

(a) the person is:

(i) receiving a youth allowance while the person is not undertaking full-time study and is not a new apprentice; or

(ii) receiving a jobseeker payment; and

(b) the person is the principal carer of at least one child and is a member of a couple; and

(c) the person is a telephone subscriber; and

(d) the person's partner has turned 55; and

(e) the person's partner is receiving jobseeker payment; and

(f) the person's partner has been receiving income support payments in respect of a continuous period of at least 9 months.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

Note 3: For ***principal carer*** see subsections 5(15) to (24). See also subsection (2C) of this section.

Note 4: For ***telephone subscriber*** see subsection (5).

Note 5: For ***income support payment*** see subsection 23(1).

Note 6: Subsection 23(4A) can affect when a person is taken to be receiving the pension or allowance.

(2C) If a person is the principal carer of a child who dies, the person is taken, for the purposes of subparagraphs (2)(d)(ii) and (2A)(b)(ii) and paragraph (2B)(b), to continue to be the principal carer of the

Authorised Version C2025C00595 registered 03/11/2025

child during the period of 14 weeks that starts on the day of the child's death.

(2D) A person is qualified for a telephone allowance if:

(a) the person is receiving a benefit PP (partnered); and

(b) the person has a partial capacity to work; and

(c) the person is a telephone subscriber.

Note 1: For ***partial capacity to work*** see section 16B.

Note 2: For ***telephone subscriber*** see subsection (5).

(3) A person is qualified for a telephone allowance if:

(a) the person is receiving jobseeker payment, benefit PP (partnered) or special benefit; and

(b) the person has been receiving income support payments in respect of a continuous period of at least 9 months; and

(c) the person has turned 55; and

(d) the person is a telephone subscriber.

Note 1: For ***income support payment*** see subsection 23(1).

Note 2: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

Note 3: For ***telephone subscriber*** see subsection (5).

(3A) A person is qualified for telephone allowance if:

(a) the person is receiving benefit PP (partnered); and

(b) the person is a telephone subscriber; and

(c) the person's partner has turned 55; and

(d) the person's partner is receiving job search allowance or jobseeker payment; and

(e) the person's partner has been receiving income support payments in respect of a continuous period of at least 9 months.

Note 1: For ***telephone subscriber*** see subsection (5).

Note 2: For ***income support payment*** see subsection 23(1).

Note 3: For the determination of the continuous period in respect of which a person received income support payments see section 38B.

Authorised Version C2025C00595 registered 03/11/2025

(3C) If:

(a) a person has been receiving a social security pension; and

(b) the person ceases to receive the pension because the person or the person's partner has employment income; and

(c) the person is a telephone subscriber;

the person is qualified for a telephone allowance:

(d) if the person has been receiving a disability support pension—for a period of 12 months from the date on which the person ceases to receive the pension; or

(e) in any other situation mentioned in paragraph (a)—for a period of 6 months from the date on which the person ceases to receive the pension.

Note 1: For ***telephone subscriber*** see subsection (5).

Note 2: Subsection 23(4A) can affect when a person is taken to be receiving the pension.

(3D) Subsection (3C) applies to a person who:

(a) has been receiving a youth allowance while the person:

(i) has had a partial capacity to work; and

(ii) has not been undertaking full-time study; and

(iii) has not been a new apprentice; or

(b) has been receiving a jobseeker payment or parenting payment while the person has had a partial capacity to work;

as if the person had been receiving a disability support pension.

Note 1: For ***partial capacity to work*** see section 16B.

Note 2: For ***undertaking full-time study*** see section 541B.

Note 3: For ***new apprentice*** see subsection 23(1).

(3E) Subsection (3C) applies to a person who:

(a) has been receiving a youth allowance while the person:

(i) has been the principal carer of at least one child; and

(ii) has not been a member of a couple; and

(iii) has not had a partial capacity to work; and

(iv) has not been undertaking full-time study; and

Authorised Version C2025C00595 registered 03/11/2025

(v) has not been a new apprentice; or

(b) has been receiving a jobseeker payment while the person:

(i) has been the principal carer of at least one child; and

(ii) has not been a member of a couple; and

(iii) has not had a partial capacity to work;

as if the person had been receiving pension PP (single).

Note 1: For ***principal carer*** see subsections 5(15) to (24). See also subsection (3K) of this section.

Note 2: For ***partial capacity to work*** see section 16B.

Note 3: For ***undertaking full-time study*** see section 541B.

Note 4: For ***new apprentice*** see subsection 23(1).

(3F) If:

(a) a person has been receiving one of the following social security benefits:

(i) jobseeker payment;

(v) special benefit;

(vi) benefit PP (partnered); and

(b) the person ceases to receive the benefit because the person or the person's partner has employment income; and

(c) the person has turned 55; and

(d) immediately before the person ceases to receive the benefit, the person had been receiving income support payments in respect of a continuous period of at least 9 months; and

(e) the person is a telephone subscriber;

the person is qualified for a telephone allowance for a period of 6 months from the date on which the person ceases to receive the benefit.

Note 1: For ***telephone subscriber*** see subsection (5).

Note 2: Subsection 23(4A) can affect when a person is taken to be receiving the benefit.

(3G) If:

(a) a person has been receiving benefit PP (partnered); and

Authorised Version C2025C00595 registered 03/11/2025

(b) the person ceases to receive the benefit because the person or the person's partner has employment income; and
(c) the person's partner has turned 55; and
(d) the person's partner:
(i) is receiving jobseeker payment; or
(ii) was receiving jobseeker payment immediately before the person ceased to receive benefit PP (partnered); and
(e) immediately before the person ceases to receive the benefit, the person's partner had been receiving income support payments in respect of a continuous period of at least 9 months; and
(f) the person is a telephone subscriber;

the person is qualified for a telephone allowance for a period of 6 months from the date on which the person ceases to receive the benefit.

Note 1: For ***telephone subscriber*** see subsection (5).

Note 2: Subsection 23(4A) can affect when a person is taken to be receiving the benefit.

(3H) Subsection (3G) applies to a person who:
(a) has been receiving youth allowance while the person:
(i) has been the principal carer of at least one child; and
(ii) has been a member of a couple; and
(iii) has not been undertaking full-time study; and
(iv) has not been a new apprentice; or
(b) has been receiving jobseeker payment while the person:
(i) has been the principal carer of at least one child; and
(ii) has been a member of a couple;

as if the person had been receiving benefit PP (partnered).

Note 1: For ***principal carer*** see subsections 5(15) to (24). See also subsection (3K) of this section.

Note 2: For ***undertaking full-time study*** see section 541B.

Note 3: For ***new apprentice*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

(3J) A reference in paragraph (3C)(b), (3F)(b) or (3G)(b) to the employment income of a person is a reference to that person's employment income either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the person or the person's partner.

(3K) If a person was the principal carer of a child who died, the person is taken, for the purposes of subparagraphs (3E)(a)(i) and (3H)(b)(i), to have continued to be the principal carer of the child during the period of 14 weeks that started on the day of the child's death.

(4) For the purposes of paragraph (2B)(f), (3)(b), (3A)(e), (3F)(d) or (3G)(e), it does not matter:

(a) whether the kind of payment received has changed over the period in question; or

(b) whether the period or any part of it occurred before or after the commencement of that paragraph.

(5) In this section:

telephone subscriber means:

(a) a person who has a telephone service connected in Australia in his or her name; or

(b) a person:

(i) to whom paragraph (a) does not apply; and

(ii) who is a member of a couple (other than an illness separated, temporarily separated or respite care couple); and

(iii) whose partner has a telephone service connected in Australia in the partner's name.

Note: For ***member of a couple***, ***illness separated couple***, ***temporarily separated couple*** and ***respite care couple*** see section 4.

Authorised Version C2025C00595 registered 03/11/2025

1061R Telephone allowance not payable in some circumstances

Even though a person is qualified for a telephone allowance, the allowance is not payable to the person if:

(a) the person is receiving a social security payment for which a pension supplement amount is used to work out the rate of the payment, with a pension supplement amount that is more than the person's pension supplement basic amount; or

(b) the following subparagraphs apply to the person:

(i) the person is qualified for the telephone allowance because of the application of subsection 1061Q(3C), (3F) or (3G) to the person in relation to a social security payment the person has ceased to receive;

(ii) immediately before the cessation of the payment, a pension supplement amount was used to work out the rate of the payment;

(iii) that pension supplement amount was more than the person's pension supplement basic amount; or

(c) an election by the person under subsection 1061VA(1) is in force; or

(d) the person is receiving energy supplement under Part 2.25B of this Act or Part VIIAD of the Veterans' Entitlements Act; or

(e) the person is receiving MRCA supplement under section 221 or 245 of the Military Rehabilitation and Compensation Act; or

(f) the person is receiving veterans supplement under section 118B of the Veterans' Entitlements Act; or

(g) both:

(i) the person is a member of a couple (other than an illness separated, temporarily separated or respite care couple); and

(ii) the person's partner is receiving veterans supplement under either subsection 118B(2) of the Veterans' Entitlements Act or a determination under subsection 5R(1) of that Act.

Authorised Version C2025C00595 registered 03/11/2025

Note 1: For the purposes of subparagraph (b)(i), subsections 1061Q(3C) and (3G) have an extended application (see subsections 1061Q(3D), (3E) and (3H)).

Note 2: For ***member of a couple***, ***illness separated couple***, ***temporarily separated couple*** and ***respite care couple***, see section 4.

Note 3: Subsection 118B(2) of the Veterans' Entitlements Act covers certain categories of World War I veterans.

Note 4: The relevant determination under subsection 5R(1) of the Veterans' Entitlements Act provides eligibility for veterans supplement to certain categories of World War I Australian mariners.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Rate of telephone allowance

1061S Standard rate of telephone allowance

(1) The rate of telephone allowance for a person to whom section 1061SB (increased rate for home internet) does not apply is worked out using the following Table:

Standard rate of telephone allowance

Column 1 Item	Column 2 Person's situation	Column 3 Rate per year
1.	Not member of a couple	$88.00
3.	Partnered (partner getting neither social security pension nor social security benefit), and partner not a holder of a seniors health card	$44.00
4.	Partnered, and: (a) partner getting pension or benefit; or (b) partner is a holder of a seniors health card; and: (c) partner is not getting telephone allowance; and (d) if the partner were taken to be qualified for telephone allowance, section 1061R would not prevent telephone allowance from being payable to the partner	$88.00
5.	Partnered, and: (a) partner getting pension or benefit; or (b) partner is a holder of a seniors health card; and:	$44.00

Authorised Version C2025C00595 registered 03/11/2025

Standard rate of telephone allowance		
Column 1 **Item**	**Column 2** **Person's situation**	**Column 3** **Rate per year**
	(c) partner is getting telephone allowance; or (d) if the partner were taken to be qualified for telephone allowance, section 1061R would prevent telephone allowance from being payable to the partner	
6.	Member of an illness separated, temporarily separated or respite care couple	$88.00
7.	Partnered, and: (a) partner not getting veterans supplement under section 118B of the Veterans' Entitlements Act; and (b) partner not getting MRCA supplement under section 221 or 245 of the Military Rehabilitation and Compensation Act	$88.00
8.	Partnered, and: (a) partner getting veterans supplement under section 118B of the Veterans' Entitlements Act; or (b) partner getting MRCA supplement under section 221 or 245 of the Military Rehabilitation and Compensation Act	$44.00
9.	Partnered (partner in gaol)	$88.00

Note: The amounts in column 3 are indexed or adjusted annually in line with CPI increases (see sections 1191 to 1194).

(1A) Item 7 does not apply to a person if any other item applies to the person.

(2) If item 8 applies to a person, item 3 does not apply to the person.

Authorised Version C2025C00595 registered 03/11/2025

(3A) For the purposes of working out a person's rate of telephone allowance under subsection (1), the person's partner is taken to be the holder of a seniors health card if the partner:

(a) is temporarily absent from Australia for a continuous period not exceeding 6 weeks; and

(b) was the holder of a seniors health card immediately before leaving Australia.

1061SA Increased rate of telephone allowance

(1) The rate of telephone allowance for a person to whom section 1061SB (increased rate for home internet) applies is worked out using the following table:

Increased rate of telephone allowance

Column 1 Item	Column 2 Person's situation	Column 3 Rate per year
1.	Not member of a couple	$132.00
3.	Partnered (partner getting neither social security pension nor social security benefit), and partner not a holder of a seniors health card	$66.00
4.	Partnered, and: (a) partner getting pension or benefit; or (b) partner is a holder of a seniors health card; and: (c) partner is not getting telephone allowance; and (d) if the partner were taken to be qualified for telephone allowance, section 1061R would not prevent telephone allowance from being payable to the partner	$132.00

Authorised Version C2025C00595 registered 03/11/2025

Increased rate of telephone allowance

Column 1 Item	Column 2 Person's situation	Column 3 Rate per year
5.	Partnered, and: (a) partner getting pension or benefit; or (b) partner is a holder of a seniors health card; and: (c) partner is getting telephone allowance at the increased rate; or (d) if the partner were taken to be qualified for telephone allowance, section 1061R would prevent telephone allowance from being payable to the partner	$66.00
6.	Member of an illness separated, temporarily separated or respite care couple	$132.00
7.	Partnered, and: (a) partner not getting veterans supplement under section 118B of the Veterans' Entitlements Act; and (b) partner not getting MRCA supplement under section 221 or 245 of the Military Rehabilitation and Compensation Act	$132.00
8.	Partnered, and: (a) partner getting veterans supplement under section 118B of the Veterans' Entitlements Act; or (b) partner getting MRCA supplement under section 221 or 245 of the Military Rehabilitation and Compensation Act	$66.00

Authorised Version C2025C00595 registered 03/11/2025

Increased rate of telephone allowance		
Column 1 **Item**	**Column 2** **Person's situation**	**Column 3** **Rate per year**
9.	Partnered (partner in gaol)	$132.00
10.	Partnered (partner getting pension or benefit) and partner getting telephone allowance at the standard rate	$88.00

Note: The amounts in column 3 are indexed or adjusted annually in line with CPI increases (see sections 1191 to 1194).

(2) Item 7 does not apply to a person if any other item applies to the person.

(3) If item 8 applies to a person, item 3 does not apply to the person.

(5) For the purposes of working out a person's rate of telephone allowance under subsection (1), the person's partner is taken to be the holder of a seniors health card if the partner:

(a) is temporarily absent from Australia for a continuous period not exceeding 6 weeks; and

(b) was the holder of a seniors health card immediately before leaving Australia.

1061SB Increased rate of telephone allowance for home internet

(1) This section applies to a person if the person satisfies the conditions in this section.

Note: A person is eligible for an increased rate of telephone allowance if this section applies to him or her: see section 1061SA.

First condition

(2) The first condition is that the person:

(c) has reached pension age and is receiving an income support payment; or

(d) is receiving a disability support pension or carer payment.

Authorised Version C2025C00595 registered 03/11/2025

Second condition

(3) The second condition is that an internet carriage service (within the meaning of the *Broadcasting Services Act 1992*) is connected in Australia either:

(a) in the person's name; or

(b) if the person is a member of a couple (other than an illness separated, temporarily separated or respite care couple)—in the person's partner's name.

Third condition

(4) The third condition is that the person is able to access that internet carriage service at the person's principal home.

Fourth condition

(5) The fourth condition is that, on or before the telephone allowance payday, the person gave oral or written notice to the Secretary about the connection of the internet carriage service mentioned in subsection (3).

Definition

(6) In this section:

telephone allowance payday has the same meaning as in subsection 48(4) of the Administration Act.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.25A—Utilities allowance

Division 1—Qualification for and payability of utilities allowance

1061T Qualification for utilities allowance

(1) A person is qualified for utilities allowance if the person:
  (a) either:
    (i) has reached pension age and is receiving an income support payment; or
    (ii) is receiving a disability support pension or a carer payment; and
  (c) either:
    (i) is in Australia; or
    (ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 6 weeks.

(2) Even though a person is qualified for utilities allowance, the allowance is not payable to the person:
  (a) if the person is receiving a social security payment for which a pension supplement amount is used to work out the rate of the payment, with a pension supplement amount that is more than the person's pension supplement basic amount; or
  (b) if the person is receiving energy supplement under Part 2.25B; or
  (c) if an election by the person under subsection 1061VA(1) is in force.

1061TA When utilities allowance is payable

(1) Utilities allowance is payable to a person in relation to each utilities allowance test day on which the person is qualified for the allowance.

Authorised Version C2025C00595 registered 03/11/2025

(2) However, utilities allowance is not payable to the person in relation to that day if:

(a) a service pension, income support supplement or a veteran payment is payable to the person on that day; or

(b) energy supplement under Part VIIAD of the Veterans' Entitlements Act is payable in relation to that day; or

(c) before that day:

(i) the person had elected not to be covered by this Part; and

(ii) that election had not been withdrawn.

(3) In this section:

utilities allowance test day means:

(a) 20 March; and

(b) 20 June; and

(c) 20 September; and

(d) 20 December.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Rate of utilities allowance

1061TB Rate of utilities allowance

A person's annual rate of utilities allowance is worked out using the following table:

Utilities allowance rate table

Column 1	Column 2	Column 3
Item	**Person's situation**	**Annual rate**
1	not a member of a couple	$500
2	member of an illness separated couple	$500
3	member of a respite care couple	$500
4	member of a temporarily separated couple	$500
5	member of a couple (other than an illness separated couple, respite care couple or temporarily separated couple)	half the rate specified in column 3 of item 1

Note: The annual rates of utilities allowance are indexed twice a year in line with CPI increases (see sections 1191 to 1194).

Authorised Version C2025C00595 registered 03/11/2025

Part 2.25B—Energy supplement

Division 1—Qualification and payability

1061U Qualification for energy supplement

(1) A person is qualified for energy supplement if the person is the holder of a seniors health card.

Exceptions

(2) Subject to subsections (4), (6) and (8), subsection (1) applies to a person on or after the commencement of this subsection only if on 19 September 2016:

(a) energy supplement was payable to the person under section 1061UA; or

(b) energy supplement was payable to the person under section 118PA of the Veterans' Entitlements Act.

Note: For subsection (1) to apply to the person on a day on or after that commencement, the person needs to be the holder of a seniors health card on that day.

(3) Subject to subsection (8), if:

(a) energy supplement was payable to a person under section 1061UA, or under section 118PA of the Veterans' Entitlements Act, on 19 September 2016; and

(b) energy supplement ceases to be payable to the person under either of those sections on or after 20 September 2016;

then subsection (1) of this section does not apply, and never again applies, to the person from:

(c) if the cessation occurred before the commencement of this subsection—the start of the day this subsection commences; or

(d) if the cessation occurred on or after the commencement of this subsection—the start of the day of that cessation.

Authorised Version C2025C00595 registered 03/11/2025

(4) If:

(a) a person was not qualified for energy supplement under subsection (1) on 19 September 2016; and

(b) on 19 September 2016 the person was receiving an income support payment where energy supplement was used to work out the rate of that payment; and

(c) on a day (the ***cessation day***) on or after the commencement of this subsection the person ceases to be in receipt of any income support payment; and

(d) on the day before the cessation day the person was receiving an income support payment where energy supplement was used to work out the rate of that payment; and

(e) the person is required to make a claim for a seniors health card in order for such a card to be granted to the person;

the person can become qualified for energy supplement under subsection (1) only if the person makes a claim for a seniors health card within the period of 6 weeks beginning on the cessation day.

(5) Subject to subsection (8), if:

(a) as a result of a claim mentioned in subsection (4), a seniors health card is issued to a person on a day; and

(b) energy supplement ceases to be payable to the person under section 1061UA on or after that day;

then subsection (1) of this section does not apply, and never again applies, to the person from the start of the day of that cessation.

(6) If:

(a) a person was not qualified for energy supplement under subsection (1) on 31 December 2016; and

(b) on that day, the person was receiving a social security pension and an amount of energy supplement was added to the rate of that pension; and

(c) under subsection 1061ZJA(3) or (4), the Secretary issued a seniors health card to the person;

the person can become qualified for energy supplement under subsection (1) of this section because of holding that card.

Authorised Version C2025C00595 registered 03/11/2025

(7) Subject to subsection (8), if:

(a) as mentioned in paragraph (6)(c), a seniors health card is issued to a person on a day; and

(b) energy supplement ceases to be payable to the person under section 1061UA on or after that day;

then subsection (1) of this section does not apply, and never again applies, to the person from:

(c) if the cessation occurred before the commencement of this subsection—the start of the day this subsection commences; or

(d) if the cessation occurred on or after the commencement of this subsection—the start of the day of that cessation.

(8) If:

(a) on a day on or after 20 September 2016 the person ceases to hold a seniors health card under the Administration Act or the Veterans' Entitlements Act; and

(b) on that day the person receives an income support payment where energy supplement is used to work out the rate of that payment; and

(c) on a day (the ***cessation day***) on or after the commencement of this subsection, the person ceases to be in receipt of any income support payment; and

(d) on the day before the cessation day the person was receiving an income support payment where energy supplement was used to work out the rate of that payment; and

(e) the person is required to make a claim for a seniors health card in order for such a card to be granted to the person;

the person can become qualified for energy supplement under subsection (1) only if the person makes a claim for a seniors health card within the period of 6 weeks beginning on the cessation day.

1061UA When energy supplement is payable

(1) Energy supplement is payable to a person in relation to each day on which the person is qualified for the supplement.

Authorised Version C2025C00595 registered 03/11/2025

(2) However, energy supplement is not payable to the person in relation to a day if:

(a) before that day:

(i) the person had elected not to be covered by this Part; and

(ii) that election had not been withdrawn; or

(b) subsection 55(5) (failing to nominate a bank account) of the Administration Act applies to the person.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Rate of energy supplement

1061UB Rate of energy supplement

(1) If subsection (2) applies to the person on a day, the person's daily rate of energy supplement, for that day, is $^{1}/_{364}$ of the amount worked out using the following table:

Energy supplement		
Item	**Person's family situation**	**Amount of energy supplement**
1	Not a member of a couple	$366.60
2	Partnered	$275.60
3	Member of an illness separated couple	$366.60
4	Member of a respite care couple	$366.60
5	Partnered (partner in gaol)	$366.60

(2) This subsection applies to a person on a day if on that day the person is residing in Australia and either:
  (a) is in Australia; or
  (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 6 weeks.

Authorised Version C2025C00595 registered 03/11/2025

Part 2.25C—Quarterly pension supplement

1061V When this Part applies

(1) This Part applies to a person if:

(a) a pension supplement amount is used to work out the rate of the person's social security payment (the ***main payment***); and

(b) the annual rate of that pension supplement amount is more than the person's pension supplement basic amount.

Note: A pension supplement amount that is more than the person's pension supplement basic amount contains a minimum component. The person may elect under this Part to receive that minimum component on a quarterly basis as a separate social security payment.

(2) For the purposes of paragraph (1)(b), if the Rate Calculator for the main payment produces a fortnightly rate, then multiply the person's pension supplement amount by 26 to get the annual rate of that pension supplement amount.

(3) For the purposes of subsection (1), it does not matter if the rate of the person's main payment would become nil were an election by the person under subsection 1061VA(1) to come into force.

1061VA Quarterly pension supplement

(1) The person may, in a manner or way approved by the Secretary, make an election to receive the person's minimum pension supplement amount on a quarterly basis as a separate social security payment.

(2) An election comes into force as soon as practicable after it is made.

(2A) An election ceases to be in force if the main payment ceases to be payable to the person.

Authorised Version C2025C00595 registered 03/11/2025

(3) The person may, in a manner or way approved by the Secretary, revoke an election. A revocation takes effect as soon as practicable after it happens.

(4) Quarterly pension supplement is payable to the person in relation to each day on which an election is in force.

1061VB Rate of quarterly pension supplement

(1) The person's annual rate of quarterly pension supplement is the person's minimum pension supplement amount.

(2) The person's daily rate of quarterly pension supplement is worked out by dividing the person's annual rate by 364.

(3) This section has effect subject to subsection 1210(3).

Authorised Version C2025C00595 registered 03/11/2025

Part 2.26—Fares allowance

Note: Section 19A contains many of the definitions that are relevant to the provisions of this Part.

Division 1—Qualification for fares allowance

1061ZAAA Qualification for fares allowance

(1) A person is qualified for fares allowance for a journey by the person if:

(a) during a period (the ***relevant period***) that is the whole or a part of a study year the person undertakes an approved tertiary course (the ***approved course***) at an educational institution in Australia (the ***relevant educational institution***); and

(b) during the relevant period the person is receiving one or more of the following forms of financial assistance:

(i) youth allowance because the person is undertaking full-time study;

(ii) youth allowance where the only term of the relevant employment pathway plan is a term to the effect that the person has to undertake an approved course of education or study under subsection 541B(5);

(iii) austudy payment;

(iv) pensioner education supplement; and

(c) during the relevant period the person's permanent home is in Australia; and

(d) either:

(i) subsection (2) or (3) applies in respect of the person for the study year; or

(ii) subsection (4) or (5) applies in respect of the person in relation to the journey; and

(e) either section 1061ZAAB or 1061ZAAC applies in respect of the journey; and

Authorised Version C2025C00595 registered 03/11/2025

(f) the journey has been made or, if it has not been made, the Secretary is satisfied that:

(i) the person intends to make the journey; and

(ii) the person's means of travel for the journey will be provided by a commercial operator.

Note: A person is taken to be receiving a form of financial assistance referred to in paragraph (b) even though the person has traded in, or traded back, the assistance to obtain a financial supplement.

(2) This subsection applies in respect of the person for the study year if, during the relevant period, the person:

(a) has a partner, or a dependent child, living at the person's permanent home; and

(b) is required to live away from his or her permanent home in order to undertake the approved course.

(3) This subsection applies in respect of the person for the study year if, during the relevant period, the person is enrolled as an external student for the approved course.

(4) This subsection applies in respect of the person in relation to the journey if:

(a) during the relevant period, the person:

(i) is receiving youth allowance as referred to in subparagraph (1)(b)(i) or (ii); and

(ii) is required to live away from home within the meaning of Part 3.5 (see section 1067D); and

(b) the person is not independent when the journey is made.

(5) This subsection applies in respect of the person in relation to the journey if:

(a) during the relevant period, the person:

(i) is receiving youth allowance as referred to in subparagraph (1)(b)(i) or (ii); and

(ii) is required to live away from home within the meaning of Part 3.5 (see section 1067D); and

Authorised Version C2025C00595 registered 03/11/2025

(b) during the study year and before the journey was made the person became independent because of subsection 1067A(4), (10) or (14); and

(c) if the journey had been made in the study year before the person became independent, subsection (4) would have applied in respect of the person in relation to the journey.

Note: A person is not qualified for a fares allowance in respect of a journey made before the commencement of this section (see clause 126 of Schedule 1A).

1061ZAAB Journey by person who is not an external student

If the person is enrolled for the approved course as a student other than an external student, this section applies in respect of a journey only if the journey is one of the following:

(a) a journey from the person's permanent home to the relevant educational institution to start the course;

(b) a journey made, in the study year or before 1 April in the next year, from the relevant educational institution to the person's permanent home after the person has finished or discontinued the course;

(c) a return journey during the study year between the relevant educational institution and the person's permanent home where the person:

(i) has, during the study year and before the making of the journey, received one or more of the forms of financial assistance referred to in paragraph 1061ZAAA(1)(b) for a total period of 3 months (whether continuous or not); and

(ii) is receiving one of those forms of financial assistance when the journey is made.

1061ZAAC Journey by person who is an external student

If the person is enrolled for the approved course as an external student, this section applies only in respect of one return journey by the person during the study year between the person's

Authorised Version C2025C00595 registered 03/11/2025

permanent home and the relevant educational institution in order to attend the institution for a period under a requirement that is a compulsory component of the course.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Amount of fares allowance

1061ZAAJ Fares allowance for public transport

(1) If the Secretary is satisfied that it is practicable for the person to make the entire journey by public transport, the amount of fares allowance for the entire journey is worked out using this section.

(2) If the Secretary is satisfied that it is practicable for the person to make part of the journey by public transport, the amount of fares allowance for that part of the journey is worked out using this section.

(3) The amount of fares allowance is the cost of making the journey, or the part of the journey, using a reasonable route and the least expensive form of public transport that is reasonable.

(4) The cost is to be based on the cost of any concessional fare available to the person.

(5) The cost of a sleeping berth is to be included only if it is reasonable for the person to travel by rail and for the person to have the berth.

(6) In deciding what is practicable or reasonable for the purposes of this section, the period of time needed for the entire journey, and any illness or incapacity of the person, must be taken into account.

(7) The amount of fares allowance to be paid is to be worked out using this section whether or not the person chooses to make the journey, or the part of the journey, in the way described in this section.

1061ZAAK Fares allowance for private transport

(1) If the Secretary is satisfied that it is not practicable for the person to make any part of the journey by public transport, the amount of fares allowance for the entire journey is worked out using this section.

Authorised Version C2025C00595 registered 03/11/2025

(2) If the Secretary is satisfied that it is not practicable for the person to make a part of the journey by public transport, the amount of fares allowance for that part of the journey is worked out using this section.

(3) If the person makes the journey, or the part of the journey, by taxi, the fares allowance is 63 cents per kilometre travelled by taxi.

(4) If the person makes the journey, or the part of the journey, by another vehicle, the fares allowance is worked out in accordance with the following table:

Table of rates of allowance

Item	Kind of engine in the vehicle the person uses	Capacity of the vehicle's engine (cubic centimetres)	Allowance per kilometre (cents)
1	Rotary	not more than 800	50.0
2	Rotary	more than 800 but not more than 1,300	60.0
3	Rotary	more than 1,300	61.0
4	Not rotary	not more than 1,600	50.0
5	Not rotary	more than 1,600 but not more than 2,600	60.0
6	Not rotary	more than 2,600	61.0

(5) If the Secretary is satisfied that:

(a) it is unreasonable for the person to make the journey or the part of the journey by taxi or another vehicle because of abnormal travel hazards (for example, bushfire or flood); and

(b) the person makes the journey or the part of the journey by another form of transport that is reasonable because of the distance travelled and the cost of the transport;

the amount of fares allowance for the journey or that part of the journey is the actual cost to the person of making the journey or that part of the journey.

Authorised Version C2025C00595 registered 03/11/2025

(6) In deciding what is practicable or reasonable for the purposes of this section, the period of time needed for the entire journey, and any illness or incapacity of the person, must be taken into account.

(7) For the purposes of this section, a vehicle that is registered as a taxi in a State or Territory is to be taken to be a taxi only while it is used in the State or Territory.

(8) The Minister may, by legislative instrument, make determinations:
  (a) varying the amount referred to in subsection (3); or
  (b) amending the table in subsection (4) or omitting that table and substituting another table.

Authorised Version C2025C00595 registered 03/11/2025

Chapter 2A—Benefits and concessions other than payments

Part 2A.1—Concession cards

Division 1—Qualification for, and issue of, pensioner concession card

1061ZA General qualification rules

(1) Subject to subsection (3), a person is qualified for a pensioner concession card on a day if a social security pension is payable to the person for that day.

(1A) Paragraph (1)(a) does not apply to a carer payment payable to the person because the person is qualified for that payment for that day under section 197G or 197H or subsection 198AA(4) or (5) (whether or not because of section 197F).

(1B) Subject to subsection (3), a person is qualified for a pensioner concession card on a day if:

(a) immediately before 1 January 2017, the person was receiving a social security pension; and

(b) the Secretary is satisfied that the rate of that pension was nil on 1 January 2017 because of the operation of the amendments made by Part 1 of Schedule 3 to the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*; and

(c) the person is not otherwise qualified for a pensioner concession card on that day.

(2) Subject to subsection (3), a person is qualified for a pensioner concession card on a day (the ***qualification day***) if, on that day:

(a) the person has attained 55 years of age; and

(b) the person is receiving:

(i) jobseeker payment; or

Authorised Version C2025C00595 registered 03/11/2025

(iv) benefit PP (partnered); or

(vi) special benefit; and

(c) the person has been receiving, for a continuous period of not less than 39 weeks ending immediately before the qualification day:

(i) one or more of the social security benefits referred to in paragraph (b); or

(ii) a social security pension.

(2A) Subject to subsection (3), a person is qualified for a pensioner concession card on a day if, on that day:

(a) the person is receiving a youth allowance; and

(b) the person is not undertaking full-time study and is not a new apprentice; and

(c) the person:

(i) has a partial capacity to work; or

(ii) is the principal carer of at least one child and is not a member of a couple.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

Note 3: For ***partial capacity to work*** see section 16B.

Note 4: For ***principal carer*** see subsections 5(15) to (24). See also subsection (2C) of this section.

(2B) Subject to subsection (3), a person is qualified for a pensioner concession card on a day if, on that day:

(a) the person is receiving a jobseeker payment; and

(b) the person:

(i) has a partial capacity to work; or

(ii) is the principal carer of at least one child and is not a member of a couple; and

(c) the person is not qualified for a pensioner concession card under subsection (2).

Note 1: For ***partial capacity to work*** see section 16B.

Authorised Version C2025C00595 registered 03/11/2025

Note 2: For ***principal carer*** see subsections 5(15) to (24). See also subsection (2C) of this section.

(2C) If a person is the principal carer of a child who dies, the person is taken, for the purposes of subparagraphs (2A)(c)(ii) and (2B)(b)(ii), to continue to be the principal carer of the child during the period of 14 weeks that starts on the day of the child's death.

(2D) Subject to subsection (3), a person is qualified for a pensioner concession card on a day if, on that day:

(a) the person is receiving a benefit PP (partnered); and

(b) the person has a partial capacity to work; and

(c) the person is not qualified for a pensioner concession card under subsection (2).

Note: For ***partial capacity to work*** see section 16B.

(2E) Subject to subsection (3), a woman is qualified for a pensioner concession card on a day if, on that day:

(a) the woman is receiving a jobseeker payment; and

(b) the woman's jobseeker payment rate is worked out under section 654.

(3) Subject to subsections (4) and (5), subsections (1), (1B), (2), (2A), (2B), (2D) and (2E) only apply to a person in relation to a day on which the person is in Australia and is an Australian resident.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

(4) In spite of subsection (3), subsections (1), (2), (2A), (2B) and (2D) apply to a person in relation to a day on which the person:

(a) is in Australia; and

(b) is receiving a social security pension or benefit solely because of the operation of the scheduled international social security agreement between Australia and New Zealand.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

Authorised Version C2025C00595 registered 03/11/2025

(5) In spite of subsection (3), if:

(a) paragraphs (1B)(a), (b) and (c) are satisfied in relation to a person; and

(b) the person was receiving the social security pension immediately before 1 January 2017 solely because of the operation of the scheduled international social security agreement between Australia and New Zealand;

subsection (1B) applies to a person in relation to a day on which the person is in Australia.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

1061ZC Extended qualification rule: long-term recipient of social security benefits

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

(a) a person has been receiving a social security benefit referred to in paragraph 1061ZA(2)(b) for a continuous period of not less than 39 weeks; and

(b) either:

(i) the person or the person's partner commences employment; or

(ii) there is an increase in the ordinary income of the person or the person's partner from employment; and

(c) but for the commencement of employment or increase in ordinary income, as the case may be, the person would have been, or would have continued to be, qualified for a pensioner concession card under subsection 1061ZA(2); and

(ca) the person did not become qualified under section 1061ZEB for a pensioner concession card because of that employment or increase in ordinary income;

the person is qualified for a pensioner concession card:

(d) if the person is qualified for a pensioner concession card under section 1061ZEA until a particular day—for the period of 26 weeks after that day; and

Authorised Version C2025C00595 registered 03/11/2025

(e) in any other case—for the period of 26 weeks after the commencement or increase, as the case may be.

(1A) If:

(a) either:

(i) the person first referred to in subsection (1) commences employment; or

(ii) there is an increase in the ordinary income from employment of the person so referred to; and

(b) at the start of the instalment period of the person in which the commencement or increase occurs:

(i) the person is a working credit participant; and

(ii) the person's working credit balance is greater than nil; and

(c) the balance is subsequently reduced to nil because of the commencement or increase; and

(d) the person is not qualified for a pensioner concession card under section 1061ZEA;

paragraph (1)(e) has effect as if the reference to 26 weeks after the commencement or increase were a reference to 26 weeks after the day on which the balance is reduced to nil.

(1B) If:

(a) either:

(i) the partner of the person first referred to in subsection (1) commences employment; or

(ii) there is an increase in the ordinary income from employment of the partner of the person so referred to; and

(b) at the start of the instalment period of the partner in which the commencement or increase occurs:

(i) the partner is a working credit participant or a person to whom the student income bank applies; and

(ii) the partner's working credit balance or student income bank balance is greater than nil; and

Authorised Version C2025C00595 registered 03/11/2025

(c) the balance is subsequently reduced to nil because of the commencement or increase; and

(d) the person is not qualified for a pensioner concession card under section 1061ZEA;

paragraph (1)(e) has effect as if the reference to 26 weeks after the commencement or increase were a reference to 26 weeks after the day on which the balance is reduced to nil.

(1C) If the person:

(a) is qualified for a pensioner concession card under section 1061ZEA until a particular day; and

(b) has, immediately before becoming so qualified, been receiving a social security benefit referred to in paragraph 1061ZA(2)(b) for a continuous period of less than 39 weeks;

the person is taken, for the purpose of the reference in paragraph (1)(a) to a continuous period of not less than 39 weeks, to be receiving the benefit until the particular day.

(2) Subject to subsection (4), subsection (1) (including that subsection as modified by subsection (1A), (1B) or (1C)) only applies to a person while the person is in Australia and is an Australian resident.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

(3) If, during the period of 26 weeks referred to in subsection (1) (including that subsection as modified by subsection (1A) or (1B)), a person receives an instalment of a social security pension that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

(4) In spite of subsection (2), subsection (1) (including that subsection as modified by subsection (1A), (1B) or (1C)) applies to a person when:

(a) the person is in Australia; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the social security benefit that the person had been receiving was received solely because of the operation of the scheduled international agreement between Australia and New Zealand.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

1061ZCA Extended qualification rule: former recipient of age pension and partner

Qualification

(1) Subject to subsections (8) and (9), a person is qualified for a pensioner concession card for the period of 2 years starting on the day on which this section begins to apply to the person.

Former recipient of age pension with employment income

(2) Subject to subsection (6), this section applies to a person if:
(a) the person has been receiving an age pension; and
(b) age pension ceases to be payable to the person because the rate of the person's pension is nil; and
(c) the rate of the person's pension is nil because of the occurrence of an event or change of circumstances that results in the person's income reduced rate (see subsection (3)) being nil; and
(d) but for the person's income reduced rate being nil, the person would have continued to be qualified for a pensioner concession card because age pension would have continued to be payable to the person; and
(e) at the time of the cessation, the person's ordinary income (as used to work out the person's income reduced rate) includes income for remunerative work performed by the person in Australia as an employee in an employer/employee relationship.

Authorised Version C2025C00595 registered 03/11/2025

(3) For the purposes of subsection (2), a person's ***income reduced rate*** is the rate worked out at step 8 of the method statement in point 1064-A1 in Module A of Pension Rate Calculator A.

Partner of former recipient of age pension with employment income

(4) Subject to subsection (6), this section applies to a person who is a member of a couple if:

(a) the person's partner is qualified for a pensioner concession card under this section because subsection (2) applies to the partner, because of the occurrence of an event or change of circumstances referred to in that subsection and age pension ceasing to be payable to the partner; and

(b) immediately before the event or change of circumstances, the person was receiving an age pension, disability support pension or carer payment; and

(c) the person's pension or payment ceases to be payable to the person because the rate of the person's pension or payment is nil; and

(d) the person's cessation of payability occurs because of the occurrence of the same event or change of circumstances that resulted in the partner's cessation of payability.

(5) To avoid doubt, if the person ceases to be a member of the couple after that event or change of circumstances, the person's qualification for a pensioner concession card because of subsection (4) is not affected.

Residency requirement

(6) This section only applies to a person while the person is residing in Australia.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

(7) However, this section applies to a person in relation to a day if:

Authorised Version C2025C00595 registered 03/11/2025

(a) the person is in Australia on that day but not residing in Australia; and
(b) the age pension, disability support pension or carer payment that the person had been receiving was received solely because of the operation of the scheduled international social security agreement between Australia and New Zealand.

No double qualification—person receiving certain other social security payments

(8) If, during the period of 2 years referred to in subsection (1), a person receives an instalment of a social security pension that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

(9) If, during the period of 2 years referred to in subsection (1), a person receives an instalment of:
(a) a youth allowance while subsection 1061ZA(2A) applies to the person; or
(b) a jobseeker payment while subsection 1061ZA(2B) applies to the person; or
(c) a benefit PP (partnered) while subsection 1061ZA(2D) applies to the person;

that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

1061ZCB Extended qualification rule: former recipient of carer payment

Qualification

(1) Subject to subsections (7) and (8), a person is qualified for a pensioner concession card for the period of 26 weeks starting on the day on which this section begins to apply to the person.

Authorised Version C2025C00595 registered 03/11/2025

Application—temporary cessation of care limit exceeded

(2) Subject to subsection (5), this section applies to a person if:
  (a) the person has been receiving carer payment; and
  (b) the person temporarily ceases to provide care for a care receiver or care receivers (see section 198AC); and
  (c) the person ceases to be qualified for carer payment because of the occurrence of an event or change of circumstances that results in the temporary cessation of care exceeding the limit specified in:
    (i) subsection 198AC(3); or
    (ii) the definition of ***limit*** in subsection 198AC(3A); or
    (iii) paragraph 198AC(4)(c) or (5)(c); and
  (d) but for the occurrence of the event or change of circumstances, the person would still have been qualified for carer payment.

Application—income reduced rate nil

(3) Subject to subsection (5), this section applies to a person if:
  (a) the person has been receiving carer payment; and
  (b) carer payment ceases to be payable to the person because the rate of the person's payment is nil; and
  (c) the rate of the person's carer payment is nil because of the occurrence of an event or change of circumstances that results in the person's income reduced rate (see subsection (4)) being nil; and
  (d) but for the person's income reduced rate being nil, carer payment would have continued to be payable to the person; and
  (e) at the time of the cessation, the person's ordinary income (as used to work out the person's income reduced rate) includes income for paid work performed by the person in Australia.

(4) For the purposes of subsection (3), a person's ***income reduced rate*** is the rate worked out at step 8 of the method statement in point 1064-A1 in Module A of Pension Rate Calculator A.

Authorised Version C2025C00595 registered 03/11/2025

Residency requirement

(5) This section only applies to a person while the person is residing in Australia.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

(6) However, this section applies to a person in relation to a day if:

(a) the person is in Australia on that day but not residing in Australia; and

(b) the carer payment that the person had been receiving was received solely because of the operation of the scheduled international social security agreement between Australia and New Zealand.

No double qualification—person receiving certain other social security payments

(7) If, during the period of 26 weeks referred to in subsection (1), a person receives an instalment of a social security pension that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

(8) If, during the period of 26 weeks referred to in subsection (1), a person receives an instalment of:

(a) a youth allowance while subsection 1061ZA(2A) applies to the person; or

(b) a jobseeker payment while subsection 1061ZA(2B) applies to the person; or

(c) a benefit PP (partnered) while subsection 1061ZA(2D) applies to the person;

that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

Authorised Version C2025C00595 registered 03/11/2025

1061ZD Extended qualification rule: former recipient of disability support pension and partner

Qualification

(1) Subject to subsections (5), (5A) and (7), a person is qualified for a pensioner concession card for the period of 2 years starting on the day on which this section begins to apply to the person.

Former recipient with 30 hours per week employment

(2) Subject to subsection (4), this section applies to a person if:
  (a) the person has been receiving a disability support pension; and
  (b) the person commences employment that requires him or her to work for at least 30 hours per week; and
  (c) because of the commencement of that employment, the person ceases (having regard, where appropriate, to the operation of section 1073J) to be qualified for the disability support pension.

Former recipient with increase in employment income

(3) Subject to subsection (4), this section applies to a person if:
  (a) the person has been receiving a disability support pension; and
  (b) because there is an increase in the person's ordinary income from employment (and after any working credit balance of the person is reduced to nil), the disability support pension ceases to be payable to the person.

Partner of former recipient with employment

(3A) Subject to subsection (4), this section applies to a person who is a member of a couple if:
  (a) the person's partner is qualified for a pensioner concession card under this section because:

Authorised Version C2025C00595 registered 03/11/2025

(i) subsection (2) applies to the partner because of the occurrence of the event or change of circumstances covered by that subsection and the partner ceasing to be qualified for disability support pension; or

(ii) subsection (3) applies to the partner because of the occurrence of the event or change of circumstances covered by that subsection and disability support pension ceasing to be payable to the partner; and

(b) immediately before the event or change of circumstances, the person was receiving an age pension, disability support pension or carer payment; and

(c) the person's pension or payment ceases to be payable to the person because the rate of the person's pension or payment is nil; and

(d) the person's cessation of payability occurs because of the occurrence of the same event or change of circumstances that resulted in the partner's cessation of qualification or payability.

(3B) To avoid doubt, if the person ceases to be a member of the couple after that event or change of circumstances, the person's qualification for a pensioner concession card because of subsection (3A) is not affected.

Residency requirement

(4) Subject to subsection (6), this section only applies to a person while the person is in Australia and is an Australian resident.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

No double qualification—person receiving certain other social security payments

(5) If, during the period of 2 years referred to in subsection (1), a person receives an instalment of a social security pension that relates to one or more days within that period, the person is not

Authorised Version C2025C00595 registered 03/11/2025

qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

(5A) If, during the period of 2 years referred to in subsection (1), a person receives an instalment of:

(a) a youth allowance while subsection 1061ZA(2A) applies to the person; or

(b) a jobseeker payment while subsection 1061ZA(2B) applies to the person; or

(c) a benefit PP (partnered) while subsection 1061ZA(2D) applies to the person;

that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

Residency requirement exception—New Zealand agreement

(6) In spite of subsection (4), this section applies to a person in relation to a day if:

(a) the person is in Australia on that day; and

(b) the age pension, disability support pension or carer payment that the person had been receiving was received solely because of the operation of the scheduled international agreement between Australia and New Zealand.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

No double qualification—person with partial capacity to work

(7) This section does not apply in any case where a person is qualified for a pensioner concession card under section 1061ZEB.

1061ZDA Extended qualification rule: former recipient of pension PP (single)

(1) If:

(a) a pension PP (single) has been payable to a person; and

Authorised Version C2025C00595 registered 03/11/2025

(b) the person ceases to be qualified for that payment because, on a day, the person's youngest child turns 14; and

(c) apart from this subsection, the person would cease to be qualified for a pensioner concession card on that day;

then, subject to subsections (2) and (3), the person is qualified for a pensioner concession card for the period of 12 weeks starting on that day.

Other qualification for pensioner concession card

(2) If, during that 12-week period, the person receives an instalment of:

(a) a youth allowance while subsection 1061ZA(2A) applies to the person; or

(b) a jobseeker payment while subsection 1061ZA(2B) applies to the person; or

(c) a benefit PP (partnered) while subsection 1061ZA(2D) applies to the person; or

(d) a social security pension;

that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

Person must be in Australia

(3) Subject to subsection (4), this section only applies to a person while the person is in Australia and is an Australian resident.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

(4) Despite subsection (3), this section applies to a person in relation to a day if:

(a) the person is in Australia on that day; and

(b) the pension PP (single) that had been payable to the person was payable solely because of the operation of the scheduled international agreement between Australia and New Zealand.

Authorised Version C2025C00595 registered 03/11/2025

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

1061ZDB Extended qualification rule: partner of former recipient of veterans' entitlement

Qualification

(1) Subject to subsections (6) and (7), a person is qualified for a pensioner concession card for the period of 2 years starting on the day on which this section begins to apply to the person.

Partner of former recipient of veterans' entitlement with employment income

(2) Subject to subsection (4), this section applies to a person who is a member of a couple if:
   (a) the person's partner is eligible for fringe benefits under subsection 53A(3) of the Veterans' Entitlements Act because of the occurrence of an event or change of circumstances that results in the partner's service pension or income support supplement ceasing to be payable to the partner; and
   (b) immediately before the event or change of circumstances, the person was receiving an age pension, disability support pension or carer payment; and
   (c) the person's pension or payment ceases to be payable to the person because the rate of the person's pension or payment is nil; and
   (d) the person's cessation of payability occurs because of the occurrence of the same event or change of circumstances that resulted in the partner's cessation of payability.

(3) To avoid doubt, if the person ceases to be a member of the couple after that event or change of circumstances, the person's qualification for a pensioner concession card because of subsection (2) is not affected.

Authorised Version C2025C00595 registered 03/11/2025

Residency requirement

(4) This section only applies to a person while the person is residing in Australia.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

(5) However, this section applies to a person in relation to a day if:

(a) the person is in Australia on that day but not residing in Australia; and

(b) the pension or payment that the person had been receiving was received solely because of the operation of the scheduled international social security agreement between Australia and New Zealand.

No double qualification—person receiving certain other social security payments

(6) If, during the period of 2 years referred to in subsection (1), a person receives an instalment of a social security pension that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

(7) If, during the period of 2 years referred to in subsection (1), a person receives an instalment of:

(a) a youth allowance while subsection 1061ZA(2A) applies to the person; or

(b) a jobseeker payment while subsection 1061ZA(2B) applies to the person; or

(c) a benefit PP (partnered) while subsection 1061ZA(2D) applies to the person;

that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

Authorised Version C2025C00595 registered 03/11/2025

1061ZEA Further extended qualification rule: loss of payment because of employment income

(1) This section does not apply in any case where a person is qualified for a pensioner concession card under section 1061ZCA, 1061ZCB, 1061ZD, 1061ZDA, 1061ZDB or 1061ZEB.

(2) If:

(a) a person is receiving a social security pension or a social security benefit; and

(b) the person's rate of payment of the pension or benefit is worked out with regard to the income test module of a rate calculator in Chapter 3; and

(d) the person is qualified for a pensioner concession card; and

(e) the person or the person's partner has employment income; and

(f) a payment mentioned in subsection 1061ZA(1) ceases to be payable to the person or the person ceases to receive a payment mentioned in subsection 1061ZA(2), (2A), (2B) or (2D):

(i) if paragraph (e) applies to the person—because of the employment income of the person (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the person); or

(ii) if paragraph (e) applies to the partner—because of the employment income of the partner (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the partner); and

(g) but for the employment income, or the combined income, referred to in paragraph (f), the person would have been, or would have continued to be, qualified for a pensioner concession card:

(i) under subsection 1061ZA(1)—because the payment referred to in that subsection would have continued to be payable to the person; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) under subsection 1061ZA(2), (2A), (2B) or (2D)—because the person would have continued to receive the payment referred to in that subsection; and

(ga) the person:

(ii) in the case of a person to whom pension PP (single) ceases to be payable, or who ceases to receive benefit PP (partnered)—continues, but for the requirement to have at least one PP child, to be qualified for that pension or benefit; and

(iia) in the case of a person who is a principal carer of a child and who ceases to receive youth allowance—continues, but for the fact that paragraph 540(1)(a) no longer applies to the person, to be qualified for youth allowance; and

(iib) in the case of a person who is a principal carer of a child and who ceases to receive jobseeker payment—continues, but for the fact that either or both of paragraphs 593(1)(a) and (b) no longer apply to the person, to be qualified for jobseeker payment; and

(iii) in any other case—continues to be qualified for the payment referred to in section 1061ZA;

the person is qualified for a pensioner concession card until:

(h) whichever of the following applies:

(i) in the case of a person to whom subparagraph (ga)(iia) or (iib) applies—26 weeks after the end of the instalment period in which the payment ceases to be payable to the person or the person ceases to receive the payment, as the case requires;

(ii) in any other case—24 weeks after the end of the instalment period in which the payment ceases to be payable to the person or the person ceases to receive the payment, as the case requires; or

(j) the day the person would cease to be qualified for a pensioner concession card as mentioned in paragraph (g) for a reason other than the employment income, or the combined income, referred to in paragraph (f); or

Authorised Version C2025C00595 registered 03/11/2025

(k) the day the person ceases to be qualified as mentioned in paragraph (ga);

whichever happens first.

Note: For ***principal carer*** see subsections 5(15) to (24). See also subsection (2A) of this section.

(2A) If a person is the principal carer of a child who dies, the person is taken, for the purposes of subparagraphs (2)(ga)(iia) and (iib), to continue to be the principal carer of the child during the period of 14 weeks that starts on the day of the child's death.

(3) Subject to subsection (5), subsection (2) only applies to a person while the person is in Australia and is an Australian resident.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

(4) If, during the period of 24 or 26 weeks (as the case may be) referred to in subsection (2), a person receives an instalment of social security pension that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or the days in relation to which the person receives the instalment.

(5) In spite of subsection (3), subsection (2) applies to a person when:

(a) the person is in Australia; and

(b) the social security pension or the social security benefit that the person had been receiving was received solely because of the operation of the scheduled international agreement between Australia and New Zealand.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

Authorised Version C2025C00595 registered 03/11/2025

1061ZEB Extended qualification rule: persons with a partial capacity to work

(1) A person is qualified for a pensioner concession card for the period of 52 weeks starting on the day on which this section begins to apply to the person.

(2) Subject to subsection (3), this section applies to a person if:

(a) either:

(i) the person has been receiving a youth allowance while the person was not undertaking full-time study and was not a new apprentice; or

(ii) the person has been receiving a jobseeker payment; or

(iii) the person has been receiving parenting payment; and

(b) because there is an increase in the person's ordinary income from employment (and after any working credit balance of the person is reduced to nil), the youth allowance, jobseeker payment or parenting payment ceases to be payable to the person; and

(c) at the time of the cessation the person:

(i) was qualified for a pensioner concession card under subsection 1061ZA(2A), (2B) or (2D); or

(ii) was qualified for a pensioner concession card under subsection 1061ZA(1) because a pension PP (single) was payable to the person; and

(d) at the time of the cessation the person had a partial capacity to work.

Note 1: For ***undertaking full-time study*** see section 541B.

Note 2: For ***new apprentice*** see subsection 23(1).

Note 3: For ***partial capacity to work*** see section 16B.

(3) This section only applies to a person while the person is in Australia and is an Australian resident.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a pensioner concession card for a maximum period of up to 6 weeks (see Division 4).

Authorised Version C2025C00595 registered 03/11/2025

(4) If, during the period of 52 weeks referred to in subsection (1), a person receives an instalment of:

(a) a youth allowance while subsection 1061ZA(2A) applies to the person; or

(b) a jobseeker payment while subsection 1061ZA(2B) applies to the person; or

(ba) a benefit PP (partnered) while subsection 1061ZA(2D) applies to the person; or

(c) a social security pension;

that relates to one or more days within that period, the person is not qualified under this section for a pensioner concession card on the day or days in relation to which the person receives the instalment.

1061ZEC Effect of compliance penalty periods

(1) For the purposes of this Division, a social security payment is taken to be payable to a person if the payment would be payable to the person except for the application of a compliance penalty period.

Note: For ***compliance penalty period*** see subsection 23(1).

(2) For the purposes of this Division, a social security payment is taken to have ceased to be payable to a person if:

(a) the payment would have ceased to be payable to the person if the payment had been payable to the person; and

(b) the payment was not payable to the person because of the application of a compliance penalty period.

Note: For ***compliance penalty period*** see subsection 23(1).

(3) In this section:

(a) a reference to a social security payment being payable to a person includes, in appropriate cases, a reference to the person receiving the payment; and

(b) a reference to a social security payment ceasing to be payable to a person includes, in appropriate cases, a reference to the person ceasing to receive the payment.

Authorised Version C2025C00595 registered 03/11/2025

1061ZF Issue of pensioner concession card

The Secretary must issue a pensioner concession card to a person who is qualified for such a card.

Authorised Version C2025C00595 registered 03/11/2025

Division 2—Qualification for seniors health card

1061ZG Qualification rules

(1) Subject to subsection (2) and sections 1061ZJA and 1061ZJB, a person is qualified for a seniors health card on a day if, on that day, the person:

(a) has reached pension age; and

(b) is an Australian resident or a special category visa holder residing in Australia; and

(c) is in Australia; and

(d) satisfies the seniors health card income test; and

(e) is not receiving a social security pension or benefit; and

(f) is not receiving a service pension, income support supplement or a veteran payment; and

(g) is not subject to a newly arrived resident's waiting period.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a seniors health card for a maximum period of up to 19 weeks (see Division 4).

(2) A person is not qualified for a seniors health card on a day if:

(a) the person has failed to comply with section 1061ZJ in respect of the reference tax year; or

(aa) on that day the person is the holder of a seniors health card under the Veterans' Entitlements Act; or

(b) where the person made an estimate of taxable income for the reference tax year and the estimate was accepted—the person did not give the Secretary a copy of a notice of assessment of the person's taxable income for that tax year within 52 weeks after the end of that tax year.

Note: If a person is qualified for a seniors health card, the Secretary must not make a determination granting a claim for the card in certain circumstances if the Secretary makes a request under subsection 75(2) or (3) of the Administration Act of the person (about providing tax file numbers): see subsection 77(1) of that Act.

Authorised Version C2025C00595 registered 03/11/2025

(3) In subsection (2):

reference tax year has the same meaning as in the Seniors Health Card Income Test Calculator.

1061ZH Newly arrived resident's waiting period

(1) Subject to this section, for the purposes of this Division, a person who:

(a) has entered Australia; and

(b) has not been both:

(i) an Australian resident or a special category visa holder residing in Australia; and

(ii) in Australia;

for a period of, or for periods totalling, 208 weeks;

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

(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a seniors health card.

Note: For ***qualifying residence exemption*** in relation to a seniors health card, see paragraph 7(6AA)(f).

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for a seniors health card; or

(b) the following apply:

(i) before the person made the claim for a seniors health card, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for a seniors health card or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for a seniors health card.

Authorised Version C2025C00595 registered 03/11/2025

(4) For the purposes of subsection (3):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

1061ZI Duration of newly arrived resident's waiting period

If a person is subject to a newly arrived resident's waiting period, the period:

(a) starts on the day on which the person first became an Australian resident or a special category visa holder residing in Australia; and

(b) ends when the person has been both:

(i) an Australian resident or a special category visa holder residing in Australia; and

(ii) in Australia;

for a period of, or for periods totalling, 208 weeks.

1061ZJ Giving of copy of assessment of taxable income to Secretary

If a person who is the holder of a seniors health card receives a notice of assessment or amended assessment of his or her taxable income for a particular tax year, the person must, if requested by the Secretary to do so, give a copy of the notice to the Secretary within 13 weeks after the day on which the notice was received.

1061ZJA Modifications if person's rate of social security pension is nil on 1 January 2017

(1) This section applies in relation to a person if:

(a) immediately before 1 January 2017, the person was receiving a social security pension; and

(b) the Secretary is satisfied that the rate of that pension is nil on 1 January 2017 because of the operation of the amendments made by Part 1 of Schedule 3 to the *Social Services*

Authorised Version C2025C00595 registered 03/11/2025

Legislation Amendment (Fair and Sustainable Pensions) Act 2015.

Seniors health card income test does not apply

(2) In determining whether the person is qualified for a seniors health card at any time on or after 1 January 2017, paragraph 1061ZG(1)(d) does not apply to the person.

Automatic issue of seniors health card

(3) If the person is qualified for a seniors health card on 1 January 2017, the Secretary must issue a seniors health card to the person.

Note: The person does not need to make a claim for the card.

(4) If:

(a) on 1 January 2017, the person is outside Australia; and

(b) the person returns to Australia before the end of the period of 19 weeks beginning on the day the person left Australia; and

(c) the person is qualified for a seniors health card on the day the person returns to Australia;

the Secretary must issue a seniors health card to the person.

Note 1: The person does not need to make a claim for the card.

Note 2: If the person returns to Australia after the end of that 19-week period, the person will need to make a claim for a seniors health card.

1061ZJB Other modifications because of Veterans' Entitlements Act

If section 118XA of the Veterans' Entitlements Act applies in relation to a person, then, in determining whether the person is qualified for a seniors health card under this Division at any time on or after 1 January 2017, paragraph 1061ZG(1)(d) does not apply to the person.

Authorised Version C2025C00595 registered 03/11/2025

Division 3—Qualification for health care card

Subdivision A—Qualification for automatic issue health care card

1061ZK Qualification: general rules

(1) A person is qualified for a health care card on a day if this section applies to the person on that day.

(2) This section applies to a child on a day if a person is qualified under Part 2.19 for carer allowance for the child on that day.

(3) This section applies to a disabled child on a day if all of the following paragraphs are satisfied on that day:

(a) the child is or would, but for subsection 5(3), be a dependent child of another person (the ***carer***);

(b) because of his or her disability, the child needs, on a daily basis, a level of care and attention that is substantially more than that needed by a person of the same age who does not have a physical, intellectual or psychiatric disability;

(c) the child receives care and attention on a daily basis from:

(i) if the carer is a member of a couple—the carer, the carer's partner or the carer together with another person (whether or not the carer's partner); or

(ii) if the carer is not a member of a couple—the carer or the carer together with another person;

(d) that care and attention is received in a private home that is the residence of the child and the carer;

(e) the carer satisfies the carer allowance income test under section 957A.

Note: For ***disabled child***, see subsection (8).

(3A) This section applies to a person on a day if a person is qualified under section 197G or 197H or subsection 198AA(4) or (5)

Authorised Version C2025C00595 registered 03/11/2025

(whether or not because of section 197F) for a carer payment on that day.

(4) This section applies to a person on a day if, on that day:
(a) the person is entitled, under the Family Assistance Administration Act, to be paid family tax benefit by instalment; and
(b) the person's daily rate of family tax benefit consists of, or includes, a Part A rate calculated under Part 2 or 3A of Schedule 1 to the Family Assistance Act that is greater than nil (disregarding reductions (if any) under clause 5 of that Schedule); and
(c) the person's income excess for the purposes of Division 2C of Part 5 of Schedule 1 to the Family Assistance Act is nil.

(4A) This section applies to a person on a day if, on that day:
(a) the person has a regular care child; and
(b) the person is not entitled, under the Family Assistance Administration Act, to be paid family tax benefit by instalment; and
(c) the person's income excess for the purposes of Division 2C of Part 5 of Schedule 1 to the Family Assistance Act is nil.

(5) This section applies to a person (other than a person who is qualified for a pensioner concession card because of subsection 1061ZA(2A), (2B), (2D) or (2E)) on a day if on that day the person is receiving:
(a) a youth allowance; or
(b) an austudy payment; or
(c) a jobseeker payment; or
(f) benefit PP (partnered); or
(h) special benefit.

(6) This section applies to a person on a day if on that day:
(a) the person is receiving a payment under the ABSTUDY Scheme that includes an amount identified as living

Authorised Version C2025C00595 registered 03/11/2025

allowance, where the person satisfies the eligibility criteria for that payment; or

(b) another person, on behalf of the person, is receiving a payment under the ABSTUDY Scheme that includes an amount identified as living allowance.

(7) This section applies to a person on a day if, on that day, the person is receiving mobility allowance.

(8) In subsection (3):

disabled child means a person aged under 16 years and 3 months who:

(a) has a physical, intellectual or psychiatric disability; and

(b) is likely to suffer from that disability permanently or for an extended period.

(9) This section has effect subject to section 1061ZN.

1061ZM Qualification for health care card: employment-affected person

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

(a) either:

(i) a person who is an employment-affected person or the partner of such a person commences employment; or

(ii) there is an increase in the ordinary income from employment of a person who is an employment-affected person or the partner of such a person; and

(b) because either:

(i) the person or the partner commences employment; or

(ii) there is an increase in the ordinary income of the person or the partner from employment;

the person ceases to be an employment-affected person; and

(c) the person has been a qualified recipient for a continuous period of 52 weeks immediately before so ceasing;

Authorised Version C2025C00595 registered 03/11/2025

the person is qualified for a health care card for the period of 26 weeks starting on the day on which the person ceases to be an employment-affected person.

(1A) If the person is qualified for a health care card under section 1061ZMA until a day (the ***particular day***), subsection (1) has effect as if the reference to 26 weeks starting on the day on which the person ceases to be an employment-affected person were a reference to 26 weeks starting on the particular day.

(1B) If the person:

(a) was an employment-affected person because of receiving pension PP (single); and

(b) is qualified for a pensioner concession card under section 1061ZEA until a day (the ***particular day***);

subsection (1) has effect as if the reference to the period of 26 weeks starting on the day on which the person ceases to be an employment-affected person were a reference to the period starting on the particular day and ending 26 weeks after the person ceases to be an employment-affected person.

(1BA) If the person:

(a) was an employment-affected person because of receiving youth allowance or jobseeker payment; and

(b) was, on the day on which the person ceased to be an employment-affected person, the principal carer of at least one child; and

(c) is qualified for a pensioner concession card under section 1061ZEA until a day (the ***particular day***);

subsection (1) has effect as if the reference to the period of 26 weeks starting on the day on which the person ceases to be an employment-affected person were a reference to the period starting on the particular day and ending 26 weeks after the person ceases to be an employment-affected person.

Note: For ***principal carer*** see subsections 5(15) to (24).

Authorised Version C2025C00595 registered 03/11/2025

(1C) If the person:

(a) is qualified for a health care card under section 1061ZMA until a particular day; and

(b) has, immediately before the commencement or increase mentioned in subsection (1), been a qualified recipient because of receiving jobseeker payment or youth allowance, other than while undertaking full-time study or being a new apprentice, for a continuous period of less than 52 weeks;

the person is taken, for the purpose of the reference in paragraph (1)(c) to a continuous period of 52 weeks, to be receiving the payment or allowance until the particular day.

(2) If, during the period of 26 weeks referred to in subsection (1) (including that subsection as modified by subsection (1A)) or the period provided by subsection (1B), a person receives a payment of a social security pension or benefit specified in the definition of ***employment-affected person*** in subsection (3) that relates to one or more days within that period, the person ceases to be qualified under this section for a health care card on the day on which the person receives the payment.

(3) In this section:

employment-affected person means:

(a) a person who is receiving any of the following:

(i) pension PP (single);

(ii) jobseeker payment;

(iv) special benefit; or

(b) a person who is receiving a youth allowance but who:

(i) is not undertaking full-time study; and

(ii) is not a new apprentice.

qualified recipient means:

(a) a person who is receiving:

(i) a social security pension, other than a pension under Part 2.16; or

Authorised Version C2025C00595 registered 03/11/2025

(ii) a social security benefit, other than a youth allowance or austudy payment; or

(b) a person who is receiving a youth allowance but who:

(i) is not undertaking full-time study; and

(ii) is not a new apprentice.

(4) This section has effect subject to section 1061ZN.

1061ZMA Further extended qualification rule: loss of payment because of employment income

(2) If:

(a) a person is receiving a social security pension or a social security benefit; and

(b) the person's rate of payment of the pension or benefit is worked out with regard to the income test module of a rate calculator in Chapter 3; and

(d) the person is qualified for a health care card; and

(e) the person or the person's partner has employment income; and

(f) the person ceases to receive a payment mentioned in subsection 1061ZK(5):

(i) if paragraph (e) applies to the person—because of the employment income of the person (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the person); or

(ii) if paragraph (e) applies to the partner—because of the employment income of the partner (either alone or in combination with any other ordinary income earned, derived or received, or taken to have been earned, derived or received, by the partner); and

(g) but for the employment income, or the combined income, referred to in paragraph (f), the person would have been, or would have continued to be, qualified for a health care card under section 1061ZK because the person would have

Authorised Version C2025C00595 registered 03/11/2025

continued to receive the payment mentioned in subsection 1061ZK(5); and

(ga) the person:

(i) in the case of a person who ceases to receive benefit PP (partnered)—continues, but for the requirement to have at least one PP child, to be qualified for that benefit; and

(ii) in any other case—continues to be qualified for the payment referred to in subsection 1061ZK(5);

the person is qualified for a health care card until:

(h) 24 weeks after the end of the instalment period in which the person ceases to receive the pension or benefit; or

(j) the day the person would cease to be qualified for a health care card as mentioned in paragraph (g) for a reason other than the employment income, or the combined income, referred to in paragraph (f); or

(k) the day the person ceases to be qualified as mentioned in paragraph (ga);

whichever happens first.

(3) If, during the period of 24 weeks referred to in subsection (2), a person receives a payment of a social security pension or benefit specified in the definition of ***employment-affected person*** in subsection (4) that relates to one or more days within that period, the person ceases to be qualified under this section for a health care card on the day on which the person receives the payment.

(4) In this section:

employment-affected person has the same meaning as it has for the purposes of section 1061ZM.

(5) This section has effect subject to section 1061ZN.

1061ZN Residence requirement

(1) Sections 1061ZK, 1061ZM and 1061ZMA only have effect in relation to a person on a day on which:

(a) the person is in Australia and is:

Authorised Version C2025C00595 registered 03/11/2025

(i) an Australian resident or 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 person:

(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.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a health care card for a maximum period of up to 6 weeks (see Division 4).

(2) 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 (1)(a)(iii) applies.

(3) The circumstances that may be specified in a declaration under subsection (2) include circumstances that existed or exist at any time before or after the making of the declaration.

1061ZNA Effect of compliance penalty periods

(1) For the purposes of this Subdivision, a person is taken to have been receiving, or to be receiving, a social security pension or social security benefit if the person would have been receiving, or would be receiving, the pension or benefit except for the application of a compliance penalty period.

Note: For ***compliance penalty period*** see subsection 23(1).

Authorised Version C2025C00595 registered 03/11/2025

(2) For the purposes of this Subdivision, a person is taken to have ceased to receive a social security pension or social security benefit if:

(a) the person would have ceased to receive the pension or benefit if the person had been receiving it; and

(b) the person had not been receiving the pension or benefit because of the application of a compliance penalty period.

Note: For ***compliance penalty period*** see subsection 23(1).

Subdivision B—Qualification for health care card in other circumstances

1061ZO Qualification

(1) A person is qualified for a health care card on a day if this section applies to the person on that day.

(2) This section applies to a person on a day if, on that day:

(a) in the case of a child—the person is:

(i) an Australian resident or a special category visa holder residing in Australia; or

(ii) living in Australia with an Australian resident or with a special category visa holder residing in Australia; and

(b) in the case of a person other than a child—the person is:

(i) an Australian resident or a special category visa holder residing in Australia; and

(ii) in Australia; and

(c) the person is neither an FTB child, nor a regular care child, aged over 16 years; and

(d) the person satisfies the health care card income test.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a health care card for a maximum period of up to 6 weeks (see Division 4).

Authorised Version C2025C00595 registered 03/11/2025

(3) This section applies to a person on a day if, on that day, the person:
  (a) is an Australian resident or a special category visa holder residing in Australia; and
  (b) is in Australia; and
  (c) is an FTB child, or a regular care child, who is 16 or more, but not yet 19, years of age; and
  (d) is not undertaking secondary studies; and
  (e) satisfies the health care card income test.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a health care card for a maximum period of up to 6 weeks (see Division 4).

(4) This section applies to a person on a day if, on that day, the person:
  (a) is an Australian resident or a special category visa holder residing in Australia; and
  (b) is in Australia; and
  (c) is an FTB child, or a regular care child, who is 19 or more years of age; and
  (d) satisfies the health care card income test.

Note: If the person is temporarily absent from Australia, the person continues to be qualified for a health care card for a maximum period of up to 6 weeks (see Division 4).

(5) This section applies to a child on a day if:
  (a) on that day, the child is in foster care; and
  (b) the child is living in Australia with an Australian resident or with a special category visa holder residing in Australia.

(7) 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 this section applies.

(8) The circumstances that may be specified in a declaration under subsection (7) include circumstances that existed or exist at any time before or after the making of the declaration.

Authorised Version C2025C00595 registered 03/11/2025

(9) This section applies to a person on a day if:

(a) on that day, the person:

(i) is aged at least 16 and has not turned 26; and

(ii) is a full-time student; and

(iii) is an Australian resident; and

(iv) is living in Australia; and

(b) on the day before the person turned 16:

(i) another person was qualified under Part 2.19 for carer allowance for the person; or

(ii) subsection 1061ZK(3) applied to the person; and

(c) on the day before the person turned 16, the person was qualified for, and held, a health care card.

Note: For ***Australian resident*** see subsection 7(2).

1061ZP Person subject to newly arrived resident's waiting period

This Subdivision does not apply to a person while the person is subject to a newly arrived resident's waiting period.

1061ZQ Newly arrived resident's waiting period

(1) Subject to this section, for the purposes of this Division, a person who has entered Australia is subject to a newly arrived resident's waiting period.

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

(a) has a qualifying residence exemption for a health care card; or

(b) has an FTB child; or

(c) has been an Australian resident, or a special category visa holder residing in Australia, and in Australia for a period of, or for periods totalling, 208 weeks; or

(d) holds, or formerly held, a visa included in a class of visas determined by the Minister for the purposes of subsection 739A(6); or

Authorised Version C2025C00595 registered 03/11/2025

(e) is not subject to a newly arrived resident's waiting period under subsection 739A(1) or (2) because of the operation of subsection 739A(7).

Note: For paragraph (a): for ***qualifying residence exemption*** in relation to a health care card, see paragraph 7(6AA)(f).

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

(a) the person is a refugee, or a former refugee, at the time the person made the claim for a health care card; or

(b) the following apply:

(i) before the person made the claim for a health care card, the person was a family member of another person at the time the other person became a refugee;

(ii) the person is a family member of that other person at the time the person made the claim for a health care card or, if that other person has died, the person was a family member of that other person immediately before that other person died; or

(c) the person is an Australian citizen at the time the person made the claim for a health care card.

(4) For the purposes of subsection (3):

(a) ***family member*** has the meaning given by subsection 7(6D); and

(b) ***former refugee*** has the meaning given by subsection 7(1); and

(c) ***refugee*** has the meaning given by subsection 7(6B).

1061ZR Duration of newly arrived resident's waiting period

(1) Subject to subsection (2), if a person is subject to a newly arrived resident's waiting period, the period:

(a) starts on the day on which the person first became an Australian resident or a special category visa holder residing in Australia; and

(b) ends when the person has been both:

Authorised Version C2025C00595 registered 03/11/2025

(i) an Australian resident or a special category visa holder residing in Australia; and

(ii) in Australia;

for a period of, or for periods totalling, 208 weeks.

(2) If:

(a) a person is subject to a newly arrived resident's waiting period; and

(b) before, on or after the commencement of this subsection, the person applied for a visa that is in a class of visas determined by the Minister for the purposes of paragraph 739A(3)(b);

the waiting period:

(c) starts on the day on which the person applied for that visa; and

(d) ends when the person has been in Australia for a period of, or for periods totalling, 208 weeks after that day.

Subdivision C—Miscellaneous provisions relating to health care cards

1061ZS Issue of health care cards

The Secretary must issue an automatic issue health care card to a person who is qualified for such a card.

1061ZT Certain dependants not qualified for health care card

(1) Subject to subsection (2), a person is not qualified for a health care card in respect of any day on which the person:

(a) is a dependant of any person; or

(b) is wholly or substantially dependent on:

(i) a resident of; or

(ii) a corporation carrying on business in; or

(iii) the government of;

a country other than Australia.

(2) Subsection (1) does not apply to:

Authorised Version C2025C00595 registered 03/11/2025

(a) a person who is the partner of another person; or
(b) a person who is qualified for a health care card under subsection 1061ZK(2) or (3) or subsection 1061ZO(3), (4), (5) or (9).

Authorised Version C2025C00595 registered 03/11/2025

Division 4—Non-cancellation of concession cards for temporary overseas absences

1061ZUA Persons to whom Division applies

(1) This Division applies to a person if:

(a) the person leaves Australia temporarily (see subsection (2)); and

(b) the person is continuously absent from Australia during a period (the ***period of absence***) beginning on the day the person leaves Australia; and

(c) any of the following applies:

(i) immediately before the period of absence commences, the person was the holder of a concession card;

(ii) during the period of absence, the person's claim for a seniors health card or a health care card is granted under the Administration Act;

(iii) during the period of absence, the person is issued an automatic issue card.

(2) For the purposes of paragraph (1)(a), in determining if an absence is temporary, regard must be had to:

(a) the purpose of the absence; and

(b) the intended duration of the absence.

1061ZUB Non-cancellation of concession cards for temporary overseas absences

(1) Throughout the person's maximum non-cancellation period (see subsection (3)), the person's qualification for the concession card is not affected merely by the absence.

(2) For a concession card (other than a seniors health card), throughout so much (if any) of the period of absence as occurs after the end of the period of 6 weeks beginning on the day the person leaves Australia, the person is not qualified for the concession card.

Authorised Version C2025C00595 registered 03/11/2025

(2A) For a concession card that is a seniors health card, throughout so much (if any) of the period of absence as occurs after the end of the period of 19 weeks beginning on the day the person leaves Australia, the person is not qualified for the concession card.

(3) For the purposes of subsection (1), a person's ***maximum non-cancellation period*** is the shorter of the following periods:

(a) the person's period of absence;

(b) the following:

(i) for a concession card (other than a seniors health card)—the period of 6 weeks beginning on the day the person leaves Australia;

(ii) for a concession card that is a seniors health card—the period of 19 weeks beginning on the day the person leaves Australia.

1061ZUC Extension cards

(1) This section applies if:

(a) a person qualifies for a concession card under the following section (the ***qualification section***):

(i) section 1061ZC, 1061ZCA, 1061ZCB, 1061ZD, 1061ZDA, 1061ZDB, 1061ZEB or 1061ZM;

(ii) section 1061ZEA as a result of the operation of subsection 1061ZEA(2A); and

(b) as a result of subsection 1061ZUB(1), the person's qualification for the card is not affected by a period of absence; and

(c) at the end of the period of 6 weeks mentioned in subsection 1061ZUB(2), the card is cancelled; and

(d) after that time, the person returns to Australia; and

(e) the person qualifies again for the card under the qualification section (and in the case of section 1061ZEA, the person qualifies as a result of the operation of subsection 1061ZEA(2A)); and

(f) the period for which the person was qualified under the qualification section has not yet ended.

Authorised Version C2025C00595 registered 03/11/2025

Section 1061ZUC

(2) To avoid doubt, the person continues to qualify for the concession card until the end of the period for which the person was qualified under the qualification section (unless the person ceases to be qualified for the card at an earlier time).

Authorised Version C2025C00595 registered 03/11/2025