

**Social Security (Job Search and Newstart) Amendment Act 1991**

**No. 68 of 1991**

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**Social Security (Job Search and Newstart)**

**Amendment Act 1991**

**No. 68 of 1991**

**An Act to amend the law relating to social security to provide for certain new allowances, and for related purposes**

[*Assented to 25 June 1991*]

The Parliament of Australia enacts:

**PART 1—PRELIMINARY**

**Short title**

**1.** This Act may be cited as the *Social Security (Job Search and Newstart) Amendment Act 1991.*

**Commencement**

**2.** This Act commences immediately after the commencement of the *Social Security Act 1991*1*.*

Note: The *Social Security Act 1991* commences on 1 July 1991.

**PART 2—AMENDMENTS OF THE SOCIAL SECURITY ACT 1991**

**Principal Act**

1. In this Part, **“Principal Act”** means the *Social Security Act 1991*1.
2. After section 5 of the Principal Act, the following section is inserted:

***Family relationships* definitions**—J**SA and NSA**

“5a. In Parts 2.11 and 2.12, unless the contrary intention appears:

**‘family member’** in relation to a person means:

1. the partner, father or mother of the person; or
2. a sister, brother or child of the person; or
3. another person who the Secretary considers should be treated for the purposes of those Parts as one of the person’s relations described in paragraph (a) or (b).”.

**5.** After section 14 of the Principal Act the following section is inserted:

***Social security benefit liquid assets test* definitions**

“14a. (1) In this Act, unless the contrary intention appears:

**‘liquid assets’**, in relation to a person, means the person’s cash and readily realisable assets, and includes:

1. the person’s shares and debentures in a public company within the meaning of the *Companies Act 1981*;and
2. amounts deposited with, or lent to, a bank or other financial institution by the person (whether or not the amount can be withdrawn or repaid immediately); and
3. amounts due, and able to be paid, to the person by, or on behalf of, a former employer of the person;

but does not include an amount that is a qualifying eligible termination payment for the purposes of Subdivision AA of Part III of the Income Tax Assessment Act;

**‘maximum reserve’**,in relation to a person, means:

1. if the person is not a member of a couple and does not have a dependent child—$5,000; or
2. in any other case—$10,000.

“(2) For the purposes of this Act, a person’s liquid assets are to be taken to include:

1. the liquid assets of the person’s partner; and
2. the liquid assets of the person and the person’s partner.

“(3) If:

1. during the 4 weeks immediately before a person claims job search allowance, newstart allowance or sickness benefit, the person or the person’s partner transfers liquid assets to a person of any age who is the natural or adopted child of the person or the partner; and
2. either:

(i) the person transferring receives no consideration or inadequate consideration, in money or money’s worth for the transfer; or

(ii) the Secretary is satisfied that the purpose, or the dominant purpose, of the transfer was to enable the claimant to obtain job search allowance, newstart allowance or sickness benefit;

then the transfer is to be taken, for the purposes of this section, not to have occurred.”.

**General definitions**

**6.** Section 23 of the Principal Act is amended:

**(a)** by omitting from subsection (1) the definitions of “JSA automatic deferment provision” and “JSA discretionary deferment provision” and substituting the following definitions:

“ **‘JSA automatic deferment provision’** (job search allowance deferment provision) means:

1. subsection 542 (1) (failure to satisfy activity test); or
2. subsection 543 (3) (failure to comply with Secretary’s requirements); or
3. subsection 544 (1) (unemployment due to voluntary act); or
4. subsection 545 (1) (unemployment due to misconduct); or
5. subsection 546 (1) (refusal of job offer); or

(f) subsection 547 (1) (failure to comply with notification requirement);

**‘JSA discretionary deferment provision’** (job search allowance discretionary deferment provision) means:

1. subsection 543 (1) (failure to comply with Secretary’s requirements); or
2. subsection 548 (1) (failure to continue CES registration); or
3. subsection 549 (1) (seasonal workers); or
4. subsection 550 (1) (lower employment prospects);”;

**(b)** by inserting in subsection (1) the following definitions:

“ **‘automatic deferment provision’** means:

1. a JSA automatic deferment provision; or
2. a NS automatic deferment provision; or

(c) section 126 of the *Social Security Act 1947*;

**‘Employment Department’** means the Department of Employment, Education and Training;

**‘Employment Secretary’** means the Secretary to the Employment Department;

**‘NS allowance automatic deferment provision’** (newstart automatic allowance deferment provision) means:

1. subsection 624 (1) (failure to satisfy activity test); or
2. subsection 625 (1) (failure to enter Newstart Activity Agreement); or
3. subsection 626 (1) (failure to comply with Newstart Activity Agreement); or
4. subsection 627 (3) (failure to comply with Secretary’s requirements); or
5. subsection 628 (1) (unemployment due to voluntary act); or
6. subsection 629 (1) (unemployment due to misconduct); or
7. subsection 630 (1) (refusal of job offer); or

(h) subsection 631 (1) (failure to comply with notification requirements);

**‘NS discretionary deferment provision’** (newstart allowance discretionary deferment provision) means:

1. subsection 627 (1) (failure to comply with Secretary’s requirements); or
2. subsection 632 (1) (failure to continue CES registration); or
3. subsection 633 (1) (seasonal workers); or
4. subsection 634 (1) (lower employment prospects);”;

**(c)** by inserting after subsection (4) the following subsection:

“(4a) A person registered by the CES as being unemployed is registered in an **allowance category** as being unemployed if the person is registered in a category approved by the Employment Secretary for the purposes of Parts 2.11 and 2.12 as being unemployed.

Note: the CES registers the unemployed in various categories. To be qualified for a job search allowance or a newstart allowance a person must be registered in one of those categories that has been approved for the purposes of those allowances.” ;

**(d)** by inserting after subsection (10) the following subsections:

“(10a) If a person is subject to a liquid assets test disqualification period for a social security benefit, the person

is to be taken to have **served the disqualification period** if, and only if:

1. the disqualification period has ended; and
2. the person was, apart from the liquid assets test provision concerned, qualified for the benefit throughout so much of the disqualification period as occurs after the claim for the benefit was made.

“(10b) For the purposes of subsection (10a), the liquid assets test provisions are sections 519 and 598.”.

7. Parts 2.11 and 2.12 of the Principal Act are repealed and the following Parts substituted:

**“PART 2.11— JOB SEARCH ALLOWANCE**

***“Division 1*—*Qualification for and payability of job search allowance***

***“Subdivision A*—*Basic qualifications***

**Qualification for job search allowance**

“513. Subject to sections 514, 515 and 519, a person is qualified for a job search allowance in respect of a period if:

1. the person satisfies the Secretary that throughout the period the person is unemployed; and
2. throughout the period, or for each period within the period, the person either:

(i) satisfies the activity test; or

(ii) is not required to satisfy the activity test; and

(c) throughout the period, the person:

(i) is at least 16 and has not reached the pension age; and

 (ii) is an Australian resident; and

(iii) is in Australia; and

(iv) is registered by the CES in an allowance category as being unemployed; and

(d) throughout the period, or throughout each period within the period, the person:

(i) has not turned 18; or

(ii) has turned 18 but has not been registered as required by subparagraph (c) (iv) for longer than 12 months.

Note 1: a person may be treated as unemployed (see section 516).

Note 2: the activity test is set out in section 522.

Note 3: ‘CES’ means Commonwealth Employment Service (see section 23).

Note 4: for ‘pension age’ see section 23.

Note 5: for ‘Australian resident’ see section 7.

Note 6: for ‘allowance category’ see subsection 23 (4a).

Note 7: a person may not be qualified if the person’s unemployment is due to industrial action (see section 517).

Note 8: 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 518).

Note 9: where circumstances beyond a person’s control prevent the person from being registered by the CES, this requirement may be waived (see section 520).

Note 10: a person unregistered by the CES for up to 6 weeks may be taken to be registered (see section 520).

Note 11: a job search allowance is not payable in certain situations even if the person is qualified (see Subdivisions C, D or E).

Note 12: a job search allowance may continue to be paid during incapacity (see section 514).

Note 13: qualification for a job search allowance may continue to end of last pay period (see section 515).

**Effect of incapacity on qualification**

“514. (1) In this section:

**‘change day’**,in relation to a person, means the day on which the person ceases to be qualified for a job search allowance because of paragraph 513 (d) (turning 18 and being registered for longer than 12 months);

**‘sickness period’**,in relation to a person, means a period:

1. for which the person would be qualified for a sickness benefit under section 666 if subsection 666 (3) were disregarded; and
2. that begins while the person is receiving a job search allowance.

“(2) A person is qualified for a job search allowance in respect of:

1. a sickness period of the person all of which occurs before the person turns 18; or
2. so much of a sickness period of the person as occurs before the person turns 18.

“(3) Subject to subsections (4) and (5), but without limiting subsection (2), a person is qualified for a job search allowance in respect of a sickness period of the person that the Secretary does not expect to be longer than 6 weeks.

“(4) If:

1. a person is qualified for a job search allowance in respect of a period under subsection (3); and
2. the period lasts for longer than 6 weeks;

the person ceases to be qualified for a job search allowance 6 weeks after the period began.

“(5) A person is not qualified for a job search allowance in respect of any part of a sickness period that occurs after the person’s change day.

**Job search allowance may continue to end of payment period**

“515. If:

1. a person is in receipt of a job search allowance; and
2. but for this section, the person would cease on a particular day to be qualified for the allowance because of paragraph 513 (d); and
3. that day falls in, and is not the last day of, a period for which an instalment of job search allowance is payable to the person;

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

**Persons may be treated as unemployed**

“516. (1) If:

1. a person undertakes paid work during a period; and
2. the Secretary is of the opinion that, taking into account:

(i) the nature of the work; and

(ii) the duration of the work; and

(iii) any other matters relating to the work that the Secretary considers relevant;

the work should be disregarded;

the Secretary may treat the person as being unemployed throughout the period.

“(2) A person complying with a requirement under subsection 522 (2) (activity test) is to be treated by the Secretary as being unemployed.

**Unemployment due to industrial action**

“517. (1) A person is not qualified for a job search allowance 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, or having been, engaged in industrial action or in a series of industrial actions.

“(2) A person is not qualified for a job search allowance in respect of a period unless the Secretary is satisfied:

1. 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
2. the people, or some of the people, were members of a trade union which was involved in the industrial action; and
3. the person was not a member of the trade union during the period.

“(3) Subsections (1) and (2) do not prevent a person from being qualified for a job search allowance 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.

**Move to area of lower employment prospects**

“518. (1) Subject to subsection (2), a person is not qualified for a job search allowance on a day on which, in the opinion of the Secretary, the person has reduced his or her employment prospects by moving to a new place of residence without sufficient reason.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(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:

1. moves to live with a family member who has already established his or her residence in that place of residence; or
2. moves to live near a family member who has already established residence in the same area; or
3. 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.

Note: for ‘family member’ see section 5a.

**Liquid assets test disqualification**

“519. (1) Subject to subsections (5), (6), (7) and (8), if:

(a) the value of a person’s liquid assets exceeds the person’s maximum reserve on:

(i) the day on which the person becomes unemployed; or

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

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

the person is not qualified for a job search allowance 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 ‘transferee to a job search allowance’ see subsections 23 (6) and (7).

Note 4: for serving the liquid assets test waiting period see subsection 23 (10).

“(2) The liquid assets test waiting period in relation to the claim lasts for 4 weeks.

“(3) Subject to subsection (4), the liquid assets test waiting period in relation to the claim starts on the day on which the person becomes unemployed.

“(4) If:

1. a person becomes incapacitated for work; and
2. because of section 668a (sickness benefit liquid assets test waiting period), the person is not qualified for sickness benefit during the period of 4 weeks that starts on the day on which the person becomes incapacitated for work; and
3. within that period of 4 weeks:

(i) the person ceases to be incapacitated for work; and

(ii) the person becomes registered by the CES in an allowance category as being unemployed; and

(d) within 14 days after the day on which the person becomes so registered by the CES, the person claims a job search allowance;

the liquid assets test waiting period starts on the day on which the person becomes incapacitated for work.

“(5) If the Secretary is satisfied that the application of subsection (1) to a person will cause undue long term disadvantage or significant hardship to the person, the Secretary may:

1. waive the application of that subsection to the person; and
2. authorise the payment of a job search allowance to the person.

“(6) Subsection (1) does not apply to a person if both of the following conditions apply:

1. the person is a transferee to job search allowance;
2. the person claims the job search allowance:

(i) within 14 days of the transfer day; or

(ii) where the person becomes registered by the CES in an allowance category as being unemployed within 14 days after the transfer day—within 14 days of the person becoming so registered or such further period as the Secretary considers reasonable.

“(7) Subsection (1) does not apply to a person who becomes qualified for a job search allowance at the end of a period for which, under subsection 520 (3), the person is taken to have been registered by the CES in an allowance category as being unemployed (non-registration up to 6 weeks).

“(8) Subsection (1) does not apply to a person:

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

**Registration by CES**

“520. (1) The Secretary may decide that a person does not have to satisfy subparagraph 513 (c) (iv) (CES registration) for a period if:

1. the person was not registered as unemployed by the CES during the period; and
2. the Secretary is satisfied that there are circumstances beyond the person’s control relating to the person’s failure to be registered; and
3. having regard to those circumstances, the Secretary is satisfied that the person’s failure to be registered should be disregarded in respect of the period.

“(2) If, because of subsection (1), a person does not have to satisfy subparagraph 513 (c) (iv) for a period, then, for the purposes of subparagraph 513 (d) (ii) (registration not to be longer than 12 months), the period is one for which the person is taken to be registered as required by subparagraph 513 (c) (iv).

“(3) If a person:

1. is registered by the CES in an allowance category as being unemployed; and
2. ceases for a period of not longer than 6 weeks to be registered by the CES in an allowance category as being unemployed; and
3. at the end of that period becomes registered by the CES in an allowance category as being unemployed;

then, for the purposes of subparagraph 513 (d) (ii), the person is taken to have been registered throughout that period by the CES in an allowance category as being unemployed.

Note: ‘CES’ means Commonwealth Employment Service (see section 23).

**Prospective determinations for some allowees**

“521. (1) A person is qualified for job search allowance in respect of a period, if:

(a) the person was, immediately before starting to receive job search allowance, receiving:

(i) a social security benefit; or

(ii) a sheltered employment allowance; or

(iii) a rehabilitation allowance; and

1. the last payment of that benefit or allowance was made in respect of a period that ended after the day on which the payment was made; and
2. the person may, in the Secretary’s opinion, reasonably be expected to satisfy the qualification requirements for job search allowance (see sections 513 to 520) during the period.

“(2) A person is qualified for job search allowance for a period, if the person:

(a) has turned 55 and:

(i) in the case of a woman—has not turned 59 and 6 months; and

(ii) in the case of a man—has not turned 64 and 6 months; and

1. is in receipt of a job search allowance; and
2. has in the previous 12 months been in continuous receipt of one or a combination of the following:

(i) a job search allowance;

(ii) a newstart allowance;

(iii) an unemployment benefit under the *Social Security Act 1947*;

(iv) a sickness benefit;

(v) a special benefit; and

1. is not indebted to the Commonwealth under or as a result of this Act;
2. is not, in the Secretary’s opinion, likely to be employed; and
3. will, in the Secretary’s opinion, comply with the requirements of this Act; and
4. may, in the Secretary’s opinion, reasonably be expected to satisfy the qualification requirements for job search allowance (see sections 513 to 520) during the period.

“(3) A person is qualified for job search allowance for a period if:

1. the person is in receipt of job search allowance; and
2. the person was granted unemployment benefit under the *Social Security Act 1947* before 1 November 1977; and
3. the person may, in the Secretary’s opinion, reasonably be expected to satisfy the qualification requirements for job search allowance (see sections 513 to 520) during the period.

***“Subdivision B*—*Activity test***

**Activity test**

“522. (1) Subject to subsection (3), a person satisfies the activity test in respect of a period if the person satisfies the Secretary that, throughout the period, the person is:

1. actively seeking; and
2. willing to undertake;

paid work that in the opinion of the Secretary is suitable to be undertaken by the person.

“(2) A person also satisfies the activity test in respect of a period if:

(a) the Secretary is of the opinion that, throughout the period, the person:

(i) should undertake particular paid work that, in the opinion of the Secretary, is suitable to be done by the person; or

(ii) should:

(a) undertake a course of vocational training; or

(b) participate in a labour market program; or

(c) participate in another course;

approved by the Employment Secretary which is likely to:

(d) improve the person’s prospects of obtaining suitable paid work; or

(e) assist the person in seeking suitable paid work; or

(iii) in a case where the person lives in an area where:

(a) there is no locally accessible labour market; and

(b) there is no locally accessible vocational training course or labour market program;

should participate in an activity suggested by the person and approved by the CES; and

1. the Secretary notifies the person that the person is required to act in accordance with the opinion; and
2. the person takes reasonable steps to comply, throughout the period, with the Secretary’s requirement.

Note: for ‘Employment Secretary’ see section 23.

“(3) If a person fails to take reasonable steps to comply, throughout a period, with a requirement of the Secretary under subsection (2), the person cannot be taken to satisfy the activity test in respect of that period in spite of any compliance of the person with subsection (1).

Note: for situations where a person is not required to satisfy the activity test see:

1. section 523 (persons attending training camps);
2. section 524 (certain allowees under 18 engaged in voluntary work).
3. section 525 (certain allowees over 55 engaged in voluntary work).

**Relief from activity test—general**

“523. (1) A person is taken to satisfy the activity test in respect of a period when the person is attending a training camp as a member of:

1. the Australian Naval Reserve; or
2. the Naval Emergency Reserve Forces; or
3. the Australian Army Reserve; or
4. the Australian Airforce Reserve; or
5. the Airforce Emergency Force; or

(f) the Regular Army Emergency Reserve.

“(2) Where the Secretary considers that:

(a) it would be reasonable to assume that:

(i) at the end of a period a person is present in an area described in subparagraph 522 (2) (a) (iii); and

(ii) the person is throughout the period:

(a) unemployed; and

(b) capable of undertaking paid work that in the Secretary’s opinion is suitable to be undertaken by the person; and

(c) willing to undertake paid work that in the Secretary’s opinion is suitable to be undertaken by the person; and

(b) having regard to all the relevant factors, including:

(i) the location of offices of the Department; and

(ii) difficulties with transport and communication; and

(iii) the educational and cultural background of the person;

it would be unreasonable to expect the person to comply with the activity test in order to be qualified for job search allowance for that period;

then, unless the person has been notified of a requirement under subsection 522 (2) in relation to the period, the person is taken to satisfy the activity test during that period.

Note 1: for ‘activity test’ see section 522.

Note 2: for ‘remote area’ see section 14.

**Relief from activity test—certain allowees under 18 engaged in voluntary work**

“524. (1) Subject to subsection (2), a person who has not turned 18 is not required to satisfy the activity test in respect of a period if:

1. on each day in the period the person is engaged in full-time voluntary work with an approved organisation; and
2. the person has been a qualified beneficiary for at least 3 months immediately before the person starts working for the organisation.

Note 1: for ‘approved organisation’ and ‘qualified beneficiary’ see section 15.

Note 2: for ‘activity test’ see section 522.

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

(a) there are already 20 days in the same calendar year on which

the person is not required to satisfy the activity test because of subsection (1); or

(b) having regard to the opportunities, or possible opportunities, for employment that become available to the person on or before the day, the Secretary considers that subsection (1) should not apply in relation to that day.

**Relief from activity test—certain allowees over 55 engaged in voluntary work**

“525. (1) Subject to subsection (2), a person is not required to satisfy the activity test in respect of a period if, on each day in the period:

1. the person is at least 55; and
2. the person is engaged in full-time voluntary work within an approved organisation.

Note 1: for ‘approved organisation’ see section 15.

Note 2: for ‘activity test’ see section 522.

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

1. there are already 65 consecutive days in the same calendar year on which the person is not required to satisfy the activity test because the person is working for that organisation; or
2. having regard to the opportunities, or possible opportunities, for employment that become available to the person on or before the day, the Secretary considers that subsection (1) should not apply in relation to that day.

***“Subdivision C*—*Situations where allowance not payable (general)***

**Job search allowance not payable in certain situations**

“526. (1) A job search allowance is not payable to a person for a period during which the person is qualified for job search allowance (see section 513) if during that period:

1. the person has not provided a tax file number for the person (see section 527) or for the person’s partner (see section 528); or
2. the value of the person’s assets exceeds the person’s assets value limit (see sections 529 and 530); or
3. the person is a full-time student (see section 531); or
4. another income support payment is being paid to the person (see section 532); or
5. the job search allowance has not commenced to be payable (see sections 534 and 562); or

(f) the person is subject to an unused annual leave waiting period

and has not served that waiting period (see sections 535 to 537); or

(g) the person is subject to an ordinary waiting period and has not served that waiting period (see sections 538 and 539); or

(h) the person is subject to an education leavers waiting period and that period has not ended (see sections 540 and 541); or

(i) the person fails to comply with a requirement that the person:

(i) attend an office of the Department or of the CES; or

(ii) contact the Department or the CES; or

(iii) give information;

as required by section 543; or

(j) a period of non-payment has been imposed because:

(i) the person had previously ceased to be qualified for job search allowance for failure to satisfy the activity test (see section 542); or

(ii) the person had previously failed to comply with a requirement (see section 543) to:

(a) attend an office of the Department or of the CES; or

(b) contact the Department or the CES; or

(c) give information; or

(iii) the person’s unemployment is due to a voluntary act of the person (see section 544); or

(iv) the person’s unemployment is due to misconduct by the person (see section 545); or

(v) the person has refused an offer of employment (see section 546); or

(vi) the person failed to comply with notification requirements (see section 547); or

(vii) the person had previously ceased to be qualified for job search allowance because the person was not registered with the CES in an allowance category as being unemployed (see section 548); or

(viii) the person is a seasonal worker (see section 549); or

(ix) the person moved to an area of lower employment prospects (see section 550); or

(k) the person is in gaol (see Part 3.13); or

(l) the person is subject to a compensation preclusion period (see Part 3.14).

Note 1: for ‘serving a waiting period’ see subsection 23 (10).

Note 2: ‘CES’ means Commonwealth Employment Service (see section 23).

Note 3: for ‘allowance category’ see subsection 23 (4a).

“(2) A job search allowance is not payable to a person if the person’s job search allowance rate would be nil.

**Provision of tax file number**

“527. (1) A job search allowance is not payable to a person unless:

1. the person has given the Secretary a written statement of the person’s tax file number; or
2. the person has given the Secretary an employment declaration and satisfies either subsection (2) or (3).

Note: the Secretary can require a person to quote tax file number under section 1308.

“(2) A person satisfies this subsection if:

(a) the employment declaration states that the person:

(i) has a tax file number but does not know what it is; and

(ii) has asked the Commissioner of Taxation to inform him or her of the number; and

(b) the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:

(i) whether the person has a tax file number; and

(ii) if the person has a tax file number—the tax file number; and

(c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

“(3) A person satisfies this subsection if:

1. the employment declaration states that an application by the person for a tax file number is pending; and
2. the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:

(i) if a tax file number is issued to the person—the tax file number; or

(ii) if the application is refused—that the application has been refused; or

(iii) if the application is withdrawn—that the application has been withdrawn; and

1. the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
2. the application for a tax file number has not been withdrawn.

**Provision of partner’s tax file number**

“528. (1) Subject to subsection (4), a job search allowance is not payable to a person if:

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

1. the person is required under section 555 or 573 to give the Secretary a written statement of the tax file number of the person’s partner; and
2. at the end of the period of 28 days after the requirement is made the person has neither:

(i) given the Secretary a written statement of the partner’s tax file number; nor

(ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

(a) the partner’s declaration states that the partner:

(i) has a tax file number but does not know what it is; and

(ii) has asked the Commissioner of Taxation to inform the partner of the partner’s number; and

(b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:

(i) whether the partner has a tax file number; and

(ii) if the partner has a tax file number—the tax file number; and

(c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

1. the partner’s declaration states that an application by the partner for a tax file number is pending; and
2. the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:

(i) if a tax file number is issued to the partner—the tax file number; or

(ii) if the application is refused—that the application has been refused; or

(iii) if the application is withdrawn—that the application has been withdrawn; and

1. the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
2. the application for a tax file number has not been withdrawn.

“(4) The Secretary may waive the requirement for a statement of the partner’s tax file number if the Secretary is satisfied that:

(a) the person does not know the partner’s tax file number; and

(b) the person can obtain none of the following from the partner:

(i) the partner’s tax file number;

(ii) a statement of the partner’s tax file number;

(iii) a declaration by the partner under subparagraph (1) (c)(ii).

**Assets test—allowance not payable if assets value limit exceeded**

“529. (1) A job search allowance is not payable to a person if:

1. the person is not excluded from the job search allowance assets test; and
2. the value of the person’s assets exceeds the person’s assets value limit.

“(2) A person is excluded from the job search allowance assets test if the person:

1. has not turned 18; and
2. is not a member of a couple; and
3. does not have a dependent child; and
4. is not an independent young person; and
5. is not a homeless person.

“(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 3assets value limit |
| item | person’s family situation | column 3aeither person or partner homeowner | column 3bneither person nor partner homeowner |
| 1. | Not member of a couple | $110,750 | $190,250 |
| 2. | Partnered (partner getting neither pension nor allowance) | $157,500 | $237,000 |
| 3. | Partnered (partner getting pension or allowance) | $78,750 | $118,500 |

Note 1: for ‘member of a couple’, ‘partnered (partner getting neither pension nor allowance)’ and ‘partnered (partner getting pension or allowance)’ 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 530 (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 530 (2)).

Note 4: if a job search allowance 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)).

**Value of assets of members of couples**

“530. (1) If:

1. a person is a member of a couple; and
2. the person’s partner:

(i) is not in receipt of a social security or service pension; 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: ‘social security pension’ includes a sheltered employment or rehabilitation allowance.

“(2) If:

1. a person is a member of a couple; and
2. the person’s partner is in receipt of:

(i) a social security or service pension; or

(ii) a social security benefit;

the value of:

1. 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
2. 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.

**Full-time students**

“531. (1) Subject to subsection (2), a job search allowance is not payable to a person who is enrolled in a full-time course of education or vocational training for the period that:

1. starts when the person starts the course; and
2. 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

1. includes periods of vacation; and
2. does not include periods of deferment.

“(2) Subsection (1) does not prevent a job search allowance from being payable for any period during which:

1. a person is enrolled in a course that the Secretary has required the person to undertake under subsection 522 (2); or
2. the person has deferred a course of education.

**Multiple entitlement exclusion**

“532. (1) A job search allowance is not payable to a person if the person is already receiving a service pension.

“(2) If:

1. a person is receiving a job search allowance; and
2. a social security pension, another social security benefit or a service pension becomes payable to the person;

a job search allowance 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: ‘social security pension’ includes sheltered employment and rehabilitation allowances.

Note 3: for the day on which the job search allowance ceases to be payable see section 577.

“(3) A job search allowance is not payable to a woman if:

1. the woman is an armed services widow; and
2. the woman is receiving:

(i) 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; or

(ii) a pension under the *Seamen’s War Pensions and Allowances Act 1940* at a rate determined under subsection 18 (2) of that Act.

unless:

1. the woman has been receiving a payment referred to in subparagraph (b) (i) or (ii) continuously since before 1 November 1986; and
2. before 1 November 1986 the woman was also receiving a social security benefit.

Note: for ‘armed services widow’ see subsection 4 (1).

“(4) A job search allowance 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:

1. a prescribed educational scheme other than the ABSTUDY Tertiary Scheme to the extent that it applies to part-time students; or
2. the scheme to provide an allowance known as the Maintenance Allowance for Refugees.

Note: for ‘prescribed educational scheme’ see section 5.

“(5) If:

1. a person enrols in a full-time course of education; and
2. 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), job search allowance is payable to the person for a period before the person starts the course.

**Provisional commencement day**

*General rule*

“533. (1) Subject to subsections (2), (3), (4) and (5), a person’s provisional commencement day is the day on which the person claims a job search allowance.

*Initial incorrect claim followed by claim for job search allowance*

“(2) If:

(a) the person makes a claim (in this subsection called the **initial claim’**)for:

(i) a social security or service pension or a social security benefit; or

(ii) a pension, allowance, benefit or other payment under another Act, or under a program administered by the Commonwealth, that is similar in character to a job search allowance; and

1. on the day on which the person makes the initial claim, the person is qualified for job search allowance; and
2. the person subsequently makes a claim for job search allowance; and
3. the Secretary is satisfied that it is reasonable for this subsection to apply to the person;

the person’s provisional commencement day is, subject to subsections (3), (4) and (5), the day on which the person made the initial claim.

*Claim within 14 days of CES registration*

“(3) If:

1. a person is not a transferee to job search allowance; and
2. the person is not subject to an education leavers waiting period (see subsection 540 (1)); and
3. the person becomes registered by the CES in an allowance category as being unemployed; and
4. the day that would be the person’s provisional commencement day under subsections (1) and (2) occurs:

(i) within 14 days after becoming so registered by the CES; or

(ii) within such further period after becoming so registered by the CES as the Secretary considers reasonable;

the person’s provisional commencement day is the day on which the person became registered by the CES.

Note 1: for ‘transferee’ see subsections 23 (6) and (7).

Note 2: for ‘allowance category’ see subsection 23 (4a).

*Education leavers who claim within 14 days of CES registration*

“(4) If:

1. a person becomes registered by the CES in an allowance category as being unemployed; and
2. the person is subject to an education leavers waiting period (see subsection 540 (1));

the person’s provisional commencement day is:

(c) if the person becomes so registered by the CES before stopping the course and the day that would be the person’s provisional commencement day under subsections (1) and (2) occurs:

(i) within 14 days after stopping the course; or

(ii) within such further period after stopping the course as the Secretary considers reasonable;

the day after the last day on which the person was undertaking the course; or

(d) if the person becomes so registered by the CES after stopping the course and the day that would be the person’s provisional commencement day under subsections (1) and (2) occurs:

(i) within 14 days after becoming so registered by the CES; or

(ii) within such further period after becoming so registered by the CES as the Secretary considers reasonable;

the day on which the person became so registered by the CES.

*Transferees*

“(5) If a person is a transferee to job search allowance and:

1. the person claims the job search allowance within 14 days after the transfer day; or
2. both of the following subparagraphs are satisfied:

(i) the person becomes registered by the CES in an allowance

category as being unemployed within 14 days after the transfer day; and

(ii) the day that would be the person’s provisional commencement day under subsection (1) and (2) occurs:

(a) within 14 days after becoming so registered by the CES; or

(b) within such further period after becoming so registered by the CES as the Secretary considers reasonable;

the person’s provisional commencement day is the person’s transfer day.

Note 1: for ‘transferee to an allowance’ and ‘transfer day’ see subsections 23 (6) and (7).

Note 2: for ‘allowance category’ see subsection 23 (4a).

**Commencement of job search allowance**

“534. A job search allowance is not payable to a person who is qualified for the allowance before:

1. where the person is not subject to a waiting period—the person’s provisional commencement day; or
2. if the person is subject to one waiting period only—the first day after the end of that waiting period; or
3. if the person is subject to more than one waiting period—the first day after all of the waiting periods have ended.

Note 1: for ‘provisional commencement day’ see section 533.

Note 2: a waiting period is:

1. an unused annual leave waiting period (see sections 535 to 537); or
2. an ordinary waiting period (see sections 538 and 539); or
3. an education leavers waiting period (see sections 540 and 541).

If the person has an unused annual leave waiting period and an ordinary waiting period, the ordinary waiting period will follow the unused annual leave waiting period (see subsection 539 (2)). If the person has an education leavers waiting period and another waiting period, the education leavers waiting period runs concurrently with the other waiting period and the job search allowance will not be payable until the longest waiting period has finished.

***“Subdivision D***—***Situations where allowance not payable (waiting periods)***

**Unused annual leave waiting period**

“535. (1) Subject to subsections (2), (3) and (4), a person is subject to an unused annual leave waiting period if:

1. when the person became unemployed, the person became entitled to receive a payment for unused annual leave; and
2. the person’s provisional commencement day occurs within the notional leave period.

“(2) Subsection (1) does not apply to a person if both of the following conditions apply:

1. the person is a transferee to job search allowance;
2. the person claims the job search allowance:

(i) within 14 days of the transfer day; or

(ii) where the person becomes registered by the CES in an allowance category as being unemployed within 14 days after the transfer day—within 14 days of the person becoming so registered or such further period as the Secretary considers reasonable.

“(3) Subsection (1) does not apply to a person who becomes qualified for a job search allowance at the end of a period for which, under subsection 520 (3), the person is taken to have been registered by the CES in an allowance category as being unemployed (nonregistration up to 6 weeks).

“(4) Subsection (1) does not apply to a person:

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: for ‘unused annual leave’ see section 23.

Note 2: for ‘notional leave period’ see section 536.

Note 3: for ‘provisional commencement day’ see section 533.

Note 4: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 5: for ‘Employment Secretary’ see section 23.

**Notional leave period**

“536. (1) A person’s notional leave period is the period that:

1. starts on the day after the day on which the person’s employment has ended; and
2. runs for the number of days for which the person has unused annual leave as calculated under subsections (2) and (3).

“(2) Subject to subsection (3), the number of days for which the person has unused annual leave is worked out as follows:

1. if the period of unused annual leave is expressed in weeks—multiply by 7 the number of weeks (including fractions of weeks) in the period of unused annual leave and disregard any fraction that results;
2. in any other case—multiply by 7 the number of working weeks (including any fraction of a working week) represented by the period of unused annual leave and disregard any fraction that results.

“(3) The number of days for which a person has unused annual leave cannot exceed 28 days.

**Duration of unused annual leave waiting period**

“537. A person’s unused annual leave waiting period starts on the day after the day on which the person’s employment has ended and finishes on the last day of the notional leave period.

Note 1: for ‘notional leave period’ see section 536.

Note 2: an unused annual leave waiting period may apply to a person whether or not the person is subject to an ordinary waiting period. If the person is subject to an ordinary waiting period, that period will start after the unused annual leave waiting period (see subsection 539 (2)).

Note 3: for ‘provisional commencement day’ see section 533.

**Ordinary waiting period**

“538. A person is subject to an ordinary waiting period unless:

1. the person has served an ordinary waiting period that ended not more than 12 weeks before the person’s provisional commencement day; or
2. both of the following conditions apply:

(i) the person is a transferee to job search allowance;

(ii) the person claims the job search allowance:

(a) within 14 days of the transfer day; or

(b) where the person becomes registered by the CES in an allowance category as being unemployed within 14 days after the transfer day—within 14 days of the person becoming so registered or such further period as the Secretary considers reasonable; or

(c) in the case of a person who:

(i) has not turned 18; and

(ii) has been registered for longer than 12 months by the CES in an allowance category as being unemployed;

at some time in the 13 weeks immediately before the person’s provisional commencement day, a job search allowance stopped being payable to the person; or

1. the person becomes qualified for a job search allowance at the end of a period for which, under subsection 520 (3), the person is taken to have been registered by the CES in an allowance category as being unemployed (non-registration up to 6 weeks); or
2. the person:

(i) has started formal vocational training in a labour market program approved by the Employment Secretary; and

(ii) has been exempted from the application of this section by the Employment Secretary; or

(f) the Secretary is satisfied that the person would suffer severe financial hardship if the person were subject to the ordinary waiting period.

Note 1: for ‘transferee to an allowance’ and ‘transfer day’ see subsections 23 (6) and (7).

Note 2: ‘CES’ means Commonwealth Employment Service (see section 23).

Note 3: for ‘provisional commencement day’ see section 533.

Note 4: for ‘ordinary waiting period’ see subsection 23 (1).

Note 5: for ‘allowance category’ see subsection 23 (4a).

Note 6: for ‘Employment Secretary’ see section 23.

**Duration of ordinary waiting period**

*No unused annual leave waiting period*

“539. (1) If a person:

1. is subject to an ordinary waiting period; and
2. is not subject to an unused annual leave waiting period; and
3. is not disqualified for job search allowance under section 519 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the person’s provisional commencement day.

Note: for ‘provisional commencement day’ see section 533.

*Unused annual leave waiting period*

“(2) If a person is subject to:

1. an ordinary waiting period; and
2. an unused annual leave waiting period; and
3. is not disqualified for job search allowance under section 519 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the day after the day on which the person’s unused annual leave waiting period ends.

“(3) If a person:

1. is subject to an ordinary waiting period; and
2. is not subject to an unused annual leave waiting period; and
3. is disqualified for job search allowance under section 519 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the day after the end of the period of 4 weeks referred to in subsection 519 (2), (3) and (4).

“(4) If a person:

1. is subject to an ordinary waiting period; and
2. is subject to an unused annual leave waiting period; and

(c) is disqualified for job search allowance under section 519 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the day after the end of the period of 4 weeks referred to in subsections 519 (2), (3) and (4).

Note 1: for ‘unused annual leave waiting period’ see sections 535 to 537.

Note 2: for ‘provisional commencement day’ see section 533.

**Education leavers waiting period**

*Persons subject to waiting period*

“540. (1) Subject to subsections (2), (3) and (4), a person is subject to an education leavers waiting period if the person:

1. was undertaking a full-time course of education of at least 6 months duration; and
2. has stopped the course; and
3. was, immediately before stopping the course, receiving neither:

(i) a social security or service pension; nor

(ii) a social security benefit; and

1. has a provisional commencement day within 6 months after stopping the course; and
2. is not covered by subsection (2) (beneficiaries stopping courses after 4 weeks).

“(2) Subsection (1) does not apply to a person if both of the following conditions apply:

1. the person is a transferee to job search allowance;
2. the person claims the job search allowance:

(i) within 14 days of the transfer day; or

(ii) where the person becomes registered by the CES in an allowance category as being unemployed within 14 days after the transfer day—within 14 days of the person becoming so registered or such further period as the Secretary considers reasonable.

“(3) Subsection (1) does not apply to a person who becomes qualified for a job search allowance at the end of a period for which, under subsection 520 (3), the person is taken to have been registered by the CES in an allowance category as being unemployed (non-registration up to 6 weeks).

“(4) Subsection (1) does not apply to a person:

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: for ‘provisional commencement day’ see section 533.

Note 2: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 3: for ‘Employment Secretary’ see section 23.

*No education leavers waiting period in some cases where already served*

“(5) A person who would otherwise be subject to an education leavers waiting period in relation to job search allowance is not subject to such a period if:

1. the person had previously been subject to an education leavers waiting period; and
2. a job search allowance had been payable to the person continuously from the end of the education leavers waiting period until immediately before the person started the course; and
3. the person’s provisional commencement day is within 4 weeks after starting the course.

Note 1: for ‘provisional commencement day’ see section 533.

Note 2: for ‘education leavers waiting period’ see subsection 23 (1).

**Duration of education leavers waiting period**

*General rule*

“541. (1) Subject to this section, the education leavers waiting period starts on the person’s provisional commencement day and lasts for:

(a) 13 weeks if, on the person’s provisional commencement day, the person:

(i) had not turned 21; and

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

(iii) does not have a dependent child; or

(b) 6 weeks if, on the person’s provisional commencement day, the person:

(i) has turned 21; or

(ii) is a member of a couple; or

(iii) has a dependent child.

Note 1: the duration of the education leavers waiting period may be modified by:

1. subsections (2) and (3) (change of status during waiting period):
2. subsection (5) (periods of employment or periods on special benefit);
3. subsection (6) (previous periods of non-payment because of education leavers waiting period):
4. subsection (7) (6 months ceiling).

Note 2: for ‘provisional commencement day’ see section 533.

*Change of status in first 6 weeks*

“(2) Subject to subsection (4), where:

(a) a person who is covered by paragraph (1) (a):

(i) turns 21; or

(ii) becomes a member of a couple; or

(b) a young person becomes a dependent child of a person who is covered by paragraph (1) (a);

within 6 weeks from and including the person’s provisional commencement day, the education leavers waiting period starts on the person’s provisional commencement day and lasts for 6 weeks.

Note: for ‘provisional commencement day’ see section 533.

*Change of status after 6 weeks*

“(3) Subject to subsection (4), where:

(a) a person who is covered by paragraph (1) (a):

(i) turns 21; or

(ii) becomes a member of a couple; or

(b) a young person becomes a dependent child of a person who is covered by paragraph (1) (a);

in the period:

1. starting at the end of 6 weeks from the person’s provisional commencement day; and
2. lasting for 6 weeks;

the education leavers waiting period starts on the person’s provisional commencement day and ends on the day before the day on which the person is first covered by paragraph (a) or (b).

Note: for ‘provisional commencement day’ see section 533.

*Notification required*

“(4) For the purposes of subsections (2) and (3):

1. a person is not to be taken to have become a member of a couple; and
2. a young person is not to be taken to have become a dependent child of a person;

until the person notifies the Department that this is the case.

*Reduction of waiting period for periods of special benefit and employment*

“(5) The waiting period imposed by subsection (1) or (2) is to be reduced by a period equivalent to:

1. if the person is subject to a 13 week education leavers waiting period—any period during which the person was employed on a full-time basis after stopping the course; and
2. if the person is subject to a 6 week education leavers waiting period—any period during which the person has been employed, at any time, on a full-time basis; and

(c) any period during which the person was paid special benefit after stopping the course.

*Reduction of education leavers waiting period where already partially served*

“(6) If:

1. a person is subject to an education leavers waiting period; and
2. the person started the course concerned at a time when a job search allowance, a newstart allowance or sickness benefit was not payable to the person because of an education leavers waiting period; and
3. the person’s provisional commencement day is within 4 weeks after the person started the course concerned;

the duration of the education leavers waiting period is reduced by the number of days of the previous education leavers waiting period that the person had served immediately before starting the course.

Note 1: for ‘provisional commencement day’ see section 533.

Note 2: for ‘education leavers waiting period’ see section 23.

*6 month ceiling*

“(7) An education leavers waiting period that applies in respect of a course of study undertaken by a person is not to extend more than 6 months after the person has stopped the course.

***“Subdivision E*—*Situations where allowance not payable***

***(recipient non-compliance)***

**Removal from allowance for failure to satisfy activity test**

“542. (1) Subject to subsection (2), if:

1. a job search allowance was payable to a person; and
2. the person ceased to be qualified for the allowance because the person did not satisfy the activity test; and
3. the person later becomes qualified for a job search allowance;

a job search allowance is not payable to the person for the deferment period.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) Subject to subsections (4) and (5), the deferment period is 2 weeks.

“(4) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(5) If:

1. subsection (1) applies to a person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(6) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Secretary may require a person to attend the Department**

**or CES etc.**

“543. (1) Where:

1. a person is receiving, or has lodged a claim for, a job search allowance; and
2. the Secretary is of the opinion that the person should:

(i) attend an office of the Department or of the CES; or

 (ii) contact the Department or the CES; or

(iii) give information to the Secretary; and

(c) the Secretary notifies the person that the person is required to:

(i) attend that office; or

 (ii) contact the Department or the CES; or

(iii) give that information; and

(d) the requirement is reasonable; and

(e) the person does not comply with the requirement;

a job search allowance is not payable to the person.

Note: ‘CES’ means Commonwealth Employment Service (see section 23).

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) The Secretary may determine that a job search allowance is payable to a person for a period for which it was not payable under subsection (1) if the Secretary is satisfied that the person had a reasonable excuse for not complying with the requirement.

“(4) If:

1. a job search allowance is not payable under subsection (1); and
2. at a later time a job search allowance would, but for this subsection, be payable to the person;

a job search allowance is not payable to the person for the deferment period.

“(5) Subject to subsections (6) and (7), the deferment period is 2 weeks.

“(6) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(7) If:

1. subsection (1) applies to a person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(8) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Unemployment due to voluntary act**

“544. (1) If:

1. a person’s unemployment is due, either directly or indirectly, to a voluntary act of the person; and
2. the voluntary act was without sufficient reason;

a job search allowance is not payable to the person for the deferment period.

“(2) Subject to subsections (3) and (4), the deferment period is 2 weeks.

“(3) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(4) If:

1. subsection (1) applies to the person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(5) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Unemployment due to misconduct**

“545. (1) If a person’s unemployment is due to the person’s misconduct as a worker, a job search allowance is not payable to the person for the deferment period.

“(2) Subject to subsections (3) and (4), the deferment period is 2 weeks.

“(3) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(4) If:

1. subsection (1) applies to the person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(5) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Refusal of job offer**

“546. (1) If a person has refused or failed, without sufficient reason, to accept a suitable offer of employment, a job search allowance is not payable to the person for the deferment period.

“(2) Subject to subsections (3) and (4), the deferment period is 2 weeks.

“(3) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(4) If:

1. subsection (1) applies to the person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(5) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Removal from allowance for failure to comply with notification requirements**

“547. (1) If a person refuses or fails, without sufficient reason, to comply with a requirement made of the person under section 573, 574, 575 or 1304, a job search allowance is not payable to the person for the deferment period.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) Subject to subsections (3) and (4), the deferment period is 2 weeks.

“(4) If:

(a) subsection (1) applies to a person at a particular time; and

(b) on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(5) If:

1. subsection (1) applies to the person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(6) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Removal from allowance for failure to continue CES registration**

“548. **(**1) If:

1. a job search allowance was payable to a person; and
2. the person ceased to be qualified for job search allowance because the person:

(i) was not registered by the CES in an allowance category as being unemployed (see subparagraph 513 (c) (iv)); and

(ii) the Secretary has not excused the person from being so registered by the CES under section 520; and

(c) the person later becomes qualified for job search allowance again;

a job search allowance is not payable to the person for a period determined, in writing, by the Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: where a person has been paid job search allowance while the person was not qualified because he or she was not registered at the CES, an overpayment may arise (see Chapter 5). Subsection (1) does not prevent the Secretary from taking action to recover the overpayment.

Note 3: for ‘allowance category’ see subsection 23 (4a).

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) 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.

**Seasonal workers**

“549. (1) Where:

1. a person is a seasonal or intermittent worker; and
2. the person’s income is sufficient to maintain:

(i) the person; and

(ii) any other persons who are ordinarily maintained by the person;

notwithstanding that the person is temporarily unemployed;

a job search allowance is not payable to the person for a period determined, in writing, by the Secretary.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) 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.

**Move to area of lower employment prospects**

“550. (1) Where, 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 job search allowance is not payable to the person for 12 weeks.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(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

1. moves to live near a family member who has already established residence in the same area; or
2. 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.

Note: for ‘family member’ see section 5a.

“(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.

***“Division 2***—***Claim for job search allowance***

**Need for a claim**

“551. (1) A person who wants to be granted a job search allowance must make a proper claim for that allowance.

Note 1: for ‘proper claim’ see section 552 (form), section 553 (manner of lodgment) and section 554 (residence/presence in Australia).

Note 2: because the payability of job search allowance may be affected by, for example, the provisions dealing with the circumstances in which a person’s former employment ended (see sections 544 and 545), the person may be asked to support his or her claim for job search allowance with an end of employment statement by the former employer (see section 1311).

“(2) For the purposes of subsection (1), where:

1. a claim for job search allowance is made by or on behalf of a person; and
2. at the time the claim is made, the claim cannot be granted because the person is not qualified for job search allowance;

the claim is to be taken not to have been made.

**Form of claim**

“552. To be a proper claim, a claim must be made in writing and must be in accordance with a form approved by the Secretary.

**Lodgment of claim**

“553. (1) To be a proper claim, a claim must be lodged:

1. at an office of the Department; or
2. at a place approved for the purpose by the Secretary; or
3. 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.

**Claimant must be Australian resident and in Australia**

“554. A claim by a person is not a proper claim unless the person is:

(a) an Australian resident; and

(b) in Australia;

on the day on which the claim is lodged.

Note: for ‘Australian resident’ see subsection 7 (2).

**Secretary may require claimant to give statement of partner’s tax file number**

“555. If:

1. a claimant for job search allowance is a member of a couple; and
2. the claimant’s partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant’s partner.

Note 1: for the consequences of a failure to comply with the requirement see section 528.

Note 2: under section 527 the claimant is automatically required to give a statement of the claimant’s own tax file number.

Note 3: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner’s tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information relevant to the partner’s tax file number: see subsections 528 (2) and (3).

Note 4: the Secretary can waive the requirement in some cases: see subsection 528 (4).

***“Division 3*—*Determination of claim***

**Secretary to determine claim**

“556. The Secretary must, in accordance with this Act, determine the claim.

**Grant of claim**

“557. The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:

1. the person is qualified for a job search allowance; and
2. the allowance is payable.

**Date of effect of determination**

“558. (1) Subject to subsections (2), (3) and (4), a determination under section 557 takes effect on the day on which the determination is made or on such later day or earlier day as is specified in the determination.

*Notified decision*—*review sought within 3 months*

“(2) If:

1. a decision (in this subsection called the **‘previous decision’**)is made rejecting a person’s claim for job search allowance; and
2. a notice is given to the person advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240, within

3 months after the notice is given, for review of the previous decision; and

(d) a determination granting the claim is made as a result of the application for review;

the determination takes effect on the day on which the previous decision took effect.

*Notified decision*—*review sought after 3 months*

“(3) If:

1. a decision (in this subsection called the **‘previous decision’**)is made rejecting a person’s claim for job search allowance; and
2. a notice is given to the person advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240, more than 3 months after the notice is given, for review of the previous decision; and
4. a determination granting the claim is made as a result of the application for review;

the determination takes effect on the day on which the person sought the review.

*Decision not notified*

“(4) If:

1. a decision (in this subsection called the ‘**previous decision’**)is made rejecting a person’s claim for job search allowance; and
2. no notice is given to the person advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240 for review of the previous decision; and
4. a determination granting the claim is made as a result of the application for review;

the determination takes effect on the day on which the previous decision took effect.

***“Division 4***—***Rate of job search allowance***

**How to work out a person’s job search allowance rate**

“559. A person’s job search allowance is worked out using:

1. if the person has not turned 18—the Benefit Rate Calculator A at the end of section 1067; or
2. if the person has turned 18—the Benefit Rate Calculator B at the end of section 1068.

Note: for ‘double payments on release from gaol’ see section 1161.

**Job search training supplement**

“560. (1) Where a person who is receiving a job search allowance is undertaking a course of vocational training approved by the Employment Secretary for the purposes of this section, the rate of the person’s job search allowance is to be increased by an amount, to be known as a job search training supplement, that the Employment Secretary considers appropriate.

“(2) In calculating the amount of the increase the Employment Secretary is to have regard to:

1. the expenses of the person in undertaking the training; and
2. any expenses of the person in living away from the person’s usual residence in order to undertake the training; and
3. any expenses of the person in maintaining the person’s usual residence while living away from that residence in order to undertake the training; and
4. whether the person has turned 18.

“(3) The maximum amount of the increase for a person is not to exceed $87.90.

Note: for ‘Employment Secretary’ see section 23.

**JSA recipient may ask Secretary to change appropriate tax year**

“561. (1) If:

1. the maximum basic rate of a person’s job search allowance has been reduced because of the parental income test provided in Module G of Benefit Rate Calculator A (see section 1067); and
2. the person asks the Secretary to make a determination under this section; and
3. the taxable income of the person’s income test parent or parents for the tax year in which the request is made is less than 75% of the taxable income of the income test parent or parents for the tax year that is the appropriate tax year immediately before the request is made;

the Secretary must determine that the appropriate tax year, for the purposes of applying that Module to the person for the period:

(d) starting on the day on which the request is made; and

(e) finishing on the first anniversary of that day;

is the tax year in which the request is made.

“(2) A request under paragraph (1) (b) must be made in writing, in accordance with a form approved by the Secretary.

“(3) Terms used in subsection (1) have the same meaning as they have in Module G of Benefit Rate Calculator A.

***“Division 5*—*Payment of job search allowance***

**Commencement of job search allowance**

“562. Job search allowance becomes payable to a person on the first day on which:

1. the person is qualified for the allowance; and
2. no provision of this Act makes the allowance not payable to the person.

Note 1: for qualification see section 513.

Note 2: for circumstances in which a job search allowance is not payable see section 526.

**Instalments**

“563. (1) Job search allowance is to be paid by instalments for periods determined by the Secretary.

“(2) Instalments of job search allowance are to be paid at the times determined by the Secretary.

**Instalments for period less than a fortnight**

“564. (1) If:

1. an instalment of job search allowance is for a period; and
2. the period is less than a fortnight;

the instalment for the period is:

“(2) If:

1. an instalment of job search allowance is for a period; and
2. the period consists of:

(i) a number of whole fortnights; and

(ii) a period that is less than a fortnight;

the instalment, insofar as it relates to the period that is less than a fortnight, is:

**Rounding off instalment**

“565. (1) If the amount of an instalment is:

1. a number of whole dollars and a part of a cent; or
2. a number of whole dollars and cents and a part of a cent;

the amount is, subject to subsection (2), to be increased or decreased to the nearest whole cent.

“(2) If the amount of an instalment is:

(a) a number of whole dollars and 0.5 cent; or

(b) a number of whole dollars and cents and 0.5 cent;

the amount is to be increased by 0.5 cent.

“(3) If, apart from this section, the amount of an instalment would be less than $1.00, the amount is to be increased to $1.00.

**Manner of payment**

“566. A person’s job search allowance is, subject to section 567, to be paid to that person.

**Nominee payments**

“567. (1) The Secretary may direct that the whole, or a part, of the amount of a person’s job search allowance is to be paid to someone else on behalf of the person.

“(2) If the Secretary makes a direction under subsection (1), the job search allowance is to be paid in accordance with the direction.

**Payment into bank account etc.**

“568. (1) Subject to subsection (6), job search allowance payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the job search allowance is payable.

“(3) The account may be an account that is maintained by a person to whom the job search allowance is payable jointly or in common with another person.

“(4) Where a person to whom job search allowance is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that allowance is not to be paid.

“(5) Where:

(a) a person is not being paid job search allowance because of subsection (4); and

(b) the person nominates an account for the purposes of subsection (1);

the allowance (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of job search allowance that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the job search allowance is to be payable in accordance with the direction.

**Where allowance payday would fall on public holiday etc.**

“569. If the Secretary is satisfied that an amount of job search allowance that would normally be paid on a particular day cannot reasonably be paid on that day (because, for example, it is a public holiday or a bank holiday), the Secretary may direct that the amount be paid on an earlier day.

**Payment of allowance after death**

“570. (1) If:

1. a job search allowance is payable to a person; and
2. the person dies; and
3. at the date of the person’s death the person had not received an amount of job search allowance payable to him or her; and
4. another person applies to receive that amount; and
5. the application is made:

(i) within 6 months after the death; or

(ii) within a further period allowed by the Secretary in special circumstances;

the Secretary may pay the amount to the person who, in the Secretary’s opinion, is best entitled to it.

“(2) Where the Secretary pays an amount of job search allowance under subsection (1), the Commonwealth has no further liability to any person in respect of that amount of job search allowance.

***“Division 6***—***Protection of job search allowance***

**Job search allowance to be absolutely inalienable**

“571. (1) Subject to subsection (2) and section 1359, job search allowance is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

*Payments to Commissioner of Taxation at recipient’s request*

“(2) The Secretary may make deductions from the instalments of job search allowance payable to a person where the recipient asks the Secretary:

1. to make the deductions; and
2. to pay the amounts to be deducted to the Commissioner of Taxation.

Note: the Secretary must make deductions from a person’s pension, benefit or allowance if requested by the Commissioner of Taxation—see section 1359.

**Effect of garnishee or attachment order**

“572. (1) If:

(a) a person has an account with a financial institution; and

(b) instalments of job search allowance payable to the person (whether on the person’s own behalf or not) are being paid to the credit of that account; and

(c) a court order in the nature of a garnishee order comes into force in respect of the account;

the court order does not apply to the saved amount (if any) in the account.

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

|  |
| --- |
| *Method statement* |
| *Step 1.* | Work out the total amount of job search allowance payable to the person that has been paid to the credit of the account during the 4 week period immediately before the court order came into force. |
| *Step 2.* | Subtract from that amount the total amount withdrawn from the account during the same 4 week period: the result is the saved amount. |

“(3) This section applies to an account whether it is maintained by a person:

1. alone; or
2. jointly with another person; or
3. in common with another person.

***“Division 7*—*Recipient obligations***

**Secretary may require recipient to give statement of partner’s tax file number**

“573. If:

1. a job search allowance recipient is a member of a couple; and
2. the recipient’s partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient’s partner.

Note 1: for the consequences of a failure to comply with the requirement see section 528.

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner’s tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information relevant to the partner’s tax file number: see subsections 528 (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 528 (4).

**Secretary may require notice of the happening of an event or a change in circumstances**

“574. (1) The Secretary may give a person to whom a job search allowance is being paid a notice that requires the person to inform the Department if:

1. a specified event or change of circumstances occurs; or
2. the person becomes aware that a specified event or change of circumstances is likely to occur.

“(2) An event or change of circumstances is not to be specified in a notice under subsection (1) unless the occurrence of the event or change of circumstances might affect the payment of the allowance.

“(3) A notice under subsection (1):

1. must be in writing; and
2. may be given personally or by post; and
3. must specify how the person is to give the information to the Department; and
4. must specify the period within which the person is to give the information to the Department; and
5. must specify that the notice is given under this section.

“(4) The period specified under paragraph (3) (d) must end at least 7 days after:

1. the day on which the event or change of circumstances occurs; or
2. the day on which the person becomes aware that the event or change of circumstances is likely to occur.

“(5) A person must not refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: $1,000 or imprisonment for 6 months, or both.

“(6) A person must not, in purporting to comply with a notice under subsection (1), knowingly or recklessly give information that is false or misleading in a material particular.

Penalty: $1,000 or imprisonment for 6 months, or both.

“(7) This section extends to:

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

**Secretary may require recipient to give particular information relevant to payment of job search allowance**

“575. (1) The Secretary may give a person to whom a job search allowance is being paid a notice that requires the person to give the Department a statement about a matter that might affect the payment of the allowance to the person.

“(2) A notice under subsection (1):

(a) must be in writing; and

1. may be given personally or by post; and
2. must specify how the statement is to be given to the Department; and
3. must specify the period within which the person is to give the statement to the Department; and
4. must specify that the notice is given under this section.

“(3) The period specified under paragraph (2) (d) must end at least 7 days after the day on which the notice is given.

“(4) A statement given in response to a notice under subsection (1) must be in writing and in accordance with a form approved by the Secretary.

“(5) A person must not refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: $1,000 or imprisonment for 6 months, or both.

“(6) A person must not, in purporting to comply with a notice under subsection (1), knowingly or recklessly give information that is false or misleading in a material particular.

Penalty: $1,000 or imprisonment for 6 months, or both.

“(7) This section extends to:

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

**Self-incrimination**

“576. (1) A person is not excused from giving information pursuant to a notice under section 574 or 575 on the ground that the information may tend to incriminate the person.

“(2) Information given by a person pursuant to a notice under section 574 or 575 is not admissible in evidence against the person in a criminal proceeding other than a proceeding under, or arising out of, subsection 574 (5) or (6) or 575 (5) or (6).

***“Division 8***—***Continuation, variation and termination***

***“Subdivision A*—*General***

**Continuing effect of determination**

*Entitlement determination*

“577. (1) A determination that:

(a) a person’s claim for a job search allowance is to be granted; or

(b) a job search allowance is payable to a person;

continues in effect until:

1. the allowance ceases to be payable under section 578, 579, 580 or 581; or
2. a further determination in relation to the allowance under section 586 has taken effect.

Note 1: for paragraph (a) see section 557.

Note 2: for paragraph (b) see section 587—this paragraph is relevant where the determination in question reverses an earlier cancellation or suspension.

*Rate determination*

“(2) A determination of the rate of a job search allowance continues in effect until:

1. the allowance becomes payable at a lower rate under sections 582 or 583; or
2. a further determination in relation to the allowance under section 584 or 585 has taken effect.

***“Subdivision B*—*Automatic termination***

**Automatic termination**—**transfer to new payment type**

“578. If:

1. a person is receiving job search allowance; and
2. a social security pension, another social security benefit or a service pension becomes payable to the person;

the job search allowance ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.

**Automatic termination—recipient *complying* with section 574**

**notification obligations**

“579. If:

1. a person who is receiving a job search allowance is given a notice under section 574; and
2. the notice requires the person to inform the Department of the occurrence of an event or change in circumstances within a specified period (in this section called the ‘**notification period’**); and
3. the event or change in circumstances occurs; and
4. the person informs the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
5. because of the occurrence of the event or change in circumstances:

(i) the person ceases to be qualified for the allowance; or

(ii) the allowance would, but for this section, cease to be payable to the person;

the allowance continues to be payable to the person until the day before the event or change in circumstances occurs and then ceases to be payable to the person.

Note: if the person informs the Department, within the notification period, of an event or change in circumstances that reduces the rate of the person’s allowance there is no automatic rate reduction and a determination under section 585 must be made in order to bring the rate reduction into effect.

**Automatic termination—recipient *not complying* with section 574**

**notification obligations**

“580. If:

1. a person who is receiving a job search allowance is given a notice under section 574; and
2. the notice requires the person to inform the Department of the occurrence of an event or change in circumstances within a specified period (in this section called the **‘notification period’);** and
3. the event or change in circumstances occurs; and
4. the person does not inform the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
5. because of the occurrence of the event or the change in circumstances:

(i) the person ceases to be qualified for the allowance; or

(ii) the allowance ceases to be payable to the person;

the allowance ceases to be payable to the person immediately after the day on which the event or change in circumstances occurs.

**Automatic termination—failure to provide section 575 statement**

“581. (1) If:

1. a person who is receiving a job search allowance is given a notice under section 575 requiring the person to give the Department a statement; and
2. the notice relates to the payment of that allowance in respect of a period specified in the notice; and
3. the person does not comply with the notice;

the allowance, subject to subsection (2), ceases to be payable to the person as from the first day in that period.

“(2) If the Secretary is satisfied that, in the special circumstances of the case, it is appropriate to do so, the Secretary may determine in

writing that subsection (1) does not apply to the person from a day specified in the determination.

“(3) The day specified under subsection (2) may be before or after the making of the determination.

***“Subdivision C***—***Automatic rate reduction***

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

“582. If:

1. a person is receiving job search allowance; and
2. the person’s partner starts to receive:

(i) a social security pension or benefit; or

(ii) a service pension; and

(c) the person’s job search allowance rate is reduced because of the partner’s receipt of that pension or benefit;

the job search allowance becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.

**Automatic rate reduction—recipient *not complying* with section 574**

**notification obligations**

“583. If:

1. a person who is receiving a job search allowance is given a notice under section 574; and
2. the notice requires the person to inform the Department of the occurrence of an event or change in circumstances within a specified period (in this section called the **‘notification period’**);and
3. the event or change in circumstances occurs; and
4. the person does not inform the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
5. because of the occurrence of the event or change in circumstances, the person’s rate of allowance is to be reduced;

the allowance becomes payable to the person at the reduced rate immediately after the day on which the event or change in circumstances occurs.

***“Subdivision D*—*Determinations***

**Rate increase determination**

“584. If the Secretary is satisfied that the rate at which a job search allowance is being, or has been, paid is less than the rate provided for by this Act, the Secretary is to determine that the rate is to be increased to the rate specified in the determination.

Note: for the date of effect of a determination under this section see section 588.

**Rate reduction determination**

“585. If the Secretary is satisfied that the rate at which a job search allowance is being, or has been, paid is more than the rate provided for by this Act, the Secretary is to determine that the rate is to be reduced to the rate specified in the determination.

Note 1: a determination under this section is not necessary in a case where an automatic rate reduction is produced by section 583 (see subsection 577 (2)).

Note 2: for the date of effect of a determination under this section see section 589.

**Cancellation or suspension determination**

“586. If the Secretary is satisfied that a job search allowance is being, or has been, paid to a person to whom it is not, or was not, payable under this Act, the Secretary is to determine that the allowance is to be cancelled or suspended.

Note 1: a determination under this section is not necessary in a case where an automatic termination is produced by section 578, 579, 580 or 581 (see subsection 577(1)).

Note 2: for the date of effect of a determination under this section see section 589.

**Resumption of payment after cancellation or suspension**

“587. (1) If the Secretary:

1. cancels or suspends a person’s job search allowance under section 586; and
2. reconsiders the decision to cancel or suspend; and
3. becomes satisfied that:

(i) the decision to cancel or suspend was incorrect; and

(ii) because of the decision to cancel or suspend:

(a) the person did not receive job search allowance that was payable to the person; or

(b) the person is not receiving job search allowance that is payable to the person;

the Secretary is to determine that job search allowance was or is payable to the person.

“(2) The reconsideration referred to in paragraph (l)(b) might be a reconsideration on an application under section 1240 for review or a reconsideration on the Secretary’s own initiative.

Note: for the date of effect of a determination under this section see section 588.

***“Subdivision E***—***Date of effect of determinations***

**Date of effect of favourable determination**

“588. (1) The day on which a determination under section 584 or 587 (in this section called the **‘favourable determination’**)takes effect is worked out in accordance with this section.

*Notified decision*—*review sought within 3 months*

“(2) If:

1. a decision (in this subsection called the **‘previous decision’**)is made in relation to a job search allowance; and
2. a notice is given to the person to whom the allowance is payable advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240, within 3 months after the notice is given, for review of the previous decision; and
4. a favourable determination is made as a result of the application for review; and
5. subsections (6), (7) and (8) do not apply to the determination;

the determination takes effect on the day on which the previous decision took effect.

*Notified decision*—*review sought after 3 months*

“(3) If:

1. a decision (in this subsection called the **‘previous decision’**) is made in relation to a job search allowance; and
2. a notice is given to the person to whom the allowance is payable advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240, more than 3 months after the notice is given, for review of the previous decision; and
4. a favourable determination is made as a result of the application for review; and
5. subsections (6), (7) and (8) do not apply to the determination;

the determination takes effect on the day on which the person sought the review.

*Decision not notified*

“(4) If:

1. a decision (in this subsection called the **‘previous decision’**) is made in relation to a job search allowance; and
2. no notice is given to the person to whom the allowance is payable advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240, for review of the previous decision; and
4. a favourable determination is made as a result of the application for review; and
5. subsections (6), (7) and (8) do not apply to the determination;

the determination takes effect on the day on which the previous decision took effect.

*Notified change of circumstances*

“(5) If:

1. the favourable determination is made following a person having advised the Department of a change in circumstances; and
2. the change is not a decrease in the rate of the person’s maintenance income;

the determination takes effect on the day on which the advice was received or on the day on which the change occurred, whichever is the later.

*Prescribed student child determination*

“(6) If:

1. the favourable determination is made as a result of the Secretary forming the opinion for the purposes of subsections 5 (12) and (13) that a young person will not, or would not, receive payments under a prescribed educational scheme; and
2. the Secretary is notified that the young person has been refused payment under a prescribed educational scheme within 28 days after the person is notified of that refusal;

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

“(7) If:

1. the favourable determination is made because, under subsection 5 (13), a young person is not qualified to receive a payment under a prescribed educational scheme; and
2. the young person, or another person, was previously in receipt of a payment under a prescribed educational scheme in respect of that young person, and the young person or other person has since ceased to receive that payment; and
3. the Secretary was notified, within 28 days after the payment ceased, that it was no longer being received;

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

“(8) If:

1. the favourable determination is made because, under paragraph 5 (12) (c), a young person is not qualified to receive payments under any of the prescribed educational schemes; and
2. no applications have been made for payments in respect of that young person under any of the prescribed educational schemes; and
3. the Secretary is satisfied that it is reasonable for such applications not to be made; and
4. the young person ceased to be a prescribed student child because of the operation of paragraph 5 (12) (c) within 3 months after becoming a prescribed student child;

the determination takes effect on the day on which the young person became a prescribed student child.

*Other determinations*

“(9) In any other case, the favourable determination takes effect on the day on which the determination was made or on such later day or earlier day (not being a day more than 3 months before the determination was made) as is specified in the determination.

**Date of effect of adverse determination**

*General*

“589. (1) The day on which a determination under section 585 or 586 (in this section called the **‘adverse determination’**)takes effect is worked out in accordance with this section.

Note: if the adverse determination depends on a discretion or opinion and a person affected by the determination applies for review, the Secretary may continue payment pending the outcome of the review (see section 1241 (internal review) and section 1251 (review by Social Security Appeals Tribunal)).

“(2) The adverse determination takes effect on:

1. the day on which the determination is made; or
2. if another day is specified in the determination—on that day.

“(3) Subject to subsections (4), (5) and (6), the day specified under paragraph (2) (b) must be later than the day on which the determination is made.

*Contravention of Act*

“(4) If:

(a) the person whose allowance is affected by the adverse determination has contravened a provision of this Act (other than section 575, 1304, 1305, 1306 or 1307); and

(b) the contravention causes a delay in making the determination; the day specified under paragraph (2) (b) may be earlier than the day on which the determination is made.

*False statement or misrepresentation*—*suspension or cancellation*

“(5) If:

1. a person has made a false statement or misrepresentation; and
2. because of the false statement or misrepresentation, the allowance has been paid to a person when it should have been cancelled or suspended;

the day specified under paragraph (2) (b) may be earlier than the day on which the determination is made.

*False statement or misrepresentation*—*rate reduction*

“(6) If:

1. a person has made a false statement or misrepresentation; and
2. because of the false statement or misrepresentation, the rate at which the allowance was paid to a person was more than it should have been;

the day specified under paragraph (2) (b) may be earlier than the day on which the determination is made.

***“Division 9***—***Bereavement payments (death of dependent child)***

**Bereavement payments on death of dependent child**

“590. If:

1. a person is receiving a job search allowance; and
2. a dependent child of the person dies; and
3. immediately before the child died, the person’s job search allowance rate included:

(i) a dependent child add-on in respect of the child; or

(ii) guardian allowance in respect of the child;

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

Note 1: section 591 provides for job search allowance to be paid to the person, up to the first available bereavement adjustment payday, at the rate at which it would have been paid if the child had not died but were disregarded for the purposes of working out the person’s income test free areas.

Note 2: section 592 provides for a lump sum to be paid to the person if the person was receiving family allowance for the child and the first available bereavement adjustment payday occurs before the end of the bereavement period: the lump sum represents the difference, over the bereavement lump sum period, between the person’s new job search allowance rate and the rate at which the allowance would have been paid if the child had not died but were disregarded for the purposes of working out the person’s income test free areas.

Note 3: the additional payments preserved by this Division are:

* dependent child add-on;
* guardian allowance;
* additional rent assistance.

**Continued payment of child-related amounts**

“591. If a person is qualified for payments under this Division in relation to the death of a dependent child, the person’s job search allowance rate during the bereavement rate continuation period is to be calculated as if:

1. the child had not died; and
2. the child was disregarded in calculating the person’s ordinary income free area and maintenance income free area.

**Lump sum payable in some circumstances**

“592. If:

1. a person is qualified for payments under this Division in relation to the death of a dependent child; and
2. the first available bereavement adjustment payday occurs before the end of the bereavement period; and
3. the person was, immediately before the child died, receiving family allowance for the child;

a lump sum (worked out using the lump sum calculator at the end of this section) is payable to the person.

Note: if the person qualified for payments under this Division was not receiving family allowance in respect of the dependent child and somebody else was receiving family allowance in respect of the dependent child, a corresponding lump sum may be payable to the other person under section 890.

***LUMP SUM CALCULATOR***

This is how to work out the amount of the lump sum:

|  |
| --- |
| *Method statement* |
| *Step 1.* | Work out the amount of job search allowance payable to the person immediately before the first available bereavement adjustment payday: the result is called the **continued rate**. |
|  | Note: section 591 applies in working out this amount because the payday on which it is payable is within the bereavement rate continuation period. |
| *Step 2.* | Work out the amount of job search allowance that would have been payable to the person immediately before the first available bereavement adjustment payday if the person’s job search allowance rate were not calculated under section 591: the result is called the **new rate**. |
| *Step 3.* | Take the new rate away from the continued rate: the result is called the **deceased child component**. |
| *Step 4.* | Work out the number of paydays in the bereavement lump sum period. |
| *Step 5.* | Multiply the deceased child component by the number of paydays in the bereavement lump sum period: the result is the amount of the lump sum payable to the person under this section. |

**“PART 2.12—NEWSTART ALLOWANCE**

***“Division 1*—*Qualification for and payability of newstart allowance***

***“Subdivision A*—*Basic qualifications***

**Qualification for newstart allowance**

“593. Subject to sections 594 and 598, a person is qualified for a newstart allowance in respect of a period if:

1. the person satisfies the Secretary that throughout the period the person is unemployed; and
2. throughout the period, or for each period within the period, the person satisfies the activity test; and
3. at all times (if any) during the period when the person is not a party to a Newstart Activity Agreement, the person is prepared to enter into such an agreement; and
4. at all times during the period when the person is a party to a Newstart Activity Agreement, the person is prepared to enter into another such agreement instead of the existing agreement; and
5. when the person is required by the Secretary to enter into a Newstart Activity Agreement in relation to the period, the person enters into that agreement; and

(f) while the agreement is in force, the person satisfies the Secretary that the person is taking reasonable steps to comply with the terms of the agreement; and

(g) throughout the period the person:

(i) is at least 18 and has not reached the pension age; and

(ii) is an Australian resident; and

(iii) is in Australia; and

(iv) is registered by the CES in an allowance category as being unemployed; and

(h) throughout the period the person has been registered as required by subparagraph (g) (iv) for longer than 12 months; and

(i) the person was not in receipt of a job search allowance during the period.

Note 1: a person may be treated as unemployed (see section 595).

Note 2: the activity test is set out in section 601.

Note 3: for Newstart Activity Agreement see sections 604 to 607.

Note 4: ‘CES’ means Commonwealth Employment Service (see section 23).

Note 5: for ‘pension age’ see section 23.

Note 6: for ‘Australian resident’ see section 7.

Note 7: for ‘allowance category’ see subsection 23 (4a).

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 10: where circumstances beyond a person’s control prevent the person from being registered at the CES, this requirement may be waived (see section 599).

Note 11: a person unregistered for up to 13 weeks may be taken to be registered (see section 599).

Note 12: a person could be in receipt of a job search allowance during a period for which the person would qualify for a newstart allowance, if paragraph (i) was disregarded, because of section 515 (extension of job search allowance to end of pay period) or because of differences in calculating 12 months registration under subsections 520 (3) and 599 (3).

Note 13: a newstart allowance is not payable in certain situations even if the person is qualified (see Subdivisions C, D, E and F).

Note 14: a newstart allowance may continue to be paid during incapacity (see section 594).

**Effect of incapacity on qualification**

“594. (1) In this section:

**‘change day’**, in relation to a person, means the day on which the person ceases to be qualified for a job search allowance because of paragraph 513 (d) (turning 18 and being registered for longer than 12 months);

**‘change sickness period’**,in relation to a person, means a period:

1. for which the person would be qualified for a sickness benefit under section 666 if subsection 666 (3) were disregarded; and
2. that begins while the person is receiving a job search allowance and ends after the person’s change day;

**‘sickness period’**,in relation to a person, means a period:

1. for which the person would be qualified for a sickness benefit under section 666 if subsection 666 (3) were disregarded; and
2. that begins while the person is receiving a newstart allowance.

“(2) Subject to subsection (4), a person is qualified for a newstart allowance in respect of a sickness period of the person that the Secretary does not expect to be longer than 13 weeks.

“(3) Subject to subsection (4), a person is qualified for a newstart allowance in respect of so much of a change sickness period of the person that the Secretary does not expect to be longer than 13 weeks as occurs after the person’s change day.

“(4) If:

1. a person is qualified for a newstart allowance in respect of a period under subsection (2) or (3); and
2. the period lasts for longer than 13 weeks;

the person ceases to be qualified for a newstart allowance 13 weeks after the period began.

**Persons may be treated as unemployed**

“595. (1) If:

1. a person undertakes paid work during a period; and
2. the Secretary is of the opinion that, taking into account:

(i) the nature of the work; and

(ii) the duration of the work; and

(iii) any other matters relating to the work that the Secretary considers relevant;

the work should be disregarded;

the Secretary may treat the person as being unemployed throughout the period.

“(2) A person complying with:

1. a requirement under subsection 601 (2) (activity test); or
2. a Newstart Activity Agreement;

is to be treated by the Secretary as being unemployed.

**Unemployment due to industrial action**

“596. (1) A person is not qualified for a newstart allowance 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, or having been, engaged in industrial action or in a series of industrial actions.

“(2) A person is not qualified for a newstart allowance in respect of a period unless the Secretary is satisfied:

1. 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
2. the people, or some of the people, were members of a trade union which was involved in the industrial action; and
3. the person was not a member of the trade union during the period.

“(3) Subsections (1) and (2) do not prevent a person from being qualified for a newstart allowance 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.

**Move to area of lower employment prospects**

“597. (1) A person is not qualified for a newstart allowance on a day on which, in the opinion of the Secretary, the person has reduced his or her employment prospects by moving to a new place of residence without sufficient reason.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(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:

1. moves to live with a family member who has already established his or her residence in that place of residence; or
2. moves to live near a family member who has already established residence in the same area; or
3. 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.

Note: for ‘family member’ see section 5a.

**Liquid assets test disqualification**

“598. (1) Subject to subsections (5), (6), (7) and (8), if:

(a) the value of a person’s liquid assets exceeds the person’s maximum reserve on:

(i) the day on which the person becomes unemployed; or

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

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

the person is not qualified for a newstart allowance 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 ‘transferee to a newstart allowance’ see subsections 23 (6) and (7).

Note 4: for serving the liquid assets test waiting period see subsection 23 (10).

“(2) The liquid assets test waiting period in relation to the claim lasts for 4 weeks.

“(3) Subject to subsection (4), the liquid assets test waiting period in relation to the claim starts on the day on which the person becomes unemployed.

“(4) If:

1. a person becomes incapacitated for work; and
2. because of section 668a (sickness benefit liquid assets test waiting period), the person is not qualified for sickness benefit

during the period of 4 weeks that starts on the day on which the person becomes incapacitated for work; and

(c) within that period of 4 weeks:

(i) the person ceases to be incapacitated for work; and

(ii) the person becomes registered as unemployed by the CES in an allowance category as being unemployed; and

(d) within 14 days after the day on which the person becomes registered by the CES, the person claims a newstart allowance;

the liquid assets test waiting period starts on the day on which the person becomes incapacitated for work.

“(5) If the Secretary is satisfied that the application of subsection (1) to a person will cause undue long term disadvantage or significant hardship to the person, the Secretary may:

1. waive the application of that subsection to the person; and
2. authorise the payment of a newstart allowance to the person.

“(6) Subsection (1) does not apply to a person if both of the following conditions apply:

1. the person is a transferee to newstart allowance;
2. the person claims the newstart allowance:

(i) within 14 days of the transfer day; or

(ii) where the person becomes registered by the CES in an allowance category as being unemployed within 14 days after the transfer day—within 14 days of the person becoming so registered or such further period as the Secretary considers reasonable.

“(7) Subsection (1) does not apply to a person who becomes qualified for a newstart allowance at the end of a period for which, under subsection 599 (3), the person is taken to have been registered by the CES in an allowance category as being unemployed (non-registration up to 13 weeks).

“(8) Subsection (1) does not apply to a person:

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

**Registration by CES**

“599. (1) The Secretary may decide that a person does not have to satisfy subparagraph 593 (g) (iv) (CES registration) for a period if:

1. the person was not registered as unemployed by the CES during the period; and
2. the Secretary is satisfied that there are circumstances beyond the person’s control relating to the person’s failure to be registered; and
3. having regard to those circumstances, the Secretary is satisfied that the person’s failure to be registered should be disregarded in respect of the period.

“(2) If, because of subsection (1), a person does not have to satisfy subparagraph 593 (g) (iv) for a period, then, for the purposes of paragraph 593 (h) (registration to be longer than 12 months), the period is one for which the person was registered as required by subparagraph 593 (g) (iv).

“(3) If a person:

1. is registered by the CES in an allowance category as being unemployed; and
2. ceases for a period of not longer than 13 weeks to be registered by the CES in an allowance category as being unemployed; and
3. at the end of that period becomes registered by the CES in an allowance category as being unemployed;

then, for the purposes of paragraph 593 (h), the person is taken to have been registered throughout that period by the CES in an allowance category as being unemployed.

Note: ‘CES’ means Commonwealth Employment Service (see section 23).

**Prospective determinations for some allowees**

“600. (1) A person is qualified for newstart allowance in respect of a period if:

(a) the person was, immediately before starting to receive newstart allowance, receiving:

(i) a social security benefit; or

(ii) a sheltered employment allowance; or

(iii) a rehabilitation allowance; and

1. the last payment of that benefit or allowance was made in respect of a period that ended after the day on which the payment was made; and
2. the person may, in the Secretary’s opinion, reasonably be expected to satisfy the qualification requirements for newstart allowance (see sections 593 to 599) during the period.

“(2) A person is qualified for newstart allowance for a period, if the person:

(a) has turned 55 and:

(i) in the case of a woman—has not turned 59 and 6 months; and

(ii) in the case of a man—has not turned 64 and 6 months; and

1. is in receipt of a newstart allowance; and
2. has in the previous 12 months been in continuous receipt of one or a combination of the following:

(i) a newstart allowance;

(ii) a job search allowance;

(iii) an unemployment benefit under the *Social Security Act 1947*;

(iv) a sickness benefit;

(v) a special benefit; and

1. is not indebted to the Commonwealth under or as a result of this Act; and
2. is not, in the Secretary’s opinion, likely to be employed; and
3. will, in the Secretary’s opinion, comply with the requirements of this Act; and
4. may, in the Secretary’s opinion, reasonably be expected to satisfy the qualification requirements for newstart allowance (see sections 593 to 599) during the period.

“(3) A person is qualified for newstart allowance for a period if:

1. the person is in receipt of a newstart allowance; and
2. the person was granted unemployment benefit under the *Social Security Act 1947* before 1 November 1977; and
3. the person may, in the Secretary’s opinion, reasonably be expected to satisfy the qualification requirements for newstart allowance (see sections 593 to 599) during the period.

***“Subdivision B*—*Activity test***

**Activity test**

“601. (1) Subject to subsection (3), a person satisfies the activity test in respect of a period if the person satisfies the Secretary that, throughout the period, the person is:

1. actively seeking; and
2. willing to undertake;

paid work that in the opinion of the Secretary is suitable to be undertaken by the person.

“(2) A person also satisfies the activity test in respect of a period if:

(a) the Secretary is of the opinion that, throughout the period, the person:

(i) should undertake particular paid work that, in the opinion of the Secretary, is suitable to be done by the person; or

(ii) should:

(a) undertake a course of vocational training; or

(b) participate in a labour market program; or

(c) participate in another course;

approved by the Employment Secretary which is likely to:

(d) improve the person’s prospects of obtaining suitable paid work; or

(e) assist the person in seeking suitable paid work; or

(iii) in a case where the person lives in an area where:

(a) there is no locally accessible labour market; and

(b) there is no locally accessible vocational training course or labour market program;

should participate in an activity suggested by the person and approved by the Employment Secretary; and

1. the Secretary notifies the person that the person is required to act in accordance with the opinion; and
2. the person takes reasonable steps to comply, throughout the period, with the Secretary’s requirement.

Note: for ‘Employment Secretary’ see section 23.

“(3) If a person fails to take reasonable steps to comply, throughout a period, with a requirement of the Secretary under subsection (2), the person cannot be taken to satisfy the activity test in respect of that period in spite of any compliance of the person with subsection (1).

“(4) A person also satisfies the activity test in respect of a period if, throughout the period, the person is taking reasonable steps to comply with the terms of a Newstart Activity Agreement between the CES and the person.

“(5) If a person fails to take reasonable steps to comply, throughout a period, with the terms of a Newstart Activity Agreement between the CES and the person, the person cannot be taken to satisfy the activity test in respect of the period in spite of any compliance of the person with subsection (1).

Note: for situations where a person is not required to satisfy the activity test see:

1. section 602 (certain persons over 55);
2. section 603 (persons attending training camps or in remote areas).

**Relief from activity test—certain persons over 55 in employment**

“602. A person is taken to satisfy the activity test in respect of a period if throughout the period:

1. the person is at least 55; and
2. the person is in employment that commenced on or after 1 January 1990; and
3. the person earns at least 35% of average male full-time weekly earnings from that employment.

Note 1: for ‘average male full-time weekly earnings’ see section 15.

Note 2: for ‘activity test’ see section 601.

**Relief from activity test—general**

“603. (1) A person is taken to satisfy the activity test in respect of a period when the person is attending a training camp as a member of:

1. the Australian Naval Reserve; or
2. the Naval Emergency Reserve Forces; or
3. the Australian Army Reserve; or
4. the Australian Airforce Reserve; or
5. the Airforce Emergency Force; or

(f) the Regular Army Emergency Reserve.

“(2) Where the Secretary considers that:

(a) it would be reasonable to assume that:

(i) at the end of a period a person is present in an area described in subparagraph 601 (2) (a) (iii); and

(ii) the person is throughout the period:

(a) unemployed; and

(b) capable of undertaking paid work that in the Secretary’s opinion is suitable to be undertaken by the person; and

(c) willing to undertake paid work that in the Secretary’s opinion is suitable to be undertaken by the person; and

(b) having regard to all the relevant factors, including:

(i) the location of offices of the Department; and

(ii) difficulties with transport and communication; and

(iii) the educational and cultural background of the person;

it would be unreasonable to expect the person to comply with the activity test in order to be qualified for newstart allowance for that period;

then, unless the person has been notified of a requirement under subsection 601 (2) in relation to the period, the person is taken to satisfy the activity test during that period.

Note 1: for ‘activity test’ see section 601.

Note 2: for ‘remote area’ see section 14.

***“Subdivision C***—***Newstart Activity Agreements***

**Newstart Activity Agreements**

“604. For the purposes of this Part, each person in receipt of a newstart allowance is to have a written agreement, in a form approved by the Employment Secretary, with the CES, to be known as a **Newstart Activity Agreement.**

Note 1: for ‘Employment Secretary’ see section 23.

Note 2: ‘CES’ means the Commonwealth Employment Service (see section 23).

**Newstart Activity Agreements—requirement**

“605. (1) If a person who has made a claim for, or who is in receipt of, a newstart allowance is not a party to a Newstart Activity Agreement, the Secretary must require the person to enter into such an agreement.

“(2) The Secretary may require a person who has entered into a Newstart Activity Agreement to enter into another such agreement instead of the existing one.

“(3) The Secretary is to give a person who is required to enter into a Newstart Activity Agreement notice of:

1. the requirement; and
2. the places and times at which the agreement is to be negotiated.

**Newstart Activity Agreements—terms**

“606. (1) A Newstart Activity Agreement with a person is to require the person to undertake one or more of the following activities approved by the Secretary:

1. a job search;
2. a vocational training course;
3. training that would help in searching for work;
4. paid work experience;
5. measures designed to eliminate or reduce any disadvantage the person has in the labour market, not being measures compelling the person to work in return for payment of newstart allowance;
6. participation in a labour market program conducted by the CES;
7. an activity proposed by the person (such as unpaid voluntary work proposed by the person).

“(2) The terms of an agreement, which include the specification of the activities that the person is to be required to undertake, are to be approved by the Secretary.

“(3) In considering whether to approve the terms of an agreement with a person, the Secretary is to have regard to the person’s capacity to comply with the proposed agreement and the person’s needs.

“(4) In having regard to a person’s capacity to comply with an agreement and the person’s needs, the Secretary is to take into account:

1. the person’s education, experience, skills, age and physical condition; and
2. the state of the labour market in the locality where the person resides; and
3. the training opportunities available to the person; and
4. any factors that the Secretary considers relevant in the circumstances.

“(5) An agreement with a person:

1. may be varied or suspended; and
2. if another Newstart Activity Agreement is made with the person, may be cancelled; and
3. may be reviewed from time to time at the request of either party to the agreement.

“(6) An allowee who is a party to an agreement is to notify the Secretary of any circumstances preventing or affecting the allowee’s compliance with the agreement.

**Newstart Activity Agreements—failure to negotiate**

“607. (1) If:

1. a person has been given notice under subsection 605 (2) of a requirement to enter into a Newstart Activity Agreement; and
2. the Secretary is satisfied, because of the person’s failure to:

(i) attend the negotiation of the agreement; or

(ii) respond to correspondence about the agreement; or

(iii) agree to terms of the agreement proposed by the CES; or otherwise, that the person is unreasonably delaying entering into the agreement;

then:

1. the Secretary may give the person notice that the person is being taken to have failed to enter the agreement; and
2. if the notice is given—the person is taken to have so failed.

Note: refusal to enter a Newstart Activity Agreement disqualifies a person for newstart allowance—see paragraph 593 (e).

“(2) A notice under paragraph (1) (c) must:

1. be in writing; and
2. set out the reasons for the decision to give the notice; and

(c) include a statement describing the rights of the person to apply for the review of the decision.

***“Subdivision D***—***Situations where allowance not payable (general)***

**Newstart allowance not payable in certain situations**

“608. (1) A newstart allowance is not payable to a person for a period during which the person is qualified for newstart allowance (see section 593) if during that period:

1. the person has not provided a tax file number for the person (see section 609) or for the person’s partner (see section 610); or
2. the value of the person’s assets exceeds the person’s assets value limit (see sections 611 and 612); or
3. the person is a full-time student (see section 613); or
4. another income support payment is being paid to the person (see section 614); or
5. the newstart allowance has not commenced to be payable (see sections 616 and 645); or
6. the person is subject to an unused annual leave waiting period and has not served that waiting period (see sections 617 to 619); or
7. the person is subject to an ordinary waiting period and has not served that waiting period (see sections 620 and 621); or

(h) the person is subject to an education leavers waiting period and that period has not ended (see sections 622 and 623); or

(i) the person fails to comply with a requirement that the person:

(i) attend an office of the Department or of the CES; or

(ii) contact the Department or the CES; or

(iii) give information;

as required by section 627; or

(j) a period of non-payment has been imposed because:

(i) the person had previously ceased to be qualified for newstart allowance for failure to satisfy the activity test (see section 624); or

(ii) the person had previously ceased to be qualified for newstart allowance for failure to enter into a Newstart Activity Agreement (see section 625); or

(iii) the person had previously ceased to be qualified for newstart allowance for failure to comply with a Newstart Activity Agreement (see section 626); or

(iv) the person had previously failed to comply with a requirement (see section 677) to:

(a) attend an office of the Department or of the CES; or

(b) contact the Department or the CES; or

(c) give information; or

(v) the person’s unemployment is due to a voluntary act of the person; or

(vi) the person’s unemployment is due to misconduct by the person (see section 629); or

(vii) the person has refused an offer of employment (see section 630); or

(viii) the person failed to comply with notification requirements (see section 631); or

(ix) the person had previously ceased to be qualified for newstart allowance because the person was not registered with the CES in an allowance category as being unemployed (see section 632); or

(x) the person is a seasonal worker (see section 633); or

(xi) the person moved to an area of lower employment prospects (see section 634); or

(k) the person is in gaol (see Part 3.13); or

(l) the person is subject to a compensation preclusion period (see Part 3.14).

Note 1: for ‘serving a waiting period’ see subsection 23 (10).

Note 2: ‘CES’ means Commonwealth Employment Service (see section 23).

Note 3: for ‘allowance category’ see subsection 23 (4a).

“(2) A newstart allowance is not payable to a person if the person’s newstart allowance rate would be nil.

**Provision of tax file number**

“609. (1) A newstart allowance is not payable to a person unless:

1. the person has given the Secretary a written statement of the person’s tax file number; or
2. the person has given the Secretary an employment declaration and satisfies either subsection (2) or (3).

Note: the Secretary can require a person to quote tax file number under section 1308.

“(2) A person satisfies this subsection if:

(a) the employment declaration states that the person:

(i) has a tax file number but does not know what it is; and

(ii) has asked the Commissioner of Taxation to inform him or her of the number; and

(b) the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:

(i) whether the person has a tax file number; and

(ii) if the person has a tax file number—the tax file number; and

(c) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

“(3) A person satisfies this subsection if:

1. the employment declaration states that an application by the person for a tax file number is pending; and
2. the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:

(i) if a tax file number is issued to the person—the tax file number; or

(ii) if the application is refused—that the application has been refused; or

(iii) if the application is withdrawn—that the application has been withdrawn; and

1. the Commissioner of Taxation has not told the Secretary that an application by the person for a tax file number has been refused; and
2. the application for a tax file number has not been withdrawn.

**Provision of partner’s tax file number**

“610. (1) Subject to subsection (4), a newstart allowance is not payable to a person if:

1. the person is a member of a couple; and
2. the person is required under section 639 or 656 to give the Secretary a written statement of the tax file number of the person’s partner; and
3. at the end of the period of 28 days after the requirement is made the person has neither:

(i) given the Secretary a written statement of the partner’s tax file number; nor

(ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

“(2) The person satisfies this subsection if:

(a) the partner’s declaration states that the partner:

(i) has a tax file number but does not know what it is; and

(ii) has asked the Commissioner of Taxation to inform the partner of the partner’s number; and

(b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:

(i) whether the partner has a tax file number; and

(ii) if the partner has a tax file number—the tax file number; and

(c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

“(3) The person satisfies this subsection if:

1. the partner’s declaration states that an application by the partner for a tax file number is pending; and
2. the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:

(i) if a tax file number is issued to the partner—the tax file number; or

(ii) if the application is refused—that the application has been refused; or

(iii) if the application is withdrawn—that the application has been withdrawn; and

1. the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
2. the application for a tax file number has not been withdrawn.

“(4) The Secretary may waive the requirement for a statement of the partner’s tax file number if the Secretary is satisfied that:

1. the person does not know the partner’s tax file number; and
2. the person can obtain none of the following from the partner:

(i) the partner’s tax file number;

(ii) a statement of the partner’s tax file number;

(iii) a declaration by the partner under subparagraph (1) (c) (ii).

**Assets test—allowance not payable if assets value limit exceeded**

“611. (1) A newstart allowance is not payable to a person if the value of the person’s assets exceeds the person’s assets value limit.

“(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 3assets value limit |
| item | person’s family situation | column 3aeither person or partner homeowner | column 3bneither person nor partner homeowner |
| 1. | Not member of a couple | $110,750 | $190,250 |
| 2. | Partnered (partner getting neither pension nor allowance) | $157,500 | $237,000 |
| 3. | Partnered (partner getting pension or allowance) | $78,750 | $118,500 |

Note 1: for ‘member of a couple’, ‘partnered (partner getting neither pension nor allowance)’ and ‘partnered (partner getting pension or allowance)’ 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 newstart allowance 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)).

**Value of assets of members of couples**

“612. (1) If:

1. a person is a member of a couple; and
2. the person’s partner:

(i) is not in receipt of a social security or service pension; 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: ‘social security pension’ includes a sheltered employment or rehabilitation allowance.

“(2) If:

1. a person is a member of a couple; and
2. the person’s partner is in receipt of:

(i) a social security or service pension; or

(ii) a social security benefit;

the value of:

1. 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
2. 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.

**Full-time students**

“613. (1) Subject to subsection (2), a newstart allowance is not payable to a person who is enrolled in a full-time course of education or vocational training for the period that:

1. starts when the person starts the course; and
2. 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

1. includes periods of vacation; and
2. does not include periods of deferment.

“(2) Subsection (1) does not prevent a newstart allowance from being payable for any period during which:

1. a person is enrolled in a course that the Secretary has required the person to undertake under subsection 601 (2); or
2. the person is engaged in a course undertaken under a Newstart Activity Agreement; or
3. the person has deferred a course of education.

Note: for Newstart Activity Agreement see sections 605 to 607.

**Multiple entitlement exclusion**

“614. (1) A newstart allowance is not payable to a person if the person is already receiving a service pension.

“(2) If:

1. a person is receiving a newstart allowance; and
2. a social security pension, another social security benefit or a service pension becomes payable to the person;

a newstart allowance 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: ‘social security pension’ includes sheltered employment and rehabilitation allowances and ‘social security benefit’ includes job search allowance.

Note 3: for the day on which the newstart allowance ceases to be payable see section 660.

“(3) A newstart allowance is not payable to a woman if:

1. the woman is an armed services widow; and
2. the woman is receiving:

(i) 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; or

(ii) a pension under the *Seamen’s War Pensions and Allowances Act 1940* at a rate determined under subsection 18 (2) of that Act.

unless:

1. the woman has been receiving a payment referred to in subparagraph (b) (i) or (ii) continuously since before 1 November 1986; and
2. before 1 November 1986 the woman was also receiving a social security benefit.

Note: for ‘armed services widow’ see subsection 4 (1).

“(4) A newstart allowance 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:

1. a prescribed educational scheme other than the ABSTUDY Tertiary Scheme to the extent that it applies to part-time students; or
2. the scheme to provide an allowance known as the Maintenance Allowance for Refugees.

Note: for ‘prescribed educational scheme’ see section 5.

“(5) If:

1. a person may enrol in a full-time course of education; and
2. 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), newstart allowance is payable to the person for a period before the person starts the course.

**Provisional commencement day**

*General rule*

“615. (1) Subject to subsections (2), (3), (4) and (5), a person’s provisional commencement day is:

(a) if the person:

(i) received a job search allowance; and

(ii) claims a newstart allowance no later than 14 days after the person was last paid a job search allowance;

the day immediately after the day in respect of which the person was last paid a job search allowance; or

(b) in any other case—the day on which the person claims a newstart allowance.

*Initial incorrect claim followed by claim for newstart allowance*

“(2) If:

(a) the person makes a claim (in this subsection called the **initial claim’**) for:

(i) a social security or service pension or a social security benefit; or

(ii) a pension, allowance, benefit or other payment under another Act, or under a program administered by the Commonwealth, that is similar in character to a newstart allowance; and

1. on the day on which the person makes the initial claim, the person is qualified for newstart allowance; and
2. the person subsequently makes a claim for newstart allowance; and
3. the Secretary is satisfied that it is reasonable for this subsection to apply to the person;

the person’s provisional commencement day is, subject to subsections (3), (4) and (5), the day on which the person made the initial claim.

*Claim within 14 days of CES registration*

“(3) If:

1. a person is not a transferee to a newstart allowance; and
2. the person is not subject to an education leavers waiting period (see subsection 622 (1)); and
3. the person becomes registered by the CES in an allowance category as being unemployed; and
4. the day that would be the person’s provisional commencement day under subsections (1) and (2) occurs:

(i) within 14 days after becoming so registered by the CES; or

(ii) within such further period after becoming so registered by the CES as the Secretary considers reasonable;

the person’s provisional commencement day is the day on which the person became registered by the CES.

Note 1: for ‘transferee’ see subsections 23 (6) and (7).

Note 2: for ‘allowance category’ see subsection 23 (4a).

*Education leavers who claim within 14 days of CES registration*

“(4) If:

1. a person becomes registered by the CES in an allowance category as being unemployed; and
2. the person is subject to an education leavers waiting period (see subsection 622 (1));

the person’s provisional commencement day is:

(c) if the person becomes so registered by the CES before stopping the course and the day that would be the person’s provisional commencement day under subsections (1) and (2) occurs:

(i) within 14 days after stopping the course; or

(ii) within such further period after stopping the course as the Secretary considers reasonable;

the day after the last day on which the person was undertaking the course; or

(d) if the person becomes so registered by the CES after stopping the course and the day that would be the person’s provisional commencement day under subsections (1) and (2) occurs:

(i) within 14 days after becoming so registered by the CES; or

(ii) within such further period after becoming so registered by the CES as the Secretary considers reasonable;

the day on which the person became so registered by the CES.

*Transferees*

“(5) If a person is a transferee to newstart allowance and:

1. the person claims the newstart allowance within 14 days after the transfer day; or
2. both of the following subparagraphs are satisfied:

(i) the person becomes registered in an allowance category as being unemployed by the CES within 14 days after the transfer day; and

(ii) the day that would be the person’s provisional commencement day under subsection (1) and (2) occurs:

(a) within 14 days after becoming so registered by the CES; or

(b) within such further period after becoming so registered by the CES as the Secretary considers reasonable;

the person’s provisional commencement day is the person’s transfer day.

Note 1: for ‘transferee to an allowance’ and ‘transfer day’ see subsections 23 (6) and (7).

Note 2: for ‘allowance category’ see subsection 23 (4a).

**Commencement of newstart allowance**

“616. A newstart allowance is not payable to a person who is qualified for the allowance before:

1. where the person is not subject to a waiting period—the person’s provisional commencement day; or
2. if the person is subject to one waiting period only—the first day after the end of that waiting period; or
3. if the person is subject to more than one waiting period—the first day after all of the waiting periods have ended.

Note 1: for ‘provisional commencement day’ see section 615.

Note 2: a waiting period is:

1. an unused annual leave waiting period (see sections 617 to 619); or
2. an ordinary waiting period (see sections 620 and 621); or
3. an education leavers waiting period (see sections 622 and 623).

If the person has an unused annual leave waiting period and an ordinary waiting period, the ordinary waiting period will follow the unused annual leave waiting period (see subsection 621 (2)). If the person has an education leavers waiting period and another waiting period, the education leavers waiting period runs concurrently with the other waiting period and the newstart allowance will not be payable until the longest waiting period has finished.

***“Subdivision E***—***Situations where allowance not payable (waiting periods)***

**Unused annual leave waiting period**

“617. (1) Subject to subsections (2), (3) and (4), a person is subject to an unused annual leave waiting period if:

1. when the person became unemployed, the person became entitled to receive a payment for unused annual leave; and
2. the person’s provisional commencement day occurs within the notional leave period; and
3. immediately before becoming qualified for the newstart allowance, the person was not receiving a job search allowance.

“(2) This section does not apply to a person if both of the following conditions apply:

1. the person is a transferee to newstart allowance;
2. the person claims the newstart allowance:

(i) within 14 days of the transfer day; or

(ii) where the person becomes registered by the CES in an allowance category as being unemployed within 14 days after the transfer day—within 14 days of the person becoming so registered or such further period as the Secretary considers reasonable.

“(3) Subsection (1) does not apply to a person who becomes qualified for a newstart allowance at the end of a period for which, under

subsection 599 (3), the person is taken to have been registered by the CES in an allowance category as being unemployed (non-registration up to 13 weeks).

Note: ‘CES’ means Commonwealth Employment Service (see section 23).

“(4) Subsection (1) does not apply to a person:

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: for ‘unused annual leave’ see section 23.

Note 2: for ‘notional leave period’ see section 618.

Note 3: for ‘provisional commencement day’ see section 615.

Note 4: ‘CES’ means the ‘Commonwealth Employment Service’ (see section 23).

Note 5: for ‘Employment Secretary’ see section 23.

**Notional leave period**

“618. (1) A person’s notional leave period is the period that:

1. starts on the day after the day on which the person’s employment has ended; and
2. runs for the number of days for which the person has unused annual leave as calculated under subsections (2) and (3).

“(2) Subject to subsection (3), the number of days for which the person has unused annual leave is worked out as follows:

1. if the period of unused annual leave is expressed in weeks—multiply by 7 the number of weeks (including fractions of weeks) in the period of unused annual leave and disregard any fraction that results;
2. in any other case—multiply by 7 the number of working weeks (including any fraction of a working week) represented by the period of unused annual leave and disregard any fraction that results.

“(3) The number of days for which a person has unused annual leave can not exceed 28 days.

**Duration of unused annual leave waiting period**

“619. A person’s unused annual leave waiting period starts on the day after the day on which the person’s employment has ended and finishes on the last day of the notional leave period.

Note 1: for ‘notional leave period’ see section 618.

Note 2: an unused annual leave waiting period may apply to a person whether or not the person is subject to an ordinary waiting period. If the person is subject to an ordinary waiting period, that period will start after the unused annual leave waiting period (see subsection 621 (2)).

Note 3: for ‘provisional commencement day’ see section 615.

**Ordinary waiting period**

“620. A person is subject to an ordinary waiting period unless:

1. immediately before becoming qualified for the newstart allowance, the person was receiving a job search allowance; or
2. the person has served an ordinary waiting period that ended not more than 12 weeks before the person’s provisional commencement day; or
3. both of the following conditions apply:

(i) the person is a transferee to newstart allowance;

(ii) the person claims the newstart allowance within 14 days of the transfer day; or

1. at some time in the 13 weeks immediately before the person’s provisional commencement day, a job search allowance or newstart allowance stopped being payable to the person; or
2. the person becomes qualified for a newstart allowance at the end of a period for which, under subsection 599 (3), the person is taken to have been registered by the CES in an allowance category as being unemployed (non-registration up to 13 weeks); or
3. the person:

(i) has started formal vocational training in a labour market program approved by the Employment Secretary; and

(ii) has been exempted from the application of this section by the Employment Secretary; or

(g) the Secretary is satisfied that the person would suffer severe financial hardship if the person were subject to the ordinary waiting period.

Note 1: for ‘transferee to an allowance’ and ‘transfer day’ see subsections 23 (6) and (7).

Note 2: for ‘provisional commencement day’ see section 615.

Note 3: for ‘ordinary waiting period’ see subsection 23 (1).

Note 4: for ‘allowance category’ see subsection 23 (4a).

Note 5: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 6: for ‘Employment Secretary’ see section 23.

**Duration of ordinary waiting period**

*No unused annual leave waiting period*

“621. (1) If a person:

1. is subject to an ordinary waiting period; and
2. is not subject to an unused annual leave waiting period; and
3. is not disqualified for newstart allowance under section 598 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the person’s provisional commencement day.

Note: for ‘provisional commencement day’ see section 615:

*Unused annual leave waiting period*

“(2) If a person is subject to:

1. an ordinary waiting period; and
2. an unused annual leave waiting period; and
3. is not disqualified for newstart allowance under section 598 (liquid assets test);

the ordinary waiting period is the period of 7 days that starts on the day after the day on which the person’s unused annual leave waiting period ends.

Note 1: for ‘unused annual leave waiting period’ see sections 617 to 619.

Note 2: for ‘provisional commencement day’ see section 615.

“(3) If a person:

1. is subject to an ordinary waiting period; and
2. is not subject to an unused annual leave waiting period; and
3. is disqualified for newstart allowance 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 period of 4 weeks referred to in subsections 598 (2), (3) and (4).

“(4) If a person:

1. is subject to an ordinary waiting period; and
2. is subject to an unused annual leave waiting period; and
3. is disqualified for newstart allowance 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 period of 4 weeks referred to in subsections 598 (2), (3) and (4).

Note: for ‘provisional commencement day’ see section 615.

**Education leavers waiting period**

*Persons subject to waiting period*

“622. (1) Subject to subsections (2), (3) and (4), a person is subject to an education leavers waiting period if the person:

1. was undertaking a full-time course of education of at least 6 months duration; and
2. has stopped the course; and
3. was, immediately before stopping the course, receiving neither:

(i) a social security or service pension; nor

(ii) a social security benefit; and

(d) immediately before becoming qualified for the newstart

allowance, the person was not receiving a job search allowance; and

(e) has a provisional commencement day within 6 months after stopping the course; and

(f) is not covered by subsection (2) (allowees stopping courses after 4 weeks).

“(2) Subsection (1) does not apply to a person if both of the following conditions apply:

1. the person is a transferee to newstart allowance;
2. the person claims the newstart allowance:

(i) within 14 days of the transfer day; or

(ii) where the person becomes registered by the CES in an allowance category as being unemployed within 14 days after the transfer day—within 14 days of the person becoming so registered or such further period as the Secretary considers reasonable.

“(3) Subsection (1) does not apply to a person who becomes qualified for a newstart allowance at the end of a period for which, under subsection 599 (3), the person is taken to have been registered by the CES in an allowance category as being unemployed (non-registration up to 13 weeks).

“(4) Subsection (1) does not apply to a person:

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: for ‘provisional commencement day’ see section 615.

Note 2: ‘CES’ means the Commonwealth Employment Service see section 23).

Note 3: for ‘Employment Secretary’ see section 23.

*No education leavers waiting period in some cases where already served*

“(5) A person who would otherwise be subject to an education leavers waiting period in relation to a newstart allowance is not subject to such a period if:

1. the person had previously been subject to an education leavers waiting period; and
2. a job search allowance or a newstart allowance had been payable to the person continuously from the end of the education leavers waiting period until immediately before the person started the course; and

(c) the person’s provisional commencement day is within 4 weeks after starting the course.

Note 1: for ‘provisional commencement day’ see section 615.

Note 2: for ‘education leavers waiting period’ see subsection 23 (1).

**Duration of education leavers waiting period**

*General rule*

“623. (1) Subject to this section, the education leavers waiting period starts on the person’s provisional commencement day and lasts for:

(a) 13 weeks if, on the person’s provisional commencement day, the person:

(i) had not turned 21; and

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

(iii) does not have a dependent child; or

(b) 6 weeks if, on the person’s provisional commencement day, the person:

(i) has turned 21; or

 (ii) is a member of a couple; or

(iii) has a dependent child.

Note 1: the duration of the education leavers waiting period may be modified by:

1. subsections (2) and (3) (change of status during waiting period);
2. subsection (5) (periods of employment or periods on special benefit);
3. subsection (6) (previous periods of non-payment because of education leavers waiting period);
4. subsection (7) (6 months ceiling).

Note 2: for ‘provisional commencement day’ see section 615.

*Change of status in first 6 weeks*

“(2) Subject to subsection (4), where:

(a) a person who is covered by paragraph (1) (a):

(i) turns 21; or

(ii) becomes a member of a couple; or

(b) a young person becomes a dependent child of a person who is covered by paragraph (1) (a);

within 6 weeks from and including the person’s provisional commencement day, the education leavers waiting period starts on the person’s provisional commencement day and lasts for 6 weeks.

Note: for ‘provisional commencement day’ see section 615.

*Change of status after 6 weeks*

“(3) Subject to subsection (4), where:

(a) a person who is covered by paragraph (1) (a):

(i) turns 21; or

(ii) becomes a member of a couple; or

(b) a young person becomes a dependent child of a person who is covered by paragraph (1) (a);

in the period:

1. starting at the end of 6 weeks from the person’s provisional commencement day; and
2. lasting for 6 weeks;

the education leavers waiting period starts on the person’s provisional commencement day and ends on the day before the day on which the person is first covered by paragraph (a) or (b).

Note: for ‘provisional commencement day’ see section 615.

*Notification required*

“(4) For the purposes of subsections (2) and (3):

1. a person is not to be taken to have become a member of a couple; and
2. a young person is not to be taken to have become a dependent child of a person;

until the person notifies the Department that this is the case.

*Reduction of waiting period for periods of special benefit and employment*

“(5) The waiting period imposed by subsection (1) or (2) is to be:

1. if the person is subject to a 13 week education leavers waiting period—any period during which the person was employed on a full-time basis after stopping the course; and
2. if the person is subject to a 6 week education leavers waiting period—any period during which the person has been employed, at any time, on a full-time basis; and
3. any period during which the person was paid special benefit after stopping the course.

*Reduction of education leavers waiting period where already partially served*

“(6) If:

1. a person is subject to an education leavers waiting period; and
2. the person started the course concerned at a time when a job search allowance, newstart allowance or sickness benefit was not payable to the person because of an education leavers waiting period; and
3. the person’s provisional commencement day is within 4 weeks after the person started the course concerned;

the duration of the education leavers waiting period is reduced by the number of days of the previous education leavers waiting period that the person had served immediately before starting the course.

Note 1: for ‘provisional commencement day’ see section 615.

Note 2: for ‘education leavers waiting period’ see section 23.

*6 month ceiling*

“(7) An education leavers waiting period that applies in respect of a course of study undertaken by a person is not to extend more than 6 months after the person has stopped the course.

***“Subdivision F*—*Situations where allowance not payable (recipient non-compliance)***

**Removal from allowance for failure to satisfy activity test**

“624. (1) If:

1. a newstart allowance was payable to a person; and
2. the person ceased to be qualified for the allowance because the person did not satisfy the activity test; and
3. the person later becomes qualified for a newstart allowance;

a newstart allowance is not payable to the person for the deferment period.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) Subject to subsections (4) and (5), the deferment period is 2 weeks.

“(4) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(6) If:

1. subsection (1) applies to a person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(6) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Removal from allowance for failure to enter Newstart Activity Agreement**

“625. (1) If:

1. a newstart allowance was payable to a person; and
2. the person ceased to be qualified for the allowance because the person failed to enter a Newstart Activity Agreement; and
3. the person later becomes qualified for a newstart allowance;

the newstart allowance is not payable to the person for the deferment period.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) Subject to subsections (4) and (5), the deferment period is 2 weeks.

“(4) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(5) If:

1. subsection (1) applies to a person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(6) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Removal from allowance for failure to comply with Newstart Activity Agreement**

“626. (1) If:

1. a newstart allowance was payable to a person; and
2. the person ceased to be qualified for the allowance because the person did not comply with a Newstart Activity Agreement; and
3. the person later becomes qualified for a newstart allowance;

a newstart allowance is not payable to the person for the deferment period.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) Subject to subsections (4) and (5), the deferment period is 2 weeks.

“(4) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(5) If:

1. subsection (1) applies to a person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(6) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Secretary may require a person to attend the Department or CES etc.**

“627. (1) Where:

(a) a person is receiving, or has lodged a claim for, a newstart allowance; and

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

(i) attend an office of the Department or of the CES; or

(ii) contact the Department or the CES; or

(iii) give information to the Secretary; and

(c) the Secretary notifies the person that the person is required to:

(i) attend that office; or

(ii) contact the Department or the CES; or

(iii) give that information; and

(d) the requirement is reasonable; and

(e) the person does not comply with the requirement;

a newstart allowance is not payable to the person.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) The Secretary may determine that a newstart allowance is payable to a person for a period for which it was not payable under subsection (1) if the Secretary is satisfied that the person had a reasonable excuse for not complying with the requirement.

“(4) If:

1. a newstart allowance is not payable under subsection (1); and
2. at a later time a newstart allowance would, but for this subsection, be payable to the person;

a newstart allowance is not payable to the person for the deferment period.

“(5) Subject to subsections (6) and (7), the deferment period is 2 weeks.

“(6) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(7) If:

1. subsection (1) applies to a person at a particular time; and
2. an automatic deferment provision or provisions applied to the

person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(8) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Unemployment due to voluntary act**

“628. (1) If:

1. a person’s unemployment is due, either directly or indirectly, to a voluntary act of the person; and
2. the voluntary act was without sufficient reason;

a newstart allowance is not payable to the person for the deferment period.

“(2) Subject to subsections (3) and (4), the deferment period is 2 weeks.

“(3) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(4) If:

1. subsection (1) applies to the person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(5) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Unemployment due to misconduct**

“629. (1) If a person’s unemployment is due to the person’s misconduct as a worker, a newstart allowance is not payable to the person for the deferment period.

“(2) Subject to subsections (3) and (4), the deferment period is 2 weeks.

“(3) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(4) If:

1. subsection (1) applies to the person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(5) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Refusal of job offer**

“630. (1) If a person has refused or failed, without sufficient reason, to accept a suitable offer of employment, a newstart allowance is not payable to the person for the deferment period.

“(2) Subject to subsections (3) and (4), the deferment period is 2 weeks.

“(3) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(4) If:

1. subsection (1) applies to the person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(5) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Removal from allowance for failure to comply with notification requirements**

“631. (1) If a person refuses or fails, without sufficient reason, to comply with a requirement made of the person under section 656, 657, 658 or 1304, a newstart allowance is not payable to the person for the deferment period.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) Subject to subsections (4) and (5), the deferment period is 2 weeks.

“(4) If:

1. subsection (1) applies to a person at a particular time; and
2. on one occasion only within the period of 3 years before that time an automatic deferment provision applied to the person;

the deferment period is 6 weeks.

Note: for ‘automatic deferment provision’ see section 23.

“(5) If:

1. subsection (1) applies to the person at a particular time; and
2. an automatic deferment provision or provisions applied to the person on 2 or more occasions within the period of 3 years before that time;

the deferment period is 6 weeks plus 6 weeks for each occasion referred to in paragraph (b) after the first.

Note: for ‘automatic deferment provision’ see section 23.

“(6) The Secretary may determine in writing the day on which the deferment period commences and that day may be before the day of the determination.

**Removal from allowance for failure to continue CES registration**

“632. (1) If:

1. a newstart allowance was payable to a person; and
2. the person ceased to be qualified for newstart allowance because the person:

(i) was not registered by the CES in an allowance category as being unemployed (see paragraph 593 (g)); and

(ii) the Secretary has not excused the person from being registered by the CES under section 599; and

(c) the person later becomes qualified for newstart allowance again;

a newstart allowance is not payable to the person for a period determined, in writing, by the Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: where a person has been paid newstart allowance while the person was not qualified because he or she was not registered by the CES, an overpayment may arise (see Chapter 5). Subsection (1) does not prevent the Secretary from taking action to recover the overpayment.

Note 3: for ‘allowance category’ see subsection 23 (4a).

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) 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.

**Seasonal workers**

“633. (1) Where:

1. a person is a seasonal or intermittent worker; and
2. the person’s income is sufficient to maintain:

(i) the person; and

(ii) any other persons who are ordinarily maintained by the person;

notwithstanding that the person is temporarily unemployed;

a newstart allowance is not payable to the person for a period determined, in writing, by the Secretary.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(3) 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.

**Move to area of lower employment prospects**

“634. (1) Where, 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 newstart allowance is not payable to the person for 12 weeks.

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

1. who has started formal vocational training in a labour market program approved by the Employment Secretary; and
2. who has been exempted from the application of that subsection by the Employment Secretary.

Note 1: ‘CES’ means the Commonwealth Employment Service (see section 23).

Note 2: for ‘Employment Secretary’ see section 23.

“(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:

1. moves to live with a family member who has already established his or her residence in that place of residence; or
2. moves to live near a family member who has already established residence in the same area; or
3. 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.

“(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.

Note: for ‘family member’ see section 5a.

***“Division 2*—*Claim for newstart allowance***

**Need for a claim**

“635. (1) A person who wants to be granted a newstart allowance must make a proper claim for that allowance.

Note 1: for ‘proper claim’ see section 636 (form), section 637 (manner of lodgment) and section 638 (residence/presence in Australia).

Note 2: because the payability of newstart allowance may be affected by, for example, the provisions dealing with the circumstances in which a person’s former employment ended (see sections 628 and 629), the person may be asked to support his or her claim for newstart allowance with an end of employment statement by the former employer (see section 1311).

“(2) Subject to subsection (3), for the purposes of subsection (1), where:

1. a claim for newstart allowance is made by or on behalf of a person; and
2. at the time the claim is made, the claim cannot be granted because the person is not qualified for newstart allowance;

the claim is to be taken not to have been made.

“(3) For the purposes of subsection (1), where:

1. a claim for newstart allowance is made by or on behalf of a person who is in receipt of a job search allowance; and
2. the claim is made no earlier than 4 weeks before the day on which the Secretary expects the person to become qualified for a newstart allowance;

the claim is taken to have been made.

Note: ‘CES’ means the Commonwealth Employment Service (see section 23).

**Form of claim**

“636. To be a proper claim, a claim must be made in writing and must be in accordance with a form approved by the Secretary.

**Lodgment of claim**

“637. (1) To be a proper claim, a claim must be lodged:

1. at an office of the Department; or
2. at a place approved for the purpose by the Secretary; or
3. 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.

**Claimant must be Australian resident and in Australia**

“638. A claim by a person is not a proper claim unless the person is:

1. an Australian resident; and
2. in Australia;

on the day on which the claim is lodged.

Note: for ‘Australian resident’ see subsection 7 (2).

**Secretary may require claimant to give statement of partner’s tax file number**

“639. If:

1. a claimant for a newstart allowance is a member of a couple; and
2. the claimant’s partner is in Australia;

the Secretary may require the claimant to give the Secretary a written statement of the tax file number of the claimant’s partner.

Note 1: for the consequences of a failure to comply with the requirement see section 610.

Note 2: under section 609 the claimant is automatically required to give a statement of the claimant’s own tax file number.

Note 3: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner’s tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information relevant to the partner’s tax file number: see subsections 610 (2) and (3).

Note 4: the Secretary can waive the requirement in some cases: see subsection 610 (4).

***“Division 3***—***Determination of claim***

**Secretary to determine claim**

“640. The Secretary must, in accordance with this Act, determine the claim.

**Grant of claim**

“641. The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:

1. the person is qualified or is expected to be qualified, for a newstart allowance; and
2. the allowance is payable.

Note: for valid claim lodged before qualification see subsection 635 (3).

**Date of effect of determination**

“642. (1) Subject to subsections (2), (3) and (4), a determination under section 641 takes effect on the day on which the determination is made or on such later day or earlier day as is specified in the determination.

*Notified decision*—*review sought within 3 months*

“(2) If:

1. a decision (in this subsection called the **‘previous decision’**)is made rejecting a person’s claim for newstart allowance; and
2. a notice is given to the person advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240, within 3 months after the notice is given, for review of the previous decision; and
4. a determination granting the claim is made as a result of the application for review;

the determination takes effect on the day on which the previous decision took effect.

*Notified decision*—*review sought after 3 months*

“(3) If:

(a) a decision (in this subsection called the **‘previous decision’**)is made rejecting a person’s claim for newstart allowance; and

1. a notice is given to the person advising the person of the making of the previous decision; and
2. the person applies to the Secretary under section 1240, more than 3 months after the notice is given, for review of the previous decision; and
3. a determination granting the claim is made as a result of the application for review;

the determination takes effect on the day on which the person sought the review.

*Decision not notified*

“(4) If:

1. a decision (in this subsection called the **‘previous decision’**)is made rejecting a person’s claim for newstart allowance; and
2. no notice is given to the person advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240 for review of the previous decision; and
4. a determination granting the claim is made as a result of the application for review;

the determination takes effect on the day on which the previous decision took effect.

***“Division 4***—***Rate of newstart allowance***

**How to work out a person’s newstart allowance rate**

“643. A person’s newstart allowance rate is worked out using the Benefit Rate Calculator B at the end of section 1068.

Note: for double payments on release from gaol see section 1161.

**Newstart training supplement**

“644. (1) Where a person who is receiving a newstart allowance is undertaking a course of vocational training approved by the Employment Secretary for the purposes of this section, the rate of the person’s newstart allowance is to be increased by an amount, to be known as a newstart training supplement, that that Secretary considers appropriate.

“(2) In calculating the amount of the increase the Employment Secretary is to have regard to:

1. the expenses of the person in undertaking the training; and
2. any expenses of the person in living away from the person’s usual residence in order to undertake the training; and
3. any expenses of the person in maintaining the person’s usual residence while living away from that residence in order to undertake the training.

“(3) The maximum amount of the increase for a person is not to exceed $87.90.

Note: for ‘Employment Secretary’ see section 23.

***“Division 5***—***Payment of newstart allowance***

**Commencement of newstart allowance**

“645. Newstart allowance becomes payable to a person on the first day on which:

1. the person is qualified for the allowance; and
2. no provision of this Act makes the allowance not payable to the person.

Note 1: for qualification see section 593.

Note 2: for the circumstances in which a newstart allowance is not payable see section 608.

**Instalments**

“646. (1) Newstart allowance is to be paid by instalments for periods determined by the Secretary.

“(2) Instalments of newstart allowance are to be paid at the times determined by the Secretary.

**Instalments for period less than a fortnight**

“647. (1) If:

1. an instalment of newstart allowance is for a period; and
2. the period is less than a fortnight;

the instalment for the period is:

“(2) If:

1. an instalment of newstart allowance is for a period; and
2. the period consists of:

(i) a number of whole fortnights; and

(ii) a period that is less than a fortnight;

the instalment, insofar as it relates to the period that is less than a fortnight, is:

**Rounding off instalment**

“648. (1) If the amount of an instalment is:

1. a number of whole dollars and a part of a cent; or
2. a number of whole dollars and cents and a part of a cent;

the amount is, subject to subsection (2), to be increased or decreased to the nearest whole cent.

“(2) If the amount of an instalment is:

1. a number of whole dollars and 0.5 cent; or
2. a number of whole dollars and cents and 0.5 cent;

the amount is to be increased by 0.5 cent.

“(3) If, apart from this section, the amount of an instalment would be less than $1.00, the amount is to be increased to $1.00.

**Manner of payment**

“649. A person’s newstart allowance is, subject to section 650, to be paid to that person.

**Nominee payments**

“650. (1) The Secretary may direct that the whole, or a part, of the amount of a person’s newstart allowance is to be paid to someone else on behalf of the person.

“(2) If the Secretary makes a direction under subsection (1), the newstart allowance is to be paid in accordance with the direction.

**Payment into bank account etc.**

“651. (1) Subject to subsection (6), newstart allowance payable to a person is to be paid, at the intervals that the Secretary specifies, to the credit of a bank account, credit union account or building society account.

“(2) The account must be an account nominated and maintained by the person to whom the newstart allowance is payable.

“(3) The account may be an account that is maintained by a person to whom the newstart allowance is payable jointly or in common with another person.

“(4) Where a person to whom newstart allowance is payable has not nominated an account for the purposes of subsection (1), then, subject to subsection (6), that allowance is not to be paid.

“(5) Where:

1. a person is not being paid newstart allowance because of subsection (4); and
2. the person nominates an account for the purposes of subsection (1);

the allowance (including any amounts that would have been paid but for subsection (4)) is to be paid under subsection (1).

“(6) The Secretary may direct that the whole or a part of an amount of newstart allowance that is payable to a person may be paid to the person in a different way from that provided for by subsection (1).

“(7) If the Secretary gives a direction under subsection (6), the newstart allowance is to be payable in accordance with the direction.

**Where allowance payday would fall on public holiday etc.**

“652. If the Secretary is satisfied that an amount of newstart allowance that would normally be paid on a particular day cannot reasonably be paid on that day (because, for example, it is a public holiday or a bank holiday), the Secretary may direct that the amount be paid on an earlier day.

**Payment of allowance after death**

“653. (1) If:

1. a newstart allowance is payable to a person; and
2. the person dies; and
3. at the date of the person’s death the person had not received an amount of newstart allowance payable to him or her; and
4. another person applies to receive that amount; and
5. the application is made:

(i) within 6 months after the death; or

(ii) within a further period allowed by the Secretary in special circumstances;

the Secretary may pay the amount to the person who, in the Secretary’s opinion, is best entitled to it.

“(2) Where the Secretary pays an amount of newstart allowance under subsection (1), the Commonwealth has no further liability to any person in respect of that amount of newstart allowance.

***“Division 6***—***Protection of newstart allowance***

**Newstart allowance to be absolutely inalienable**

“654. (1) Subject to subsection (2) and section 1359, newstart allowance is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

*Payments to Commissioner of Taxation at recipient’s request*

“(2) The Secretary may make deductions from the instalments of newstart allowance payable to a person where the recipient asks the Secretary:

1. to make the deductions; and
2. to pay the amounts to be deducted to the Commissioner of Taxation.

Note: the Secretary must make deductions from a person’s pension, benefit or allowance if requested by the Commissioner of Taxation (see section 1359).

**Effect of garnishee or attachment order**

“655. (1) If:

1. a person has an account with a financial institution; and
2. instalments of newstart allowance payable to the person (whether on the person’s own behalf or not) are being paid to the credit of that account; and
3. a court order in the nature of a garnishee order comes into force in respect of the account;

the court order does not apply to the saved amount (if any) in the account.

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

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

“(3) This section applies to an account whether it is maintained by a person:

1. alone; or
2. jointly with another person; or
3. in common with another person.

***“Division 7—Recipient obligations***

**Secretary may require recipient to give statement of partner’s tax file number**

“656. If:

1. a newstart allowance recipient is a member of a couple; and
2. the recipient’s partner is in Australia;

the Secretary may require the recipient to give the Secretary a written statement of the tax file number of the recipient’s partner.

Note 1: for the consequences of a failure to comply with the requirement see section 610**.**

Note 2: in some cases the requirement can be satisfied by giving the Secretary a declaration by the partner about the partner’s tax file number and an authority by the partner to the Commissioner of Taxation to give the Secretary certain information relevant to the partner’s tax file number: see subsections 610 (2) and (3).

Note 3: the Secretary can waive the requirement in some cases: see subsection 610 (4).

**Secretary may require notice of the happening of an event or a change in circumstances**

“657. (1) The Secretary may give a person to whom a newstart allowance is being paid a notice that requires the person to inform the Department if:

1. a specified event or change of circumstances occurs; or
2. the person becomes aware that a specified event or change of circumstances is likely to occur.

“(2) An event or change of circumstances is not to be specified in a notice under subsection (1) unless the occurrence of the event or change of circumstances might affect the payment of the allowance.

“(3) A notice under subsection (1):

1. must be in writing; and
2. may be given personally or by post; and
3. must specify how the person is to give the information to the Department; and
4. must specify the period within which the person is to give the information to the Department; and
5. must specify that the notice is given under this section.

“(4) The period specified under paragraph (3) (d) must end at least 7 days after:

1. the day on which the event or change of circumstances occurs; or
2. the day on which the person becomes aware that the event or change of circumstances is likely to occur.

“(5) A person must not refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: $1,000 or imprisonment for 6 months, or both.

“(6) A person must not, in purporting to comply with a notice under subsection (1), knowingly or recklessly give information that is false or misleading in a material particular.

Penalty: $1,000 or imprisonment for 6 months, or both.

“(7) This section extends to:

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

**Secretary may require recipient to give particular information relevant to payment of newstart allowance**

“658. (1) The Secretary may give a person to whom a newstart allowance is being paid a notice that requires the person to give the Department a statement about a matter that might affect the payment of the allowance to the person.

“(2) A notice under subsection (1):

1. must be in writing; and
2. may be given personally or by post; and
3. must specify how the statement is to be given to the Department; and
4. must specify the period within which the person is to give the statement to the Department; and
5. must specify that the notice is given under this section.

“(3) The period specified under paragraph (2) (d) must end at least 7 days after the day on which the notice is given.

“(4) A statement given in response to a notice under subsection (1) must be in writing and in accordance with a form approved by the Secretary.

“(5) A person must not refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: $1,000 or imprisonment for 6 months, or both.

“(6) A person must not, in purporting to comply with a notice under subsection (1), knowingly or recklessly give information that is false or misleading in a material particular.

Penalty: $1,000 or imprisonment for 6 months, or both.

“(7) This section extends to:

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

**Self-incrimination**

“659. (1) A person is not excused from giving information pursuant to a notice under section 657 or 658 on the ground that the information may tend to incriminate the person.

“(2) Information given by a person pursuant to a notice under section 657 or 658 is not admissible in evidence against the person in a criminal proceeding other than a proceeding under, or arising out of, subsection 657 (5) or (6) or 658 (5) or (6).

***“Division 8***—***Continuation, variation and termination***

***“Subdivision A*—*General***

**Continuing effect of determination**

*Entitlement determination*

“660. (1) A determination that:

1. a person’s claim for a newstart allowance is to be granted; or
2. a newstart allowance is payable to a person;

continues in effect until:

1. the allowance ceases to be payable under section 660a, 660b, 660c or 660d; or
2. a further determination in relation to the allowance under section 660i has taken effect.

Note 1: for paragraph (a) see section 641.

Note 2: for paragraph (b) see section 660j—this paragraph is relevant where the determination in question reverses an earlier cancellation or suspension.

*Rate determination*

“(2) A determination of the rate of a newstart allowance continues in effect until:

1. the allowance becomes payable at a lower rate under section 660f; or
2. a further determination in relation to the allowance under section 660g or 660h has taken effect.

***“Subdivision B*—*Automatic termination***

**Automatic termination—transfer to new payment type**

“660a. If:

1. a person is receiving a newstart allowance; and
2. a social security pension, another social security benefit or a service pension becomes payable to the person;

the newstart allowance ceases to be payable to the person immediately before the day on which the other pension or benefit becomes payable to the person.

**Automatic termination—recipient *complying* with section 657**

**notification obligations**

“660b. If:

1. a person who is receiving a newstart allowance is given a notice under section 657; and
2. the notice requires the person to inform the Department of the occurrence of an event or change in circumstances within a

specified period (in this section called the **‘notification period’**);and

1. the event or change in circumstances occurs; and
2. the person informs the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
3. because of the occurrence of the event or change in circumstances:

(i) the person ceases to be qualified for the allowance; or

(ii) the allowance would, but for this section, cease to be payable to the person;

the allowance continues to be payable to the person until the end of the notification period and then ceases to be payable to the person.

Note: if the person informs the Department, within the notification period, of an event or change in circumstances that reduces the rate of the person’s allowance there is no automatic rate reduction and a determination under section 660h must be made in order to bring the rate reduction into effect.

**Automatic termination—recipient *not complying* with section 657**

**notification obligations**

“660c. If:

1. a person who is receiving a newstart allowance is given a notice under section 657; and
2. the notice requires the person to inform the Department of the occurrence of an event or change in circumstances within a specified period (in this section called the **‘notification period’**);and
3. the event or change in circumstances occurs; and
4. the person does not inform the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
5. because of the occurrence of the event or the change in circumstances:

(i) the person ceases to be qualified for the allowance; or

(ii) the allowance ceases to be payable to the person;

the allowance ceases to be payable to the person immediately after the day on which the event or change in circumstances occurs.

**Automatic termination—failure to provide section 658 statement**

“660d. (1) If:

1. a person who is receiving a newstart allowance is given a notice under section 658 requiring the person to give the Department a statement; and
2. the notice relates to the payment of that allowance in respect of a period specified in the notice; and

(c) the person does not comply with the notice;

the allowance, subject to subsection (2), ceases to be payable to the person as from the first day in that period.

“(2) If the Secretary is satisfied that, in the special circumstances of the case, it is appropriate to do so, the Secretary may determine in writing that subsection (1) does not apply to the person from a day specified in the determination.

“(3) The day specified under subsection (2) may be before or after the making of the determination.

***“Subdivision C***—***Automatic rate reduction***

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

“660e. If:

1. a person is receiving newstart allowance; and
2. the person’s partner starts to receive:

(i) a social security pension or benefit; or

(ii) a service pension; and

(c) the person’s newstart allowance rate is reduced because of the partner’s receipt of that pension or benefit;

the newstart allowance becomes payable to the person at the reduced rate on the day on which the partner starts to receive that pension or benefit.

**Automatic rate reduction—recipient *not complying* with section 657** **notification obligations**

“660f. If:

1. a person who is receiving a newstart allowance is given a notice under section 657; and
2. the notice requires the person to inform the Department of the occurrence of an event or change in circumstances within a specified period (in this section called the **‘notification period’**);and
3. the event or change in circumstances occurs; and
4. the person does not inform the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and
5. because of the occurrence of the event or change in circumstances, the person’s rate of allowance is to be reduced;

the allowance becomes payable to the person at the reduced rate immediately after the day on which the event or change in circumstances occurs.

***“Subdivision D***—***Determinations***

**Rate increase determination**

“660g. If the Secretary is satisfied that the rate at which a newstart allowance is being, or has been, paid is less than the rate provided for by this Act, the Secretary is to determine that the rate is to be increased to the rate specified in the determination.

Note: for the date of effect of a determination under this section see section 660k.

**Rate reduction determination**

“660h. If the Secretary is satisfied that the rate at which a newstart allowance is being, or has been, paid is more than the rate provided for by this Act, the Secretary is to determine that the rate is to be reduced to the rate specified in the determination.

Note 1: a determination under this section is not necessary in a case where an automatic rate reduction is produced by section 660f (see subsection 660 (2)).

Note 2: for the date of effect of a determination under this section see section 660l.

**Cancellation or suspension determination**

“660i. If the Secretary is satisfied that a newstart allowance is being, or has been, paid to a person to whom it is not, or was not, payable under this Act, the Secretary is to determine that the allowance is to be cancelled or suspended.

Note 1: a determination under this section is not necessary in a case where an automatic termination is produced by section 660a, 660b, 660c or 660d (see subsection 647 (1)).

Note 2: for the date of effect of a determination under this section see section 660l.

**Resumption of payment after cancellation or suspension**

“660j. (1) If the Secretary:

1. cancels or suspends a person’s newstart allowance under section 660i; and
2. reconsiders the decision to cancel or suspend; and
3. becomes satisfied that:

(i) the decision to cancel or suspend was incorrect; and

(ii) because of the decision to cancel or suspend:

(a) the person did not receive newstart allowance that was payable to the person; or

(b) the person is not receiving newstart allowance that is payable to the person;

the Secretary is to determine that newstart allowance was or is payable to the person.

“(2) The reconsideration referred to in paragraph (1)(b) might be a reconsideration on an application under section 1240 for review or a reconsideration on the Secretary’s own initiative.

Note: for the date of effect of a determination under this section see section 660k.

***“Subdivision E*—*Date of effect of determinations***

**Date of effect of favourable determination**

“660k. (1) The day on which a determination under section 660g or 660j (in this section called the ‘**favourable determination’)** takes effect is worked out in accordance with this section.

*Notified decision*—*review sought within 3 months*

“(2) If:

1. a decision (in this subsection called the ‘previous decision’) is made in relation to a newstart allowance; and
2. a notice is given to the person to whom the allowance is payable advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240, within 3 months after the notice is given, for review of the previous decision; and
4. a favourable determination is made as a result of the application for review; and

(e) subsections (6), (7) and (8) do not apply to the determination; the determination takes effect on the day on which the previous decision took effect.

*Notified decision*—*review sought after 3 months*

“(3) If:

1. a decision (in this subsection called the ‘previous decision’) is made in relation to a newstart allowance; and
2. a notice is given to the person to whom the allowance is payable advising the person of the making of the previous decision; and
3. the person applies to the Secretary under section 1240, more than 3 months after the notice is given, for review of the previous decision; and
4. a favourable determination is made as a result of the application for review; and

(e) subsections (6), (7) and (8) do not apply to the determination;

the determination takes effect on the day on which the person sought the review.

*Decision not notified*

“(4) If:

1. a decision (in this subsection called the **‘previous decision’**)is made in relation to a newstart allowance; and
2. no notice is given to the person to whom the allowance is

payable advising the person of the making of the previous decision; and

1. the person applies to the Secretary under section 1240, for review of the previous decision; and
2. a favourable determination is made as a result of the application for review; and
3. subsections (6), (7) and (8) do not apply to the determination;

the determination takes effect on the day on which the previous decision took effect.

*Notified change of circumstances*

“(5) If:

1. the favourable determination is made following a person having advised the Department of a change in circumstances; and
2. the change is not a decrease in the rate of the person’s maintenance income;

the determination takes effect on the day on which the advice was received or on the day on which the change occurred, whichever is the later.

*Prescribed student child determination*

“(6) If:

1. the favourable determination is made as a result of the Secretary forming the opinion for the purposes of subsections 5 (12) and (13) that a young person will not, or would not, receive payments under a prescribed educational scheme; and
2. the Secretary is notified that the young person has been refused payment under a prescribed educational scheme within 28 days after the person is notified of that refusal;

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

“(7) If:

1. the favourable determination is made because, under subsection 5 (13), a young person is not qualified to receive a payment under a prescribed educational scheme; and
2. the young person, or another person, was previously in receipt of a payment under a prescribed educational scheme in respect of that young person, and the young person or other person has since ceased to receive that payment; and
3. the Secretary was notified, within 28 days after the payment ceased, that it was no longer being received;

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

“(8) If:

1. the favourable determination is made because, under paragraph 5(12) (c), a young person is not qualified to receive payments under any of the prescribed educational schemes; and
2. no applications have been made for payments in respect of that young person under any of the prescribed educational schemes; and
3. the Secretary is satisfied that it is reasonable for such applications not to be made; and
4. the young person ceased to be a prescribed student child because of the operation of paragraph 5 (12) (c) within 3 months after becoming a prescribed student child;

the determination takes effect on the day on which the young person became a prescribed student child.

*Other determinations*

“(9) In any other case, the favourable determination takes effect on the day on which the determination was made or on such later day or earlier day (not being a day more than 3 months before the determination was made) as is specified in the determination.

**Date of effect of adverse determination**

*General*

“660l. (1) The day on which a determination under section 660h or 660i (in this section called the **‘adverse determination’**)takes effect is worked out in accordance with this section.

Note: if the adverse determination depends on a discretion or opinion and a person affected by the determination applies for review: the Secretary may continue payment pending the outcome of the review (see section 1241 (internal review) and section 1251 (review by Social Security Appeals Tribunal).

“(2) The adverse determination takes effect on:

1. the day on which the determination is made; or
2. if another day is specified in the determination—on that day.

“(3) Subject to subsections (4), (5) and (6), the day specified under paragraph (2) (b) must be later than the day on which the determination is made.

*Contravention of Act*

“(4) If:

1. the person whose allowance is affected by the adverse determination has contravened a provision of this Act (other than section 658, 1304, 1305, 1306 or 1307); and
2. the contravention causes a delay in making the determination;

the day specified under paragraph (2) (b) may be earlier than the day on which the determination is made.

*False statement or misrepresentation*—*suspension or cancellation*

“(5) If:

1. a person has made a false statement or misrepresentation; and
2. because of the false statement or misrepresentation, the allowance has been paid to a person when it should have been cancelled or suspended;

the day specified under paragraph (2) (b) may be earlier than the day on which the determination is made.

*False statement or misrepresentation*—*rate reduction*

“(6) If:

1. a person has made a false statement or misrepresentation; and
2. because of the false statement or misrepresentation, the rate at which the allowance was paid to a person was more than it should have been;

the day specified under paragraph (2) (b) may be earlier than the day on which the determination is made.

***“Division 9***—***Bereavement payments (death of dependent child)***

**Bereavement payments on death of dependent child**

“660m. If:

1. a person is receiving a newstart allowance; and
2. a dependent child of the person dies; and
3. immediately before the child died, the person’s newstart allowance rate included:

(i) a dependent child add-on in respect of the child; or

(ii) guardian allowance in respect of the child;

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

Note 1: section 660n provides for newstart allowance to be paid to the person, up to the first available bereavement adjustment payday, at the rate at which it would have been paid if the child had not died but were disregarded for the purposes of working out the person’s income test free areas.

Note 2: section 660o provides for a lump sum to be paid to the person if the person was receiving family allowance for the child and the first available bereavement adjustment payday occurs before the end of the bereavement period: the lump sum represents the difference, over the bereavement lump sum period, between the person’s new newstart allowance rate and the rate at which the allowance would have been paid if the child had not died but were disregarded for the purposes of working out the person’s income test free areas.

Note 3: the additional payments preserved by this Division are:

* dependent child add-on:
* guardian allowance:
* additional rent assistance.

**Continued payment of child-related amounts**

“660n. If a person is qualified for payments under this Division in relation to the death of a dependent child, the person’s newstart allowance rate during the bereavement rate continuation period is to be calculated as if:

1. the child had not died; and
2. the child was disregarded in calculating the person’s ordinary income free area and ordinary maintenance income free area.

**Lump sum payable in some circumstances**

“660o. If:

1. a person is qualified for payments under this Division in relation to the death of a dependent child; and
2. the first available bereavement adjustment payday occurs before the end of the bereavement period; and
3. the person was, immediately before the child died, receiving family allowance for the child;

a lump sum (worked out using the lump sum calculator at the end of this section) is payable to the person.

Note: if the person qualified for payments under this Division was not receiving family allowance in respect of the dependent child and somebody else was receiving family allowance in respect of the dependent child, a corresponding lump sum may be payable to the other person under section 890.

***LUMP SUM CALCULATOR***

This is how to work out the amount of the lump sum:

|  |
| --- |
| *Method statement* |
| *Step 1.* | Work out the amount of newstart allowance payable to the person immediately before the first available bereavement adjustment payday: the result is called the **continued rate**. |
|  | Note: Note: section 660n applies in working out this amount because the payday on which it is payable is within the bereavement rate continuation period. |
| *Step 2.* | Work out the amount of newstart allowance that would have been payable to the person immediately before the first available bereavement adjustment payday if the person’s newstart allowance rate were not calculated under section 660n: the result is called the **new rate**. |
| *Step 3.* | Take the new rate away from the continued rate: the result is called the **deceased child component**. |
| *Step 4.* | Work out the number of paydays in the bereavement lump sum period. |
| *Step 5.* | Multiply the deceased child component by the number of paydays in the bereavement lump sum period: the result is the amount of the lump sum payable to the person under this section. |

**Job search allowees over 18 or Newstart allowance**

**8.** Section 661 of the Principal Act is amended:

**(a)** by omitting subparagraphs (1) (c) (i) and (ii) and substituting the following subparagraphs:

“(i) the person was receiving a job search or newstart allowance; and

(ii) the person had been registered for at least 12 months by the CES in an allowance category as being unemployed; and

Note: for ‘allowance category’ see subsection 23 (4a).

1. by omitting from paragraph (1) (d) “job search allowance, unemployment benefit” and substituting “newstart allowance”;
2. by omitting from paragraph (2) (d) “unemployment benefit” (wherever occurring) and substituting “newstart allowance”;
3. by inserting in sub-subparagraph (2) (d) (i) (b) “or Module C of Benefit Rate Calculator B” after “Calculator A”;
4. by omitting subparagraph (2) (d) (ii) and substituting the following subparagraph:

“(ii) the person had been registered for at least 12 months by

the CES in an allowance category as being unemployed; and”;

1. by omitting from paragraph (2) (e) “unemployment benefit” and substituting “newstart allowance”;
2. by omitting subsection (5).

**Job search allowees under 18**

**9.** Section 663 of the Principal Act is amended:

**(a)** by omitting subparagraph (1) (c) (ii) and substituting the following subparagraph:

“(ii) the person had been registered for at least 12 months by the CES in an allowance category as being unemployed; and

Note: for ‘allowance category’ see subsection 23 (4a).”;

1. by omitting from subparagraph (2) (c) (i) “unemployment benefit or job search allowance” and substituting “a job search allowance or newstart allowance”;
2. by omitting from sub-subparagraph (2) (c) (i) (a) “unemployment benefit” and substituting “job search allowance or newstart allowance”;
3. by omitting subparagraph (2) (c) (ii) and substituting the following subparagraph:

“(i) the person had been registered for at least 12 months by the CES in an allowance category as being unemployed; and”;

1. by omitting from paragraph (2) (d) “unemployment benefit or job search allowance” and substituting “job search allowance or newstart allowance”;
2. by omitting from subsection (5) the definition of “qualified beneficiary”.”.

**Qualification for sickness benefit**

**10.** Section 666 of the Principal Act is amended by omitting subsection (3) and the note to it and substituting the following subsection:

“(3) A person is not qualified for a sickness benefit in respect of a period if the person is qualified for a job search allowance under section 514, or a newstart allowance under section 594, in respect of the period.”.

**Secretary may review decisions**

**11.** Section 1239 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) Subsection (1) does not apply to a decision made by the Employment Secretary:

1. under subsection 23 (4a) (approval of registration category); or
2. under section 28 (approval of voluntary organisations); or
3. approving a course or labour market program; or
4. exempting a person from the application of a provision.”.

**Application for review**

**12.** Section 1240 of the Principal Act is amended:

**(a)** by omitting paragraph (2) (b) and substituting the following paragraph:

“(b) the Employment Secretary:

(i) under subsection 23 (4a) (approval of allowance category); or

(ii) under section 28 (approval of voluntary organisations); or

(iii) approving a course or labour market program; or

(iv) exempting a person from the application of a provision.”;

1. by inserting in subsection (3) “, subject to subsection (3a),” after “and”;
2. by inserting after subsection (3) the following subsection:

“(3a) Where a person applies under subsection (3) for the review of a decision made by an officer of the Employment Department as a delegate of the Secretary, the reference in that subsection to an authorised review officer is taken to be a reference to an authorised review officer who is an officer of that Department.”.

**Application of Part**

**13.** Section 1245 of the Principal Act is amended by omitting “including a rate of return decision” and substituting:

“including:

1. a rate of return decision; and
2. a decision under section 606 to the extent that it relates to the terms of a Newstart Activity Agreement that is in force”.

**Application requirement for certain decisions**

**14.** Section 1248 of the Principal Act is amended by adding at the end the following subsection:

“(2) The Social Security Appeals Tribunal may only review a decision under section 606 (to the extent that it relates to the terms of a Newstart Activity Agreement that is in force) where the application is expressed to be an application for review of that decision.”.

**Non-reviewable decisions**

**15.** Section 1250 of the Principal Act is amended:

**(a)** by inserting before the paragraphs of subsection (1) the following paragraph:

“(aa) under subsection 23 (4a) (approval of allowance category only); or”;

**(b)** by inserting after subsection (1) (c) the following paragraph:

“(ca) under a provision dealing with the approval by the Employment Secretary of a course or labour market program; or”.

**16.** After section 1252 of the Principal Act the following section is inserted:

**Automatic payment if review of section 607 terms decision sought**

“1252a. (1) This section applies to a decision to give a notice under section 607 because of a person’s failure to agree to terms of a Newstart Activity Agreement proposed by the CES (subparagraph 607 (b) (iii)).

Note: notice results in disqualification for Newstart Allowance for failure to enter Newstart Activity Agreement.

“(2) If:

1. the Secretary makes a decision to which this section applies; and
2. a person applies to the Social Security Appeals Tribunal under subsection 1247 (1) for review of the decision; and
3. the person makes the application within 14 days after being notified of the decision;

the following provisions have effect:

1. payment of the newstart allowance is to be made pending the determination of the review, as if the Newstart Activity Agreement had not been required;
2. if payment of the allowance had ceased for a period before the person applied for the review—in spite of section 300, arrears of allowance are payable to the person for the period;

(f) this Act (other than this Chapter) applies as if the Newstart Activity Agreement had not been required.

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

1. the application for review is withdrawn; or
2. the review of the decision is determined.”.

**SSAT review powers (decisions other than rate of return decisions and Newstart Activity Agreement decisions)**

**17.** Section 1253 of the Principal Act is amended:

1. by omitting from subsection (1) “rate of return decision” and substituting “decision referred to in subsection (7)”;
2. by adding at the end the following subsection:

“(7) This section does not apply to:

1. a rate of return decision; or
2. a decision under section 606 to the extent that it relates to the terms of a Newstart Activity Agreement that is in force.”.

**18.** After section 1254 of the Principal Act the following section is inserted:

**SSAT review powers (Newstart Activity Agreement decision)**

“1254a. If a person applies to the Social Security Appeals Tribunal (SSAT) for review of a decision under section 606 to the extent that it relates to the terms of a Newstart Activity Agreement that is in force, the SSAT must:

1. affirm the decision; or
2. set aside the decision and send the matter back to the Secretary for reconsideration in accordance with any recommendations of the Tribunal.”.

**Date of effect of SSAT decisions (other than rate of return decisions and Newstart Activity Agreement decisions)**

**19.** Section 1255 of the Principal Act is amended by omitting subsection (6) and substituting the following subsection:

“(6) This section does not apply to:

1. a rate of return decision; or
2. a decision under section 606 to the extent that it relates to the terms of a Newstart Activity Agreement that is in force.”.

**29.** After section 1256 of the Principal Act the following section is inserted:

**Date of effect of SSAT decision (Newstart Activity Agreement decision)**

“1256A. (1) Subject to subsection (2), a decision by the Social Security Appeals Tribunal (SSAT) comes into operation immediately on the giving of the decision.

“(2) The SSAT may specify in a decision that the decision is not te come into operation until a later day specified in the decision and if it does so the decision comes into operation on that later day.”.

**21.** After section 1298 of the Principal Act the following section is inserted:

**The Secretary and the Employment Secretary may agree on administrative arrangements**

“1298a. The Secretary and the Employment Secretary may agree on administrative arrangements to further the objectives of Parts 2.11 and 2.12 which may be arrangements under which officers of the Employment Department perform duties, or exercise powers or functions, under or in relation to those Parts.”.

**Delegation**

**22.** Section 1299 of the Principal Act is amended:

1. by omitting “The” and substituting “Subject to subsections (2) and (3), the”;
2. by adding at the end the following subsections:

“(2) The Secretary cannot delegate the Secretary’s powers under paragraph 1314 (1) (b) (disclosure of information).

“(3) With regard to the powers of the Secretary under:

1. section 518 (move to area of lower employment prospects); and
2. section 597 (move to area of lower employment prospects); and
3. Subdivisions B and C of Division 1 of Part 2.12 (activity testing for newstart allowance and Newstart Activity Agreement);

the Secretary:

1. must delegate the powers to officers nominated by the Employment Secretary; and
2. cannot delegate those powers to any other officers.”.

**Authorised review officers**

**23.** Section 1301 of the Principal Act is amended:

1. by omitting from subsection (1) “The” and substituting “Subject to subsection (1a), the”;
2. by inserting after subsection (1) the following subsection:

“(1a) The only officers who may be authorised to perform duties as authorised review officers for the purposes of:

1. section 518 (move to area of lower employment prospects); and
2. section 597 (move to area of lower employment prospects); and
3. Subdivisions B and C of Division 1 of Part 2.12 (activity

testing for newstart allowance and Newstart Activity Agreement);

are officers nominated by the Employment Secretary.”.

**Annual Report**

**24.** Section 1303 of the Principal Act is amended by adding at the end the following subsection:

“(3) Where the Employment Secretary prepares a report on the operation of the CES during a year for giving to a Minister who is required to lay the report before each House of the Parliament, the report must include information about the activities of officers of the Employment Department in relation to activity tests and Newstart Activity Agreements under this Act.”.

**Appropriation**

**25.** Section 1363 of the Principal Act is amended:

1. by omitting “Payments” and substituting “Subject to subsection (2), payments”;
2. by adding at the end the following subsection:

“(2) The following payments:

1. payments to persons entitled to a job search training supplement under section 560 of job search allowances (including that supplement);
2. payments to persons entitled to a newstart training supplement under section 644 of newstart allowances (including that supplement);

are to be made out of money appropriated by the Parliament:

1. for the purpose of those payments; or
2. for the purpose of the allowance known as the Formal Training Allowance.”.

**Consequential amendments**

**26.** The Principal Act is amended as set out in the Schedule.

**Transitional—allowances**

**27. (1)** In this section:

**“old benefit”** means:

1. an unemployment benefit; or
2. a job search allowance;

under the *Social Security Act 1947* and, in the case of subsections (4) and (7), includes a training allowance;

**“training allowance”** means the allowance formerly paid by the Department of Employment, Education and Training and known as the Formal Training Allowance.

1. Subject to subsection (5), if, but for this Act, a person would have been entitled to a job search allowance under the Principal Act in respect of 1 July 1991, the person is, on that day, entitled to a job search allowance under the Principal Act as amended by this Act.
2. Subject to subsection (5), if:
3. but for this Act, a person would have been entitled to an unemployment benefit under the Principal Act in respect of 1 July 1991; and
4. on that day, the person had not been in receipt of an old benefit or old benefits for longer than 12 months;

the person is, on that day, entitled to a job search allowance under the Principal Act as amended by this Act.

**(4)** Subject to subsection (5), if:

1. but for the abolition of the training allowance, a person would have been entitled to that allowance on 1 July 1991; and
2. on that day the person had not been in receipt of an old benefit or old benefits for longer than 12 months;

the person is, on that day, entitled to a job search allowance under the Principal Act as amended by this Act.

**(5)** If:

1. but for this subsection, a person would, under subsection (2), (3) or (4), have been entitled, on 1 July 1991, to a job search allowance under the Principal Act as amended by this Act; and
2. before 26 July 1991:

(i) the person will have turned 18; and

(ii) the anniversary of the start of the period for which the person had been in receipt of an old benefit or old benefits immediately before 1 July 1991 will have occurred;

the person is, on 1 July 1991, entitled to a newstart allowance under the Principal Act as amended by this Act.

**(6)** If:

1. but for this Act, a person would have been entitled to an unemployment benefit under the Principal Act in respect of 1 July 1991; and
2. on that day the person had been in receipt of an old benefit or old benefits for longer than 12 months;

the person is on that day entitled to a newstart allowance under the Principal Act as amended by this Act.

**(7)** If:

(a) but for the abolition of the training allowance, a person would have been entitled to that allowance on 1 July 1991; and

(b) on that day, the person had been in receipt of an old benefit or old benefits for longer than 12 months;

the person is, on that day, entitled to a newstart allowance under the Principal Act as amended by this Act.

**Transitional—no payment under repealed Parts**

**28.** A person is not entitled to any payment in respect of 1 July 1991 of unemployment benefit or job search allowance under the Principal Act.

**Transitional—delegation**

**29.** Subsection 1299 (3) does not apply to a delegation in relation to a person who was receiving unemployment benefit under the Principal Act on 30 June 1991 until the person enters into a Newstart Activity Agreement.

**PART 3—AMENDMENT OF THE HEALTH INSURANCE ACT 1973**

**Principal Act**

**30.** In this Act, **“Principal Act”** means the *Health Insurance Act 1973*2*.*

**Interpretation**

**31.** Section 3 of the Principal Act is amended by inserting after subsection (1a) the following subsections:

“(1aa) A reference in this Act to a job search allowance is a reference to a job search allowance under the *Social Security Act 1991* being paid to a person who has not turned 18.

“(1aaa) A reference in this Act to an unemployment benefit is a reference to:

1. a job search allowance under the *Social Security Act 1991* being paid to a person who has turned 18; or
2. a newstart allowance under that Act.”.

**PART 4—AMENDMENT OF THE NATIONAL HEALTH ACT 1953**

**Principal Act**

**32.** In this Part, **“Principal Act”** means the *National Health Act 1953* 3.

**Interpretation**

**33.** Section 4 of the Principal Act is amended by inserting after subsection (1a) the following subsections:

“(1aaa) A reference in this Act to a job search allowance is a reference to a job search allowance under the *Social Security Act 1991* being paid to a person who has not turned 18.

“(1aab) A reference in this Act to an unemployment benefit is a reference to:

1. a job search allowance under the *Social Security Act 1991* being paid to a person who has turned 18; or
2. a newstart allowance under that Act.”.

**SCHEDULE** Section 26

**CONSEQUENTIAL AMENDMENTS OF THE SOCIAL SECURITY ACT 1991**

PART 1

|  |  |
| --- | --- |
| **Section 3:** |  |
| Omit: |  |
| **(a)** “UB automatic deferment provision | 23 (1) |
| UB discretionary deferment provision | 23 (1)”. |
| **(b)** Insert in their respective appropriate alphabetical positions determined on a letter-by-letter basis: |
| “allowance category | 23 (14a) |
| automatic deferment provision | 23 (1) |
| Employment Department | 23 (1) |
| Employment Secretary | 23 (1) |
| family member | 5a |
| liquid assets | 14a |
| maximum reserve | 14a |
| Newstart Activity Agreement | 604 |
| NS automatic deferment provision | 23 (1) |
| NS discretionary deferment provision | 23 (1)”. |

**Paragraph 5 (10) (c):**

Omit “unemployment benefit”, substitute “newstart allowance,”.

**Paragraph 15 (2) (c):**

Omit the paragraph.

**Subsection 15 (2) (Note):**

Omit “sections 519, 522 to 527 and 597 and 598”, substitute “section 524”.

**Subsection 23 (1) (definition of “education leavers waiting period”):**

**(a)** Omit paragraph (a), substitute:

“(a) a newstart allowance education leavers waiting period under section 622; or”.

**(b)** Omit “612 and 613”, substitute “540 and 541”.

**Subsection 23 (1) (definition of “ordinary waiting period”):**

**(a)** Omit paragraph (a), substitute:

“(a) a newstart allowance ordinary waiting period under sections 620 and 621; or”.

**(b)** Omit “610 and 611”, substitute “538 and 539”.

**SCHEDULE**—continued

**Subsection 23 (1) (definition of “social security benefit”):**

Omit paragraph (a), substitute:

“(a) newstart allowance; or”.

**Subsection 23 (1) (definitions of “UB automatic deferment provision” and “UB discretionary deferment provision”):**

Omit the definitions.

**Subsection 23 (1) (definition of “unused annual leave waiting period”):**

**(a)** Omit paragraph (a), substitute:

“(a) a newstart allowance unused annual leave waiting period under sections 617 to 619; or”.

**(b)** Omit “607 to 609”, substitute “535 to 537”.

**Subsection 23 (1) (definition of “waiting period”):**

**(a)** Omit paragraphs (a), (b) and (c), substitute:

“(a) newstart allowance unused annual leave waiting period under sections 617 to 619; or

1. newstart allowance ordinary waiting period under sections 620 and 621; or
2. newstart allowance education leavers waiting period in sections 622 and 623; or”.
3. Omit “607 to 609”, substitute “535 to 537”.
4. Omit “610 and 611”, substitute “538 and 539”.
5. Omit “612 and 613”, substitute “540 and 541”.

**Subsection 23 (10):**

Omit “(unemployment benefit), Part 2.12 (job search allowance)”, substitute “(job search allowance), Part 2.12 (newstart allowance)”.

**Section 26:**

Repeal the section.

**Section 27:**

Repeal the section.

**Section 28:**

1. Omit “National Director of the CES”, substitute “Employment Secretary”.
2. Omit “523, 526 and 598”, substitute “sections 524 and 525”.

**Section 461 (Note 4):**

Omit all words from and including “For example”.

**SCHEDULE**—continued

**Subparagraph 666 (1) (c) (ii):**

Omit “unemployment benefit or job search allowance”, substitute “job search allowance or newstart allowance”.

**Paragraph 669 (1) (c):**

Omit the paragraph, substitute:

“(c) the person is qualified for a job search allowance or a newstart allowance in respect of the period (see sections 514 and 594); or”.

**Subsection 671 (3) (Note 4):**

Omit “unemployment benefit”, substitute “newstart allowance”.

**Section 673 (Note):**

1. After “who” insert “has not turned 18”.
2. Omit “589 (2)”, substitute “514 (2)”.

**Paragraph 682 (a):**

After “person” insert “who has not turned 18”.

**Paragraph 684 (2) (b):**

Omit “unemployment benefit, job search allowance”, substitute “job search allowance, newstart allowance”.

**Paragraph 685 (6) (b):**

Omit “unemployment benefit job search allowance”, substitute “job search allowance, newstart allowance”.

**Section 699:**

Omit “unemployment benefit” (wherever occurring), substitute “newstart allowance”.

**Paragraphs 729 (2) (c) and (d):**

Omit the paragraphs, substitute the following:

“(c) the person is not disqualified for a job search allowance or newstart allowance for the period solely because of the operation of one or more of the following:

(i) subparagraph 513 (c) (iv) or 593 (g) (iv) (is not registered as being unemployed by the CES);

(ii) section 517 or 596 (unemployment due to industrial action);

(iii) section 518 or 597 (move to area of lower employment prospects); and

(d) in a case where the person is qualified for a job search allowance

**SCHEDULE**—continued

or newstart allowance but the allowance is not payable to the person for the period—that result is not produced solely by the operation of one or more of the following:

(i) subsection 543 (3) or 627 (3) (person failing to comply with Secretary’s requirements);

 (ii) section 544 or 628 (unemployment due to voluntary act);

(iii) section 545 or 629 (unemployment due to misconduct);

(iv) section 546 or 630 (refusal of job offer);

(v) section 547 or 631 (person failing to comply with notification requirement);

(vi) section 548 or 632 (person failing to continue CES registration);

 (vii) section 549 or 633 (seasonal workers);

(viii) section 550 or 634 (move to area of lower employment prospects); and”.

**Subsection 729 (4):**

1. Omit “unemployment benefit or job search allowance”, substitute “job search allowance or newstart allowance”.
2. Omit “benefit or” wherever occurring.

**Subsection 746 (2):**

Omit “unemployment benefit or job search allowance” (wherever occurring), substitute “job search allowance or newstart allowance”.

**Paragraph 769 (c):**

Omit “receiving unemployment benefit”, substitute:

“receiving:

(i) in the case of a person who has turned 18—job search allowance; or

(ii) newstart allowance;

immediately”.

**Section 770:**

Omit “unemployment benefit or job search allowance” (wherever occurring), substitute “job search allowance or newstart allowance”.

**Subsection 771 (3):**

Omit “unemployment benefit or job search allowance”, substitute “job search allowance or newstart allowance”.

**Paragraph 1067 (1) (a):**

After “allowance” insert “of a person who has not turned 18”.

**SCHEDULE**—continued

**Point 1067-A3:**

Omit “514 (unemployment benefit) and 540 (job search allowance)”, substitute “517 (job search allowance) and 596 (newstart allowance)”.

**Paragraph 1067-A4 (b):**

Omit “UB”, substitute “NS”.

**Paragraph 1067-F5 (b):**

Omit “job search allowance or sickness benefit”, substitute “sickness benefit or, in the case of a person who has not turned 18, job search allowance”.

**Paragraph 1067-F12 (b):**

Omit “an unemployment benefit, job search allowance”, substitute “a job search allowance, newstart allowance”.

**Paragraph 1067-H4 (b)**

Omit “subsection 589 (2)”, substitute “section 514”.

**Paragraph 1068 (1) (a):**

Omit the paragraph, substitute:

“(a) job search allowance for a person who has turned 18; or (aa) newstart allowance; or”.

**Point 1068-A3:**

Omit “514 (unemployment benefit) and 590 (job search allowance)”, substitute “517 (job search allowance) and 596 (newstart allowance)”.

**Paragraph 1068-A4 (a):**

Omit “UB” wherever occurring, substitute “NS”.

**Paragraph 1068-F7 (c):**

Omit “unemployment benefit or sickness benefit”, substitute “sickness benefit, newstart allowance or, in the case of a person who has turned 18, job search allowance”.

**Point 1068-F16:**

Omit “unemployment benefit”, substitute “newstart allowance or, in the case of a person who has turned 18, job search allowance”.

**Sections 1112 and 1128:**

Omit “unemployment benefit, job search allowance”, substitute “job search allowance, newstart allowance”.

**SCHEDULE**—continued

**Subsection 1131 (2):**

Omit “unemployment benefit”, substitute “newstart allowance or, if the person has turned 18, job search allowance”.

**Section 1160:**

Omit “Unemployment benefit, job search allowance”, substitute “Job search allowance, newstart allowance”.

**Paragraph 1161 (1) (b):**

Omit “unemployment benefit, job search allowance”, substitute “job search allowance, newstart allowance”.

**Subsection 1168 (3) (Example 2) and subsection 1170 (4) (Example 2):**

Omit “unemployment benefit”, substitute “newstart allowance”.

**Subparagraphs 1187 (1) (b) (i), 1187 (3) (c) (i) and 1223 (2) (a) (i):**

Omit the subparagraph, substitute:

“(i) newstart allowance; or”.

**Paragraph 1250 (1) (b):**

Omit the paragraph.

**Paragraph 1250 (1) (c):**

Omit “UB and”.

**Subsection 1253 (4):**

Omit “(4)”, substitute “(3)”.

**Paragraph 1253 (4) (b):**

Omit the paragraph.

**Paragraph 1253 (4) (c):**

Omit “UB and”.

**Paragraphs 1308 (1) (a) and (b):**

Omit the paragraphs.

**Subsection 1308 (1) (Note):**

Omit Note to and including “are”, substitute “section 670 (sickness benefit) provides that sickness benefit is”.

**Paragraphs 1308 (2) (a) and (b):**

Omit the paragraphs.

**SCHEDULE**—continued

**Subparagraphs 1308 (3) (a) (i) and (ii):**

Omit the subparagraphs.

**Section 1311 (Note):**

Omit “unemployment benefit, job search allowance”, substitute “job search allowance, newstart allowance”.

**PART 2**

**Subparagraph 666 (1) (c) (ii), sections 746 and 770, subsection 771 (3):**

Omit “unemployment benefit or job search allowance” (wherever occurring), substitute “job search allowance or newstart allowance”.

**PART 3**

**Subsection 729 (4), paragraph 1067-A2 (b), point 1067-B1 (Note 3), point 1067-C1 (Note), point 1067-E5 (Note), paragraph 1068-A2 (b), point 1068-B1 (Note 3), point 1068-C1 (Note), point 1068-E5 (Note):**

Omit “an unemployment benefit or job search allowance” (wherever occurring), substitute “a job search allowance or newstart allowance”.

**NOTES**

1. No. 46, 1991.

2. No. 42, 1974, as amended. For previous amendments, see No. 58, 1975; Nos. 59, 91, 101, 109 and 157, 1976; No. 75, 1977; Nos. 36, 89 and 133, 1978; Nos. 53 and 123, 1979; No. 132, 1980; Nos. 118 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 54 and 139, 1983; Nos. 15, 46, 63, 120, 135 and 165, 1984; Nos 24, 65, 70, 95 and 167, 1985; Nos. 28, 75 and 94, 1986; Nos. 44, 131, 132 and 141, 1987; Nos. 85, 87, 99 and 155, 1988; No. 95, 1989; Nos. 3 and 119, 1990; and Nos. 6 and 57, 1991.

3. No. 95, 1953, as amended. For previous amendments, see No. 68, 1955; Nos. 55 and 95, 1956; No. 92, 1957; No. 68, 1958; No. 72, 1959; No. 16, 1961; No. 82, 1962; No. 77, 1963; No. 37, 1964; Nos. 100 and 146, 1965; No. 44, 1966; Nos. 14 and 100, 1967; No. 100, 1968; No. 102, 1969; No. 41, 1970; No. 85, 1971; No. 114, 1972; Nos. 49 and 202, 1973; Nos. 1, 13 and 93, 1975; Nos. 1, 60, 91, 99, 108 and 177, 1976; Nos. 98 and 100, 1977; Nos. 36, 88, 132 and 189, 1978; Nos. 54, 91 and 122, 1979; Nos. 117 and 131, 1980; Nos. 40, 74, 92, 118, 163 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 35, 54 and 139, 1983; Nos. 46, 63, 72, 120, 135 and 165, 1984; Nos. 24, 53, 65, 70, 95, 127 and 167, 1985; Nos. 28, 75, 94 and 115, 1986; Nos. 22, 44, 72, 118, 131 and 132, 1987; Nos. 79, 87, 99 and 155, 1988; No. 95, 1989; Nos. 3 and 119, 1990; and No. 6, 1991.

**NOTES**—continued

NOTE ABOUT HEADINGS IN THE SOCIAL SECURITY ACT 1991

On the day on which Part 2 commences, the following headings in the *Social Security Act 1991* are amended as shown:

Heading to section 15:

Omit **“UB and JS work”**, substitute **“JSA and NS activity”**.

Heading to section 16:

Omit **“UB and JS”**, substitute **“JS and NS”**.

Heading to section 28:

Omit **“UB and JSA work”**, substitute **“JS activity”**.

Heading to section 699:

Omit **“unemployment benefit”**, substitute **“newstart allowance”**.

Heading to section 1067:

After **“allowance”** insert **“(under 18)”**.

Heading to section 1068:

Omit **“unemployment”**, substitute **“job search allowance (over 18) and newstart allowance”**.

[*Minister’s second reading speech made in*—

*House of Representatives on 18 April 1991*

*Senate on 14 May 1991*]