



Employment Services Amendment Act 1995

No. 148 of 1995

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Employment Services Amendment Act 1995

No. 148 of 1995

**An Act to amend the *Employment Services Act 1994* and the
Social Security Act 1991, and for related purposes**

[Assented to 16 December 1995]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Employment Services Amendment Act 1995*.

Commencement

2.(1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

(2) Part 4 of Schedule 1 commences on 20 September 1996.

Employment Services Amendment No. 148, 1995

Amendment of the *Employment Services Act 1994*

3. The *Employment Services Act 1994* is amended in accordance with the applicable items in Schedule 1, and the other items in Schedule 1 have effect according to their terms.

Amendment of the *Social Security Act 1991*

4. The *Social Security Act 1991* is amended as set out in Schedule 2.

SCHEDULE 1

Section 3

AMENDMENT OF THE EMPLOYMENT SERVICES ACT 1994

PART 1—CES NOTIFICATION AND INTERVIEW OF PARTICIPANTS IN THE CASE MANAGEMENT SYSTEM

1. Subsections 27(2), (3) and (4):

Omit the subsections, substitute:

Notification and interview after a person becomes a participant

“(2) If:

- (a) a person has become a participant in the case management system; and
- (b) the person has not already been interviewed under subsection (1) in connection with so becoming a participant; and
- (c) the person has not been referred to a case manager at any time since so becoming a participant; and
- (d) the CES becomes of the opinion that if:
 - (i) the CES were to ask the person to attend or take part in an interview with the CES under this subsection; and
 - (ii) the person were to attend or take part in the interview; the person could reasonably be referred to a case manager within 24 days after the date of the interview;

the CES must:

- (e) give the person a written notice stating that he or she has become a participant in the case management system; and
- (f) ask the person:
 - (i) to attend an interview with the CES; or
 - (ii) to take part in an interview with the CES by telephone, video-link or similar means.

Note: Sections 28A and 29 of the *Acts Interpretation Act 1901* (which deal with service of documents) apply to a notice given under this subsection.”.

2. Paragraph 27(5)(a):

Omit “(3) or (4)”, substitute “(2)”.

3. Section 28:

Omit “27(3), (4)”, substitute “27(2)”.

4. Application

The amendments made by this Part apply to a person who becomes a participant in the case management system before, at or after the commencement of this item.

SCHEDULE 1—continued

5. Transitional—pre-commencement participants in the case management system

(1) Subsection 27(2) of the *Employment Services Act 1994* as amended by this Part does not apply to a person if the person:

- (a) was a participant in the case management system immediately before the commencement of this item; and
- (b) had already been given a request under section 27 of that Act before the commencement of this item.

(2) Despite the amendments made by this Part, subsection 27(5) and section 28 of the *Employment Services Act 1994* continue to apply, in relation to a request given before the commencement of this item, as if those amendments had not been made.

(3) Paragraph 27(2)(e) of the *Employment Services Act 1994* as amended by this Part does not apply to a participant in the case management system if, before the commencement of this item, he or she had been given a notice to the effect that he or she had become such a participant.

SCHEDULE 1—continued

PART 2—JOB COMPACT ELIGIBILITY

6. Subsection 39(10):

Add at the end:

“; and (c) throughout the period of 18 months ending at that time, the person was registered with the CES.”.

7. Subsection 39(14):

Omit the subsection, substitute:

Determinations about terminating events and resetting CES registration to zero

“(14) The Minister may make a written determination:

(a) that a specified event or circumstance is a terminating event for the purposes of subsection (13); or

(b) that a specified event or circumstance resets a person’s CES registration to zero for the purposes of paragraph (10)(c).

A determination has effect accordingly.

When determination resets CES registration to zero

“(14A) A determination covered by paragraph (14)(b) *resets a person’s CES registration to zero* if, and only if, the determination provides that the person is taken, for the purposes of paragraph (10)(c):

(a) to have ceased, at a specified time, to be registered with the CES; and

(b) to have recommenced, 24 hours later, to be registered with the CES.”.

8. Section 39:

Add at the end:

Registration with the CES

“(16) For the purposes of this section, a person is registered with the CES if, and only if, the person is registered by the CES as being unemployed.”.

9. Transitional—pre-commencement eligibility not affected

A person who became eligible for the Job Compact before the commencement of this item does not cease to be eligible for the Job Compact merely because of the amendment of subsection 39(10) of the *Employment Services Act 1994* made by this Part.

Note: Such a person remains eligible for the Job Compact until a terminating event happens: see subsection 39(13) of the *Employment Services Act 1994*.

SCHEDULE 1—continued

10. Transitional—pre-commencement determinations remain in force

(1) This item applies to a determination that was in force under subsection 39(14) of the *Employment Services Act 1994* immediately before the commencement of this item.

(2) The *Employment Services Act 1994* as amended by this Part has effect, after the commencement of this item, as if the determination had been made under subsection 39(14) of that Act as amended by this Part.

SCHEDULE 1—continued

PART 3—ESRA’S USE OF CREDIT CARDS

11. Subsection 70(2):

Add at the end:

“(f) to obtain goods or services on credit from any person by the use of a credit card.”.

SCHEDULE 1—continued

**PART 4—AMALGAMATION OF JOB SEARCH ALLOWANCE
AND NEWSTART ALLOWANCE**

12. Section 28:

Omit “sections 546C and 630C”, substitute “section 630C”.

13. Section 28 (note):

Omit “job search allowance,”.

14. Section 31:

Omit “sections 546C and 630C”, substitute “section 630C”.

15. Section 31 (note):

Omit “job search allowance,”.

16. Subsection 36(2):

Omit “job search allowance, or newstart allowance,”, substitute “newstart allowance”.

17. Paragraph 39(1)(e):

Omit “job search allowance, or newstart allowance,”, substitute “newstart allowance”.

18. Paragraph 39(10)(a):

Omit “a job search allowance, or a newstart allowance,”, substitute “a newstart allowance”.

Note: The heading to subsection 39(10) of the *Employment Services Act 1994* is altered by omitting “job search allowance,”.

19. Paragraph 39(10)(b):

Omit all the words after “the person”, substitute “received an income support payment; and”.

20. Subsection 39(10):

Add at the end:

“*Note: Income support payment is defined by subsection (17).*”.

21. Subsection 39(11):

Omit the subsection, substitute:

Gaps in receipt of income support payment

“(11) For the purposes of paragraph (10)(b), if:

SCHEDULE 1—continued

- (a) a person is in receipt of an income support payment; and
- (b) in a case where the person has been in receipt of an income support payment for a period of less than 12 months—the person ceases for a period (the *gap period*) of not longer than 6 weeks to be in receipt of an income support payment; and
- (c) in a case where the person has been in receipt of an income support payment for a period of at least 12 months—the person ceases for a period (the *gap period*) of not longer than 13 weeks to be in receipt of an income support payment; and
- (d) at the end of the gap period, the person begins to receive an income support payment;

the person is taken to have been in receipt of an income support payment throughout the gap period.

Note: *Income support payment* is defined by subsection (17).”.

22. Section 39:

Add at the end:

Definition

“(17) In this section:

income support payment means:

- (a) newstart allowance under the *Social Security Act 1991*; or
- (b) youth training allowance under Part 8 of the *Student and Youth Assistance Act 1973*.”.

23. Paragraph 40(1)(a):

Omit “one”, substitute “either”.

24. Subparagraph 40(1)(a)(i):

Omit the subparagraph.

25. Subparagraph 40(1)(a)(ii):

Omit “or”.

26. Paragraph 40(2)(a):

Omit “job search allowance”, substitute “newstart allowance and is under 18”.

27. Paragraph 40(2)(b):

After “newstart allowance” insert “and is 18 or over”.

28. Subsection 40(6) (definition of *Job Search Activity Agreement*):

After “*Social Security Act 1991*” insert “as in force immediately before 20 September 1996”.

SCHEDULE 1—continued

29. Paragraph 41(1)(a):

Omit “one”, substitute “either”.

30. Subparagraph 41(1)(a)(i):

Omit the subparagraph.

31. Paragraph 41(2)(a):

Omit “one”, substitute “either”.

32. Subparagraph 41(2)(a)(i):

Omit the subparagraph.

33. Paragraph 41(3)(a):

Omit “job search allowance”, substitute “newstart allowance and is under 18”.

34. Paragraph 41(3)(b):

After “newstart allowance” insert “and is 18 or over”.

35. Subsection 41(6) (definition of *Job Search Activity Agreement*):

After “*Social Security Act 1991*” insert “as in force immediately before 20 September 1996”.

36. Subsection 43(2) (note):

Omit “sections 513 and”, substitute “section”.

37. Subsection 43(2) (note):

Omit “job search allowance,”.

38. Paragraph 45(3)(a):

Omit “a Job Search Activity Agreement,”.

Note 1: The heading to section 45 of the *Employment Services Act 1994* is altered by omitting “Job Search Activity Agreements,”.

Note 2: The heading to subsection 45(3) of the *Employment Services Act 1994* is altered by omitting “*Job Search Activity Agreement*,”.

39. Subsection 45(3):

Omit “Job Search Activity Agreement,” (last occurring).

40. Subsection 45(4):

Omit “a Job Search Activity Agreement,”.

Note: The heading to subsection 45(4) of the *Employment Services Act 1994* is altered by omitting “*Job Search Activity Agreement*,”.

SCHEDULE 1—continued

41. Subsection 45(5):

Omit “a job search allowance,”.

Note: The heading to subsection 45(5) of the *Employment Services Act 1994* is altered by omitting “*job search allowance or newstart allowance*” and substituting “*newstart allowance or youth training allowance*”.

42. Subsection 45(7):

Omit “sections 516 and 595 of the *Social Security Act 1991* have effect, in relation to the person, as if a reference in those sections to a Job Search Activity Agreement or”, substitute “section 595 of the *Social Security Act 1991* has effect, in relation to the person, as if a reference in that section to”.

43. Subsection 45(9):

Omit the subsection, substitute:

Modification of activity test requirements under the Social Security Act 1991

“(9) During the person’s case management period, section 601 of the *Social Security Act 1991* has effect, in relation to the person, as if a reference in that section to a Newstart Activity Agreement between the CES and the person were a reference to a Case Management Activity Agreement between a case manager and the person.”.

44. Subsection 45(11):

Omit “542A, 542B,”.

45. Subsection 45(11):

Omit “a Job Search Activity Agreement or”.

46. Subsection 45(15) (definitions of *Job Search Activity Agreement* and *job search allowance*):

Omit the definitions.

47. Subsection 46(2):

Omit “2.11 or”.

48. Subsection 46(5):

Omit “sections 546C and”, substitute “section”.

49. Subsection 46(5) (note):

Omit “job search allowance,”.

50. Paragraph 149(2)(c):

Omit “job search allowance,”.

Note: The heading to section 149 of the *Employment Services Act 1994* is altered by omitting “*job search allowance*,”.

SCHEDULE 1—continued

51. Paragraph 149(2)(d):

Omit “589 or”.

52. Subsection 149(4) (definition of *job search allowance*):

Omit the definition.

53. Paragraph 155(2)(c):

Omit “job search allowance,”.

Note: The heading to section 155 of the *Employment Services Act 1994* is altered by omitting “job search allowance or newstart allowance” and substituting “newstart allowance or youth training allowance”.

54. Paragraph 155(2)(d):

Omit “589 or”.

55. Subsection 155(4) (definition of *job search allowance*):

Omit the definition.

56. Transitional—pre-commencement payments of job search allowance

(1) This item applies to a payment of job search allowance received at any time before the commencement of this item.

(2) Subsections 39(10), (11) and (17), 40(1) and (2) and 41(1), (2) and (3) of the *Employment Services Act 1994* have effect, after the commencement of this item, as if the payment were a payment of newstart allowance.

SCHEDULE 2

Section 4

AMENDMENT OF THE SOCIAL SECURITY ACT 1991

1. Section 1337:

Omit “or the *Student and Youth Assistance Act 1973*”, substitute “, the *Student and Youth Assistance Act 1973* or the *Employment Services Act 1994*”.

[Minister's second reading speech made in—
House of Representatives on 23 October 1995
Senate on 25 October 1995]