



Social Security Amendment (2007 Measures No. 1) Act 2007

No. 172, 2007

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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

[Assented to 28 September 2007]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security Amendment (2007 Measures No. 1) Act 2007*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	28 September 2007
2. Schedule 1	The later of: (a) 8 December 2007; and (b) the day after this Act receives the Royal Assent.	8 December 2007 (paragraph (a) applies)
3. Schedules 2 and 3	The later of: (a) 1 January 2008; and (b) the day after this Act receives the Royal Assent.	1 January 2008 (paragraph (a) applies)
4. Schedules 4 and 5	The day after this Act receives the Royal Assent.	29 September 2007
5. Schedule 6, item 1	Immediately after the commencement of item 67 of Schedule 7 to the <i>Social Security Legislation Amendment (Budget and Other Measures) Act 1996</i> .	20 September 1997
6. Schedule 6, item 2	Immediately after the commencement of item 91 of Schedule 9 to the <i>Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 1998</i> .	17 June 1998
Note:	This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.	

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- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Mobility allowance

Social Security Act 1991

1 At the end of subsection 1035(1)

Add:

; or (h) all of the following apply:

- (i) the person is a handicapped person;
- (ii) the person is undertaking a vocational rehabilitation program;
- (iii) the Secretary is of the opinion that:
 - (A) the person is unable to use public transport without substantial assistance, either permanently or for an extended period; and
 - (B) the person's inability to use public transport without substantial assistance is due to the person's physical or mental disability;
- (iv) the person is an Australian resident.

2 At the end of subsection 1035(2)

Add:

; or (e) a vocational rehabilitation program.

3 Subsection 1035(3)

Insert:

vocational rehabilitation program means a rehabilitation program (or follow-up program) under Part III of the *Disability Services Act 1986* that provides a person with assistance to obtain or retain unsupported paid employment.

Note: A vocational rehabilitation program may include vocational training within the meaning of section 19.

4 Paragraph 1035A(1)(d)

Omit "(7)", substitute "(9)".

5 Subparagraph 1035A(6)(a)(ii)

Omit "; and", substitute "; or".

Note: The heading to subsection 1035A(6) is replaced by the heading “*Newstart allowance, youth allowance or parenting payment recipients*”.

6 At the end of paragraph 1035A(6)(a)

Add:

(iii) is receiving parenting payment; and

7 Subparagraph 1035A(7)(b)(ii)

Omit “; and”, substitute “; or”.

8 At the end of paragraph 1035A(7)(b)

Add:

(iii) was receiving parenting payment; and

9 Paragraph 1035A(7)(c)

Omit “or youth allowance”, substitute “, youth allowance or parenting payment”.

10 Paragraph 1035A(7)(c)

After “the allowance”, insert “or payment”.

11 At the end of section 1035A

Add:

*Newstart allowance, youth allowance, disability support pension
and parenting payment recipients*

(8) A person satisfies this subsection if:

(a) the person:

(i) is receiving newstart allowance; or

(ii) is receiving youth allowance, but is not undertaking full-time study and is not a new apprentice; or

(iii) is receiving disability support pension; or

(iv) is receiving parenting payment; and

(b) the person is working for at least 15 hours per week on wages set in accordance with the program administered by the Commonwealth known as the supported wage system; and

(c) the work is not performed by the person in the course of employment that is supported by supported employment

services within the meaning of section 7 of the *Disability Services Act 1986*; and

- (d) the person is required to travel to and from the person's home for the purpose of performing the work.

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

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

- (9) A person satisfies this subsection if:

- (a) at a particular time, the person starts to earn income from work or the person's income from work increases; and
- (b) immediately before that time, the person:
 - (i) was receiving newstart allowance; or
 - (ii) was receiving youth allowance, but was not undertaking full-time study and was not a new apprentice; or
 - (iii) was receiving disability support pension; or
 - (iv) was receiving parenting payment; and
- (c) the newstart allowance, youth allowance, disability support pension or parenting payment ceased to be payable to the person because the rate of the allowance, pension or payment was nil due to the income, or increased income, the person earned from his or her work; and
- (d) since the time mentioned in paragraph (a), the person has been working:
 - (i) for at least 15 hours per week on wages set in accordance with the program administered by the Commonwealth known as the supported wage system; or
 - (ii) at least 15 hours per week on wages that are at or above the relevant minimum wage; and
- (e) the work has not been performed by the person in the course of employment that is or was supported by supported employment services within the meaning of section 7 of the *Disability Services Act 1986*; and
- (f) the person has been required to travel to and from the person's home for the purpose of performing that work; and
- (g) since the time mentioned in paragraph (a), no income support payment has been payable to the person because the rate of the payment is nil due to the income, or increased income, the person has been earning from the work.

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

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

12 At the end of paragraph 1046(2)(b)

Add:

; or (vi) to undertake a vocational rehabilitation program.

13 Paragraph 1046(2A)(b)

Omit “and (7)”, substitute “, (7), (8) and (9)”.

14 After subparagraph 1046(2B)(b)(ii)

Insert:

(ia) to receive parenting payment for a reason other than the application of section 500J, 500ZB or 500ZE of this Act or section 81 of the Administration Act; or

15 Subsection 1046(6)

Insert:

vocational rehabilitation program means a rehabilitation program (or follow-up program) under Part III of the *Disability Services Act 1986* that provides a person with assistance to obtain or retain unsupported paid employment.

Note: A vocational rehabilitation program may include vocational training within the meaning of section 19.

Schedule 2—Youth allowance

Social Security Act 1991

1 Paragraph 541(1)(b)

Before “the person satisfies”, insert “subject to subsection (4),”.

2 At the end of section 541

Add:

People who cease undertaking full-time study

- (4) For the purposes of paragraph (1)(b), a person who has:
- (a) ceased undertaking full-time study; and
 - (b) been given a notice under section 68 of the Administration Act that has the effect of requiring the person to inform the Department of that cessation; and
 - (c) refused or failed to comply with the notice in respect of that cessation;

cannot satisfy the Secretary that, at a particular time after the refusal or failure, the person is actively seeking, and willing to undertake, paid work in Australia unless, before that time, the person has informed the Department of that cessation or the Department has become aware of that cessation.

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

3 Application

The amendments made by this Schedule apply in relation to a person who:

- (a) is, before, on or after the commencement of this Schedule, given a notice under section 68 of the Administration Act that has the effect of requiring the person to inform the Department if the person ceases undertaking full-time study; and
- (b) on or after the commencement of this Schedule, ceases undertaking full-time study.

Schedule 3—Parenting payment recipients having a partial capacity to work

Social Security Act 1991

1 Before paragraph 1061PJ(2)(e)

Insert:

- (dc) subject to subsection (2D), a benefit PP (partnered);

2 After subsection 1061PJ(2C)

Insert:

(2D) Paragraph (2)(dc) only applies if the person receiving the payment:

- (a) has a partial capacity to work; and
- (b) on the day (the **relevant day**) (being a day occurring on or after 1 July 2006) immediately before the person first qualified for parenting payment, was a transitional DSP applicant and was:
 - (i) receiving a disability support pension; or
 - (ii) receiving a youth allowance in respect of which subsection (2A) applied; or
 - (iii) receiving a newstart allowance in respect of which subsection (2B) applied; and
- (c) if he or she was receiving a disability support pension—ceased to be qualified for it because he or she no longer had a continuing inability to work within the meaning of section 94; and
- (d) if he or she was receiving a disability support pension—ceased to be so qualified as a result of the first decision about the person's capacity to work made on or after 1 July 2006; and
- (e) was, on the relevant day, qualified for a pensioner education supplement in relation to a particular course of education or study; and
- (f) at all times since the relevant day, has been a member of a couple; and

(g) at all times since the relevant day, has been qualified both for:

- (i) parenting payment; and
- (ii) a pensioner education supplement in relation to that particular course of education or study.

Note 1: For *partial capacity to work* see section 16B.

Note 2: For *transitional DSP applicant* see subsection 23(1).

3 Subparagraph 1061PZG(1)(b)(ia)

Omit “or newstart allowance”, substitute “, newstart allowance or benefit PP (partnered)”.

4 Subsection 1061PZG(1) (note 1)

Repeal the note, substitute:

Note 1: Recipients of youth allowance, newstart allowance or benefit PP (partnered) only qualify for pensioner education supplement in the limited circumstances set out in subsection 1061PJ(2A), (2B) or (2D).

5 After subsection 1061Q(2C)

Insert:

(2D) A person is qualified for a telephone allowance if:

- (a) the person is receiving a benefit PP (partnered); and
- (b) the person has a partial capacity to work; and
- (c) the person is a telephone subscriber.

Note 1: For *partial capacity to work* see section 16B.

Note 2: For *telephone subscriber* see subsection (5).

6 Paragraph 1061Q(3D)(b)

After “newstart allowance”, insert “or parenting payment”.

7 After subsection 1061ZA(2C)

Insert:

(2D) Subject to subsection (3), a person is qualified for a pensioner concession card on a day if, on that day:

- (a) the person is receiving a benefit PP (partnered); and
- (b) the person has a partial capacity to work; and

- (c) the person is not qualified for a pensioner concession card under subsection (2).

Note: For *partial capacity to work* see section 16B.

8 Subsections 1061ZA(3) and (4)

Omit “and (2B)”, substitute “, (2B) and (2D)”.

9 After paragraph 1061ZD(5A)(b)

Insert:

; or (c) a benefit PP (partnered) while subsection 1061ZA(2D) applies to the person;

10 Paragraph 1061ZEA(2)(f)

Omit “or (2B)”, substitute “, (2B) or (2D)”.

11 Subparagraph 1061ZEA(2)(g)(ii)

Omit “or (2B)”, substitute “, (2B) or (2D)”.

12 Subparagraph 1061ZEB(2)(a)(ii)

Omit “and”, substitute “or”.

13 After subparagraph 1061ZEB(2)(a)(ii)

Insert:

(iii) the person has been receiving parenting payment; and

14 Paragraph 1061ZEB(2)(b)

Omit “or newstart allowance”, substitute “, newstart allowance or parenting payment”.

15 Paragraph 1061ZEB(2)(c)

Repeal the paragraph, substitute:

(c) at the time of the cessation the person:

- (i) was qualified for a pensioner concession card under subsection 1061ZA(2A), (2B) or (2D); or
- (ii) was qualified for a pensioner concession card under subsection 1061ZA(1) because a pension PP (single) was payable to the person; and

- (d) at the time of the cessation the person had a partial capacity to work.

16 After paragraph 1061ZEB(4)(b)

Insert:

- (ba) a benefit PP (partnered) while subsection 1061ZA(2D) applies to the person; or

17 Subsection 1061ZK(5)

Omit “or (2B)”, substitute “, (2B) or (2D)”.

18 Point 1068B-E1 (paragraph (d))

Omit “either or both”, substitute “one or more”.

19 Point 1068B-E1 (at the end of paragraph (d))

Add:

- ; (iii) the person has a partial capacity to work.

20 At the end of point 1068B-E1

Add:

Note 4: For *partial capacity to work* see section 16B.

21 Application

The amendments made by this Schedule apply, on or after the commencement of this Schedule, in relation to a person who made a claim for parenting payment on or after 1 July 2006 that was granted on or after that date.

Schedule 4—Dependent children

Social Security Act 1991

1 Subsection 23(1)

Insert:

family law order means:

- (a) a parenting order within the meaning of section 64B of the *Family Law Act 1975*; or
- (b) a family violence order within the meaning of section 4 of that Act; or
- (c) a State child order registered under section 70D of that Act; or
- (d) an overseas child order registered under section 70G of that Act.

2 Subsection 23(1)

Insert:

parenting plan has the meaning given by the *Family Law Act 1975*.

3 Subsection 23(1)

Insert:

registered parenting plan has the meaning given by the *Family Law Act 1975*.

4 After point 1067G-B3

Insert:

Certain children treated as dependent children if in recipient's care for at least minimum period

1067G-B3AA For the purposes of point 1067G-B3, the maximum basic rate for a person receiving youth allowance is worked out as if the person had a dependent child if:

- (a) the person is not undertaking full-time study and is not a new apprentice; and
- (b) either:
 - (i) the person is legally responsible (whether alone or jointly with another person) for the day-to-day care, welfare and development of a child under 16; or
 - (ii) under a family law order, registered parenting plan or parenting plan that is in force, a child under 16 is supposed to live or spend time with the person; and
- (c) the child is in the person's care for at least 14% of:
 - (i) the instalment period in relation to which the maximum basic rate is being worked out; or
 - (ii) if the Secretary, under point 1067G-B3AB, determines another period for the person for the purposes of this subparagraph—that other period; and
- (d) none of subsections 5(3), (6) and (7) prevents the child from being a dependent child of the person.

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

Note 2: For *new apprentice, family law order, registered parenting plan* and *parenting plan* see subsection 23(1).

1067G-B3AB The Secretary may, in writing, determine a period of either 14 days or 28 days for the purposes of subparagraph 1067G-B3AA(c)(ii). In making the determination, the Secretary must have regard to the guidelines (if any) determined under point 1067G-B3AD.

1067G-B3AC A determination made under point 1067G-B3AB is not a legislative instrument.

1067G-B3AD The Secretary may, by legislative instrument, determine guidelines to be complied with when making a determination under point 1067G-B3AB.

5 After point 1068-B1A

Insert:

Certain children treated as dependent children if in recipient's care for at least minimum period

1068-B1B For the purposes of point 1068-B1A, the maximum basic rate for a person receiving newstart allowance, mature age allowance under Part 2.12B or sickness allowance is worked out as if the person had a dependent child if:

- (a) either:
 - (i) the person is legally responsible (whether alone or jointly with another person) for the day-to-day care, welfare and development of a child under 16; or
 - (ii) under a family law order, registered parenting plan or parenting plan that is in force, a child under 16 is supposed to live or spend time with the person; and
- (b) the child is in the person's care for at least 14% of:
 - (i) the instalment period in relation to which the maximum basic rate is being worked out; or
 - (ii) if the Secretary, under point 1068-B1C, determines another period for the person for the purposes of this subparagraph—that other period; and
- (c) none of subsections 5(3), (6) and (7) prevents the child from being a dependent child of the person; and
- (d) the person is not a member of a couple.

Note: For **family law order**, **registered parenting plan** and **parenting plan** see subsection 23(1).

1068-B1C The Secretary may, in writing, determine a period of either 14 days or 28 days for the purposes of subparagraph 1068-B1B(b)(ii). In making the determination, the Secretary must have regard to the guidelines (if any) determined under point 1068-B1E.

1068-B1D A determination made under point 1068-B1C is not a legislative instrument.

1068-B1E The Secretary may, by legislative instrument, determine guidelines to be complied with when making a determination under point 1068-B1C.

6 After subsection 1188C(5)

Insert:

(5A) To avoid doubt, for the purposes of item 19 of Table A in subsection (5), a person is taken to have a dependent child if point 1068-B1B has the effect that the person's maximum basic rate of newstart allowance is worked out as if the person had a dependent child.

(5B) Subsection (5A) does not limit the circumstances in which a person has a dependent child for the purposes of the item mentioned in that subsection.

7 At the end of section 1188C

Add:

(8) To avoid doubt, for the purposes of item 34 of Table A in subsection (5), a person is taken to have a dependent child if point 1067G-B3AA has the effect that the person's maximum basic rate of youth allowance is worked out as if the person had a dependent child.

(9) Subsection (8) does not limit the circumstances in which a person has a dependent child for the purposes of the item mentioned in that subsection.

8 Application

The amendments made by items 4 and 5 of this Schedule apply in relation to instalment periods that start on or after the commencement of this Schedule.

Schedule 5—Participation requirements and activity test

Social Security Act 1991

1 Subparagraph 502A(1)(b)(ii)

Repeal the subparagraph, substitute:

(ii) paid work that the Secretary regards as suitable; or

2 Subparagraph 603AA(1)(b)(ii)

Repeal the subparagraph, substitute:

(ii) paid work that the Secretary regards as suitable; or

3 Subparagraph 731G(1)(b)(ii)

Repeal the subparagraph, substitute:

(ii) paid work that the Secretary regards as suitable; or

Schedule 6—Technical amendments

Social Security Act 1991

1 Subsection 598(2A) (definition of *maximum reserve amount*)

Omit “14(1)”, substitute “14A(1)”.

2 Subsection 676(3A) (definition of *maximum reserve amount*)

Omit “14(1)”, substitute “14A(1)”.

[Minister’s second reading speech made in—
House of Representatives on 20 June 2007
Senate on 17 August 2007]

(114/07)
