Social Security Legislation Amendment (Green Army Programme) Act 2014

No. 73, 2014

An Act to amend the law relating to social security, and for related purposes

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No. 73, 2014

An Act to amend the law relating to social security, and for related purposes

[*Assented to 30 June 2014*]

The Parliament of Australia enacts:

1 Short title

 This Act may be cited as the *Social Security Legislation Amendment (Green Army Programme) Act 2014*.

2 Commencement

 This Act commences on 1 July 2014.

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 Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Social Security Act 1991

1 Subsection 23(1)

Insert:

***green army allowance*** means green army allowance paid under the Green Army Programme.

***Green Army Programme*** means the program administered by the Commonwealth and known as the Green Army Programme.

2 After Part 1.3 of Chapter 1

Insert:

Part 1.3A—Green Army Programme

38G Simplified outline of this Part

If a person is receiving green army allowance under the Green Army Programme, a social security benefit or social security pension is not payable to the person.

Certain persons participating in the Green Army Programme will not be workers or employees for the purposes of various Commonwealth laws (for example, the *Fair Work Act 2009*).

If a person is receiving a social security pension and the person’s partner is receiving green army allowance, some or all of that allowance may not be counted as ordinary income in working out the person’s rate of social security pension.

38H Non‑payment of security benefit or social security pension if person receiving green army allowance

 Despite any other provision of the social security law, a social security benefit or social security pension is not payable to a person if the person is receiving green army allowance.

Note: For ***green army allowance*** see subsection 23(1).

38J Certain participants in Green Army Programme are not workers or employees under Commonwealth laws

 (1) A person:

 (a) who participates in the Green Army Programme on a full‑time or a part‑time basis and who is receiving green army allowance; or

 (b) who participates in the Green Army Programme on a part‑time basis and who is not receiving green army allowance;

is not taken to be:

 (c) a worker carrying out work in any capacity for the Commonwealth, or an employee of the Commonwealth, for the purposes of the *Work Health and Safety Act 2011*; or

 (d) an employee within the meaning of section 5 of the *Safety, Rehabilitation and Compensation Act 1988*; or

 (e) an employee for the purposes of the *Fair Work Act 2009*;

merely because of that participation.

Note: For ***Green Army Programme*** and ***green army allowance*** see subsection 23(1).

 (2) Paragraph (1)(b) does not apply to a person included in a class of persons prescribed in an instrument under subsection (3).

 (3) The Secretary may, by legislative instrument, prescribe a class of persons for the purposes of subsection (2).

38K Income test for person’s social security pension if green army allowance payable to person’s partner

 (1) If:

 (a) an instalment of a social security pension relating to an instalment period is payable to a person; and

 (b) green army allowance is payable to the person’s partner in respect of some or all of that period;

then:

 (c) if the amount of the green army allowance does not exceed the threshold applicable under subsection (2)—the green army allowance is not ordinary income of the person’s partner; or

 (d) if the amount of the green army allowance exceeds the threshold applicable under subsection (2):

 (i) the part of the green army allowance that does not exceed that threshold is not ordinary income of the person’s partner; and

 (ii) the part of the green army allowance that exceeds that threshold is ordinary income of the person’s partner.

Note 1: For ***green army allowance*** see subsection 23(1).

Note 2: Any part of green army allowance that is ordinary income of the person’s partner will be taken into account in applying the ordinary income test in working out the person’s rate of social security pension.

 (2) The threshold is:

 (a) if the person’s partner is aged under 22:

 (i) if the person’s partner has a dependent child—the amount under column 3 of item 7 of Table BB in point 1067G‑B3; or

 (ii) otherwise—the amount under column 3 of item 8 of Table BB in point 1067G‑B3; or

 (b) if the person’s partner is aged 22 or over—the amount under column 3B of item 7 of Table B in point 1068‑B1.

3 Application provision

Paragraph 38K(1)(a) of the *Social Security Act 1991*, as inserted by this Act, applies in relation to instalment periods ending on or after the commencement of this item.

Social Security (Administration) Act 1999

4 Subsection 118(2)

Omit “subsections (2A) and (2B)”, substitute “subsections (2A), (2B) and (2C)”.

5 After subsection 118(2B)

Insert:

 (2C) If an adverse determination is made to give effect to section 38H of the 1991 Act, the adverse determination takes effect on the day specified in the determination (which may be earlier than the day on which the determination is made).

[*Minister’s second reading speech made in—*

*House of Representatives on 26 February 2014*

*Senate on 15 May 2014*]

(9/14)