Social Security (Administration) Act 1999

Act No. 191 of 1999 as amended

This compilation was prepared on 6 April 2009
taking into account amendments up to Act No. 25 of 2009

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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Attorney-General’s Department, Canberra
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Notes
An Act to provide for the administration of the social security law, and for related purposes

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the Social Security (Administration) Act 1999.

2 Commencement [see Note 1]

(1) Subject to subsections (2) and (3), this Act commences on 20 March 2000.

(2) This Part and section 257 commence on the day on which this Act receives the Royal Assent.

(3) Section 54 commences on 1 July 2000.

2A Application of the Criminal Code

Chapter 2 of the Criminal Code applies to all offences against this Act.

3 Interpretation

(1) Unless a contrary intention appears, an expression that is defined in Schedule 1 has in this Act the meaning given in that Schedule.

(2) Unless a contrary intention appears, an expression that is used in the 1991 Act has the same meaning, when used in this Act, as in the 1991 Act.

(3) A reference in this Act to the social security law (other than the reference in section 4) is a reference to this Act, the 1991 Act and any other Act that is expressed to form part of the social security law.

(4) A reference in this Act to a provision of the social security law is a reference to a provision of this Act, the 1991 Act or any other Act that is expressed to form part of the social security law.
Part 1  Preliminary

Section 4

(5) To the extent that a provision of this Act relates to a double orphan pension, a reference in the provision to a person includes a reference to an approved care organisation.

(6) Unless a contrary intention appears, a reference in this Act (other than a reference in section 243):
   (a) to this Act; or
   (b) to the social security law;
includes a reference to regulations made under section 243.

4 Social security law

This Act forms part of the social security law.

5 Manner of giving notice

(1) If a provision of the social security law requires that a written notice be given to a person, it is sufficient compliance with that provision if the notice is given in a manner approved by the Secretary.

(2) Nothing in subsection (1) prevents a notice being given in accordance with section 28A of the Acts Interpretation Act 1901.

6 Effect of certain determinations

If the social security law provides that a determination takes effect on a day (the earlier day) before the day on which the determination is made, the social security law has effect as if the determination had taken effect on the earlier day.

6A Secretary may arrange for use of computer programs to make decisions

(1) The Secretary may arrange for the use, under the Secretary’s control, of computer programs for any purposes for which the Secretary may make decisions under the social security law.

(2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Secretary.
Part 2—General administration of social security law

7 General administration of social security law

The Secretary is, subject to any direction of the Minister, to have the general administration of the social security law.

8 Principles of administration

In administering the social security law, the Secretary is to have regard to:

(a) the desirability of achieving the following results:

(i) the ready availability to members of the public of advice and information services relating to income support generally and to the social security payments that are available;

(ii) the ready availability of publications containing clear statements about income support entitlements and procedural requirements;

(iii) the delivery of services under the law in a fair, courteous, prompt and cost-efficient manner;

(iv) the development of a process of monitoring and evaluating delivery of programs with an emphasis on the impact of programs on social security recipients;

(v) the establishment of procedures to ensure that abuses of the social security system are minimised; and

(b) the special needs of disadvantaged groups in the community; and

(c) the need to be responsive to the interests of the Aboriginal and Torres Strait Islander communities and to cultural and linguistic diversity; and

(d) the importance of the system of review of decisions under the social security law; and

(e) the need to ensure that social security recipients have adequate information regarding the system of review of decisions under the social security law; and
Section 9

(f) the need to apply government policy in accordance with the law and with due regard to relevant decisions of the Administrative Appeals Tribunal and the Social Security Appeals Tribunal.

9 Government policy statements

(1) The Minister may prepare a written statement of the policy of the Commonwealth Government in relation to the administration of the social security law and may give a copy of the statement to:
   (a) the Secretary; and
   (b) the Executive Director of the Social Security Appeals Tribunal.

(2) If the Minister gives a copy of a statement to the Secretary or the Executive Director under subsection (1), the Minister must cause a copy of the statement to be laid before each House of the Parliament within 15 sitting days of that House after the Minister gives the copy under that subsection.

(3) In exercising powers under the social security law, an officer must have regard to any statement a copy of which has been given to the Secretary under subsection (1).

(4) In exercising powers under the social security law, the Executive Director and the Social Security Appeals Tribunal must have regard to any statement a copy of which has been given to the Executive Director under subsection (1).

10 Agreement on administrative arrangements

(1) The Secretary and the Executive Director of the Social Security Appeals Tribunal may agree on administrative arrangements to further the objectives of Part 4 of this Act.

(2) The Secretary and the Employment Secretary may agree on administrative arrangements to further the objectives of Part 2.12 of the 1991 Act.

(3) Administrative arrangements agreed on under subsection (2) may provide for officers of the Employment Department to perform functions or duties, or exercise powers, under Part 2.12 of the 1991 Act.
Section 10

(4) The Secretary and the Secretary to the Department of Agriculture, Fisheries and Forestry may agree on administrative arrangements to further the objectives of sections 26 and 27 of the 1991 Act.
Part 3—Provision of benefits

Division 1—Claim for social security payment or concession card

Subdivision A—Need for claim

11 General rule

(1) Subject to subsection (2) and Subdivision B, a person who wants to be granted:
   (a) a social security payment; or
   (b) a concession card;
must make a claim for the payment or card in accordance with this Division.

(2) Subsection (1) does not apply to a concession card for which a person is qualified under Division 1 of Part 2A.1 of the 1991 Act or under Subdivision A of Division 3 of that Part.

Subdivision B—Cases where claim not necessary

12 Deemed claim in certain cases

(1) The Secretary may determine that, for the purposes of the social security law, a person is taken to have made a claim for an income support payment (the new payment), if:
   (a) the person became qualified for the new payment while receiving another income support payment; or
   (b) the person became qualified for the new payment immediately after ceasing to receive another income support payment.

(2) The person is taken to have made the claim for the new payment on the day specified in the Secretary’s determination. That day must not be earlier than:
   (a) the day that is 13 weeks before the day on which the Secretary’s determination is made; or
Provision of benefits Part 3
Claim for social security payment or concession card Division 1

Section 12A

(b) if the person became qualified for the new payment after the day referred to in paragraph (a)—the day on which the person became qualified for the new payment.

12A One-off payment to the aged

A claim is not required for one-off payment to the aged.

12AAA One-off payments to older Australians

A claim is not required for:
(a) 2006 one-off payment to older Australians; or
(b) 2007 one-off payment to older Australians; or
(c) 2008 one-off payment to older Australians.

12AA One-off payments to carers

A claim is not required for the following:
(a) one-off payment to carers (carer allowance related);
(b) one-off payment to carers (carer payment related);
(c) 2005 one-off payment to carers (carer payment related);
(d) 2005 one-off payment to carers (carer service pension related);
(e) 2005 one-off payment to carers (carer allowance related);
(f) 2006 one-off payment to carers (carer payment related);
(g) 2006 one-off payment to carers (wife pension related);
(h) 2006 one-off payment to carers (partner service pension related);
(i) 2006 one-off payment to carers (carer service pension related);
(j) 2006 one-off payment to carers (carer allowance related);
(k) 2007 one-off payment to carers (carer payment related);
(l) 2007 one-off payment to carers (wife pension related);
(m) 2007 one-off payment to carers (partner service pension related);
(n) 2007 one-off payment to carers (carer service pension related);
(o) 2007 one-off payment to carers (carer allowance related);
(p) 2008 one-off payment to carers (carer payment related);
Section 12AB

(q) 2008 one-off payment to carers (wife pension related);
(r) 2008 one-off payment to carers (partner service pension related);
(s) 2008 one-off payment to carers (carer service pension related);
(t) 2008 one-off payment to carers (carer allowance related).

12AB Economic security strategy payment, training and learning bonus or farmers hardship bonus

A claim is not required for an economic security strategy payment, training and learning bonus or farmers hardship bonus.

12B Language, literacy and numeracy supplement

A claim is not required for language, literacy and numeracy supplement.

12C Utilities allowance

A claim is not required for utilities allowance.

12D Seniors concession allowance

A claim is not required for seniors concession allowance.

12E Child disability assistance

A claim is not required for child disability assistance.

13 Deemed claim—person contacting Department about a claim for a social security payment

(1) For the purposes of the social security law, if:
(a) the Department is contacted by or on behalf of a person in relation to a claim for a social security payment; and
(b) the person is, on the day on which the Department is contacted, qualified for the social security payment; and
(c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
Section 13

(d) the person lodges a claim for the social security payment within 14 days after the Department is contacted;
the person is taken to have made a claim for the social security payment on the day on which the Department was contacted.

(2) For the purposes of the social security law, if:
(a) the Department is contacted by or on behalf of a person in relation to a claim for a social security payment, other than crisis payment or special employment advance; and
(b) the person is, on the day on which the Department is contacted, qualified for the social security payment; and
(c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
(d) the person lodges a claim for the payment more than 14 days, but not more than 13 weeks, after the Department is contacted; and
(e) the Secretary is satisfied that:
   (i) throughout the period starting on the day on which the Department was contacted and ending on the day on which the person lodged the claim, the person was suffering from a medical condition; and
   (ii) that medical condition, or circumstances related to that medical condition, had a significant adverse effect on the person’s ability to lodge the claim earlier;
the person is taken to have made a claim for the social security payment on the day on which the Department was contacted.

(3) For the purposes of the social security law, if:
(a) the Department is contacted by or on behalf of a person (the claimant) in relation to a claim for a social security payment, other than crisis payment or special employment advance; and
(b) the claimant is, on the day on which the Department is contacted, qualified for the social security payment; and
(c) the Secretary gives the claimant a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
(d) the claimant lodges a claim for the payment more than 14
days, but not more than 13 weeks, after the Department is
contacted; and

(e) the Secretary is satisfied that:
   (i) throughout the period starting on the day on which the
       Department was contacted and ending on the day on
       which the claimant lodged the claim, the claimant was
caring for, or was the partner of, another person; and
   (ii) throughout that period, the other person suffered from a
       medical condition; and
   (iii) the medical condition, or circumstances related to the
       medical condition, from which the other person was
       suffering had a significant adverse effect on the
       claimant’s ability to lodge the claim earlier;

the claimant is taken to have made a claim for the social security
payment on the day on which the Department was contacted.

(3A) For the purposes of the social security law, if:
   (a) the Department is contacted by or on behalf of a person in
       relation to a claim for a social security payment; and
   (b) the person is, on the day on which the Department is
       contacted, qualified for the social security payment; and
   (c) the Secretary gives the person a written notice
       acknowledging that the Department has been contacted in
       relation to the making of the claim; and
   (d) the person lodges a claim for the social security payment
       more than 14 days, but not more than 13 weeks, after the
       Department is contacted; and
   (e) the Secretary is satisfied that, in the special circumstances of
       the case, it was not reasonably practicable for the person to
       lodge the claim earlier;

the person is taken to have made a claim for the social security
payment on the day on which the Department was contacted.

(4) A reference in this section to the Department being contacted
includes a reference to the Department being contacted by post or
telephone or by the transmission of a message by the use of
facsimile, computer equipment or other electronic means.

(5) This section has effect subject to section 18.
14 Deemed claim—person contacting Department about a claim for a concession card

(1) For the purposes of the social security law, if:
   (a) the Department is contacted by or on behalf of a person in relation to a claim for a concession card; and
   (b) the person is, on the day on which the Department is contacted, qualified for the concession card; and
   (c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
   (d) the person lodges a claim for the concession card within 14 days after he or she contacts the Department;

   the person is taken to have made a claim for the concession card on the day on which the Department was contacted.

(2) For the purposes of the social security law, if:
   (a) the Department is contacted by or on behalf of a person in relation to a claim for a concession card; and
   (b) the person is, on the day on which the Department is contacted, qualified for the concession card; and
   (c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
   (d) the person lodges a claim for the concession card more than 14 days, but not more than 13 weeks, after the Department is contacted; and
   (e) the Secretary is satisfied that:
      (i) throughout the period starting on the day on which the Department was contacted and ending on the day on which the person lodged the claim, the person was suffering from a medical condition; and
      (ii) that medical condition, or circumstances related to that medical condition, had a significant adverse effect on the person’s ability to lodge the claim earlier;

   the person is taken to have made a claim for the concession card on the day on which the Department was contacted.
Part 3  Provision of benefits
Division 1  Claim for social security payment or concession card

Section 14

(3) For the purposes of the social security law, if:

(a) the Department is contacted by or on behalf of a person (the *claimant*) in relation to a claim for a concession card; and
(b) the claimant is, on the day on which the Department is contacted, qualified for the concession card; and
(c) the Secretary gives the claimant a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
(d) the claimant lodges a claim for the concession card more than 14 days, but not more than 13 weeks, after the Department is contacted; and
(e) the Secretary is satisfied that:

(i) throughout the period starting on the day on which the Department was contacted and ending on the day on which the claimant lodged the claim, the claimant was caring for, or was the partner of, another person; and
(ii) throughout that period, the other person suffered from a medical condition; and
(iii) the medical condition, or circumstances related to the medical condition, from which the other person was suffering had a significant adverse effect on the claimant’s ability to lodge the claim earlier;

the claimant is taken to have made a claim for the concession card on the day on which the Department was contacted.

(3A) For the purposes of the social security law, if:

(a) the Department is contacted by or on behalf of a person in relation to a claim for a concession card; and
(b) the person is, on the day on which the Department is contacted, qualified for the concession card; and
(c) the Secretary gives the person a written notice acknowledging that the Department has been contacted in relation to the making of the claim; and
(d) the person lodges a claim for the concession card more than 14 days, but not more than 13 weeks, after the Department is contacted; and
(e) the Secretary is satisfied that, in the special circumstances of the case, it was not reasonably practicable for the person to lodge the claim earlier;
the person is taken to have made a claim for the concession card on the day on which the Department was contacted.

(4) A reference in this section to the Department being contacted includes a reference to the Department being contacted by post or telephone or by the transmission of a message by the use of facsimile, computer equipment or other electronic means.

15 Deemed claim—incorrect or inappropriate claims

(1) For the purposes of the social security law, if:
   (a) a person makes an incorrect claim; and
   (b) the person subsequently makes a claim for a social security payment for which the person is qualified; and
   (c) the Secretary is satisfied that it is reasonable that this subsection be applied;

   the person is taken to have made a claim for that social security payment on the day on which he or she made the incorrect claim.

(2) For the purposes of this section, a claim made by a person is an incorrect claim if:
   (a) the claim is for a social security payment, other than a supplementary payment; and
   (b) when the claim was made, the person was not qualified for the payment claimed but was qualified for another social security payment, other than a supplementary payment.

(3) For the purposes of this section, a claim made by a person is an incorrect claim if:
   (a) the claim is for a supplementary payment; and
   (b) when the claim was made, the person was not qualified for the payment claimed but was qualified for another supplementary payment.

(4) For the purposes of the social security law, if:
   (a) a person makes a claim for a pension, allowance, benefit or other payment under a law of the Commonwealth, other than this Act or the 1991 Act, or under a program administered by the Commonwealth, that is similar in character to a social security payment, other than a supplementary payment (the initial claim); and
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(b) when the claim was made, the person was qualified for a social security payment, other than a supplementary payment; and
(c) the person subsequently makes a claim for the social security payment referred to in paragraph (b) (the later claim); and
(d) the Secretary is satisfied that it is reasonable that this subsection be applied;
the person is taken to have made the later claim on the day on which the initial claim was made.

(4A) For the purposes of the social security law, if:
(a) a person makes a claim for an income support payment (the initial claim); and
(b) on the day on which the initial claim is made, the person is qualified for another income support payment (the other income support payment); and
(c) the person subsequently makes a claim for the other income support payment (the later claim); and
(d) the Secretary is satisfied that it is reasonable that this subsection be applied;
the person is taken to have made the later claim on the day on which the initial claim was made.

(4B) For the purposes of the social security law, if:
(a) a person makes a claim for a supplementary payment (the initial claim); and
(b) on the day on which the initial claim is made, the person is qualified for another supplementary payment (the other supplementary payment); and
(c) the person subsequently makes a claim for the other supplementary payment (the later claim); and
(d) the Secretary is satisfied that it is reasonable that this subsection be applied;
the person is taken to have made the later claim on the day on which the initial claim was made.

(5) In this section:
supplementary payment means:
(a) carer allowance; or
(b) double orphan pension; or
Subdivision C—Manner of making a claim

16 How to make a claim

(1) A person makes a claim for a social security payment or a concession card:
(a) by lodging a written claim for the payment or card; or
(b) by making the claim in accordance with subsection (7).

(2) A written claim for the purpose of subsection (1) for one social security payment or for a concession card must be in accordance with a form approved by the Secretary.

(3) Two or more written claims by the same person may be combined in one claim. Such a claim must be made in accordance with a form approved by the Secretary for the purposes of this subsection.

(4) A written claim is lodged by being delivered:
(a) to a person apparently performing duties at a place approved for the purpose by the Secretary; or
(b) to a person approved for the purpose by the Secretary; or
(c) in a manner, and to a place, approved for the purpose by the Secretary.

(5) Subject to subsection (6), a place or person approved for the purposes of subsection (4) must be a place or person in Australia.

(6) The Secretary may approve a place or person outside Australia for the purposes of subsection (4) for the lodgment of:
(a) claims made under a scheduled international social security agreement; or
(b) claims for AGDRP in relation to a major disaster that occurred outside Australia.

(7) A person may make a claim in a manner approved by the Secretary for the purposes of this subsection.

(8) The power of the Secretary to make an approval under subsection (7) is not limited by any other provision of this section.
17 Special requirements regarding claims for pension bonus

(1) A claim for pension bonus must be:
   (a) attached to a proper claim made by the person for age pension and lodged together with that claim for age pension;
   or
   (b) made in accordance with an invitation under subsection (3);
   or
   (c) the subject of a determination under subsection (5).

(2) A claim for pension bonus may be made even though it is not certain whether the person will start to receive an age pension at or after the time when the person makes the claim. The claim has effect as a claim that is contingent on the person receiving an age pension.

(3) If:
   (a) a person makes a claim for an age pension; and
   (b) the claim is in accordance with a form that does not require the claimant to disclose whether the claimant is registered as a member of:
      (i) the pension bonus scheme; or
      (ii) the corresponding scheme under Part IIIAB of the Veterans’ Entitlements Act; and
   (c) the person is, to the knowledge of the Secretary, registered as a member of the pension bonus scheme; and
   (d) a claim by the person for pension bonus is not attached to the claim for age pension;
the Secretary must give the claimant a written notice inviting the claimant to lodge a claim for pension bonus:
   (e) within such period after the lodgment of the claim for age pension as is specified in the notice; and
   (f) at such place as is specified in the notice.

(4) If a claim for pension bonus is made in accordance with an invitation under subsection (3), the person is taken to have claimed the pension bonus at the same time as the person claimed age pension.
(5) If:
   (a) a person who is a registered member of the pension bonus scheme lodges a claim for age pension; and
   (b) a claim for pension bonus for the person is lodged after the claim for age pension; and
   (c) the Secretary is satisfied that, having regard to guidelines (if any) made under subsection (6), special circumstances apply in relation to the lodgment of the claim for pension bonus;

   the Secretary may determine that the claim for the pension bonus is taken to have been made at the time the person claimed age pension.

(6) The Secretary may, by legislative instrument, make guidelines for the purposes of subsection (5).

18 Additional provisions regarding claim for special employment advance

(1) A claim for special employment advance must specify the amount of special employment advance sought.

(2) Subject to subsection (3), if a claim based on the effect of the unreceived income on the claimant’s special employment advance qualifying entitlement is lodged before the first day for which special employment advance is not payable or is reduced as a result of the claimant, or the claimant’s partner, having earned the income, the claim is taken to have been made on that day.

(3) If:
   (a) the claimant’s special employment advance qualifying entitlement referred to in subsection (2) is an entitlement in respect of which the Secretary has determined that this subsection applies; and
   (b) the claim is lodged before the day referred to in subsection (2);

   the Secretary may treat the claim as having been made on a day earlier than the day referred to in subsection (2) that the Secretary considers appropriate having regard to the kind of entitlement concerned.
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(4) A claim based on the need for financial assistance from the Commonwealth to take up offered employment must set out:
(a) particulars (including the duration) of the employment; and
(b) the way in which the financial assistance is to be expended to enable the claimant to take up the employment.

Subdivision D—Time limits for claims for maternity allowance and maternity immunisation allowance

Subdivision E—Time limits for claims for pension bonus

20 Interpretation

An expression used in this Subdivision has the same meaning as it has in Part 2.2A of the 1991 Act.

21 General rule

(1) A claim for pension bonus must be made within the lodgment period fixed by this Subdivision.

(2) However, the Secretary may in special circumstances allow a person a longer period to make a claim than the period fixed by this Subdivision. If the Secretary does so, the lodgment period for the person’s claim is the period allowed by the Secretary.

(3) Subsection (2) does not apply in relation to a claim for which the lodgment period is fixed by subsection 23(1).

22 Last bonus period a full-year period

(1) If a person’s last bonus period is a full-year period, the lodgment period for a claim by the person for pension bonus is the period of 13 weeks immediately following that bonus period. However, this rule does not apply if:
(a) the person is an exempt partnered person for the purposes of section 24 at the end of the person’s last bonus period; or
(b) the person’s membership of the pension bonus scheme becomes non-accruing immediately after the end of the person’s last bonus period; or
(c) the person is a post-75 member of the pension bonus scheme and has a post-75 work period (see subsection 26(2)).
(2) For the purposes of this section, if a person has accrued only one full-year bonus period, that period is the person’s last bonus period.

23 Last bonus period a part-year period

(1) If a person’s last bonus period is a part-year period, the lodgment period for a claim by the person for pension bonus is:
   (a) the period of 13 weeks beginning at the end of that bonus period; or
   (b) if the Secretary allows a longer period—that longer period.

However, this subsection does not apply if:
   (c) the person is an exempt partnered person (see subsection 24(2)) at the end of the person’s last bonus period; or
   (d) the person’s membership of the pension bonus scheme becomes non-accruing immediately after the end of the person’s last bonus period; or
   (e) the person is a post-75 member of the pension bonus scheme and has a post-75 work period (see subsection 26(2)).

(2) If:
   (a) subsection (1) applies to a person’s claim for pension bonus; and
   (b) the claim is lodged within a period allowed under paragraph (1)(b);

Division 6 of Part 2.2A of the 1991 Act has effect, in relation to the calculation of the amount of that pension bonus, as if the person had not accrued the part-year bonus period.

24 Claim by exempt partnered person

(1) If a person is an exempt partnered person at the end of the person’s last bonus period, the lodgment period applicable to the person’s claim for pension bonus is the period:
   (a) beginning at the end of that bonus period; and
   (b) ending at:
      (i) the time of the last occasion on which the person’s partner could have lodged a claim for a pension bonus; or
      (ii) the end of the period of 13 weeks after the person ceases to be a member of the same couple (whether because of
the death of the person’s partner or for any other reason);
whichever comes first.

(2) For the purposes of this section, a person is an exempt partnered person at a particular time if, at that time, the person is a member of a couple and:

(a) the person’s partner is an accruing or non-accruing member of the pension bonus scheme; or

(b) the person’s partner is an accruing or non-accruing member of the corresponding scheme under Part IIIAB of the Veterans’ Entitlements Act.

25 Claim where membership has become non-accruing

If a person’s membership of the pension bonus scheme becomes non-accruing immediately after the end of the person’s last bonus period, the lodgment period applicable to the person’s claim for pension bonus is the period:

(a) beginning at the end of the person’s last bonus period; and

(b) ending 13 weeks after the time when the person’s membership of the scheme ceases to be non-accruing.

26 Claim where person has post-75 work period

(1) If a post-75 member of the pension bonus scheme has a post-75 work period, the lodgment period for a claim by the person for pension bonus is the period of 13 weeks beginning at the end of the period nominated in the claim as the person’s post-75 work period.

(2) For the purposes of this section, a post-75 member of the pension bonus scheme has a post-75 work period if all of the following requirements are satisfied:

(a) the person’s claim for pension bonus nominates a particular period as the person’s post-75 work period;

(b) the nominated period begins immediately after the end of the person’s last bonus period;

(c) if it were assumed that the person had been an accruing member of the pension bonus scheme throughout each test period that is applicable to the person, the person would have passed the work test for each test period.
Section 26A

(3) For the purposes of subsection (2), the test period or test periods applicable to a person are worked out as follows:

(a) identify the **extended period**, which is that part of the nominated period when the person was neither:
   (i) subject to a compensation preclusion period or a carer preclusion period; nor
   (ii) covered by a declaration under section 92Q of the 1991 Act;

(b) if the extended period is 365 days or less—the extended period is the only test period;

(c) if the extended period is longer than 365 days—each of the following periods is a test period:
   (i) the full-year period beginning at the start of the extended period;
   (ii) if 2 or more succeeding full-year periods are included in the extended period—each of those full-year periods;
   (iii) the period (if any) consisting of the remainder of the extended period.

(4) In addition to its effect apart from this subsection, section 93B of the 1991 Act also has the effect it would have if each reference in paragraph 93B(1)(a), (2)(a), (3)(a) or (4)(a) to an accruing member of the pension bonus scheme were a reference to a post-75 member of the scheme.

**Subdivision EA—Time limits for claims for pension bonus bereavement payment**

**26A General rule**

A person’s claim for pension bonus bereavement payment must be made within the period of 26 weeks beginning on the day of death of the partner in respect of whom the person is qualified for pension bonus bereavement payment.

**26B Extension**

The Secretary may in special circumstances allow a person a longer period to make a claim than the period under section 26A. If the Secretary does so, the person’s claim must be made before the end of the period allowed by the Secretary.
Subdivision F—Time limit for claims for fares allowance

27 Time limit for claim

(1) Subject to this section, a claim for fares allowance must be lodged in the study year to which the claim relates or before 1 April next following the end of that year (the final date).

(2) A claim for fares allowance may be lodged on or after the final date if the Secretary is satisfied that:
   (a) the claimant took reasonable steps to lodge the claim, or have the claim lodged, before the final date; and
   (b) circumstances beyond the claimant’s control prevented the claim being lodged before the final date.

(3) A claim for fares allowance may be lodged on or after the final date if the Secretary is satisfied that:
   (a) circumstances beyond the claimant’s control prevented the claimant taking reasonable steps to lodge the claim, or have the claim lodged, before the final date; and
   (b) the claimant has sought to lodge the claim as soon as practicable after those circumstances ceased to exist.

Subdivision FA—Time limit for claims for AGDRP

27A Time limit for claim

(1) A claim for an AGDRP relating to a major disaster must be lodged within 6 months after the determination of the disaster under section 36 of the 1991 Act.

(2) However, the claim may be lodged more than 6 months after the declaration if the Secretary is satisfied that:
   (a) there are special circumstances applying to the person’s claim that justify a late lodgment; and
   (b) the claim is lodged within a reasonable period having regard to those circumstances.
Subdivision G—Age requirement for certain claims

28 Claims for disability support pension

A person cannot make a claim for a disability support pension unless the person is under the pension age on the day on which the claim is lodged.

Subdivision H—Residence requirements for claimants

29 General rule

(1) Subject to sections 30, 30A, 31, 31A and 32, a claim for a social security payment or a concession card may only be made by a person who:
   (a) is an Australian resident; and
   (b) is in Australia.

(2) Subject to sections 30, 30A, 31, 31A and 32, a claim made at a time when the claimant is not an Australian resident or is not in Australia is taken not to have been made.

30 Residence requirements for claimants for special benefit

A claim for special benefit may only be made by a person who:
   (a) is in Australia; and
   (b) satisfies one of the following subparagraphs:
      (i) the person is an Australian resident;
      (iii) the person holds a visa that is in a class of visas determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the 1991 Act.

30A Exclusion from section 29 residence requirement of crisis payment claimants holding certain visas

Despite paragraph 29(1)(a), a person who is not an Australian resident may make a claim for a crisis payment if the person is qualified for special benefit because he or she is the holder of a visa that is in a class of visas determined by the Minister for the purposes of subparagraph 729(2)(f)(v) of the 1991 Act.
Section 31

31 Exclusion of certain claims from requirements of section 29

(1) Section 29 does not apply to a claim for an AGDRP if the claim relates to a major disaster that occurred in Australia or outside Australia.

(2) Section 29 does not apply to a claim for parenting payment if:
   (a) the claimant is an Australian resident; and
   (b) the claimant, while outside Australia, has been receiving an income support payment; and
   (c) the income support payment has been cancelled or has ceased to be payable; and
   (d) the claim is made within 13 weeks after the income support payment was cancelled or ceased to be payable, as the case may be.

(3) Section 29 does not apply to a claim for double orphan pension.

31A Exclusion of certain claims by special category visa holders from section 29 residence requirement

Despite paragraph 29(1)(a), a person who is not an Australian resident may make a claim for a social security payment or a concession card if:
   (a) the person is a special category visa holder residing in Australia; and
   (b) in order to qualify for the payment or concession card concerned, the person is not required to be an Australian resident if the person is a special category visa holder residing in Australia.

32 Claims for sickness allowance

(1) This section only has effect in relation to a claim for sickness allowance.

(2) For the purposes of section 29, if:
   (a) a person is temporarily absent from Australia; and
   (b) the person is absent in order to seek medical treatment of a kind that is not available in Australia;
the person is taken to be in Australia:
Subdivision I—Withdrawal of claim

33 Right to withdraw

(1) A claimant for a social security payment or a concession card, or a person acting on behalf of such a claimant, may withdraw a claim that has not been determined.

(2) A claim that is withdrawn is taken not to have been made.

34 Manner of withdrawal

(1) A claim may be withdrawn orally or in writing or in any other manner approved by the Secretary.

(2) If:

(a) a person claims both a pension bonus and an age pension; and

(b) the claim for an age pension is withdrawn;

the claim for a pension bonus is taken to have been withdrawn.

(3) If:

(a) a person claims both a pension bonus and an age pension; and

(b) the claim for an age pension is rejected as a direct or indirect result of the operation of:

(i) Division 2 of Part 3.12 of the 1991 Act; or

(ii) Part 3.14 of that Act;

the claim for a pension bonus is taken to have been withdrawn.
Subdivision J—Special provision for certain claims

35 Claims by persons in gaol etc.

(1) A person who is:
   (a) in gaol; or
   (b) undergoing psychiatric confinement because he or she has been charged with an offence;
may make a claim for a social security pension or benefit or for a crisis payment not earlier than 3 weeks before the person’s expected release day.

(2) A day is a person’s expected release day for the purpose of subsection (1) if there are reasonable grounds for believing that the person will be released from gaol or psychiatric confinement on that day.

35A Claims for advance pharmaceutical allowance

(1) A person may only make a claim for advance pharmaceutical allowance if the claim is made in accordance with subsection (2), (3) or (4).

(2) A person may make a claim for advance pharmaceutical allowance to be paid in a calendar year if:
   (a) the person has received an instalment of a social security pension in relation to an instalment period that included 31 December in the previous calendar year; and
   (b) the claim is lodged within 14 days after the end of that instalment period.

(3) A person may make a claim for advance pharmaceutical allowance to be paid in a calendar year if:
   (a) the person claims a social security pension in that year; and
   (b) the claim for advance pharmaceutical allowance is lodged:
      (i) when the claim for the pension is lodged; or
      (ii) after the claim for the pension is lodged but before that claim is determined.
(4) A person may make a claim for advance pharmaceutical allowance to be paid in a calendar year if:

(a) the person has been qualified for pharmaceutical allowance for a period (the qualification period) during the calendar year; and

(b) the amount spent by the person during the qualification period on the purchase of pharmaceutical benefits is equal to or greater than the total amount that has been paid to the person in the calendar year by way of:

(i) pharmaceutical allowance; and

(ii) advance pharmaceutical allowance.
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Division 2—Determination of claim

36  Obligation of Secretary to determine claim

(1) Subject to subsection (2), the Secretary must, in accordance with the social security law, determine a claim for a social security payment or a concession card, either granting or rejecting the claim.

(2) If a person claims both a pension bonus and an age pension, the Secretary must not determine the claim for pension bonus until the claim for age pension has been granted.

37  Grant of claim

(1) Subject to section 40, the Secretary must determine that a claim for a social security payment is to be granted if the Secretary is satisfied that:

(a) the claimant is qualified for the social security payment; and
(b) the social security payment is payable.

(1A) The Secretary must determine that a claim for parenting payment is to be granted if the Secretary is satisfied that:

(a) the claimant is qualified, or is expected to be qualified, for the payment; and
(b) the payment would be payable apart from the application of a compliance penalty period.

(2) The Secretary must determine that a claim for a newstart allowance is to be granted if the Secretary is satisfied that:

(a) the claimant is qualified, or is expected to be qualified, for the allowance; and
(b) the allowance would be payable apart from:

(i) the application of a waiting period; or
(ii) the application of a compliance penalty period; or
(v) the application of an income maintenance period where the rate of newstart allowance payable to the person is nil; or
(vi) the operation of section 615 of the 1991 Act.
Section 37

(3) The Secretary must determine that a claim for a social security payment to which this subsection applies is to be granted if the Secretary is satisfied that:
   (a) the person is qualified, or is expected to be qualified, for the payment; and
   (b) the payment would be payable if the person were not subject to a seasonal work preclusion period.

(4) Subsection (3) applies to the following social security payments:
   (a) mature age allowance under Part 2.12A;
   (b) mature age allowance under Part 2.12B;
   (c) newstart allowance;
   (d) parenting payment;
   (e) partner allowance;
   (f) widow allowance;
   (g) youth allowance;
   (ga) special benefit;
   (h) disability support pension;
   (i) sickness allowance;
   (j) carer payment;
   (k) austudy payment.

(5) If:
   (a) a determination has been made under subsection (1) granting a claim for a newstart allowance to a person who was qualified for the allowance under subsection 593(1B) of the 1991 Act; and
   (b) the person ceases to be qualified for the allowance under subsection 593(1B) of the 1991 Act but becomes qualified for the allowance under subsection 593(1) of that Act within 14 days after the person ceased to be qualified under subsection 593(1B);

   the Secretary may make a determination varying the first-mentioned determination to give effect to any change in the person’s start day.

(6) The Secretary must determine that a claim for youth allowance or austudy payment is to be granted if the Secretary is satisfied that:
   (a) the person is qualified, or is expected to be qualified, for the allowance or payment; and
(b) the allowance or payment would be payable, apart from:
   (i) the application of a waiting period; or
   (ii) the application of a compliance penalty period; or
   (v) the application of an income maintenance period where
       the rate of allowance or payment payable to the person
       is nil; or
   (vi) if the claim is a claim for youth allowance—the
       operation of section 547AA of the 1991 Act.

(7) The Secretary must determine that a claim made in accordance
    with section 35 for a social security pension or benefit or for a
    crisis payment is to be granted if the Secretary is satisfied that:
    (a) the claimant:
        (i) is in gaol; or
        (ii) is undergoing psychiatric confinement because he or she
            has been charged with an offence; and
    (b) the claimant is expected to be in gaol or undergoing
        psychiatric confinement for at least 14 days; and
    (c) there are reasonable grounds for believing that the claimant
        will be released from gaol or psychiatric confinement on or
        before the day that is the claimant’s expected release day for
        the purposes of subsection 35(1); and
    (d) either:
        (i) in the case of a claim for a social security pension or
            benefit, the claimant is qualified for the pension or
            benefit; or
        (ii) in any case, the claimant is expected to be qualified for
            the pension, benefit or payment immediately after the
            claimant is released from gaol or psychiatric
            confinement; and
    (e) the pension, benefit or payment is expected to be payable to
        the claimant immediately after the claimant is released from
        gaol or psychiatric confinement.

(8) The Secretary must make a determination granting a claim for a
    concession card if the Secretary is satisfied that the claimant is
    qualified for the card.

Note: The Secretary must not make a determination granting a claim for a
seniors health card in certain circumstances if the Secretary makes a
request under subsection 75(2) or (3) of the claimant (about providing
tax file numbers): see subsections 76(1A) and 77(1A).
(9) A determination under subsection (8) granting a claim for a seniors health card:
   (a) must specify the period at the end of which the determination ceases to have effect; and
   (b) unless it has already been cancelled, ceases to have effect at the end of that period.

(10) A determination under subsection (8) granting a claim for a health care card under Subdivision B of Division 3 of Part 2A.1 of the 1991 Act:
   (a) must specify the period at the end of which the determination ceases to have effect; and
   (b) unless it has already been cancelled, ceases to have effect at the end of that period.

(11) The Minister may, by legislative instrument, determine the periods that are to be specified in determinations for the purposes of subsections (9) and (10).

37AA Grant of claim—schooling requirements

(1) Without limiting subsection 37(1), the Secretary must determine that a claim for a schooling requirement payment is to be granted if the Secretary is satisfied that:
   (a) the person is qualified, or is expected to be qualified, for the payment; and
   (b) the payment would be payable if it were not for the application of subsection 124G(1) or 124L(1).

(2) Subsection (1) does not apply to a schooling requirement payment under the Veterans’ Entitlements Act.

Note 1: **Schooling requirement payments** are social security benefits, social security pensions and certain payments under the Veterans’ Entitlements Act (see section 124D of this Act).

Note 2: Section 124G and 124L provide that a schooling requirement payment is not payable to a person if he or she fails to comply with an enrolment notice or an attendance notice after the end of an initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

Note 3: If the payment is suspended under section 124H or 124M (because of the application of subsection 124G(1) or 124L(1)) on the day the claim is granted, the start day for the payment is deferred until the suspension ends (at the earliest) (see clause 5 of Schedule 2).
37A Duration of certain health care cards

(1) A seniors health card expires at the end of the period specified, for the purposes of subsection 37(9), in the determination granting the claim for the card.

(2) A health care card granted to a person qualified for the card under Subdivision B of Division 3 of Part 2A.1 of the 1991 Act expires at the end of the period specified, for the purposes of subsection 37(10), in the determination granting the claim for the card.

(3) A person to whom a concession card referred to in subsection (1) or (2) has been granted may make a claim for a further concession card before the first-mentioned card expires.

38 Refusal of claim for special employment advance

(1) Subject to subsection (2), the Secretary must refuse a claim for special employment advance if:
   (a) the claim is based on the effect of unreceived income on the claimant’s special employment advance qualifying entitlement; and
   (b) the Secretary is satisfied that the income will be received within 2 days after the claim is made.

(2) Subsection (1) does not apply if the Secretary considers that the claimant’s financial needs are such that the claim should be granted.

(3) In this section:

   unreceived income has the same meaning as in subsection 1061EM(1) of the 1991 Act.

39 Deemed refusal of claim

(1) Subject to subsection (3), if the Secretary does not make a determination regarding a claim within the period of 13 weeks after the day on which the claim was made, the Secretary is taken to have made, at the end of that period, a determination rejecting the claim.
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Section 40

(3) If:
   (a) a person makes a claim for a social security payment that is a relevant social security payment for the purposes of subclause 4(1) of Schedule 2; and
   (b) the person is not, on the day on which the claim is made, qualified for the payment; and
   (c) assuming the person does not sooner die, the person will, because of the passage of time or the occurrence of an event, become qualified for the payment within the period of 13 weeks after the day on which the claim is made; and
   (d) the person becomes so qualified within that period;
the claim is taken, for the purposes of subsection (1), to be made on the day on which the person becomes qualified.

(4) If the Secretary asks a person who has made a claim for a social security payment or a concession card or another person for information in relation to the claim, the period that:
   (a) begins on the day on which the Secretary asks for the information; and
   (b) ends on the day on which the information is given to the Secretary;
is not counted for the purpose of subsection (1).

(5) If:
   (a) a person makes a claim (the actual claim); and
   (b) apart from this subsection, the person would, by virtue of section 13 or 14, be taken to have made the claim on a particular day;
then, in spite of section 13 or 14, as the case may be, a reference in subsection (1) of this section to the day on which the claim was made is a reference to the day on which the actual claim was made.

40 Rejection of claim for failure to obtain foreign payment

(1) The Secretary may make a determination rejecting a claim for a social security payment if:
   (a) the claimant has been given a notice under subsection 66(2); and
   (b) the Secretary is not satisfied that the claimant has taken reasonable action to obtain a comparable foreign payment at
the highest rate applicable to the claimant within the period specified in the notice.

(2) The Secretary may make a determination rejecting a claim for a social security payment if:
   (a) the claimant has been given a notice under subsection 66(3); and
   (b) the Secretary is not satisfied that the claimant’s partner has taken reasonable action to obtain a comparable foreign payment at the highest rate applicable to the partner within the period specified in the notice.
Division 3—Commencement of social security payment

41 Commencement

(1) Unless another provision of the social security law provides otherwise, a social security payment becomes payable to a person on the person’s start day in relation to the social security payment.

(2) Unless another provision of the social security law provides otherwise, a concession card takes effect on the person’s start day in relation to the card.

42 Start day

For the purposes of the social security law, a person’s start day in relation to a social security payment or a concession card is the day worked out in accordance with Schedule 2.
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Division 4—Payment of social security payment

43 Payment by instalments

(1) A social security periodic payment is to be paid:
   (a) in arrears; and
   (b) by instalments relating to such periods (not exceeding 14 days) as the Secretary determines.

(2) Subject to sections 52 and 53, instalments of a social security periodic payment are to be paid at such times as the Secretary determines.

(3) Subject to subsection (4), the amount that is to be paid to a person as an instalment of a social security periodic payment in relation to a period is the total of the amounts of the social security periodic payment (calculated by reference to the daily rate of payment applicable to each day) payable to the person for days in that period on which the social security periodic payment was payable to the person.

(4) If:
   (a) an amount (the added amount) of pharmaceutical allowance is added to a person’s maximum basic rate in working out the amount of an instalment of a social security payment; and
   (b) apart from this subsection, the amount of the instalment would be less than the person’s fortnightly PA rate;
   the amount of the instalment is to be increased to the person’s fortnightly PA rate.

(5) For the purposes of subsection (4), a person’s fortnightly PA rate is worked out by dividing the added amount by 26.

(6) Each of the periods determined by the Secretary under subsection (1) is an instalment period in relation to the social security periodic payment.

44 Payment of instalments to person or nominee

(1) Subject to section 45, instalments of a person’s social security periodic payment are to be paid to that person.
(2) If, by virtue of a determination under subsection 46(2), a person’s special employment advance is to be paid by instalments, the instalments are to be paid to that person.

(3) This section has effect subject to Part 3A.

45 Payment of youth allowance—person under 18 and not independent

(1) Subject to subsection (2), instalments of youth allowance of a person who is under 18 years of age and is not independent are to be paid on behalf of the person:
   (a) if the person has only one living parent—to that parent; or
   (b) if the person has more than one living parent—to the parent nominated in writing by the person to the Secretary.

(2) The Secretary may direct that the whole or a part of the instalments of youth allowance of a person referred to in subsection (1) is to be paid to the person.

(3) If the Secretary gives a direction under subsection (2), the instalments are to be paid in accordance with the direction.

(4) This section has effect subject to Part 3A.

46 Payment of special employment advance

(1) Unless the Secretary makes a determination under subsection (2), a person’s special employment advance is to be paid in accordance with section 47.

(2) If the Secretary considers that it is appropriate for a person’s special employment advance to be paid by instalments, the Secretary may determine that the person’s special employment advance is to be so paid.

46A Payment of AGDRP

(1) Unless the Secretary makes a determination under subsection (2), a person’s AGDRP is to be paid in accordance with section 47.

(2) If the Secretary considers that it is appropriate for a person’s AGDRP to be paid by instalments, the Secretary may determine that the person’s AGDRP is to be so paid.
47 Payment of lump sum benefits

(1) In this section:

_**lump sum benefit** means:

(a) an advance payment under section 864A or Part 2.22 of the 1991 Act; or

(aa) AGDRP, except where the Secretary has made a determination under subsection 46A(2); or

(ab) child disability assistance; or

(b) crisis payment; or

(d) education entry payment; or

(f) fares allowance; or

(g) one-off payment to the aged; or

(ga) 2006 one-off payment to older Australians; or

(gb) 2007 one-off payment to older Australians; or

(gc) 2008 one-off payment to older Australians; or

(h) one-off payment to carers (carer allowance related); or

(ha) one-off payment to carers (carer payment related); or

(hb) 2005 one-off payment to carers (carer payment related); or

(hc) 2005 one-off payment to carers (carer service pension related); or

(hd) 2005 one-off payment to carers (carer allowance related); or

(he) 2006 one-off payment to carers (carer payment related); or

(hf) 2006 one-off payment to carers (wife pension related); or

(hg) 2006 one-off payment to carers (partner service pension related); or

(hh) 2006 one-off payment to carers (carer service pension related); or

(hi) 2006 one-off payment to carers (carer allowance related); or

(hj) 2007 one-off payment to carers (carer payment related); or

(hk) 2007 one-off payment to carers (wife pension related); or

(hl) 2007 one-off payment to carers (partner service pension related); or

(hm) 2007 one-off payment to carers (carer service pension related); or

(hn) 2007 one-off payment to carers (carer allowance related); or

(ho) 2008 one-off payment to carers (carer payment related); or

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(hp) 2008 one-off payment to carers (wife pension related); or
(hq) 2008 one-off payment to carers (partner service pension related); or
(hr) 2008 one-off payment to carers (carer service pension related); or
(hs) 2008 one-off payment to carers (carer allowance related); or
(ht) economic security strategy payment; or
(hu) training and learning bonus; or
(hv) farmers hardship bonus; or
(i) pension bonus; or
(ia) pension bonus bereavement payment; or
(j) special employment advance, except where the Secretary has made a determination under subsection 46(2).

(2) If a claim for crisis payment is granted because of subsection 37(7), the Secretary may pay an amount equal to the amount of the crisis payment to the claimant before the claimant is released from gaol or psychiatric confinement if the Secretary thinks it is necessary to do so in order to ensure that the claimant, on release, will not suffer severe financial hardship.

(3) If an amount is paid to a person under subsection (2), the amount is taken, after the person’s release from gaol or psychiatric confinement, to be a payment of crisis payment made in relation to the claim referred to in subsection (2).

(4) Subject to subsections 47C(3) and (4) and Part 3A, a person’s lump sum benefit is to be paid to the person.

47A Payment of one-off payment to the aged

One-off payment to the aged is to be paid to a person on the date that is determined by the Secretary to be the earliest date on which it is reasonably practicable for the payment to be made to the person.

47AA Payment of one-off payments to older Australians

(1) If an individual is qualified for one of the payments mentioned in subsection (2), the Secretary must pay the payment to the individual in a single lump sum:
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(a) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
(b) in such manner as the Secretary considers appropriate.

(2) The payments are the following:
(a) 2006 one-off payment to older Australians;
(b) 2007 one-off payment to older Australians;
(c) 2008 one-off payment to older Australians.

47B Payment of one-off payments to carers

(1) If an individual is qualified for one of the payments mentioned in subsection (2), the Secretary must pay the payment to the individual in a single lump sum:
(a) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
(b) in such manner as the Secretary considers appropriate.

(2) The payments are the following:
(a) one-off payment to carers (carer allowance related);
(b) one-off payment to carers (carer payment related);
(c) 2005 one-off payment to carers (carer payment related);
(d) 2005 one-off payment to carers (carer service pension related);
(e) 2005 one-off payment to carers (carer allowance related);
(f) 2006 one-off payment to carers (carer payment related);
(g) 2006 one-off payment to carers (wife pension related);
(h) 2006 one-off payment to carers (partner service pension related);
(i) 2006 one-off payment to carers (carer service pension related);
(j) 2006 one-off payment to carers (carer allowance related);
(k) 2007 one-off payment to carers (carer payment related);
(l) 2007 one-off payment to carers (wife pension related);
(m) 2007 one-off payment to carers (partner service pension related);
47C Payment of economic security strategy payments, training and learning bonuses and farmers hardship bonuses

(1) If an individual is qualified for an economic security strategy payment, the Secretary must pay the payment to the individual in a single lump sum:
   (a) on 8 December 2008, or on such later date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
   (b) in such manner as the Secretary considers appropriate.

(2) If an individual is qualified for a training and learning bonus or farmers hardship bonus, the Secretary must pay the bonus in a single lump sum:
   (a) to the individual; and
   (b) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and
   (c) in such manner as the Secretary considers appropriate.

(3) Despite paragraph (2)(a) of this section, if:
   (a) the individual is qualified for a training and learning bonus under paragraph 910(2)(a) of the 1991 Act because the individual was receiving youth allowance in respect of 3 February 2009; and
   (b) the whole or a part of the individual’s instalment of youth allowance in respect of a period that included that day was paid to a parent of the individual under section 45 of this Act;
the Secretary may pay the whole, or the same proportion, of the individual’s training and learning bonus to that parent or to any other person.

(4) Despite paragraph (2)(a) of this section, if:
   (a) the individual is qualified for a training and learning bonus:
       (i) under paragraph 910(2)(e) of the 1991 Act because the individual was receiving a payment under the ABSTUDY Scheme in respect of 3 February 2009; or
       (ii) under paragraph 910(2)(f) or (g) of the 1991 Act because the individual was receiving an education allowance referred to in that paragraph in respect of that day; and
   (b) the whole or a part of the individual’s instalment of the payment or allowance in respect of a period that included that day was paid to a person (the recipient) other than the individual;

the Secretary may pay the whole, or the same proportion, of the individual’s training and learning bonus to the recipient or to any other person.

48 Payment of telephone allowance

(1) Telephone allowance is to be paid by instalments.

(2) An instalment of telephone allowance is to be paid to a person on each telephone allowance payday on which telephone allowance is payable to the person.

(3) The amount of an instalment of telephone allowance is worked out by dividing the amount of the annual rate of telephone allowance by 4.

(4) In this section:

   telephone allowance payday means:

   (a) for a person who is qualified for telephone allowance otherwise than under subsection 1061Q(4A)—the first day on which an instalment of a social security periodic payment would normally be paid to the person on or after any of the following:
       (i) 1 January;
(ii) 20 March;
(iii) 1 July;
(iv) 20 September; and
(b) for a person who is qualified for telephone allowance under subsection 1061Q(4A)—any of the following:
   (i) 1 January;
   (ii) 20 March;
   (iii) 1 July;
   (iv) 20 September;
   or the first working day after that day if that day is not a working day.

*working day* means a day other than:
   (a) a Saturday; or
   (b) a Sunday; or
   (c) a day that is a public holiday or bank holiday in Canberra or Sydney.

### 48A Payment of utilities allowance

(1) Utilities allowance is to be paid by instalments.

(2) If utilities allowance is payable to a person in relation to a utilities allowance test day, then an instalment of the allowance is to be paid to the person on the person’s first payday on or after that test day.

(3) The amount of an instalment of utilities allowance is worked out by dividing the amount of the annual rate of utilities allowance by 4.

(4) In this section:

*utilities allowance test day* means:
   (a) 20 March; and
   (b) 20 June; and
   (c) 20 September; and
   (d) 20 December.
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48B  Payment of seniors concession allowance

(1) Seniors concession allowance is to be paid by instalments.

(2) An instalment of seniors concession allowance is to be paid to a person as soon as is reasonably practicable on or after the seniors concession allowance test day in relation to which the allowance is payable to the person.

(3) The amount of an instalment of seniors concession allowance is worked out by dividing the amount of the annual rate of seniors concession allowance by 4.

(4) In this section:

seniors concession allowance test day means:
(a) 20 March; and
(b) 20 June; and
(c) 20 September; and
(d) 20 December.

49  Timing of payment of fares allowance

(1) Subject to subsection (2), fares allowance for a journey by a person is to be paid as a reimbursement after the journey is made.

(2) If the journey has not been made, the fares allowance for the journey is to be paid before the journey is made.

50  To whom fares allowance is to be paid

(1) Subject to subsection (4), if the person is or was receiving youth allowance at the time of the making of the journey, fares allowance is to be paid to the person to whom instalments of the youth allowance are or were being paid under section 44 or 45.

(2) Subject to subsection (4), if the person is or was receiving austudy payment at the time of the making of the journey, fares allowance is to be paid to the person to whom instalments of the austudy payment are or were being paid under section 44.

(3) Subject to subsection (4), if the person is or was receiving pensioner education supplement at the time of the making of the journey, fares allowance is to be paid to the person to whom

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instalments of the pensioner education supplement are or were being paid under section 44.

(4) If the fares allowance is to be paid as referred to in subsection 49(2), it is to be paid, on behalf of the person, to the commercial operator who provides the person’s means of travel.

(5) This section has effect subject to section 58.

50A  Payment of child disability assistance

If an individual is qualified for child disability assistance in respect of a particular 1 July, the Secretary must pay the assistance to the individual in a single lump sum:

(a) on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be made; and

(b) in such manner as the Secretary considers appropriate.

51  Advance in case of severe financial hardship

(1) If:

(a) the Secretary determines:

(i) that a claim by a person who is in Australia for a social security benefit or pension is to be granted; or

(ii) that a social security benefit or pension is payable to a person under section 85; and

(b) the Secretary is satisfied that, if the person is required to wait until the end of:

(i) the first instalment period in relation to the benefit or pension; or

(ii) the first instalment period in relation to the benefit or pension after the resumption of payment of the benefit or pension;

for payment of an instalment, the person will suffer severe financial hardship;

the Secretary may determine that a specified amount is to be paid to the person in advance.
(2) If:
   (a) a claim for a social security pension or benefit is granted because of subsection 37(7); and
   (b) the Secretary makes a determination under subsection (1);
the amount payable by virtue of that determination may be paid before the claimant is released from gaol or psychiatric confinement if the Secretary thinks it is necessary to do so in order to ensure that the claimant, on release, will not suffer severe financial hardship.

(3) The operation of subsection (2) is not affected by section 1158, 1162 or 1162A of the 1991 Act.

(4) The amount paid under a determination under subsection (1) is not to exceed the amount that, in the opinion of the Secretary, would be the total of the amounts payable to the person for the first 14 days on which the benefit or pension is payable to the person.

(5) An amount paid to a person under subsection (1) is taken to be an advance payment of the instalment or instalments, or of that part of the instalment or instalments, that relate to the days referred to in subsection (4).

52 Payment of certain amounts outside Australia

(1) This section applies to the following social security payments:
   (a) age pension;
   (b) bereavement allowance;
   (c) carer payment;
   (d) disability support pension;
   (e) mature age allowance payable under Part 2.12A of the 1991 Act;
   (f) mature age partner allowance payable under Part 2.12A of the 1991 Act;
   (g) pension PP (single) to which clause 105A of Schedule 1A to the 1991 Act applies;
   (h) pensioner education supplement;
   (i) widow B pension;
   (j) wife pension;
   (k) special benefit;
   (l) Northern Territory CDEP transition payment.
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(2) If a person who is receiving a social security payment to which this section applies is outside Australia, instalments of the payment are to be paid to the person at such times as the Secretary determines for the purposes of this section.

53 Payment of instalments where pension received under other legislation

(1) If:
   (a) an age pension or a disability support pension is payable to a person; and
   (b) the person is receiving a veteran’s disability pension; and
   (c) the Secretary has made a determination, for the purposes of this subsection, that instalments of age pension or disability support pension, as the case may be, are to be paid to the person on the days on which instalments of the veteran’s disability pension are paid to the person; and
   (d) the determination has not been revoked;

   instalments of age pension or disability support pension are to be paid to the person in accordance with the determination.

(2) If:
   (a) an age pension or a disability support pension is payable to a person; and
   (b) the person’s partner is receiving:
      (i) an age pension and a veteran’s disability pension; or
      (ii) a disability support pension and a veteran’s disability pension; and
   (c) the Secretary has made a determination, for the purposes of this subsection, that instalments of age pension or disability support pension, as the case may be, are to be paid to the person on the days on which instalments of the veteran’s disability pension are paid to the person’s partner; and
   (d) the determination has not been revoked;

   instalments of age pension or disability support pension are to be paid to the person in accordance with the determination.

(3) If:
   (a) a person is receiving a wife pension; and
   (b) the person’s partner is receiving:
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(i) an age pension and a veteran’s disability pension; or
(ii) a disability support pension and a veteran’s disability pension; and
(c) the Secretary has made a determination, for the purposes of this subsection, that instalments of wife pension are to be paid to the person on the days on which instalments of the veteran’s disability pension are paid to the person’s partner; and
(d) the determination has not been revoked;
instalments of wife pension are to be paid to the person in accordance with the determination.

54 Rounding off instalments of social security payments

(1) In this section:

installment means an instalment of a social security payment.

(2) If the amount of an instalment would be:
(a) one or more whole dollars and a part of a cent; or
(b) one or more whole dollars and cents and a part of a cent;
the amount is to be increased or decreased to the nearest whole cent.

(3) If the amount of an instalment would be:
(a) one or more whole dollars and 0.5 cent; or
(b) one or more whole dollars and cents and 0.5 cent;
the amount is to be increased by 0.5 cent.

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

55 Payment into bank account etc.

(1) Subject to Part 3A, an amount (the relevant amount) that is to be paid to a person under section 44, 45, 47, 48, 48A, 48B or 50 is to be paid in the manner set out in this section.

(2) Subject to subsections (4) and (4A), the relevant amount is to be paid to the credit of a bank account nominated and maintained by the person.
(3) The account may be an account that is maintained by the person either alone or jointly or in common with another person.

(4) The Secretary may direct that the whole or a part of the relevant amount be paid to the person in a different way from that provided for by subsection (2). If the Secretary gives a direction, the relevant amount is to be paid in accordance with the direction.

(4A) Fares allowance is to be paid to a person as follows:
   (a) fares allowance is to be paid to the credit of the bank account to the credit of which payments of youth allowance, austrudy payment or pensioner education supplement payable to the person are or were made;
   (b) if, because of a direction under subsection (4), youth allowance, austrudy payment or pensioner education supplement is not paid to the credit of a bank account, fares allowance is to be paid in the same way as the youth allowance, austrudy payment or pensioner education supplement, as the case may be.

(5) If, at the end of the period of 28 days starting on the day on which the Secretary requested the person to nominate an account for the purposes of subsection (2) (the 28 day period):
   (a) the person has not nominated an account for the purposes of subsection (2); and
   (b) the Secretary has not given, or has revoked, a direction under subsection (4) in relation to the payment of the relevant amount to the person;
the relevant amount ceases to be payable to the person.

(6) If the person nominates an account for the purposes of subsection (2) after the end of the 28 day period, the relevant amount again becomes payable to the person and is so payable:
   (a) if the nomination is made within 13 weeks after the end of the 28 day period—on and from the first day after the end of that period; or
   (b) if the nomination is not so made—on and from the day on which the nomination is made.

(7) Subsection (6) does not apply at a time when, because of the operation of another provision of the social security law, the relevant amount is not payable to the person.
56 Youth allowance—failure to nominate parent

(1) This section applies to a person if:
   (a) the person is under 18 years of age and is not independent; and
   (b) youth allowance has become payable to the person; and
   (c) the person has more than one living parent; and
   (d) at the end of the period of 28 days starting on the day on which youth allowance became payable to the person:
      (i) the person has not nominated a parent for the purposes of subsection 45(1); and
      (ii) the Secretary has not given a direction under subsection 45(2) in relation to payment of instalments of the person’s youth allowance.

(2) Youth allowance is not payable to a person while this section applies to the person.

(3) If a person to whom this section applies nominates a parent for the purposes of subsection 45(1), this section ceases to apply to the person.

57 Change of particular payday

If the Secretary is satisfied that an amount that would, apart from this section, be paid on a particular day cannot reasonably be paid on that day, the Secretary may direct that the amount be paid on an earlier day.

58 Payment of social security payment, other than pension bonus and pension bonus bereavement payment, after death

(1) If:
   (a) an amount representing a social security payment (other than pension bonus or pension bonus bereavement payment) is payable to a person; and
   (b) the person dies; and
   (c) another person applies to receive the amount; and
   (d) the application is made:
      (i) within 26 weeks after the death; or
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(ii) within such further period as is allowed by the Secretary in the special circumstances of the case;
the Secretary may pay the amount to the person who, in the Secretary’s opinion, is best entitled to it.

(2) If the Secretary pays an amount of a social security payment under subsection (1), the Commonwealth has no further liability to any person in respect of that amount.

59 Payment of pension bonus or pension bonus bereavement payment after death

(1) This section sets out the only circumstances in which a pension bonus or a pension bonus bereavement payment will be payable after the death of the person concerned.

(1A) If:
(a) a person claims a pension bonus; and
(b) the person dies; and
(c) at the time of the person’s death, the person had received the bonus; and
(d) after the person’s death, the Secretary determines that the person’s bonus is to be increased under section 93K or 93L; the increase is payable to the legal personal representative of the person.

(2) If:
(a) a person claims a pension bonus or a pension bonus bereavement payment; and
(b) the person dies; and
(c) at the time of the person’s death, the claim had been granted, but the person had not received the bonus or payment; the bonus or payment is payable to the legal personal representative of the person.

(3) If:
(a) a person claims a pension bonus or a pension bonus bereavement payment; and
(b) the person dies; and
(c) at the time of the person’s death, the claim had not been determined;
then:

(d) the Secretary must determine the claim after the person’s death as if the person had not died; and

(e) if the claim is granted—the bonus or payment is payable to the legal personal representative of the person.

(4) If:

(a) under paragraph (3)(d), the Secretary is required to determine a claim for pension bonus after a person’s death; and

(b) at the time of the person’s death, the person’s claim for age pension had not been determined;

then, for the purposes of the determination of the claim for pension bonus, the following provisions have effect:

(c) the requirements of paragraph 92C(a) of the 1991 Act are taken to be satisfied if:

(i) the person would have started to receive an age pension if he or she had not died; and

(ii) that age pension would have been received otherwise than because of a scheduled international social security agreement;

(d) Division 6 of Part 2.2A of the 1991 Act has effect as if:

(i) a reference in that Division to a particular rate were a reference to the rate that would have been applicable to the person if the person had not died; and

(ii) a reference in that Division to the date of grant of the age pension were a reference to the date on which the age pension would have been granted if the person had not died;

(e) this Act has effect as if subsections 17(2) and 34(2) were omitted.

(4A) If a pension bonus is payable to the legal personal representative of a person under subsection (2) or (3), any increase in that bonus determined by the Secretary under section 93K or 93L is also payable to that legal personal representative.

(5) If a pension bonus or pension bonus bereavement payment is paid under subsection (2) or (3), the Commonwealth has no further liability to any person in respect of that bonus or payment.
Division 5—Protection of social security payments

60 Protection of social security payment

(1) A social security payment is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

(2) This section has effect subject to:
   (a) sections 61 and 238 of this Act; and
   (aa) Part 3B of this Act; and
   (b) sections 1231 and 1234A of the 1991 Act.

61 Deduction at request of recipient

The Secretary may make deductions from instalments of a social security payment payable to a person if the person asks the Secretary:
   (a) to make the deductions; and
   (b) to pay the amounts deducted to the Commissioner of Taxation.

62 Effect of garnishee or attachment order

(1) If:
   (a) a person has an account with a financial institution; and
   (b) either or both of the following subparagraphs apply:
      (i) instalments of a social security payment payable to the person (whether on the person’s own behalf or not) are being paid to the credit of the account;
      (ii) an advance payment of a social security payment payable to the person (whether on the person’s own behalf or not) has been paid to the credit of the 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 payable to the person in respect of the social security payment 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:
   (a) alone; or
   (b) jointly with another person; or
   (c) in common with another person.
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Subdivision A—General

63 Requirement to attend Department etc.

(1) This section applies to a person if:
   (a) the person is receiving, or has made a claim for, a social security payment; or
   (b) the Department is contacted by or on behalf of the person in relation to a claim for:
       (i) if the person is not undertaking full-time study and is not a new apprentice—a youth allowance; or
       (ii) in any case—a newstart allowance; to be paid to the person; or
   (c) the person is the holder of, or has made a claim for, a concession card.

However, this section does not apply to a person to whom section 64 applies.

Note 1: For undertaking full-time study see section 541B of the 1991 Act.
Note 2: For new apprentice see subsection 23(1) of the 1991 Act.

(2) If the Secretary is of the opinion that a person to whom this section applies should:
   (a) attend an office of the Department; or
   (b) contact the Department; or
   (c) attend a particular place for a particular purpose; or
   (d) give information to the Secretary;
the Secretary may notify the person that he or she is required, within a specified time, to:
   (e) attend that office; or
   (f) contact the Department; or
   (g) attend that place for that purpose; or
   (h) give that information;
as the case may be.
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(4) If:
   (a) a person is receiving, or has made a claim for, a social security payment; and
   (b) the Secretary notifies the person under subsection (2); and
   (c) the requirement of the notice is reasonable; and
   (d) the person does not comply with the requirement;
   the payment that the person is receiving or has claimed is not payable.

(5) Subsection (4) does not apply if:
   (a) the social security payment is a parenting payment and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute a parenting payment participation failure; or
   (b) the social security payment is a youth allowance and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute a youth allowance participation failure; or
   (c) the social security payment is an austudy payment and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute an austudy participation failure; or
   (d) the social security payment is a newstart allowance and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute a newstart participation failure; or
   (e) the social security payment is a special benefit and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute a special benefit participation failure.

Note: Failure by a recipient of, or claimant for, one of these payments to comply with a requirement notified under subsection (2) may result in the payment not being payable to the person: see sections 500ZB, 500ZE, 550B, 551, 576A, 577, 626, 629, 742 and 745 of the 1991 Act.

(6) If:
   (a) a person is the holder of, or has made a claim for, a concession card; and
   (b) the Secretary notifies the person under subsection (2); and
   (c) the requirement of the notice is reasonable; and
   (d) the person does not comply with the requirement;
the person ceases to be qualified, or is not qualified, as the case requires, for a concession card.

(7) The Secretary may notify a person under subsection (2) by sending the notice by prepaid post addressed to the person at the postal address of the person last known to the Secretary. This subsection does not prevent the Secretary from giving the person notice in any other way.

(9) The Secretary may determine that a social security payment that was not payable because of subsection (4) is payable to a person if the Secretary is satisfied that the person had a reasonable excuse for not complying with the requirement under subsection (2).

(10) The Secretary may determine that a person who, by virtue of subsection (6), has ceased to be, or is not, qualified for a concession card is qualified for such a card if the Secretary is satisfied that the person has a reasonable excuse for not complying with the requirement of the notice under subsection (2).

(11) A notification under subsection (2) or (3) must inform the person to whom it is given of the effect of this section.

64 Requirement to undergo medical examination etc.

(1) This section applies to a person if:

(a) the person is receiving, or has claimed, a disability support pension, parenting payment, youth allowance, newstart allowance, sickness allowance, special benefit, or mobility allowance; or

(b) the Department is contacted by or on behalf of the person in relation to a claim for youth allowance or newstart allowance to be paid to the person.

(2) If:

(a) this section applies to a person; and

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

(i) attend an office of the Department; or

(ii) contact the Department; or

(iii) attend a particular place for a particular purpose; or

(iv) complete a questionnaire; or
(v) undergo a medical, psychiatric or psychological examination; or
(vi) give information to the Secretary;
the Secretary may notify the person that the person is required, within a specified time, to:
(c) attend that office; or
(d) contact the Department; or
(e) attend that place for that purpose; or
(f) complete that questionnaire; or
(g) undergo that examination and provide to the Secretary the report, in the approved form, of the person who conducts the examination; or
(h) give that information to the Secretary; as the case may be.

(3) The Secretary may notify a person for the purposes of subsection (2) by sending the notice by prepaid post addressed to the person at his or her postal address last known to the Secretary. This subsection does not prevent the Secretary from giving the person notice in any other way.

(4) If:
(a) the Secretary notifies a person under subsection (2); and
(b) the Secretary is satisfied that it is reasonable for this section to apply to the person; and
(c) the person does not take reasonable steps to comply with the requirement of the notice;
the payment that the person is receiving or has claimed is not payable.

(4A) Subsection (4) does not apply if:
(a) the social security payment is a parenting payment and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute a parenting payment participation failure; or
(b) the social security payment is a youth allowance and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute a youth allowance participation failure; or
(c) the social security payment is an Austudy payment and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute an Austudy participation failure; or

(d) the social security payment is a Newstart allowance and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute a Newstart participation failure; or

(e) the social security payment is a special benefit and the notification under subsection (2) included a statement to the effect that a failure to comply with the requirement could constitute a special benefit participation failure.

Note: Failure by a recipient of, or claimant for, one of these payments to comply with a requirement notified under subsection (2) may result in the payment not being payable to the person: see sections 500ZB, 500ZE, 550B, 551, 576A, 577, 626, 629, 742 and 745 of the 1991 Act.

(5) A notification under subsection (2) must inform the person to whom it is given of the effect of this section.

65 Medical certificate in support of claim for sickness allowance

(1) Subject to subsection (3), a claim for sickness allowance must be supported by the certificate of a medical practitioner which states:

(a) the medical practitioner’s diagnosis; and

(b) the medical practitioner’s prognosis; and

(c) that the person is incapacitated for work; and

(d) the period for which the person is incapacitated for work.

(2) A certificate for the purpose of subsection (1) must be in accordance with a form approved by the Secretary.

(3) A person’s claim for sickness allowance need not be supported by a medical certificate if the person is claiming to be qualified for sickness allowance under section 667 of the 1991 Act.

(4) The Secretary may, in special circumstances, direct that subsection (1) or (2) does not apply in relation to a claim.

66 Notice to obtain foreign payment

(1) This section applies to the following social security payments:

(a) age pension;
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(b) bereavement allowance;
(c) carer payment:
(d) disability support pension;
(e) parenting payment;
(f) special needs age pension;
(g) special needs disability support pension;
(h) special needs widow B pension;
(i) special needs wife pension;
(j) widow allowance;
(k) widow B pension;
(l) wife pension.

(2) If:
   (a) a person claims, or is receiving, a social security payment to which this section applies; and
   (b) the Secretary is satisfied that the person may be entitled to a comparable foreign payment from a foreign country if the person applied for the payment;

the Secretary may give the person a notice that requires the person to take reasonable action to obtain the payment at the highest rate applicable to the person.

(3) If:
   (a) a person claims, or is receiving, a social security payment to which this section applies; and
   (b) the Secretary is satisfied that the person’s partner may be entitled to a comparable foreign payment from a foreign country if the partner applied for the payment;

the Secretary may give the person a notice that requires the partner to take reasonable action to obtain the payment at the highest rate applicable to the partner.

(4) A notice under subsection (2) or (3):
   (a) must be given in writing; and
   (b) may be given personally or by post or in any manner approved by the Secretary; and
   (c) must specify the period within which the reasonable action is to be taken.
(5) The period specified under paragraph (4)(c) must not end earlier than 14 days after the day on which the notice is given.

Subdivision B—Requirement to give information about change of circumstances etc.

67 Person who has made a claim

(1) Subsection (2) applies to a person if:
   (a) the person has made a claim for a social security payment; and
   (b) either:
       (i) the claim has been granted; or
       (ii) the claim has not been determined.

(2) The Secretary may give a person to whom this subsection applies a notice in writing that requires the person to do any or all of the following:
   (a) inform the Department if:
       (i) a specified event or change of circumstances occurs; or
       (ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
   (b) give the Department a statement about a matter that might affect the payment to the person of the social security payment;
   (c) give the Department a statement about a matter that might affect the operation, or prospective operation, of Part 3B in relation to the person.

(3) Subsection (4) applies to a person if:
   (a) the person has made a claim for a concession card; and
   (b) either:
       (i) the claim has been granted; or
       (ii) the claim has not been determined.

(4) The Secretary may give a person to whom this subsection applies a notice in writing that requires the person to do either or both of the following:
   (a) inform the Department if:
       (i) a specified event or change of circumstances occurs; or
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(ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
(b) give the Department a statement about a matter that might affect the person’s qualification for the concession card.

(5) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might:
(a) affect the payment of the social security payment or the person’s qualification for the concession card, as the case requires; or
(b) affect the operation, or prospective operation, of Part 3B in relation to the person.

68 Person receiving social security payment or holding concession card

(1) Subsection (2) applies to a person to whom a social security payment (other than utilities allowance or seniors concession allowance) is being paid.

(2) The Secretary may give a person to whom this subsection applies a notice that requires the person to do any or all of the following:
(a) inform the Department if:
   (i) a specified event or change of circumstances occurs; or
   (ii) the person becomes aware that a specified event or change of circumstances is likely to occur;
(b) give the Department one or more statements about a matter that might affect the payment to the person of the social security payment;
(c) give the Department one or more statements about a matter that might affect the operation, or prospective operation, of Part 3B in relation to the person.

(3) Subsection (4) applies to a person who is the holder of a concession card.

(4) The Secretary may give a person to whom this subsection applies a notice that requires the person to do either or both of the following:
(a) inform the Department if:
   (i) a specified event or change of circumstances occurs; or
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(ii) the person becomes aware that a specified event or change of circumstances is likely to occur;

(b) give the Department a statement about a matter that might affect the person’s qualification for the concession card.

(5) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might:

(a) affect the payment of the social security payment or the person’s qualification for the concession card, as the case requires; or

(b) affect the operation, or prospective operation, of Part 3B in relation to the person.

69 Person who has received a social security payment or who has held a concession card

(1) Subsection (2) applies to a person who is not receiving a social security payment but to whom a social security payment (other than utilities allowance or seniors concession allowance) has at any time been paid.

(2) The Secretary may give a person to whom this subsection applies a notice that requires the person to do either or both of the following:

(a) inform the Department whether a specified event or change of circumstances has occurred;

(b) give the Department a statement about a matter that might have affected the payment to the person of the social security payment.

(3) Subsection (4) applies to a person who is not the holder of a concession card but has at any time held such a card.

(4) The Secretary may give a person to whom this subsection applies a notice that requires the person to do either or both of the following:

(a) inform the Department whether a specified event or change of circumstances has occurred;

(b) give the Department a statement about a matter that might have affected the person’s qualification for the concession card.
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(5) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might have affected the payment of the social security payment or the person’s qualification for the concession card, as the case requires.

(6) A person is not required to comply with a notice under this section if the notice requires the person to give information or a statement about an event or change of circumstances that occurred, or a matter that arose, more than 13 weeks before the giving of the notice.

70 Care receiver in respect of whom carer payment being made

(1) If a person is being paid a carer payment because he or she is providing constant care for a care receiver (other than one to whom subsection 198(7) of the 1991 Act applies) or care receivers, the Secretary may give a notice to:

(a) any care receiver who is 16 or more; or
(b) a parent of any care receiver who is under 16;

that requires the care receiver or parent, as the case may be, to inform the Department if:

(c) a specified event or change of circumstances occurs; or
(d) he or she becomes aware that a specified event or change of circumstances is likely to occur.

(2) The notice may describe the event or change of circumstances specified in the notice as a notifiable event for the purposes of section 198C of the 1991 Act.

70A Person who is subject to the income management regime etc.

Scope

(1) This section applies to a person if:

(a) the person is subject to the income management regime (within the meaning of Part 3B); or
(b) the Secretary is satisfied that it is likely that the person will become subject to the income management regime (within the meaning of Part 3B).
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Requirement  

(2) The Secretary may give the person a notice that requires the person to do either or both of the following:  

(a) inform the Department if:  

(i) a specified event or change of circumstances occurs; or  
(ii) the person becomes aware that a specified event or change of circumstances is likely to occur;  

(b) give the Department one or more statements about a matter that might affect the operation, or prospective operation, of Part 3B in relation to the person.  

(3) An event or change of circumstances is not to be specified in a notice under this section unless the occurrence of the event or change of circumstances might affect the operation, or prospective operation, of Part 3B in relation to the person.  

72 Provisions relating to notice  

(1) A notice under this Subdivision:  

(a) must be given in writing; and  

(b) may be given personally or by post or in any other manner approved by the Secretary; and  

(c) must specify how the person is to give the information or statement to the Department; and  

(d) must specify:  

(i) in the case of a notice under section 68 that requires the giving of more than one statement, each relating to the payment of the social security payment in respect of a period—the date by which the person is to give each statement to the Department; or  
(ii) in any other case—the period within which the person is to give the information or statement to the Department; and  

(e) must specify that the notice is an information notice given under the social security law.  

(2) A notice under this Subdivision is not invalid merely because it fails to comply with paragraph (1)(c) or (e).
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(2A) A date specified for the purposes of subparagraph (1)(d)(i) must be no earlier than 7 days after:

(i) the day on which the notice under section 68 is given; or
(ii) the day on which the period specified in the notice in relation to that first mentioned date begins;

whichever is the later.

(3) Subject to subsections (4), (6) and (7), the period specified for the purpose of subparagraph (1)(d)(ii) must:

(a) in the case of a notice under section 67, 68 or 69 that requires the giving of information about an event or change of circumstances consisting of the receipt by the person of a compensation payment—be the period of 7 days after the day on which the person becomes aware that he or she has received, or is to receive, a compensation payment; or

(b) in the case of a notice under section 67, 68 or 69 that requires the giving of any other information, or a notice under section 70—be the period of 14 days after:

(i) the day on which the event or change of circumstances occurs; or
(ii) the day on which the person becomes aware that the event or change of circumstances is likely to occur; as the case may be; or

(c) in the case of a notice under section 67 or 68 that requires the giving of a statement that relates to the payment of the social security payment in respect of a period specified in the notice—end not earlier than 7 days after the day on which the notice is given; or

(d) in the case of a notice under section 67, 68 or 69 that requires the giving of a statement, not being a notice to which paragraph (c) applies—end not earlier than 14 days after the day on which the notice is given; or

(e) in the case of a notice under section 70A that requires the giving of information mentioned in paragraph 70A(2)(a)—be the period of 14 days after:

(i) the day on which the event or change of circumstances occurs; or
(ii) the day on which the person becomes aware that the event or change of circumstances is likely to occur; as the case may be; or
(f) in the case of a notice under section 70A that requires the giving of a statement mentioned in paragraph 70A(2)(b)—end not earlier than 14 days after the day on which the notice is given.

(4) If the Secretary is satisfied that there are special circumstances related to a person who is to be given a notice under this Subdivision that requires the giving of information about an event or change of circumstances, the period to be specified for the purpose of subparagraph (1)(d)(ii) is such period as the Secretary directs in writing, being a period that ends not less than 15 days, and not more than 28 days, after:

(a) in the case of a notice under section 67, 68 or 70A:
   (i) the day on which the event or change of circumstances occurs; or
   (ii) the day on which the person becomes aware that the event or change of circumstances is likely to occur; or
(b) in the case of a notice under section 69—the day on which the notice is given.

(6) If a notice under section 67, 68 or 70A specifies an event consisting of the death of a person, the period to be specified under subparagraph (1)(d)(ii) is a period of 28 days after the day on which the event occurs.

(7) To the extent that a notice under section 67, 68 or 70A requires a person to inform the Department of any proposal by the person to leave Australia, subsection (3) does not apply to the notice.

(8) For the purposes of any provision of this Act, other than section 74 or a provision of Part 6, a person is taken to have failed to comply with a notice under this Subdivision if, in response to the notice:
   (a) the person gives information or a statement; and
   (b) the information or statement is false or misleading; and
   (c) the person is reckless as to whether the information or statement is false or misleading.

(9) Nothing in this section prevents the giving of more than one notice under this Subdivision to the same person in relation to:
   (a) a claim by the person for the same social security payment or concession card; or

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(b) the receipt by the person of the same social security payment; or
(c) the holding by the person of the same concession card.

73 Application of notice provisions

Sections 67 to 72 extend to:
(a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
(b) all persons irrespective of their nationality or citizenship.

74 Offence—failure to comply with notice

(1) A person must not refuse or fail to comply with a notice under section 67, 68, 69, 70 or 70A.

Penalty: Imprisonment for 6 months.

(2) Subsection (1) applies only to the extent to which the person is capable of complying with the notice.

(3) Subsection (1) does not apply if the person has a reasonable excuse.

(4) Subsection (1) is an offence of strict liability.

Subdivision C—Provision of tax file numbers

75 Secretary’s power to request tax file numbers

(1) This section applies to a person in Australia who:
(a) has made a claim for a social security payment; or
(b) is receiving a social security payment (other than utilities allowance or seniors concession allowance); or
(c) has made a claim for a seniors health card; or
(d) is the holder of a seniors health card.

(2) The Secretary may request, but not compel, a person to whom this section applies:
(a) if the person has a tax file number—to give the Secretary a written statement of the person’s tax file number; or
(b) if the person does not have a tax file number:
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(i) to apply to the Commissioner of Taxation for a tax file number; and
(ii) to give the Secretary a written statement of the person’s tax file number after the Commissioner of Taxation has issued it.

(3) If:
   (a) this section applies to a person; and
   (b) the person is a member of a couple; and
   (c) the person’s partner is in Australia;
   the Secretary may request, but not compel, the person to give the Secretary a written statement of the tax file number of the person’s partner.

(4) If:
   (a) this section applies to a person (the recipient) because the person is receiving a social security payment; and
   (b) the income of a person (other than the recipient) is required to be taken into account for the purpose of working out the rate of the recipient’s social security payment; and
   (c) the person referred to in paragraph (b) is in Australia;
   the Secretary may request, but not compel, the recipient to give the Secretary a written statement of the tax file number or numbers of each person who is a person referred to in paragraph (b).

76 Effect of failure by person to satisfy request for person’s tax file number

(1) If the Secretary makes a request under subsection 75(2) of a person who has made a claim for, or is receiving, a social security payment, the social security payment is not payable to the person unless, within 28 days after the request is made:
   (a) the person satisfies the request; or
   (b) the person satisfies subsection (2) or (3) of this section; or
   (c) the Secretary exempts the person from the need to satisfy the request.

(1A) If the Secretary makes a request under subsection 75(2) of a person who has made a claim for a seniors health card, the Secretary must not make a determination granting the claim unless, within 28 days after the request is made:
(a) the person satisfies the request; or
(b) the person satisfies subsection (2) or (3) of this section; or
(c) the Secretary exempts the person from the need to satisfy the request.

(1B) If the Secretary makes a request under subsection 75(2) of a person who is the holder of a seniors health card, the Secretary is to determine that the card is to be cancelled unless, within 28 days after the request is made:
   (a) the person satisfies the request; or
   (b) the person satisfies subsection (2) or (3) of this section; or
   (c) the Secretary exempts the person from the need to satisfy the request.

(2) A person satisfies this subsection if:
   (a) the person has given the Secretary a TFN declaration; and
   (b) the 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 the person of the person’s tax file number; and
   (c) the person has given the Secretary a document that authorises 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—that number; and
   (d) the Commissioner of Taxation has not told the Secretary that the person has no tax file number.

(3) A person satisfies this subsection if:
   (a) the person has given the Secretary a TFN declaration; and
   (b) the declaration states that an application by the person for a tax file number is pending; and
   (c) the person has given the Secretary a document that authorises the Commissioner of Taxation to tell the Secretary:
      (i) if a tax file number is issued to the person—that 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
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77 Effect of failure by person to satisfy request for partner’s or related person’s tax file number

(1) If the Secretary makes a request under subsection 75(3) of a person who has made a claim for, or is receiving, a social security payment, the social security payment is not payable to the person unless, within 28 days after the request is made:
   (a) the person satisfies the request; or
   (b) the person satisfies subsection (3) or (4) of this section; or
   (c) the Secretary exempts the person from the need to satisfy the request.

(1A) If the Secretary makes a request under subsection 75(3) of a person who has made a claim for a seniors health card, the Secretary must not make a determination granting the claim unless, within 28 days after the request is made:
   (a) the person satisfies the request; or
   (b) the person satisfies subsection (3) or (4) of this section; or
   (c) the Secretary exempts the person from the need to satisfy the request.

(1B) If the Secretary makes a request under subsection 75(3) of a person who is the holder of a seniors health card, the Secretary is to determine that the card is to be cancelled unless, within 28 days after the request is made:
   (a) the person satisfies the request; or
   (b) the person satisfies subsection (3) or (4) of this section; or
   (c) the Secretary exempts the person from the need to satisfy the request.

(2) If the Secretary makes a request under subsection 75(4) of a person who is receiving a social security payment, the social security payment is not payable to the person unless, within 28 days after the request is made:
   (a) the person satisfies the request; or
   (b) the person satisfies subsection (3) or (4) of this section; or
(c) the Secretary exempts the person from the need to satisfy the request.

(3) A person satisfies this subsection if:
   (a) the person has given the Secretary a declaration by the related person in accordance with a form approved by the Secretary; and
   (b) the declaration states that the related person:
       (i) has a tax file number but does not know what it is; and
       (ii) has asked the Commissioner of Taxation to inform the related person of his or her tax file number; and
   (c) the person has given the Secretary a document in which the related person authorises the Commissioner of Taxation to tell the Secretary:
       (i) whether the related person has a tax file number; and
       (ii) if the related person has a tax file number—that number; and
   (d) the Commissioner of Taxation has not told the Secretary that the related person has no tax file number.

(4) A person satisfies this subsection if:
   (a) the person has given the Secretary a declaration by the related person in accordance with a form approved by the Secretary; and
   (b) the declaration states that an application by the related person for a tax file number is pending; and
   (c) the person has given the Secretary a document in which the related person authorises the Commissioner of Taxation to tell the Secretary:
       (i) if a tax file number is issued to the related person—that 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
   (d) the Commissioner of Taxation has not told the Secretary that an application by the related person for a tax file number has been refused or withdrawn.
(5) The Secretary may exempt a person from compliance with a request for a statement of a related person’s tax file number if the Secretary is satisfied that:
   (a) the person does not know the related person’s tax file number; and
   (b) the person can obtain none of the following from the related person:
       (i) the related person’s tax file number;
       (ii) a statement of the related person’s tax file number;
       (iii) a declaration by the related person under paragraph (3)(a) or (4)(a).

(6) In this section:

related person means:
   (a) in relation to a person of whom a request has been made under subsection 75(3)—the person’s partner; or
   (b) in relation to a person of whom a request has been made under subsection 75(4)—a person who is a person referred to in paragraph 75(4)(b).
Division 7—Various determinations

Subdivision A—Provisions relating to social security payments

78A When this Subdivision does not apply

This Subdivision does not apply in relation to utilities allowance and seniors concession allowance.

78 Rate increase determination

If the Secretary is satisfied that the rate at which a social security payment is being, or has been, paid is less than the rate provided for by the social security law, the Secretary must:

(a) determine that the rate is to be increased to the rate provided for by the social security law; and

(b) specify the last-mentioned rate in the determination.

79 Rate reduction determination

(1) If the Secretary is satisfied that the rate at which a social security payment is being, or has been, paid is more than the rate provided for by the social security law, the Secretary is to:

(a) determine that the rate is to be reduced to the rate provided for by the social security law; and

(b) specify the last-mentioned rate in the determination.

(2) Subsection (1) does not authorise the Secretary to make a determination if:

(a) the rate at which a social security payment is payable to a person is reduced by the operation of another provision of the social security law; and

(b) the determination would take effect at or after the time at which the reduction referred to in paragraph (a) would take effect.
80 Cancellation or suspension determination

(1) If the Secretary is satisfied that a social security payment is being, or has been, paid to a person:
   (a) who is not, or was not, qualified for the payment; or
   (b) to whom the payment is not, or was not, payable;
the Secretary is to determine that the payment is to be cancelled or suspended.

(2) Subsection (1) does not authorise the Secretary to make a determination if:
   (a) the payment of a social security payment to a person has been cancelled or suspended by the operation of another provision of the social security law; and
   (b) the determination would take effect at or after the time at which the cancellation or suspension referred to in paragraph (a) would take effect.

(3) However, subsection (1) authorises the Secretary to make a determination that:
   (a) cancels a social security payment that has been suspended under subsection 81(3); and
   (b) takes effect at or after the time the suspension took effect.

(3A) Subsection (1) does not authorise the Secretary to make a determination that cancels the payment of a parenting payment, youth allowance, Austudy payment, Newstart allowance or special benefit to a person if:
   (a) paragraph (1)(a) does not apply to the person; and
   (b) paragraph (1)(b) applies only because of the application of a compliance penalty period.

(4) A reference in this section to a social security payment being, or having been, paid includes a reference to:
   (a) if the social security payment is a youth allowance—the youth allowance being payable but for the operation of section 547AA; or
   (b) if the social security payment is a Newstart allowance—the Newstart allowance being payable but for the operation of section 615.
81 Cancellation or suspension for non-compliance with certain notices

(1) If:
   (a) a person who is receiving a social security payment (other than a newstart allowance) has been given:
      (i) a notice under section 67 or 68 that requires the person to give the Department a statement; or
      (ii) a notice embodying a requirement under Division 1 of Part 5; and
   (b) the person does not comply with the requirement of the notice;
      the Secretary may determine that the payment is to be cancelled or suspended.

(2) If:
   (a) a person and his or her partner (the partner) are each receiving a social security payment; and
   (b) the partner has been given:
      (i) a notice under section 67 or 68 that requires the partner to give the Department a statement; or
      (ii) a notice embodying a requirement under Division 1 of Part 5; and
   (c) the notice relates to matters that might also affect the payment of the person’s social security payment; and
   (d) the partner does not comply with the requirement of the notice;
      the Secretary may determine that the person’s payment is to be cancelled or suspended.

(3) If:
   (a) a person who is receiving a social security payment has been given a notice under section 67 or 68 that requires the person to inform the Department of a proposal by the person to leave Australia; and
   (b) the person does not comply with the requirement; and
   (c) the person leaves Australia; and
   (d) the person’s portability period (see section 1217 of the 1991 Act) for the payment has not ended;
the Secretary may determine that the payment is to be cancelled or suspended.

Note: Subsection (3) lets the Secretary make one determination suspending the payment and later make another determination cancelling the payment. See subsection 33(1) of the Acts Interpretation Act 1901.

81A Rate reduction determination for non-compliance with notice relating to rent assistance

(1) Without limiting section 81, if:
   (a) an amount of rent assistance is being added to a person’s maximum basic rate of social security payment; and
   (b) the person has been given:
      (i) a notice under section 67 or 68 that requires the person to give the Department a statement; or
      (ii) a notice embodying a requirement under Division 1 of Part 5; and
   (c) any statement, information or document required by the notice relates to:
      (i) whether the person qualifies for rent assistance; or
      (ii) the amount of the person’s rent assistance; and
   (d) the person does not comply with the requirement of the notice;
   the Secretary may determine that the person’s rate of social security payment is to be reduced by not adding the amount of rent assistance to the person’s maximum basic rate.

(2) The determination must also specify the new rate of social security payment.

(3) Subsection (1) does not authorise the Secretary to make a determination if:
   (a) another provision of the social security law provides that the rate at which the social security payment is payable to the person is to be reduced by not adding the amount of rent assistance to the person’s maximum basic rate; and
   (b) the determination would take effect at or after the time at which the reduction referred to in paragraph (a) would take effect.
Section 82

82 Cancellation or suspension for failure to take action to obtain foreign payment

(1) If:
   (a) a person who is receiving a social security payment has been given a notice under subsection 66(2); and
   (b) the Secretary is satisfied that the person has not complied with the requirement of the notice;
   the Secretary may determine that the social security payment is to be cancelled or suspended.

(2) If:
   (a) a person who is receiving a social security payment has been given a notice under subsection 66(3); and
   (b) the Secretary is satisfied that the person’s partner has not complied with the requirement of the notice;
   the Secretary may determine that the social security payment is to be cancelled or suspended.

83 Changes to payments by computer

(1) If:
   (a) payment of a social security payment is based upon data in a computer; and
   (b) the rate of the payment is increased or reduced, or the payment is cancelled or suspended, because of the operation of a computer program used under the control of the Secretary; and
   (c) the program causes the change for a reason for which the Secretary could make the change by determination;
   the change is taken to have been made by the Secretary by determination for that reason.

(2) A determination that is taken, by virtue of subsection (1), to have been made is taken to have been made on the day on which the computer program caused the change to be made.
84 Automatic transfer by computer

(1) If:
   (a) payment of a social security payment to a person is based upon data in a computer; and
   (b) because of the operation of a computer program used under the control of the Secretary, a social security payment of a different kind becomes payable to the person;

the Secretary is taken to have made a determination:
   (c) that the payment referred to in paragraph (b) is to be payable to the person; and
   (d) that the payment referred to in paragraph (a) is to cease to be payable to the person immediately before the day on which the payment referred to in paragraph (b) is to become payable to the person.

(2) A determination that is taken, by virtue of subsection (1), to have been made is taken to have been made on the day on which the payment referred to in paragraph (1)(b) became payable because of the operation of the computer program.

85 Resumption of payment after cancellation or suspension

(1) If:
   (a) a person’s social security payment is:
       (i) cancelled by force of section 93 or 94; or
       (ii) cancelled or suspended under section 80, 81 or 82; or
       (iii) cancelled under Part 3C (schooling requirements); and

   Note: For reconsideration of the suspension of a schooling requirement payment, see sections 124J and 124N.

   (b) the Secretary reconsiders the decision; and

   (c) as a result of the reconsideration, the Secretary is satisfied that, because of the decision:
       (i) the person did not receive a social security payment that was payable to the person; or
       (ii) the person is not receiving a social security payment that is payable to the person;

the Secretary is to determine that the social security payment was or is payable to the person, as the case requires.
Section 85A

(2) The reconsideration referred to in paragraph (1)(b) may be a reconsideration on an application under section 129 or a reconsideration on the Secretary’s own initiative.

85A Rate increase determination following rate reduction for non-compliance with notice relating to rent assistance

(1) If:

(a) the Secretary reduces a person’s rate of social security payment under section 81A by not adding an amount of rent assistance to the person’s maximum basic rate; and

(b) the Secretary reconsiders the decision; and

(c) as a result of the reconsideration, the Secretary is satisfied that, because of the decision, the rate at which social security payment is being, or has been, paid is less than the rate provided for by the social security law;

the Secretary must determine that the rate is to be increased to the rate provided for by the social security law.

(2) The determination must also specify the new rate of social security payment.

(3) The reconsideration referred to in paragraph (1)(b) may be a reconsideration on an application under section 129 or a reconsideration on the Secretary’s own initiative.

Subdivision B—Provisions relating to concession cards

86 Cancellation—person not qualified

(1) If the Secretary is satisfied that a person to whom a concession card has been granted is not qualified for the card, the Secretary is to determine that the card is to be cancelled.

Note: The Secretary must cancel a seniors health card in certain circumstances if the Secretary makes a request under subsection 75(2) or (3) of the holder (about providing tax file numbers): see subsections 76(1B) and 77(1B).

(2) Subsection (1) does not authorise the Secretary to make a determination if:

(a) the card has been cancelled by the operation of another provision of the social security law; and
(b) the determination would take effect at or after the time at which the cancellation referred to in paragraph (a) would take effect.

87 Cancellation—non-compliance with certain notices

If:

(a) a person who is the holder of a concession card has been given:

(i) a notice under section 68 that requires the person to give the Department a statement; or

(ii) a notice embodying a requirement under Division 1 of Part 5; and

(b) the person does not comply with the requirement of the notice;

the Secretary may determine that the person is to cease to be qualified for the card.

88 Changes to qualification by computer

If:

(a) a person is qualified for a concession card; and

(b) the person ceases to be qualified for the card because of the operation of a computer program used under the control of the Secretary; and

(c) the program causes the change for a reason for which the Secretary could make the change by determination under section 87;

the change is taken to have been made by the Secretary by a determination under section 87 made for that reason.

89 Resumption of qualification

(1) If:

(a) the Secretary makes a determination under section 87 that a person is to cease to be qualified for a concession card; and

(b) the Secretary reconsiders the decision; and

(c) as a result of the reconsideration, the Secretary is satisfied that, because of the decision, the person was deprived of the concession card when he or she was qualified for the card;
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the Secretary is to determine that the person is qualified for the card.

(2) The reconsideration referred to in paragraph (1)(b) may be a reconsideration on an application under section 129 or a reconsideration without any such application having been made.
Division 8—Automatic cancellations and variations

Subdivision A—Social security payments

90A When this Subdivision does not apply

This Subdivision does not apply in relation to utilities allowance and seniors concession allowance.

90 Automatic cancellation—transfer to new payment type

(1) If:
(a) a person is receiving a social security pension or benefit (the old payment); and
(b) either:
   (i) a different kind of social security pension or benefit (the new pension or benefit) becomes payable to the person; or
   (ii) a service pension or income support supplement becomes payable to the person;

the old payment is cancelled, by force of this section, immediately before the day on which the new pension or benefit or the service pension, as the case may be, becomes payable to the person.

(2) In this section:

social security benefit does not include parenting payment.

91 Automatic cancellation of parenting payment on transfer to new payment type—member of couple

(1) If:
(a) a person who is a member of a couple is receiving parenting payment; and
(b) a social security benefit (other than benefit (PP) partnered) becomes payable to the person;

parenting payment is cancelled, by force of this section, immediately before the day that is the person’s start day in relation to the benefit referred to in paragraph (b).
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(2) If:

(a) a person who is a member of a couple is receiving parenting payment; and
(b) as a result of a social security pension, service pension or income support supplement becoming payable to the person, the rate at which parenting payment is payable to the person becomes nil;

parenting payment is cancelled by force of this section immediately before the day on which the social security pension, the service pension or the income support supplement, as the case may be, becomes payable to the person.

93 Automatic cancellation—recipient complying with subsection 68(2) notice

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

(a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
(b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and
(c) the event or change of circumstances occurs; and
(d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
(e) because of the occurrence of the event or change of circumstances:
   (i) the person ceases to be qualified for the social security payment; or
   (ii) the payment would, but for this section, cease to be payable to the person; and
(f) the social security payment is not cancelled before the end of the instalment period for the person that is current when the event or change of circumstances occurs;

the following paragraphs have effect:

(g) if the social security payment is cancelled during the instalment period (the first period) following the instalment period in which the event or change of circumstances occurs, the payment is payable to the person until the end of the...
instalment period in which the event or change occurs, and is then cancelled by force of this subsection;

(h) if the payment is not cancelled during the first period, the payment is payable to the person until the end of the notification period, and is then cancelled by force of this subsection.

(2) If:

(a) a person who is receiving a social security payment is given a notice under subsection 68(2); and

(b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and

(c) the event or change of circumstances occurs; and

(d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and

(e) because of the event or change of circumstances, the person’s working credit balance or student income bank balance is reduced to nil in an instalment period (the nil instalment period) of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs (the event instalment period); and

(f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the social security payment would, but for this subsection, cease to be payable to the person; and

(g) the social security payment is not cancelled before the end of the nil instalment period;

the social security payment continues to be payable to the person until a day determined in accordance with subsection (3) and is then cancelled by force of this subsection.

(3) For the purposes of subsection (2), the day until which the social security payment continues to be payable to the person is:

(a) if the cancellation is attributable to the reduction of the balance referred to in paragraph (2)(e) to nil and the payment is so cancelled during the instalment period (the next instalment period) following the nil instalment period—the later of:
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(i) the day before the day on which the balance was reduced to nil; or

(ii) the end of the event instalment period; and

(b) if the cancellation is attributable to the balance having already been reduced to nil and the payment is so cancelled during the next instalment period—the later of:

(i) the day before the first day on which the opening balance was nil; or

(ii) the end of the event instalment period; and

(c) if the cancellation is attributable to the reduction of the balance to nil but the payment is not so cancelled during the next instalment period—the later of:

(i) the day before the day on which the balance was reduced to nil; or

(ii) the end of the notification period; and

(d) if the cancellation is attributable to the balance having already been reduced to nil but the payment is not so cancelled during the next instalment period—the later of:

(i) the day before the first day on which the opening balance was nil; or

(ii) the end of the notification period.

94 Automatic cancellation—recipient not complying with subsection 68(2) notice

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

(a) a person who is receiving a social security payment is given a notice under subsection 68(2); and

(b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and

(c) the event or change of circumstances occurs; and

(d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and

(e) because of the occurrence of the event or change of circumstances:

(i) the person ceases to be qualified for the social security payment; or

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(ii) the social security payment ceases to be payable to the person;

the social security payment is cancelled, by force of this subsection, on the day on which the event or change of circumstances occurs.

(2) If:

(a) a person who is receiving a social security payment is given a notice under subsection 68(2); and

(b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and

(c) the event or change of circumstance occurs; and

(d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and

(e) because of the event or change of circumstances, the person’s working credit balance or student income bank balance is reduced to nil in an instalment period of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs; and

(f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the social security payment ceases to be payable to the person;

the social security payment is cancelled, by force of this subsection, on:

(g) if the cancellation is attributable to the reduction of the balance to nil—the day on which the balance was so reduced; and

(h) if the cancellation is attributable to the balance having already been reduced to nil—the first day on which the opening balance was nil.

95 Automatic cancellation—failure to provide statement under subsection 68(2)

(1) If:

(a) a person who is receiving a social security payment is given a notice under subsection 68(2) requiring the person to give the Department a statement or a number of statements; and
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(b) the notice relates to the payment of the social security payment in respect of a period or a number of periods specified in the notice; and
(c) the person does not comply with the notice so far as it relates to a particular period;
then, subject to subsection (2), the social security payment is cancelled, by force of this section, on 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 on and from a day specified in the determination.

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

95A  Automatic cancellation of carer payment for non-compliance with section 70 notice

If:
(a) a care receiver or parent of a care receiver is given a notice under section 70; and
(b) the notice requires the care receiver or parent to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and
(c) the event or change of circumstances occurs; and
(d) the care receiver or parent does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
(e) because of the occurrence of the event or change of circumstances:
   (i) the person receiving the carer payment ceases to be qualified for the payment; or
   (ii) the carer payment ceases to be payable to the person;
the carer payment is cancelled, by force of this section, on the day on which the event or change of circumstances occurs.
96 Disability support pension—suspension instead of cancellation under section 93

(1) If:
   (a) a person ceases to be qualified for disability support pension because the person obtains paid work that is for at least 15 hours per week; and
   (b) the person has, within the notification period referred to in section 93, informed the Secretary that the person has obtained that work;

the Secretary may determine:
   (c) that section 93 does not apply to the person’s disability support pension; and
   (d) that the person’s disability support pension is to be suspended.

(2) Subsection (1) does not apply to a person if:
   (a) the Secretary gives written notice to the person that the person is no longer qualified for disability support pension; and
   (b) the Secretary’s notice is given before the person informs the Secretary that the person has obtained work.

(3) If:
   (a) disability support pension ceases to be payable to a person because the rate of the pension is nil as a result of the income, or increased income, earned by the person from his or her employment; and
   (b) the person has informed the Secretary about the income or increased income within the notification period referred to in section 93;

the Secretary may determine:
   (c) that section 93 does not apply to the person’s disability support pension; and
   (d) that the person’s disability support pension is to be suspended.

(3A) If:
   (a) the Secretary makes a determination under subsection (1) or (3) suspending a person’s disability support pension; and
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(b) within 2 years from the date of effect of the determination, the Secretary reconsiders the decision to suspend; and
(c) as a result of the reconsideration, the Secretary is satisfied that the person is not receiving disability support pension that is payable to the person;
the Secretary is to determine that the disability support pension is payable to the person.

(3B) The reconsideration referred to in paragraph (3A)(b) may be a reconsideration on an application under section 129 or a reconsideration on the Secretary’s own initiative.

(4) If:
(a) the Secretary suspends a person’s disability support pension under subsection (1) or (3); and
(b) the determination suspending the disability support pension continues in effect throughout the period of 2 years from the date of effect of the determination;
then, at the end of that period of 2 years, the determination granting the person disability support pension is, by force of this section, revoked.

(5) If:
(a) the Secretary suspends a person’s disability support pension under subsection (1) or (3); and
(b) the person has a partner who is receiving:
(i) age pension; or
(ii) disability support pension; or
(iii) service pension or income support supplement;
then, for the period of the suspension, the partner is taken to be partnered (partner getting neither pension nor benefit).

(6) If:
(a) the Secretary suspends a person’s disability support pension under subsection (1) or (3); and
(b) the person has a partner who was, immediately before the suspension, receiving wife pension or carer payment;
the Secretary must determine that the partner’s wife pension or carer payment, as the case may be, is not to be cancelled but is to be suspended.
97 Disability support pension—suspension taken to have been under section 96

(1) If:
   (a) a person ceases to be qualified for disability support pension because the person obtains paid work that is for at least 15 hours per week; and
   (b) disability support pension ceases to be payable to the person under section 93; and
   (c) within the period of 2 years after the pension ceases to be payable, the person ceases to do work of the kind referred to in paragraph (a);

   the Secretary may determine that the person is to be treated as if:
   (d) section 93 had not applied to the person’s disability support pension; and
   (e) the disability support pension had been suspended under section 96.

(2) If:
   (a) the Secretary makes a determination under subsection (1) in respect of a person; and
   (b) the person’s partner had ceased to be qualified for wife pension or carer payment when the person ceased to be qualified for disability support pension because the person obtained paid work;

   the Secretary may determine that the partner is to be treated as if the partner’s wife pension or carer payment, as the case may be, had not been cancelled but had been suspended under section 96.

(3) If:
   (a) disability support pension ceased to be payable to a person under section 93 because the rate of the pension was nil as a result of the income, or increased income, earned by the person from his or her employment; and
   (b) within the period of 2 years after the pension ceased to be payable, the income earned by the person from his or her employment is reduced to a rate that would not preclude the person from receiving disability support pension;

   the Secretary may determine that the person is to be treated as if:
   (c) section 93 had not applied to the person’s disability support pension; and
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(d) the disability support pension had been suspended under section 96.

(4) If:
   (a) the Secretary makes a determination under subsection (3) in respect of a person; and
   (b) the person’s partner had ceased to be qualified for wife pension or carer payment when disability support pension ceased to be payable to the person for the reason mentioned in paragraph (3)(a);

the Secretary may determine that the partner is to be treated as if the partner’s wife pension or carer payment, as the case may be, had not been cancelled but had been suspended under section 96.

97A Disability support pension—suspension instead of cancellation under section 94 (person obtains work)

(1) If:
   (a) a person was receiving disability support pension as a result of a claim made before 1 July 2006; and
   (b) the person ceased to be qualified for disability support pension because he or she obtained paid work that was for at least 30 hours per week; and
   (c) the person subsequently informs the Secretary that he or she has obtained that work; and
   (d) the person’s disability support pension was cancelled under section 94 because of that work; and
   (e) within the period of 2 years and 14 days after the person ceased to be qualified for the disability support pension, the person ceases to do work of the kind referred to in paragraph (b);

the Secretary may determine that:
   (f) the person is to be treated as if section 94 had not applied to the person’s disability support pension; and
   (g) the person’s disability support pension is suspended from the day on which the person ceased to be qualified for the pension.

However, this subsection ceases to apply to a transitional DSP applicant from the date of effect of the first decision about the
person’s capacity to perform work made on or after 1 July 2006 following a review of the person’s capacity to perform work.

(2) If:
   
   (a) subsection (1) does not apply, or has ceased to apply, to a person; and
   
   (b) the person ceased to be qualified for disability support pension because he or she obtained paid work that is for at least 15 hours per week; and
   
   (c) the person subsequently informs the Secretary that he or she has obtained that work; and
   
   (d) the person’s disability support pension was cancelled under section 94 because of that work; and
   
   (e) within the period of 2 years and 14 days after the person ceased to be qualified for the disability support pension, the person ceases to do work of the kind referred to in paragraph (b);

the Secretary may determine that:

   (f) the person is to be treated as if section 94 had not applied to the person’s disability support pension; and
   
   (g) the person’s disability support pension is suspended from the day on which the person ceased to be qualified for the pension.

(3) Neither subsection (1) nor (2) applies to a person if:

   (a) the Secretary gives written notice to the person that the person is no longer qualified for disability support pension; and

   (b) the Secretary’s notice is given before the person informs the Secretary that the person has obtained work.

(4) If:

   (a) the Secretary makes a determination under subsection (1) or (2) suspending a person’s disability support pension; and

   (b) the determination continues in force throughout the period (or the balance of the period) of 2 years and 14 days after its date of effect;

then, at the end of that period (or the balance of that period), the determination granting the person disability support pension is, by force of this subsection, revoked.
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(5) If:
(a) the Secretary makes a determination under subsection (1) or (2) suspending a person’s disability support pension; and
(b) the person’s partner had ceased to be qualified for wife pension or carer payment when the person ceased to be qualified for disability support pension for the reason mentioned in paragraph (1)(b) or (2)(b);
the Secretary may determine that the partner is to be treated as if the partner’s wife pension or carer payment, as the case may be, had not been cancelled but had been suspended for the period of the suspension of the person’s disability support pension.

(6) If:
(a) the Secretary makes a determination under subsection (1) or (2) suspending a person’s disability support pension; and
(b) within 2 years and 14 days from the date of effect of the determination, the Secretary reconsiders the decision to suspend; and
(c) as a result of the reconsideration, the Secretary is satisfied that the person is not receiving disability support pension that is payable to the person;
the Secretary is to determine that the disability support pension is payable to the person.

(7) The reconsideration referred to in paragraph (6)(b) may be a reconsideration on an application under section 129 or a reconsideration on the Secretary’s own initiative.

97B Disability support pension—suspension instead of cancellation under section 94 (person’s income)

(1) If:
(a) disability support pension ceased to be payable to a person because the rate of the pension was nil as a result of the income, or increased income, earned by the person from his or her employment; and
(b) the person subsequently informs the Secretary of that income or increased income; and
(c) the person’s disability support pension was cancelled under section 94 because the pension ceased to be payable to the person for the reason mentioned in paragraph (a); and

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(d) within the period of 2 years and 14 days after the pension ceased to be payable, the income the person earned from his or her employment is reduced to a rate that would not preclude the person from receiving disability support pension;

the Secretary may determine that:

(e) the person is to be treated as if section 94 had not applied to the person’s disability support pension; and

(f) the person’s disability support pension is suspended from the day on which the pension ceased to be payable to the person.

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

(a) the Secretary gives written notice to the person that the person is no longer qualified for disability support pension; and

(b) the Secretary’s notice is given before the person informs the Secretary of the person’s income or increased income.

(3) If:

(a) the Secretary makes a determination under subsection (1) suspending a person’s disability support pension; and

(b) the determination continues in force throughout the period (or the balance of the period) of 2 years and 14 days after its date of effect;

then, at the end of that period (or the balance of that period), the determination granting the person disability support pension is, by force of this subsection, revoked.

(4) If:

(a) the Secretary makes a determination under subsection (1) suspending a person’s disability support pension; and

(b) the person’s partner had ceased to be qualified for wife pension or carer payment when disability support pension ceased to be payable to the person for the reason mentioned in paragraph (1)(a);

the Secretary may determine that the partner is to be treated as if the partner’s wife pension or carer payment, as the case may be, had not been cancelled but had been suspended for the period of the suspension of the person’s disability support pension.
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(5) If:
  (a) the Secretary makes a determination under subsection (1)
      suspending a person’s disability support pension; and
  (b) within 2 years and 14 days from the date of effect of the
      determination, the Secretary reconsiders the decision to
      suspend; and
  (c) as a result of the reconsideration, the Secretary is satisfied
      that the person is not receiving disability support pension that
      is payable to the person;

the Secretary is to determine that the disability support pension is
payable to the person.

(6) The reconsideration referred to in paragraph (5)(b) may be a
reconsideration on an application under section 129 or a
reconsideration on the Secretary’s own initiative.

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

(1) Subject to subsection (2), if:
  (a) a person is receiving a social security payment; and
  (b) the person’s partner starts to receive:
      (i) a social security pension or benefit; or
      (ii) a service pension or income support supplement; and
  (c) the person’s social security payment rate is reduced because
      of the partner’s receipt of the pension, benefit or supplement;

the social security payment becomes payable to the person at the
reduced rate on the day on which the partner starts to receive the
pension or benefit.

(2) If:
  (a) a person is receiving a social security payment; and
  (b) the person’s partner starts to receive:
      (i) a social security pension or benefit; or
      (ii) a service pension; and
  (c) because the partner starts to receive that pension or benefit,
      the person’s working credit balance or student income bank
      balance is reduced to nil; and

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(d) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the person’s social security payment rate is to be reduced; the social security payment becomes payable to the person at the reduced rate on:

(e) if the rate reduction is attributable to the reduction of the balance to nil—the day on which the balance was so reduced; and

(f) if the rate reduction is attributable to the balance having already been reduced to nil—the first day on which the opening balance was nil.

99 Automatic rate reduction—recipient complying with subsection 68(2) notice

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

(a) a person who is receiving a social security payment is given a notice under subsection 68(2); and

(b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and

(c) the event or change of circumstances occurs; and

(d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and

(e) because of the occurrence of the event or change of circumstances, the rate of the social security payment is to be reduced; and

(f) the person’s rate of payment is not reduced before the end of the instalment period for the person that is current when the event or change of circumstances occurs;

the following paragraphs have effect:

(g) if the person’s rate of payment is reduced during the instalment period (the first period) following the instalment period in which the event or change of circumstances occurs, the payment becomes payable to the person at the reduced rate immediately after the end of the instalment period in which the event or change occurs;
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(h) if the person’s rate of payment is not reduced during the first period, the payment becomes payable to the person at the reduced rate immediately after the end of the notification period.

(2) If:

(a) a person who is receiving a social security payment is given a notice under subsection 68(2); and

(b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and

(c) the event or change of circumstances occurs; and

(d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and

(e) because of the event or change of circumstances, the person’s working credit balance or student income bank balance is reduced to nil in an instalment period (the nil instalment period) of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs (the event instalment period); and

(f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the rate of the person’s social security payment is to be reduced; and

(g) the person’s rate of payment is not reduced before the end of the nil instalment period;

the social security payment becomes payable to the person at the reduced rate from the day immediately after the day determined in accordance with subsection (3).

(3) For the purposes of subsection (2), the day immediately after which the social security payment becomes payable to the person at the reduced rate is:

(a) if the rate reduction is attributable to the reduction of the balance referred to in paragraph (2)(e) to nil and the rate is so reduced during the instalment period (the next instalment period) following the nil instalment period—the later of:

(i) the day before the day on which the balance was reduced to nil; or

(ii) the end of the event instalment period; and

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(b) if the rate reduction is attributable to the balance having already been reduced to nil and the rate is so reduced during the next instalment period—the later of:
   (i) the day before the first day on which the opening balance was nil; or
   (ii) the end of the event instalment period; and
(c) if the rate reduction is attributable to the reduction of the balance to nil but the rate is not so reduced during the next instalment period—the later of:
   (i) the day before the day on which the balance was reduced to nil; or
   (ii) the end of the notification period; and
(d) if the rate reduction is attributable to the balance having already been reduced to nil but the rate is not so reduced during the next instalment period—the later of:
   (i) the day before the first day on which the opening balance is nil; or
   (ii) the end of the notification period.

100 Automatic rate reduction—recipient not complying with subsection 68(2) notice

(1) Subject to subsection (2), if:
   (a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
   (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and
   (c) the event or change of circumstances occurs; and
   (d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
   (e) because of the occurrence of the event or change of circumstances, the rate of the social security payment is to be reduced;

the social security payment becomes payable to the person at the reduced rate on the day on which the event or change of circumstances occurs.
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(2) If:

(a) a person who is receiving a social security payment is given a notice under subsection 68(2); and
(b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and
(c) the event or change of circumstances occurs; and
(d) the person does not inform the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
(e) because of the event or change of circumstances, the person’s working credit balance or student income bank balance is reduced to nil in an instalment period of the person that is the same as, or later than, the instalment period in which the event or change of circumstances occurs; and
(f) either because of the reduction of the balance to nil or because of the balance having already been reduced to nil—the rate of the person’s social security payment is to be reduced;

the social security payment becomes payable to the person at the reduced rate on:

(g) if the rate reduction is attributable to the reduction of the balance to nil—the day on which the balance was so reduced; and

(h) if the rate reduction is attributable to the balance having already been reduced to nil—the first day on which the opening balance was nil.

101 Automatic rate reduction—receipt of pension by person receiving parenting payment

If:

(a) a person who is a member of a couple is receiving parenting payment; and
(b) as a result of a social security pension, a service pension or income support supplement becoming payable to the person, the rate at which parenting payment is payable to the person is reduced;

parenting payment becomes payable to the person at the reduced rate on the day on which the social security pension, the service
pension or the income support supplement, as the case may be, becomes payable to the person.

103 Changes to payments by computer following automatic cancellation or reduction

(1) If:
   (a) a person is receiving a social security payment on the basis of data in a computer; and
   (b) the payment is cancelled, or the payment rate is reduced, by the operation of a provision of the social security law; and
   (c) the cancellation or reduction is given effect by the operation of a computer program used under the control of the Secretary stopping payment or reducing the rate of payment;
the Secretary is taken to have made a determination that the provision referred to in paragraph (b) applies to the person’s social security payment.

(2) A determination that is taken, by virtue of subsection (1), to have been made is taken to have been made on the day on which the cancellation or reduction took effect.

Subdivision B—Concession cards

104 Automatic cancellation—holder complying with subsection 68(4) notice

If:
   (a) a person who is the holder of a concession card is given a notice under subsection 68(4); and
   (b) the notice requires the person to inform the Department of the occurrence of an event or change of circumstances within a specified period (the notification period); and
   (c) the event or change of circumstances occurs; and
   (d) the person informs the Department of the occurrence of the event or change of circumstances within the notification period in accordance with the notice; and
   (e) because of the occurrence of the event or change of circumstances, the person would, but for this section, cease to be qualified for the card; and
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(f) the person does not cease to hold the card before the end of
the notification period;
the person continues to be qualified for the card until the end of the
notification period, and then ceases to be so qualified.

105 Automatic cancellation—holder not complying with subsection
68(4) notice

If:
(a) a person who is the holder of a concession card is given a
notice under subsection 68(4); and
(b) the notice requires the person to inform the Department of
the occurrence of an event or change of circumstances within
a specified period (the notification period); and
(c) the event or change of circumstances occurs; and
(d) the person does not inform the Department of the occurrence
of the event or change of circumstances within the
notification period in accordance with the notice; and
(e) because of the occurrence of the event or change of
circumstances, the person ceases to be qualified for the card;
the person ceases to be qualified for the card on the day on which
the event or change of circumstances occurs.

106 Changes by computer following automatic cancellation

(1) If:
(a) a person is qualified for a concession card on the basis of
data in a computer; and
(b) the person ceases, by virtue of section 104 or 105, to be
qualified for the card; and
(c) the cessation is given effect by the operation of a computer
program under the control of the Secretary causing the
person to be notified of the cessation;
the Secretary is taken to have made a determination that the
provision referred to in paragraph (b) applies to the person’s
concession card.

(2) A determination that is taken, by virtue of subsection (1), to have
been made is taken to have been made on the day on which the
cessation took effect.
106A Automatic cancellation on cessation of qualification

If a person who is the holder of a concession card ceases, otherwise than by virtue of section 104 or 105, to be qualified for the card, the card is cancelled by force of this section on the day on which the person ceases to be so qualified.

Subdivision C—Additional provision for certain pensioner concession cards and automatic issue health care cards

106B Automatic cancellation

(1) Subject to subsection (3), if:
   (a) a section 1061ZA pensioner concession card or a listed automatic issue health care card has been granted to a person; and
   (b) in order to be qualified for the card, the person must be receiving, or be qualified for, a particular social security pension or benefit; and
   (c) the pension or benefit is cancelled;
the section 1061ZA pensioner concession card or listed automatic issue health care card, as the case may be, is, by force of this section, cancelled.

(2) If:
   (a) a health care card has been granted to a person; and
   (b) the person was qualified for the card under subsection 1061ZK(4) of the 1991 Act; and
   (c) the person ceases to be qualified under that subsection;
the health care card is, by force of this section, cancelled.

(3) Subsection (1) does not have effect in a case in which the Secretary determines in writing that he or she is satisfied that the person concerned is likely to be granted a social security pension or benefit before it is reasonably practicable to take steps to give effect to the cancellation of the card.

(4) In this section:

listed automatic issue health care card means an automatic issue health care card that is granted:
(a) to a person who receives one of the following social security payments:
   (i) widow allowance;
   (ii) newstart allowance;
   (iii) sickness allowance;
   (iv) special benefit;
   (v) partner allowance;
   (vi) benefit PP (partnered); or
(b) to a person who is receiving a youth allowance and who, at the time when a determination was made to grant the person the youth allowance:
   (i) was not undertaking full-time study; and
   (ii) was not a new apprentice; or
(c) to a person who is receiving exceptional circumstances relief payment or farm help income support under the *Farm Household Support Act 1992*.

*section 1061ZA pensioner concession card* means a pensioner concession card granted to a person who is qualified for the card under section 1061ZA of the 1991 Act.
Division 9—Date of effect of determinations

Subdivision A—Determinations relating to claims

107 General rule

(1) Subject to subsections (2), (3), (4) and (5), a determination under section 37 takes effect on the day on which the determination is made or on such earlier or later day as is specified in the determination.

(2) If:

(a) a decision (the original decision) is made rejecting a person’s claim for a social security payment or a concession card; and

(b) the person is given a notice informing him or her of the original decision; and

(c) within 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and

(d) a decision that the claim be granted is made as a result of the application for review;

the determination embodying the last-mentioned decision takes effect on the day on which the determination embodying the original decision took effect.

(3) If:

(a) a decision (the original decision) is made rejecting a person’s claim for a social security payment or concession card; and

(b) the person is given a notice informing him or her of the original decision; and

(c) more than 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and

(d) a decision that the claim be granted is made as a result of the application for review;

the determination embodying the last-mentioned decision takes effect on the day on which the application for review was made.
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(4) If:

(a) a decision (the original decision) is made rejecting a person’s claim for a social security payment or concession card; and
(b) no notice is given to the person informing the person of the original decision; and
(c) the person applies to the Secretary, under section 129, for review of the original decision; and
(d) a decision that the claim be granted is made as a result of the application for review;

the determination embodying the last-mentioned decision takes effect on the day on which the determination embodying the original decision took effect.

(5) If:

(a) a decision (the original decision) is made rejecting a person’s claim for a social security payment or concession card; and
(b) the person is given a notice informing him or her of the original decision; and
(c) the Secretary reviews the decision under section 126 without any application under section 129 for review of the decision having been made; and
(d) a decision that the claim be granted is made as a result of the review;

the determination embodying the last-mentioned decision takes effect on the day on which the determination embodying the original decision took effect.

Subdivision B—Determinations under section 78, 81A, 85 or 85A

108 Definition

In this Subdivision:

favourable determination means a determination under section 78, 85 or 85A.

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109 Date of effect of favourable determination resulting from review

(1) If:
   (a) a decision (the *original decision*) is made in relation to a person’s social security payment; and
   (b) a notice is given to the person informing the person of the original decision; and
   (c) within 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
   (d) the favourable determination is made as a result of the application for review;

   the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

(2) If:
   (a) a decision (the *original decision*) is made in relation to a person’s social security payment; and
   (b) a notice is given to the person informing the person of the original decision; and
   (c) more than 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
   (d) the favourable determination is made as a result of the application for review;

   the favourable determination takes effect on the day on which the application for review was made.

(3) If:
   (a) a decision (the *original decision*) is made in relation to a person’s social security payment; and
   (b) the person is not given notice of the original decision; and
   (c) the person applies to the Secretary, under section 129, for review of the original decision; and
   (d) the favourable determination is made as a result of the application for review;

   the favourable determination takes effect on the day on which the determination embodying the original decision took effect.
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(4) If:
   (a) a decision (the original decision) is made in relation to a person’s social security payment; and
   (b) the person is given a notice informing him or her of the original decision; and
   (c) the Secretary reviews the decision under section 126 without any application under section 129 for review of the decision having been made; and
   (d) as a result of the review, the favourable determination is made within 13 weeks after notice of the original decision was given to the person;

   the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

(5) If:
   (a) a decision (the original decision) is made in relation to a person’s social security payment; and
   (b) the person is given a notice informing him or her of the original decision; and
   (c) the Secretary reviews the decision under section 126 without any application under section 129 for review of the decision having been made; and
   (d) as a result of the review, the favourable determination is made more than 13 weeks after notice of the original decision was given to the person;

   the favourable determination takes effect on the day on which the review was begun by the Secretary.

(6) This section does not apply to determinations to which section 110A applies.

(7) For the purposes of this section, if:
   (a) the Secretary makes a decision constituted by a determination made under section 78 to increase the rate at which a social security payment is being, or has been, paid; and
   (b) the determination is made because an amount has been indexed or adjusted by the operation of Part 3.16 of the 1991 Act;

     then:
(c) each person whose rate of social security payment is, or was, affected by the determination is taken to have been given notice of the determination and of the increased rate; and
(d) the notice is taken to have been given on the day on which the amount was so indexed or adjusted.

110 Date of effect of favourable determination

(1) Subject to subsections (1A) to (11) (inclusive), if a favourable determination is made following a person having informed the Department of the occurrence of an event or change of circumstances, the determination takes effect:
   (a) on the day on which the person so informed the Department; or
   (b) on the day on which the event or change occurred; whichever is the later.

(1A) If a favourable determination is made in relation to a person who has not reached pension age:
   (a) following the person’s having informed the Department of the occurrence of an event or change of circumstances; and
   (b) because, in an instalment period of the person:
      (i) there is a decrease in the amount of employment income that is earned, derived or received, or that is taken to have been earned, derived or received, by the person; or
      (ii) the person has ceased to earn, derive or receive, or to be taken to earn, derive or receive, employment income;
   the determination takes effect on the first day of the instalment period, or on the first day of the instalment period in which the person so informs the Department, whichever is the later.

(2) Subject to subsection (2A), if a favourable determination is made following a person having given the Department a statement about a matter in accordance with a notice under section 67 or 68, the determination takes effect on the day on which the matter arose.

(2A) If a favourable determination is made in relation to a person who has not reached pension age:
   (a) following the person’s having given the Department a statement about a matter in accordance with a notice under section 68 that relates to the payment of the social security
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payment in respect of an instalment period specified in the notice; and

(b) because, in the instalment period:

(i) there is a decrease in the amount of employment income that is earned, derived or received, or that is taken to have been earned, derived or received, by the person; or
(ii) the person has ceased to earn, derive or receive, or to be taken to earn, derive or receive, employment income;

the determination takes effect on the first day of the instalment period.

(3) Subject to subsection (3A), if:

(a) a person and his or her partner (the partner) are each receiving a social security payment; and

(b) the partner has been given a notice under section 68 that requires the partner to give the Department a statement; and

(c) the notice relates to the payment of the partner’s social security payment in respect of a period specified in the notice; and

(d) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the specified period; and

(e) following the giving of the statement, a favourable determination is made in relation to the person’s social security payment;

the determination takes effect on the day on which the matter arose.

(3A) If:

(a) a person and his or her partner (the partner) are each receiving a social security payment; and

(b) the partner has not reached pension age; and

(c) the partner has been given a notice under section 68 that requires the partner to give the Department a statement; and

(d) the notice relates to the payment of the partner’s social security payment in respect of an instalment period specified in the notice; and

(e) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the instalment period; and
(f) following the giving of the statement, a favourable determination is made in relation to the person’s social security payment; and

(g) the determination is made because, in the instalment period:
   (i) there is a decrease in the amount of employment income that is earned, derived or received, or that is taken to have been earned, derived or received, by the partner; or
   (ii) the partner has ceased to earn, derive or receive, or to be taken to earn, derive or receive, employment income;

the determination takes effect on the first day of the instalment period.

(4) If:
   (a) a favourable determination is made following the death of a person’s partner (the partner); and
   (b) the favourable determination is made because the person elects not to receive bereavement payments; and
   (c) within the bereavement period:
      (i) the person notifies the Department, orally or in writing or in a manner approved by the Secretary, of the partner’s death; or
      (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day on which the partner died.

(5) If:
   (a) a favourable determination is made following the death of a person’s partner (the partner); and
   (b) immediately before the partner died, the partner:
      (i) was not receiving a social security pension, a service pension or income support supplement; and
      (ii) was not a long-term social security recipient; and
   (c) within the period of 4 weeks starting on the day after the day on which the partner dies:
      (i) the person notifies the Department, orally or in writing or in a manner approved by the Secretary, of the partner’s death; or
      (ii) the Secretary otherwise becomes aware of the death;

the determination takes effect on the day on which the partner died.
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(9) If:

(a) the favourable determination is made as a result of the Secretary forming the opinion, for the purposes of subsection 5(12) of the 1991 Act, that a young person will not, or would not, if an application were duly made, receive payments under a prescribed educational scheme; and

(b) 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 on which the determination is made or on such earlier or later day as is specified in the determination.

(10) If:

(a) the favourable determination is made because, for the purposes of subsection 5(11) of the 1991 Act, a young person is not qualified to receive a payment under a prescribed educational scheme; and

(b) the young person, or another person or organisation, was previously in receipt of a payment under a prescribed educational scheme in respect of the young person but the payment has since ceased; and

(c) the Secretary was notified, within 28 days after the payment was granted, that it was no longer being received;

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

(11) If:

(a) the favourable determination is made because, for the purposes of subsection 5(11) of the 1991 Act, a young person is not qualified to receive payments under any prescribed educational scheme; and

(b) no application has been made for payments in respect of that young person under any prescribed educational scheme; and

(c) the Secretary is satisfied that it is reasonable that no such application has been made; and

(d) the young person ceased, within 13 weeks after becoming a prescribed student child, to be a prescribed student child because the Secretary formed an opinion for the purposes of paragraph 5(12)(c) of the 1991 Act;
the determination takes effect on the day on which the young person became a prescribed student child.

(12) This section does not apply to determinations to which section 110A applies.

110A Date of effect of favourable determinations resuming payment after suspensions relating to non-compliance

If:

(a) a favourable determination is made under section 85 resuming payment of a parenting payment, youth allowance, austudy payment, newstart allowance or special benefit the payment of which had been suspended under section 80; and

(b) the payment had been suspended because it was not payable because of:

(i) section 500ZB or 500ZE of the 1991 Act (if the payment was a parenting payment); or

(ii) section 550B or 551 of that Act (if the payment was a youth allowance); or

(iii) section 576A or 577 of that Act (if the payment was an austudy payment); or

(iv) section 626 or 629 of that Act (if the payment was a newstart allowance); or

(v) section 742 or 745 of that Act (if the payment was a special benefit);

the determination takes effect, or is taken to have taken effect, on the day after the end of the period for which the payment, allowance or benefit is not payable because of that section.

111 Date of effect of section 78 determination resulting from indexation or adjustment

If:

(a) the Secretary makes a determination under section 78; and

(b) the determination is made because an amount has been indexed or adjusted by the operation of Part 3.16 of the 1991 Act;

the determination takes effect on the day on which the amount was so indexed or adjusted.
114 Date of effect of other favourable determinations

(1) In the case of a favourable determination to which none of sections 109, 110 and 110A apply, the determination takes effect on the day on which the determination is made or on such other day as is specified in the determination.

(2) A day specified in a determination for the purpose of subsection (1) may be:
   (a) later than the day on which the determination is made; or
   (b) not earlier than 13 weeks before the day on which the determination is made.

Subdivision C—Determinations under section 89

115 Definition

In this Subdivision:

favourable determination means a determination under section 89.

116 Date of effect of favourable determination resulting from review—concession cards

(1) If:
   (a) a decision (the original decision) is made in relation to a person’s qualification for a concession card; and
   (b) the person is given a notice informing him or her of the original decision; and
   (c) within 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
   (d) the favourable determination is made as a result of the application for review;

the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

(2) If:
   (a) a decision (the original decision) is made in relation to a person’s qualification for a concession card; and
   (b) the person is given a notice informing him or her of the original decision; and
(c) more than 13 weeks after the notice is given, the person applies to the Secretary, under section 129, for review of the original decision; and
(d) the favourable determination is made as a result of the application for review;
the favourable determination takes effect on the day on which the application for review was made.

(3) If:
(a) a decision (the original decision) is made in relation to a person’s qualification for a concession card; and
(b) the person is not given any notice informing him or her of the original decision; and
(c) the person applies to the Secretary, under section 129, for review of the original decision; and
(d) the favourable determination is made as a result of the application for review;
the favourable determination takes effect on the day on which the determination embodying the original decision took effect.

(4) If:
(a) a decision (the original decision) is made in relation to a person’s qualification for a concession card; and
(b) the person is given a notice informing him or her of the original decision; and
(c) the Secretary reviews the decision under section 126 without any application under section 129 for review of the decision having been made;
(d) as a result of the review, the favourable decision is made more than 13 weeks after the notice of the original decision was given to the person;
the favourable determination takes effect on the day on which the determination embodying the original decision took effect.
Subdivision D—Date of effect of adverse determinations relating to social security payments

117 Definition

In this Subdivision:

adverse determination means a determination under section 79, 80, 81, 81A or 82.

118 Date of effect of adverse determinations—general rules

(1) The day on which an adverse determination takes effect in relation to a social security payment is worked out:
   (b) in the case of carer payment—in accordance with this section and section 120; and
   (c) in the case of any other social security payment—in accordance with this section.

(2) Subject to subsections (2A) and (2B), if:
   (a) an adverse determination is made following a person having informed the Department of the occurrence of an event or change of circumstances; and
   (b) the person is not paid an instalment of the social security payment after the occurrence of the event or change and before the determination is made;

the determination takes effect on the day on which the event or change of circumstances occurred.

(2A) If an adverse determination is made in relation to a person who has not reached pension age:
   (a) following the person’s having informed the Department of the occurrence of an event or change of circumstances; and
   (b) because the person earns, derives or receives, or is taken to earn, derive or receive, employment income in an instalment period of the person;

the determination takes effect on:
   (c) if the determination is attributable to the reduction, during the instalment period, of the person’s working credit balance or student income bank balance to nil—the day on which the balance was so reduced; and
(d) if the determination is attributable to the person’s having a working credit balance or a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person’s opening balance was nil; and
(e) in any other case—the first day of the instalment period;
so long as the person is not paid an instalment of the social security payment after the day worked out under paragraph (c), (d) or (e) and before the determination is made.

(2B) If:

(a) an adverse determination is made in relation to a person following the person’s having informed the Department of the occurrence of an event or change of circumstances; and
(b) the determination is made because, in an instalment period of the person, either:
   (i) the person earns, derives or receives, or is taken to earn, derive or receive, ordinary income other than employment income; or
   (ii) the person has reached pension age and earns, derives or receives, or is taken to earn, derive or receive, employment income; and
(c) the person’s student income bank balance is reduced to nil during the instalment period;
the determination takes effect on:
(d) if the determination is attributable to the reduction of the student income bank balance to nil—the day on which the balance was so reduced; and
(e) if the determination is attributable to the person’s having a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the person’s opening balance was nil;
so long as the person is not paid an instalment of the social security payment after the day worked out under paragraph (d) or (e) and before the determination is made.
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(3) If:
   (a) an adverse determination is made in relation to a person because of point 1064-E3, 1066A-F2A, 1067G-H25, 1067L-D24, 1068-G8A, 1068A-E13 or 1068B-D21, or Division 3 of Part 3.14, of the 1991 Act; and
   (b) a social security payment has been paid to the person or the person’s partner when, because of the payment of arrears of periodic compensation payments, the payment should have been cancelled or suspended;

the determination takes effect on the first day of the periodic payments period to which the arrears of periodic compensation payments relate.

(4) If:
   (a) an adverse determination is made in relation to a person because of point 1064-E3, 1066A-F2A, 1067G-H25, 1067L-D24, 1068-G8A, 1068A-E13 or 1068B-D21, or Division 3 of Part 3.14, of the 1991 Act; and
   (b) the rate at which a social security payment was paid to the person or the person’s partner was, because of the payment of arrears of periodic compensation payments, higher than the rate at which the payment should have been paid;

the determination takes effect on the first day of the periodic payments period to which the arrears of periodic compensation payments relate.

(5) Subject to subsections (5A) and (5B), if the adverse determination is made following a person having given the Department a statement about a matter in accordance with a notice under section 67 or 68, the determination takes effect on the day on which the matter arose.

(5A) If an adverse determination is made in relation to a person who has not reached pension age:
   (a) following the person’s having given the Department a statement about a matter in accordance with a notice under section 68 that relates to the payment of the social security payment in respect of an instalment period specified in the notice; and
   (b) because the person earns, derives or receives, or is taken to earn, derive or receive, employment income in the instalment period;
the determination takes effect on:

(c) if the determination is attributable to the reduction, during the
instalment period, of the person’s working credit balance or
student income bank balance to nil—the day on which the
balance was so reduced; and

(d) if the determination is attributable to the person’s having a
working credit balance or a student income bank balance that
has already been reduced to nil during the instalment
period—the first day in the instalment period on which the
person’s opening balance was nil; and

(e) in any other case—the first day of the instalment period.

(5B) If:

(a) an adverse determination is made in relation to a person
following the person’s having given the Department a
statement about a matter in accordance with a notice under
section 68 that relates to the payment of the social security
payment in respect of an instalment period specified in the
notice; and

(b) the determination is made because, in the instalment period,
either:

(i) the person earns, derives or receives, or is taken to earn,
derive or receive, ordinary income other than
employment income; or

(ii) the person has reached pension age and earns, derives or
receives, or is taken to earn, derive or receive,
employment income; and

(c) the person’s student income bank balance is reduced to nil
during the instalment period;

the determination takes effect on:

(d) if the determination is attributable to the reduction of the
student income bank balance to nil—the day on which the
balance was so reduced; and

(e) if the determination is attributable to the person’s having a
student income bank balance that has already been reduced to
nil during the instalment period—the first day in the
instalment period on which the person’s opening balance was
nil.
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(6) Subject to subsections (6A) and (6B), if:
    (a) a person and his or her partner (the partner) are each receiving a social security payment; and
    (b) the partner is given a notice under section 68 requiring the partner to give the Department a statement; and
    (c) the notice relates to the payment of the partner’s social security payment in respect of a period specified in the notice; and
    (d) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the specified period; and
    (e) following the giving of the statement, an adverse determination is made in relation to the person’s social security payment;
the determination takes effect on the day on which the matter arose.

(6A) If:
    (a) a person and his or her partner (the partner) are each receiving a social security payment; and
    (b) the partner has not reached pension age; and
    (c) the partner is given a notice under section 68 requiring the partner to give the Department a statement; and
    (d) the notice relates to the payment of the partner’s social security payment in respect of an instalment period specified in the notice; and
    (e) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the instalment period; and
    (f) following the giving of the statement, an adverse determination is made in relation to the person’s social security payment; and
    (g) the determination is made because the partner earns, derives or receives, or is taken to earn, derive or receive, employment income in the instalment period;
the determination takes effect on:
    (h) if the adverse determination is attributable to the reduction, during the instalment period, of the partner’s working credit balance or student income bank balance to nil—the day on which the balance was so reduced; and
(i) if the determination is attributable to the partner’s having a working credit balance or a student income bank balance that has already been reduced to nil during the instalment period—the first day of the instalment period on which the opening balance was nil; and

(j) in any other case—the first day of the instalment period.

(6B) If:

(a) a person and his or her partner (the partner) are each receiving a social security payment; and

(b) the partner is given a notice under section 68 requiring the partner to give the Department a statement; and

(c) the notice relates to the payment of the partner’s social security payment in respect of an instalment period specified in the notice; and

(d) the partner gives the Department a statement, in accordance with the notice, about a matter that arose during the instalment period; and

(e) the partner’s student income bank balance is reduced to nil during the instalment period; and

(f) following the giving of the statement, an adverse determination is made in relation to the person’s social security payment; and

(g) the determination is made because, in the instalment period, either:

   (i) the partner earns, derives or receives, or is taken to earn, derive or receive, ordinary income other than employment income; or

   (ii) the partner has reached pension age and earns, derives or receives, or is taken to earn, derive or receive, employment income;

the determination takes effect on:

(h) if the determination is attributable to the reduction of the partner’s student income bank balance to nil—the day on which the balance was so reduced; and

(i) if the determination is attributable to the partner’s having a student income bank balance that has already been reduced to nil during the instalment period—the first day in the instalment period on which the partner’s opening balance was nil.
(7) If:

(a) the person whose social security payment is affected by the adverse determination has contravened a provision of this Act or a provision of the 1991 Act (other than an excluded provision); and

(b) the contravention causes a delay in the making of the determination;

the adverse determination takes effect on such day (which may be earlier than the day on which the determination is made) as is specified in the determination.

(7A) Subsection (7) does not apply to a determination under subsection 81(3).

(8) If:

(a) a person has made a false statement or misrepresentation; and

(b) because of the false statement or misrepresentation, a social security payment has been paid to a person when it should have been cancelled or suspended;

the adverse determination takes effect on such day (which may be earlier than the day on which the determination is made) as is specified in the determination.

(9) If:

(a) a person has made a false statement or misrepresentation; and

(b) because of the false statement or misrepresentation, the rate at which a social security payment was paid to a person was higher than it should have been;

the adverse determination takes effect on such day (which may be earlier than the day on which the determination is made) as is specified in the determination.

(11) If:

(a) a person’s social security payment is suspended under section 80, 81 or 82; and

(b) the payment is subsequently cancelled under section 80, 81 or 82;

the determination by which the payment is cancelled takes effect on the day on which the payment was suspended.

(11A) Despite subsection (11), a determination under section 80 or subsection 81(3) cancelling a person’s social security payment that
has already been suspended under subsection 81(3) takes effect on such day (which may be earlier than the day on which the determination is made) as is specified in the determination.

(12) An adverse determination in relation to telephone allowance takes effect:
(a) on the day on which it is made; or
(b) if a later day is specified in the determination, on that day.

(12A) If:
(a) a decision (the social security decision) was made that rent assistance (the social security rent assistance) was to be included when calculating a person’s rate of social security payment for each day in a period; and
(b) the condition in subsection (12B) is met for each day in that period (which is about rent assistance also being included in family tax benefit); and
(c) because the inclusion of the social security rent assistance was contrary to Part 3.7 of the 1991 Act, an adverse determination is made to reduce the rate of, or cancel, the person’s social security payment for each day in that period;
the adverse determination takes effect on the first day of that period.

(12B) The condition in this subsection is met for each day in a period if:
(a) both of the following apply:
   (i) the person was a member of a couple (other than an illness separated couple, a respite care couple or a temporarily separated couple) on each day in the period;
   (ii) when the social security decision was made, a determination under the family assistance law was in force that included rent assistance when calculating the person’s, or the person’s partner’s, Part A rate of family tax benefit for each day in the period; or
(b) both of the following apply:
   (i) the person was not a member of a couple, or was a member of an illness separated couple, a respite care couple, or a temporarily separated couple, on each day in the period;
   (ii) when the social security decision was made, a determination under the family assistance law was in
force that included rent assistance when calculating the
person’s Part A rate of family tax benefit for each day in
the period; or
(c) all of the following apply:
   (i) when the social security decision was made, no
determination of a kind mentioned in
subparagraph (a)(ii) or (b)(ii) (as the case requires) was
in force;
   (ii) after the social security decision was made, such a
determination was made;
   (iii) each day in the period either is, or comes after, the day
on which the determination was made.

(12C) If:
   (a) an adverse determination is made under section 80
suspending the payment of a parenting payment, youth
allowance, austudy payment, newstart allowance or special
benefit to a person; and
   (b) the determination was made because of the application of:
      (i) section 500ZB or 500ZE of the 1991 Act (if the
payment is a parenting payment); or
      (ii) section 550B or 551 of that Act (if the payment is a
youth allowance); or
      (iii) section 576A or 577 of that Act (if the payment is an
austudy payment); or
      (iv) section 626 or 629 of that Act (if the payment is a
newstart allowance); or
      (v) section 742 or 745 of that Act (if the payment is a
special benefit);
the determination is taken to have taken effect on the day of the
start of the period for which the payment, allowance or benefit is
not payable because of that section.

(12D) However, subsection (12C) does not apply to an adverse
determination if the determination would take effect on an earlier
day under another provision of this Act.

(13) In any other case, an adverse determination takes effect:
   (a) on the day on which it is made; or
   (b) if a later day is specified in the determination, on that day.
(14) For the purposes of subsection (7), the excluded provisions are:
   (a) subsections 67(2), 68(2) and 69(2) of this Act to the extent that they relate to the giving of a notice requiring a person to give a statement to the Department; and
   (b) sections 192, 193, 194 and 195 of this Act.

120 Additional rules in the case of carer payment

(1) If:
   (a) the Secretary makes a determination (the earlier determination) that a person (the carer) is entitled to carer payment because the carer is providing care for a care receiver or care receivers; and
   (b) the determination is based on an assessment of the taxable income of the care receiver, or any of the care receivers, for a tax year; and
   (c) the assessment is subsequently amended by the Commissioner of Taxation, a tribunal or a court; and
   (d) as a result of the amendment of the assessment, the taxable income of the care receiver, or the sum of the taxable incomes of the care receivers, is more than the income ceiling under section 198A of the 1991 Act; and
   (e) the Secretary makes a determination under section 80 cancelling or suspending the carer payment;

   the adverse determination takes effect on the day on which the earlier determination took effect.

(2) If:
   (a) the Secretary makes a determination (the earlier determination) that a person (the carer) is entitled to carer payment because the carer is providing care for a care receiver or care receivers; and
   (b) in making the determination, the Secretary had regard to the taxable income of the care receiver, or the sum of the taxable incomes of the care receivers, for a tax year; and
   (c) the taxable income of the care receiver or any of the care receivers is or includes an amount estimated by:
      (i) in the case of a care receiver who is a higher ADAT score adult—the care receiver or the care receiver’s partner; or
(ii) in the case of a care receiver who is a profoundly
disabled child or a disabled child—the parent of the care
receiver, the parent’s partner (if the parent is a member
of a couple) or the carer; or
(iii) in the case of a care receiver who is a lower ADAT
score adult—the carer or the care receiver’s partner; or
(iv) in the case of a care receiver who is a dependent child of
a lower ADAT score adult—the carer or the care
receiver’s parent; and
(d) the Commissioner of Taxation subsequently makes an
assessment of that taxable income; and
(e) as a result of the assessment, the taxable income of the care
receiver or the sum of the taxable incomes of the care
receivers is more than the income ceiling under section 198A
of the 1991 Act; and
(f) the Secretary makes a determination under section 80
cancelling or suspending the carer payment;
the adverse determination takes effect on the day on which the
earlier determination took effect.

(3) If:
(a) on the basis of the taxable income for a tax year of a care
receiver who is a higher ADAT score adult, the Secretary
makes a determination that a person (the carer) is entitled to
carer payment because the carer is providing care for the care
receiver; and
(b) the care receiver’s taxable income for a later tax year exceeds
the income ceiling under section 198A of the 1991 Act; and
(c) the Secretary makes a determination under section 80
cancelling or suspending the carer’s carer payment;
the adverse determination takes effect:
(d) if the Secretary made the determination under section 80
after the carer or care receiver informed the Department that
the care receiver’s taxable income exceeded the income
celling—on the day on which the carer or care receiver
informed the Department; or
(e) if, when the Secretary made the determination under
section 80, the Department had not been informed by the
carer or the care receiver that the care receiver’s taxable
income exceeded the income ceiling—on the day on which

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the care receiver’s taxable income exceeded the income ceiling.

(4) If:

(a) on the basis of the taxable income for a tax year of a care receiver who is a profoundly disabled child, the Secretary makes a determination that a person (the *carer*) is entitled to carer payment because the carer is providing care for the care receiver; and

(b) the care receiver’s taxable income for a later tax year exceeds the income ceiling under section 198A of the 1991 Act; and

(c) the Secretary makes a determination under section 80 cancelling or suspending the carer’s carer payment;

the adverse determination takes effect:

(d) if the Secretary made the determination under section 80 after the parent or carer of the disabled child informed the Department that the care receiver’s taxable income exceeded the income ceiling—on the day on which the parent or carer informed the Department; or

(e) if, when the Secretary made the determination under section 80, the Department had not been informed by the parent or carer that the care receiver’s taxable income exceeded the income ceiling—on the day on which the care receiver’s taxable income exceeded the income ceiling.

(5) If:

(a) on the basis of the sum of the taxable incomes for a tax year of care receivers who are disabled children, the Secretary makes a determination that a person (the *carer*) is entitled to carer payment because the carer is providing care to the care receivers; and

(b) the sum of the taxable incomes of the care receivers for a later tax year exceeds the income ceiling under section 198A of the 1991 Act; and

(c) the Secretary makes a determination under section 80 cancelling or suspending the carer’s carer payment;

the adverse determination takes effect:

(d) if the Secretary made the determination under section 80 after a parent or carer of any of the disabled children informed the Department that the sum of the taxable incomes
(6) If:

(a) on the basis of the sum of the taxable incomes for a tax year of care receivers who are a lower ADAT score adult and a dependent child, the Secretary makes a determination that a person (the **carer**) is entitled to carer payment because the carer is providing care to the care receivers; and

(b) the sum of the taxable incomes of the care receivers for a later tax year exceeds the income ceiling under section 198A of the 1991 Act; and

(c) the Secretary makes a determination under section 80 cancelling or suspending the carer’s carer payment;

the adverse determination takes effect:

(d) if the Secretary made the determination under section 80 after the carer, the lower ADAT score adult or a parent of the dependent child informed the Department that the sum of the taxable incomes exceeded the income ceiling—on the day on which the Department was so informed; or

(e) if, when the Secretary made the determination under section 80, the Department had not been informed by the carer, the lower ADAT score adult or a parent of the dependent child that the sum of the taxable incomes exceeded the income ceiling—on the day on which the sum of the taxable incomes exceed the income ceiling.

**Subdivision E—Date of effect of adverse determinations relating to concession cards**

**121 Definition**

In this Subdivision:
adverse determination means a determination under subsection 76(1B) or 77(1B) or section 86 or 87.

122 Date of effect of adverse determinations

An adverse determination takes effect:
(a) on the day on which it is made; or
(b) if a later day is specified in the determination, on that day.
Division 10—Continuing effect of determinations

123 Continuing effect of determinations

(1) A determination that:
   (a) a person’s claim for a social security payment is granted; or
   (b) a social security payment is payable to a person;
continues in effect until:
   (c) a further determination in relation to the payment under section 80, 81, 82, 124H or 124M takes effect; or
   (d) the payment ceases to be payable under section 90, 91, 93, 94 or 95; or
   (e) the end of the day immediately before the day on which the person dies.

(2) A determination that a person is qualified for a concession card continues in effect until:
   (a) a further determination under subsection 76(1B) or 77(1B) or section 86 or 87 takes effect; or
   (b) the person ceases to be qualified under section 104 or 105.

(3) A determination of the rate of a social security payment continues in effect until:
   (a) a further determination in relation to the payment under section 78, 79, 81A or 85A takes effect; or
   (b) the payment becomes payable at a lower rate under section 98, 99 or 100.
Part 3A—Nominees

Division 1—Preliminary

123A Definitions

In this Part:

- **correspondence nominee** means a person who, by virtue of an appointment in force under section 123C, is the correspondence nominee of another person.

- **nominee** means a correspondence nominee or a payment nominee.

- **payment nominee** means:
  (a) a person who, by virtue of an appointment in force under section 123B, is the payment nominee of another person; or
  (b) a person to whom instalments of youth allowance of another person are to be paid in accordance with subsection 45(1).

- **principal**, in relation to a nominee, means:
  (a) in the case of a nominee appointed under section 123B or 123C, the person in relation to whom the nominee was appointed; or
  (b) in the case of a person to whom instalments of youth allowance are to be paid in accordance with subsection 45(1), the person on whose behalf those instalments are to be so paid.

- **relevant payment** means:
  (a) instalments of a social security periodic payment; or
  (b) instalments of a special employment advance; or
  (c) a social security payment that is a lump sum benefit for the purposes of section 47; or
  (d) instalments of utilities allowance; or
  (e) instalments of seniors concession allowance.
Part 3A Nominees

Division 2 Appointment of nominees

Section 123B

Division 2—Appointment of nominees

123B Appointment of payment nominee

Subject to section 123D, the Secretary may, in writing:
(a) appoint a person (including a body corporate) to be the payment nominee of another person for the purposes of the social security law; and
(b) direct that the whole or a specified part of a specified relevant payment that is payable to the nominee’s principal, or would, but for subsection 45(1), be so payable, is to be paid to the nominee.

123C Appointment of correspondence nominee

Subject to section 123D, the Secretary may, in writing, appoint a person (including a body corporate) to be the correspondence nominee of another person for the purposes of the social security law.

123D Provisions relating to appointments

(1) A person may be appointed as the payment nominee and the correspondence nominee of the same person.

(2) The Secretary must not appoint a nominee for a person (the proposed principal) under section 123B or 123C except:
(a) with the written consent of the person to be appointed; and
(b) after taking into consideration the wishes (if any) of the proposed principal regarding the making of such an appointment.

(3) The Secretary must cause a copy of an appointment under section 123B or 123C to be given to:
(a) the nominee; and
(b) the principal.

(4) The Secretary must not appoint a payment nominee for a person who is the holder of a concession card but is not receiving a social security payment.
123E Suspension and revocation of nominee appointments

(1) If a person who is a nominee by virtue of an appointment under section 123B or 123C informs the Secretary in writing that the person no longer wishes to be a nominee under that appointment, the Secretary must, as soon as practicable, revoke the appointment.

(1A) If a person who is a nominee by virtue of an appointment under section 123B becomes subject to the income management regime under section 123UC, the Secretary must, as soon as practicable, revoke the appointment.

(2) If:
   (a) the Secretary gives a person who is a nominee a notice under section 123K; and
   (b) the person informs the Department that:
       (i) an event or change of circumstances has occurred or is likely to occur; and
       (ii) the event or change of circumstances is likely to have an effect referred to in paragraph 123K(1)(b);
   the Secretary may suspend or revoke the appointment by virtue of which the person is a nominee.

(3) If:
   (a) the Secretary gives a person who is a nominee a notice under section 123K or 123L; and
   (b) the person does not comply with the requirement of the notice;
   the Secretary may suspend or revoke the appointment, or each appointment, by virtue of which the person is a nominee.

(4) While an appointment is suspended, the appointment has no effect for the purposes of this Part.

(5) The Secretary may, at any time, cancel the suspension of an appointment under subsection (2) or (3).

(6) The suspension or revocation of an appointment, and the cancellation of such a suspension, must be in writing.

(7) The revocation of an appointment has effect on and from such day, being later than the day of the revocation, as is specified in the revocation.
Part 3A  Nominees
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Section 123E

(8) Subsections (2) and (3) do not apply to a person who is a payment nominee by virtue of paragraph (b) of the definition of payment nominee in section 123A.

(9) The Secretary must cause a copy of:
   (a) a suspension of an appointment; or
   (b) a revocation of an appointment; or
   (c) a cancellation of a suspension of an appointment;
   to be given to:
   (d) the nominee; and
   (e) the principal.
Division 3—Payments to payment nominee

123F Payment of instalments etc. to payment nominee

(1) If:
   (a) a person has a payment nominee; and
   (b) the whole or a part of a relevant payment is payable to the
       person, or would, but for subsection 45(1), be so payable;
       and
   (c) the Secretary has given a direction in relation to the relevant
       payment under section 123B;

       the relevant payment is to be paid in accordance with the direction.

(2) An amount paid to the payment nominee of a person:
   (a) is paid to the payment nominee on behalf of the person; and
   (b) is taken, for the purposes of the social security law (other
       than this Part), to have been paid to the person and to have
       been so paid when it was paid to the nominee.

(3) An amount that is to be paid to the payment nominee of a person
    must be paid to the credit of a bank account nominated and
    maintained by the nominee.

(4) The Secretary may direct that the whole or a part of an amount that
    is to be paid to a payment nominee be paid to the payment nominee
    in a different way from that provided for by subsection (3). If the
    Secretary gives such a direction, an amount to which the direction
    relates is to be paid in accordance with the direction.

(5) Subsections (3) and (4) do not apply in the case of a person who is
    a payment nominee by virtue of paragraph (b) of the definition of
    payment nominee in section 123A.
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Section 123G

Division 4—Functions and responsibilities of nominees

123G Definition
In this Division:

*benefit recipient* means a person who:

(a) has made a claim for, or is receiving, a social security payment; or

(b) has made a claim for, or is the holder of, a concession card.

123H Actions of correspondence nominee on behalf of benefit recipient

(1) Subject to section 123S and subsection (4), any act that may be done by a benefit recipient under, or for the purposes of, the social security law (other than an act for the purposes of Division 2 or 3) may be done by the benefit recipient’s correspondence nominee.

(2) Without limiting subsection (1), an application or claim that may be made under the social security law by a benefit recipient may be made by the benefit recipient’s correspondence nominee on behalf of the benefit recipient, and an application or claim so made is taken to be made by the benefit recipient.

(3) An act done by a benefit recipient’s correspondence nominee under this section has effect, for the purposes of the social security law (other than this Part), as if it had been done by the benefit recipient.

(4) If, under a provision of the social security law, the Secretary:

(a) gives to a benefit recipient who has a correspondence nominee a notice making a requirement of the benefit recipient; or

(b) notifies a benefit recipient who has a correspondence nominee that the benefit recipient is required to do an act;

subsection (1) does not authorise the correspondence nominee to do an act that is required by the notice or the notification, as the case may be, to be done by the benefit recipient.
123I Giving of notices to correspondence nominee

(1) Any notice that the Secretary is authorised or required by the social security law to give to a benefit recipient may be given by the Secretary to the benefit recipient’s correspondence nominee.

(2) The notice:
   (a) must, in every respect, be in the same form, and in the same terms, as if it were being given to the benefit recipient; and
   (b) may be given to the correspondence nominee personally or by post or in any other manner approved by the Secretary.

(3) If:
   (a) under subsection (1), the Secretary gives a notice (the nominee notice) to a benefit recipient’s correspondence nominee; and
   (b) the Secretary afterwards gives the benefit recipient a notice that:
       (i) is expressed to be given under the same provision of the social security law as the nominee notice; and
       (ii) makes the same requirement of the benefit recipient as the nominee notice;

section 123J ceases to have effect in relation to the nominee notice.

(4) If:
   (a) under subsection (1), the Secretary gives a notice (the nominee notice) to a benefit recipient’s correspondence nominee; and
   (b) the Secretary has already given to the benefit recipient a notice that:
       (i) is expressed to be given under the same provision of the social security law as the nominee notice; and
       (ii) makes the same requirement of the benefit recipient as the nominee notice;

section 123J does not have effect in relation to the nominee notice.
123J Compliance by correspondence nominee

(1) If, under section 123I, a notice is given to a benefit recipient’s correspondence nominee, the following paragraphs have effect:

(a) for the purposes of the social security law, other than this Part, the notice is taken:

(i) to have been given to the benefit recipient; and
(ii) to have been so given on the day on which the notice was given to the correspondence nominee;

(b) any requirement that the notice makes of the benefit recipient may be satisfied by the correspondence nominee;

(c) any act done by the correspondence nominee for the purpose of satisfying a requirement of the notice has effect, for the purposes of the social security law (other than Part 6 of this Act), as if it had been done by the benefit recipient;

(d) if the correspondence nominee fails to satisfy a requirement of the notice, the benefit recipient is taken, for the purposes of the social security law, to have failed to comply with the requirement;

(e) for the purposes of determining whether anything done by the correspondence nominee constitutes compliance with the notice, the social security law has effect as if a reference in the notice to the benefit recipient becoming aware that a specified event or change of circumstances is likely to occur were a reference to the correspondence nominee becoming so aware.

(2) In order to avoid doubt, and without limiting subsection (1), it is declared as follows:

(a) if the notice requires the benefit recipient to inform the Department of a matter within a specified period and the correspondence nominee informs the Department of the matter within that period in accordance with the notice, the benefit recipient is taken, for the purposes of the social security law, to have complied with the requirement set out in the notice;

(b) if the notice requires the benefit recipient to give a statement about a matter, or produce a document, to the Department within a specified period and the correspondence nominee gives a statement about that matter, or produces the document, as the case may be, to the Department within that
period in accordance with the notice, the benefit recipient is taken, for the purposes of the social security law, to have complied with the requirement set out in the notice;

(c) if the notice requires the benefit recipient to inform the Department of a matter within a specified period and the correspondence nominee does not inform the Department of the matter within that period in accordance with the notice, the benefit recipient is taken, for the purposes of the social security law, to have failed to comply with the requirement set out in the notice;

(d) if the notice requires the benefit recipient to give a statement about a matter, or produce a document, to the Department within a specified period and the correspondence nominee does not give a statement about that matter, or produce the document, as the case may be, to the Department within that period in accordance with the notice, the benefit recipient is taken, for the purposes of the social security law, to have failed to comply with the requirement set out in the notice.

123K Notification by nominee of matters affecting ability to act as nominee

(1) The Secretary may give a nominee of a benefit recipient a notice that requires the nominee to inform the Department if:

(a) either:
   (i) an event or change of circumstances occurs; or
   (ii) the nominee becomes aware that an event or change of circumstances is likely to occur; and

(b) the event or change of circumstances is likely to affect:
   (i) the ability of the nominee to act as the payment nominee or correspondence nominee of the benefit recipient, as the case may be; or
   (ii) the ability of the Secretary to give notices to the nominee under this Act; or
   (iii) the ability of the nominee to comply with notices given to the nominee by the Secretary under this Act.

(2) Subject to subsection (3), a notice under subsection (1):

(a) must be in writing; and

(b) may be given personally or by post or by any other means approved by the Secretary; and
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(c) must specify how the nominee is to give the information to the Department; and
(d) must specify the period within which the nominee is to give the information to the Department.

(3) A notice under subsection (1) is not ineffective merely because it fails to comply with paragraph (2)(c).

(4) Subject to subsection (5), the period specified under paragraph (2)(d) must not end earlier than 14 days after:
(a) the day on which the event or change of circumstances occurs; or
(b) the day on which the nominee becomes aware that the event or change of circumstances is likely to occur.

(5) If a notice requires the nominee to inform the Department of any proposal by the nominee to leave Australia, subsection (4) does not apply to that requirement.

(6) This section extends to:
(a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
(b) all persons, irrespective of their nationality or citizenship.

123L  Statement by payment nominee regarding disposal of money

(1) The Secretary may give the payment nominee of a benefit recipient a notice that requires the nominee to give the Department a statement giving particulars of the disposal by the nominee of money paid under the social security law to the nominee on behalf of the benefit recipient.

(2) Subject to subsection (3), a notice under subsection (1):
(a) must be in writing; and
(b) may be given personally or by post or by any other means approved by the Secretary; and
(c) must specify how the nominee is to give the statement to the Department; and
(d) must specify the period within which the nominee is to give the statement to the Department.
(3) A notice under subsection (1) is not ineffective merely because it fails to comply with paragraph (2)(c).

(4) The period specified under paragraph (2)(d) must not end earlier than 14 days after the day on which the notice is given.

(5) 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.

(6) A nominee must not refuse or fail to comply with a notice under subsection (1).

Penalty: 60 penalty units.

(7) Subsection (6) applies only to the extent to which the person is capable of complying with the notice.

(8) Subsection (6) does not apply if the person has a reasonable excuse.

(9) An offence against subsection (6) is an offence of strict liability.

(10) This section extends to:

(a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and

(b) all persons, irrespective of their nationality or citizenship.
Section 123M

Division 5—Other matters

123M Protection of principal against liability for actions of nominee

Nothing in this Part has the effect of rendering a person guilty of an offence against this Act in respect of any act or omission of the person’s correspondence nominee.

123N Protection of nominee against criminal liability

(1) A nominee is not subject to any criminal liability under the social security law in respect of:
(a) any act or omission of the principal; or
(b) anything done, in good faith, by the nominee in his or her capacity as nominee.

(2) This section has effect subject to section 123L.

123O Duty of nominee to principal

(1) It is the duty of a person who is the payment or correspondence nominee of another person at all times to act in the best interests of the principal.

(2) A nominee does not commit a breach of the duty imposed by subsection (1) by doing an act if, when the act is done, there are reasonable grounds for believing that it is in the best interests of the principal that the act be done.

(3) A nominee does not commit a breach of the duty imposed by subsection (1) by refraining from doing an act if, at the relevant time, there are reasonable grounds for believing that it is in the best interests of the principal that the act be not done.

123P Saving of Secretary’s powers of revocation

Nothing in this Part is to be taken to be an expression of a contrary intention for the purposes of subsection 33(3) of the Acts Interpretation Act 1901.
123Q Saving of Secretary’s powers to give notices to principal

Nothing in this Part is intended in any way to limit or affect the Secretary’s powers under other provisions of the social security law to give notices to, or make requirements of, a person who has a nominee.

123R Notification of nominee where notice given to principal

If, under a provision of the social security law (other than a provision of this Part), the Secretary gives a notice to a person who has a correspondence nominee, the Secretary may inform the correspondence nominee of the giving of the notice and of the terms of the notice.

123S Right of nominee to attend with principal

(1) If:

(a) under a provision of the social security law (other than a provision of this Part), the Secretary gives a notice to a person who has a correspondence nominee; and

(b) the notice requires the person:

(i) to attend the Department; or

(ii) to attend a particular place; and

(c) the Secretary informs the person’s correspondence nominee of the giving of the notice;

the correspondence nominee may attend the Department or place, as the case may be, with the person if the person so wishes.

(2) If:

(a) under a provision of the social security law (other than a provision of this Part), the Secretary gives a notice to a person who has a correspondence nominee; and

(b) the notice requires the person to undergo a medical, psychiatric or psychological examination;

the correspondence nominee may accompany the person while the examination is being conducted:

(c) if the person so wishes; and

(d) to the extent to which the person conducting the examination consents.
Section 123S

(3) If a person’s correspondence nominee is a body corporate, the last reference in subsection (1) or (2) to the correspondence nominee is to be read as a reference to an officer or employee of the correspondence nominee.
Part 3B—Income management regime

Division 1—Introduction

123TA Simplified outline

The following is a simplified outline of this Part:

- This Part sets up an income management regime for recipients of certain welfare payments.

- A person may become subject to the income management regime because:

  (a) the person lives in a declared relevant Northern Territory area; or

  (b) a child protection officer of a State or Territory requires the person to be subject to the income management regime; or

  (c) the person, or the person’s partner, has a child who does not meet school enrolment requirements; or

  (d) the person, or the person’s partner, has a child who has unsatisfactory school attendance; or

  (e) the Queensland Commission requires the person to be subject to the income management regime; or

  (f) the person voluntarily agrees to be subject to the income management regime.

- A person who is subject to the income management regime will have an income management account.

- Amounts will be deducted from the person’s welfare payments and credited to the person’s income management account.
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- Amounts will be debited from the person’s income management account for the purposes of enabling the Secretary to take action directed towards meeting the priority needs of:
  (a) the person; and
  (b) the person’s partner; and
  (c) the person’s children; and
  (d) any other dependants of the person.

123TB  Objects

The objects of this Part are as follows:
(a) to promote socially responsible behaviour, particularly in relation to the care and education of children;
(b) to set aside the whole or a part of certain welfare payments;
(c) to ensure that the amount set aside is directed to meeting the priority needs of:
  (i) the recipient of the welfare payment; and
  (ii) the recipient’s partner; and
  (iii) the recipient’s children; and
  (iv) any other dependants of the recipient.

123TC  Definitions

In this Part:

account statement, in relation to an income management account, means a statement that sets out:
(a) the amounts credited to the income management account during a particular period; and
(b) the amounts debited from the income management account during that period; and
(c) the balance of the income management account as at the end of that period.

acquire has the same meaning as in the Trade Practices Act 1974.
**alcoholic beverage** means a beverage that contains more than 0.1% by volume of ethyl alcohol.

**applicable school period** has the meaning given by section 123UI.

**category A welfare payment** means:
(a) a social security benefit; or
(b) a social security pension; or
(c) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance.

**category B welfare payment** means:
(a) a category A welfare payment; or
(b) double orphan pension; or
(c) carer allowance; or
(d) mobility allowance; or
(e) pensioner education supplement; or
(f) telephone allowance under Part 2.25 of the 1991 Act; or
(g) utilities allowance under Part 2.25A of the 1991 Act; or
(h) family tax benefit by instalment (other than arrears of family tax benefit by instalment) under the Family Assistance Administration Act; or
(i) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre; or
(j) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement; or
(k) a social security bereavement payment; or
(l) a Northern Territory CDEP transition payment;
but does not include:
(m) an advance payment under Part 2.22 of the 1991 Act; or
(n) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act; or
(o) a mobility allowance advance under section 1045 of the 1991 Act.
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category C welfare payment means:
(aa) child disability assistance; or
(a) an advance payment under Part 2.22 of the 1991 Act; or
(b) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act; or
(c) a mobility allowance advance under section 1045 of the 1991 Act; or
(d) arrears of family tax benefit by instalment under the Family Assistance Administration Act; or
(e) family tax benefit for a past period under the Family Assistance Administration Act; or
(f) family tax benefit by single payment/in substitution because of the death of another individual under the Family Assistance Administration Act; or
(g) family tax benefit advance under the Family Assistance Administration Act; or
(h) baby bonus under the Family Assistance Act; or
(i) maternity immunisation allowance under the Family Assistance Act.

category D welfare payment means:
(a) a service pension; or
(b) income support supplement; or
(c) Defence Force Income Support Allowance.

category F welfare payment means:
(a) family tax benefit by instalment (other than arrears of family tax benefit by instalment) under the Family Assistance Administration Act; or
(b) double orphan pension; or
(c) carer allowance; or
(d) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre.

category G welfare payment means:
(aa) child disability assistance; or
(a) arrears of family tax benefit by instalment under the Family Assistance Administration Act; or
(b) family tax benefit for a past period under the Family Assistance Administration Act; or
(c) family tax benefit by single payment/in substitution because of the death of another individual under the Family Assistance Administration Act; or
(d) family tax benefit advance under the Family Assistance Administration Act; or
(e) baby bonus under the Family Assistance Act; or
(f) maternity immunisation allowance under the Family Assistance Act.

**category H welfare payment** means:
(a) a social security benefit; or
(b) a social security pension; or
(c) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance; or
(d) a service pension; or
(e) income support supplement; or
(f) Defence Force Income Support Allowance.

**category I welfare payment** means:
(a) a category H welfare payment; or
(b) double orphan pension; or
(c) family tax benefit under the Family Assistance Act; or
(d) family tax benefit advance under the Family Assistance Administration Act; or
(e) baby bonus under the Family Assistance Act; or
(f) maternity immunisation allowance under the Family Assistance Act; or
(g) carer allowance; or
(ga) child disability assistance; or
(h) mobility allowance; or
(i) pensioner education supplement; or
(j) telephone allowance under Part 2.25 of the 1991 Act; or
(k) telephone allowance under Part VIIB of the Veterans’ Entitlements Act; or
(l) utilities allowance under Part 2.25A of the 1991 Act; or
(m) utilities allowance under Part VIIAC of the Veterans’ Entitlements Act; or
(n) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre; or
(o) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement; or
(p) a social security bereavement payment; or
(q) a veterans’ entitlement bereavement payment; or
(r) a Northern Territory CDEP transition payment; or
(s) an advance payment under Part 2.22 of the 1991 Act; or
(t) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act; or
(u) a mobility allowance advance under section 1045 of the 1991 Act; or
(v) an advance payment under Part IVA or VIIA of the Veterans’ Entitlements Act.

category P welfare payment means:
(a) a social security benefit; or
(b) a social security pension (other than an age pension or a carer payment); or
(c) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as living allowance.

category Q welfare payment means:
(a) a category P welfare payment; or
(b) carer allowance; or
(ba) child disability assistance; or
(c) mobility allowance; or
(d) pensioner education supplement; or
(e) telephone allowance under Part 2.25 of the 1991 Act; or
(f) utilities allowance under Part 2.25A of the 1991 Act; or
(g) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment
relates to a child or children at a Homelands Learning Centre; or

(h) a social security bereavement payment (other than a social security bereavement payment in relation to an age pension or a carer payment); or

(i) a payment under the scheme known as the ABSTUDY scheme that includes an amount identified as pensioner education supplement; or

(j) an advance payment under Part 2.22 of the 1991 Act (other than an advance payment of an age pension or a carer payment); or

(k) an advance pharmaceutical allowance under Part 2.23 of the 1991 Act (other than an advance pharmaceutical allowance in relation to an age pension or a carer payment); or

(l) a mobility allowance advance under section 1045 of the 1991 Act; or

(m) double orphan pension; or

(n) family tax benefit under the Family Assistance Act; or

(o) family tax benefit advance under the Family Assistance Administration Act; or

(p) baby bonus under the Family Assistance Act; or

(q) maternity immunisation allowance under the Family Assistance Act.

category R welfare payment means:

(a) age pension; or

(b) carer payment; or

(c) a service pension; or

(d) income support supplement; or

(e) Defence Force Income Support Allowance.

category S welfare payment means:

(a) family tax benefit under the Family Assistance Act; or

(b) family tax benefit advance under the Family Assistance Administration Act; or

(c) baby bonus under the Family Assistance Act; or

(d) maternity immunisation allowance under the Family Assistance Act; or

(e) double orphan pension; or
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(f) carer allowance; or
(fa) child disability assistance; or
(g) a distance education payment under the scheme known as the Assistance for Isolated Children Scheme, where the payment relates to a child or children at a Homelands Learning Centre.

Centrelink means the Commonwealth Services Delivery Agency.

child of a person means:
(a) a dependent child of the person; or
(b) an FTB child of the person; or
(c) on or after 1 July 2008—a regular care child of the person.

This definition does not apply to:
(d) the definition of child protection officer in this section; or
(e) Division 2; or
(f) subsection 123ZE(2); or
(g) section 123ZEB.

child protection officer means an officer or employee of a State or Territory who has functions, powers or duties in relation to the care, protection or welfare of children.

disclosed child protection State or Territory has the meaning given by section 123TF.

disclosed primary school area has the meaning given by subsection 123TG(1).

disclosed relevant Northern Territory area has the meaning given by section 123TE.

disclosed secondary school area has the meaning given by subsection 123TG(3).

disclosed voluntary income management area has the meaning given by section 123TGA.

designated nominee of a person (the first person) means:
(a) a payment nominee of the first person; or
(b) a person to whom instalments of youth allowance of the first person are to be paid in accordance with subsection 45(1).
economic security strategy payment means:
  (a) an economic security strategy payment under Part 2.17 of the 1991 Act; or
  (b) an economic security strategy payment under Part VIIG of the Veterans’ Entitlements Act; or
  (c) an economic security strategy payment to families under Part 6 of the Family Assistance Act; or
  (d) a payment under the scheme determined under Schedule 4 to the Social Security and Other Legislation Amendment (Economic Security Strategy) Act 2008.

eligible care child has the meaning given by section 123UH.

eligible care period has the meaning given by section 123UJ.

eligible recipient has the meaning given by section 123TK.

excluded goods has the meaning given by subsection 123TI(1).

excluded payment nominee means:
  (a) the Public Trustee (however described) of a State or Territory; or
  (b) a payment nominee who is not subject to the income management regime.

excluded service has the meaning given by subsection 123TI(2).

exempt Northern Territory person has the meaning given by section 123UG.

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.

Finance Minister has the same meaning as in the Financial Management and Accountability Act 1997.
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**gambling** means a service provided to a person in the capacity of a customer of a gambling service (within the meaning of the *Interactive Gambling Act 2001*).

**goods** has the same meaning as in the *Trade Practices Act 1974*.

**household stimulus payment** means:
(a) a training and learning bonus under Division 1 of Part 2.18 of the 1991 Act; or
(b) a farmers hardship bonus under Division 2 of Part 2.18 of the 1991 Act; or
(c) an education entry payment supplement under Division 14 of Part 2.13A of the 1991 Act; or
(d) a back to school bonus or single income family bonus under Part 7 of the Family Assistance Act; or
(e) a payment under the scheme determined under Schedule 4 to the *Household Stimulus Package Act (No. 2) 2009*.

**income management account** means a notional account kept in accordance with section 123WA.

**income tax law** has the same meaning as in the *Income Tax Assessment Act 1997*.

**net amount** of an instalment or payment means:
(a) if a deduction is made from, or an amount is set off against, the instalment or payment under:
   (i) section 61 or 238 of this Act; or
   (ii) section 1231 of the 1991 Act; or
   (iii) section 84, 84A, 92, 92A, 225, 226 or 227 of the Family Assistance Administration Act; or
   (iv) section 50A, 50B, 58J, 79L, 122B, 122D, 205 or 205AA of the Veterans’ Entitlements Act;
   so much of the instalment or payment as remains after the deduction is made or the set-off occurs, as the case may be; or
(b) in any other case—the amount of the instalment or payment.

**non-alcoholic beverage** means a beverage other than an alcoholic beverage.
parenting plan has the same meaning as in the Family Law Act 1975.

payment nominee means:
(a) a person who is, by virtue of an appointment in force under section 123B of this Act or section 219TB of the Family Assistance Administration Act, the payment nominee of another person; or
(b) a person to whom payment of another person’s service pension is made by virtue of an approval in force under section 58D of the Veterans’ Entitlements Act; or
(c) a person to whom payment of another person’s service pension is made by virtue of an appointment in force under section 202 of the Veterans’ Entitlements Act.

pornographic material has the meaning given by section 123TJ.

priority needs has the meaning given by section 123TH.

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

Queensland Commission means a body or agency that:
(a) is established by a law of Queensland; and
(b) is specified in a legislative instrument made by the Minister for the purposes of this paragraph.

registered parenting plan has the same meaning as in the Family Law Act 1975.

relevant Northern Territory area has the meaning given by section 123TD.

service has the same meaning as in the Trade Practices Act 1974.

social security bereavement payment means a payment under any of the following provisions of the 1991 Act:
(a) Division 9 of Part 2.2;
(b) Division 10 of Part 2.3;
(c) Subdivision B of Division 9 of Part 2.4;
(d) Subdivision B or D of Division 9 of Part 2.5;
(e) Division 9 of Part 2.7;
(f) Division 9 of Part 2.8;
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(g) Subdivision B or C of Division 9 of Part 2.10;
(h) Subdivision A of Division 10 of Part 2.11;
(i) Division 10 of Part 2.11A;
(j) Subdivision AA of Division 9 of Part 2.12;
(k) Subdivision C of Division 11 of Part 2.12B;
(l) Division 9 of Part 2.14;
(m) Division 9 of Part 2.15;
(n) Subdivision C of Division 9 of Part 2.15A;
(o) Division 10 of Part 2.16;
(p) Subdivision C of Division 10 of Part 2.19;
(q) Subdivision B of Division 10 of Part 2.20.

Special Account means the Income Management Special Account established by section 123VA.

stored value card includes a portable device that is:
  (a) capable of storing monetary value in a form other than physical currency; and
  (b) of a kind specified in a legislative instrument made by the Minister for the purposes of this paragraph.

subject to the income management regime has the meaning given by section 123UB, 123UC, 123UD, 123UE, 123UF or 123UFA.

supply has the same meaning as in the Trade Practices Act 1974.

tobacco product has the same meaning as in the Tobacco Advertising Prohibition Act 1992.

unsatisfactory school attendance situation has the meaning given by section 123UK.

veterans’ entitlement bereavement payment means:
  (a) a bereavement payment within the meaning of subsection 53K(3) of the Veterans’ Entitlements Act; or
  (b) a bereavement payment paid under subsection 53L(4) of that Act; or
  (c) an amount paid under subsection 53Q(1) of that Act; or
  (d) a bereavement payment within the meaning of subsection 53T(1) of that Act.
voluntary income management agreement means an agreement under section 123UM.

123TD Relevant Northern Territory area

For the purposes of this Part, each of the following areas in the Northern Territory is a relevant Northern Territory area:

(a) each prescribed area within the meaning of the Northern Territory National Emergency Response Act 2007;
(b) the place known as Finke or Aputula;
(c) the place known as Kalkarindji or Wave Hill.

123TE Declared relevant Northern Territory area

(1) The Minister may, by writing, determine that a specified relevant Northern Territory area is a declared relevant Northern Territory area for the purposes of this Part.

(2) A determination under subsection (1) must specify an expiry date for the determination.

(3) An expiry date must occur in the 12-month period beginning when the determination was made.

(4) Subsection (3) has effect subject to subsection (7).

(5) In deciding whether to make a determination under subsection (1), the Minister must have regard to the following matters:

(a) the availability in the relevant Northern Territory area of information setting out:
   (i) the proposal to make the determination; and
   (ii) an explanation, in summary form, of the consequences of the making of the determination for people who may become subject to the income management regime under section 123UB;

(b) the opportunities that have been made available to people in the area to discuss:
   (i) the proposal to make the determination; and
   (ii) the consequences of the making of the determination for people who may become subject to the income management regime under section 123UB;

   with employees or officers of the Commonwealth;
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(c) the opportunities that have been made available to potentially affected people in the area to:
   (i) discuss their circumstances with officers of Centrelink; and
   (ii) give Centrelink information about their expenditure;
(d) the extent to which it will be feasible for the Secretary to take action under Division 6 in relation to people who may become subject to the income management regime under section 123UB;
(e) such other matters (if any) as the Minister considers relevant.

(6) A contravention of subsection (5) does not affect the validity of a determination under subsection (1).

Extension of expiry date

(7) The Minister may, by writing, extend or further extend the expiry date of a specified determination made under subsection (1), so long as the extension or further extension is for a period of not more than 12 months.

Duration of determination

(8) Unless sooner revoked, a determination under subsection (1) ceases to be in force on the expiry date of the determination.

Fresh determination

(9) If a determination under subsection (1) expires, this Act does not prevent the Minister from making a fresh determination under subsection (1) relating to the same relevant Northern Territory area as the expired determination.

Revocation

(10) If a determination is in force under subsection (1), the Minister may, by writing, revoke the determination.

(11) Subsection (10) does not limit the application of subsection 33(3) of the Acts Interpretation Act 1901 to other instruments under this Act.
Section 123TF

Interlocutory orders

(12) A court must not make an interlocutory order suspending the operation of a decision under this section unless the court is satisfied that there are exceptional circumstances.

Legislative instrument

(13) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.

(14) An instrument under subsection (7) or (10) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the instrument.

123TF Declared child protection State or Territory

The Minister may, by legislative instrument, determine that a specified State or Territory is a declared child protection State or Territory for the purposes of this Part.

123TG Declared primary school area and declared secondary school area

Declared primary school area

(1) The Minister may, by legislative instrument, determine that:
   (a) a specified State; or
   (b) a specified Territory; or
   (c) a specified area;
   is a declared primary school area for the purposes of this Part.

(2) This Part does not prevent an area specified under paragraph (1)(c) from being described as the area within the boundary of premises occupied by a particular primary school.

Declared secondary school area

(3) The Minister may, by legislative instrument, determine that:
   (a) a specified State; or
   (b) a specified Territory; or
   (c) a specified area;
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is a declared secondary school area for the purposes of this Part.

(4) This Part does not prevent an area specified under paragraph (3)(c) from being described as the area within the boundary of premises occupied by a particular secondary school.

123TGA  Declared voluntary income management area

The Minister may, by legislative instrument, determine that:
(a) a specified State; or
(b) a specified Territory; or
(c) a specified area;
is a declared voluntary income management area for the purposes of this Part.

123TH  Priority needs

(1) For the purposes of this Part, a person’s priority needs are as follows:
(a) food;
(b) non-alcoholic beverages;
(c) clothing;
(d) footwear;
(e) basic personal hygiene items;
(f) basic household items;
(g) housing, including:
   (i) rent; and
   (ii) home loan repayments; and
   (iii) repairs; and
   (iv) maintenance;
(h) household utilities, including:
   (i) electricity; and
   (ii) gas; and
   (iii) water; and
   (iv) sewerage; and
   (v) garbage collection; and
   (vi) fixed-line telephone;
(i) rates and land tax;
(j) health, including:
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(i) medical, nursing, dental or other health services; and
(ii) pharmacy items; and
(iii) the supply, alteration or repair of artificial teeth; and
(iv) the supply, alteration or repair of an artificial limb (or part of a limb), artificial eye or hearing aid; and
(v) the supply, alteration or repair of a medical or surgical appliance; and
(vi) the testing of eyes; and
(vii) the prescribing of spectacles or contact lenses; and
(viii) the supply of spectacles or contact lenses; and
(ix) the management of a disability;
(k) child care and development;
(l) education and training;
(m) items required for the purposes of the person’s employment, including:
   (i) a uniform or other occupational clothing; and
   (ii) protective footwear; and
   (iii) tools of trade;
(n) funerals;
(o) public transport services, where the services are used wholly or partly for purposes in connection with any of the above needs;
(p) the acquisition, repair, maintenance or operation of:
   (i) a motor vehicle; or
   (ii) a motor cycle; or
   (iii) a bicycle;
   that is used wholly or partly for purposes in connection with any of the above needs;
(q) any thing specified in a legislative instrument made by the Minister for the purposes of this paragraph.

(2) For the purposes of this Part, excluded goods or excluded services are not priority needs.
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123TI  Excluded goods and excluded services

Excluded goods

(1) Each of the following goods are excluded goods for the purposes of this Part:
   (a) alcoholic beverages;
   (b) tobacco products;
   (c) pornographic material;
   (d) goods specified in a legislative instrument made by the Minister for the purposes of this paragraph.

Excluded services

(2) Each of the following services is an excluded service for the purposes of this Part:
   (a) gambling;
   (b) a service specified in a legislative instrument made by the Minister for the purposes of this paragraph.

123TJ  Pornographic material

(1) For the purposes of this Part, pornographic material is:
   (a) a publication, film or computer game classified RC; or
   (b) an unclassified publication, film or computer game that contains material that would be likely to cause it to be classified RC; or
   (c) a publication classified Category 1 restricted or Category 2 restricted; or
   (d) an unclassified publication that contains material that would be likely to cause it to be classified Category 1 restricted or Category 2 restricted; or
   (e) a film classified X 18+; or
   (f) an unclassified film that contains material that would be likely to cause it to be classified X 18+.

(2) An expression used in subsection (1) and in the Classification (Publications, Films and Computer Games) Act 1995 has the same meaning in subsection (1) as it has in that Act.
Section 123TK

123TK Eligible recipient

For the purposes of this Part, if a claim by a person for a particular payment is granted, the person is an *eligible recipient* of the payment during the period:

(a) beginning on:

(i) if the payment is in relation to a service pension, income support supplement or Defence Force Income Support Allowance—the provisional commencement day (within the meaning of the Veterans’ Entitlements Act) for the payment; or

(ii) in any other case—the start day for the payment; and

(b) ending when the payment is cancelled.
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Section 123UA

Division 2—Persons subject to the income management regime

Subdivision A—Situations in which a person is subject to the income management regime

123UA  Persons subject to the income management regime

This Subdivision sets out the various situations in which a person is subject to the income management regime.

123UB  Persons subject to the income management regime—relevant Northern Territory area

(1) For the purposes of this Part, a person is subject to the income management regime at a particular time (the test time) if:

(a) at the test time, the person, or the person’s partner, is an eligible recipient of a category A welfare payment; and

(b) the person was physically present overnight in a relevant Northern Territory area at any time during the period:

(i) beginning at the start of 21 June 2007; and

(ii) ending at the end of the most recent instalment period in relation to the category A welfare payment or payments;

and

(c) at the test time, the relevant Northern Territory area is a declared relevant Northern Territory area; and

(d) at the test time, the person is not an exempt Northern Territory person in relation to the relevant Northern Territory area (see section 123UG); and

(e) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and

(f) at the test time, the person is not subject to the income management regime under section 123UC, 123UD, 123UE or 123UF; and

(g) the test time occurs in the 5-year period that began at the commencement of this section.

164  Social Security (Administration) Act 1999
(2) For the purposes of this Part, a person is **subject to the income management regime** at a particular time (the **test time**) if:

(a) at the test time, neither the person, nor the person’s partner, is an eligible recipient of a category A welfare payment; and

(b) at the test time, the person, or the person’s partner, is an eligible recipient of a category D welfare payment; and

(c) the person, or the person’s partner, is entitled to be paid family tax benefit under the Family Assistance Act; and

(d) the person was physically present overnight in a relevant Northern Territory area at any time during the period:

(i) beginning at the start of 21 June 2007; and

(ii) ending at the end of the most recent instalment period in relation to the category D welfare payment or payments; and

(e) at the test time, the relevant Northern Territory area is a declared relevant Northern Territory area; and

(f) at the test time, the person is not an exempt Northern Territory person in relation to the relevant Northern Territory area (see section 123UG); and

(g) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and

(h) at the test time, the person is not subject to the income management regime under section 123UC, 123UD, 123UE or 123UF; and

(i) the test time occurs in the 5-year period that began at the commencement of this section.

(3) For the purposes of this Part, a person is **subject to the income management regime** at a particular time (the **test time**) if:

(a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and

(b) at the test time, the person has a payment nominee; and

(c) at the test time, the payment nominee is subject to the income management regime under subsection (1) or (2).
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Section 123UC

123UC  Persons subject to the income management regime—child protection

For the purposes of this Part, a person is subject to the income management regime at a particular time (the test time) if:

(a) at the test time, the person, or the person’s partner, is an eligible recipient of a category H welfare payment; and

(b) before the test time, a child protection officer of a State or Territory gave the Secretary a written notice requiring that the person be subject to the income management regime under this section; and

(c) the notice was given:
   (i) under a law (whether written or unwritten) in force in a State or Territory (other than a law of the Commonwealth); or
   (ii) in the exercise of the executive power of a State or Territory; and

(d) at the test time, the notice had not been withdrawn or revoked; and

(e) at the test time, the State or Territory is a declared child protection State or Territory; and

(f) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and

(g) at the test time, the person is not subject to the income management regime under section 123UF.

123UD  Persons subject to the income management regime—school enrolment

(1) For the purposes of this Part, a person is subject to the income management regime at a particular time (the test time) if:

(a) at the test time, the person, or the person’s partner, is an eligible recipient of a category H welfare payment; and

(b) at the test time, the person, or the person’s partner, has an eligible care child; and

(c) under a law of a State or Territory, the eligible care child is required to be enrolled at school; and

(d) the Secretary is satisfied that it is appropriate for the eligible care child to be enrolled at:
   (i) a primary school in a declared primary school area; or

166  Social Security (Administration) Act 1999
(ii) a secondary school in a declared secondary school area; and

(e) at the test time, the eligible care child is not enrolled at:
   (i) if subparagraph (d)(i) applies—a primary school in the declared primary school area; or
   (ii) if subparagraph (d)(ii) applies—a secondary school in the declared secondary school area; and

(f) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and

(g) at the test time, the person is not subject to the income management regime under section 123UC or 123UF; and

(h) at the test time, a determination under subsection (2) is not in force in relation to the person; and

(i) such other conditions (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph are satisfied.

(2) The Secretary may, by writing, determine that a person is exempt from subsection (1).

(3) In making a determination under subsection (2), the Secretary must comply with any principles set out in a legislative instrument made by the Minister for the purposes of this subsection.

(4) For the purposes of this Part, a person is subject to the income management regime at a particular time (the test time) if:

(a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and

(b) at the test time, the person has a payment nominee; and

(c) at the test time, the payment nominee is subject to the income management regime under subsection (1).

Documentary evidence

(5) If a person, or the person’s partner, has an eligible care child, the Secretary may, by written notice given to the person, request the person to give the Secretary, within a period (the compliance period) specified in the notice, documentary evidence of the eligible care child’s enrolment at a school during a specified applicable school period.
(6) A notice under subsection (5) must set out the effect of subsection (9).

(7) The compliance period specified in a notice under subsection (5) must not be shorter than 7 days.

(8) The Secretary may extend the compliance period specified in a notice under subsection (5).

(9) If:
(a) a person is given a notice under subsection (5); and
(b) the person does not comply with the notice;
the Secretary may determine that subsection (1) has effect as if the eligible care child was not enrolled at any school at any time during the applicable school period specified in the notice.

(10) This Part does not prevent a notice from being characterised as:
(a) a notice under subsection (5); and
(b) a notice under another provision of a law of the Commonwealth.

123UE Persons subject to the income management regime—school attendance

(1) For the purposes of this Part, a person is subject to the income management regime at a particular time (the test time) if:
(a) at the test time, the person, or the person’s partner, is an eligible recipient of a category H welfare payment; and
(b) at the test time, an unsatisfactory school attendance situation exists in relation to a child; and
(c) throughout a period that ended before the unsatisfactory school attendance situation came into existence, the child was an eligible care child of:
(i) the person; or
(ii) the person’s partner; and
(d) at the test time, the child is enrolled at a school; and
(e) if the school is a primary school—at the test time, the school is in a declared primary school area; and
(f) if the school is a secondary school—at the test time, the school is in a declared secondary school area; and
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(g) before the test time, the person, or the person’s partner, had been given a formal warning under section 123UL; and
(h) the whole or a part of an applicable school period in relation to the child occurred in the period:
   (i) beginning when the formal warning was given; and
   (ii) ending at the test time; and
(i) if, at the test time, the person has a payment nominee—the payment nominee is not an excluded payment nominee; and
(j) at the test time, the person is not subject to the income management regime under section 123UC or 123UF; and
(k) at the test time, a determination under subsection (2) is not in force in relation to the person; and
(l) such other conditions (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph are satisfied.

(2) The Secretary may, by writing, determine that a person is exempt from subsection (1).

(3) In making a determination under subsection (2), the Secretary must comply with any principles set out in a legislative instrument made by the Minister for the purposes of this subsection.

(4) For the purposes of this Part, a person is subject to the income management regime at a particular time (the test time) if:
   (a) at the test time, the person is not subject to the income management regime under any other provision of this Subdivision; and
   (b) at the test time, the person has a payment nominee; and
   (c) at the test time, the payment nominee is subject to the income management regime under subsection (1).

123UF  Persons subject to the income management regime—Queensland Commission

(1) For the purposes of this Part, a person is subject to the income management regime at a particular time (the test time) if:
   (a) at the test time, the person, or the person’s partner, is an eligible recipient of a category P welfare payment; and

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(b) before the test time, the Queensland Commission gave the
    Secretary a written notice requiring that the person be subject
    to the income management regime under this subsection; and
(c) the notice was given under a law of Queensland; and
(d) the notice was not given in such circumstances (if any) as are
    specified in a legislative instrument made by the Minister for
    the purposes of this paragraph; and
(e) at the test time, the notice had not been withdrawn or
    revoked; and
(f) if, at the test time, the person has a payment nominee—the
    payment nominee is not an excluded payment nominee; and
(g) the test time occurs before 1 January 2012.

(2) For the purposes of this Part, a person is subject to the income
management regime at a particular time (the test time) if:
(a) at the test time, neither the person, nor the person’s partner, is
    an eligible recipient of a category P welfare payment; and
(b) at the test time, the person, or the person’s partner, is an
    eligible recipient of a category R welfare payment; and
(c) before the test time, the Queensland Commission gave the
    Secretary a written notice requiring that the person be subject
    to the income management regime under this subsection; and
(d) the notice was given under a law of Queensland; and
(e) the notice was not given in such circumstances (if any) as are
    specified in a legislative instrument made by the Minister for
    the purposes of this paragraph; and
(f) at the test time, the notice had not been withdrawn or
    revoked; and
(g) if, at the test time, the person has a payment nominee—the
    payment nominee is not an excluded payment nominee; and
(h) the test time occurs before 1 January 2012.

(3) For the purposes of this Part, a person is subject to the income
management regime at a particular time (the test time) if:
(a) at the test time, the person is not subject to the income
    management regime under any other provision of this
    Subdivision; and
(b) at the test time, the person has a payment nominee; and
(c) at the test time, the payment nominee is subject to the income
    management regime under subsection (1) or (2).
123UFA Persons subject to the income management regime—
 voluntary income management agreement

For the purposes of this Part, a person is subject to the income management regime at a particular time if, at that time, a voluntary income management agreement is in force in relation to the person.

Subdivision B—Exempt Northern Territory persons

123UG Exempt Northern Territory persons

Each relevant Northern Territory area

(1) The Secretary may, by written notice given to a person, determine that the person is an exempt Northern Territory person in relation to each relevant Northern Territory area for the purposes of this Part.

(2) In deciding whether to make a determination under subsection (1), the Secretary must have regard to the following matters:
   (a) the person’s family and kinship relationships;
   (b) the area in which the person is usually physically present overnight;
   (c) the area or areas in which the person’s assets are located;
   (d) if the person has travelled outside the relevant Northern Territory areas:
      (i) the frequency of that travel; and
      (ii) the duration of that travel; and
      (iii) the reason for that travel;
   (e) the address of the place of residence of the person last known to the Secretary;
   (f) the postal address of the person last known to the Secretary;
   (g) whether the person has been physically present in any of the relevant Northern Territory areas on a temporary basis;
   (h) if the person has been physically present in any of the relevant Northern Territory areas on a temporary basis—the circumstances that resulted in the person being so physically present in the area concerned.
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(3) A determination under subsection (1) is not a legislative instrument.

(4) The Minister may, by legislative instrument, determine that a specified person is an exempt Northern Territory person in relation to each relevant Northern Territory area for the purposes of this Part.

Note: For specification by class, see subsection 13(3) of the Legislative Instruments Act 2003.

(5) Subsections (1) and (4) do not limit each other.

Specific relevant Northern Territory area

(6) The Secretary may, by written notice given to a person, determine that the person is an exempt Northern Territory person in relation to a specified relevant Northern Territory area for the purposes of this Part.

(7) In deciding whether to make a determination under subsection (6), the Secretary must have regard to the following matters:
   (a) the person’s family and kinship relationships;
   (b) the area in which the person is usually physically present overnight;
   (c) the area or areas in which the person’s assets are located;
   (d) if the person has travelled outside the relevant Northern Territory area:
      (i) the frequency of that travel; and
      (ii) the duration of that travel; and
      (iii) the reason for that travel;
   (e) the address of the place of residence of the person last known to the Secretary;
   (f) the postal address of the person last known to the Secretary;
   (g) whether the person has been physically present in the relevant Northern Territory area on a temporary basis;
   (h) if the person has been physically present in the relevant Northern Territory area on a temporary basis—the circumstances that resulted in the person being so physically present in that area.

(8) A determination under subsection (6) is not a legislative instrument.

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Subdivision C—Additional provisions relating to school enrolment and attendance

123UH Eligible care child

For the purposes of this Part, a person (the first person) is an eligible care child of another person at a particular time if, and only if:

(a) at that time, the first person is a dependent child of the other person; or
(b) all of the following conditions are satisfied:
   (i) that time occurs during an eligible care period;
   (ii) under a family law order, registered parenting plan or parenting plan that is in force during the eligible care period, the first person is supposed to live or spend time with the other person;
   (iii) assuming the family law order, registered parenting plan or parenting plan were complied with during the eligible care period, the first person would have been in the other person’s care for at least 14% of that period.

123UI Applicable school period

(1) For the purposes of this Part, an applicable school period in relation to a child is a period ascertained in accordance with a legislative instrument made by the Minister for the purposes of this subsection.

(2) A period ascertained under subsection (1) may be a recurring period.

(3) A period may be ascertained under subsection (1) by reference to a term of the school attended by the child.

(4) For the purposes of this Part, it is immaterial whether an applicable school period begins before or after the commencement of this section.
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123UJ  Eligible care period

(1) For the purposes of this Part, an eligible care period is a period ascertained in accordance with a legislative instrument made by the Minister for the purposes of this subsection.

(2) A period ascertained under subsection (1) may be a recurring period (for example, a fortnight).

(3) For the purposes of this Part, it is immaterial whether an eligible care period begins before or after the commencement of this section.

123UK  Unsatisfactory school attendance situation

(1) For the purposes of this Part, the question whether an unsatisfactory school attendance situation exists, or has existed, in relation to a child is to be ascertained in accordance with a legislative instrument made by the Minister for the purposes of this subsection.

(2) However, an unsatisfactory school attendance situation does not exist in relation to a child if the child is not required, under a law of a State or Territory, to attend school in a State or Territory.

(3) For the purposes of this Part, it is immaterial whether an unsatisfactory school attendance situation exists or has existed before or after the commencement of this section.

123UL  Formal warning—unsatisfactory school attendance situation

If:

(a) a person is not subject to the income management regime under section 123UE; and

(b) the person, or the person’s partner, has an eligible care child; and

(c) an unsatisfactory school attendance situation exists, or has existed, in relation to the eligible care child;

the Secretary may give the person a formal warning that the person, or the person’s partner, could become subject to the income management regime under section 123UE if an unsatisfactory school attendance situation exists in relation to the eligible care child.
Subdivision D—Voluntary income management agreements

123UM Voluntary income management agreement

(1) A person may enter into a written agreement with the Secretary under which the person agrees voluntarily to be subject to the income management regime throughout the period when the agreement is in force.

(2) An agreement under subsection (1) is to be known as a voluntary income management agreement.

(3) The Secretary must not enter into a voluntary income management agreement with a person (the first person) unless:
   (a) the first person is an eligible recipient of a category H welfare payment; and
   (b) the first person’s usual place of residence is within a declared voluntary income management area; and
   (c) if the first person has a payment nominee—the payment nominee is not an excluded payment nominee; and
   (d) if the first person is a payment nominee in relation to another person—a consent given by the other person is in force under section 123UP in relation to the first person.

(4) In deciding whether to enter into a voluntary income management agreement with a person, the Secretary must have regard to:
   (a) the extent to which it would be feasible for the Secretary to take action under Division 6 in relation to the person if the person were subject to the income management regime; and
   (b) such other matters (if any) as the Secretary considers relevant.

(5) The Secretary must not enter into a voluntary income management agreement with a person if:
   (a) the person is subject to the income management regime under section 123UB, 123UC, 123UD, 123UE or 123UF; or
   (b) during the 12-month period ending when the voluntary income management agreement is to come into force, there were 2 or more occasions on which previous voluntary income management agreements relating to the person were terminated under subsection 123UO(2).
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123UN  Duration of voluntary income management agreement

(1) A voluntary income management agreement in relation to a person (the *first person*):

(a) comes into force at the time specified in the agreement, so long as:

(i) at that time, the first person is an eligible recipient of a category H welfare payment; and

(ii) at that time, the first person’s usual place of residence is within a declared voluntary income management area; and

(iii) if, at that time, the first person has a payment nominee—the payment nominee is not an excluded payment nominee; and

(iv) if, at that time, the first person is a payment nominee in relation to another person—a consent given by the other person is in force under section 123UP in relation to the first person; and

(v) at that time, the first person is not subject to the income management regime under section 123UB, 123UC, 123UD, 123UE or 123UF; and

(b) remains in force for 12 months.

(2) Subsection (1) has effect subject to section 123UO.

(3) If a voluntary income management agreement (the *original agreement*) in relation to a person is in force, subsection (1) does not prevent the Secretary from entering into a new voluntary income management agreement with the person, so long as the new agreement is expressed to come into force immediately after the original agreement ceases to be in force.

(4) If a voluntary income management agreement in relation to a person has ceased to be in force, subsection (1) does not prevent the Secretary from entering into a new voluntary income management agreement with the person.
123UO Termination of voluntary income management agreement

Termination by request

(1) If a voluntary income management agreement relates to a person, the person may, by written notice given to the Secretary, request the Secretary to terminate the agreement.

(2) The Secretary must comply with a request under subsection (1) as soon as practicable after receiving the request.

Grounds of termination

(3) If:

(a) a voluntary income management agreement in relation to a person (the first person) is in force; and

(b) any of the following events occurs:

(i) the first person ceases to be an eligible recipient of a category H welfare payment;

(ii) the first person’s usual place of residence ceases to be within a declared voluntary income management area;

(iii) in a case where the first person has a payment nominee—the payment nominee becomes an excluded payment nominee;

(iv) in a case where the first person is a payment nominee in relation to another person—a consent given by the other person under section 123UP in relation to the first person ceases to be in force;

(v) the first person becomes subject to the income management regime under section 123UB, 123UC, 123UD, 123UE or 123UF;

(vi) the Secretary becomes satisfied that it is not feasible for the Secretary to take action under Division 6 in relation to the first person;

the Secretary must terminate the voluntary income management agreement as soon as practicable after the occurrence of the event.

Limit on new voluntary income management agreements

(4) If a voluntary income management agreement in relation to a person is terminated under this section, the Secretary must not
Section 123UP

enter into another voluntary income management agreement with the person within 60 days after the termination.

123UP Consent for payment nominee to enter voluntary income management agreement

(1) If a person has a payment nominee, the person may give the Secretary a written consent to the existence of a voluntary income management agreement that relates to the payment nominee.

(2) A consent given by a person under subsection (1) remains in force until the person, by written notice given to the Secretary, withdraws the consent.
Division 3—Establishment of the Income Management Special Account

123VA Establishment of the Income Management Special Account

(1) The Income Management Special Account is established by this section.

(2) The Account is a Special Account for the purposes of the Financial Management and Accountability Act 1997.

123VB Special Account not held on trust etc.

An amount standing to the credit of the Special Account:

(a) is not held on trust; and

(b) is special public money for the purposes of section 16 of the Financial Management and Accountability Act 1997.

123VC Bank account

Amounts standing to the credit of the Special Account may be kept in a single bank account.
Division 4—Income management accounts

Subdivision A—Income management accounts

123WA Income management accounts

_Income management accounts to be kept_

(1) Separate notional accounts are to be kept within the Special Account in the names of particular persons.

_Person’s income management account_

(2) An account kept in the name of a person is to be known as the person’s _income management account_.

Note: Section 123TC provides that _income management account_ means a notional account kept in accordance with this section.

123WB Opening of income management accounts

_Power_

(1) The Secretary may open an income management account in the name of a particular person.

(2) The Secretary may open the income management account even if the person is not subject to the income management regime.

_Duty_

(3) The Secretary must open an income management account in the name of a particular person if:

(a) the person does not already have an income management account; and

(b) the person is subject to the income management regime.
123WC Closing of income management accounts

The Secretary may close a person’s income management account if the balance of the income management account is nil, and:

(a) the person is not subject to the income management regime;

or

(b) the person has died.

123WD Income management accounts may have a nil balance

Nil balance

(1) A person’s income management account may have a nil balance.

Examples

(2) The following are examples of cases where an income management account might have a nil balance:

(a) no amount has been credited to the income management account;

(b) the balance of the income management account has been debited under section 123WJ;

(c) the balance of the income management account has been debited under section 123WL;

(d) the balance of the income management account has been debited under Division 6.

123WE One income management account per person

Only one income management account

(1) Only one income management account may be kept in respect of a particular person.

(2) A contravention of subsection (1) does not affect the validity of an income management account.

Amalgamation

(3) If the Secretary becomes aware that 2 or more income management accounts are being kept in respect of the same person, the Secretary must amalgamate the accounts into a single account.
Section 123WF

123WF  Credits to, and debits from, a person’s income management account

An amount must not be credited to, or debited from, a person’s income management account except as provided by this Part.

Subdivision B—Account statements

123WG  Internet and telephone access to account statements etc.

Scope

(1) This section applies if an income management account is kept in the name of a person.

Internet and telephone access to account statements etc.

(2) The Secretary may issue the person with a means of identification (for example, a personal identification number) that enables the person to do either or both of the following:
   (a) to access on the Internet electronic versions of account statements for the person’s income management account;
   (b) to be told the balance of the person’s income management account using an automated telephone answering system.

123WH  Person may request account statements

Scope

(1) This section applies if an income management account is kept in the name of a person.

Account statement may be requested

(2) The person may request the Secretary to give the person a written account statement for the income management account.

(3) The Secretary must comply with the request.

(4) However, the Secretary may refuse to comply with the request if the person has made a previous request at any time during the preceding period of 30 days.
123WI Account statements to be given

Scope

(1) This section applies if an income management account is kept in the name of a person.

Account statement to be given

(2) At least once each quarter, the Secretary must give the person a written account statement for the income management account.

(3) However, the Secretary is not required to give the person a written account statement relating to a particular period unless:
   (a) an amount has been credited to, or debited from, the income management account during that period; or
   (b) the income management account has a credit balance as at the end of that period.

Subdivision C—Miscellaneous

123WJ Payment of credit balances of income management accounts—person ceases to be subject to the income management regime

Scope

(1) This section applies if:
   (a) at a particular time, a person (the first person) ceases to be subject to the income management regime; and
   (b) the first person’s income management account has a credit balance at that time; and
   (c) if, immediately before the first person ceased to be subject to the income management regime, the first person was subject to the income management regime under section 123UB, 123UC, 123UD, 123UE or 123UF—the Secretary is satisfied that the first person is not likely to become subject to the income management regime within 60 days after the cessation; and
   (d) if, immediately before the first person ceased to be subject to the income management regime, the first person was subject to the income management regime under section 123UFA—
the Secretary is satisfied that the first person is not likely to become subject to the income management regime under section 123UB, 123UC, 123UD, 123UE or 123UF within 60 days after the cessation.

**Residual amount**

(2) For the purposes of this section, the *residual amount* is an amount equal to the credit balance of the first person’s income management account.

(3) The residual amount is payable to the first person in accordance with this section.

**Payment by instalments**

(4) The Secretary may determine that the whole or a part of the residual amount is to be paid to the first person by instalments. The instalments are to be paid on the days specified in a determination made by the Secretary.

(5) The days specified in the determination must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.

(6) If an instalment is paid under subsection (4):
   (a) the Special Account is debited by an amount equal to the amount of the instalment; and
   (b) the first person’s income management account is debited by an amount equal to the amount of the instalment.

**Lump sum payment**

(7) The Secretary may determine that the whole or a part of the residual amount is to be paid to the first person as a single lump sum on a day determined by the Secretary.

(8) The day specified in the determination must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.

(9) The Secretary must not make a determination under subsection (7) unless:
   (a) the lump sum is $200 or less; or
(b) the Secretary is satisfied that there are special circumstances that warrant the making of the determination; or
(c) immediately before the first person ceased to be subject to the income management regime, the first person was subject to the income management regime under section 123UFA.

(10) If a lump sum is paid under subsection (7):
(a) the Special Account is debited by an amount equal to the lump sum; and
(b) the first person’s income management account is debited by an amount equal to the lump sum.

Expense payment

(11) The Secretary may, on behalf of the Commonwealth:
(a) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount to a third person; or
(b) make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount to a fourth person;
so long as:
(c) the payment is made with the consent of the first person; and
(d) the amount paid by the Secretary does not exceed the residual amount.

(12) The payment under subsection (11) must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.

(13) If the Secretary makes a payment under subsection (11):
(a) the Special Account is debited by an amount equal to the amount paid under subsection (11); and
(b) the first person’s income management account is debited by an amount equal to the amount paid under subsection (11); and
(c) the Secretary is taken to have paid the first person so much of the residual amount as equals the amount paid under subsection (11).
Set-off

(14) If the first person owes an amount (the debt amount) to the Commonwealth, the Secretary may, with the consent of the first person, set off the whole or part of the residual amount against the whole or a part of the debt amount.

(15) The set-off under subsection (14) must occur within the 12-month period beginning when the person ceased to be subject to the income management regime.

(16) If the Secretary sets off an amount under subsection (14):
   (a) the Special Account is debited by an amount equal to the amount set off; and
   (b) the first person’s income management account is debited by an amount equal to the amount set off; and
   (c) the Secretary is taken to have paid the first person so much of the residual amount as equals the amount set off.

Tax consequences

(17) If a payment is made under subsection (4), (7) or (11), the payment does not have consequences under the income tax law for the first person.

(18) If the Secretary sets off an amount under subsection (14), the set-off does not have consequences under the income tax law for the first person.

123WK Payment into bank account etc. of credit balances of income management accounts—person ceases to be subject to the income management regime

Scope

(1) This section applies to an amount that is to be paid to a person as:
   (a) an instalment under subsection 123WJ(4); or
   (b) a lump sum under subsection 123WJ(7).

Payment into bank account etc.

(2) The amount is to be paid to the credit of a bank account kept by the person.
(3) The bank account may be kept by the person either alone or jointly or in common with another person.

(4) The Secretary may direct that the whole or a part of the amount be paid to the person in a different way from that provided for by subsection (2).

(5) If the Secretary gives a direction under subsection (4), the amount is to be paid in accordance with the direction.

123WL  Payment of credit balances of income management accounts—person dies

Scope

(1) This section applies if:
   (a) an income management account is kept in the name of a person; and
   (b) the person dies; and
   (c) at the time of the person’s death, the person’s income management account has a credit balance.

Residual amount

(2) For the purposes of this section, the residual amount is an amount equal to the credit balance of the person’s income management account.

Lump sum payment

(3) The residual amount is to be paid to:
   (a) the legal personal representative of the person; or
   (b) if:
      (i) the residual amount is $500 or less; and
      (ii) the Secretary has not been notified of the existence of a legal personal representative of the person; and
      (iii) the Secretary is satisfied that another person is carrying out, or will carry out, an appropriate activity in relation to the estate or affairs of the person;
      that other person;
   as a single lump sum on a day determined by the Secretary.
Section 123WM

(4) The day specified in the determination must occur within the 12-month period beginning on the day of the person’s death.

(5) If a lump sum is paid under subsection (3):
   (a) the Special Account is debited by an amount equal to the lump sum; and
   (b) the person’s income management account is debited by an amount equal to the lump sum.

Tax consequences

(6) If a payment is made under subsection (3), the payment does not have consequences under the income tax law for the person’s estate.

123WM Payment into bank account etc. of credit balances of income management accounts—person dies

Scope

(1) This section applies to an amount that is to be paid to a person under subsection 123WL(3).

Payment into bank account etc.

(2) The amount is to be paid to the credit of a bank account kept by the person.

(3) The bank account may be kept by the person either alone or jointly or in common with another person.

(4) The Secretary may direct that the whole or a part of the amount be paid to the person in a different way from that provided for by subsection (2).

(5) If the Secretary gives a direction under subsection (4), the amount is to be paid in accordance with the direction.
123WN  Crediting of amounts to income management accounts—Ministerial rules

The Minister and the Finance Minister may, by legislative instrument, make rules providing that an amount ascertained in accordance with the rules is to be credited to:
(a) the Special Account; and
(b) a person’s income management account;
in the circumstances specified in the rules.
Division 5—Deductions from welfare payments

Subdivision A—Relevant Northern Territory area

123XA  Deductions from category B welfare payments—instalments

Scope

(1) This section applies if:
   (a) a person is subject to the income management regime under subsection 123UB(1) or (3); and
   (b) an instalment of a category B welfare payment is payable to the person.

Deductions from category B welfare payments—instalments

(2) The following provisions have effect:
   (a) the Secretary must deduct from the instalment of the category B welfare payment the deductible portion of the instalment;
   (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
   (c) an amount equal to the deductible portion of the instalment is credited to the person’s income management account.

(3) For the purposes of subsection (2), the deductible portion of an instalment of a category B welfare payment is 50% of the net amount of the instalment (rounded down to the nearest cent).

123XB  Deductions from category B welfare payments—lump sums

Scope

(1) This section applies if:
   (a) a person is subject to the income management regime under subsection 123UB(1) or (3); and
   (b) a category B welfare payment is payable to the person otherwise than by instalments.
Deductions from category B welfare payments—lump sums

(2) The following provisions have effect:
   (a) the Secretary must deduct from the category B welfare payment the deductible portion of the payment;
   (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
   (c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

(3) For the purposes of subsection (2), the deductible portion of a category B welfare payment is 50% of the net amount of the payment (rounded down to the nearest cent).

123XC Deductions from category C welfare payments—instalments

Scope

(1) This section applies if:
   (a) a person is subject to the income management regime under subsection 123UB(1) or (3); and
   (b) an instalment of a category C welfare payment is payable to the person.

Deductions from category C welfare payments—instalments

(2) The following provisions have effect:
   (a) the Secretary must deduct from the instalment of the category C welfare payment the deductible portion of the instalment;
   (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
   (c) an amount equal to the deductible portion of the instalment is credited to the person’s income management account.

(3) For the purposes of subsection (2), the deductible portion of an instalment of a category C welfare payment is 100% of the net amount of the instalment (rounded down to the nearest cent).
123XD  Deductions from category C welfare payments—lump sums

Scope

(1) This section applies if:
   (a) a person is subject to the income management regime under subsection 123UB(1) or (3); and
   (b) a category C welfare payment is payable to the person otherwise than by instalments.

Deductions from category C welfare payments—lump sums

(2) The following provisions have effect:
   (a) the Secretary must deduct from the category C welfare payment the deductible portion of the payment;
   (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
   (c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

(3) For the purposes of subsection (2), the *deductible portion* of a category C welfare payment is 100% of the net amount of the payment (rounded down to the nearest cent).

123XE  Deductions from category F welfare payments—instalments

Scope

(1) This section applies if:
   (a) a person is subject to the income management regime under subsection 123UB(2); and
   (b) an instalment of a category F welfare payment is payable to the person.

Deductions from category F welfare payments—instalments

(2) The following provisions have effect:
   (a) the Secretary must deduct from the instalment of the category F welfare payment the deductible portion of the instalment;
   (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
(c) an amount equal to the deductible portion of the instalment is credited to the person’s income management account.

(3) For the purposes of subsection (2), the deductible portion of an instalment of a category F welfare payment is 50% of the net amount of the instalment (rounded down to the nearest cent).

123XF Deductions from category F welfare payments—lump sums

Scope

(1) This section applies if:

(a) a person is subject to the income management regime under subsection 123UB(2); and

(b) a category F welfare payment is payable to the person otherwise than by instalments.

Deductions from category F welfare payments—lump sums

(2) The following provisions have effect:

(a) the Secretary must deduct from the category F welfare payment the deductible portion of the payment;

(b) an amount equal to the deductible portion of the payment is credited to the Special Account;

(c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

(3) For the purposes of subsection (2), the deductible portion of a category F welfare payment is 50% of the net amount of the payment (rounded down to the nearest cent).

123XG Deductions from category G welfare payments—instalments

Scope

(1) This section applies if:

(a) a person is subject to the income management regime under subsection 123UB(2); and

(b) an instalment of a category G welfare payment is payable to the person.
Section 123XH

Deductions from category G welfare payments—instalments

(2) The following provisions have effect:
(a) the Secretary must deduct from the instalment of the category G welfare payment the deductible portion of the instalment;
(b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
(c) an amount equal to the deductible portion of the instalment is credited to the person’s income management account.

(3) For the purposes of subsection (2), the deductible portion of an instalment of a category G welfare payment is 100% of the net amount of the instalment (rounded down to the nearest cent).

123XH Deductions from category G welfare payments—lump sums

Scope

(1) This section applies if:
(a) a person is subject to the income management regime under subsection 123UB(2); and
(b) a category G welfare payment is payable to the person otherwise than by instalments.

Deductions from category G welfare payments—lump sums

(2) The following provisions have effect:
(a) the Secretary must deduct from the category G welfare payment the deductible portion of the payment;
(b) an amount equal to the deductible portion of the payment is credited to the Special Account;
(c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

(3) For the purposes of subsection (2), the deductible portion of a category G welfare payment is 100% of the net amount of the payment (rounded down to the nearest cent).
Subdivision B—Child protection

123XI Deductions from category I welfare payments—instalments

Scope

(1) This section applies if:

(a) a person is subject to the income management regime under section 123UC; and
(b) an instalment of a category I welfare payment is payable to the person.

Deductions from category I welfare payments—instalments

(2) The following provisions have effect:

(a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
(b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
(c) an amount equal to the deductible portion of the instalment is credited to the person’s income management account.

Deductible portion

(3) For the purposes of subsection (2), the deductible portion of an instalment of a category I welfare payment is:

(a) 100%; or
(b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;

of the net amount of the instalment (rounded down to the nearest cent).

(4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

123XJ Deductions from category I welfare payments—lump sums

Scope

(1) This section applies if:
Part 3B  Income management regime  
Division 5  Deductions from welfare payments

Section 123XK

(a) a person is subject to the income management regime under section 123UC; and  
(b) a category I welfare payment is payable to the person otherwise than by instalments.  

Deductions from category I welfare payments—lump sums

(2) The following provisions have effect:
(a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
(b) an amount equal to the deductible portion of the payment is credited to the Special Account;
(c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

Deductible portion

(3) For the purposes of subsection (2), the deductible portion of a category I welfare payment is:
(a) 100%; or
(b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;

of the net amount of the payment (rounded down to the nearest cent).

(4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

Subdivision C—School enrolment and attendance

123XK  Deductions from category I welfare payments—instalments

Scope

(1) This section applies if:
(a) a person is subject to the income management regime under section 123UD or 123UE; and
(b) an instalment of a category I welfare payment is payable to the person.
Deductions from category I welfare payments—instalments

(2) The following provisions have effect:
   (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
   (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
   (c) an amount equal to the deductible portion of the instalment is credited to the person’s income management account.

Deductible portion

(3) For the purposes of subsection (2), the deductible portion of an instalment of a category I welfare payment is:
   (a) 100%; or
   (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;
   of the net amount of the instalment (rounded down to the nearest cent).

(4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

123XL Deductions from category I welfare payments—lump sums

Scope

(1) This section applies if:
   (a) a person is subject to the income management regime under section 123UD or 123UE; and
   (b) a category I welfare payment is payable to the person otherwise than by instalments.

Deductions from category I welfare payments—lump sums

(2) The following provisions have effect:
   (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
   (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
Section 123XM

(c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

Deductible portion

(3) For the purposes of subsection (2), the deductible portion of a category I welfare payment is:

(a) 100%; or

(b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;

of the net amount of the payment (rounded down to the nearest cent).

(4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

Subdivision D—Queensland Commission

123XM Deductions from category Q welfare payments—instalments

Scope

(1) This section applies if:

(a) a person is subject to the income management regime under subsection 123UF(1) or (3); and

(b) an instalment of a category Q welfare payment is payable to the person.

Deductions from category Q welfare payments—instalments

(2) The following provisions have effect:

(a) the Secretary must deduct from the instalment of the category Q welfare payment the deductible portion of the instalment;

(b) an amount equal to the deductible portion of the instalment is credited to the Special Account;

(c) an amount equal to the deductible portion of the instalment is credited to the person’s income management account.
**Deductible portion**

(3) For the purposes of subsection (2), the *deductible portion* of an instalment of a category Q welfare payment is the percentage of the net amount of the instalment determined by the Secretary in relation to the instalment (rounded down to the nearest cent).

(4) The percentage specified in the determination must not exceed 100%.

**123XN  Deductions from category Q welfare payments—lump sums**

**Scope**

(1) This section applies if:

(a) a person is subject to the income management regime under subsection 123UF(1) or (3); and  
(b) a category Q welfare payment is payable to the person otherwise than by instalments.

**Deductions from category Q welfare payments—lump sums**

(2) The following provisions have effect:

(a) the Secretary must deduct from the category Q welfare payment the deductible portion of the payment;

(b) an amount equal to the deductible portion of the payment is credited to the Special Account;

(c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

**Deductible portion**

(3) For the purposes of subsection (2), the *deductible portion* of a category Q welfare payment is the percentage of the net amount of the payment determined by the Secretary in relation to the payment (rounded down to the nearest cent).

(4) The percentage specified in the determination must not exceed 100%.
Part 3B Income management regime
Division 5 Deductions from welfare payments

Section 123XO

123XO Deductions from category S welfare payments—instalments

Scope

(1) This section applies if:
(a) a person is subject to the income management regime under subsection 123UF(2); and
(b) an instalment of a category S welfare payment is payable to the person.

Deductions from category S welfare payments—instalments

(2) The following provisions have effect:
(a) the Secretary must deduct from the instalment of the category S welfare payment the deductible portion of the instalment;
(b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
(c) an amount equal to the deductible portion of the instalment is credited to the person’s income management account.

Deductible portion

(3) For the purposes of subsection (2), the deductible portion of an instalment of a category S welfare payment is the percentage of the net amount of the instalment determined by the Secretary in relation to the instalment (rounded down to the nearest cent).

(4) The percentage specified in the determination must not exceed 100%.

123XP Deductions from category S welfare payments—lump sums

Scope

(1) This section applies if:
(a) a person is subject to the income management regime under subsection 123UF(2); and
(b) a category S welfare payment is payable to the person otherwise than by instalments.

Social Security (Administration) Act 1999
Deductions from category S welfare payments—lump sums

(2) The following provisions have effect:
   (a) the Secretary must deduct from the category S welfare payment the deductible portion of the payment;
   (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
   (c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

Deductible portion

(3) For the purposes of subsection (2), the deductible portion of a category S welfare payment is the percentage of the net amount of the payment determined by the Secretary in relation to the payment (rounded down to the nearest cent).

(4) The percentage specified in the determination must not exceed 100%.

Subdivision DA—Voluntary income management agreements

123XPA Deductions from category I welfare payments—instalments

Scope

(1) This section applies if:
   (a) a person is subject to the income management regime under section 123UFA; and
   (b) an instalment of a category I welfare payment is payable to the person.

Deductions from category I welfare payments—instalments

(2) The following provisions have effect:
   (a) the Secretary must deduct from the instalment of the category I welfare payment the deductible portion of the instalment;
   (b) an amount equal to the deductible portion of the instalment is credited to the Special Account;
   (c) an amount equal to the deductible portion of the instalment is credited to the person’s income management account.
Part 3B  Income management regime
Division 5  Deductions from welfare payments

Section 123XPB

Deductible portion

(3) For the purposes of subsection (2), the deductible portion of an instalment of a category I welfare payment is:
   (a) 70%; or
   (b) if another percentage (not exceeding 100%) is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the other percentage;
   of the net amount of the instalment (rounded down to the nearest cent).

(4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

123XPB  Deductions from category I welfare payments—lump sums

Scope

(1) This section applies if:
   (a) a person is subject to the income management regime under section 123UFA; and
   (b) a category I welfare payment is payable to the person otherwise than by instalments.

Deductions from category I welfare payments—lump sums

(2) The following provisions have effect:
   (a) the Secretary must deduct from the category I welfare payment the deductible portion of the payment;
   (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
   (c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

Deductible portion

(3) For the purposes of subsection (2), the deductible portion of a category I welfare payment is:
   (a) 100%; or
   (b) if a lower percentage is specified in a legislative instrument made by the Minister for the purposes of this paragraph—the lower percentage;
of the net amount of the payment (rounded down to the nearest cent).

(4) An instrument under paragraph (3)(b) may specify different percentages in relation to different category I welfare payments.

Subdivision DB—Economic security strategy payments and household stimulus payments

123XPC Deductions from economic security strategy payments

Scope

(1) This section applies if:

(a) a person is subject to the income management regime; and
(b) an economic security strategy payment is payable to the person.

(2) However, this section does not apply in relation to an economic security strategy payment under Part VIIG of the Veterans’ Entitlements Act if the person is subject to the income management regime because of section 123UB or 123UF.

Deductions from economic security strategy payments

(3) The following provisions have effect:

(a) the Secretary must deduct from the economic security strategy payment the deductible portion of the payment;
(b) an amount equal to the deductible portion of the payment is credited to the Special Account;
(c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

(4) For the purposes of subsection (3), the deductible portion of an economic security strategy payment is 100% of the amount of the payment.

123XPD Deductions from household stimulus payments

Scope

(1) This section applies if:
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(a) a person is subject to the income management regime; and
(b) a household stimulus payment is payable to the person.

Deductions from household stimulus payments

(2) The following provisions have effect:
   (a) the Secretary must deduct from the household stimulus payment the deductible portion of the payment;
   (b) an amount equal to the deductible portion of the payment is credited to the Special Account;
   (c) an amount equal to the deductible portion of the payment is credited to the person’s income management account.

(3) For the purposes of subsection (2), the deductible portion of a household stimulus payment is 100% of the amount of the payment.

Subdivision E—Deducted amount taken to have been paid

123XQ  Deducted amount taken to have been paid

Scope

(1) This section applies if an amount is deducted under this Division from an instalment or payment that is payable to a person.

Deducted amount taken to have been paid

(2) The deducted amount is taken, for the purposes of:
   (a) the income tax law; and
   (b) this Act (other than this Part); and
   (c) the 1991 Act; and
   (d) the Family Assistance Act; and
   (e) the Family Assistance Administration Act; and
   (f) the Student Assistance Act 1973; and
   (g) the Veterans’ Entitlements Act; and
   (h) the Child Support (Assessment) Act 1989;
   to have been paid to the person at whichever of the following times is applicable:
   (i) if the deducted amount was equal to 100% of the net amount of the instalment or payment—when the instalment or
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payment would have been paid if the deduction had not been made;
(j) otherwise—when the instalment or payment was paid.
Division 6—Debits from income management accounts

Subdivision A—General

123YA  Priority needs—application of income management account

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) the first person’s income management account has a credit balance.

Priority needs

(2) If the Secretary is aware of any unmet priority needs of:
    (a) the first person; or
    (b) the first person’s partner (if any); or
    (c) the first person’s children (if any); or
    (d) any other dependants of the first person;
the Secretary must, within a reasonable period after becoming aware of those priority needs, take appropriate action under Subdivision B directed towards meeting those priority needs.

(3) If:
    (a) the Secretary is satisfied that the current or future balance of the first person’s income management account exceeds what is reasonably required to meet the current, and reasonably foreseeable, priority needs of:
        (i) the first person; and
        (ii) the first person’s partner (if any); and
        (iii) the first person’s children (if any); and
        (iv) any other dependants of the first person; and
    (b) the first person requests the Secretary to take action under this Division that:
        (i) is not directed towards meeting the current, and reasonably foreseeable, priority needs mentioned in paragraph (a); and
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(iii) would result in the first person’s income management account being debited by a particular amount; and

(c) the Secretary is satisfied that the debit would not result in the current or future balance of the first person’s income management account falling below what is reasonably required to meet the current, and reasonably foreseeable, priority needs mentioned in paragraph (a);

the Secretary must not unreasonably refuse the request.

123YB Secretary must have regard to the best interests of children

Scope

(1) This section applies if:

(a) a person (the first person) is subject to the income management regime; and

(b) the first person’s income management account has a credit balance; and

(c) the person has one or more children.

Secretary must have regard to the best interests of children

(2) In deciding whether to take action under this Division that results in an amount being debited from the first person’s income management account, the Secretary must have regard to:

(a) the best interests of the first person’s children; and

(b) such other matters (if any) as the Secretary considers relevant.

Subdivision B—Restricted debits

123YC Vouchers—general

Scope

(1) This section applies if:

(a) a person (the first person) is subject to the income management regime; and

(b) the first person’s income management account has a credit balance; and

(c) the first person does not have a designated nominee.
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*Vouchers*

(2) The Secretary may, on behalf of the Commonwealth:

(a) give the first person a voucher that:

(i) has a face value of a particular amount; and
(ii) enables the first person to acquire goods or services; or

(b) with the consent of the first person, give a third person a voucher that:

(i) has a face value of a particular amount; and
(ii) enables the third person to acquire goods or services;

so long as the face value of the voucher does not exceed the credit balance of the first person’s income management account.

(3) A voucher may be for limited goods or services.

*Special Account to be debited*

(4) If the first person or a third person is given a voucher under subsection (2), the Special Account is debited by an amount equal to the face value of the voucher.

*First person’s income management account to be debited*

(5) If the first person or a third person is given a voucher under subsection (2), the first person’s income management account is debited by an amount equal to the face value of the voucher.

*Criteria*

(6) The Secretary must not give the first person or a third person a voucher under subsection (2) if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

*Tax consequences*

(7) If the first person or a third person is given a voucher under subsection (2), the giving of the voucher does not have any consequences under the income tax law for the first person or the third person, as the case may be.
123YD  Vouchers—designated nominee

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) the first person’s income management account has a credit balance; and
   (c) the first person has a designated nominee.

Vouchers

(2) The Secretary may, on behalf of the Commonwealth:
   (a) give the designated nominee a voucher that:
      (i) has a face value of a particular amount; and
      (ii) enables the designated nominee to acquire goods or services; or
   (b) with the consent of the designated nominee, give a third person a voucher that:
      (i) has a face value of a particular amount; and
      (ii) enables the third person to acquire goods or services; so long as the face value of the voucher does not exceed the credit balance of the first person’s income management account.

(3) A voucher may be for limited goods or services.

Special Account to be debited

(4) If the designated nominee or a third person is given a voucher under subsection (2), the Special Account is debited by an amount equal to the face value of the voucher.

First person’s income management account to be debited

(5) If the designated nominee or a third person is given a voucher under subsection (2), the first person’s income management account is debited by an amount equal to the face value of the voucher.
Criteria
(6) The Secretary must not give the designated nominee or a third person a voucher under subsection (2) if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

Tax consequences
(7) If the designated nominee or a third person is given a voucher under subsection (2), the giving of the voucher does not have any consequences under the income tax law for the designated nominee, the first person or the third person.

123YE Stored value cards—general

Scope
(1) This section applies if:
(a) a person (the first person) is subject to the income management regime; and
(b) the first person’s income management account has a credit balance; and
(c) the first person does not have a designated nominee.

Stored value cards
(2) The Secretary may, on behalf of the Commonwealth:
(a) give the first person a stored value card that enables the first person to acquire goods or services, so long as no part of the monetary value stored on the card may be withdrawn in cash; or
(b) with the consent of the first person, give a third person a stored value card that enables the third person to acquire goods or services, so long as no part of the monetary value stored on the card may be withdrawn in cash; or
(c) increase the monetary value stored on a stored value card held by the first person, so long as:
   (i) no part of the monetary value stored on the card may be withdrawn in cash; and
   (ii) the stored value card enables the first person to acquire goods or services; or
(d) with the consent of the first person, increase the monetary value stored on a stored value card held by a third person, so long as:
   (i) no part of the monetary value stored on the card may be withdrawn in cash; and
   (ii) the stored value card enables the third person to acquire goods or services;
so long as:
   (e) if paragraph (a) or (b) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account; or
   (f) if paragraph (c) or (d) applies—the increase in monetary value does not exceed the credit balance of the first person’s income management account.

(3) A stored value card may be for limited goods or services.

Special Account to be debited

(4) If, under subsection (2), the Secretary gives the first person or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

(5) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the first person or a third person, the Special Account is debited by an amount equal to the increase in the monetary value.

First person’s income management account to be debited

(6) If, under subsection (2), the Secretary gives the first person or a third person a stored value card, the first person’s income management account is debited by an amount equal to the monetary value stored on the card.

(7) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the first person or a third person, the first person’s income management account is debited by an amount equal to the increase in the monetary value.
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Criteria

(8) The Secretary must not, under subsection (2):
(a) give the first person or a third person a stored value card; or
(b) increase the monetary value stored on a stored value card;
if the Secretary is satisfied that the relevant goods or services are
excluded goods or excluded services.

Tax consequences

(9) If, under subsection (2), the Secretary gives the first person or a
third person a stored value card, the giving of the card does not
have consequences under the income tax law for the first person or
the third person, as the case may be.

(10) If, under subsection (2), the Secretary increases the monetary value
stored on a stored value card held by the first person or a third
person, the increase does not have consequences under the income
tax law for the first person or the third person, as the case may be.

123YF Stored value cards—designated nominee

Scope

(1) This section applies if:
(a) a person (the first person) is subject to the income
management regime; and
(b) the first person’s income management account has a credit
balance; and
(c) the first person has a designated nominee.

Stored value cards

(2) The Secretary may, on behalf of the Commonwealth:
(a) give the designated nominee a stored value card that enables
the designated nominee to acquire goods or services, so long
as no part of the monetary value stored on the card may be
withdrawn in cash; or
(b) with the consent of the designated nominee, give a third
person a stored value card that enables the third person to
acquire goods or services, so long as no part of the monetary
value stored on the card may be withdrawn in cash; or
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(c) increase the monetary value stored on a stored value card held by the designated nominee, so long as:
   (i) no part of the monetary value stored on the card may be withdrawn in cash; and
   (ii) the stored value card enables the designated nominee to acquire goods or services; or

(d) with the consent of the designated nominee, increase the monetary value stored on a stored value card held by a third person, so long as:
   (i) no part of the monetary value stored on the card may be withdrawn in cash; and
   (ii) the stored value card enables the third person to acquire goods or services;

so long as:

(e) if paragraph (a) or (b) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account; or

(f) if paragraph (c) or (d) applies—the increase in the monetary value does not exceed the credit balance of the first person’s income management account.

(3) A stored value card may be for limited goods or services.

Special Account to be debited

(4) If, under subsection (2), the Secretary gives the designated nominee or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

(5) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the designated nominee or a third person, the Special Account is debited by an amount equal to the increase in the monetary value.

First person’s income management account to be debited

(6) If, under subsection (2), the Secretary gives the designated nominee or a third person a stored value card, the first person’s income management account is debited by an amount equal to the monetary value stored on the card.
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(7) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the designated nominee or a third person, the first person’s income management account is debited by an amount equal to the increase in the monetary value.

Criteria

(8) The Secretary must not, under subsection (2):

(a) give the designated nominee or a third person a stored value card; or

(b) increase the monetary value stored on a stored value card;

if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

Tax consequences

(9) If, under subsection (2), the Secretary gives the designated nominee or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the designated nominee, the first person or the third person.

(10) If, under subsection (2), the Secretary increases the monetary value stored on a stored value card held by the designated nominee or a third person, the increase does not have consequences under the income tax law for the designated nominee, the first person or the third person.

123YG Expense payment—general

Scope

(1) This section applies if:

(a) a person (the first person) is subject to the income management regime; and

(b) the first person’s income management account has a credit balance; and

(c) the first person does not have a designated nominee.
Expense payment

(2) The Secretary may, on behalf of the Commonwealth:

(a) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount to a third person in respect of expenditure incurred by the first person in relation to goods or services; or

(b) with the consent of the first person, make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount to a fourth person in respect of expenditure incurred by the third person in relation to goods or services; or

(c) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount by way of rates or land tax; or

(d) with the consent of the first person, make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount by way of rates or land tax; so long as the amount paid does not exceed the credit balance of the first person’s income management account.

Special Account to be debited

(3) If the Secretary makes a payment under subsection (2), the Special Account is debited by an amount equal to the amount paid.

First person’s income management account to be debited

(4) If the Secretary makes a payment under subsection (2), the first person’s income management account is debited by an amount equal to the amount paid.

Criteria

(5) The Secretary must not make a payment under paragraph (2)(a) or (b) if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

Tax consequences

(6) If the Secretary makes a payment under subsection (2), the payment does not have consequences under the income tax law for the first person.
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123YH  Expense payment—designated nominee

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) the first person’s income management account has a credit balance; and
   (c) the first person has a designated nominee.

Expense payment

(2) The Secretary may, on behalf of the Commonwealth:
   (a) make a payment in discharge, in whole or in part, of an obligation of the designated nominee to pay an amount to a third person in respect of expenditure incurred by the designated nominee in relation to goods or services; or
   (b) with the consent of the designated nominee, make a payment in discharge, in whole or in part, of an obligation of a third person to pay an amount to a fourth person in respect of expenditure incurred by the third person in relation to goods or services; or
   (c) make a payment in discharge, in whole or in part, of an obligation of the first person to pay an amount to a third person in respect of expenditure incurred by the first person in relation to goods or services;

so long as the amount paid does not exceed the credit balance of the first person’s income management account.

Special Account to be debited

(3) If the Secretary makes a payment under subsection (2), the Special Account is debited by an amount equal to the amount paid.

First person’s income management account to be debited

(4) If the Secretary makes a payment under subsection (2), the first person’s income management account is debited by an amount equal to the amount paid.
Criteria

(5) The Secretary must not make a payment under subsection (2) if the Secretary is satisfied that the relevant goods or services are excluded goods or excluded services.

Tax consequences

(6) If the Secretary makes a payment under subsection (2), the payment does not have consequences under the income tax law for the designated nominee or the first person.

123YI Crediting of account—general

Scope

(1) This section applies if:

(a) a person (the first person) is subject to the income management regime; and
(b) the first person’s income management account has a credit balance; and
(c) the first person does not have a designated nominee.

Crediting of accounts

(2) The Secretary may, on behalf of the Commonwealth:

(a) pay an amount to a third person on condition that the third person will:

(i) credit the amount to an account held by the first person with the third person; and
(ii) not allow the first person to debit the account except for the purposes of acquiring goods or services; and
(iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the first person for the purposes of the acquisition of goods or services; or

(b) with the consent of the first person, pay an amount to a third person on condition that the third person will:

(i) credit the amount to an account held by a fourth person with the third person; and
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(ii) not allow the fourth person to debit the account except for the purposes of acquiring goods or services; and
(iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the fourth person for the purposes of the acquisition of goods or services; so long as the amount paid by the Secretary does not exceed the credit balance of the first person’s income management account.

(3) The goods or services referred to in paragraph (2)(a) or (b) may be limited to such goods or services as are determined by the Secretary.

Special Account to be debited

(4) If the Secretary pays an amount to a third person under subsection (2), the Special Account is debited by an amount equal to the amount paid.

First person’s income management account to be debited

(5) If the Secretary pays an amount to a third person under subsection (2), the first person’s income management account is debited by an amount equal to the amount paid.

Criteria

(6) The Secretary must not, under subsection (2), pay an amount to a third person if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

Tax consequences

(7) If the Secretary pays an amount to a third person under subsection (2), the payment does not have consequences under the income tax law for the first person.

123YJ  Crediting of account—designated nominee

Scope

(1) This section applies if:
(a) a person (the first person) is subject to the income management regime; and
(b) the first person’s income management account has a credit balance; and
(c) the first person has a designated nominee.

Credit of accounts

(2) The Secretary may, on behalf of the Commonwealth:
(a) pay an amount to a third person on condition that the third person will:
   (i) credit the amount to an account held by the designated nominee with the third person; and
   (ii) not allow the designated nominee to debit the account except for the purposes of acquiring goods or services; and
   (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the designated nominee for the purposes of the acquisition of goods or services; or
(b) with the consent of the designated nominee, pay an amount to a third person on condition that the third person will:
   (i) credit the amount to an account held by a fourth person with the third person; and
   (ii) not allow the fourth person to debit the account except for the purposes of acquiring goods or services; and
   (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the fourth person for the purposes of the acquisition of goods or services; or
(c) pay an amount to a third person on condition that the third person will:
   (i) credit the amount to an account held by the first person with the third person; and
   (ii) not allow the first person to debit the account except for the purposes of acquiring goods or services; and
   (iii) if required to do so under section 123ZH, repay to the Commonwealth so much of the amount paid by the Secretary as has not been applied by the designated nominee for the purposes of the acquisition of goods or services; or

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Secretary as has not been applied by the first person for the purposes of the acquisition of goods or services; so long as the amount paid by the Secretary does not exceed the credit balance of the first person’s income management account.

(3) The goods or services referred to in paragraph (2)(a), (b) or (c) may be limited to such goods or services as are determined by the Secretary.

Special Account to be debited

(4) If the Secretary pays an amount to a third person under subsection (2), the Special Account is debited by an amount equal to the amount paid.

First person’s income management account to be debited

(5) If the Secretary pays an amount to a third person under subsection (2), the first person’s income management account is debited by an amount equal to the amount paid.

Criteria

(6) The Secretary must not, under subsection (2), pay an amount to a third person if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

Tax consequences

(7) If the Secretary pays an amount to a third person under subsection (2), the payment does not have consequences under the income tax law for the designated nominee or the first person.

123YK  Transfers to accounts—general

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) the first person’s income management account has a credit balance; and
   (c) the first person does not have a designated nominee.
Transfers

(2) The Secretary may, on behalf of the Commonwealth:
   (a) pay an amount to the credit of an account held by the first person with:
      (i) a bank; or
      (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph;
      so long as money standing to the credit of the account cannot be debited except for the purposes of:
      (iii) acquiring goods or services; or
      (iv) paying account-related fees or charges; or
   (b) with the consent of the first person, pay an amount to the credit of an account held by a third person with:
      (i) a bank; or
      (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph;
      so long as money standing to the credit of the account cannot be debited except for the purposes of:
      (iii) acquiring goods or services; or
      (iv) paying account-related fees or charges;
      so long as the amount paid by the Secretary does not exceed the credit balance of the first person’s income management account.

(3) The goods or services referred to in paragraph (2)(a) or (b) may be limited to such goods or services as are determined by the Secretary.

Special Account to be debited

(4) If, under subsection (2), the Secretary pays an amount to the credit of an account, the Special Account is debited by an amount equal to the amount paid.

First person’s income management account to be debited

(5) If, under subsection (2), the Secretary pays an amount to the credit of an account, the first person’s income management account is debited by an amount equal to the amount paid.
Criteria

(6) The Secretary must not, under subsection (2), pay an amount to the credit of an account if the Secretary is satisfied that any of relevant goods or services are excluded goods or excluded services.

Tax consequences

(7) If, under subsection (2), the Secretary pays an amount to the credit of an account, the payment does not have any consequences under the income tax law for the first person.

123YL Transfers to accounts—designated nominee

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) the first person’s income management account has a credit balance; and
   (c) the first person has a designated nominee.

Transfers

(2) The Secretary may, on behalf of the Commonwealth:
   (a) pay an amount to the credit of an account held by the designated nominee with:
      (i) a bank; or
      (ii) a person specified in a legislative instrument made by the Secretary for the purposes of this subparagraph; so long as money standing to the credit of the account cannot be debited except for the purposes of:
      (iii) acquiring goods or services; or
      (iv) paying account-related fees or charges; or
   (b) with the consent of the designated nominee, pay an amount to the credit of an account held by a third person with:
      (i) a bank; or
      (ii) a person specified in a legislative instrument made by the Minister for the purposes of this subparagraph;
so long as money standing to the credit of the account cannot be debited except for the purposes of:
(iii) acquiring goods or services; or
(iv) paying account-related fees or charges;
so long as the amount paid by the Secretary does not exceed the credit balance of the first person’s income management account.

(3) The goods or services referred to in paragraph (2)(a) or (b) may be limited to such goods or services as are determined by the Secretary.

Special Account to be debited

(4) If, under subsection (2), the Secretary pays an amount to the credit of an account, the Special Account is debited by an amount equal to the amount paid.

First person’s income management account to be debited

(5) If, under subsection (2), the Secretary pays an amount to the credit of an account, the first person’s income management account is debited by an amount equal to the amount paid.

Criteria

(6) The Secretary must not, under subsection (2), pay an amount to the credit of an account if the Secretary is satisfied that any of the relevant goods or services are excluded goods or excluded services.

Tax consequences

(7) If, under subsection (2), the Secretary pays an amount to the credit of an account, the payment does not have consequences under the income tax law for the designated nominee or the first person.

123YM Restricted direct payment—general

Scope

(1) This section applies if:
(a) a person (the first person) is subject to the income management regime; and
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(b) the first person’s income management account has a credit balance; and
(c) the first person does not have a designated nominee.

Direct payment

(2) The Secretary may, on behalf of the Commonwealth:
(a) pay an amount to the credit of a bank account held by the first person (whether alone or jointly or in common with another person); or
(b) with the consent of the first person, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or
(c) if:
   (i) the first person is subject to the income management regime under section 123UF; and
   (ii) under a law of Queensland, the Queensland Commission gave the Secretary a written notice stating that a specified bank account held by a third person is a nominated third party account in relation to the first person; and
   (iii) the notice has not been withdrawn or revoked;
   pay the amount to the credit of that bank account; or
(d) pay an amount to the first person by way of a cheque; or
(e) with the consent of the first person, pay an amount to a third person by way of a cheque; or
(f) pay an amount to the first person by way of cash; or
(g) with the consent of the first person, pay an amount to a third person by way of cash; or
(h) give the first person a stored value card that enables the first person to withdraw cash; or
(i) with the consent of the first person, give a third person a stored value card that enables the third person to withdraw cash;
so long as:
(j) if paragraph (a), (b), (c), (d), (e), (f) or (g) applies—the amount paid does not exceed the credit balance of the first person’s income management account; or
(k) if paragraph (h) or (i) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account.

Special Account to be debited

(3) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the Special Account is debited by an amount equal to the amount paid.

(4) If, under paragraph (2)(h) or (i), the Secretary gives the first person or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

First person’s income management account to be debited

(5) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the first person’s income management account is debited by an amount equal to the amount paid.

(6) If, under paragraph (2)(h) or (i), the Secretary gives the first person or a third person a stored value card, the first person’s income management account is debited by an amount equal to the monetary value stored on the card.

Criteria

(7) The Secretary must not pay an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g) if the Secretary has reasonable grounds to believe that the whole or a part of the amount paid will be used to acquire excluded goods or excluded services.

(8) The Secretary must not give the first person or a third person a stored value card under paragraph (2)(h) or (i) if the Secretary has reasonable grounds to believe that the whole or a part of the monetary value stored on the card will be used to acquire excluded goods or excluded services.

Tax consequences

(9) If the Secretary makes a payment under paragraph (2)(a), (d) or (f) the payment does not have consequences under the income tax law for the first person.
(10) If the Secretary makes a payment under paragraph (2)(b), (c), (e) or (g), the payment does not have consequences under the income tax law for the first person or the third person.

(11) If, under paragraph (2)(h) or (i), the Secretary gives the first person or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the first person or the third person, as the case may be.

123YN Restricted direct payment—designated nominee

Scope

(1) This section applies if:

(a) a person (the first person) is subject to the income management regime; and

(b) the first person’s income management account has a credit balance; and

(c) the first person has a designated nominee.

Direct payment

(2) The Secretary may, on behalf of the Commonwealth:

(a) pay an amount to the credit of a bank account held by the designated nominee (whether alone or jointly or in common with another person); or

(b) with the consent of the designated nominee, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or

(c) if:

(i) the first person is subject to the income management regime under section 123UF; and

(ii) under a law of Queensland, the Queensland Commission gave the Secretary a written notice stating that a specified bank account held by a third person is a nominated third party account in relation to the first person; and

(iii) the notice has not been withdrawn or revoked;

pay the amount to the credit of that bank account; or
(d) pay an amount to the designated nominee by way of a cheque; or
(e) with the consent of the designated nominee, pay an amount to a third person by way of a cheque; or
(f) pay an amount to the designated nominee by way of cash; or
(g) with the consent of the designated nominee, pay an amount to a third person by way of cash; or
(h) give the designated nominee a stored value card that enables the designated nominee to withdraw cash; or
(i) with the consent of the designated nominee, give a third person a stored value card that enables the third person to withdraw cash;

so long as:

(j) if paragraph (a), (b), (c), (d), (e), (f) or (g) applies—the amount paid does not exceed the credit balance of the first person’s income management account; or
(k) if paragraph (h) or (i) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account.

Special Account to be debited

(3) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the Special Account is debited by an amount equal to the amount paid.

(4) If, under paragraph (2)(h) or (i), the Secretary gives the designated nominee or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

First person’s income management account to be debited

(5) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g), the first person’s income management account is debited by an amount equal to the amount paid.

(6) If, under paragraph (2)(h) or (i), the Secretary gives the designated nominee or a third person a stored value card, the first person’s income management account is debited by an amount equal to the monetary value stored on the card.
Criteria

(7) The Secretary must not pay an amount under paragraph (2)(a), (b), (c), (d), (e), (f) or (g) if the Secretary has reasonable grounds to believe that the whole or a part of the amount paid will be used to acquire excluded goods or excluded services.

(8) The Secretary must not give the designated nominee a stored value card under paragraph (2)(h) or (i) if the Secretary has reasonable grounds to believe that the whole or a part of the monetary value stored on the card will be used to acquire excluded goods or excluded services.

Tax consequences

(9) If the Secretary makes a payment under paragraph (2)(a), (d) or (f), the payment does not have consequences under the income tax law for the designated nominee or the first person.

(10) If the Secretary makes a payment under paragraph (2)(b), (c), (e) or (g), the payment does not have consequences under the income tax law for the designated nominee, the first person or the third person.

(11) If, under paragraph (2)(h) or (i), the Secretary gives the designated nominee or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the designated nominee, the first person or the third person.

Subdivision C—Unrestricted debits

123YO Unrestricted direct payment—general

Scope

(1) This section applies if:

(a) a person (the first person) is subject to the income management regime; and
(b) the first person’s income management account has a credit balance; and
(c) the first person does not have a designated nominee.
Direct payment

(2) The Secretary may, on behalf of the Commonwealth:
   (a) pay an amount to the credit of a bank account held by the first person (whether alone or jointly or in common with another person); or
   (b) with the consent of the first person, pay an amount to the credit of a bank account held by a third person (whether alone or jointly or in common with another person); or
   (c) pay an amount to the first person by way of a cheque; or
   (d) with the consent of the first person, pay an amount to a third person by way of a cheque; or
   (e) pay an amount to the first person by way of cash; or
   (f) with the consent of the first person, pay an amount to a third person by way of cash; or
   (g) give the first person a stored value card that enables the first person to withdraw cash; or
   (h) with the consent of the first person, give a third person a stored value card that enables the third person to withdraw cash;
   so long as:
      (i) if paragraph (a), (b), (c), (d), (e) or (f) applies—the amount paid does not exceed the credit balance of the first person’s income management account; or
      (j) if paragraph (g) or (h) applies—the monetary value stored on the card does not exceed the credit balance of the first person’s income management account.

(3) In deciding whether to take action under subsection (2), the Secretary must have regard to:
   (a) such matters (if any) as are specified in a legislative instrument made by the Minister for the purposes of this paragraph; and
   (b) such other matters (if any) as the Secretary considers relevant.

Special Account to be debited

(4) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the Special Account is debited by an amount equal to the amount paid.
Part 3B  Income management regime
Division 6  Debits from income management accounts

Section 123YP

(5) If, under paragraph (2)(g) or (h), the Secretary gives the first person or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

First person’s income management account to be debited

(6) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the first person’s income management account is debited by an amount equal to the amount paid.

(7) If, under paragraph (2)(g) or (h), the Secretary gives the first person or a third person a stored value card, the first person’s income management account is debited by an amount equal to the monetary value stored on the card.

Tax consequences

(8) If the Secretary makes a payment under paragraph (2)(a), (c) or (e), the payment does not have consequences under the income tax law for the first person.

(9) If the Secretary makes a payment under paragraph (2)(b), (d) or (f), the payment does not have consequences under the income tax law for the first person or the third person.

(10) If, under paragraph (2)(g) or (h), the Secretary gives the first person or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the first person or the third person, as the case may be.

123YP  Unrestricted direct payment—designated nominee

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) the first person’s income management account has a credit balance; and
   (c) the first person has a designated nominee.
Direct payment

(2) The Secretary may, on behalf of the Commonwealth:
   (a) pay an amount to the credit of a bank account held by the
       designated nominee (whether alone or jointly or in common
       with another person); or
   (b) with the consent of the designated nominee, pay an amount
       to the credit of a bank account held by a third person
       (whether alone or jointly or in common with another person); or
   (c) pay an amount to the designated nominee by way of a
       cheque; or
   (d) with the consent of the designated nominee, pay an amount
       to a third person by way of a cheque; or
   (e) pay an amount to the designated nominee by way of cash; or
   (f) with the consent of the designated nominee, pay an amount
       to a third person by way of cash; or
   (g) give the designated nominee a stored value card that enables
       the designated nominee to withdraw cash; or
   (h) with the consent of the designated nominee, give a third
       person a stored value card that enables the third person to
       withdraw cash;
   so long as:
   (i) if paragraph (a), (b), (c), (d), (e) or (f) applies—the amount
       paid does not exceed the credit balance of the first person’s
       income management account; or
   (j) if paragraph (g) or (h) applies—the monetary value stored on
       the card does not exceed the credit balance of the first
       person’s income management account.

(3) In deciding whether to take action under subsection (2), the
Secretary must have regard to:
   (a) such matters (if any) as are specified in a legislative
       instrument made by the Minister for the purposes of this
       paragraph; and
   (b) such other matters (if any) as the Secretary considers
       relevant.
Part 3B  Income management regime
Division 6  Debits from income management accounts

Section 123YQ

Special Account to be debited

(4) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the Special Account is debited by an amount equal to the amount paid.

(5) If, under paragraph (2)(g) or (h), the Secretary gives the designated nominee or a third person a stored value card, the Special Account is debited by an amount equal to the monetary value stored on the card.

First person’s income management account to be debited

(6) If the Secretary pays an amount under paragraph (2)(a), (b), (c), (d), (e) or (f), the first person’s income management account is debited by an amount equal to the amount paid.

(7) If, under paragraph (2)(g) or (h), the Secretary gives the designated nominee or a third person a stored value card, the first person’s income management account is debited by an amount equal to the monetary value stored on the card.

Tax consequences

(8) If the Secretary makes a payment under paragraph (2)(a), (c) or (e), the payment does not have consequences under the income tax law for the designated nominee or the first person.

(9) If the Secretary makes a payment under paragraph (2)(b), (d) or (f), the payment does not have consequences under the income tax law for the designated nominee, the first person or the third person.

(10) If, under paragraph (2)(g) or (h), the Secretary gives the designated nominee or a third person a stored value card, the giving of the card does not have consequences under the income tax law for the designated nominee, the first person or the third person.

Subdivision D—Miscellaneous action

123YQ  Miscellaneous action

Scope

(1) This section applies if:
Section 123YQ

(a) a person (the *first person*) is subject to the income management regime; and

(b) the first person’s income management account has a credit balance.

*Miscellaneous action*

(2) The Secretary may, on behalf of the Commonwealth, take an action specified in a legislative instrument made by the Minister for the purposes of this subsection, so long as the non-administrative expenses paid by the Commonwealth in relation to the taking of the action do not exceed the credit balance of the first person’s income management account.

*Special Account to be debited*

(3) If the Secretary takes action under subsection (2), the Special Account is debited by an amount equal to the non-administrative expenses paid by the Commonwealth in relation to the taking of the action.

*First person’s income management account to be debited*

(4) If the Secretary takes action under subsection (2), the first person’s income management account is debited by an amount equal to the non-administrative expenses paid by the Commonwealth in relation to the taking of the action.

*Criteria*

(5) The Secretary must not take action under subsection (2) unless the Secretary is satisfied that the action:

(a) will benefit any or all of the following:

(i) the first person;

(ii) the first person’s partner (if any);

(iii) the first person’s children (if any);

(iv) any other dependants of the first person; and

(b) will not result in the acquisition of any excluded goods or excluded services.
Part 3B  Income management regime
Division 6  Debits from income management accounts

Section 123YQ

Tax consequences

(6) If the Secretary takes action under subsection (2), the taking of the action does not have consequences under the income tax law for:
   (a) the first person; or
   (b) any other person for whose benefit the action was taken.
Division 7—Information

123ZA Information-gathering powers—Northern Territory

In determining the scope of the power conferred on the Secretary by section 192 or 195 to require the giving of information, or the production of a document, it is to be assumed that each reference in this Part to a declared relevant Northern Territory area included a reference to a proposed declared relevant Northern Territory area.

123ZB Information-gathering powers—school enrolment and attendance

In determining the scope of the power conferred on the Secretary by section 192 or 195 to require the giving of information, or the production of a document, it is to be assumed that:

(a) each reference in this Part to a declared primary school area were a reference to a State or Territory; and

(b) each reference in this Part to a declared secondary school area were a reference to a State or Territory.

123ZC Child protection—notice of cancellation of category H welfare payments

Scope

(1) This section applies if:

(a) a person ceases to be subject to the income management regime under section 123UC because of the cancellation of a category H welfare payment of the person or the person’s partner; and

(b) immediately before the cancellation, the relevant notice referred to in paragraph 123UC(b) had not been withdrawn or revoked.

Notice

(2) As soon as practicable after the cancellation, the Secretary must give a child protection officer of the State or Territory written notice of the cancellation.
Part 3B  Income management regime
Division 7  Information

Section 123ZD

123ZD  Queensland Commission—notice of cancellation of welfare payments

Scope

(1) This section applies if:
   (a) a person ceases to be subject to the income management regime under section 123UF because of the cancellation of:
      (i) a category P welfare payment of the person or the person’s partner; or
      (ii) a category R welfare payment of the person or the person’s partner; and
   (b) immediately before the cancellation, the relevant notice referred to in paragraph 123UF(1)(b) or (2)(c) had not been withdrawn or revoked.

Notice

(2) As soon as practicable after the cancellation, the Secretary must give the Queensland Commission written notice of the cancellation.

123ZE  Disclosure of information to the Secretary—child protection

(1) Despite any law (whether written or unwritten) in force in a State or Territory, a child protection officer of a State or Territory may give the Secretary information about a person if:
   (a) either:
      (i) the person is subject to the income management regime under section 123UC; or
      (ii) the child protection officer is considering whether to give a notice of the kind referred to in paragraph 123UC(b) in relation to the person; and
   (b) the disclosed information is relevant to the operation of this Part.

(2) If information about a person is disclosed by a child protection officer of a State or Territory as mentioned in subsection (1), the Secretary may disclose information about the person to a child protection officer of the State or Territory for the purposes of the performance of the functions and duties, or the exercise of the...
powers, of the child protection officer in relation to the care, protection or welfare of children.

123ZEA Disclosure of information to the Secretary—Queensland Commission

(1) Despite any law (whether written or unwritten) in force in Queensland, the Queensland Commission may give the Secretary information about a person if:

(a) either:
   (i) the person is subject to the income management regime under section 123UF; or
   (ii) the Queensland Commission is considering whether to give a notice of the kind referred to in paragraph 123UF(1)(b) or (2)(c) in relation to the person; and

(b) the disclosed information is relevant to the operation of this Part.

(2) If information about a person is disclosed by the Queensland Commission as mentioned in subsection (1), the Secretary may disclose information about the person to the Queensland Commission for the purposes of the performance of the functions, or the exercise of the powers, of the Queensland Commission.

123ZEB Disclosure of information to the Secretary—school enrolment and attendance

(1) Despite any law (whether written or unwritten) in force in a State or Territory:

(a) a State or Territory; or

(b) a non-government school authority; or

(c) any other person who is responsible for the operation of one or more schools;

may give the Secretary information about the enrolment, or non-enrolment, of children at school.

(2) Despite any law (whether written or unwritten) in force in a State or Territory:

(a) a State or Territory; or

(b) a non-government school authority; or
Section 123ZEB

(c) any other person who is responsible for the operation of one or more schools;

may give the Secretary information about the attendance, or non-attendance, of children at school.
Division 8—Debt recovery etc.

123ZF  Person other than payee obtaining payment of a cheque

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) an amount is paid by cheque under section 123YM, 123YN, 123YO or 123YP; and
   (c) the payment resulted in the first person’s income management account being debited by an amount equal to the amount paid; and
   (d) a person (the second person) other than the payee of the cheque obtains possession of the cheque from the payee; and
   (e) the cheque is not endorsed by the payee to the second person; and
   (f) the second person obtains value for the cheque.

Recovery

(2) The amount of the cheque is a debt due by the second person to the Commonwealth.

Special Account to be credited

(3) If an amount is received by the Commonwealth under subsection (2), an amount equal to the amount received is credited to the Special Account.

First person’s income management account to be credited

(4) If an amount is received by the Commonwealth under subsection (2), the first person’s income management account is credited by an amount equal to the amount received.
123ZG Misuse of vouchers and stored value cards

Scope

(1) This section applies if:

(a) a person (the first person) is subject to the income management regime; and

(b) either:

(i) the Secretary has given the first person or another person a voucher under subsection 123YC(2) or 123YD(2); or

(ii) the Secretary has given the first person or another person a stored value card under subsection 123YE(2), 123YF(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and

(c) the Secretary’s action resulted in the first person’s income management account being debited; and

(d) a person (the unauthorised person) other than the person to whom the voucher or stored value card was given:

(i) obtains possession of the voucher or stored value card from the person to whom the voucher or stored value card was given; and

(ii) uses the voucher or stored value card to acquire goods or services or to obtain cash; and

(e) the unauthorised person does so without the consent of the person to whom the voucher or stored value card was given.

Recovery

(2) In the case of the use of a voucher, an amount equal to the face value of the voucher is a debt due by the unauthorised person to the Commonwealth.

(3) In the case of the use of a stored value card, an amount equal to the monetary value involved in the use is a debt due by the unauthorised person to the Commonwealth.

Special Account to be credited

(4) If an amount is received by the Commonwealth under subsection (2) or (3), an amount equal to the amount received is credited to the Special Account.
First person’s income management account to be credited

(5) If an amount is received by the Commonwealth under subsection (2) or (3), the first person’s income management account is credited by an amount equal to the amount received.

123ZH Repayment of money credited to an account

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) under section 123YI or 123YJ, the Secretary has paid an amount to a third person; and
   (c) the payment resulted in the first person’s income management account being debited by an amount equal to the amount paid.

Repayment

(2) The Secretary may, by written notice given to the third person, require the third person to repay to the Commonwealth so much of the amount paid as has not been applied by the relevant account holder for the purposes of the acquisition of goods or services.

Special Account to be credited

(3) If an amount is received by the Commonwealth in compliance with a notice under subsection (2), an amount equal to the amount received is credited to the Special Account.

First person’s income management account to be credited

(4) If an amount is received by the Commonwealth in compliance with a notice under subsection (2), the first person’s income management account is credited by an amount equal to the amount received.
123ZI Breach of condition relating to crediting of account

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) under section 123YI or 123YJ, the Secretary has paid an amount to a third person; and
   (c) the payment resulted in the first person’s income management account being debited by an amount equal to the amount paid; and
   (d) the third person has breached a condition of the payment.

Recovery

(2) So much of the amount paid as has not been applied by the relevant account holder for the purposes of the acquisition of goods or services is a debt due by the third person to the Commonwealth.

Special Account to be credited

(3) If an amount is received by the Commonwealth under subsection (2), an amount equal to the amount received is credited to the Special Account.

First person’s income management account to be credited

(4) If an amount is received by the Commonwealth under subsection (2), the first person’s income management account is credited by an amount equal to the amount received.

123ZJ Value of action taken under Division 6 exceeds credit balance of income management account

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) the Secretary purports to take action under Division 6; and
(c) apart from this section, the action is invalid because of a breach of whichever of the following requirements is applicable under Division 6:

(i) in the case of giving a voucher—the requirement that the face value of the voucher must not exceed the credit balance of the first person’s income management account;

(ii) in the case of giving a stored value card—the requirement that the monetary value stored on the card must not exceed the credit balance of the first person’s income management account;

(iii) in the case of increasing the monetary value stored on a stored value card—the requirement that the increase in the monetary value must not exceed the credit balance of the first person’s income management account;

(iv) in the case of paying an amount—the requirement that the amount paid must not exceed the credit balance of the first person’s income management account;

(v) in the case of taking an action under subsection 123YQ(2)—the requirement that the non-administrative expenses paid by the Commonwealth in relation to the taking of the action must not exceed the credit balance of the first person’s income management account; and

(d) the breach was the result of an administrative error or oversight.

Validation

(2) Both:

(a) the action taken by the Secretary; and

(b) the resulting debit from the first person’s income management account;

are as valid as they would have been if:

(c) the requirement mentioned in paragraph (1)(c) were not applicable to the action; and

(d) this Part had allowed the first person’s income management account to have a debit balance.
Section 123ZJ

Relevant excess

(3) For the purposes of this section, the relevant excess is:
   (a) in the case of giving a voucher—the amount by which the face value of the voucher exceeds the credit balance of the first person’s income management account; or
   (b) in the case of giving a stored value card—the amount by which the monetary value stored on the card exceeds the credit balance of the first person’s income management account; or
   (c) in the case of increasing the monetary value stored on a stored value card—the amount by which the increase in the monetary value exceeds the credit balance of the first person’s income management account; or
   (d) in the case of paying an amount—the amount by which the amount paid exceeds the credit balance of the first person’s income management account; or
   (e) in the case of taking an action under subsection 123YQ(2)—the amount by which the non-administrative expenses paid by the Commonwealth in relation to the taking of the action exceeds the credit balance of the first person’s income management account.

Special Account to be credited

(4) An amount equal to the relevant excess is credited to the Special Account.

Recovery

(5) An amount equal to the relevant excess is a debt due by the first person to the Commonwealth.

(6) If an amount is received by the Commonwealth under subsection (5):
   (a) an amount equal to the amount received is credited to the Special Account; and
   (b) an amount equal to the amount received is debited from the Special Account.
(7) If an amount is received by the Commonwealth under subsection (5), the first person’s income management account is credited by an amount equal to the amount received.
Division 9—Miscellaneous

123ZK Secretary must comply with certain directions given by the Queensland Commission

Deductible portion

(1) If:
   (a) a person is subject to the income management regime under section 123UF; and
   (b) under a law of Queensland, the Queensland Commission gives the Secretary a written direction about the exercise of a power of the Secretary under subsection 123XM(3), 123XN(3), 123XO(3) or 123XP(3) in relation to the person; the Secretary must comply with the direction.

Debits from income management accounts

(2) If:
   (a) a person is subject to the income management regime under section 123UF; and
   (b) under a law of Queensland, the Queensland Commission gives the Secretary a written direction about the exercise of a power of the Secretary under Division 6 that results in a debit from the person’s income management account; the Secretary must comply with the direction.

123ZL Surrender of unused vouchers and unused stored value cards

Scope

(1) This section applies if:
   (a) a person (the first person) is subject to the income management regime; and
   (b) either:
      (i) the Secretary has given the first person or another person a voucher under subsection 123YC(2) or 123YD(2); or
(ii) the Secretary has given the first person or another
person a stored value card under subsection 123YE(2),
123YF(2), 123YM(2), 123YN(2), 123YO(2) or
123YP(2); and

(c) as a result of the taking of the action referred to in
paragraph (b), the first person’s income management account
has been debited by a particular amount (the debited
amount); and

(d) the voucher or stored value card has not been used.

Surrender of voucher or stored value card

(2) The voucher or stored value card may be surrendered to the
Secretary.

Special Account to be credited

(3) If, under subsection (2), the voucher or stored value card is
surrendered to the Secretary, an amount equal to the debited
amount is credited to the Special Account.

First person’s income management account to be credited

(4) If, under subsection (2), the voucher or stored value card is
surrendered to the Secretary, an amount equal to the debited
amount is credited to the first person’s income management
account.

123ZM Vouchers

(1) The Secretary may, on behalf of the Commonwealth, purchase
vouchers to be given under subsection 123YC(2) or 123YD(2).

(2) The Secretary may, on behalf of the Commonwealth:
(a) issue vouchers to be given under subsection 123YC(2) or
123YD(2); and
(b) enter into agreements with the suppliers of goods or services
under which the suppliers undertake to accept those vouchers
in consideration for the supply of goods or services.

(3) Subsections (1) and (2) do not limit the executive power of the
Commonwealth.
Part 3B Income management regime  
Division 9 Miscellaneous

Section 123ZN

(4) To the extent to which:
   (a) the issue of vouchers under paragraph (2)(a); or
   (b) an agreement entered into under paragraph (2)(b);
involves a borrowing of money by the Commonwealth, that borrowing is authorised by this subsection.

Note: Section 37 of the Financial Management and Accountability Act 1997 provides that an agreement for the borrowing of money by the Commonwealth is of no effect unless the borrowing is authorised by an Act.

123ZN Appropriation

(1) The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of:
   (a) making payments under subsection 123WJ(4), (7) or (11) or 123WL(3); and
   (b) enabling the Secretary to set off an amount under subsection 123WJ(14); and
   (c) making a purchase mentioned in subsection 123ZM(1); and
   (d) making a payment of an amount payable by the Commonwealth under an agreement mentioned in paragraph 123ZM(2)(b); and
   (e) enabling the Secretary to give a stored value card under subsection 123YE(2), 123YF(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and
   (f) enabling the Secretary to increase, under subsection 123YE(2) or 123YF(2), the monetary value stored on a stored value card; and
   (g) enabling the Secretary to pay an amount under subsection 123YG(2), 123YH(2), 123YI(2), 123YJ(2), 123YK(2), 123YL(2), 123YM(2), 123YN(2), 123YO(2) or 123YP(2); and
   (h) paying or discharging expenses incurred by the Commonwealth in relation to action taken by the Secretary under subsection 123YQ(2).

(2) To avoid doubt, subsection (1) is the only provision of this Part that appropriates the Consolidated Revenue Fund.
123ZO This Part has effect despite other provisions etc.

This Part has effect despite anything in:
(a) any other provision of this Act; or
(b) the 1991 Act; or
(c) the Family Assistance Act; or
(d) the Family Assistance Administration Act; or
(e) the Student Assistance Act 1973; or
(f) the Veterans’ Entitlements Act.
Part 3C—Schooling requirements

Division 1—General

124 Scope

(1) This Part applies to a person (a *schooling requirement person*) in relation to another person (a *child*) at a particular time if:

(a) either of the following applies at that time in relation to a schooling requirement payment:

(i) a claim by the person for the payment is being determined (under this Act or the Veterans’ Entitlements Act);

(ii) a claim by the person for the payment has been granted, and the payment has not been cancelled (under this Act or the Veterans’ Entitlements Act); and

(b) either:

(i) the child is a schooling requirement child of the person at that time; or

(ii) the child was a schooling requirement child of the person at any time within a period provided by the schooling requirement determination before that time; and

(c) the child is required, under a law of a State or Territory:

(i) to be enrolled at a school; or

(ii) to attend a school at times required under that law.

(2) If this Part stops applying to a person while the person’s schooling requirement payment is suspended under this Part, section 124J or 124N (each of which provides for when payments become payable after suspension) applies as if:

(a) this Part continued to apply to the person; and

(b) the reconsideration day for the purposes of the relevant section were the day on which this Part stopped applying; and

(c) the Secretary were satisfied that subsection 124G(1) or 124L(1), as the case requires, no longer applied to the person as at the reconsideration day.
124A Enrolment and attendance at school

In this Part:

*attendance*, at a school, includes attendance at a place, for the purpose of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to attend a school.

*enrolment*, at a school, includes anything, for the purpose of schooling, that is acceptable under a law of a State or Territory as an alternative to a requirement under that law to enrol at a school.

*person responsible*, for the operation of a school, includes:

(a) a person responsible for schooling (or for the administration of schooling) at a place, other than a school, to which the definition of *attendance* applies; and

(b) a person responsible for schooling (or for the administration of schooling) in relation to which alternative enrolment of a kind mentioned in the definition of *enrolment* applies.

124B Schooling requirement child

*Schooling requirement child*

(1) For the purposes of this Act, a person (the *first person*) is a *schooling requirement child* of another person at a particular time if:

(a) at that time, the first person is a dependent child of the other person; or

(b) all of the following conditions are satisfied:

(i) that time occurs during a schooling requirement period;

(ii) under a family law order, or a registered parenting plan or parenting plan (within the meaning of the *Family Law Act 1975*), that is in force during the schooling requirement period, the first person is supposed to live or spend time with the other person;

(iii) assuming the family law order, registered parenting plan or parenting plan were complied with during the schooling requirement period, the first person would have been in the other person’s care for at least 14% of that period.
Part 3C  Schooling requirements
Division 1  General

Section 124C

Schooling requirement period

(2) For the purposes of subsection (1), a *schooling requirement period* is a period worked out in accordance with the schooling requirement determination.

(3) A period worked out under subsection (2) may be a recurring period (for example, a fortnight).

(4) For the purposes of this section, it is immaterial whether a schooling requirement period begins before or after the commencement of this section.

Family law order

(5) In this section: family law order has the same meaning as in section 123TC.

124C  Schooling requirement determination

For the purposes of this Part, the Minister may, by legislative instrument, make a determination (the *schooling requirement determination*) relating to school enrolment and attendance.

124D  Schooling requirement payments

In this Act: schooling requirement payment means:

(a) a social security benefit; or
(b) a social security pension; or
(c) one of the following payments under the Veterans’ Entitlements Act:
   (i) Defence Force Income Support Allowance;
   (ii) income support supplement;
   (iii) service pension.

124E  Application to payments under the Veterans’ Entitlements Act

(1) For the purposes of this Part, the provisions of this Act covered by subsection (2) apply (to the extent mentioned in that subsection) in relation to schooling requirement payments that are made under the

252  Social Security (Administration) Act 1999
Veterans’ Entitlements Act as if the payments were schooling requirement payments that are social security payments.

(2) The provisions of this Act covered by this subsection are as follows:

(a) Part 1 (which includes provisions relating to the application of the *Criminal Code* and interpretation);

(b) section 85 and Division 9 of Part 3, to the extent that these provisions relate to the cancellation of schooling requirement payments under this Part;

Note: These provisions deal with the reconsideration of decisions in relation to social security payments.

(c) Division 10 of Part 3 (continuing effect of determinations), to the extent that the Division relates to the suspension and cancellation of schooling requirement payments under this Part;

(d) Part 4 (review of decisions), to the extent that the Part relates to the suspension and cancellation of schooling requirement payments under this Part;

(e) Part 5 (information management), to the extent necessary or convenient for the administration of this Part;

(f) Part 6 (offences), to the extent that the Part relates to acts or omissions occurring in relation to the administration of this Part;

(g) Part 7 (which includes provisions relating to delegations and regulations etc.), to the extent necessary or convenient for the administration of this Part;

(h) Schedule 1 (Dictionary).
Division 2—School enrolment

124F  School enrolment—enrolment notices

Enrolment notices generally

(1) The Secretary may give a notice (an enrolment notice) to a schooling requirement person about the person’s child, requiring the person to give the Secretary evidence (in accordance with the notice) that the child is enrolled at a school as required by a law of a State or Territory.

(2) Without limiting subsection (1), an enrolment notice may require evidence of enrolment to be given in the form of a written or oral statement by the schooling requirement person, or another person, confirming enrolment.

(3) The enrolment notice must give details of:
   (a) how to comply with the notice; and
   (b) the initial period for compliance with the notice, and the Secretary’s power to extend that period (see subsections (4) and (5)); and
   (c) the consequences under this Division of not complying with the notice.

Initial period for compliance

(4) The enrolment notice must state an initial period for compliance with the notice of at least 14 days after the notice is given.

(5) The Secretary may extend the initial period for compliance stated in the enrolment notice before or after the end of the stated period.

124G  School enrolment—condition of schooling requirement payments

(1) A schooling requirement payment is not payable to a schooling requirement person if the person fails to comply with an enrolment notice given to the person under section 124F.
(2) Subsection (1) does not apply to the schooling requirement person in relation to an enrolment notice, as at a particular day, if:
   (a) the initial compliance period stated in the notice (as
       extended, if at all, under subsection 124F(5)) has not ended at
       that day; or
   (b) the Secretary is satisfied that:
       (i) as at that day, the person has a reasonable excuse, as
           determined in accordance with the schooling
           requirement determination (if any), for failing to comply
           with the enrolment notice; or
       (ii) in the special circumstances of the case applying as at
           that day, as determined in accordance with the
           schooling requirement determination (if any), it is
           appropriate that the subsection should not apply as at
           that day.

(3) A schooling requirement payment cannot be suspended, or
    cancelled, because of the application of subsection (1) except as
    provided by section 124H.

(4) For a schooling requirement payment under the Veterans’
    Entitlements Act:
    (a) this section does not apply in relation to the grant of the
        payment; but
    (b) this section otherwise applies in relation to the payment.

124H School enrolment—suspension or cancellation for
non-compliance with enrolment notice

Scope

(1) This section applies if, as at a particular day:
   (a) a schooling requirement person has been given an enrolment
       notice; and
   (b) a schooling requirement payment is not payable to the person
       because subsection 124G(1) applies to the person as at that
day.

Note: Section 124G provides that a schooling requirement payment is
not payable to a person if he or she fails to comply with an
enrolment notice after the end of the initial compliance period
(unless he or she has a reasonable excuse or special
circumstances apply).
Suspension or cancellation of payment

(2) The Secretary must:
   (a) if the payment has been suspended under this section for a total period of 13 weeks or more (which need not be a continuous period) in relation to compliance with the enrolment notice—determine that the payment is to be suspended or cancelled; or
   (b) in any other case—determine that the payment is to be suspended.

Payment may be suspended more than once

(3) The Secretary may make more than one determination under subsection (2) in relation to compliance with a particular enrolment notice.

Note: Following suspension of a schooling requirement payment, the payment may become payable again under section 124J. Subsection 124H(3) allows for a further suspension of the payment even after the payment has become payable again.

Payment may be suspended even if not yet received

(4) The Secretary may suspend a schooling requirement person’s schooling requirement payment under this section even if the person has not started to receive the payment.

Note: An enrolment notice may be given to a claimant for a schooling requirement payment (see section 124 (Scope)). The claim may be granted even if subsection 124G(1) applies to the person. However, in that event, the Secretary must suspend the payment under this section (before it has started).

124J School enrolment—when payments become payable after suspension

Scope

(1) This section applies if, on a particular day (the reconsideration day):
   (a) a person’s schooling requirement payment has been, and remains, suspended under section 124H; and
(b) the Secretary has reconsidered the decision to suspend the payment (whether on an application under section 129 or on his or her own initiative); and

(c) as a result of the reconsideration, the Secretary is satisfied that, as at the reconsideration day, subsection 124G(1) no longer applies to the person.

Note 1: The cancellation of a schooling requirement payment may be reconsidered under section 85.

Note 2: Section 124G provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an enrolment notice after the end of an initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

**Determination that payment is payable**

(2) The Secretary must determine:

(a) that the schooling requirement payment is payable to the schooling requirement person (subject to any other provision of the social security law or the Veterans’ Entitlements Act, as the case requires); and

(b) that any arrears resulting from the operation of this section are to be paid at a time, or times, stated in the determination under this subsection (or worked out in accordance with that determination).

**Entitlement to arrears—suspension for total period of up to 13 weeks**

(3) If the payment has been suspended under section 124H for a total period of less than 13 weeks (which need not be a continuous period) in relation to compliance with a particular enrolment notice, the date of effect of the determination under subsection (2) is the day on which the latest suspension determination was made under section 124H in relation to such compliance.

Note: A schooling requirement payment may be suspended more than once under section 124H (see subsection 124H(3)).

**Entitlement to arrears—suspension for total period of 13 weeks or more**

(4) If subsection (3) does not apply, the date of effect of the determination under subsection (2) is:

(a) the reconsideration day; or
(b) an earlier day stated by the Secretary in that determination to be appropriate, in the special circumstances of the case applying as at the reconsideration day, as determined in accordance with the schooling requirement determination (if any).

(5) For the purposes of subsection (4), the Secretary may vary a determination under subsection (2) to state an earlier date of effect, if the determination:
   (a) does not include such a statement; or
   (b) includes such a statement in relation to a later day.

How arrears are paid

(6) Arrears resulting from the operation of this section may be paid to the person as a lump sum payment, a series of regular payments, or otherwise, as provided by the determination under subsection (2).

(7) The person is entitled to a payment, or payments, of arrears arising from the operation of this section at the time, or times, provided by the determination under subsection (2).

Non-application of general provisions for date of effect

(8) Division 9 of Part 3 (date of effect of determinations) does not apply in relation to a determination under subsection (2).
Division 3—School attendance

124K School attendance—attendance notices

Scope

(1) This section applies if:
   (a) a schooling requirement person’s child is enrolled at a school in a State or Territory; and
   (b) a person responsible for the operation of the school gives the Secretary written notice that:
      (i) the child is failing to attend school, as required by the law of that State or Territory, to the satisfaction of the person responsible; and
      (ii) the schooling requirement person is failing to take reasonable steps to ensure that the child attends school, as required by the law of that State or Territory, to the satisfaction of the person responsible.

Attendance notice

(2) The Secretary may give a notice (an attendance notice) to the schooling requirement person, requiring the person to take reasonable steps, as determined in accordance with the schooling requirement determination (if any), to ensure that the child attends school as required by the law of that State or Territory.

(3) The attendance notice must give details of:
   (a) how to comply with the notice; and
   (b) the initial period for compliance with the notice, and the Secretary’s power to extend that period (under subsections (4) and (5)); and
   (c) the consequences under this Division of not complying with the notice.

Initial period for compliance

(4) The attendance notice must state an initial period for compliance with the notice of at least 28 days after the notice is given.
Section 124L

(5) The Secretary may extend the initial period for compliance stated in the attendance notice before or after the end of the stated period.

124L School attendance—condition of schooling requirement payments

(1) A schooling requirement payment is not payable to a schooling requirement person if the person fails to comply with an attendance notice given to the person under section 124K.

(2) Subsection (1) does not apply to the schooling requirement person in relation to an attendance notice, as at a particular day, if:
   (a) the initial compliance period stated in the notice (as extended, if at all, under subsection 124K(5)) has not ended at that day; or
   (b) the Secretary is satisfied that:
      (i) as at that day, the person has a reasonable excuse, as determined in accordance with the schooling requirement determination (if any), for failing to comply with the attendance notice; or
      (ii) in the special circumstances of the case applying as at that day, as determined in accordance with the schooling requirement determination (if any), it is appropriate that the subsection should not apply as at that day.

(3) A schooling requirement payment cannot be suspended, or cancelled, because of the application of subsection (1) except as provided by section 124M.

(4) For a schooling requirement payment under the Veterans’ Entitlements Act:
   (a) this section does not apply in relation to the grant of the payment; but
   (b) this section otherwise applies in relation to the payment.

124M School attendance—suspension or cancellation for non-compliance with attendance notice

Scope

(1) This section applies if, as at a particular day:
Schooling requirements  **Part 3C**  
School attendance  **Division 3**  

Section 124M

(a) a schooling requirement person has been given an attendance notice; and  
(b) a schooling requirement payment is not payable to the person because subsection 124L(1) applies to the person as at that day.

**Note:** Section 124L provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an attendance notice after the end of the initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

**Suspension or cancellation of payment**

(2) The Secretary must:  
(a) if the payment has been suspended under this section for a total period of 13 weeks or more (which need not be a continuous period) in relation to compliance with the attendance notice—determine that the payment is to be suspended or cancelled; or  
(b) in any other case—determine that the payment is to be suspended.

**Payment may be suspended more than once**

(3) The Secretary may make more than one determination under subsection (2) in relation to compliance with a particular attendance notice.

**Note:** Following suspension of a schooling requirement payment, the payment may become payable again under section 124N. Subsection 124M(3) allows for a further suspension of the payment even after the payment has become payable again.

**Payment may be suspended even if not yet received**

(4) The Secretary may suspend a schooling requirement person’s schooling requirement payment under this section even if the person has not started to receive the payment.

**Note:** An attendance notice may be given to a claimant for a schooling requirement payment (see section 124 (Scope)). The claim may be granted even if subsection 124L(1) applies to the person. However, in that event, the Secretary must suspend the payment under this section (before it has started).
Section 124N

124N School attendance—when payments become payable after suspension

Scope

(1) This section applies if, on a particular day (the reconsideration day):
   (a) a person’s schooling requirement payment has been, and remains, suspended under section 124M; and
   (b) a person responsible for the operation of a school in a State or Territory at which the person’s child is enrolled gives the Secretary written notice that the child is attending school, as required by the law of that State or Territory, to the satisfaction of the person responsible.

(2) This section also applies if, on a particular day (the reconsideration day):
   (a) a person’s schooling requirement payment has been, and remains, suspended under section 124M; and
   (b) the Secretary has reconsidered the decision to suspend the payment (whether on an application under section 129 or on his or her own initiative); and
   (c) as a result of the reconsideration, the Secretary is satisfied that, as at the reconsideration day, subsection 124L(1) no longer applies to the person.

Note 1: The cancellation of a schooling requirement payment may be reconsidered under section 85.

Note 2: Section 124L provides that a schooling requirement payment is not payable to a person if he or she fails to comply with an attendance notice after the end of an initial compliance period (unless he or she has a reasonable excuse or special circumstances apply).

Determination that payment is payable

(3) The Secretary must determine:
   (a) that the schooling requirement payment is payable to the schooling requirement person (subject to any other provision of the social security law or the Veterans’ Entitlements Act, as the case requires); and
   (b) that any arrears resulting from the operation of this section are to be paid at a time, or times, stated in the determination.
Entitlement to arrears—suspension for total period of up to 13 weeks

(4) If the payment has been suspended under section 124M for a total period of less than 13 weeks (which need not be a continuous period) in relation to compliance with a particular attendance notice, the date of effect of the determination under subsection (3) is the day on which the latest suspension determination was made under section 124M in relation to such compliance.

Note: A schooling requirement payment may be suspended more than once under section 124M (see subsection 124M(3)).

Entitlement to arrears—suspension for total period of 13 weeks or more

(5) If subsection (4) does not apply, the date of effect of the determination under subsection (3) is:
(a) the reconsideration day; or
(b) an earlier day stated by the Secretary in that determination to be appropriate, in the special circumstances of the case applying as at the reconsideration day, as determined in accordance with the schooling requirement determination (if any).

(6) For the purposes of subsection (5), the Secretary may vary a determination under subsection (3) to state an earlier date of effect, if the determination:
(a) does not include such a statement; or
(b) includes such a statement in relation to a later day.

How arrears are paid

(7) Arrears resulting from the operation of this section may be paid to the person as a lump sum payment, a series of regular payments, or otherwise, in accordance with the determination under subsection (3).

(8) The person is entitled to a payment, or payments, of arrears arising from the operation of this section at the time, or times, provided by the determination under subsection (3).
Non-application of general provisions for date of effect

(9) Division 9 of Part 3 (date of effect of determinations) does not apply in relation to a determination under subsection (3).
Division 4—Information about schooling

124P Schooling requirements—information about schooling

(1) Despite any law (whether written or unwritten) in force in a State or Territory:
   (a) a State or Territory; or
   (b) a non-government school authority; or
   (c) any other person who is responsible for the operation of one or more schools;
may, for the purposes of this Part, give the Secretary information about the enrolment, or non-enrolment, of children at school.

(2) Despite any law (whether written or unwritten) in force in a State or Territory:
   (a) a State or Territory; or
   (b) a non-government school authority; or
   (c) any other person who is responsible for the operation of one or more schools;
may, for the purposes of this Part, give the Secretary information about the attendance, or non-attendance, of children at school.
Part 4—Review of decisions

Division 1—Effect of Part

124Q Application of Part to decisions under repealed laws

This Part applies as if a decision under:
(a) the 1947 Act; or
(b) the 1991 Act as in force immediately before the commencement of this Part;
were a decision under the social security law.

125 Decisions by officers under instruments

For the purposes of this Part, a decision made by an officer under an instrument (other than an instrument that is a legislative instrument) made or issued under this Act or the 1991 Act is taken to be a decision under the social security law.
Division 2—Internal review

126 Review of decisions by Secretary

(1) The Secretary may review:
   (a) subject to subsection (2), a decision of an officer under the social security law; or
   (c) a decision of an officer under the Farm Household Support Act 1992; or
   (e) a decision under section 44-24 of the Aged Care Act 1997 by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act; if the Secretary is satisfied that there is sufficient reason to review the decision.

(2) The Secretary may review a decision:
   (a) whether or not any person has applied for review of the decision; and
   (b) even though an application has been made to the Social Security Appeals Tribunal or the Administrative Appeals Tribunal for review of the decision.

(3) The Secretary may:
   (a) affirm a decision; or
   (b) vary a decision; or
   (c) set a decision aside and substitute a new decision.

(4) If:
   (a) the Secretary sets a decision aside under subsection (3); and
   (b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made; the Secretary may, if satisfied that it is reasonable to do so, determine that the event is taken to have occurred for the purposes of the social security law.

127 Decisions that are not reviewable by the Secretary

(1) The Secretary may not, on an application under section 129, review a decision made by the Secretary himself or herself.
Section 128

(2) The Secretary may not review a decision made by the Employment Secretary declaring, under section 28 of the 1991 Act, a program of work to be an approved program of work for income support payment.

(3) The Secretary may not review a decision made by the Minister for Agriculture, Fisheries and Forestry or the Secretary to the Department of Agriculture, Fisheries and Forestry under the *Farm Household Support Act 1992*.

128 Notice to Executive Director or AAT Registrar

(1) If:
   (a) the Secretary makes a decision under subsection 126(3); and
   (b) at the time when the Secretary makes the decision, a person has applied to the Social Security Appeals Tribunal for review of the decision that was reviewed by the Secretary;

   the Secretary must give the Executive Director written notice of the Secretary’s decision under subsection 126(3).

(2) If:
   (a) the Secretary makes a decision under subsection 126(3); and
   (b) at the time when the Secretary makes the decision, a person has applied to the Administrative Appeals Tribunal for review of the decision that was reviewed by the Secretary;

   the Secretary must give the Registrar of the Administrative Appeals Tribunal written notice of the Secretary’s decision under subsection 126(3).

129 Application for review

(1) Subject to subsections (3) and (4), a person affected by:
   (a) a decision of an officer under the social security law; or
   (c) a decision of an officer under the *Farm Household Support Act 1992*; or
   (e) a decision under section 44-24 of the *Aged Care Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under section 96-2(7) of that Act;

   may apply to the Secretary for review of the decision.
Section 130

(3) If:

(a) an officer makes a decision under the social security law in relation to pension bonus; and
(b) notice is given to the person concerned;
the person is not entitled to make an application under subsection (1) for review of the decision more than 13 weeks after the giving of the notice.

(4) A person may not apply under subsection (1) for review of:

(a) a decision made by the Secretary himself or herself; or
(b) a decision under subparagraph (2)(b)(i) regarding the information to be given to a person under that subparagraph; or
(c) a decision made by the Employment Secretary:
   (i) under section 28 of the 1991 Act; or
   (ii) approving a course of study or a labour market program; or
   (iii) exempting a person from the application of a provision of the social security law; or
(d) a decision made by the Minister for Agriculture, Fisheries and Forestry or the Secretary to the Department of Agriculture, Fisheries and Forestry under the Farm Household Support Act 1992; or
(e) a decision made by the Health Secretary under or in relation to the social security law; or
(f) a decision made by the CEO himself or herself in the exercise of a delegated power.

(5) A reference in this section to a decision of an officer under the social security law includes a reference to a determination that the Secretary is taken, by virtue of a provision of the social security law, to have made.

130 Withdrawal of application

(1) A person who has applied for review of a decision may withdraw the application at any time before the review has been completed.

(2) If an application for review of a decision is withdrawn, the application is taken never to have been made.
Part 4  Review of decisions
Division 2  Internal review

Section 131

(3) An application may be withdrawn orally or in writing or in any other manner approved by the Secretary.

131 Secretary may continue payment pending outcome of application for review

(1) Subject to subsection (2), if:
   (a) an adverse decision is made in relation to a social security payment; and
   (b) the adverse decision:
      (i) depends on the exercise of a discretion, or the holding of an opinion, by a person; or
      (ii) would result in the application of a compliance penalty period; and
   (c) a person applies to the Secretary under section 129 for review of the adverse decision;

the Secretary may declare that the payment of the social security payment is to continue pending the determination of the review as if the adverse decision had not been made.

(3) A declaration under subsection (1) must be by notice in writing.

(4) While a declaration under subsection (1) is in force in relation to an adverse decision, the social security law (other than this Part) applies as if the adverse decision had not been made.

(5) A declaration under subsection (1) in relation to an adverse decision:
   (a) takes effect on the day on which it is made or on such earlier day (if any) as is specified in the declaration; and
   (b) ceases to have effect if:
      (i) the application for review is withdrawn; or
      (ii) a decision is made by the Secretary on the review of the adverse decision; or
      (iii) the declaration is revoked by the Secretary.

(6) A reference in subsection (1) to a person’s holding of an opinion is a reference to the person’s holding that opinion, whether or not the social security law expressly requires the opinion to be held before the decision concerned is made.
Section 132

(7) In this section:

*adverse decision*, in relation to a social security payment, means:

(a) a decision to cancel or suspend the social security payment; or

(b) a decision to reduce the rate of the social security payment.

132 Guidelines for exercise of Secretary’s power to continue payment

The Minister, by legislative instrument:

(a) is to determine guidelines for the exercise of the Secretary’s power to make declarations under section 131 in relation to social security payments to persons who are subject to a compliance penalty period; and

(b) may revoke or vary those guidelines.

135 Review of decisions following application under section 129

(1) Subject to subsection (3) and subsection 127(1), if a person applies under section 129 for review of a decision, the Secretary, the CEO or an authorised review officer must:

(a) review the decision; and

(b) do one of the following:

(i) affirm the decision;

(ii) vary the decision;

(iii) set the decision aside and substitute a new decision.

(2) In the case of an application for review of a decision made by an officer of the Employment Department as a delegate of the Secretary, the reference in subsection (1) to an authorised review officer is to be read as a reference to an authorised review officer who is an officer of that Department.

(3) An authorised review officer may not review a decision relating to the exercise of the Secretary’s power under section 182 of this Act.

(5) If:

(a) a person sets aside a decision under subsection (1); and

(b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;

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the Secretary may, if satisfied that it is reasonable to do so, determine that the event is taken to have occurred for the purposes of the social security law.

136  Notice of decision on review

If a person makes a decision under subsection 135(1), the person must give the applicant written notice of the decision.

137  Certain decisions not to be revived

(1) This section has effect if:

(a) the Secretary makes a determination (the first determination) that:
   (i) a social security payment is granted or is payable to a person; or
   (ii) a social security payment is payable to a person at a particular rate; and

(b) the Secretary makes a determination (the second determination):
   (i) cancelling the social security payment; or
   (ii) reducing the rate at which the social security payment is payable; and

(c) notice of the second determination is given to the person; and

(d) the person applies under section 129 for review of the second determination; and

(e) the application is made more than 13 weeks after notice of the second determination was given; and

(f) a decision (the review decision) is made by the Secretary, an authorised review officer, the Social Security Appeals Tribunal or the Administrative Appeals Tribunal; and

(g) the review decision, or the effect of the review decision, is:
   (i) to set aside the second determination; or
   (ii) to affirm a decision setting aside the second determination.
(2) This section has effect if:

(a) the Secretary makes a determination (the *first determination*) that:

(i) a social security payment is granted or is payable to a person; or
(ii) a social security payment is payable to a person at a particular rate; and

(b) the Secretary makes a determination (the *second determination*):

(i) cancelling the social security payment; or
(ii) reducing the rate at which the social security payment is payable; and

(c) notice of the second determination is given to the person; and

(d) the Secretary reviews the second determination under section 126 without any application under section 129 for review of the decision having been made; and

(e) the decision of the Secretary on the review is to set aside the second determination; and

(f) the decision on the review is made more than 13 weeks after notice of the second determination was given.

(3) This section has effect if:

(a) the Secretary makes a determination (the *first determination*) that:

(i) a person’s claim for a concession card is granted; or
(ii) a person is qualified for a concession card; and

(b) the Secretary makes a determination (the *second determination*) cancelling the concession card; and

(c) notice of the second determination is given to the person; and

(d) the person applies under section 129 for review of the second determination; and

(e) the application is made more than 13 weeks after notice of the second determination was given; and

(f) a decision (the *review decision*) is made by the Secretary, an authorised review officer, the Social Security Appeals Tribunal or the Administrative Appeals Tribunal; and

(g) the review decision, or the effect of the review decision, is:

(i) to set aside the second determination; or
(ii) to affirm a decision setting aside the second determination.

(4) This section has effect if:
   (a) the Secretary makes a determination (the \textit{first determination}) that:
      (i) a person’s claim for a concession card is granted; or
      (ii) a person is qualified for a concession card; and
   (b) the Secretary makes a determination (the \textit{second determination}) cancelling the concession card; and
   (c) notice of the second determination is given to the person; and
   (d) the Secretary reviews the second determination under section 126 without any application under section 129 for review of the declaration having been made; and
   (e) the decision of the Secretary on the review is to set aside the second determination; and
   (f) the decision is made more than 13 weeks after notice of the second determination was given.

(5) If this section has effect:
   (a) the second determination does not become void from the time when it was made; and
   (b) the mere setting aside of the second determination does not of itself revive the first determination.

(6) For the purposes of this section, a person is taken to have applied for review of a determination (the \textit{primary determination}) if:
   (a) the person applies for review of another determination or decision; and
   (b) a review of the primary determination is necessary to resolve the issues raised by the review of that other determination or decision.

138 Notification of further rights of review

(1) If a person (the \textit{decision-maker}) gives another person notice under section 136, the notice must include:
   (a) a statement to the effect that the other person may, subject to the social security law, apply to the Social Security Appeals Tribunal for review of the decision-maker’s decision; and
(b) a statement about the decision-maker’s decision that:
   (i) sets out the reasons for the decision; and
   (ii) sets out the findings by the decision-maker on material questions of fact; and
   (iii) refers to the evidence or other material on which those findings were based; and

(c) a statement to the effect that, if the other person is dissatisfied with the decision of the Social Security Appeals Tribunal, application may, subject to the Administrative Appeals Tribunal Act 1975, be made to the Administrative Appeals Tribunal for review of the decision of the Social Security Appeals Tribunal.

(2) A contravention of subsection (1) in relation to notice of a decision does not affect the validity of the decision.

(3) Paragraphs (1)(a) and (c) do not apply in relation to a decision that is not reviewable by the Social Security Appeals Tribunal (see section 144).
Division 3—Review by the Social Security Appeals Tribunal

Subdivision A—Preliminary

139 Continuance of Social Security Appeals Tribunal

(1) The Social Security Appeals Tribunal continued in existence by the 1991 Act is further continued in existence by this Act.

(2) Provisions relating to the constitution and membership, and the organisation of the business of, the Social Security Appeals Tribunal, together with certain saving provisions, are to be found in Schedule 3.

Subdivision B—Review by SSAT

140 Application of Division

(1) This Division applies to:
   (a) all decisions of an officer under the social security law, including:
       (i) a decision under section 606 of the 1991 Act to the extent to which it relates to the terms of a Newstart Activity Agreement that is in force; or
       (ii) a decision under section 731M of the 1991 Act to the extent to which it relates to the terms of a Special Benefit Activity Agreement that is in force; and
       (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; and
       (b) a decision under section 544B of the 1991 Act to the extent to which it relates to the terms of a Youth Allowance Activity Agreement that is in force; and
       (d) all decisions of an officer under the Farm Household Support Act 1992; and
       (f) all decisions under section 44-24 of the Aged Care Act 1997 by the Secretary, or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act.
(2) A reference in this section to a decision of an officer under the social security law includes a reference to a determination that the Secretary is taken, by virtue of a provision of the social security law, to have made.

141 SSAT objective

In carrying out its functions under this Act, the SSAT must pursue the objective of providing a mechanism of review that is fair, just, economical, informal and quick.

142 Application for review by SSAT

(1) Subject to section 144, if:
(a) a decision has been reviewed by the Secretary, the CEO or an authorised review officer under section 126 or 135; and
(b) the decision has been affirmed, varied or set aside;
a person whose interests are affected by the decision of the Secretary, the CEO or the authorised review officer may apply to the SSAT for review of that decision.

(2) Subject to section 144, if a decision has been made by the Secretary himself or herself or by the CEO himself or herself, a person whose interests are affected by the decision may apply to the SSAT for review of the decision.

(4) For the purposes of subsection (1), the decision made by the Secretary, the CEO or the authorised review officer is taken to be:
(a) if the Secretary, the CEO or the authorised review officer affirms a decision—that decision as affirmed; and
(b) if the Secretary, the CEO or the authorised review officer varies a decision—that decision as varied; and
(c) if the Secretary, the CEO or the authorised review officer sets a decision aside and substitutes a new decision—the new decision.

(5) For the purposes of subsection (2), if:
(a) an application has been made under subsection 129(1) for review of a decision made by the Secretary himself or herself or the CEO himself or herself; and
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(b) before the application under subsection 129(1) was made, the Secretary or CEO had reviewed the decision under section 126;

the decision made by the Secretary or CEO is taken to be:

(c) if the Secretary or CEO had affirmed or varied the decision—that decision as affirmed or varied; and

(d) if the Secretary or CEO had set the decision aside and substituted a new decision—the new decision.

143 Application requirement for certain decisions

(1A) The SSAT may only review a decision under section 501A of the 1991 Act (to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force) if the application is expressed to be an application for review of that decision.

(1) The SSAT may only review a decision under section 544B of the 1991 Act (to the extent to which it relates to the terms of a Youth Allowance Activity Agreement that is in force) if the application is expressed to be an application for review of that decision.

(2) The SSAT may only review a decision under section 606 of the 1991 Act (to the extent to which it relates to the terms of a Newstart Activity Agreement that is in force) if the application is expressed to be an application for review of that decision.

(3) The SSAT may only review a decision under section 731M of the 1991 Act (to the extent to which it relates to the terms of a Special Benefit Activity Agreement that is in force) if the application is expressed to be an application for review of that decision.

144 Non-reviewable decisions

The SSAT cannot review any of the following decisions:

(c) a decision of the Minister for Agriculture, Fisheries and Forestry or the Secretary to the Department of Agriculture, Fisheries and Forestry under the Farm Household Support Act 1992;

(d) a decision under section 36 of the 1991 Act;
(da) a decision under the 1991 Act or this Act in relation to Part 2.27 of the 1991 Act (Northern Territory CDEP transition payment);
(da) a decision under section 1061ZZGC of the 1991 Act;
(e) a decision under a provision dealing with the approval by the Employment Secretary of a course, labour market program, program of work for unemployment payment or rehabilitation program;
(f) a decision under section 16 of this Act;
(g) a decision under section 58 or 59 to pay an amount to a person;
(h) a decision to make a payment under section 75 of this Act;
(i) a decision, under subsection 59(3) of this Act, to grant a claim for a pension bonus after the claimant has died;
(j) a decision under subsection 7A(2) or paragraph 15(b) of the *Farm Household Support Act 1992*;
(k) a decision to give a notice under Subdivision B of Division 6 of Part 3 of this Act;
(ka) a decision under Part 3B of this Act that relates to a person who is subject to the income management regime under section 123UB;
(l) a decision under subparagraph 129(2)(b)(i) regarding the information that is to be given to a person under that paragraph;
(m) a decision under section 131 or 145 of this Act;
(n) a decision under section 192, 193, 194 or 195 of this Act;
(o) a decision under section 238 of this Act;
(p) a decision of the Secretary:
   (i) determining, under subsection 1100(2) of the 1991 Act, that it is not appropriate for that subsection to apply in respect of a payment or a class or kind of payments; or
   (ii) determining, in accordance with section 1100 of the 1991 Act, that a rate of exchange is appropriate for the calculation of the value in Australian currency of an amount (the *foreign amount*) received by a person in a foreign currency if that rate does not differ by more than 5% from the rate of exchange that was applied when the person received Australian currency for the foreign amount;
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(s) a decision relating to the Secretary’s power under section 182 of this Act to settle proceedings before the AAT.

145 Secretary may continue payment pending outcome of application for review

(1) If:
   (a) an adverse decision is made in relation to a social security payment; and
   (b) the adverse decision:
      (i) depends on the exercise of a discretion by a person or the holding of an opinion by a person; or
      (ii) would result in the application of a compliance penalty period; and
   (c) a person applies to the SSAT under subsection 142(1) or (2) for review of the adverse decision;
   the Secretary may declare that payment of the social security payment is to continue, pending the determination of the review, as if the adverse decision had not been made.

(2) A declaration must be by notice in writing.

(3) While a declaration under subsection (1) is in force in relation to an adverse decision, the social security law (other than this Division) applies as if the adverse decision had not been made.

(4) A declaration under subsection (1) in relation to an adverse decision:
   (a) takes effect on the day on which the declaration is made or on such earlier day (if any) as is specified in the declaration; and
   (b) ceases to have effect if:
      (i) the application to the SSAT for review of the adverse decision is withdrawn; or
      (ii) the review of the adverse decision is determined by the SSAT; or
      (iii) the declaration is revoked by the Secretary.

(5) A reference in subsection (1) to a person’s holding of an opinion is a reference to the person’s holding that opinion, whether or not the

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social security law expressly requires the opinion to be held before
the decision concerned is made.

(6) In this section:

adverse decision, in relation to a social security payment, means:

(a) a decision to cancel or suspend the social security payment;
or

(b) a decision to reduce the rate of the social security payment.

146 Guidelines for exercise of Secretary’s power to continue
payment

The Minister, by legislative instrument:

(a) is to set guidelines for the exercise of the Secretary’s power
to make a declaration under subsection 145(1) affecting
payments to persons who are subject to a compliance penalty
period; and

(b) may revoke or vary those guidelines.

149 SSAT review powers

(1) If a person applies to the SSAT for review of a decision (other than
a decision referred to in subsection (5)), the SSAT must:

(a) affirm the decision; or

(b) vary the decision; or

(c) set the decision aside and:

(i) substitute a new decision; or

(ii) send the matter back to the Secretary or the CEO, as the
case requires, for reconsideration in accordance with
any directions or recommendations of the SSAT.

(2) If the SSAT sets a decision aside and substitutes for it a decision
that a person is entitled to a social security payment (other than
pension bonus or pension bonus bereavement payment), the SSAT
must:

(a) assess the rate at which the social security payment is to be
paid to the person; or

(b) ask the Secretary or the CEO, as the case requires, to assess
the rate at which the social security payment is to be paid to
the person.
(3) If the SSAT sets a decision aside and substitutes for it a decision that a person is entitled to a pension bonus or pension bonus bereavement payment, the SSAT must:
   (a) assess the amount of the pension bonus or pension bonus bereavement payment that is to be paid to the person; or
   (b) ask the Secretary to assess the amount of the pension bonus or pension bonus bereavement payment that is to be paid to the person.

(4) If:
   (a) the SSAT sets a decision aside under subsection (1); and
   (b) the Secretary or the SSAT (as the case may be), is satisfied that an event that did not occur would have occurred if the decision had not been made;
the Secretary or the SSAT, as the case requires, may, if satisfied that it is reasonable to do so, direct that the event is to be taken, for the purposes of the social security law, to have occurred.

(5) This section does not apply to:
   (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; or
   (a) a decision under section 544B of the 1991 Act to the extent to which it relates to the terms of a Youth Allowance Activity Agreement that is in force; or
   (b) a decision under section 606 of the 1991 Act to the extent to which it relates to the terms of a Newstart Activity Agreement that is in force; or
   (c) a decision under section 731M of the 1991 Act to the extent to which it relates to the terms of a Special Benefit Activity Agreement that is in force.

150 SSAT review powers (Activity Agreement decisions)

If a person applies to the SSAT for review of:
   (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; or
   (a) a decision under section 525B of the 1991 Act as previously in force to the extent to which it related to the terms of a Job Search Activity Agreement that was previously in force; or
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(b) a decision under section 544B of that Act to the extent to which it relates to the terms of a Youth Allowance Activity Agreement that is in force; or
(c) a decision under section 606 of that Act to the extent to which it relates to the terms of a Newstart Activity Agreement that is in force; or
(ca) a decision under section 731M of that Act to the extent to which it relates to the terms of a Special Benefit Activity Agreement that is in force;

the SSAT must:
(d) affirm the decision; or
(e) set aside the decision and send the matter back to the Secretary or the CEO, as the case requires, for reconsideration in accordance with any recommendations of the Tribunal.

151 Powers of the SSAT

(1) Subject to subsection (2), the SSAT may, for the purpose of reviewing a decision under the social security law, exercise all the powers and discretions that are conferred by the social security law on the Secretary.

(2) The reference in subsection (1) to powers and discretions conferred by the social security law does not include a reference to a power or discretion conferred by:
   (a) a provision dealing with the form and place of lodgment of a claim; or
   (b) a provision dealing with the manner of payment of a social security payment; or
   (ba) section 1061ZZGC of the 1991 Act; or
   (c) section 1233 of the 1991 Act; or
   (d) a provision dealing with the giving of a notice requiring information; or
   (e) section 1100 of the 1991 Act; or
   (g) section 131 or 145 of this Act; or
   (h) a provision dealing with the imposition of requirements before the grant of a social security payment; or
   (i) a provision dealing with the deduction of amounts from payments of a social security payment for tax purposes.
(3) The SSAT may, for the purpose of reviewing a decision under the *Health Insurance Act 1973*, exercise all the powers and discretions conferred by that Act on the Secretary.

(4) Nothing in this section applies in relation to the review of:
   - (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; or
   - (a) a decision under section 544B of the 1991 Act to the extent to which it relates to the terms of a Youth Allowance Activity Agreement that is in force; or
   - (b) a decision under section 606 of the 1991 Act to the extent to which it relates to the terms of a Newstart Activity Agreement that is in force; or
   - (c) a decision under section 731M of the 1991 Act to the extent to which it relates to the terms of a Special Benefit Activity Agreement that is in force.

152 Date of effect of SSAT decisions (other than Activity Agreement decisions)

(1) Subject to subsections (2) and (3), a decision of the SSAT comes into operation immediately on the giving of the decision.

(2) The SSAT may specify in a decision that the decision is not to 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.

(3) Subject to subsections (4) and (5), if the SSAT:
   - (a) varies a decision under review; or
   - (b) sets aside a decision under review and substitutes a new decision;
   
     the decision as varied or the new decision (as the case may be) has effect, or is to be taken to have had effect, on and from the day on which the decision under review has or had effect.

(4) If:
   - (a) a person is given written notice of a decision under the social security law; and
   - (b) the person applies to the SSAT more than 13 weeks after the notice was given for review of the decision; and
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(c) the SSAT varies the decision or sets the decision aside and substitutes a new decision; and
(d) the effect of the decision of the SSAT is:
   (i) to grant the person’s claim for a social security payment or a concession card; or
   (ii) to direct the making of a payment of a social security payment to the person or the issue of a concession card to the person, as the case may be; or
   (iii) to increase the rate of the person’s social security payment;

the social security law has effect as if the decision under review had taken effect on the day on which the application was made to the SSAT for review of that decision.

(5) The SSAT may declare:
   (a) that subsection (3) does not apply to a decision by the SSAT on a review; and
   (b) that subsections (1) and (2) apply instead.

(6) This section does not apply to:
   (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; or
   (a) a decision under section 544B of that Act to the extent to which it relates to the terms of a Youth Allowance Activity Agreement that is in force; or
   (b) a decision under section 606 of the 1991 Act to the extent to which the decision relates to the terms of a Newstart Activity Agreement that is in force; or
   (c) a decision under section 731M of the 1991 Act to the extent to which the decision relates to the terms of a Special Benefit Activity Agreement that is in force.

153 Date of effect of SSAT decision (Activity Agreement decision)

(1) This section applies to:
   (aa) a decision under section 501A of the 1991 Act to the extent to which it relates to the terms of a Parenting Payment Activity Agreement that is in force; and
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(a) a decision under section 544B of the 1991 Act to the extent to which it relates to the terms of a Youth Allowance Activity Agreement that is in force; and
(b) a decision under section 606 of the 1991 Act to the extent to which the decision relates to the terms of a Newstart Activity Agreement that is in force; and
(c) a decision under section 731M of the 1991 Act to the extent to which the decision relates to the terms of a Special Benefit Activity Agreement that is in force.

(2) Subject to subsection (3), a decision by the SSAT in relation to a decision to which this section applies comes into operation immediately on the giving of the decision.

(3) The SSAT may specify in a decision that the decision is not to 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.

154 Application requirements

(1) A person may apply to the SSAT for review of a decision by:
   (a) sending or delivering a written application to:
       (i) an office of the SSAT; or
       (ii) an office of the Department; or
       (iii) if the decision was made by the CEO or an employee of the Agency—an office of the Agency; or
   (b) going to an office of the SSAT and making an oral application; or
   (c) contacting an office of the SSAT by telephone and making an oral application.

(2) If a person makes an oral application in accordance with paragraph (1)(b) or (c), the person receiving the oral application must make a written record of the details of the oral application and note on the record the day on which the application is made.

(3) If a written record of an oral application is made in accordance with subsection (2), Division 4 has effect as if the written record were a written application.

(4) An application may include a statement of the reasons for seeking a review of the decision.
155 Variation of decision before review completed

(1) If an officer varies a decision after an application has been made to the SSAT for review of the decision but before determination of the review, the application for review is to be treated as if it were an application for review of the decision as varied.

(2) If an officer sets a decision aside and substitutes a new decision after an application has been made to the SSAT for review of the original decision but before the determination of the review, the application for review is to be treated as if it were an application for review of the new decision.

(3) If:
   (a) a person applies to the SSAT for review of a decision; and
   (b) before determination of the review, an officer varies the decision or sets it aside and substitutes a new decision;
   the person may either:
   (c) proceed with the application for review of the decision as varied or the new decision, as the case may be; or
   (d) withdraw the application under section 171.

156 Parties to SSAT review

(1) The parties to a review by the SSAT are:
   (a) the applicant; and
   (b) the Secretary; and
   (c) if the relevant decision was made by the CEO or an employee of the Agency in the exercise of a delegated power—the CEO; and
   (d) any other person who has been made a party to the review under subsection (4).

(2) If a person has applied under section 142 for review of a decision, any other person whose interests are affected by the decision may apply to the Executive Director to be made a party to the review.

(3) An application under subsection (2) must be in writing.

(4) The Executive Director may order that a person who has applied under subsection (2) be made a party to the review.
Division 4—Procedures for review by the SSAT

Subdivision A—Preliminary procedures

157 Procedure on receipt of application for review by SSAT

(1) If an application under section 142 is sent or delivered to an office of the Department or the Agency, the Secretary must send the application to the Executive Director as soon as practicable and, in any case, not later than 7 days after the application is received at the office of the Department or the Agency, as the case may be.

(2) If:
   (a) an application under section 142 is sent or delivered to an office of the SSAT; or
   (b) the Secretary sends such an application to the Executive Director in accordance with subsection (1);
the Executive Director must give the applicant and the Secretary written notice that the application has been received.

(3) Within 28 days after receiving notice of the making of an application from the Executive Director, the Secretary must send to the Executive Director:
   (a) a statement about the decision under review that:
      (i) sets out the findings of fact made by the person who made the decision; and
      (ii) refers to the evidence on which those findings were based; and
      (iii) gives the reasons for the decision; and
   (b) the original or a copy of every document or part of a document that:
      (i) is in the possession, or under the control, of the Secretary; and
      (ii) relates to the applicant; and
      (iii) is relevant to the review of the decision.

(4) If the Executive Director asks the Secretary to send the statement and documents referred to in subsection (3) by a day earlier than
the day fixed by that subsection, the Secretary must take reasonable steps to comply with the Executive Director’s request.

(5) If:

(a) after the end of the period referred to in subsection (3) but before the determination of the review, the Secretary obtains possession of a document; and

(b) the Secretary considers that the document or a part of the document is relevant to the review; and

(c) a copy of the document or the part of the document has not been sent to the Executive Director in accordance with subsection (3);

the Secretary must send a copy of the document or the part of the document to an office of the SSAT as soon as practicable after obtaining possession of the document.

158 Parties to be given a statement about the decision under review

(1) The Executive Director must give each party (other than the Secretary) a copy of the statement referred to in paragraph 157(3)(a).

(2) The Executive Director may make an order directing a person who has received a copy of a statement in accordance with subsection (1):

(a) not to disclose information in the statement; or

(b) not to disclose information in the statement except in the circumstances or for the purposes specified in the order.

(3) An order under subsection (2) must be made by written notice given to the person to whom it is directed.

(4) A person must not contravene an order under subsection (2).

159 Arrangements for hearing of application

(1) If an application is made to the SSAT for review of a decision, the Executive Director must fix a day, time and place for the hearing of the application.

(2) If a declaration under section 145 is in force in relation to a decision, the Executive Director must take reasonable steps to ensure that the decision is reviewed as quickly as possible.
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(3) The Executive Director must give the applicant and any other parties to the review written notice of the day, time and place fixed for the hearing of the application.

(4) The notice under subsection (3) must be given a reasonable time before the day fixed for the hearing.

160 Notice of application to person affected by decision

(1) If:
   (a) an application has been made to the SSAT for review of a decision; and
   (b) the Executive Director is satisfied that the interests of a person who is not a party to the review are affected by the decision;

   the Executive Director must take reasonable steps to give the person written notice that an application has been made to the SSAT for review of the decision.

(2) The notice under subsection (1):
   (a) must be in writing; and
   (b) must include notification of the person’s right under section 156 to apply to the Executive Director to be added as a party to the review; and
   (c) may be given at any time before the determination of the review.

(3) The Executive Director must give each party to the review a copy of the notice.

Subdivision B—How the SSAT informs itself about the decision under review

161 Submissions to SSAT

(1) Subject to section 162, a party to a review of a decision may make oral or written submissions to the SSAT or both oral and written submissions.

(2) The Secretary or CEO may make written submissions to the SSAT.
(3) A party to a review of a decision may have another person make submissions to the SSAT on behalf of the party.

(4) The Executive Director may determine that submissions to the SSAT by a party or a party’s representative are to be made by telephone or by means of other electronic communications equipment.

(5) Without limiting subsection (4), the Executive Director may make a determination under subsection (4) in relation to an application if:
   (a) the application is urgent; or
   (b) the party lives in a remote area and unreasonable expense would be incurred if the party or the party’s representative had to travel to the place at which the hearing is to be held; or
   (c) the party has failed to attend the hearing and has not indicated that he or she intends to attend the hearing; or
   (d) the applicant is unable to attend the hearing because of illness or infirmity.

(6) If a party is not proficient in English, the Executive Director may give directions in relation to the use of an interpreter in connection with the hearing of the review.

(7) A reference in this section to a party does not include a reference to the Secretary or the CEO.

162 SSAT hearings on written submissions only

   (1) The Executive Director may direct that a hearing be conducted without oral submissions from the parties if:
      (a) the Executive Director considers that the review hearing could be determined fairly on the basis of written submissions by the parties; and
      (b) all parties to the review consent to the hearing being conducted without oral submissions.

   (2) If the Executive Director gives a direction under subsection (1), the Executive Director must give each of the parties to the review written notice:
      (a) informing the party of the direction; and
      (b) inviting the party to submit written submissions; and
(c) specifying the address to which the written submissions are to be delivered; and
(d) specifying the time within which the written submissions are to be delivered.

(3) The time specified under paragraph (2)(d) must be such as to allow a reasonable period for the parties to make written submissions.

(4) Despite subsection (1), the SSAT, as constituted for the hearing, may, if it thinks necessary after considering the written submissions made by the parties, make an order permitting the parties to make oral submissions to the SSAT at the hearing of the review.

(5) A reference in subsection (4) to a party does not include a reference to the Secretary or the CEO.

163 SSAT hearings without oral submissions by party

(1) If a party to a review has informed the Executive Director that the party does not intend to make oral submissions to the SSAT, the SSAT may proceed to hear the application for review without oral submissions from the party.

(2) If:
(a) the Executive Director has determined that oral submissions to the SSAT by a party or a party’s representative are to be made by telephone or by means of other electronic communications equipment; and
(b) on the day fixed for the hearing the presiding member has been unable to contact the party or the party’s representative, as the case may, after taking reasonable steps to do so;
the Executive Director may authorise the SSAT to proceed to hear the application without oral submissions from the party or the party’s representative, as the case may be.

(3) If:
(a) the Executive Director has not determined that oral submissions to the SSAT by a party or a party’s representative are to be made by telephone or by means of other electronic communications equipment; and
(b) the party or the party’s representative, as the case may be, does not attend the hearing at the time fixed for the hearing;
the Executive Director may authorise the SSAT to proceed to hear the application without oral submissions from the party or the party’s representative, as the case may be.

(4) If the Executive Director gives an authorisation under subsection (2) or (3), the SSAT may proceed to hear the application in accordance with the authorisation.

(5) The Executive Director may revoke an authorisation under subsection (2) or (3).

164 **Evidence on oath or affirmation**

The SSAT may take evidence on oath or affirmation for the purposes of a review of a decision.

165 **Provision of further information by Secretary**

(1) The Executive Director may ask the Secretary to provide the SSAT with information or a document that the Secretary has and that is relevant to the review of a decision.

(2) The Secretary must comply with a request under subsection (1) as soon as practicable and, in any event, not later than 14 days after the request is made.

166 **Exercise by Secretary of powers under section 192**

(1) The Executive Director may ask the Secretary to exercise the Secretary’s powers under section 192 if the Executive Director is satisfied that a person has information, or has custody or control of a document, that is relevant to the review of a decision.

(2) The Secretary must comply with a request under subsection (1) as soon as practicable and, in any event, within 7 days after the request is made.

**Subdivision C—The hearing**

167 **Hearing procedure**

(1) The SSAT, in reviewing a decision:
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(a) is not bound by legal technicalities, legal forms or rules of evidence; and
(b) is to act as speedily as a proper consideration of the review allows; and
(c) in determining what a proper consideration of the review requires, must have regard to the objective laid down by section 141.

(2) The SSAT may inform itself on any matter relevant to a review of a decision in any manner it considers appropriate.

168 Hearing in private

(1) The hearing of a review is to be in private.

(2) The Executive Director may give directions, in writing or otherwise, as to the persons who may be present at any hearing of a review.

(3) In giving directions under subsection (2), the Executive Director must have regard to the wishes of the parties and the need to protect their privacy.

169 Restrictions on disclosure of information obtained at hearing

(1) The Executive Director may make an order directing a person who is present at the hearing of a review:
   (a) not to disclose information obtained by the person in the course of the hearing; or
   (b) not to disclose information obtained by the person in the course of the hearing except in the circumstances, or for the purposes, specified in the order.

(2) A person must not contravene an order under subsection (1).

   Penalty: Imprisonment for 2 years.

Subdivision D—Other procedural matters

170 Adjournment of SSAT hearings

(1) The SSAT may adjourn the hearing of a review of a decision from time to time.
(2) Without limiting subsection (1), the SSAT may refuse to adjourn the hearing of a review if:
   (a) the hearing has already been adjourned on 2 or more occasions; or
   (b) the SSAT is satisfied that to grant an adjournment would be inconsistent with the pursuit of the objective laid down by section 141; or
   (c) a declaration under section 131 or 145 is in force in relation to the decision under review.

171 Withdrawal of application for review

(1) An applicant for review of a decision may withdraw the application at any time.

(2) An applicant may withdraw an application by:
   (a) sending by any means, or delivering, written notice of withdrawal of the application to an office of the SSAT or an office of the Department; or
   (b) going to an office of the SSAT and orally withdrawing the application; or
   (c) contacting an office of the SSAT by telephone and orally withdrawing the application.

(3) If a person withdraws an application in accordance with paragraph (2)(b) or (c), the person who receives the oral withdrawal must make a written record of the day on which the withdrawal was made.

(4) If a person withdraws an application by sending or delivering written notice of withdrawal to an office of the Department, the Secretary must send notice of the withdrawal to the Executive Director as soon as practicable and, in any event, not later than 7 days after the notice of withdrawal is received at the office of the Department.

172 Dismissal of an application

(1) If:
   (a) a person makes an application to the SSAT for review of a decision; and
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(b) the Executive Director is satisfied:
   (i) after having communicated with the person; or
   (ii) after having made reasonable attempts to communicate
        with the person and having failed to do so;
        that the person does not intend to proceed with the
        application;
    the Executive Director may dismiss the application.

(2) If the Executive Director dismisses an application under
subsection (1), the application is taken to have been withdrawn at
the time at which the application was dismissed.

173 Chairperson for each SSAT hearing

(1) If the Executive Director is one of the members who constitute the
SSAT for the purposes of the review of a decision, the Executive
Director is to preside at the hearing of the review.

(2) If:
   (a) the members who constitute the SSAT for the purposes of the
       review of a decision include one Director; and
   (b) the Executive Director is not one of those members;
       the Director is to preside at the hearing of the review.

(3) In any other case in which the SSAT is constituted by 2 or more
members for the purposes of the review of a decision, the
Executive Director must designate one of those members as the
member who is to preside at the hearing of the review.

174 Decision of questions before SSAT

(1) Subject to subsection (2), a question arising before the SSAT on a
review is to be decided according to the opinion of a majority of
the members constituting the SSAT for the purposes of the review.

(2) If, on a question arising on a review, the opinions of the members
of the SSAT are equally divided, the question is to be decided
according to the opinion of the member presiding.
175 Directions as to procedure for hearings

(1) The Executive Director:
   (a) may give general directions as to the procedure to be followed by the SSAT in connection with the review of decisions under the social security law or under the Farm Household Support Act 1992; and
   (b) may give directions as to the procedure to be followed by the SSAT in connection with a particular review.

(2) A direction under subsection (1) must not be inconsistent with any provision of the social security law or the Farm Household Support Act 1992.

(3) A direction under paragraph (1)(b) may be given before or after the hearing of the particular review has commenced.

(4) The presiding member of the SSAT as constituted for the purposes of a particular review may give directions as to the procedure to be followed on the hearing of the review.

(5) A direction under subsection (4) must not be inconsistent with:
   (a) any provision of the social security law; or
   (b) any provision of the Farm Household Support Act 1992; or
   (d) a direction under subsection (1) of this section.

(6) A direction under subsection (4) may be given before or after the hearing of the particular review has commenced.

(7) Directions under this section must have due regard to the objective laid down by section 141.

176 Costs of review

(1) Subject to subsection (4), a party to a review must bear any expenses incurred by the party in connection with the review.

(2) The SSAT may determine that the Commonwealth is to pay the reasonable costs that are:
   (a) incurred by a party for travel and accommodation in connection with the review; and
   (b) specified in the determination.
(3) If the SSAT arranges for the provision of a medical service in relation to a party to a review, the SSAT may determine that the Commonwealth is to pay the costs of the provision of the service.

(4) If the SSAT makes a determination under subsection (2) or (3), the costs to which the determination relates are payable by the Commonwealth.

Subdivision E—Notification of decisions

177 Procedure following SSAT decision

(1) When the SSAT makes its decision on a review, the SSAT must:
   (a) prepare a written statement that:
      (i) sets out the decision of the SSAT on the review; and
      (ii) sets out the reasons for the decision; and
      (iii) sets out the findings on any material questions of fact; and
      (iv) refers to evidence or other material on which the findings of fact are based; and
   (b) give each party to the review a copy of the statement referred to in paragraph (a) within 14 days after the making of the decision in relation to the review; and
   (d) return to the Secretary any document that the Secretary has provided to the SSAT in connection with the review; and
   (e) give the Secretary a copy of any other document that contains evidence or material on which the findings of fact are based.

(2) When the SSAT determines a review, the Executive Director must give each party to the review (other than the Secretary) a written notice that includes a statement to the effect that, if the person is dissatisfied with the decision of the SSAT, application may, subject to the Administrative Appeals Tribunal Act 1975, be made to the AAT for review of the decision.

(3) A failure to comply with subsection (2) in relation to a decision of the SSAT does not affect the validity of the decision.
Division 5—Review by the Administrative Appeals Tribunal

Subdivision A—Preliminary

178 Application of Division

(1) Unless a contrary intention appears, the provisions of this Division apply to:

(a) all decisions of an officer under the social security law or under the *Farm Household Support Act 1992*; and

(b) all decisions under section 44-24 of the *Aged Care Act 1997* by the Secretary or by a person to whom the Secretary has sub-delegated power under subsection 96-2(7) of that Act.

(2) This Division applies as if a decision under the 1991 Act, as in force immediately before the commencement of this Part, were a decision under the social security law.

Subdivision B—Right to review by AAT

179 Review of decisions by AAT

(1) If:

(a) a decision has been reviewed by the SSAT; and

(b) the decision has been affirmed, varied or set aside by the SSAT;

application may be made to the AAT for review of the decision of the SSAT.

(2) For the purposes of subsection (1), the decision made by the SSAT is taken to be:

(a) where the SSAT affirms a decision—that decision as affirmed; and

(b) where the SSAT varies a decision—that decision as varied; and

(c) where the SSAT sets a decision aside and substitutes a new decision—the new decision; and
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(d) where the SSAT sets a decision aside and sends the matter back to the Secretary for reconsideration in accordance with any directions or recommendations of the SSAT—the directions or recommendations of the SSAT.

(3) Subsection (1) has effect subject to section 29 of the Administrative Appeals Tribunal Act 1975.

(4) If:
   (a) the AAT sets aside a decision of the SSAT; and
   (b) the Secretary is satisfied that an event that did not occur would have occurred if the decision had not been made;

   the Secretary may, if satisfied that it is reasonable to do so, direct that the event is to be taken, for the purposes of the social security law, to have occurred.

180 Variation of decision before AAT review completed

(1) If an officer varies a decision after an application has been made to the AAT for review of that decision but before the determination of the application, the application is to be treated as if:
   (a) the decision as varied had been affirmed by the SSAT; and
   (b) the application were an application for review of the decision as varied.

(2) If an officer sets a decision aside and substitutes a new decision after an application has been made to the AAT for review of the original decision but before the determination of the application, the application is to be treated as if:
   (a) the SSAT had set aside the original decision and substituted the new decision; and
   (b) the application were an application for review of the new decision.

(3) If:
   (a) a person applies to the AAT for review of a decision; and
   (b) before determination of the application, an officer varies the decision or sets the decision aside and substitutes a new decision;

   the applicant may, instead of proceeding with the application under subsection (1) or (2), withdraw the application.
181 Review by AAT limited to decisions reviewed by SSAT

The AAT may only review a decision that has been reviewed by the SSAT.

182 Settlement of proceedings before the AAT

(1) The Secretary may agree with other parties to proceedings before the AAT that relate to the recovery of a debt that the proceedings be settled. The agreement must be in writing.

(2) If proceedings are settled and the Secretary gives the AAT a copy of the agreement to settle the proceedings, the application for review of the decision the subject of the proceedings is taken to have been dismissed.

Subdivision C—Modification of Administrative Appeals Tribunal Act

183 Definition

In this Subdivision:

AAT Act means the Administrative Appeals Tribunal Act 1975.

184 Notice of application for review

The AAT Act applies to an application under section 179 for review of a decision as if the reference in subsection 29(11) of the AAT Act to the person who made the decision were a reference to each person who was a party to the review of the decision by the SSAT (other than the party who made the application under section 179).

185 Parties to a review by the AAT

The AAT Act applies to an application under section 179 for review as if the reference in paragraph 30(1)(b) of the AAT Act to the person who made the decision were a reference to each party to the review of the decision by the SSAT.
186 Lodgment of documents with the AAT

(1) The AAT Act applies to an application under section 179 for review as if references in section 37 of the AAT Act to the person who made the decision the subject of the application were references to:
   (a) if the original decision was made by the CEO or an employee of the Agency—the CEO; or
   (b) in any other case—the Secretary.

(2) If a person applies to the AAT under section 179 for review of a decision, the Secretary is to be taken to have complied with the Secretary’s obligations under paragraph 37(1)(a) of the AAT Act in relation to the decision if the Secretary gives the AAT the prescribed number of copies of the statement prepared by the SSAT under paragraph 177(1)(a).

(3) Subsection (2) does not limit the powers of the AAT under section 38 of the AAT Act.

(4) If:
   (a) a person applies under section 179 for review of a decision; and
   (b) the original decision was made by the CEO or an employee of the Agency;
subsection (2) applies as if references to the Secretary were references to the CEO.

(5) In this section:
   *original decision* means the decision that was reviewed by the SSAT.

187 Power of AAT to obtain additional information

The AAT Act applies to an application under section 179 for review as if references in section 38 of the AAT Act to the person who lodges a statement referred to in paragraph 37(1)(a) of that Act with the AAT were references to the Executive Director.
188 Operation and implementation of the decision under review

(1) The AAT Act applies to an application under section 179 for review of a decision as if references in subsection 41(4) of the AAT Act to the person who made the decision were references to each party to the review by the SSAT.

(2) The AAT Act applies to an application under section 179 for review of a decision as if references in section 41 of the AAT Act to the decision to which the relevant proceeding relates were references to:
   (a) if the SSAT affirmed the original decision—the original decision; or
   (b) if the SSAT varied the original decision:
      (i) the original decision as varied by the SSAT; and
      (ii) the original decision; or
   (c) if the SSAT set aside the original decision and substituted a new decision:
      (i) the new decision; and
      (ii) the original decision; or
   (d) if the SSAT set aside the original decision and sent the matter back to the Secretary for reconsideration in accordance with any directions or recommendations of the SSAT:
      (i) any decision made as a result of that reconsideration; and
      (ii) the original decision.

(3) For the purposes of subsection (2), the original decision is the decision that was reviewed by the SSAT.

189 Failure of party to appear

The AAT Act applies to the review of a decision on an application under section 179 as if the reference in subsection 42A(2) of the AAT Act to the person who made the decision were a reference to the Secretary.
Part 5—Information management

Division 1—Information gathering

191 Application of Division

(1) This Division:
   (a) binds the Crown in each of its capacities; and
   (b) extends to:
       (i) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and
       (ii) all persons, irrespective of their nationality or citizenship.

(2) This Division does not require a person to give information or produce a document to the extent that in doing so the person would contravene a law of the Commonwealth (other than a law of a Territory).

192 General power to obtain information

The Secretary may require a person to give information, or produce a document that is in the person’s custody or under the person’s control, to the Department if the Secretary considers that the information or document may be relevant to one or more of the following:

(a) the question whether a person who has made a claim for a social security payment is or was qualified for the payment;
(b) the question whether a social security payment is payable to a person who is receiving the payment;
(c) the question whether a social security payment was payable to a person who has received the payment;
(d) the rate of social security payment that is or was applicable to a person;
(da) the question whether a person who has made a claim under the Social Security (Fares Allowance) Rules 1998 was eligible for fares allowance;
(db) the operation of Part 3B;
193 Power to obtain information from a person who owes a debt to the Commonwealth

The Secretary may require a person who owes a debt to the Commonwealth under or as a result of the social security law or the Farm Household Support Act 1992:

(a) either to:
   (i) give to the Department information that is relevant to the person’s financial situation; or
   (ii) produce to the Department a document that is in the person’s custody or under the person’s control and is relevant to the person’s financial situation; and

(b) if the person’s address changes—to inform the Department of the new address within 14 days after the change.

194 Obtaining information about a person who owes a debt to the Commonwealth

If the Secretary believes that a person may have information or a document:

(a) that would help the Department locate another person (the debtor) who owes a debt to the Commonwealth under or as a result of the social security law or the Farm Household Support Act 1992; or

(b) that is relevant to the debtor’s financial situation;

the Secretary may require the person to give the information, or produce the document, to the Department.
195 Obtaining information to verify claims etc.

(1) The Secretary may require a person to give information about a class of persons to the Department for any or all of the following purposes:

(a) to detect cases in which amounts of social security payment under the social security law have been paid when they should not have been paid;
(b) to detect cases in which concession cards have been granted to persons to whom they should not have been granted;
(c) to verify the qualification of persons who have made claims for social security payments under the social security law for those payments;
(ca) to facilitate the administration of Part 3B;
(cb) to facilitate the administration of Part 3C (schooling requirements);
(d) to verify the eligibility of persons who have applied for financial supplement.

(2) The information that the Secretary may require about each person in the class of persons is all or any of the following information (but no other information):

(a) full name and any previous name;
(b) address;
(c) sex;
(d) marital status;
(e) date of birth;
(f) date of death;
(g) dates of entries into and departures from Australia;
(h) any payments received by the person from the person given the notice, within the period of 52 weeks before the giving of the notice, and the account number of the account into which any of those payments were paid;
(ha) in relation to any legal or equitable estate or interest in real property held by the person:
   (i) the name of the owner of the property;
   (ii) the address of the property;
   (iii) the details of the title documents for the property;
(i) in relation to a course of study being undertaken by the person:
   (i) the name of the educational institution that the person is attending;
   (ii) the name of any educational institution previously attended by the person;
   (iii) the person’s enrolment status;
   (iv) the person’s student identification number;
   (v) the name of the course;
   (vi) the course code;
   (vii) the date on which the course started or starts;
   (viii) the date on which the course ends;
   (ix) the subject or unit code;
   (x) the normal full-time study work load for the course;
   (xi) indicators of the person’s work load, including (but not limited to) effective full-time student units, credit points, contact hours, number of subjects undertaken and number of assignments completed;
   (xii) the number of semesters required to complete the course;
   (xiii) the date on which the person first attended, or will first attend, the course;
   (xiv) the date on which the person last attended, or will last attend, the course;
   (xv) whether the person has discontinued the course and, if the person has discontinued the course, the date on which it happened;
   (xvi) details of any unapproved absences from the course;
   (xvii) the results or grade obtained by the person;
(j) in relation to any employment of the person by the person given the notice:
   (i) the date on which the person’s employment started; and
   (ii) the date on which the person’s employment ended;
(k) for the purposes of Part 3C (schooling requirements), in relation to a schooling requirement child—any information relevant to the child’s past or present enrolment, or attendance, at school (within the meaning of that Part).
(3) The Secretary may require information about a particular class of persons whether or not the Secretary is able to identify any of the persons in that class as being:
   (a) persons:
       (i) who have received; or
       (ii) who are receiving; or
       (iii) who have made claims for; social security payments; or
   (b) persons:
       (i) who are the holders of concession cards; or
       (ii) who have made claims for concession cards; or
   (c) persons who have applied for financial supplement.

(4) Within 13 weeks after information is given in response to a requirement under subsection (1), the Secretary must decide which (if any) of the information is, or is likely to be, relevant to a matter referred to in subsection (1).

(5) If the Secretary decides, within the 13 week period, that some or all of the information given in response to the requirement is not, or is not likely to be, relevant to a matter referred to in subsection (1), the Secretary must ensure that any record of the irrelevant information is destroyed.

(6) If the Secretary has not made a decision under subsection (4) at the end of the 13 week period, the Secretary must ensure that any record of all or any part of the information is destroyed.

196 Written notice of requirement

(1) A requirement under this Division must be made by written notice given to the person of whom the requirement is made.

(2) The notice:
   (a) may be given personally or by post or in any other manner approved by the Secretary; and
   (b) must specify:
       (i) how the person is to give the information or produce the document to which the requirement relates; and
(ii) the period within which the person is to give the information or produce the document to the Department; and
(iii) the officer (if any) to whom the information is to be given or the document is to be produced; and
(iv) that the notice is given under this section.

(3) The period specified under subparagraph (2)(b)(ii) must not end earlier than 14 days after the notice is given.

(4) The notice may require the person to give the information by appearing before a specified officer to answer questions.

(5) If the notice requires the person to appear before an officer, the notice must specify a time and place at which the person is to appear. The time must be at least 14 days after the notice is given.

197 Offence—failure to comply with requirement

(1) A person must not refuse or fail to comply with a requirement under this Division to give information or produce a document.

Penalty: Imprisonment for a term not exceeding 12 months.

(2) Subsection (1) applies only to the extent to which the person is capable of complying with the requirement.

(3) Subsection (1) does not apply if the person has a reasonable excuse.

198 Obligations not affected by State or Territory laws

Nothing contained in a law of a State or a Territory operates to prevent a person from:
(a) giving information; or
(b) producing a document; or
(c) giving evidence;
that the person is required to give or produce to the Department or an officer for the purposes of the social security law.
Division 2—End-of-employment statements

199 Request for end-of-employment statement

If a person’s employment (including employment under a contract for services) ceases, the person may request his or her former employer to give the person a statement, in accordance with a form approved by the Secretary, about that employment.

200 Offence—failure to give end-of-employment statement

(1) If a person makes a request under section 199, the former employer must comply with the request as soon as practicable.

Penalty: Imprisonment for a term not exceeding 12 months.

(2) Strict liability applies to the element of an offence against subsection (1) that a request is a request under section 199.
Division 3—Confidentiality

201 Operation of Division

(1) Nothing in this Division prevents a person from disclosing information to another person if the information is disclosed for the purposes of the Child Support (Registration and Collection) Act 1988 or the Child Support (Assessment) Act 1989.

(2) The provisions of this Division that relate to the disclosure of information do not affect the operation of the Freedom of Information Act 1982.

201A Definition of officer

In this Division:

officer means:

(a) a person who is or has been an officer within the meaning of subsection 23(1) of the 1991 Act; or

(b) a person who is or has been appointed or employed by the Commonwealth and who, as a result of that appointment or employment, may acquire or has acquired information concerning a person under the social security law or the Farm Household Support Act 1992; or

(c) a person who, although not appointed or employed by the Commonwealth, performs or did perform services for the Commonwealth and who, as a result of performing those services, may acquire or has acquired information concerning a person under the social security law or the Farm Household Support Act 1992.

202 Protection of personal information

(1) A person may obtain protected information if the information is obtained for the purposes of the social security law, the Farm Household Support Act 1992, the Dental Benefits Act 2008 or the Family Homelessness Prevention and Early Intervention Pilot.
(2) A person may:
   (a) make a record of protected information; or
   (b) disclose such information to any person; or
   (c) otherwise use such information;
if the record, disclosure or use made of the information by the person is made:
   (d) for the purposes of the social security law, the *Farm Household Support Act 1992* or the *Dental Benefits Act 2008*; or
   (da) for the purposes of the Family Homelessness Prevention and Early Intervention Pilot; or
   (e) for the purpose for which the information was disclosed to the person under section 207 or 208 of this Act.

(2A) A person engaged (whether as an employee or otherwise) by a service organisation may:
   (a) obtain protected information; or
   (b) make a record of protected information; or
   (c) disclose protected information to another person; or
   (d) otherwise use protected information;
if the person believes, on reasonable grounds, that the obtaining, recording, disclosure or use that is proposed to be made of the information by the person is reasonably necessary for one or more of the purposes specified in subsection (2B).

(2B) The purposes for which the person may obtain, record, disclose or use protected information are as follows:
   (a) facilitating access by a service recipient to a work-related service provided by a service organisation;
   (b) facilitating efficient and effective delivery of a work-related service by a service organisation;
   (c) facilitating efficient and effective performance of duties or exercise of functions relating to the provision of work-related services by a service organisation;
   (d) facilitating efficient and effective administration by the Commonwealth of one or more of the matters mentioned in paragraphs (a), (b) or (c) (for example, payments to service organisations by the Commonwealth);
   (e) any other purpose determined by the Secretary under subsection (2E).
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(2C) A person may:

(a) obtain protected information; or
(b) make a record of protected information; or
(c) disclose protected information to another person; or
(d) otherwise use protected information;

if the Secretary believes, on reasonable grounds, that the obtaining, recording, disclosure or use that is proposed to be made of the information by the person is reasonably necessary for one or more of the following purposes:

(e) research into matters of relevance to a Department that is administering any part of the social security law;
(f) statistical analysis of matters of relevance to a Department that is administering any part of the social security law;
(g) policy development.

(2D) In this section:

*service organisation* means:

(a) an Agency (within the meaning of the *Public Service Act 1999*); or
(b) another authority of the Commonwealth; or
(c) an organisation that performs services for the Commonwealth.

*service recipient* means a person:

(a) who is receiving a social security payment, benefit or allowance; or
(b) who has made a claim for a social security payment, benefit or allowance; or
(c) who has contacted the Department about the receipt of, or an existing or future claim for, a social security payment, benefit or allowance; or
(d) on whose behalf another person, with the person’s authority, has contacted the Department about any of the matters mentioned in paragraphs (a) to (c) relating to the person.

*work-related service* means a service of the following kind:

(a) assessment of the capacity to work of a service recipient;
(b) assistance given to a service recipient with the purpose of preparing the service recipient to seek or undertake work;
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(c) placement of a service recipient in a position of employment;
(d) a service of a kind determined by the Secretary under subsection (2E).

(2E) The Secretary may, by legislative instrument, determine either or both of the following:
(a) that a specified purpose that is related to a matter mentioned in paragraphs (2B)(a) to (d) is a purpose for which the person may obtain, record, disclose or use protected information under subsection (2A);
(b) services of a specified kind are work-related services for the purposes of this section.

(3) The Minister may, by legislative instrument, specify additional purposes relating to other programs administered by the Department for which protected information may be obtained under subsection (1), or recorded, disclosed or otherwise used under subsection (2).

(5) For the purposes of subsection 12(1) of the Legislative Instruments Act 2003, an instrument does not take effect until the end of the period in which it could be disallowed in either House of the Parliament.

Enrolment and attendance at school

(6) If protected information relates to a matter covered by subsection (7), a person may do any of the following:
(a) obtain the information;
(b) make a record of the information;
(c) disclose the information to a person responsible for the operation of the relevant school, or any other school;
(d) otherwise use the information.

(7) This subsection covers matters in relation to the following:
(a) the enrolment, or non-enrolment, of a child at a school;
(b) a person whose child is, or is not, enrolled at a school;
(c) the attendance, or non-attendance, of a child at a school;
(d) a person whose child is, or is not, attending a school.

(8) If a person does something under subsection (6) for the purposes of Part 3C (schooling requirements), in subsection (6) or (7) of this
Section the following terms have the same meaning as in Part 3C (see section 124A):
(a) attendance (at a school);
(b) enrolment (at a school);
(c) person responsible (for the operation of a school).

Note: In addition to the requirements of this section, information disclosed under this section must be dealt with in accordance with section 14 of the Privacy Act 1988.

203 Offence—unauthorised access to information

(1) If:
(a) a person intentionally obtains information; and
(b) the person is not authorised by or under the social security law or the Farm Household Support Act 1992 to obtain the information; and
(c) the person knows or ought reasonably to know that the information is protected information;
the person is guilty of an offence.

(2) An offence against subsection (1) is punishable on conviction by imprisonment for a term not exceeding 2 years.

(3) Strict liability applies to the element of an offence against subsection (1) that a person not authorised to do something is not authorised by or under the social security law or the Farm Household Support Act 1992 to do that thing.

204 Offence—unauthorised use of protected information

(1) If:
(a) a person intentionally:
   (i) makes a record of; or
   (ii) discloses to any other person; or
   (iii) otherwise makes use of;
information; and
(b) the person is not authorised or required by or under the social security law, the family assistance law or the Farm Household Support Act 1992 to make the record, disclosure or use of the information that is made by the person; and
Section 204A

(c) the person knows or ought reasonably to know that the information is protected information;
the person is guilty of an offence.

(2) An offence against subsection (1) is punishable on conviction by imprisonment for a term not exceeding 2 years.

(3) Strict liability applies to the element of an offence against subsection (1) that a person not authorised or required to do something is not authorised or required by or under the social security law or the Farm Household Support Act 1992 to do that thing.

204A Use of tax file numbers

(1) The Secretary may require the Commissioner of Taxation to provide the Secretary with information about people, including tax file numbers, that was contained in TFN declarations lodged with the Commissioner under Division 3 of Part VA of the Income Tax Assessment Act 1936.

(2) Information provided to the Secretary under a requirement made under subsection (1) may be used only for the following purposes:
(a) to detect cases in which amounts of social security payments under the social security law have been paid when they should not have been paid;
(b) to verify, in respect of persons who have made claims for social security payments under the social security law, the qualification of those persons for those payments;
(c) to establish whether the rates at which social security payments under the social security law are being, or have been, paid are, or were, correct.

205 Offence—soliciting disclosure of protected information

(1) If:
(a) a person (the first person) solicits the disclosure of protected information from an officer or another person; and
(b) the disclosure would be in contravention of this Division; and
(c) the first person knows or ought reasonably to know that the information is protected information;
the first person is guilty of an offence, whether or not any protected information is actually disclosed.

(2) An offence against subsection (1) is punishable on conviction by imprisonment for a term not exceeding 2 years.

(3) Strict liability applies to the element of an offence against subsection (1) that a contravention is a contravention of this Division.

206 Offence—offering to supply protected information

(1) A person who offers to supply (whether to a particular person or otherwise) information about another person, knowing the information to be protected information, is guilty of an offence.

(2) A person who holds himself or herself out as being able to supply (whether to a particular person or otherwise) information about another person, knowing the information to be protected information, is guilty of an offence.

(3) An offence against subsection (1) or (2) is punishable on conviction by imprisonment for a term not exceeding 2 years.

(4) Nothing in subsection (1) or (2) renders an officer acting in the performance or exercise of his or her duties, functions or powers under the social security law or the Farm Household Support Act 1992 guilty of an offence.

207 Protection of certain documents etc. from production to court etc.

An officer must not, except for the purposes of the social security law or the Farm Household Support Act 1992, be required:

(a) to produce any document in his or her possession; or
(b) to disclose any matter or thing of which he or she had notice; because of the performance or exercise of his or her duties, functions or powers under the social security law or the Farm Household Support Act 1992, to:

(c) a court; or
(d) a tribunal; or
(e) an authority; or
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(f) a person;

having power to require the production of documents or the answering of questions.

208 Disclosure of information by Secretary

(1) Despite sections 204 and 207, the Secretary may:

(a) if the Secretary certifies that it is necessary in the public interest to do so in a particular case or class of cases—

disclose information acquired by an officer in the performance of his or her functions or duties or in the exercise of his or her powers under the social security law or the Farm Household Support Act 1992 to such persons and for such purposes as the Secretary determines; or

(b) disclose any such information:

(i) to the Secretary of a Department of State of the Commonwealth or to the head of an authority of the Commonwealth for the purposes of that Department or authority; or

(ii) to a person who is expressly or impliedly authorised by the person to whom the information relates to obtain it; or

(iii) to a competent authority or competent institution of a foreign country that is a party to a scheduled international social security agreement for any purpose relating to giving effect to that agreement.

(2) In giving certificates for the purposes of paragraph (1)(a), the Secretary must act in accordance with guidelines from time to time in force under section 209.

(3) In disclosing information under subparagraph (1)(b)(i), the Secretary must act in accordance with guidelines from time to time in force under section 209.

(3A) In spite of any other provision of this Part, the Secretary may disclose information of a kind referred to in paragraph (a) or (b) of the definition of protected information in subsection 23(1) of the 1991 Act to a person who is the payment nominee or correspondence nominee, within the meaning of Part 3A, of the person to whom the information relates (the principal) as if the nominee were the principal.
(4) If an expression used in subsection (1) in relation to a foreign country is defined in a scheduled international social security agreement to which that country is a party, the expression has the same meaning, when used in this section, in relation to that country as it has in the agreement.

208A Disclosure of information by Secretary—education expenses tax offset

(1) The Secretary may, for the purposes of the administration of the education expenses tax offset provided by Subdivision 61-M of the Income Tax Assessment Act 1997, give the Commissioner of Taxation relevant information about people, including their tax file numbers, acquired by an officer in the exercise of the officer’s powers, or the performance of the officer’s duties or functions, under the social security law.

(2) Information (including tax file numbers) given to the Commissioner of Taxation under subsection (1) may be used only for purposes relating to the education expenses tax offset provided by Subdivision 61-M of the Income Tax Assessment Act 1997.

(3) This section does not limit the powers of the Secretary under section 208.

209 Guidelines for exercise of Secretary’s disclosure powers

The Minister, by legislative instrument:

(a) is to determine guidelines for the exercise of:
   (i) the Secretary’s power to give certificates for the purposes of paragraph 208(1)(a); and
   (ii) the Secretary’s power under subsection 208(1) to disclose information to a person referred to in subparagraph 208(1)(b)(i); and

(b) may revoke or vary those guidelines.

210 Officer’s declaration

An officer must make a declaration in a form approved by the Minister or the Secretary if required to do so by the Minister or the Secretary.
Part 6—Offences

Division 1—Preliminary

211 Application of Part

This Part extends to:

(a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and

(b) all persons, irrespective of their nationality, who are making, or have made, a claim for a social security payment under the social security law; and

(c) all persons, irrespective of their nationality, who are receiving, or have received, a payment of a social security payment under the social security law.
Division 2—Offences

212 False statement in connection with claim or hardship request

(1) A person contravenes this subsection if:
   (a) the person makes a statement; and
   (b) the statement is false or misleading; and
   (c) the person is reckless as to whether the statement is false or misleading; and
   (d) the statement is made in connection with, or in support of, the person’s or any other person’s:
      (i) claim for a social security payment under the social security law; or
      (ii) request under paragraph 1129(1)(d) of the 1991 Act that section 1129 of that Act apply to the person; or
      (iii) request under paragraph 1131(1)(f) of the 1991 Act that section 1131 of that Act apply to the person.

(2) For the purposes of an offence against section 217 that relates to subsection (1) of this section, strict liability applies to the following elements of the offence:
   (a) the element that a payment is a social security payment under the social security law;
   (b) the element that a request is a request under paragraph 1129(1)(d) of the 1991 Act;
   (c) the element that a request is a request under paragraph 1131(1)(f) of the 1991 Act;

213 False statement to deceive or affect rates

(1) A person contravenes this subsection if:
   (a) the person makes a statement; and
   (b) the statement is false or misleading; and
   (c) the person is reckless as to whether the statement is false or misleading; and
   (d) the person is reckless as to whether the statement:
      (i) deceives, or might deceive, an officer doing duty in relation to the social security law; or
(ii) affects, or might affect, the rate of a social security payment under the social security law.

(2) For the purposes of an offence against section 217 that relates to subsection (1) of this section, strict liability applies to the following elements of the offence:
   (a) the element that a duty is a duty in relation to the social security law;
   (b) the element that a rate of payment is a rate of social security payment under the social security law.

214 False statement or document

(1) A person contravenes this subsection if:
   (a) the person makes a statement to an officer; and
   (b) the statement is false or misleading in any particular; and
   (c) the person is reckless as to whether the statement is false or misleading in any particular.

(2) A person contravenes this subsection if:
   (a) the person presents a document to an officer; and
   (b) the document is false or misleading in any particular; and
   (c) the person is reckless as to whether the document is false or misleading in any particular.

215 Obtaining payment that is not payable

(1) A person must not obtain:
   (a) payment of a social security payment under the social security law; or
   (b) payment of an instalment of a social security payment under the social security law;

   knowing that the payment is:
   (c) not payable at all; or
   (d) only payable in part.

(2) For the purposes of an offence against section 217 that relates to subsection (1) of this section, strict liability applies to the following elements of the offence:
   (a) the element that a payment is a social security payment under the social security law;
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216 Payment obtained through fraud etc.

(1) A person contravenes this subsection if:
   (a) the person obtains:
       (i) payment of a social security payment under the social security law; or
       (ii) payment of an instalment of a social security payment under the social security law;
   (b) the person does so:
       (i) by means of impersonation; or
       (ii) by means of a fraudulent device.

(2) For the purposes of an offence against section 217 that relates to subsection (1) of this section, strict liability applies to the following elements of the offence:
   (a) the element that a payment is a social security payment under the social security law;
   (b) the element that an instalment is an instalment of a social security payment under the social security law.

(3) A person contravenes this subsection if:
   (a) the person makes a statement; and
   (b) the statement is false or misleading; and
   (c) the person is reckless as to whether the statement is false or misleading; and
   (d) as a result the person obtains:
       (i) payment of a social security payment under the social security law; or
       (ii) payment of an instalment of a social security payment under the social security law.

(4) For the purposes of an offence against section 217 that relates to subsection (3) of this section, strict liability applies to the following elements of the offence:
   (a) the element that a payment is a social security payment under the social security law;
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(b) the element that an instalment is an instalment of a social security payment under the social security law.
Division 3—Penalties

217 Penalty for contravention of Division 2

A person who contravenes a provision of Division 2 is guilty of an offence punishable on conviction by imprisonment for a term not exceeding 12 months.

218 Repayment of social security payment

(1) If a person is convicted of an offence against section 217, the court may:
   (a) impose a penalty in respect of the offence; and
   (b) order the person to pay the Commonwealth an amount equal to any amount paid by way of social security payment because of the act, failure or omission that constituted the offence.

(2) In spite of anything in the social security law or any other law, a person is not to be imprisoned for failing to pay an amount payable to the Commonwealth under paragraph (1)(b).

219 Penalty where person convicted of more than one offence

(1) Subject to subsection (2), if a person is convicted of more than one offence against section 217, the court may, if it thinks fit, impose one penalty for all the offences.

(2) A single penalty imposed under subsection (1) must not exceed the sum of the maximum penalties that could be imposed if a separate penalty were imposed for each offence.
Division 4—Procedural matters

220 Joining of charges

Charges against the same person for a number of offences against section 217 may be joined in one complaint, information or declaration if those charges:
(a) are founded on the same facts; or
(b) form a series of offences of the same or a similar character; or
(c) are part of a series of offences of the same or a similar character.

221 Particulars of each offence

If 2 or more charges are included in the same complaint, information or declaration, particulars of each offence charged are to be set out in a separate paragraph.

222 Trial of joined charges

If charges are joined, the charges are to be tried together unless:
(a) the court considers it just that any charge should be tried separately; and
(b) the court makes an order to that effect.

223 Evidentiary effect of Secretary’s certificate

(1) For the purposes of paragraph 218(1)(b), a certificate signed by the Secretary is evidence of the matters specified in the certificate.

(2) Without limiting subsection (1), a certificate may specify:
(a) a person; and
(b) an amount that has been paid to the person by way of social security payment because of:
   (i) an act; or
   (ii) a failure; or
   (iii) an omission; and
(c) the act, failure or omission that caused the amount to be paid.
Enforcement of court certificate as judgment

If:

(a) a court makes an order under paragraph 218(1)(b), under paragraph 1351(1)(b) of the 1991 Act as in force before 20 March 2000 or under subsection 239(7) of the 1947 Act; and

(b) the clerk or other appropriate officer of the court gives a certificate specifying:
   (i) the amount ordered to be paid to the Commonwealth; and
   (ii) the person by whom the amount is to be paid; and

(c) the certificate is filed in a court (which may be the court that made the order) that has civil jurisdiction to the extent of the amount to be paid;

the certificate is enforceable in all respects as a final judgment of the court in which the certificate is filed.
Part 6 Offences
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Division 5—Liability of certain employers and principals for offences

Subdivision A—Interpretation

225 State of mind of a person

A reference in this Division to the state of mind of a person includes a reference to:

(a) the knowledge, intention, opinion, belief or purpose of the person; and
(b) the person’s reasons for the intention, opinion, belief or purpose.

228 Offence

A reference in this Division to an offence against the social security law includes a reference to:

(a) an offence against the social security law that is taken to have been committed because of section 11.2 of the Criminal Code; or
(b) an offence created by:
   (i) section 11.1, 11.4 or 11.5 of the Criminal Code; or
   (ii) section 6 of the Crimes Act 1914;
    that relates to the social security law.

Subdivision C—Proceedings against non-corporations

231 State of mind of individual

If, in proceedings for an offence against the social security law in respect of conduct engaged in by a person other than a corporation, it is necessary to establish the state of mind of the person, it is sufficient to show that:

(a) the conduct was engaged in by an employee or agent of the person within the scope of his or her actual or apparent authority; and
(b) the employee or agent had that state of mind.

328 Social Security (Administration) Act 1999
232 Conduct of employee or agent

If:

(a) conduct is engaged in on behalf of a person other than a corporation by an employee or agent of the person; and
(b) the conduct is within the scope of the employee’s actual or apparent authority;

the conduct is taken, for the purposes of a prosecution for an offence against the social security law, to have been engaged in by the person unless the person establishes that he or she took reasonable precautions, and exercised due diligence, to avoid the conduct.

233 Exclusion of imprisonment as penalty for certain offences

In spite of any other provision of the social security law, if:

(a) a person is convicted of an offence; and
(b) the person would not have been convicted if sections 231 and 232 had not been in force;

the person is not liable to be punished by imprisonment for that offence.
Part 7—Miscellaneous

234 Delegation

(1) Subject to subsection (3), the Secretary may, in writing, delegate to an officer all or any of the powers of the Secretary under the social security law.

(2) Subject to subsection (3), the Secretary may, in writing and in accordance with service arrangements, delegate to the CEO or an employee of the Agency all or any of the powers of the Secretary under the social security law.

(3) The Secretary cannot delegate to anyone except the CEO the Secretary’s power under subsection 208(1) to disclose information to a person referred to in subparagraph 208(1)(b)(i).

(4) If the Secretary delegates to the CEO the Secretary’s power under subsection 208(1) to disclose information to a person referred to in subparagraph 208(1)(b)(i), the CEO cannot, in spite of any provision to the contrary in the Agency Act, delegate the power to an employee of the Agency.

(5) The Health Secretary may, in writing, delegate to an officer of the Health Department all or any of the powers and functions of the Health Secretary under this Act.

(6) The Employment Secretary may, in writing, delegate the power of the Employment Secretary under section 28 of the 1991 Act to declare particular programs of work to be programs of work for unemployment payment:
   (a) to an officer of the Employment Department or the Department of Family and Community Services; or
   (b) to an employee of the Agency.

(7) Without limiting the operation of the definition of officer in subsection 23(1) of the 1991 Act, in this section officer includes a person engaged (whether as an employee or otherwise) by:
   (a) an Agency (within the meaning of the Public Service Act 1999); or
   (b) another authority of the Commonwealth; or
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(c) an organisation that performs services for the Commonwealth;
but does not include the CEO or an employee of the Agency.

235 Authorised review officers

The Secretary may, in writing, authorise an officer to perform duties as an authorised review officer for the purposes of the social security law.

236 Decisions to be in writing

(1) A decision of an officer under the social security law must be in writing.

(2) A decision under the social security law is taken to be in writing if it is made, or recorded, by means of a computer.

237 Notice of decisions

(1) If notice of a decision under the social security law is:
   (a) delivered to a person personally; or
   (b) left at the address of the place of residence or business of the person last known to the Secretary; or
   (c) sent by prepaid post to the postal address of the person last known to the Secretary;
   notice of the decision is taken, for the purposes of the social security law, to have been given to the person.

(2) Notice of a decision under the social security law may be given to a person by properly addressing, prepaying and posting the document as a letter.

(3) If notice of a decision is given in accordance with subsection (2), notice of the decision is taken to have been given to the person at the time at which the notice would be delivered in the ordinary course of the post unless the contrary is proved.

(4) This section only applies to notices of decisions, and nothing in this section affects the operation of sections 28A and 29 of the Acts Interpretation Act 1901 in relation to other notices under the social security law (for example, a notice that requires a person to inform...
Section 238

the Department about some matter or a notice that requires a person to give the Secretary a statement about some matter).

238 Payments to Commissioner of Taxation or the Child Support Registrar

(1) The Secretary must, in accordance with section 218 of the Income Tax Assessment Act 1936, or Subdivision 260-A in Schedule 1 to the Taxation Administration Act 1953, for the purpose of enabling the collection of an amount that is, or may become, payable by a recipient of a social security payment:

(a) make deductions from the instalments of, or make a deduction from, the social security payment payable to a person; and

(b) pay the amount deducted to the Commissioner of Taxation.

(2) The Secretary must, in accordance with a notice given to the Secretary under section 72AA of the Child Support (Registration and Collection) Act 1988 in relation to the recipient of a social security pension or a social security benefit:

(a) make deductions from the instalments of the pension or benefit payable to the person; and

(b) pay the amounts deducted to the Registrar.

239 Judicial notice of certain matters

(1) All courts are to take judicial notice of a signature that purports to be attached or appended to any official document if the signature is of a person who:

(a) holds or has held the office of:

(i) Secretary; or

(ii) Director-General of Social Security; or

(iii) Director-General of Social Services; or

(b) is or has been an officer.

(2) If the signature of a person referred to in subsection (1) purports to be attached or appended to any official document, all courts are to take judicial notice of the fact that the person holds, or has held, an office referred to in subsection (1) or is, or has been, an officer.
240 Documentary evidence

(1) If the signature of any person who:
   (a) holds or has held the office of:
       (i) Secretary; or
       (ii) Director-General of Social Security; or
       (iii) Director-General of Social Services; or
   (b) is or has been an officer;
   purports to be attached or appended to any official document, the
document is to be received in all courts as prima facie evidence of
the facts and statements contained in it.

(2) A statement in writing signed by a person referred to in
subsection (1) that a person is or was receiving a social security
payment under the social security law or the 1947 Act on a certain
date at a certain rate is to be received in all courts as prima facie
evidence that the person is or was receiving the social security
payment on the date, and at the rate, stated.

(3) A certificate given by the Secretary stating:
   (a) that a specified amount was the principal sum at a particular
time under a specified financial supplement contract; or
   (b) that a specified amount was the sum of the amounts repaid,
or the sum of the amounts notionally repaid, before a
particular time or during a particular period in respect of a
specified financial supplement contract; or
   (c) that a specified amount was the amount, or the total of the
amounts, of subsidy paid by the Commonwealth to a
specified participating corporation in respect of a specified
financial supplement contract in lieu of interest on the
principal sum or in lieu of interest on the principal sum in
relation to a specified period; or
   (d) that a specified amount was, at a particular time, the amount
outstanding under a specified financial supplement contract; or
   (e) that a specified amount was, at a particular time, the
indexation amount in relation to a specified financial
supplement contract; or
   (f) that the rights, or specified rights, of a specified participating
corporation in respect of a specified person under a specified
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financial supplement contract were transferred by the corporation to the Commonwealth on a specified date; or

(g) that, on a specified day, a person had an FS debt or FS debts to the Commonwealth of a specified amount or specified amounts; or

(h) that, on a specified day, a notice, to a specified effect, under a provision of Chapter 2B was given to a specified person by the Secretary;

is to be received in all courts as prima facie evidence of the matters stated in the certificate.

(4) In any proceeding, a document purporting to be a certificate by the Secretary under subsection (3) is to be taken, unless the contrary is established, to be such a certificate and to have been duly given.

240A  Form of cards

(1) A pensioner concession card, a seniors health card or a health care card must be in a form approved in writing by the Secretary for that card.

(2) Subject to subsection (3), an approval under subsection (1) may extend to:

(a) the inclusion on a card of information in a form not capable of being read except by the use of equipment of a particular kind; and

(b) the specification in a card of a day as the day at the end of which the card will expire; and

(c) a form of card that is not an actual card carrying visible information.

(3) In the case of a concession card other than an automatic issue card:

(a) the card must specify the day at the end of which the card expires; and

(b) the day to be so specified is the last day of the period specified, for the purposes of subsection 37(9) or (10), in the determination granting the card.

(4) Subject to section 240B, a concession card is to include the name of each person (if any) who is a dependant of the holder of the card.

334  Social Security (Administration) Act 1999
(5) The specification of a day in a card under paragraph (2)(b) does not affect the qualification of the person to whom the card is issued for a card of the same or any other type.

(6) The expiry of a card on a day specified under paragraph (2)(b) does not affect the qualification of the person to whom the card was issued for a card of the same or any other type.

(7) A failure to comply with subsection (4) in relation to a concession card does not alone render the card ineffective for the purposes of this or any other Act.

(8) In this section:

*dependant* has the same meaning as in Part 2A.1 of the 1991 Act.

### 240B Restrictions on listing of dependants

(1) A seniors health card is not to include the name of any person as a dependant of the holder of the card.

(2) A health care card issued to a person by virtue of subsection 1061ZK(7) or 1061ZO(9) of the 1991 Act is not to include the name of any person as a dependant of the holder of the card.

(3) A health care card is not to include the name of a person (other than the partner of the holder of the card) as a dependant of the holder of the card if the person is the holder of a pensioner concession card or a health care card.

(4) A pensioner concession card or a health care card is not to include the name of the partner of the holder of the card as a dependant of the holder of the card unless:

(a) the partner is in Australia and is:
   (i) an Australian resident; or
   (ia) is a special category visa holder residing in Australia; or
   (ii) the holder of a visa included in a class of visas determined by the Minister for the purposes of this paragraph; or
   (iii) a person declared by the Minister to be a person to whom this subparagraph applies; or
Section 240C

(b) the partner is a New Zealand citizen and the holder of the card:
   (i) is in Australia; and
   (ii) is receiving a social security pension or benefit solely because of the operation of the scheduled international agreement between Australia and New Zealand.

(4A) The Minister may, by legislative instrument, determine a class of visas for the purposes of paragraph (4)(a).

(5) The Minister may, by legislative instrument, declare that a person who:
   (a) is included in a specified class of persons; and
   (b) is, or has been, in Australia in specified circumstances;
   is a person to whom subparagraph (4)(a)(iii) applies.

(6) The circumstances that may be specified in a declaration under subsection (5) include circumstances that existed or exist at any time before or after the making of the declaration.

(8) In this section:

_dependant_ has the same meaning as in Part 2A.1 of the 1991 Act.

240C Issue of replacement card on expiry of automatic issue card

(1) If:
   (a) a day is specified in an automatic issue card under paragraph 240A(2)(b); and
   (b) on the day following that day, the person who was the holder of the card remains qualified for the card; and
   (c) a further card has not been issued to the person under subsection (2);

the Secretary must issue a further card to the person.

(2) If:
   (a) a day (the _expiry day_) is specified in an automatic issue card under paragraph 240A(2)(b); and
   (b) the Secretary is satisfied that the person is likely to remain qualified for the card after the end of the expiry day;
the Secretary may, at any time before the expiry day, issue to the
person a further card to take effect on the day following the expiry
day.

241 Annual report

(1) As soon as practicable after 30 June in each year, the Secretary
must give to the Minister a written report on the administrative
operation of the social security law during the financial year that
ended on that 30 June.

(2) The Minister is to cause a copy of the report to be laid before each
House of the Parliament within 15 sitting days of that House after
the Minister receives the report.

242 Appropriation

Payments under the social security law and payments by the
Commonwealth to financial corporations under the Student
Financial Supplement Scheme established under Chapter 2B of the
1991 Act are to be made out of the Consolidated Revenue Fund,
which is appropriated accordingly.

243 Regulations

(1) The Governor-General may make regulations prescribing matters:
(a) required or permitted by this Act or the 1991 Act to be
prescribed; or
(b) necessary or convenient for carrying out or giving effect to
this Act or the 1991 Act and, in particular, may make
regulations prescribing penalties of a fine not exceeding 10
penalty units for any breach of the regulations.

(2) Without limiting subsection (1), the matters that may be prescribed
by regulations include:
(a) ways (other than ways involving the use of a document) in
which a claim, application, submission, declaration or
determination may be made or withdrawn, or information or
a notice, statement, certificate, direction or consent may be
given, for the purposes of a provision of the social security
law; and
(b) matters relating to the doing of anything in a way referred to in paragraph (a), including matters relating to proof of the doing of things in such a way.

(3) The reference in subsection (2) to ways by which something may be made, withdrawn or given includes, but is not limited to:
   (a) the use of electronic equipment; and
   (b) ways that involve the use of a telecommunications system.

(4) Anything made, withdrawn or given in a way prescribed by regulations made by virtue of subsection (2) is taken, for the purposes of the social security law:
   (a) to have been made, withdrawn or given in writing; and
   (b) to have been made, withdrawn or given in accordance with the social security law.

(5) The reference in paragraph (2)(a) to a determination does not include a reference to a determination that is an instrument that is a legislative instrument.
Part 8—Transitional and saving provisions

244 Construction of references to 1991 Act

A reference in:
(a) a provision of a law of the Commonwealth or a Territory enacted before 20 March 2000 (whether or not the provision has come into operation); or
(b) an instrument or a document;
to a provision of the 1991 Act that has been repealed by the Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999 is, on and after 20 March 2000, to be construed as a reference to the corresponding provision of this Act.

245 Correspondence of provisions

(1) If one provision of the 1991 Act and one provision of this Act have the same legal effect, the 2 provisions correspond to each other.

(2) If:
(a) a provision of the 1991 Act has a particular legal effect in relation to a number of payment types; and
(b) a provision of this Act has that legal effect in relation to one or more, but not all, of those payment types;
the provisions correspond to each other, for the purpose of subsection (1), in relation to the payment types referred to in paragraph (b).

(3) In this section:

legal effect includes conferring the power to issue an instrument.

payment type means a pension, benefit or allowance.

246 Saving of social security payments and concession cards

(1) If a determination under the 1991 Act granting a claim for a social security payment or concession card is in force immediately before 20 March 2000, the determination has effect, on and from
20 March 2000, as if it were a determination under this Act granting a claim for the payment or card.

(2) If a determination under the 1991 Act directing the making of a payment of a social security payment is in force immediately before 20 March 2000, the determination has effect, on and from 20 March 2000, as if it were a determination under this Act directing the making of a payment of the social security payment.

247 Saving of instruments under 1991 Act

(1) An instrument that was in force, immediately before 20 March 2000, under a provision of the 1991 Act that is amended or repealed by the Social Security (Administration and International Agreements) (Consequential Amendments) Act 1999 has effect, on and from 20 March 2000, as if it were an instrument made under the corresponding provision of this Act.

(2) Without limiting subsection (1), the instrument may be:
   (a) a determination; or
   (b) a direction; or
   (c) an approval; or
   (d) a notice; or
   (e) a declaration; or
   (f) an authorisation.

(3) Subsection (1) does not apply to:
   (a) a determination to which section 246 applies; or
   (b) a delegation under section 1299 of the 1991 Act.

(4) If an instrument to which subsection (1) applies was, when made, to have effect only for a limited period, the instrument has effect under subsection (1) only for so much of the period as had not already expired before 20 March 2000.

248 Saving of claims for social security payments and concession cards

(1) If:
   (a) a person has lodged a claim for a social security payment or a concession card under the 1991 Act before 20 March 2000; and
Section 249

(b) the claim has not been determined before 20 March 2000;
the claim has effect, on and from 20 March 2000, as if it were a
claim under this Act for the payment or card.

(2) If:
(a) subsection (1) applies to a claim; and
(b) the claim is granted under this Act;
the determination granting the claim may have a date of effect
before 20 March 2000.

(3) If:
(a) subsection (1) applies to a claim; and
(b) the claim is granted under this Act; and
(c) the determination granting the claim has a date of effect
before 20 March 2000;
the payment of instalments during the period that starts on the date
effect of the determination and ends on 19 March 2000 is taken
to be made under this Act and the person making the claim has no
rights under the 1991 Act arising from the claim.

249 Transitional instalment period

If:
(a) an instalment period relating to an instalment of a social
security payment payable to a person under the 1991 Act
commenced before 20 March 2000; and
(b) the instalment period would have ended after 20 March 2000;
this Act has effect in relation to that period and that instalment as
if:
(c) this Act had been in force throughout the whole of the
instalment period; and
(d) the instalment period had been a period determined under
subsection 43(1) of this Act.

250 Application for amount owing at recipient's death

If:
(a) before 20 March 2000, a person made an application under a
provision of the 1991 Act that relates to the payment of a
social security payment after a person has died; and
Section 251

(b) the application was not determined before 20 March 2000; then:
(c) the application has effect, on and from 20 March 2000, as if it had been made under the corresponding provision of this Act and:
(d) this Act has effect as if the amount in respect of which the application was made were an amount payable under this Act; and
(e) the application has no effect for the purposes of the 1991 Act.

251 Power to obtain information about events etc. before 20 March 2000
If a provision of this Act gives the Secretary power to request a person to give information or produce a document, the power extends to requesting a person:
(a) to give information about matters that arose before 20 March 2000; or
(b) to produce a document that came into existence, or relates to matters that arose, before 20 March 2000.

252 Unfinished reviews by Secretary
(1) If:
(a) a person made an application under section 1240 of the 1991 Act before 20 March 2000; and
(b) the application was not determined before 20 March 2000; the application has effect, from 20 March 2000, as if it were an application under section 129 of this Act.
(2) The date of effect of the decision made in response to the application may be before 20 March 2000.
(3) If:
(a) subsection (1) applies to an application; and
(b) the date of effect of the decision made in response to the application is before 20 March 2000; the decision has effect, for the period that starts on the date of effect of the decision and ends on 19 March 2000, as if it were a decision made under the 1991 Act.
253 Unfinished reviews by SSAT

(1) If:
   (a) a person made an application under section 1247 of the 1991 Act before 20 March 2000; and
   (b) the application was not determined before 20 March 2000;
   the application has effect, on and from 20 March 2000, as if it were an application under section 142 of this Act.

(2) The date of effect of the decision made in response to the application may be before 20 March 2000.

(3) If:
   (a) subsection (1) applies to an application; and
   (b) the date of effect of the decision made in response to the application is before 20 March 2000;
   the decision has effect, for the period that starts on the date of effect of the decision and ends on 19 March 2000, as if it were a decision made under the 1991 Act.

254 Unfinished reviews by AAT

(1) If:
   (a) a person made an application under section 1283 of the 1991 Act before 20 March 2000; and
   (b) the application was not determined before 20 March 2000;
   the application has effect, on and from 20 March 2000, as if it were an application under section 179 of this Act.

(2) The date of effect of the decision made in response to the application may be before 20 March 2000.

(3) If:
   (a) subsection (1) applies to an application; and
   (b) the date of effect of the decision made in response to the application is before 20 March 2000;
   the decision has effect, for the period that starts on the date of effect of the decision and ends on 19 March 2000, as if it were a decision made under the 1991 Act.
Section 255

255 Saving of steps in review process

If:

(a) a person made an application under section 1240, 1247 or 1283 of the 1991 Act before 20 March 2000; and
(b) the application was not determined before 20 March 2000;

anything done under, or for the purposes of, a provision of the 1991 Act before 20 March 2000 has effect, on and after that date, as if it had been done under, or for the purposes of, the corresponding provision of this Act.

256 Entitlements and liabilities

(1) Subsection (2) applies to an amount that:

(a) would have been payable on or after 20 March 2000; and
(b) represents an entitlement that arose before 20 March 2000 under a provision of the 1991 Act as in force before that date.

(2) For the purposes of section 242, an amount to which this subsection applies is taken to be payable, on and after 20 March 2000, under the social security law.

(3) A debt due under the 1991 Act before 20 March 2000 and remaining unpaid on that date is taken to be a debt due under the social security law.

257 Transitional regulations

(1) The Governor-General may make regulations prescribing matters in relation to any transitional matters (including prescribing any saving or application provisions) arising out of the enactment of this Act.

(2) Without limiting subsection (1), and in spite of any other provision of this or any other Act, regulations made by virtue of subsection (1) may:

(a) modify the effect of a provision of this Part (other than this section); or
(b) substitute another provision for any provision of this Part (other than this section); or
(c) add a provision to this Part (other than this section).
Schedule 1—Dictionary

Note: See section 3.

1 Definitions

(1) In this Act:


AAT means the Administrative Appeals Tribunal.

attendance, at a school, for the purposes of Part 3C (schooling requirements), has the meaning given by section 124A.

attendance notice has the meaning given by section 124K.

authorised review officer means an officer authorised under section 235 to perform duties as an authorised review officer for the purposes of the social security law.

enrolment, at a school, for the purposes of Part 3C (schooling requirements), has the meaning given by section 124A.

enrolment notice has the meaning given by section 124F.

person responsible, for the operation of a school, for the purposes of Part 3C (schooling requirements), has the meaning given by section 124A.

schooling requirement child has the meaning given by section 124B.

schooling requirement determination has the meaning given by section 124C.

schooling requirement payment has the meaning given by section 124D.

schooling requirement person has the meaning given by section 124.

social security periodic payment means:

(a) a social security benefit; or
Schedule 1 Dictionary

Clause 1

(b) a social security pension; or
(c) carer allowance; or
(f) double orphan pension; or
(g) mobility allowance; or
(i) pensioner education supplement; or
(j) Northern Territory CDEP transition payment.

SSAT means the Social Security Appeals Tribunal.

transfer day, in relation to a transferee to a social security pension or benefit, has the meaning given by subclause (2) or (3), as the case requires.

transferee, in relation to a social security pension or benefit, has the meaning given by subclause (2) or (3), as the case requires.

(2) If:
(a) a social security pension or benefit (the old payment) ceases to be payable to a person otherwise than because another social security payment becomes payable to the person; and
(b) immediately after the old payment ceases to be payable, the person is qualified for another social security pension or benefit (the new payment); and
(c) the person makes a claim for the new payment;
the person is a transferee to the new payment and the person’s transfer day is the day that immediately follows the last day on which the old payment is payable to the person.

(3) If:
(a) a person becomes qualified for a social security pension or benefit (the new payment); and
(b) immediately before becoming qualified for the new payment:
   (i) the person is a member of a couple; and
   (ii) the person’s partner is receiving a social security benefit; and
(c) the person makes a claim for the new payment;
the person is a transferee to the new payment and the person’s transfer day is the day on which the person becomes qualified for the new payment.
Schedule 2—Rules for working out start day

Note: See section 42.

Part 1—Introductory

1 Definitions

In this Schedule, unless the contrary intention appears:

- **benefit** means a social security benefit.
- **pension** means a social security pension.

2 Different start days under Parts 2 and 3

1 If:

   a) but for this subclause, a person would have a start day under Part 2 of this Schedule in relation to a social security payment and would also have a start day under Part 3 of this Schedule in relation to the same payment; and
   b) the start day under Part 3 would be earlier than the start day under Part 2;

   the day worked out under Part 3 is the person’s start day in relation to the social security payment.

2 If, but for this subclause, a person would have 2 start days under Part 3 of this Schedule in relation to the same social security payment, one day earlier than the other, the earlier day is the person’s start day under Part 3 in relation to the social security payment.

3 If:

   a) 2 or more clauses of Part 3 of this Schedule apply to the working out of a person’s start day in relation to a social security payment; and
   b) the person’s start day under both or all of those clauses is the same day;

   that day is the person’s start day under Part 3 in relation to the social security payment.
Clause 2

(4) If:

(a) but for this subclause, a person would have a start day under Part 2 of this Schedule in relation to a concession card and would also have a start day under Part 3 of this Schedule in relation to the same card; and

(b) the start day under Part 3 would be earlier than the start day under Part 2;

the day worked out under Part 3 is the person’s start day in relation to the concession card.
Part 2—General rules

3 Start day—general rule

(1) If:
   (a) a person makes a claim for a social security payment; and
   (b) the person is qualified for the payment on the day on which
       the claim is made;
   the person’s start day in relation to the payment is the day on
   which the claim is made.

(2) A person’s start day in relation to a concession card for which the
    person is qualified under:
    (a) Division 1 of Part 2A.1 of the 1991 Act; or
    (b) Subdivision A of Division 3 of that Part;
    is the first day on which the person is qualified for the card.

(3) If:
   (a) a person makes a claim for a seniors health card or a health
       care card under Subdivision B of Division 3 of Part 2A.1 of
       the 1991 Act; and
   (b) the person is qualified for the card on the day on which the
       claim is made;
   the person’s start day in relation to the card is the day on which the
   claim is made.

4 Start day—early claim

(1) If:
   (a) a person (other than a detained person) makes a claim for a
       relevant social security payment; and
   (b) the person is not, on the day on which the claim is made,
       qualified for the payment; and
   (c) assuming the person does not sooner die, the person will,
       because of the passage of time or the occurrence of an event,
       become qualified for the payment within the period of 13
       weeks after the day on which the claim is made; and
   (d) the person becomes so qualified within that period;
Clause 4

the claim is taken to be made on the first day on which the person is qualified for the social security payment.

(2) For the purposes of subclause (1), the following provisions have effect:
   (a) subject to paragraph (b), any social security payment, other than newstart allowance or special benefit, is a relevant social security payment;
   (b) parenting payment is not a relevant social security payment in the case of a person who becomes qualified for the payment because of the birth of a child.

(3) If:
   (a) a detained person makes a claim for a social security payment; and
   (b) the person is not, on the day on which the claim is made, qualified for the payment; and
   (c) the person becomes qualified for the payment within 3 weeks after the claim is made;
   the claim is taken to be made on the first day on which the person is qualified for the payment.

(4) Subclause (3) does not have effect in relation to a claim for a crisis payment or for a social security pension or benefit.

(5) If:
   (a) a person makes a claim for a newstart allowance; and
   (b) the person is in receipt of youth allowance or austudy payment; and
   (c) the claim is made not earlier than 4 weeks before the day on which, in the opinion of the Secretary, the person will become qualified for a newstart allowance;
   the claim is taken to be made on the day on which the person becomes qualified for that allowance.

(6) If:
   (a) a person makes a claim for a newstart allowance or youth allowance; and
   (b) when the claim is made, the person is serving a liquid assets test waiting period;
the claim is taken to be made on the first day on which the person is qualified for a newstart allowance or youth allowance, as the case may be.

(7) In this clause:

*detained person* means a person who:

(a) is in gaol; or

(b) is undergoing psychiatric confinement because the person has been charged with an offence.

5 Effect of exclusion period

(1) If, on the day that would, but for this clause, be a person’s start day under this Schedule in relation to a social security payment, the person is subject to one or more exclusion periods, the person’s start day in relation to the payment is worked out as follows:

(a) if the person is subject to one exclusion period—the start day is the first day after the end of that period;

(b) if the person is subject to 2 or more exclusion periods—the start day is the first day after all the periods have ended.

(1A) This clause does not apply in relation to payment of parenting payment to a person who is a member of a couple if the Secretary is satisfied that it should not so apply.

(2) In this clause:

*exclusion period* means a period during which, because of a provision of the social security law, a social security payment that would otherwise be payable to a person is not payable to the person, including:

(a) a waiting period; and

(b) a non-payment period (including a compliance penalty period); and

(c) a compensation preclusion period; and

(d) a period during which a person is in gaol; and

(e) if the payment is a youth allowance or newstart allowance—a period during which the payment is not payable because of the operation of section 547AA or 615 of the 1991 Act; and
Clause 6

(f) if the payment is a schooling requirement payment within the meaning of Part 3C—a period during which the payment is suspended under section 124H or 124M.

6 Saving

Nothing in this Schedule operates to make a social security payment payable to a person on a day on which, because of another provision of the social security law, the payment is not payable to the person.
Part 3—Backdated start day

Division 1—Explanatory

7 Explanation of Part

In some circumstances, a person’s start day in relation to a social security payment may be earlier than the day worked out under Part 2 of this Schedule. This Part contains rules that enable the start day to be worked out in those circumstances.
Division 2—Rules applying to all or most social security payments

8 Claim made soon after partner’s claim

If:

(a) a person makes a claim for a social security benefit or pension within 14 days after the person’s partner makes a claim for a social security benefit or pension; and

(b) the person’s claim and the partner’s claim are both granted; the person’s start day in relation to the benefit or pension is the first day on which the person is qualified for the pension or benefit in the period starting on the partner’s start day in relation to the pension or benefit granted to the partner and ending on the day on which the person made the claim for the pension or benefit.

9 Claim by transferee

(1) If:

(a) a person is a transferee to a benefit or pension; and

(b) the person makes a claim for the benefit or pension within 14 days after the day that is the person’s transfer day in relation to the benefit or pension;

the transfer day is also the person’s start day in relation to the benefit or pension.

(2) If:

(a) a person is a transferee to a benefit or pension; and

(b) the person makes a claim for the benefit or pension more than 14 days, but not more than 13 weeks, after the person’s transfer day; and

(c) the Secretary determines that:

(i) during the period beginning on the person’s transfer day and ending on the day on which the person made the claim, the person suffered from an illness or from an incapacity due to a medical condition; and

(ii) the illness or incapacity was the sole or principal cause of the person’s failure to make the claim within 14 days after the person’s transfer day;
the person’s transfer day is also the person’s start day in relation to the benefit or pension.

10 Claim soon after childbirth

If a woman makes a claim for a social security payment within 4 weeks after giving birth to a child, the woman’s start day in relation to the payment is the first day on which the woman is qualified for the payment in the period starting on the birth of the child and ending on the day on which the claim is made.

11 Incapacitated claimant

(1) If:
   (a) a person becomes incapacitated for work as a result of a medical condition; and
   (b) the person makes a claim for a benefit or pension within 5 weeks after the day on which the incapacity begins; and
   (c) the person continues to suffer the medical condition from the day on which the incapacity begins until the claim is made;

   the person’s start day in relation to the benefit or pension is the first day on which the person was qualified for the benefit or pension in the period starting on the day on which the incapacity began and ending on the day on which the claim was made.

(2) If:
   (a) a person becomes incapacitated for work as a result of a medical condition; and
   (b) the person makes a claim for a benefit or pension more than 5 weeks after the day on which the incapacity begins; and
   (c) the Secretary is satisfied that:
      (i) the person has continued to suffer the medical condition from the day on which the incapacity began until the claim was made; and
      (ii) the medical condition was the sole or principal cause of the person’s failure to make the claim within 5 weeks after the day on which the incapacity began;

   the person’s start day in relation to the pension or benefit is the first day on which the person was qualified for the benefit or pension in the period of 4 weeks ending immediately before the day on which the claim was made.
Schedule 2  Rules for working out start day
Part 3  Backdated start day
Division 2  Rules applying to all or most social security payments

Clause 12

12  Claim after death of partner

If:
   (a) a person’s partner dies; and
   (b) the person makes a claim for a social security payment within 4 weeks after the death of the partner;
the person’s start day in relation to the payment is the first day on which the person was qualified for the payment in the period starting on the day on which the partner died and ending on the day on which the claim was made.

13  Claim for social security payment following claim for AGDRP

If a person:
   (a) is qualified for an AGDRP; and
   (b) makes a claim for the payment; and
   (ba) is in Australia when making that claim; and
   (c) within 14 days after making that claim, makes a claim for another social security payment;
the person’s start day in relation to that other social security payment is the day on which the person became qualified for the AGDRP.

14  Claim where Part 3.14A of the 1991 Act applies

(1) If:
   (a) a person, or a person’s partner, has reached pension age; and
   (b) Part 3.14A of the 1991 Act applies to the person or the person’s partner because of a transfer of qualifying interests by the person or the person’s partner; and
   (c) the transfer was completed on or after 20 March 2000 but before 15 September 2000; and
   (d) the person makes a claim for a social security payment within the period of 3 months starting on the day on which the transfer was completed;
the claimant’s start day in relation to the social security payment is:
   (e) the day on which the transfer was completed; or
   (f) the day on which the person becomes qualified for the social security payment;
whichever is later.
(2) If:
   (a) a person, or a person’s partner, has reached pension age; and
   (b) Part 3.14A of the 1991 Act applies to the person or the person’s partner because of a transfer of qualifying interests by the person or the person’s partner; and
   (c) the transfer was completed on or after 15 September 2000; and
   (d) the person makes a claim for a social security payment;
the claimant’s start day in relation to the social security payment is the day on which the claim is made.

14A Claim where Part 3.14B of the 1991 Act applies

If:
   (a) a person, or a person’s partner, has reached pension age; and
   (b) Part 3.14B of the 1991 Act applies to the person or the person’s partner because of a transfer of eligible interests by the person or the person’s partner; and
   (c) the person makes a claim for a social security payment within the period of 13 weeks starting on the day on which the transfer was completed;
the claimant’s start day in relation to the social security payment is:
   (d) the day on which the transfer was completed; or
   (e) the day on which the person becomes qualified for the social security payment;
whichever is later.
Division 3—Rules applying to particular social security payments

15 Certain persons subject to cancellation of austudy payment, newstart allowance, youth allowance or special benefit

If:

(a) a person receives an austudy payment, newstart allowance, youth allowance or special benefit; and

(b) either:
   (i) the payment, allowance or benefit is not payable to the person because of subsection 63(4); or
   (ii) a compliance penalty period applies to the person; and

(c) payment of the payment, allowance or benefit is cancelled; and

(d) the person lodges a claim for an austudy payment, newstart allowance, youth allowance or special benefit within 14 days after the day (the \textit{cancellation day}) on which the cancellation of the payment, allowance or benefit referred to in paragraph (a) takes effect:

the person’s start day in relation to the payment, allowance or benefit to which the claim referred to in paragraph (d) relates is the day after the cancellation day.

16 Carer allowance for disabled child or children

(1) If:

(a) a person is qualified for carer allowance for a care receiver who is a disabled child or for 2 care receivers who are disabled children; and

(b) the person makes a claim for carer allowance within 12 weeks after the day on which the person became qualified for the allowance;

the person’s start day in relation to the allowance is the day on which the person became qualified for carer allowance.
Clause 17

(2) If:

(a) a person is qualified for carer allowance for a care receiver who is a disabled child or for 2 care receivers who are disabled children; and

(b) the person makes a claim for carer allowance more than 12 weeks after the day on which the person became qualified for the allowance;

the person’s start day in relation to the allowance is the first day of the period of 12 weeks ending immediately before the day on which the claim was made.

17 Carer allowance for disabled adult

(1) If:

(a) a person is qualified for carer allowance for a care receiver who is a disabled adult in circumstances where the disability affecting the adult is due to an acute onset; and

(b) the person makes a claim for carer allowance within 12 weeks after the day on which the person became qualified for the allowance in the circumstances mentioned in paragraph (a);

the person’s start day in relation to the allowance is the day on which the person became qualified for carer allowance in the circumstances mentioned in paragraph (a).

(2) If:

(a) a person is qualified for carer allowance for a care receiver who is a disabled adult in circumstances where the disability affecting the adult is due to an acute onset; and

(b) the person makes a claim for carer allowance more than 12 weeks after the day on which the person became qualified for the allowance in the circumstances mentioned in paragraph (a);

the person’s start day in relation to the allowance is the first day of the period of 12 weeks ending immediately before the day on which the claim was made.
Clause 18

18 Double orphan pension

If:
(a) a person (the claimant) is qualified for a double orphan pension for a young person; and
(b) the claimant makes a claim for double orphan pension for the young person within 13 weeks after the birth of the young person;
the claimant’s start day in relation to the pension is the first day on which the person was qualified for the pension in the period starting on the day of the young person’s birth and ending on the day on which the claim was made.

19 Double orphan pension—claim following death of former recipient

If:
(a) a person (the former recipient) who is receiving double orphan pension for a young person dies; and
(b) another person (the claimant) makes a claim for double orphan pension for the young person within 13 weeks after the death of the former recipient;
the claimant’s start day in relation to the double orphan pension is the first day on which the claimant was qualified for the pension in the period starting on the day of the former recipient’s death and ending on the day on which the claim was made.

28 Newstart allowance—claimant for disability support pension

If:
(a) a person makes a claim for a newstart allowance; and
(b) the person is qualified for a newstart allowance under subsection 593(1B) of the 1991 Act;
the person’s start day in relation to the newstart allowance is the day on which the person made the claim for a disability support pension referred to in paragraph 593(1B)(d) of that Act.
29 Parenting payment

If:
   (a) a person has a PP child; and
   (b) the person makes a claim for parenting payment within 4 weeks after the day on which the child became a PP child of the person;
the person’s start day in relation to the parenting payment is the first day on which the person was qualified for the payment in the period starting on the day on which the child became a dependent child of the person and ending on the day on which the claim was made.

30 Pensioner education supplement

If:
   (a) a person makes a claim for a pensioner education supplement; and
   (b) when the claim is made, the person is qualified for the supplement; and
   (c) the claim is made within 4 weeks after the person became qualified for the supplement;
the person’s start day in relation to the pensioner education supplement is the day on which the person became qualified for the supplement.

31 Pensioner education supplement: claim before 1 April

If:
   (a) a person makes a claim for a pensioner education supplement after the beginning of a calendar year but before 1 April in that year; and
   (b) the person’s course of education is a full year course that begins before 1 April in that year;
the person’s start day in relation to the pensioner education supplement is the first day on which the person is qualified for pensioner education supplement on or after 1 January in that year.
Clause 32

32 Pensioner education supplement: claim before 1 August

If:
   (a) a person makes a claim for a pensioner education supplement after the beginning of a calendar year but before 1 August in that year; and
   (b) the person’s course of education is a full year course that starts in the month of July in that year;

the person’s start day in relation to the pensioner education supplement is the first day on which the person is qualified for pensioner education supplement on or after 1 July in that year.

33 Sickness allowance: incapacitated claimant

If:
   (a) a person stops receiving sickness allowance because the person fails to give the Secretary a certificate referred to in paragraph 669(5)(b) of the 1991 Act before the end of the person’s maximum allowance period; and
   (b) the sole or principal cause of the person’s failure is either:
      (i) the person’s medical condition; or
      (ii) an act or omission of an officer of the Department; and
   (c) after the end of the person’s maximum allowance period, the person makes a claim for sickness allowance in respect of the incapacity for which the allowance was previously granted;

the person’s start day in relation to the sickness allowance is the first day on which the person was qualified for the allowance after the end of the person’s maximum allowance period but not earlier than 4 weeks before the day on which the claim was made.

34 Youth allowance: incapacitated claimant

If:
   (a) a person who is undertaking a course of full-time study becomes incapacitated for study as a result of a medical condition; and
   (b) the person makes a claim for a youth allowance within 5 weeks after the day on which the incapacity begins; and
   (c) the person continues to suffer the medical condition from the day on which the incapacity begins until the claim is made;
the person’s start day in relation to the youth allowance is the first day on which the person was qualified for youth allowance in the period starting on the day on which the incapacity began and ending on the day on which the claim was made.

35 Youth allowance—claimant for disability support pension

If:

(a) a person makes a claim for a youth allowance; and
(b) the person is qualified for a youth allowance under subsection 540A(1) of the 1991 Act;

the person’s start day in relation to the youth allowance is the day on which the person made the claim for a disability support pension referred to in paragraph 540A(1)(c) of that Act.

36 Youth allowance—initial claim for family tax benefit

If:

(a) a claim is made for family tax benefit in respect of a person (the initial claim); and
(b) on the day on which the initial claim is made, the person is qualified for youth allowance; and
(c) the person afterwards makes a claim for youth allowance; and
(d) the Secretary is satisfied that it is reasonable for this clause to apply to the person;

the person’s start day in relation to youth allowance is the day on which the initial claim was made.
Division 4—Rules applying to health care cards

37 Health care cards, other than automatic issue health care cards

(1) If:
   (a) a person makes a claim for a health care card under Subdivision B of Division 3 of Part 2A.1 of the 1991 Act; and
   (b) within the claim period, a professional service has been rendered to, or hospital treatment has been provided for, the person or a dependant of the person; and
   (c) when the service was rendered or the treatment provided, as the case may be, the person was qualified for the card; and
   (d) the person remained so qualified until the claim was made;
   the person’s start day in relation to the health care card is:
   (e) the day on which the professional service was rendered or the hospital treatment was provided, as the case may be; or
   (f) if there were 2 or more such days within the claim period, the earlier or earliest of those days, as the case may be.

(2) For the purposes of subclause (1), any period earlier than 1 September 1981 that would, but for this subclause, be included in the claim period in respect of a particular claim is to be disregarded.

(3) In this clause:

- **claim period** means:
  (a) the period of 13 weeks ending on the day on which a claim is made; or
  (b) such longer period as the Secretary, having regard to all the circumstances of the case, approves.

- **dependant** has the same meaning as in Part 2A.1 of the 1991 Act.

- **hospital treatment** has the same meaning as in the *Health Insurance Act 1973*.

- **professional service** has the same meaning as in the *Health Insurance Act 1973*. 
Clause 37

(4) The Secretary must not approve, under subclause (3), a period that includes a period earlier than 1 September 1981.
Schedule 3—Constitution and membership of the Social Security Appeals Tribunal

Note: See section 139.

Part 1—Membership of the SSAT

1 Composition of the SSAT

The SSAT consists of the following members:
   (a) an Executive Director; and
   (b) such number of Directors as are appointed in accordance with this Act; and
   (c) such number of other members as are appointed in accordance with this Act.

2 The Executive Director

   (1) The Executive Director is responsible for the overall operation and administration of the SSAT.

   (2) The Executive Director is to:
       (a) monitor the operations of the SSAT; and
       (b) take reasonable steps to ensure that decisions of the SSAT are consistent; and
       (c) take reasonable steps to ensure that the SSAT efficiently and effectively performs its functions.

   (3) The Executive Director may give directions:
       (a) for the purpose of increasing the efficiency of the operations of the SSAT; and
       (b) as to the arrangement of the business of the SSAT.

3 Appointment of members

   (1) A member of the SSAT is to be appointed by the Governor-General.

   (2) The Executive Director is to be appointed as a full-time member.
Clause 4

(3) Any other member may be appointed either as a full-time member or as a part-time member.

4 Period of appointment

(1) Subject to this Schedule, a member holds office for such period as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) The period specified under subclause (1) must not exceed:
   (a) in the case of the Executive Director—5 years; and
   (b) in any other case—3 years.

5 Conditions of appointment

A member of the SSAT holds office on such terms and conditions (if any) in respect of matters not provided for by this Schedule as are determined by the Governor-General in writing.

6 Acting appointment: Executive Director

(1) The Governor-General may appoint a person to act as Executive Director:
   (a) during a vacancy in the office of Executive Director, whether or not an appointment has previously been made to the office; or
   (b) during any period, or during all periods, when the Executive Director is absent from duty or from Australia or is, for any reason, unable to perform the duties of his or her office.

(2) The Minister may appoint a person to act as Executive Director:
   (a) during a vacancy in the office of Executive Director, whether or not an appointment has previously been made to the office; or
   (b) during any period, or during all periods, when the Executive Director is absent from duty or from Australia or is, for any reason, unable to perform the duties of his or her office.
7 Acting appointments: Directors and other members

(1) The Governor-General may appoint a person to act as a Director or a member referred to in paragraph 1(c) of this Schedule:
   (a) in the place of a person who has ceased to be a Director or such a member; or
   (b) in the place of a Director or such a member during any period, or during all periods, when the Director or member is absent from duty or from Australia or is, for any reason, unavailable to perform the duties of his or her office.

(2) The Minister may appoint a person to act as a Director or a member referred to in paragraph 1(c) of this Schedule:
   (a) in the place of a person who has ceased to be a Director or such a member; or
   (b) in the place of a Director or such a member during any period, or during all periods, when the Director or member is absent from duty or from Australia or is, for any reason, unavailable to perform the duties of his or her office.

(3) A person appointed to act under subclause (1) or (2) must not continue to act for more than 12 months.

8 Extension of acting appointments

(1) If a person has been appointed under subclause 6(1) or paragraph 7(1)(b), the Governor-General may direct that the person is to continue to act in the appointment after the normal terminating event occurs.

(2) If a person has been appointed under subclause 6(2) or paragraph 7(2)(b), the Minister may direct that the person is to continue to act in the appointment after the normal terminating event occurs.

(3) A direction under subclause (1) or (2) must specify the period during which the person may continue to act in the appointment.

(4) The period specified in accordance with subclause (3) may be specified by reference to the happening of a particular event or the existence of particular circumstances.
(5) A direction under subclause (1) or (2):
   (a) is to be given only if there is a pending review or other special circumstances justifying the giving of the direction; and
   (b) may only be given before the normal terminating event occurs.

(6) A person continuing to act in accordance with a direction under subclause (1) or (2) must not continue to act for more than 12 months after the normal terminating event occurs.

(7) For the purposes of this clause, the normal terminating event for an appointment under clause 6 or 7 is:
   (a) if the appointment is made under paragraph 6(1)(a) or (2)(a)—the filling of the vacancy in the office of Executive Director; or
   (b) if the appointment is made under paragraph 6(1)(b) or (2)(b)—the Executive Director ceasing to be absent or ceasing to be unable to perform the duties of his or her office; or
   (c) if the appointment is made under paragraph 7(1)(b)—the Director or member ceasing to be absent or ceasing to be unable to perform the duties of his or her office; or
   (d) if the appointment is made under paragraph 7(2)(b)—the Director or member ceasing to be absent or ceasing to be unable to perform the duties of his or her office.

9 Effect of acts done by persons appointed to act

   (1) If the SSAT as constituted for the purposes of a review includes a person acting or purporting to act by virtue of an appointment under clause 6 or 7, any decision of, or any direction given or any other act done by, the SSAT as so constituted is not invalid merely because:
      (a) the occasion for the appointment had not arisen; or
      (b) there was a defect or irregularity in connection with the appointment; or
      (c) the appointment had ceased to have effect; or
      (d) the occasion for the person to act had not arisen or had ceased.
Clause 9

(2) Anything done by or in relation to a person purporting to act by virtue of an appointment under clause 6 or 7 is not invalid merely because:
(a) the occasion for the appointment had not arisen; or
(b) there was a defect or irregularity in connection with the appointment; or
(c) the appointment had ceased to have effect; or
(d) the occasion for the person to act had not arisen or had ceased.
Part 2—Organisation of the business of the SSAT

10 Constitution of SSAT for each hearing

(1) Subject to clause 11, the Executive Director may give written directions as to the members who are to constitute the SSAT for the purposes of:

(a) a particular review; or

(b) reviews of a particular kind.

(2) Without limiting subclause (1), the Executive Director may give a direction under that subclause as to the members who are to constitute the SSAT for the purposes of all reviews, or reviews of a particular kind, that are listed for hearing at a particular place during a particular period or during particular periods.

(3) For the purposes of a review, the SSAT is to be constituted by the members ascertained in accordance with the directions given under subclause (1).

11 Number of members for hearings

The maximum number of members to constitute the SSAT for the purposes of a review is 4.

12 Member unavailable to complete review

(1) If the hearing of a review of a decision has been commenced or completed by the SSAT constituted by 2 or more members but, before the matter to which the proceeding relates has been determined, one of the members constituting the SSAT for the purposes of the review has:

(a) ceased to be a member; or

(b) ceased to be available for the purposes of the review;

the following provisions have effect:

(c) if the SSAT was constituted by 2 or more members and the Executive Director does not give a direction under clause 10 reconstituting the SSAT for the purposes of the review—the hearing and determination, or the determination, of the
Clause 12

review may be completed by the SSAT constituted by the remaining member or members;
(d) in any other case—the proceeding must be reheard by the SSAT as constituted in accordance with the directions of the Executive Director under clause 10.

(2) If a review is reheard by the SSAT, the SSAT may, for the purposes of that review, have regard to any record of the proceedings before the SSAT as previously constituted.

(3) The reference in subclause (2) to a record of proceedings includes a reference to a record of any evidence taken in the proceeding.
Part 3—Administrative matters

13 Remuneration and allowances of members

(1) A member is to be paid such remuneration as is determined by the Remuneration Tribunal.

(2) If no determination of a member’s remuneration by the Remuneration Tribunal is in operation, the member is to be paid such remuneration as is prescribed.

(3) This clause has effect subject to the Remuneration Tribunal Act 1973.

14 Leave of absence

(1) A member has such recreation leave entitlements as are determined by the Remuneration Tribunal.

(2) The Minister may grant the Executive Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

(3) The Executive Director may grant another full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

(4) A determination under subclause (2) or (3) must be in writing.

15 Approval to engage in outside employment

(1) The Executive Director may approve another full-time member’s engaging in paid employment outside the duties of the member’s office.

(2) The Minister may give the Executive Director directions as to the exercise of the Executive Director’s power under subclause (1), and the Executive Director must comply with any such directions.

(3) A direction under subclause (2) must be in writing.

Social Security (Administration) Act 1999 373
Clause 16

16 Resignation

A member may resign his or her office by writing signed by the member and delivered to the Minister.

17 Removal from office

(1) The Governor-General may remove a member from office on the ground of proved misbehaviour or physical or mental incapacity.

(2) The Minister may suspend a member from office on the ground of proved misbehaviour or physical or mental incapacity.

(3) If the Minister suspends a member from office, the Governor-General may, on the recommendation of the Minister:
   (a) remove the member from office; or
   (b) direct that the suspension continue for such further period as the Governor-General specifies; or
   (c) direct that the suspension terminate.

(4) The suspension of a member from office under this clause does not affect any entitlement of the member to be paid remuneration and allowances.

(5) The Governor-General may remove a member from office if:
   (a) the member becomes bankrupt; or
   (b) the member applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
   (c) the member compounds with the member’s creditors; or
   (d) the member makes an assignment of the member’s remuneration for the benefit of the member’s creditors; or
   (e) the member is a full-time member and:
      (i) engages, except in accordance with an approval under clause 15, in paid employment outside the duties of the member’s office; or
      (ii) is absent from duty, except on leave of absence, for 14 consecutive days or 28 days in any 12 months; or
   (f) the member fails, without reasonable excuse, to comply with the member’s obligations under clause 18.
Clause 17

(6) If a member is:
   (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
   (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; or
   (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;
the Governor-General may, with the consent of the member, by signed instrument, retire the member from office on the ground of physical or mental incapacity on a date specified in the instrument.

(7) The date specified under subclause (6) must not be earlier than the date on which the instrument is signed.

(8) A member must not be suspended, removed or retired from office except as provided by this clause.

(9) In spite of anything in this clause, a member (including the Executive Director) who:
   (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
   (b) has not reached his or her maximum retiring age (within the meaning of that Act);
is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

(10) In spite of anything in this clause, a member (including the Executive Director) who:
   (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
   (b) is under 60 years of age;
is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 13 of that Act.

(11) In spite of anything in this clause, a member (including the Executive Director) who:
   (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
(b) is under 60 years of age;
is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

18 Disclosure of interests

(1) If:

(a) a member is, or is to be, a member of the SSAT as constituted for the purposes of a review; and
(b) the member has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of the member’s functions in relation to that review;

the following provisions have effect:

(c) the member must disclose the interest to the applicant and to the Secretary;
(d) except with the consent of the applicant and the Secretary, the member must not take part in the review or exercise any powers in relation to the review by the SSAT of the relevant decision.

(2) If the Executive Director becomes aware that:

(a) a member is, or is to be, a member of the SSAT as constituted for the purposes of a review; and
(b) the member has, in relation to that review, an interest of the kind referred to in paragraph (1)(b) of this clause;

the following provisions have effect:

(c) if the Executive Director considers that the member should not take part, or should not continue to take part, in the review—the Executive Director must give a direction to the member accordingly;
(d) in any other case—the Executive Director must cause the interest of the member to be disclosed to the applicant and the Secretary.

19 Disclosure of confidential information

(1) This clause applies to a person who is or has been:

(a) a member of the SSAT; or
Clause 19

(b) a person acting as a member of the SSAT; or
(c) a person (other than a member of the staff of the SSAT) providing interpreting services at the hearing of a review by the SSAT.

(2) This clause applies to information or a document if the information or document concerns a person and is obtained by a person to whom this clause applies in the course of performing functions or duties, or exercising powers, under the social security law, the family assistance law or the Student Assistance Act 1973.

(3) A person to whom this clause applies must not:
(a) make a record of any information to which this clause applies; or
(b) divulge or communicate to any person any information to which this clause applies;

unless the record is made or the information is divulged or communicated:
(c) for the purposes of the social security law, the family assistance law or the Student Assistance Act 1973; or
(d) for the purposes of, or in connection with, the performance of a function or duty or the exercise of a power under the social security law, the family assistance law or the Student Assistance Act 1973.

(4) Subclause (3) applies to the divulging or communicating of information, whether directly or indirectly.

(5) A person to whom this clause applies is not to be required:
(a) to produce to a court any document to which this clause applies; or
(b) to divulge or communicate to a court any information to which this clause applies;

except where it is necessary to do so for the purpose of carrying into effect the provisions of the social security law, the family assistance law or the Student Assistance Act 1973.

(6) A person to whom this clause applies must make an oath or declaration in a form approved by the Minister if required by the Minister to do so.
Clause 20

(7) For the purposes of this clause, a person who is providing interpreting services at the hearing of a review by the SSAT is to be taken to be performing a function under the social security law, the family assistance law or the Student Assistance Act 1973.

(8) In this clause:

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

produce includes permit access to.

20 Delegation by the Executive Director

The Executive Director may, in writing, delegate to a member of the SSAT, or a member of the staff of the SSAT, all or any of the powers and functions of the Executive Director under this Act, the family assistance law, the Student Assistance Act 1973, the Employment Services Act 1994, the Child Support (Assessment) Act 1989 or the Child Support (Registration and Collection) Act 1988.

21 Protection of members and witnesses

(1) A member has, in the performance of his or her duties as a member, the same protection and immunity as a member of the Administrative Appeals Tribunal.

(2) A person representing a party at a hearing of a review before the SSAT has the same protection and immunity as a barrister has in appearing before the Administrative Appeals Tribunal on behalf of a party.

(3) A person appearing before the SSAT as a witness has the same protection as a person appearing before the Administrative Appeals Tribunal as a witness.

22 Fees for witnesses

(1) If a person appears before the SSAT as a witness at the request of the Executive Director, the person is entitled to be paid, in respect of the person’s attendance, fees and allowances ascertained in accordance with a determination under subclause (2).
Clause 23

(2) The Minister may, by legislative instrument, determine the amounts of fees and allowances to be paid under subclause (1).

(4) The fees and allowances referred to in subclause (1) are to be paid by the Commonwealth.

23 Oath or affirmation of office

(1) A person who is appointed as a member, or to act as a member, of the SSAT must not discharge the duties of the office unless the person has taken an oath, or made an affirmation, in accordance with the form of oath or affirmation in Schedule 4.

(2) The oath or affirmation must be taken or made before a justice of the peace or a commissioner for taking affidavits.

24 Staff of the SSAT

Any staff required to assist the SSAT are to be persons engaged under the Public Service Act 1999 and made available for the purpose by the Secretary.

25 Annual report

(1) The Executive Director must, as soon as practicable after the end of a financial year, give to the Minister a report of the operations of the SSAT during that year.

(2) The Minister must cause the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.
Part 4—Saving provisions

26 Saving of appointments

(1) Subject to subclauses (2) and (3), an appointment of a person as a member of the SSAT that was:
   (a) made before the commencement of this Schedule; and
   (b) in force immediately before that commencement;
   has the same effect (if any) after the commencement of this Schedule as it would have had if:
   (c) this Schedule had been in force when the appointment was made; and
   (d) the appointment had been made under this Act.

(2) If, because of subclause (1), the appointment of a person as National Convenor has effect after the commencement of this Schedule, the person holds office after that commencement as Executive Director.

(3) If, because of subclause (1), the appointment of a person as a senior member of the SSAT has effect after the commencement of this Schedule, the person holds office after that commencement as a Director.

27 Saving of acts done

(1) Anything done before the commencement of this Schedule by, or in relation to, a person holding office as National Convenor has the same effect (if any) after that commencement as it would have had if:
   (a) this Schedule had been in force when the thing was done; and
   (b) the thing had been done under, or for the purposes of, this Act by, or in relation to, the Executive Director.

(2) Anything done before the commencement of this Schedule by, or in relation to, a senior member of the SSAT has the same effect (if any) after that commencement as it would have had if:
   (a) this Schedule had been in force when the thing was done; and
Clause 28

(b) the thing had been done under, or for the purposes of, this Act by, or in relation to, a Director.

(3) Anything done before the commencement of this Schedule by, or in relation to, a member of the SSAT, other than the National Convenor or a senior member, has the same effect (if any) after that commencement as it would have had if:
   (a) this Schedule had been in force when the thing was done; and
   (b) the thing had been done under, or for the purposes of this Act, by, or in relation to, a member of the SSAT, other than the Executive Director or a Director.

28 Saving of reviews in progress

(1) A review by the SSAT that commenced before the commencement of this Schedule may be continued, after that commencement, as if:
   (a) this Act had not been enacted; and
   (b) the 1991 Act continued in force as it was in force immediately before the commencement of this Schedule.

(2) For the purposes of subclause (1), the SSAT, as constituted under this Act, is taken to be the SSAT as constituted under the 1991 Act as in force immediately before the commencement of this Schedule.
Schedule 4—Forms of oath and affirmation

Note: See clause 23, Schedule 3.

OATH
I, , swear that I will faithfully and impartially perform the duties of the office of Executive Director (or Director or member) of the Social Security Appeals Tribunal without fear or favour, affection or ill-will. So help me God.

AFFIRMATION
I, , solemnly and sincerely promise and declare that I will faithfully and impartially perform the duties of the office of Executive Director (or Director or member) of the Social Security Appeals Tribunal without fear or favour, affection or ill-will.

1 References to the Secretary and the Department—requirements etc. by delegate

(1) If the Secretary delegates to the CEO or an employee of the Agency a power under the social security law to require or request a person to give the Secretary a document or information, the delegate may, in exercising the power, require or request the person to give the document or information to the CEO instead of the Secretary.

(2) If the Secretary delegates to the CEO or an employee of the Agency a power under the social security law to require or request a person to give or send to, or lodge with, the Department a document or information, the delegate may, in exercising the power, require or request the person to give or send the document or information to the Agency, or lodge it with the Agency, instead of the Department.

(3) A person who:
   (a) gives a document or information to the CEO; or
   (b) gives or sends a document or information to the Agency, or lodges it with the Agency;
   in compliance with a requirement or a request by a delegate of the Secretary is to be treated for all purposes as if the person had:
   (c) given the document or information to the Secretary; or
   (d) given or sent the document or information to the Department, or lodged it with the Department;
   as the case may be, in compliance with a requirement or request by the Secretary.

(4) A person who:
   (a) does not give a document or information to the CEO; or
   (b) does not give or send a document or information to the Agency, or lodge it with the Agency;
in compliance with a requirement or request by a delegate of the Secretary is to be treated for all purposes as if the person:
(c) had not given the document or information to the Secretary; or
(d) had not given or sent the document or information to the Department, or lodged it with the Department;
as the case may be, in compliance with a requirement or request by the Secretary.

2 References to the Secretary and the Department—directions by Secretary

(1) Subject to subclause (3), if:
(a) the Secretary delegates to the CEO or an employee of the Agency all or any of the Secretary’s powers under the social security law; and
(b) the delegation makes a reference to the Secretary, the Department, or an officer of the Department, in another provision of the social security law inappropriate, whether for administrative reasons or any other reason;
the provision has effect as if:
(c) the reference to the Secretary were a reference to the CEO; or
(d) the reference to the Department were a reference to the Agency; or
(e) the reference to an officer of the Department were a reference to an employee of the Agency;
as the case requires.

(2) The Secretary may, by legislative instrument, direct that a provision to which subclause (1) applies is to have an operation different from that provided for by that subclause.

(3) If the Secretary gives a direction under subclause (2) in relation to a provision, the provision has effect in accordance with the direction while the direction is in force.

(4) A direction under subclause (2) comes into force on the first moment of the day next following the day when it is registered in the Federal Register of Legislative Instruments under the Legislative Instruments Act 2003, or on such later day as is specified in it, and remains in force until it is revoked.
Notes to the Social Security (Administration) Act 1999

Note 1

The Social Security (Administration) Act 1999 as shown in this compilation comprises Act No. 191, 1999 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

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<tbody>
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<td>Family and Community Services Legislation Amendment Act 2003</td>
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# Notes to the Social Security (Administration) Act 1999

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<td>Family and Community Services and Veterans’ Affairs Legislation Amendment (2003 Budget and Other Measures) Act 2003</td>
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Notes to the Social Security (Administration) Act 1999

**Act Notes**

(a) The Social Security (Administration) Act 1999 was amended by Schedule 1 (items 824 and 825) only of the Public Employment (Consequential and Transitional) Amendment Act 1999, subsections 2(1) and (2) of which provide as follows:

1. In this Act, **commencing time** means the time when the Public Service Act 1999 commences.
2. Subject to this section, this Act commences at the commencing time.

(b) The Social Security (Administration) Act 1999 was amended by Schedule 5 (items 67 and 68) only of the A New Tax System (Tax Administration) Act 1999, subsection 2(9)(a) of which provides as follows:

9. The following provisions commence on 1 July 2000:
   a. the provisions of Schedule 5 (other than Part 2 of that Schedule and the amendments of the Taxation Administration Act 1953 made by Part 1 of that Schedule);

(ba) Subsection 2(1) (item 14) of the Family and Community Services Legislation Amendment Act 2003 provides as follows:

1. Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

### Commencement Information

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<td>14. Schedule 2, item 90</td>
<td>Immediately after the commencement of the provisions of Schedule 5 to the A New Tax System (Tax Administration) Act 1999 that commenced in accordance with subsection 2(9) of that Act</td>
<td>1 July 2000</td>
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</table>

(c) The Social Security (Administration) Act 1999 was amended by Schedule 3 (item 48) only of the A New Tax System (Tax Administration) Act (No. 1) 2000, subsection 2(7)(a) of which provides as follows:

7. Item 48 of Schedule 3 commences, or is taken to have commenced:
   a. on 20 March 2000; or

(d) The Social Security (Administration) Act 1999 was amended by Schedule 3 (items 16–55) only of the A New Tax System (Family Assistance and Related Measures) Act 2000, subsection 2(4) of which provides as follows:

4. Schedule 2, items 3 to 5 and 15 to 57 of Schedule 3 and Schedules 5 and 6 commence immediately after the commencement of the provisions referred to in subsection 2(2) of the A New Tax System (Family Assistance) (Administration) Act 1999. The provisions referred to in subsection 2(2) of the A New Tax System (Family Assistance) (Administration) Act 1999 commenced on 1 July 2000.

(e) The Social Security (Administration) Act 1999 was amended by Schedule 4 (items 1–3) only of the Family and Community Services Legislation Amendment Act 2000, subsections 2(5) and (6) of which provide as follows:

5. Item 1 of Schedule 4 commences, or is taken to have commenced, on 20 March 2000, immediately after the commencement of Part 3 of the Social Security (Administration) Act 1999.

6. Items 2 and 3 of Schedule 4 commence on 20 March 2000, immediately after the commencement of Schedule 2 to the Social Security (Administration) Act 1999 or on the day on which this Act receives the Royal Assent, whichever is the later.
Act Notes

(f) The Social Security (Administration) Act 1999 was amended by Schedule 2 only of the Social Security and Veterans' Entitlements Legislation Amendment (Miscellaneous Matters) Act 2000, subsections 2(2)(b) and (5) of which provide as follows:

(2) The following provisions commence, or are taken to have commenced, on 20 September 2000:
   (b) Parts 2 and 3 of Schedule 2;

(5) Part 1 of Schedule 2, and Schedules 4 and 5, commence, or are taken to have commenced, on 1 July 2000.

(g) The Social Security (Administration) Act 1999 was amended by Schedule 2 (items 16–18) only of the Family and Community Services Legislation Amendment (New Zealand Citizens) Act 2001, subsections 2(1) and (2) of which provide as follows:

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

(2) If this section commences before, or at the same time as, the commencement of the Social Security Legislation Amendment (Concession Cards) Act 2001, Part 2 of Schedule 1 and item 18 of Schedule 2 commence immediately after the commencement of that Act.


(h) The Social Security (Administration) Act 1999 was amended by Schedule 2 (items 1 and 2) only of the Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Act 2001, subsection 2(1) of which provides as follows:

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

(i) The Social Security (Administration) Act 1999 was amended by Schedule 1 (item 30) only of the Family and Community Services Legislation (Simplification and Other Measures) Act 2001, subsection 2(2) of which provides as follows:

(2) Schedule 1 (other than item 15) commences on 20 September 2001.

(j) The Social Security (Administration) Act 1999 was amended by Schedule 5 (item 70) only of the Child Support Legislation Amendment Act 2001, subsection 2(1) of which provides as follows:

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

(k) Subsection 2(1) (item 5) of the Family and Community Services Legislation Amendment Act 2003 provides as follows:

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

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<th>Provision(s)</th>
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<tbody>
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<td>5. Schedule 1, items 117 to 123</td>
<td>Immediately after the commencement of those provisions of the Social Security (Administration) Act 1999 that commenced in accordance with subsection 2(1) of that Act</td>
<td>20 March 2000</td>
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Notes to the  *Social Security (Administration)*  Act 1999

### Act Notes

(l) Subsection 2(1) (items 4 and 12) of the *Family and Community Services and Veterans’ Affairs Legislation Amendment (2003 Budget and Other Measures)* Act 2003 provides as follows:

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

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<td>4. Schedule 7, item 1</td>
<td>Immediately after the commencement of Schedule 3 to the <em>Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures)</em> Act 2003.</td>
<td>22 May 2003</td>
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(m) Subsection 2(1) (item 30) of the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments)* Act 2006 provides as follows:

(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.

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<tr>
<th>Provision(s)</th>
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<tr>
<td>30. Schedule 14, items 11 and 12</td>
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<td>1 July 2006</td>
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(n) Subsection 2(1) (items 24–26) of the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) (Consequential Amendments)* Act 2006 provides as follows:

(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.

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(o) Subsection 2(1) (items 19 and 20) of the Statute Law Revision Act 2007 provides as follows:
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.

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(p) Subsection 2(1) (items 38 and 39) of the Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007 provides as follows:
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.

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<th>Provision(s)</th>
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<td>38. Schedule 12, items 14 and 15</td>
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<td>39. Schedule 12, item 16</td>
<td>Immediately after the commencement of item 42 of Schedule 3 to the A New Tax System (Family Assistance and Related Measures) Act 2000.</td>
<td>1 July 2000</td>
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(q) Subsection 2(1) (items 2, 3, 5 and 6) of the Social Security and Veterans’ Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008 provides as follows:
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.

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<tr>
<th>Provision(s)</th>
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**(r)** Subsection 2(1) (item 30) of the *Statute Law Revision Act 2008* provides as follows:

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.

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**(s)** Subsection 2(1) (item 3) of the *Social Security Amendment (Liquid Assets Waiting Period) Act 2009* provides as follows:

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.

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The following amendments commence on 1 July 2009:

Schedule 1

1 After Division 3 of Part 3

Insert:

Division 3A—Compliance with obligations in relation to participation payments

Subdivision A—Object of this Division

42A Simplified outline

The following is a simplified outline of this Division:

- The Secretary may determine that a person commits a no show no pay failure, a connection failure, a reconnection failure or a serious failure.

- A person commits such a failure by failing to comply with his or her obligations in relation to a participation payment. The participation payments are newstart allowance, and for some people, youth allowance, parenting payment and special benefit.

- For a no show no pay failure, a penalty amount is deducted from the person’s participation payment.

- For a connection failure, a requirement may be imposed on the person (and if the person fails to comply with the requirement, the person commits a reconnection failure).
Note 2

- For a reconnection failure, generally a penalty amount is deducted from the person’s participation payment until the person complies with a requirement imposed on the person.

- For a serious failure, a participation payment is not payable to the person for 8 weeks. The 8 week period may be ended in certain circumstances.

- The Secretary may also determine that a person is unemployed as a result of a voluntary act or misconduct. If the Secretary does so, a participation payment is not payable to the person for 8 weeks.

42B Object of this Division

(1) The object of this Division is to encourage people to participate in employment and engage with employment services. It is also the object of this Division to secure compliance with a person’s obligations and requirements in relation to participation payments, and to ensure that those who do not comply are re-engaged with employment services as quickly as possible.

(2) However, this Division is not intended to punish a person who has a reasonable excuse for failing to comply with such obligations.

Subdivision B—No show no pay failures

42C No show no pay failures

(1) The Secretary may determine that a person commits a no show no pay failure on a day if:

   (a) the person commits any of the following failures:

      (i) the person fails to participate, on the day, in an activity that the person is required to undertake by an employment pathway plan that is in force in relation to the person;

      (ii) the person fails to comply, on the day, with a serious failure requirement imposed on the person;

      (iii) the person commits misconduct, on the day, while participating in an activity referred to in
Note 2

subparagraph (i) or while purporting to comply with a serious failure requirement imposed on the person;
  (iv) the person intentionally acts in a manner on the day (including by failing to attend a job interview), and it is reasonably foreseeable that acting in that manner could result in an offer of employment not being made to the person; and
  (b) the person receives an instalment of a participation payment for the instalment period in which the day occurs.

Note: A penalty amount is deducted from the person’s participation payment for a no show no pay failure (see section 42D).

(2) Without limiting subparagraph (1)(a)(i), a person fails to participate in an activity if:
  (a) the person fails to attend the activity at all; or
  (b) the person is not punctual in attending the activity.

Limitations on determining no show no pay failures

(3) If:
  (a) more than one subparagraph of paragraph (1)(a) applies to a person on a day; or
  (b) a subparagraph of paragraph (1)(a) applies more than once to a person on a day;
then the Secretary may only determine that the person commits one no show no pay failure on the day.

Note: However, the Secretary may determine that a person commits no show no pay failures on 2 or more days.

(4) Despite subsection (1), the Secretary must not determine that a person commits a no show no pay failure on a day if:
  (a) both of the following apply:
    (i) subparagraph (1)(a)(i), (ii) or (iv) applies;
    (ii) the person satisfies the Secretary that the person has a reasonable excuse for the failure; or
  (b) the person is a new apprentice.

Note: The Secretary must take certain matters into account for the purposes of paragraph (4)(a) (see section 42U).
Determining an instalment period

(5) The Secretary must include in a determination under this section the instalment period in which a penalty amount (see section 42T) for the no show no pay failure is to be deducted from the person’s instalment of a participation payment, provided that the penalty amount may not be deducted until at least the instalment after the first instalment made following notification to the person of the no show no pay failure.

42D Deducting the penalty amount

If the Secretary determines that a person commits a no show no pay failure, the person’s penalty amount (see section 42T) for the no show no pay failure is to be deducted from the person’s instalment of a participation payment for the instalment period determined under subsection 42C(5).

Note: The balance of the penalty amount is to be deducted from instalments of the participation payment for any later instalment periods, or from any instalments of any other participation payment paid to the person (see section 42V).

Subdivision C—Connection and reconnection failures

42E Connection failures

(1) The Secretary may determine that a person commits a connection failure if:

(a) the person commits any of the failures mentioned in subsection (2); and

(b) the person receives an instalment of a participation payment for the instalment period in which the person commits the failure.

Note: A reconnection requirement may be imposed for a connection failure (see section 42G).

(2) For the purposes of subsection (1), the failures are the following:

(a) the person fails to comply with a requirement that was notified to the person under subsection 63(2) or (4), and the notice did not inform the person of the effect of section 64;
Note 2

(b) the person fails to comply with a requirement, under section 501, 544A, 605 or 731L of the 1991 Act, to enter into an employment pathway plan;

c) the person fails to attend an appointment that the person is required to attend by an employment pathway plan that is in force in relation to the person;

d) the person is issued with a notice under subsection 42F(1) and fails to comply with it within the period specified in the notice;

e) the person fails to comply with subsection 42F(2);

(f) the person fails to comply with a requirement included in an employment pathway plan that is in force in relation to the person to undertake a certain number of job searches per fortnight;

(g) the person fails to comply with a requirement included in an employment pathway plan that is in force in relation to the person:

(i) to keep a record of the person’s job searches in a document referred to in the plan as a job seeker diary;

and

(ii) to return the job seeker diary to the Department at the end of the period specified in the plan.

(3) The Secretary may determine that a person commits 2 or more connection failures on a day.

Limitations on determining connection failures

(4) Despite subsection (1), the Secretary must not determine that a person commits a connection failure if:

(a) the person satisfies the Secretary that the person has a reasonable excuse for the failure; or

(b) both of the following apply:

(i) the person’s failure is a failure to comply with a requirement under section 544A of the 1991 Act to enter into an employment pathway plan;

(ii) a youth allowance is not payable to the person for the instalment period in which the person commits the failure because of section 547AA of that Act; or

(c) both of the following apply:
Note 2

(i) the person’s failure is a failure to comply with a requirement under section 605 of the 1991 Act to enter into an employment pathway plan;

(ii) a newstart allowance is not payable to the person for the instalment period in which the person commits the failure because of section 615 of that Act; or

(d) the person is a new apprentice; or

(e) in the case of a failure under paragraphs (2)(d) to (g)—the person is receiving parenting payment.

Note: The Secretary must take certain matters into account for the purposes of paragraph (4)(a) (see section 42U).

42F Requiring a person to apply for job vacancies

(1) The Secretary may notify a person that the person must apply for a particular number of advertised job vacancies in the period specified in the notice if:

   (a) the person is required to satisfy the activity test; and

   (b) the person is receiving a participation payment other than a parenting payment.

(2) The person must give the Secretary a written statement from each employer whose job vacancy the person applied for during that period that confirms that the person applied for that job vacancy.

(3) The statement from the employer must be in a form approved by the Secretary.

(4) Subsection (2) does not apply to a person if the Secretary is satisfied that there are special circumstances in which it is not reasonable to expect the person to give the statement referred to in that subsection.

42G Reconnection requirements

If the Secretary determines that a person commits a connection failure, then the Secretary may require the person to comply with a requirement (the reconnection requirement).

Note: The Secretary must notify the person of the effect of not complying with the reconnection requirement (see section 42K).
42H  Reconnection failures

(1) The Secretary may determine that a person commits a
reconnection failure if:
(a) the person is required to comply with:
   (i) a reconnection requirement; or
   (ii) a further reconnection requirement; and
(b) the person fails to comply with the requirement.

Note: A further reconnection requirement may be imposed, and a penalty amount is deducted from the person’s participation payment, for a reconnection failure (see sections 42J and 42L).

(2) The Secretary may determine that a person commits 2 or more reconnection failures on a day.

Limitation on determining reconnection failures

(3) Despite subsection (1), the Secretary must not determine that a person commits a reconnection failure if the person satisfies the Secretary that the person has a reasonable excuse for the failure.

Note: The Secretary must take certain matters into account for the purposes of subsection (3) (see section 42U).

Reconnection failure period

(4) If the Secretary determines that a person commits a reconnection failure, the person commits the failure during the period (the reconnection failure period) that:
(a) begins on the day the person commits the failure; and
(b) ends on:
   (i) the day before the person complies with any further reconnection requirement imposed on the person in relation to the reconnection failure; or
   (ii) if the person fails to comply with a further reconnection requirement imposed on the person in relation to the reconnection failure, and the person satisfies the Secretary that the person has a reasonable excuse for the failure—the day before the person fails to comply with the requirement.
Determining an instalment period

(5) The Secretary must include in a determination under this section the instalment period in which a penalty amount (see section 42T) for the reconnection failure is to be deducted from the person’s instalment of a participation payment, provided that the penalty amount may not be deducted until at least the instalment after the first instalment made following notification to the person of the reconnection failure.

42J Further reconnection requirements

(1) The Secretary may require a person to comply with a further requirement (the further reconnection requirement) if the Secretary determines that:

(a) the person commits a reconnection failure; or
(b) the person fails to comply with an earlier further reconnection requirement imposed on the person.

Note: The Secretary must notify the person of the effect of not complying with the further reconnection requirement (see section 42K).

(2) The Secretary may impose a further reconnection requirement on a person under paragraph (1)(b) even if the person satisfies the Secretary that the person has a reasonable excuse for failing to comply with the earlier further reconnection requirement.

42K Notification requirements

(1) The Secretary must notify the person that a failure to comply with a reconnection requirement or a further reconnection requirement imposed on the person might result in a penalty amount being deducted from the person’s participation payment.

(2) The notification does not have to be in writing, but must occur before the day the person is required to comply with the reconnection requirement or the further reconnection requirement.

42L Deduction of penalty amount

If the Secretary determines that a person commits a reconnection failure, the person’s penalty amount (see section 42T) for the reconnection failure is to be deducted from the person’s instalment
Note 2

of a participation payment for the instalment period determined under subsection 42H(5).

Note: The balance of the penalty amount is to be deducted from instalments of the participation payment for any later instalment periods, or from any instalments of any other participation payment paid to the person (see section 42V).

Subdivision D—Serious failures

42M Serious failure for persistent non-compliance

(1) The Secretary may determine that a person commits a serious failure if:

(a) the Secretary is satisfied that the person has, up to the day the Secretary makes the determination, persistently failed to comply with his or her obligations in relation to a participation payment (including by committing no show no pay failures, connection failures or reconnection failures); and

(b) the person receives a participation payment for the instalment period in which the Secretary makes the determination.

Note 1: A participation payment is not payable for 8 weeks for a serious failure (see section 42P).

Note 2: For the day the Secretary makes the determination, see section 42Y.

(2) In determining whether a person commits a serious failure under subsection (1):

(a) the Secretary must not take into account failures that were outside the person’s control; and

(b) the Secretary may only take into account any other failures that occurred intentionally, recklessly or negligently.

Limitations on determining persistent non-compliance serious failures

(3) The Secretary must not determine that a person commits a serious failure under subsection (1):

(a) while the person is in a serious failure period for another serious failure determined under subsection (1); or

(b) if the person is a new apprentice.
Legislative instrument

(4) The Minister must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether a person persistently failed to comply with his or her obligations in relation to a participation payment.

(5) In deciding whether a person persistently failed to comply with his or her obligations in relation to a participation payment, the Secretary must take the matters determined under subsection (4) into account.

(6) To avoid doubt, subsection (5) does not limit the matters that the Secretary may take into account in deciding whether the person failed to comply with his or her obligations.

42N Serious failure for refusing or failing to accept an offer of suitable employment

(1) The Secretary may determine that a person commits a serious failure if:
   (a) the person is receiving a participation payment; and
   (b) the person refuses or fails to accept an offer of suitable employment.

Note: A participation payment is not payable for 8 weeks for a serious failure (see section 42P).

(2) Despite subsection (1), the Secretary must not determine that a person commits a serious failure under that subsection if the person satisfies the Secretary that the person has a reasonable excuse for the failure.

Note: The Secretary must take certain matters into account for the purposes of subsection (2) (see section 42U).

42NA Comprehensive compliance assessment

(1) Before the Secretary determines that a person has committed a serious failure under section 42M, the Secretary must conduct a comprehensive compliance assessment in relation to the person.

(2) The comprehensive compliance assessment must assess the following:
Note 2

(a) the reasons why the person may have committed failures under this Division;
(b) the reasons why the person may have failed to meet other requirements under the social security law;
(c) whether the person has any barriers to employment;
(d) whether the person’s participation requirements are appropriate.

42NC Determination about serious failure requirements and severe financial hardship

If the Secretary determines that a person commits a serious failure, the Secretary must also determine that this section applies unless the Secretary is satisfied that:

(a) the person does not have the capacity to undertake any serious failure requirement; and
(b) serving the serious failure period would cause the person to be in severe financial hardship.

42P Consequences of serious failure

Participation payment not payable during serious failure period

(1) If the Secretary determines that a person commits a serious failure and has determined that section 42NC applies, a participation payment is not payable to the person during the person’s serious failure period.

Note 1: The Secretary may end a serious failure period under section 42Q or determine that a participation payment is payable, despite this section, under section 42R.

Note 2: The Secretary may continue the participation payment pending the outcome of an application for review (see sections 131 and 145 of the Administration Act).

(2) The person’s serious failure period is the period:

(a) beginning on the first day of the first instalment period that begins after the day the Secretary makes the determination; and

(b) ending:
(i) if the Secretary ends the person’s serious failure period under section 42Q—on the day mentioned in that section; or
(ii) otherwise—8 weeks after the period begins.

Note: For the day the Secretary makes the determination, see section 42Y.

**Serious failure requirements**

(3) If the Secretary determines that a person commits a serious failure, then the Secretary may require the person to comply with a requirement (the *serious failure requirement*).

Note: A person who complies with a serious failure requirement may have his or her serious failure period end under section 42Q. A person who fails to comply with a serious failure requirement may commit a no show no pay failure under section 42C.

**42Q  Ending serious failure periods**

(1) The Secretary may end a person’s serious failure period if:
   (a) the person begins to comply with a serious failure requirement imposed on the person; or
   (b) the Secretary determines that:
      (i) the person does not have the capacity to undertake any serious failure requirement; and
      (ii) serving the serious failure period would cause the person to be in severe financial hardship.

Note: For *in severe financial hardship* see subsection 14A(7) of the 1991 Act.

(1A) The Secretary may make a determination under paragraph (1)(b) on request or on his or her own initiative.

(2) The person’s serious failure period ends on:
   (a) if paragraph (1)(a) applies—the day before the person begins to comply with the requirement; or
   (b) if the Secretary makes a determination under paragraph (1)(b) on request—the day before the request was made; or
   (c) if the Secretary makes a determination under paragraph (1)(b) on his or her own initiative—the day before the Secretary makes the determination.

Note: For the day the Secretary makes the determination, see section 42Y.
Note 2

(3) Section 42NC does not affect the operation of this section.

42R Determining that participation payments payable

(1) The Secretary may determine that, despite a person’s serious failure period, a participation payment is payable to the person during the period mentioned in subsection (2) if the person informs the Secretary that the person intends to comply with a serious failure requirement imposed on the person.

(2) The participation payment is payable during the period that:
   (a) begins on the day that the person informs the Secretary; and
   (b) ends on:
      (i) the day before the person begins to comply with the serious failure requirement; or
      (ii) if the person does not begin to comply with the serious failure requirement on the day the person is required to begin—the day before that day.

(3) If a period ends under subparagraph (2)(b)(ii), the period (the payability period) mentioned in subsection (2) does not count towards the 8 weeks of the person’s serious failure period.

Subdivision E—Unemployment resulting from a voluntary act or misconduct

42S Unemployment resulting from a voluntary act or misconduct

(1) A participation payment is not payable to a person for the period mentioned in subsection (3) if the Secretary determines that:
   (a) the person is unemployed as a result (whether direct or indirect) of a voluntary act of the person; or
   (b) the person is unemployed as a result of the person’s misconduct as an employee.

Note: The Secretary may continue the participation payment pending the outcome of an application for review (see sections 131 and 145 of the Administration Act).
Note 2

Limitations on determination

(2) Despite paragraph (1)(a), the Secretary must not make a determination under that paragraph if the Secretary is satisfied that the voluntary act was reasonable.

Period of non-payment

(3) The participation payment is not payable to the person for the period (the unemployment non-payment period) of 8 weeks beginning on:

(a) the day that the person becomes unemployed as a result of the person’s voluntary act or misconduct; or

(b) if the person is receiving a participation payment at the time of the voluntary act or misconduct—the first day of the first instalment period that begins after the day the Secretary makes the determination, if the Secretary considers that day is more appropriate than the day mentioned in paragraph (a).

Note 1: The Secretary may end an unemployment non-payment period under subsection (4).

Note 2: For the day the Secretary makes the determination, see section 42Y.

Ending unemployment non-payment periods

(4) The Secretary may end a person’s unemployment non-payment period if:

(a) the Secretary determines that serving the unemployment non-payment period would cause the person to be in severe financial hardship; and

(b) the person is in a class of persons specified by legislative instrument under subsection (5).

Note: For in severe financial hardship see subsection 14A(7) of the 1991 Act.

(5) For the purposes of subsection (4), the Secretary may, by legislative instrument, specify a class of persons.
Note 2

Subdivision F—General provisions

42T Legislative instrument determining method for working out penalty amount

(1) The Minister must, by legislative instrument, determine a method for working out a person’s penalty amount for a no show no pay failure or a reconnection failure.

(2) The method determined for a no show no pay failure that a person commits on a day must not provide for a penalty amount for the person that is more than the following:

\[
\frac{\text{Amount of the person’s instalment of participation payment for the instalment period in which the day occurs}}{\text{Number of days in the person’s instalment period}} \times 1.4
\]

(3) The method determined for a reconnection failure that a person commits must not provide for a penalty amount for the person that is more than the total of the daily rates of the participation payment payable to the person during the reconnection failure period (before deducting a penalty amount).

(4) In addition, the method determined for a no show no pay failure or a reconnection failure must relate to:

(a) for a person’s no show no pay failure—the amount of the participation payment paid to the person on the day on which the person commits the no show no pay failure; or

(b) for a person’s reconnection failure—the amount of the participation payment paid to the person during the reconnection failure period.

(5) The method determined by the Minister for working out a person’s penalty amount must not affect any rent assistance, pharmaceutical allowance or youth disability supplement payable to the person.

(6) The method determined may provide for a penalty amount that is nil.

(7) The legislative instrument may also deal with the amount of a penalty amount to be deducted from an instalment of a participation payment.
42U  Legislative instruments relating to reasonable excuse

(1) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether a person has a reasonable excuse for committing:
   (a) a no show no pay failure (see paragraph 42C(4)(a)); or
   (b) a connection failure (see paragraph 42E(4)(a)); or
   (c) a reconnection failure (see subsection 42H(3)); or
   (d) a serious failure (see subsection 42N(2)).

(2) To avoid doubt, a determination under subsection (1) does not limit the matters that the Secretary may take into account in deciding whether the person has a reasonable excuse.

42V  Deduction from any participation payment

The balance of a person’s penalty amount for a no show no pay failure or a reconnection failure that is not reduced to nil under section 42D or 42L is to be deducted from:
   (a) the instalments of the participation payment referred to in that section for any later instalment periods (until the balance is reduced to nil); and
   (b) if the balance is not reduced to nil under paragraph (a)—the instalments of any other participation payment paid to the person (until the balance is reduced to nil).

42W  Penalty amount not a debt

To avoid doubt, a penalty amount is not a debt owed to the Commonwealth under Part 5.2 of the 1991 Act.

42X  Payability

A participation payment remains payable even if it is reduced to nil as a result of deducting a penalty amount, or the balance of a penalty amount, for a no show no pay failure or a reconnection failure.

42Y  Day of determination

For the purposes of paragraph 42M(1)(a), 42P(2)(a), 42Q(2)(c) or 42S(3)(b), the day the Secretary makes the determination is the day...
the Secretary originally makes the determination (even if another
decision in relation to the determination is later made on review).

42Z Relationship with section 80

Nothing in this Division affects the power of the Secretary to
cancel or suspend a participation payment under section 80 of this
Act.

Subdivision G—Review

42ZA Review of impact of compliance regime

(1) The Minister must cause an independent review of the impact of
the amendments made by this Division to be undertaken as soon as
possible after 30 June 2010.

(2) The review must report on:
   (a) the effectiveness of the compliance regime in:
      (i) meeting job seeking requirements;
      (ii) reducing financial hardship;
      (iii) reducing compliance costs for job seekers, employment
           services providers and the Government; and
      (iv) using the ‘no show, no pay’ provision to increase
           compliance with job seeking requirements;
   (b) the impact on vulnerable job seekers including Indigenous
       job seekers;
   (c) the impact of the compliance regime on employment
       participation and long-term unemployment;
   (d) the number of complaints made with the departmental
       hotline, Social Security Appeals Tribunal or Ombudsman’s
       office in relation to the new arrangements;
   (e) the gaps between federal policy and state service provision
       for persons with non-vocational special needs or barriers;
   (f) the adequacy of non-vocational support services in regional
       areas;
   (g) the effectiveness of training for and consistency of
       understanding of Centrelink staff, employment providers and
departmental contract managers in the new arrangements;
(h) the adequacy of information and education provided to new and existing clients about the new system;

(i) the adequacy of resourcing for Centrelink to implement the new arrangements and deal with related complaints;

(j) the effectiveness and use of criteria such as hardship, vulnerability and reasonable exclusion within Comprehensive Compliance Assessments; and

(k) any other related matter.

(3) The review must be conducted by an independent panel, chaired by a person with expertise in social security and employment services matters.

(4) The Minister must provide the panel with adequate resources to undertake the review.

(5) The panel must give the Minister a written report of the review, and the Minister must cause a copy of the report to be made public and tabled in each House of the Parliament by 30 September 2010.

34 Paragraph 110A(b)

Repeal the paragraph, substitute:

(b) the payment had been suspended because it was not payable because of:

(i) subsection 42P(1) or 42S(1) (if the payment was a participation payment); or

(ii) section 550B or 551 of the 1991 Act (if the payment was a youth allowance); or

(iii) section 576A or 577 of the 1991 Act (if the payment was an austudy payment);

35 Section 110A

Omit “because of that section”, substitute “because of section 550B, 551, 576A or 577 of the 1991 Act, or on the day after the serious failure period or unemployment non-payment period ends under subsection 42P(1) or 42S(3) or section 42Q of this Act, as the case requires”.

36 Paragraph 118(12C)(b)

Repeal the paragraph, substitute:

(b) the determination was made because of the application of:
Note 2

(i) subsection 42P(1) or 42S(1) (if the payment is a participation payment); or
(ii) section 550B or 551 of the 1991 Act (if the payment is a youth allowance); or
(iii) section 576A or 577 of the 1991 Act (if the payment is an austudy payment);

37 After subsection 131(5)

Insert:

(5A) If:

(a) an adverse decision results in a serious failure period or an unemployment non-payment period; and
(b) a declaration in relation to the decision ceases to have effect under subsection (5); and
(c) after the declaration ceases, the serious failure period or the unemployment non-payment period, or the balance of that period, remains to be served;

the period or the balance of the period continues from the day the declaration ceases.

38 After paragraph 144(f)

Insert:

(fa) a decision under subsection 42P(3) of this Act;

39 After subsection 145(4)

Insert:

(4A) If:

(a) an adverse decision results in a serious failure period or an unemployment non-payment period; and
(b) a declaration in relation to the decision ceases to have effect under subsection (4); and
(c) after the declaration ceases, the serious failure period or the unemployment non-payment period, or the balance of that period, remains to be served;

the period or the balance of the period continues from the day the declaration ceases.
40  After paragraph 192(d)

Insert:

(daa) the operation of Division 3A of Part 3;

41 Subclause 1(1) of Schedule 1

Insert:

connection failure has the meaning given by subsection 42E(1).

42 Subclause 1(1) of Schedule 1

Insert:

further reconnection requirement has the meaning given by section 42J.

43 Subclause 1(1) of Schedule 1

Insert:

no show no pay failure has the meaning given by subsection 42C(1).

44 Subclause 1(1) of Schedule 1

Insert:

participation payment is any of the following payments that are paid to a person:

(a) newstart allowance;
(b) if the person is neither undertaking full-time study (see section 541B of the 1991 Act) nor is a new apprentice—youth allowance;
(c) if the person is subject to participation requirements—parenting payment;
(d) if the person is a nominated visa holder—special benefit.

45 Subclause 1(1) of Schedule 1

Insert:

penalty amount for a person for a no show no pay failure or a reconnection failure means the amount worked out for the person in accordance with the legislative instrument made under section 42T.
46 Subclause 1(1) of Schedule 1
   Insert:
   
   reconnection failure has the meaning given by subsection 42H(1).

47 Subclause 1(1) of Schedule 1
   Insert:
   
   reconnection failure period has the meaning given by subsection 42H(4).

48 Subclause 1(1) of Schedule 1
   Insert:
   
   reconnection requirement has the meaning given by section 42G.

49 Subclause 1(1) of Schedule 1
   Insert:
   
   serious failure has the meanings given by subsections 42M(1) and 42N(1).

50 Subclause 1(1) of Schedule 1
   Insert:
   
   serious failure period has the meaning given by subsection 42P(2).

51 Subclause 1(1) of Schedule 1
   Insert:
   
   serious failure requirement has the meaning given by subsection 42P(3).

52 Subclause 1(1) of Schedule 1
   Insert:
   
   unemployment non-payment period has the meaning given by subsection 42S(3).

53 At the end of subclause 5(1A) of Schedule 2
   Add:
Note 2

Clause 5A deals with the start day of parenting payment where one member of a couple commits a serious failure or is unemployed as a result of a voluntary act or misconduct.

54 After subclause 5(1A) of Schedule 2

Insert:

(1B) If the exclusion period to which a person is subject is a serious failure period or an unemployment non-payment period, subclause (1) applies only in relation to a start day for a participation payment to the person.

55 After clause 5 of Schedule 2

Insert:

5A Start day for parenting payment where one member of a couple commits a serious failure or is unemployed as a result of a voluntary act or misconduct

If:

(a) one member of a couple is receiving parenting payment; and
(b) the other member of the couple is receiving a participation payment; and
(c) either:
   (i) the Secretary determines that the other member of the couple commits a serious failure; or
   (ii) the Secretary makes a determination under subsection 42S(1) (unemployment as a result of a voluntary act or misconduct) in relation to the other member of the couple; and
(d) the other member of the couple claims parenting payment; then, the other member’s start day under this Schedule in relation to the parenting payment is the first day after the end of the person’s serious failure period or unemployment non-payment period.

Schedule 2

200 Subparagraphs 140(1)(a)(i) and (ii)

Omit “Activity Agreement”, substitute “Employment Pathway Plan”.
Notes to the Social Security (Administration) Act 1999

Note 2

201 Paragraphs 140(1)(aa) and (b)
Omit “Activity Agreement”, substitute “Employment Pathway Plan”.

202 Section 143
Omit “Activity Agreement” (wherever occurring), substitute “Employment Pathway Plan”.

203 Subsection 149(5)
Omit “Activity Agreement” (wherever occurring), substitute “Employment Pathway Plan”.

204 Paragraphs 150(aa), (b), (c) and (ca)
Omit “Activity Agreement”, substitute “Employment Pathway Plan”.

Note: The heading to section 150 is altered by omitting “Activity Agreement” and substituting “Employment Pathway Plan”.

205 Subsection 151(4)
Omit “Activity Agreement” (wherever occurring), substitute “Employment Pathway Plan”.

206 Subsection 152(6)
Omit “Activity Agreement” (wherever occurring), substitute “Employment Pathway Plan”.

Note: The heading to section 152 is altered by omitting “Activity Agreement” and substituting “Employment Pathway Plan”.

207 Subsection 153(1)
Omit “Activity Agreement” (wherever occurring), substitute “Employment Pathway Plan”.

Note: The heading to section 153 is altered by omitting “Activity Agreement” and substituting “Employment Pathway Plan”.

Schedule 4

11 Sections 63 and 64
Repeal the sections, substitute:
63 Requirement to attend Department etc.

Secretary may require person to attend Department etc.

(1) Subsection (2) applies to a person if:
   (a) the person is receiving, or has made a claim for, a social security payment; or
   (b) the person is the holder of, or has made a claim for, a concession card; or
   (c) the Department is contacted by or on behalf of the person in relation to a claim for:
      (i) if the person is not undertaking full-time study and is not a new apprentice—youth allowance; or
      (ii) in any case—newstart allowance;
   to be paid to the person.

(2) If the Secretary is of the opinion that a person to whom this subsection applies should:
   (a) attend an office of the Department; or
   (b) contact the Department; or
   (c) attend a particular place for a particular purpose; or
   (d) give information to the Secretary;
   the Secretary may notify the person that he or she is required, within a specified time, to do that act or thing. However, the Secretary may not, under this subsection, notify a person that he or she is required to do an act or thing referred to in paragraph (4)(a) or (b).

Secretary may require person to undergo medical examination etc.

(3) Subsection (4) applies to a person if:
   (a) the person is receiving, or has claimed, any of the following social security payments:
      (i) disability support pension;
      (ii) parenting payment;
      (iii) youth allowance;
      (iv) newstart allowance;
      (v) sickness allowance;
      (vi) special benefit;
      (vii) mobility allowance; or

(b) the Department is contacted by or on behalf of the person in relation to a claim for youth allowance or newstart allowance to be paid to the person.

(4) If the Secretary is of the opinion that a person to whom this subsection applies should:
   (a) complete a questionnaire; or
   (b) undergo a medical, psychiatric or psychological examination (whether or not at a particular place), and provide to the Secretary the report, in the approved form, of the person who conducts the examination;

   the Secretary may notify the person that he or she is required, within a specified time, to do that act or thing.

Method for giving notice

(5) The Secretary may notify a person under subsection (2) or (4):
   (a) by sending the notice by prepaid post addressed to the person at his or her postal address last known to the Secretary; or
   (b) in any other way the Secretary considers appropriate.

Validity of notice not affected in certain circumstances

(6) A failure to specify the particular purpose in a notice given to a person for the purposes of paragraph (2)(c) does not affect the validity of the notice.

Consequence of not informing person of effect of failure to comply with requirement in notice

(7) If a person is notified under subsection (2) or (4) and the notice does not inform the person of the effect of section 64, subsection 64(1) or (5) (as the case requires) does not apply to the person in relation to the requirement in the notice.

Note: However, if:
   (a) the person who is notified is receiving, or has made a claim for, a participation payment; and
   (b) the notice does not inform the person of the effect of section 64;

   the person may commit a connection failure in relation to the payment: see section 42E.
64 Effect of failing to comply with requirement to attend Department etc.

Person receiving, or claiming, social security payment

(1) If:
   (a) a person is receiving, or has made a claim for, a social security payment; and
   (b) the Secretary notifies the person under subsection 63(2) or (4); and
   (c) the requirement in the notice is reasonable; and
   (d) the person does not comply with the requirement; and
   (e) the Secretary is not satisfied that the person had a reasonable excuse for not complying with the requirement; and
   (f) the Secretary is satisfied that it is reasonable for this subsection to apply to the person;
   the payment that the person is receiving or has claimed is not payable.

(2) Subsection (1) does not apply if:
   (a) the person is receiving, or has made a claim for, youth allowance; and
   (b) the notice included a statement to the effect that a failure to comply with the requirement in the notice could constitute a youth allowance participation failure.

Note: If a recipient of, or claimant for, youth allowance does not comply with a requirement notified under subsection 63(2) or (4), this may result in the payment not being payable to the person: see sections 550B and 551 of the 1991 Act.

(3) Subsection (1) does not apply if:
   (a) the person is receiving, or has made a claim for, an austudy payment; and
   (b) the notice included a statement to the effect that a failure to comply with the requirement in the notice could constitute an austudy participation failure.

Note: If a recipient of, or claimant for, an austudy payment does not comply with a requirement notified under subsection 63(2), this may result in the payment not being payable to the person: see sections 576A and 577 of the 1991 Act.

(4) If:
(a) a social security payment is not payable to a person because of subsection (1); and
(b) the Secretary is satisfied that it is no longer reasonable for that subsection to apply to the person in relation to the requirement in the notice given to the person under subsection 63(2) or (4);

the Secretary may determine that, on and after a day specified by the Secretary, subsection (1) ceases to apply to the person in relation to that requirement.

Person holding, or claiming, concession card

(5) If:
(a) a person is the holder of, or has made a claim for, a concession card; and
(b) the Secretary notifies the person under subsection 63(2); and
(c) the requirement in the notice is reasonable; and
(d) the person does not comply with the requirement; and
(e) the Secretary is not satisfied that the person had a reasonable excuse for not complying with the requirement; and
(f) the Secretary is satisfied that it is reasonable for this subsection to apply to the person;

the person ceases to be, or is not, qualified for the concession card.

(6) If:
(a) a person has ceased to be, or is not, qualified for a concession card because of subsection (5); and
(b) the Secretary is satisfied that it is no longer reasonable for that subsection to apply to the person in relation to the requirement in the notice given to the person under subsection 63(2);

the Secretary may determine that, on and after a day specified by the Secretary, subsection (5) ceases to apply to the person in relation to that requirement.

13 Paragraph 131(5)(b)

Repeal the paragraph, substitute:
(b) ceases to have effect:
(i) if the application for review is withdrawn—on the day the application is withdrawn; or
(ii) if a decision (the *review decision*) is made by the Secretary on the review of the adverse decision—at the end of the period of 13 weeks beginning on the day the review decision is made, or on such earlier day (if any) within that 13 week period as is specified by the Secretary; or

(iii) if the declaration is revoked by the Secretary—on the day the declaration is revoked.

14 Paragraph 145(4)(b)

Repeal the paragraph, substitute:

(b) ceases to have effect:

(i) if the application for review is withdrawn—on the day the application is withdrawn; or

(ii) if a decision (the *review decision*) is made by the SSAT on the review of the adverse decision—at the end of the period of 13 weeks beginning on the day the review decision is made, or on such earlier day (if any) within that 13 week period as is specified by the Secretary; or

(iii) if the declaration is revoked by the Secretary—on the day the declaration is revoked.

As at 6 April 2009 the amendments are not incorporated in this compilation.
Table A

Application, saving or transitional provisions

A New Tax System (Family Assistance and Related Measures) Act 2000
(No. 45, 2000)

Schedule 5

1 Definitions

(1) In this Schedule, unless the contrary intention appears:

*approved care organisation* means an organisation that is taken, by virtue of the operation of subitem (2), to be an approved care organisation for the purposes of the Family Assistance Act.

*Family Assistance Act* means the *A New Tax System (Family Assistance) Act 1999*.

*Family Assistance Administration Act* means the *A New Tax System (Family Assistance) (Administration) Act 1999*.

*family assistance law* has the same meaning as in subsection 3(1) of the Family Assistance Administration Act.

*family benefit* means payments of:

(a) family allowance; or
(b) family tax payment; or
(c) parenting payment in the nature of non-benefit PP (partnered);

payable under the social security law.

*MAT* means maternity allowance within the meaning of subsection 3(1) of the Family Assistance Administration Act.

*MIA* means maternity immunisation allowance within the meaning of subsection 3(1) of the Family Assistance Administration Act.

*receiving*, in relation to family benefit, has the meaning given under subitem (3).

*Secretary*, in relation to an act or thing done, or a decision or determination made, under particular legislation, means the Secretary of the Department administered by the Minister administering that legislation.

438 Social Security (Administration) Act 1999
Table A

*social security law* means the *Social Security Act 1991* and the *Social Security (Administration) Act 1999*.

(2) Any organisation that, immediately before 1 July 2000, was an approved care organisation for the purposes of the *Social Security Act 1991* is taken to have been approved under section 20 of the Family Assistance Act, with effect from that date, as an approved care organisation, for the purposes of the latter Act.

(3) For the purposes of this Part, an individual or an approved care organisation is taken to be receiving payments of family benefit under the *Social Security Act 1991* from the earliest date on which such payments are payable to the individual or to the organisation, as the case requires, even if the first instalment of that benefit is not paid until a later day.

2 **Individuals receiving family benefit treated as having lodged effective claim for family tax benefit by instalment**

(1) If, immediately before 1 July 2000, an individual was receiving family benefit, then, with effect from that date, that individual is taken, subject to items 4 and 5, to have made an effective claim for family tax benefit by instalment under subsection 7(2) of the Family Assistance Administration Act as amended by this Act.

(2) If, before 1 July 2000, an individual receiving family benefit had provided bank account details for the purposes of making the claim for, or receiving, such benefits, those details are taken to have been provided in the context of the effective claim that is taken to have been made under subitem (1).

3 **Approved care organisations receiving family allowance treated as having lodged effective claim for family tax benefit by instalment**

(1) If, immediately before 1 July 2000, an approved care organisation was receiving family allowance, then, with effect from that date, that organisation is taken, subject to item 5, to have made an effective claim for family tax benefit by instalment under subsection 7(2) of the Family Assistance Administration Act as amended by this Act.
Notes to the *Social Security (Administration) Act 1999*

**Table A**

(2) If, before 1 July 2000, the organisation had provided bank account details for the purposes of making the claim for, or receiving, such family allowance payments, those details are taken to have been provided in the context of the effective claim that is taken to have been made under subitem (1).

4 *Special rules relating to outstanding TFN requirements*

If:

(a) an individual has been requested, before 1 July 2000, under section 75 of the *Social Security (Administration) Act 1999*, to provide a tax file number in relation to a claim for, or the receipt of, family benefit; and

(b) the individual has not, before that date, provided that tax file number; and

(c) as at 1 July 2000, less than 28 days have elapsed since the request to provide that number;

then, for the purposes of section 27 of the Family Assistance Administration Act as amended by this Act:

(d) the Family Assistance Administration Act as so amended is treated as having been in force when the requirement to provide that tax file number was made; and

(e) the requirement to provide that tax file number is taken to have been made, at the time when it was made, under section 26 of the Family Assistance Administration Act as so amended and as so in force.

5 *Special rules relating to outstanding bank account requirements*

If:

(a) an individual or an approved care organisation has been requested, before 1 July 2000, under section 55 of the *Social Security (Administration) Act 1999* to nominate a bank account into which family benefit can be paid; and

(b) the individual or organisation has not, before that date, nominated a bank account; and

(c) as at 1 July 2000, less than 28 days have elapsed since the request to nominate an account;

then, for the purposes of section 27A of the Family Assistance Administration Act as amended by this Act:
(d) the Family Assistance Administration Act as so amended is treated as having been in force when the requirement to nominate a bank account was made; and

(e) the requirement to nominate a bank account is taken to have been made, at the time when it was made, under section 26A of the Family Assistance Administration Act as so amended and as so in force.

6 The making of determinations

(1) On, or as soon as practicable after, 1 July 2000, the Secretary will assess the eligibility for family tax benefit by instalment of each individual, and each approved care organisation, that is taken to have lodged an effective claim.

(2) If, for the purposes of making a determination under section 16 of the Family Assistance Administration Act as amended by this Act in relation to an individual or approved care organisation to which subitem (1) refers:

(a) the Secretary has, before 1 July 2000, sought from an individual or an approved care organisation any information necessary for the purposes of making such a determination; and

(b) that information has not been provided;

the Secretary may make a determination under section 19 of the Family Assistance Administration Act as so amended to the effect that the individual or organisation is not entitled to be paid family tax benefit by instalment for each day while the determination is in force.

(3) For the avoidance of doubt, such a determination does not prevent an individual or organisation that later provides information as required by the Secretary from claiming under the Family Assistance Administration Act as so amended:

(a) family tax benefit by instalment when that information is so provided; and

(b) family tax benefit for the past period between 1 July 2000 and the time when a determination of entitlement to family tax benefit by instalment is made.
7 Directions concerning payments to third parties

If, immediately before 1 July 2000, there was in force a direction by the Secretary under subsection 44(3) of the Social Security (Administration) Act 1999 to the effect that the whole or a part of a person's family benefit payment be paid to someone else on behalf of the person, that direction has effect, on and after that date, as if it were a direction to the same effect given by the Secretary under subsection 23(4) of the Family Assistance Administration Act as amended by this Act in relation to the payment of family tax benefit in respect of that person.

8 Instalment periods

(1) If:

(a) an individual or an approved care organisation was receiving family benefit by way of family allowance or family tax payment immediately before 1 July 2000; and

(b) that individual or organisation received, or last received, a payment of that family allowance or family tax payment in respect of a period commencing less than 14 days before 1 July 2000; and

(c) the Secretary makes a determination under section 16 of the Family Assistance Administration Act as amended by this Act in respect of the entitlement of that individual or organisation to family tax benefit with effect from that day;

then:

(d) the first instalment of family tax benefit is to be for a period starting on 1 July 2000 and ending 14 days after the beginning of the last instalment of family benefit; and

(e) instalments of family tax benefit thereafter, subject to any change that the Secretary may make under subsection 23(3) of the Family Assistance Administration Act as so amended, are to be for successive periods of 14 days.

(2) If:

(a) an individual was not receiving family benefit by way of family allowance immediately before 1 July 2000 but was receiving family benefit by way of non-benefit PP (partnered) immediately before that date; and

(b) that individual received, or last received, a payment of that non-benefit PP (partnered) in respect of a period commencing less than 14 days before 1 July 2000; and
(c) the Secretary makes a determination under section 16 of the Family Assistance Administration Act as amended by this Act in respect of the entitlement of that individual to family tax benefit with effect from that day;

then:

(d) the first instalment of family tax benefit is to be for a period starting on 1 July 2000 and ending 14 days after the beginning of the last instalment of non-benefit PP (partnered); and

(e) instalments of family tax benefit thereafter, subject to any change that the Secretary may make under subsection 23(3) of the Family Assistance Administration Act as so amended, are to be for successive periods of 14 days.

9 Claims for family benefit that are undetermined as at 1 July 2000

(1) If:

(a) before 1 July 2000, a person lodged a claim for family benefit by way of family allowance or family tax payment; and

(b) that claim was not determined before that date; and

(c) the person was, at the time of the claim, or becomes, before 1 July 2000, qualified for family benefit of that kind;

the claim is to be determined under the social security law as in force before 1 July 2000, as if:

(d) the social security law as so in force had continued in force; and

(e) the claim related only to the period preceding 1 July 2000.

(2) If:

(a) before 1 July 2000, a person lodged a claim for family benefit by way of family allowance or family tax payment in anticipation of becoming qualified for that benefit; and

(b) the claim was not determined by that date; and

(c) the person does not become qualified for the relevant family benefit before 1 July 2000;

the claim is to be taken to have lapsed on that date.
Notes to the *Social Security (Administration) Act 1999*

**Table A**

(3) If:

(a) before 1 July 2000, a person has lodged a claim for parenting payment; and
(b) the claim has not been determined before that date; and
(c) the person was, at the time of the claim, or becomes, before 1 July 2000, qualified for family benefit of that kind;

then:

(d) the claim is to be determined under the social security law as in force before 1 July 2000 as if the law as so in force had continued: and
(e) if parenting payment would be paid under the law as so in force at the rate applicable for non-benefit PP (partnered)—the claim is to be determined as if it related only to the period preceding 1 July 2000.

(4) If:

(a) before 1 July 2000, a person lodged a claim for parenting payment in anticipation of becoming qualified for that payment; and
(b) the claim was not determined by that date; and
(c) the person does not become qualified for parenting payment before 1 July 2000; and
(d) if the person were to become qualified for parenting payment on or after that date—it would be parenting payment in the nature of non-benefit PP (partnered) and not some other form of parenting payment;

the claim is to be taken to have lapsed on that date.

**10 Certain claims for family benefit will be admitted on or after 1 July 2000**

(1) In this item:

*backdated claim period* means a period after the occurrence of a particular event during which a claim for family benefit with effect from that event will be allowed.

(2) If:

(a) a person did not make a claim for family benefit before 1 July 2000; and
Table A

(b) but for the amendment of the social security law with effect from 1 July 2000, if the person had made such a claim after that date, the backdated claim period would have extended back to the occurrence of a particular event before that date; then:

(c) the person may make such a claim on or after 1 July 2000 as if those amendments had not been made; and

(d) the claim can be dealt with in so far as the backdated claim period would permit a claim in respect of a period before 1 July 2000.

11 Transfer of claims for maternity allowance or maternity immunisation allowance from social security law to family assistance law

(1) If:

(a) a person claims maternity allowance or maternity immunisation allowance under the social security law before 1 July 2000; and

(b) the claim has not been determined as at that date;

the claim is to be treated as if it were a claim for MAT or MIA under Division 3 of Part 3 of the Family Assistance Administration Act as amended by this Act and not as such a claim for the corresponding allowance under the Social Security Act 1991.

(2) If a person purports to claim maternity allowance or maternity immunisation allowance under the social security law on or after 1 July 2000, that claim is to be treated as if it were a claim for MAT or MIA, as the case requires, under Division 3 of Part 3 of the Family Assistance Administration Act as amended by this Act and not as such a claim for the corresponding allowance under the social security law.

(3) A person who has been paid maternity allowance or maternity immunisation allowance under the social security law in respect of a particular child cannot claim MAT or MIA for the same child under Division 3 of Part 3 of the Family Assistance Administration Act as amended by this Act.
Table A

12 Applications for family benefit, maternity allowance or maternity immunisation allowance made after 1 July 2000 on behalf of another person

(1) If:
(a) an amount of family benefit is payable to a person; and
(b) the person dies before receiving that amount; and
(c) another person applies, on or after 1 July 2000, to receive the amount; and
(d) the application is made:
   (i) within 26 weeks after the first person’s death; or
   (ii) within such further period as is allowed by the Secretary in the special circumstances of the case;
the Secretary may pay the amount to the person who, in the Secretary’s opinion, is best entitled to it.

(2) If:
(a) an amount of maternity allowance or maternity immunisation allowance claimed under the social security law is payable to a person in respect of a particular child; and
(b) the person dies before receiving that amount; and
(c) another person applies, on or after 1 July 2000, to receive the amount; and
(d) the application is made:
   (i) within 26 weeks after the first person’s death; or
   (ii) within such further period as is allowed by the Secretary in the special circumstances of the case;
the Secretary may pay the amount to the person who, in the Secretary’s opinion, is best entitled to it.

(3) If the Secretary pays an amount under subitem (1) in respect of family benefit of a particular kind claimed under the social security law, the Commonwealth has no further liability to any person in respect of family benefit of that kind under the social security law or in respect of any family benefit of a like kind under the family assistance law.

(4) If the Secretary pays an amount under subitem (2) in respect of a particular child, the Commonwealth has no further liability to any person in respect of maternity allowance or maternity immunisation
allowance under the social security law, or in respect of MAT or MIA under the family assistance law, in respect of that child.

(5) For the purpose of Part 5 of the Family Assistance Administration Act, a decision of the Secretary under subitem (1) or (2) has effect as if it were a decision of an officer under the family assistance law.

13 Claims for advance payment under Social Security Law

(1) If:
   (a) an individual had, under section 864A of the Social Security Act 1991 as in force before 1 July 2000, requested a family allowance advance in respect of an advance period, within the meaning of that Act, that ended before 1 July 2000, and all subsequent advance periods; and
   (b) that request had been granted;
the grant has effect, in relation to the advance period commencing on 1 July 2000 and all subsequent advance periods as if:
   (c) it were a grant made under section 33 of the Family Assistance Administration Act as amended by this Act; and
   (d) it related not to qualification for family allowance advance but rather to an entitlement to family tax benefit advance in relation to the individual’s family tax benefit as determined by the Secretary in accordance with item 6.

(2) For the avoidance of doubt, an individual who is treated, by virtue of the operation of subitem (1), as having made and been granted a request under section 33 of the Family Assistance Administration Act as amended by this Act, may on 1 July 2000, or at any time after that date, withdraw the request in so far as it is treated as relating to standard advance periods within the meaning of that Act as so amended for which the individual has not been paid a family tax benefit advance.

14 Saving provision relating to information collection

If:
   (a) family benefit, or maternity allowance or maternity immunisation allowance claimed under the social security law, is payable to a person; and
   (b) the Secretary decides, on or after 1 July 2000, to seek further information in relation to the benefit or allowance;
the Secretary may, under Division 1 of Part 5 of the Social Security (Administration) Act 1999, require the provision of information concerning that benefit or allowance, or concerning the person to whom it is payable, as if that benefit or allowance had continued, on and after 1 July 2000, to be a social security payment as defined for the purposes of the Social Security (Administration) Act 1999.

15 Portability

(1) If:

(a) immediately before 1 July 2000, an individual
   (i) is receiving family benefit in the nature of family allowance in respect of another individual; or
   (ii) is receiving family benefit in the nature of parenting payment because the individual has a PP child; and
(b) the person in respect of whom, or because of whom, that benefit is received (the child) is absent from Australia immediately before that date because:
   (i) having left Australia, the child has not returned before that date; or
   (ii) having been born outside Australia, the child has not subsequently come to Australia before that date;

the child is not, if that absence extends for a period of 3 years beginning on the first day of the absence, an FTB child at any time after the period of 3 years ends.

(2) In determining whether the period of absence of the child extends for 3 years beginning on the first day of the child’s absence:

(a) any return or coming to Australia before 1 July 2000 that would have been disregarded under the Social Security Act 1991 as in force before that date had that Act as so in force continued unamended after that date is to be disregarded for the purposes of subitem (1); and
(b) any return or coming to Australia on or after 1 July 2000 that would have been disregarded under section 24 of the Family Assistance Act as amended by this Act if that section were to have applied to the person is also to be disregarded for the purposes of that subitem.
Table A

(3) If:

(a) the child referred to in paragraph (1)(b) is absent from Australia for a continuous period of more than 26 weeks (whether or not that 26 weeks ends before 1 July 2000); and

(b) an individual having an entitlement to family tax benefit in respect of the child is not an absent overseas recipient within the meaning of subsection 62(2) of the Family Assistance Act as amended by this Act during any part of the child's absence from Australia occurring after 26 weeks and after the individual becomes so entitled;

Schedule 1 to the Family Assistance Act as so amended applies in relation to that entitlement during that part of the child’s absence that is referred to in paragraph (b) with the modifications set out in the table included in subsection 63(4) of that Act as so amended.

(4) If:

(a) the child referred to in paragraph (1)(b) is absent from Australia for a continuous period of more than 26 weeks (whether or not that 26 weeks ends before 1 July 2000); and

(b) the child comes to Australia; and

(c) the child leaves Australia less than 26 weeks after coming to Australia; and

(d) an individual having an entitlement to family tax benefit in respect of the child is not an absent overseas recipient within the meaning of subsection 62(2) of the Family Assistance Act as amended by this Act during any part of the child’s absence from Australia referred to in paragraph (c) after the individual becomes so entitled;

Schedule 1 to the Family Assistance Act as so amended applies in relation to that entitlement during that part of the child’s absence that is referred to in paragraph (d) from Australia with the modifications set out in the table included in subsection 63(4) of that Act as so amended.

16 Lump sum bereavement payments for certain persons receiving non-benefit PP (partnered) at death of child

(1) If:

(a) a child died less than 4 weeks before 1 July 2000; and

(b) at the time of the child’s death, the child was the only PP child of a person; and
Notes to the Social Security (Administration) Act 1999

Table A

(c) under section 512A of the Social Security Act 1991 as in force immediately before 1 July 2000, if that section had continued in force after that date, the person would, but for this item, have qualified to continue to receive that parenting payment for the period of 4 weeks that starts on the day following the day of the child’s death;

so much of the parenting payment as would have been payable in respect of each day in that 4 week period that occurs after 30 June 2000:

(d) continues to be payable as if section 512A of that Act as so in force had not been repealed but had so provided; and

(e) is payable as a single lump sum on, or as soon as practicable after, 1 July 2000.

(2) For the purposes of Part 4 of the Social Security (Administration) Act 1999, a decision made for the purposes of section 512A of the Social Security Act 1991 as continued in force for the purposes of subitem (1) has effect as a decision of an officer under the social security law.

17 Lump sum bereavement payments for certain persons receiving family tax payment at death of child

(1) If:

(a) a child died less than 4 weeks before 1 July 2000; and

(b) at the time of the child’s death, a person was receiving family tax payment in respect of that child or of children including that child; and

(c) under section 900AZZC of the Social Security Act 1991 as in force before 1 July 2000, if that section had continued in force after that date, the person would, but for this item, have qualified to continue to receive family tax payment for the period of 4 weeks that starts on the day following the day of the child’s death at the rate that would have been applicable if the child had not died;

so much only of the amount of family tax payment that would have been payable in respect of each day in that 4 week period that occurs after 30 June 2000 and that is attributable to that child:

(d) continues to be payable to the person as if section 900AZZC of that Act as so in force had not been repealed but had so provided; and

(e) is payable as a single lump sum on, or as soon as practicable after, 1 July 2000.
18 Lump sum bereavement payments for certain persons receiving family allowance at death of child

(1) If:
   (a) a child died before 1 July 2000; and
   (b) at the time of the child’s death a person was receiving family allowance in respect of that child or of children including that child; and
   (c) under Subdivision A or B of Division 10 of Part 2.17 of the Social Security Act 1991 as in force before 1 July 2000, if those Subdivisions had continued in force after that date, the person would, but for this item, have qualified to continue to receive family allowance for a period (the bereavement period) that starts on the day following the day of the child’s death at the rate that would have been applicable if the child had not died;
   (d) continues to be payable to the person as if that Subdivision of that Act as so in force had not been repealed but had so provided; and
   (e) is payable as a single lump sum on, or as soon as practicable after, 1 July 2000.

(2) For the purposes of Part 4 of the Social Security (Administration) Act 1999, a decision under Subdivision A or B of Division 10 of Part 2.17 of the Social Security Act 1991 as continued in force for the purposes of subitem (1) has effect as a decision of an officer under the social security law.
Table A

19 Set-offs

(1) If:
   (a) a child dies before 1 July 2000; and
   (b) before the Secretary learns of the death of the child, an individual has begun to receive family tax benefit in respect of the child in accordance with a determination under section 16 of the Family Assistance Administration Act as amended by this Act in respect of any period after 30 June 2000;

   the Secretary must, as soon as practicable after learning of the child’s death, review that determination in accordance with section 104 of the Family Assistance Administration Act as so amended.

(2) If the person continued to receive non-benefit PP (partnered) after 30 June 2000 in respect of the deceased child—the Secretary can set off the amount of any single lump sum due by the Commonwealth under item 16 against any debt arising on a review of family tax benefit conducted in accordance with subitem (1).

(3) If the person continued to receive family tax payment after 30 June 2000 and the rate of the payment was attributable, in whole or in part, to the deceased child—the Secretary can set off the amount of any single lump sum due by the Commonwealth under item 17 against any debt arising on a review of family tax benefit conducted in accordance with subitem (1).

(4) If the person continued to receive family allowance after 30 June 2000 and the rate of the allowance was attributable, in whole or in part, to the deceased child—the Secretary can set off the amount of any single lump sum due by the Commonwealth under item 18 against any debt arising on a review of family tax benefit conducted in accordance with subitem (1).

20 Bereavement payments in relation to the death of a recipient

(1) Despite the repeal of section 513A of the Social Security Act 1991 as in force before 1 July 2000, that section is taken to continue in force, on and after that date, so as to facilitate any claim by the partner of a person qualified for parenting payment in respect of a child who has died, for a period of 13 weeks after the death of that child.
Table A

(2) For the purposes of subitem (1), section 513A of the Social Security Act 1991 as so continued in force has effect as if the reference in the section to the amount of parenting payment that would have been payable includes a reference to any lump sum that would have been payable because of the operation of item 16.

(3) Despite the repeal of section 900 of the Social Security Act 1991 as in force before 1 July 2000, that section is taken to continue in force, on and after that date, so as to facilitate any claim by the partner of a person qualified for family allowance in respect of a child who has died, for a period of 13 weeks after the death of that child.

(4) For the purposes of subitem (3), section 900 of the Social Security Act 1991 as so continued in force has effect as if the reference:
   (a) in subsection (1) of that section to the sum of the amounts referred to in paragraphs (f), (g) and (h) of that subsection; and
   (b) in subsection (2) of that section to the sum of the amounts referred to in paragraphs (e), (f) and (g) of that subsection;

each includes a reference to any lump sum that would have been payable because of the operation of item 18.

(5) For the purposes of Part 4 of the Social Security (Administration) Act 1999, a decision made for the purposes of section 513A, or section 900, of the Social Security Act 1991 as continued in force for the purposes of this item has effect as if it were a decision of an officer under the social security law.

21 Provision of TFNs in certain circumstances under Social Security Act 1991 taken to be provision under Family Assistance Administration Act

If the tax file number of an individual has been provided to the Secretary:
   (a) by the individual; or
   (b) by the partner of the individual; or
   (c) by the Commissioner of Taxation on the authority of the individual;
under a provision of the Social Security Act 1991 for a purpose related to a claim for, or to entitlement to, family allowance, family tax payment or parenting payment in the nature of non-benefit PP (partnered), that tax file number is taken, for the purposes of subsection 154A(1) of the Family Assistance Administration Act as amended by this Act, to have been so provided under a provision of that Act as so amended for the purposes of that Act as so amended.

22 Saving provision—Part A rate of family tax benefit for families with children not subject to family allowance income test

(1) This item applies to an individual who, immediately before 1 July 2000:

(a) was receiving family allowance under the Social Security Act 1991 in respect of a child; and

(b) by virtue of the operation of subclause 52(2) or 53(2) of Schedule 1A to that Act—did not have to satisfy the requirements of paragraph 838(1)(c) of that Act in order to be qualified for family allowance for that child; and

(c) was also receiving either carer allowance or double orphan pension under that Act in respect of that child.

(2) If, on or after 1 July 2000, an individual to whom this item applies has at least one FTB child in relation to whom the individual continues to receive either carer allowance or double orphan pension under the Social Security Act 1991, the Part A rate of family tax benefit payable under the Family Assistance Act as amended by this Act to the individual from time to time on or after that date is a rate equal to:

(a) unless paragraph (b) applies—the Part A rate of family tax benefit that would be payable to the individual under that Act as so amended; or

(b) if the rate referred to in paragraph (a) is less than the rate (the saved rate) that would have been the individual’s minimum family allowance rate under the Social Security Act 1991 immediately before 1 July 2000 if that rate were worked out having regard only to those FTB children of the individual in respect of whom the individual continues to receive either carer allowance or double orphan pension under that Act—the saved rate.
(3) If, at any time, an individual begins to receive a Part A rate of family tax benefit calculated in accordance with paragraph (2)(a), the person ceases, with effect from that time, to have any entitlement, at any time thereafter, to a Part A rate of family tax benefit at the saved rate.

Schedule 6

1 Definitions

In this Schedule, unless the contrary intention appears:

approved child care service has the meaning given in subsection 3(1) of the Family Assistance Administration Act.

childcare assistance means fee reductions made in respect of care provided before:
   (a) 1 July 2000; or
   (b) on or after 1 July 2000, as provided for in this Schedule;
in compliance with:
   (c) the fee relief guidelines; or
   (d) a Commonwealth program, administered by the Commonwealth Department of Family and Community Services or the Commonwealth Services Delivery Agency, that provided for fee reductions, generally known as “childcare assistance” or “fee relief”.

childcare assistance agreement means an agreement, to which the Commonwealth is a party:
   (a) entered into under section 20 of the Child Care Act 1972; or
   (b) any other agreement, not being an agreement entered into under that Act;
that is made to provide grants to reimburse the costs of fee reductions.

childcare assistance scheme means the Commonwealth program under which childcare assistance is paid.


data collection form means a written request to an individual from the Secretary for information relating to matters associated with the establishment of a scheme for payment of child care benefit.

Table A

**Family Assistance Act** means the *A New Tax System (Family Assistance) Act 1999*.

**Family Assistance Administration Act** means the *A New Tax System (Family Assistance) (Administration) Act 1999*.

**family assistance law** has the same meaning as in subsection 3(1) of the Family Assistance Administration Act.

**fee relief guidelines** means the Childcare Assistance (Fee Relief) Guidelines made under section 12A of the *Child Care Act 1972* as in force on 30 June 2000.

**Secretary**, in relation to an act or thing done, or a decision or determination made, under particular legislation, means the Secretary of the Department administered by the Minister administering that legislation.

2 Special rules relating to individual entitled to childcare assistance before 1 July 2000

(1) If, before 1 July 2000:

(a) a decision has been made in respect of an individual and a child with the effect that the individual is entitled to childcare assistance in respect of the child; and

(b) the individual has returned a completed data collection form to the Secretary by the date specified in the form;

then:

(c) section 42 of the Family Assistance Act as amended by this Act and in force on 1 July 2000, is treated as being in force when the completed data collection form was returned; and

(d) the individual is taken to be conditionally eligible under that section, as so in force, at the time that the form was returned.

(2) If:

(a) determinations of conditional eligibility, CCB %, a weekly limit of hours and schooling %, would, apart from this subitem, come into force on 1 July 2000 in respect of the individual and the child; and

(b) the individual has not remained entitled to childcare assistance in respect of the child for the period commencing on the day the data collection form is returned to the Secretary and ending on 30 June 2000;

the determinations do not come into force on 1 July 2000.
(3) If:

(a) a requirement has been imposed before 1 July 2000 under the
care assistance scheme in respect of the child of the
individual; and
(b) the requirement is that the child comply with the
immunisation requirement; and
(c) the child does not meet the requirement by 1 July 2000; and
(d) immediately before 1 July 2000, less than 63 days have
elapsed since the requirement was imposed;
then, for the purposes of the Childcare Assistance Administration Act
as amended by this Act and the Childcare Assistance Act as so
amended:
(e) section 57E of the Childcare Assistance Administration Act as
so amended, and paragraph 42(1)(c) of the Childcare Assistance
Act as so amended, are treated as having been in force when
the requirement was imposed; and
(f) the requirement is taken to have been imposed, at the time
when it was imposed, under section 57E of the Childcare Assistance Administration Act as so amended and as so in
force; and
(g) the requirement is taken to have been imposed, at the time
when it was imposed, for the purposes of paragraph 42(1)(c)
of the Childcare Assistance Act as so amended and as so in
force.

(4) If, immediately before 1 July 2000, the child is meeting the
immunisation requirements set out in the childcare assistance scheme,
then, on 1 July 2000, the child is taken to meet the immunisation
requirements in section 6 of the Childcare Assistance Act, as amended by
this Act and in force on that day.

3 Special rules if individual claiming child care rebate and
receiving family allowance returns data collection form

(1) If:

(a) an individual makes a claim for childcare rebate in respect of
a child within the period commencing on 1 January 1998 and
ending on 30 June 2000; and
Table A

(b) immediately before 1 July 2000, the individual is receiving family allowance in respect of the child; and
(c) the individual returns a completed data collection form to the Secretary by the date specified in the form; then, for the purposes of the Family Assistance Administration Act as amended by this Act and the Family Assistance Act as so amended:
(d) paragraph 49B(a) of the Family Assistance Administration Act, as so amended is treated as being in force when the completed data collection form is returned; and
(e) the individual is taken to have made an effective claim under that paragraph, as so in force, at the time that the form was returned.

(2) If, immediately before 1 July 2000, the child is meeting the immunisation requirements set out in the *Childcare Rebate Act 1993*, then, on 1 July 2000, the child is taken to meet the immunisation requirements in section 6 of the Family Assistance Act as amended by this Act and in force on that day.

4 Individuals may make a claim for child care benefit by fee reduction before 1 July 2000

If an individual makes a claim for child care benefit by fee reduction before 1 July 2000, then, for the purposes of the Family Assistance Administration Act as amended by this Act and the Family Assistance Act as so amended:
(a) paragraph 49B(a) of the Family Assistance Administration Act, as so amended is treated as being in force when the claim is made; and
(b) the claim is taken to have been made, at the time that it was made, under that paragraph of that Act as so amended and in force.

5 Minimum CCB % if individual objects to use of tax file number given previously

(1) This item applies to an individual referred to in subitems 2(1) and 3(1).
(2) If:
(a) the tax file number of an individual to which this item applies has been provided to the Secretary:

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(i) by the individual; or  
(ii) by the partner of the individual; or  
(iii) by the Commissioner of Taxation on the authority of the individual;  
under:  
(iv) a provision of the *Social Security Act 1991* for a purpose related to a claim for, or entitlement to, family allowance; or  
(v) the childcare assistance scheme for a purpose related to a claim for, or entitlement to, childcare assistance; and

(b) the individual returns to the Secretary a completed data collection form by the date specified in the form; and  
(c) in that form, the individual objects to the use of the tax file number previously provided to the Secretary;

a determination of CCB % under section 50J of the Family Assistance Administration Act as amended by this Act and that would come into force on 1 July 2000 in respect of the individual, is to be calculated under Schedule 2 to the Family Assistance Act using the minimum taxable income % as the taxable income %.

### 6 Special rules relating to status of a child

(1) If:  

(a) immediately before 1 July 2000, a decision is in force under the childcare assistance scheme that a child is taken to be a dependent child; and  
(b) either:  

(i) under item 2, an individual is taken to be conditionally eligible for child care benefit by fee reduction in respect of the child; or  
(ii) under item 3, an individual is taken to have made an effective claim for child care benefit by fee reduction in respect of the child; or  
(iii) under item 4, an individual makes a claim for child care benefit by fee reduction in respect of the child;

then, for the purposes of the Family Assistance Administration Act as amended by this Act and the Family Assistance Act as so amended:
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(c) the Family Assistance Act as so amended is treated as having been in force when the decision under paragraph (a) was made; and

(d) the decision that the child is taken to be a dependent child is taken to have been a determination that the child is an FTB child of the individual made, at the time referred to in subitem (2), under subsection 42(2) of the Family Assistance Act as so amended and in force.

(2) The determination referred to in paragraph (1)(d) is taken to have been made on:

(a) in the case of subparagraph (b)(i)—the day the individual is taken to be conditionally eligible immediately before the time the individual is taken to be so conditionally eligible; and

(b) in the case of subparagraph (b)(ii)—the day the effective claim is taken to have been made; and

(c) in the case of subparagraph (b)(iii)—the day the claim is made.

7 Special rules relating to residence

(1) If:

(a) immediately before 1 July 2000, a decision is in force under the childcare assistance scheme that an individual is taken to be a resident for childcare assistance purposes with effect that the individual is a resident on 1 July 2000; and

(b) either:

(i) under item 2, the individual is taken to be conditionally eligible for child care benefit by fee reduction; or

(ii) under item 3, the individual is taken to have made an effective claim for child care benefit by fee reduction; or

(iii) under item 4, an individual makes a claim for child care benefit by fee reduction;

then, for the purposes of the Family Assistance Administration Act as amended by this Act and the Family Assistance Act as so amended:

(c) the Family Assistance Act as so amended is treated as having been in force when the decision under paragraph (a) was made; and

(d) the decision that the individual is a resident is taken to have been a determination made, at the time referred to in...
subitem (2), under section 8 of the Family Assistance Act as so amended and in force.

(2) The determination is taken to have been made on:
(a) in the case of subparagraph (b)(i)—the day the individual is taken to be conditionally eligible, immediately before the time the individual is taken to be so conditionally eligible; and
(b) in the case of subparagraph (b)(ii)—the day the effective claim is taken to have been made; and
(c) in the case of subparagraph (b)(iii)—the day the claim is made.

8 Special rules relating to tax file numbers provided for another purpose
If:
(a) the tax file number of an individual has been provided to the Secretary:
   (i) by the individual; or
   (ii) by the partner of the individual; or
   (iii) by the Commissioner of Taxation on the authority of the individual;
   under:
   (iv) a provision of the *Social Security Act 1991* for a purpose related to a claim for, or entitlement to, family allowance; or
   (v) the childcare assistance scheme; and
(b) the individual returns to the Secretary a completed data collection form by the date specified in the form; and
(c) in that form, the individual does not object to the use of the tax file number previously so provided to the Secretary;
that tax file number is taken to have been provided for the purposes of section 50B of the Family Assistance Administration Act, as amended by this Act and in force on 1 July 2000.

9 Special rules relating to TFN requirements
If:
(a) an individual has been requested, before 1 July 2000, under section 75 of the *Social Security (Administration) Act 1999*
or under the childcare assistance scheme, to provide a tax file number in relation to a claim for, or the receipt of, family allowance or childcare assistance; and
(b) the individual has not, before that date, provided that tax file number; and
(c) immediately before 1 July 2000, less than 28 days have elapsed since the request to provide that number;
then, for the purposes of the Family Assistance Administration Act as amended by this Act and the Family Assistance Act as so amended:
(d) the Family Assistance Act as so amended is treated as having been in force when the request was made; and
(e) the request is taken to have been made, at the time when it was made, under section 57B of the Family Assistance Act as so amended and in force.

(2) If, under a decision made under the childcare assistance scheme, an individual has been exempted, before 1 July 2000, from having to meet the tax file number requirements of the scheme, then, for the purposes of the Family Assistance Administration Act, as amended by this Act:
(a) that Act as so amended is treated as having been in force when the decision that the individual is exempt was made; and
(b) the decision is taken to have been made, at the time the exemption under the childcare assistance scheme was given, under subsection 57B(6) of that Act as so amended and in force.

10 Special rules relating to a childcare assistance agreement in force immediately before 1 July 2000

Agreement to which this item relates

(1) This item applies to a childcare assistance agreement that was in force immediately before 1 July 2000.

Agreement ceases to operate for grants for fee reductions after 1 July 2000 except in certain circumstances

(2) Except in the limited circumstances set out in subitem (3) or (4), on and after 1 July 2000, an agreement to which this item applies does not operate, in respect of a grant to reimburse the costs of fee reductions, in relation to care provided on or after 1 July 2000.
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*Matters in respect of which agreement continues to operate*

(3) An agreement to which this item applies does operate, in respect of a grant to reimburse the costs of fee reductions, in relation to a session of care that started before 1 July 2000 and continued on that date.

Note 1: Item 17 continues access to fee reductions under the childcare assistance scheme for care provided during a session of care that started immediately before 1 July 2000 and continued on that date.

Note 2: In respect of care provided on 1 July 2000, this provision continues the agreement and, in particular, continues the obligations and responsibilities imposed under the agreement, in relation to that care.

(4) An agreement to which this item applies does operate, in respect of a grant to reimburse the costs of fee reductions, in relation to care provided on or after 1 July 2000, if the care is provided by an outside school hours care service during the period of a school vacation that starts before 1 July 2000 and continues on and after that day.

Note 1: Item 18 continues access to fee reductions under the childcare assistance scheme for vacation care provided on and after 1 July 2000 if the vacation started before 1 July 2000.

Note 2: In respect of care provided on and after 1 July 2000, this provision continues the agreement and, in particular, continues the obligations and responsibilities imposed under the agreement, in relation to that care.

(5) On and after 1 July 2000, an agreement to which this item applies does operate, in respect of a grant to reimburse the costs of fee reductions, in relation to care provided before 1 July 2000.

Note: In respect of care provided before 1 July 2000, this provision continues the agreement and, in particular, continues the obligations and responsibilities imposed under the agreement, in relation to that care.

(6) On and after 1 July 2000, an agreement to which this item applies operates for the purposes of other grants (if any) provided for in the agreement.

*Commonwealth under no obligation to make further grants under agreement*

(7) The operation of an agreement to which this item applies is limited in that the Commonwealth is under no obligation, on or after 1 July 2000, to make any further grants under the agreement to reimburse the costs of fee reductions.
Notes to the Social Security (Administration) Act 1999

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Child Care Act, guidelines etc. to be treated as in force

(8) For the purposes of an agreement to which this item applies in so far as it relates to a grant to reimburse the costs of fee reductions, in relation to care provided as mentioned in subitems (3), (4) and (5):

(a) on and after 1 July 2000, the Child Care Act 1972 is treated as being in force as if the amendments made by Schedule 3 to the A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999 had not been made; and

(b) if:

(i) a handbook, guidelines or other document that relates to fee reductions created by a Commonwealth Department with the responsibility for administering the agreement is referred to in the agreement; and

(ii) the handbook, guidelines or other document operates on 30 June 2000;

the handbook, guidelines or other document is treated as operating on and after 1 July 2000.

11 Childcare assistance agreement services to become approved child care services under section 195 of the Family Assistance Administration Act

Long day care services

(1) If:

(a) a childcare assistance agreement is in force in respect of a long day care service immediately before 1 July 2000; and

(b) the service is not, immediately before 1 July 2000, subject to a suspension under paragraph 4E(1)(d) of the Child Care Act 1972;

the service is treated as being an approved centre based long day care service under section 195 of the Family Assistance Administration Act as amended by this Act with effect from 1 July 2000.

Family day care services

(2) If a childcare assistance agreement is in force in respect of a family day care service immediately before 1 July 2000, the service is treated as being an approved family day care service under section 195 of the...
Family Assistance Administration Act as amended by this Act with effect from 1 July 2000.

**Occasional care services**

(3) If a childcare assistance agreement is in force in respect of an occasional care service immediately before 1 July 2000, the service is treated as being an approved occasional care service under section 195 of the Family Assistance Administration Act as amended by this Act with effect from 1 July 2000.

**Outside school hours care services**

(4) If a childcare assistance agreement is in force in respect of an outside school hours care service immediately before 1 July 2000, the service is treated as being an approved outside school hours care service under section 195 of the Family Assistance Administration Act as amended by this Act with effect from 1 July 2000.

**Requirement of subsection 195(3) of the Family Assistance Administration Act need not be complied with**

(5) For an approved child care service referred to in subitems (1) to (4) (inclusive), the Secretary does not have to comply with the requirement in subsection 195(3) of the Family Assistance Administration Act as amended by this Act to give a certificate in respect of the service.

If long day care services subject to a sanction (other than suspension) on 30 June 2000, sanction carries over to child care benefit scheme

(6) If a long day care service is, immediately before 1 July 2000, subject to a sanction, other than suspension, under section 4E of the Child Care Act 1972, the service is treated, on and after 1 July 2000, as being subject to the sanction under section 200 of the Family Assistance Administration Act as amended by this Act.

### 12 Special condition of continuing approval of approved child care services referred to in item 11

If:

(a) a service is treated, under item 11, as an approved child care service; and

(b) item 10 applies to an agreement in respect of the service;
it is a condition for the continued approval of the approved child care service under section 195 of the Family Assistance Administration Act, as amended by this Act and in force on 1 July 2000, that the service not contravene an obligation imposed on the service under the agreement in respect of a grant to reimburse the costs of fee reductions, in relation to care mentioned in subitems 10(3), (4) and (5).

13 Debts under childcare assistance agreements to be recoverable under the Family Assistance Administration Act

(1) If:
   (a) an amount (the debt), whether described as a debt or not, is to be repaid:
      (i) under a childcare assistance agreement to which item 10 applies; or
      (ii) under section 20B of the Child Care Act 1972 as in force immediately before 1 July 2000 in respect of an advance on account of a grant to reimburse the costs of fee reductions made for children; and
   (b) the debt relates to a grant to reimburse the costs of fee reductions for care mentioned in subitem (10)(3), (4) or (5);

the debt, whether it arises before, or on or after, 1 July 2000 is recoverable on or after 1 July 2000 under subsection 82(2) of the Family Assistance Administration Act as amended by this Act and in force on 1 July 2000.

(2) If the debt has been partially recovered under the childcare assistance scheme before 1 July 2000, the balance of the debt may be recovered under subsection 82(2) of the Family Assistance Administration Act as amended by this Act and in force on and after 1 July 2000.

14 Minister may terminate childcare assistance agreements

(1) If:
   (a) a childcare assistance agreement was in force immediately before 1 July 2000; and
   (b) the agreement relates solely to a grant to reimburse the costs of fee reductions;

the Minister may, on or after 1 July 2000, determine, in writing, that the agreement is ended from a date specified in the determination.
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(2) The determination has effect accordingly.

15 Old sanctions to be taken into account by Secretary when considering applications under section 194 of the Family Assistance Administration Act

If:

(a) a person applies under section 194 of the Family Assistance Administration Act as amended by this Act for approval of a child care service as an approved child care service for the purposes of the family assistance law; and
(b) the person, when operating a child care service under the childcare assistance scheme, was subject to sanctions in respect of the service;

the Secretary may refuse to approve the service under subsection 195(2) of that Act as amended by this Act.

16 Special rules relating to claims for childcare assistance

Claims for childcare assistance that are undetermined as at 1 July 2000

(1) If:

(a) a person lodged a claim for childcare assistance in respect of care provided before 1 July 2000; and
(b) that claim was not determined before that date;

the claim is to be determined after 1 July 2000 under the childcare assistance scheme as in force immediately before 1 July 2000 as if the scheme, as so in force, had continued in force.

Claims lodged after 1 July 2000

(2) Despite the termination of the childcare assistance scheme on 1 July 2000, a person may lodge a claim for childcare assistance before 8 July 2000 if the claim relates to care provided no more than 7 days before the claim is lodged. The claim is to be determined after 1 July 2000 under the childcare assistance scheme as in force immediately before 1 July 2000 as if the scheme, as so in force, had continued in force.
17 Special rules relating to sessions of care
If a session of care, within the meaning of the childcare assistance scheme, provided by a child care service starts before 1 July 2000 and continues on 1 July 2000, a claim for childcare assistance in respect of the session is to be determined under the childcare assistance scheme as in force immediately before 1 July 2000 as if the scheme, as so in force, had continued in force.

18 Special rules relating to vacation care
If a period of vacation care, within the meaning of the childcare assistance scheme, provided by a child care service starts before 1 July 2000 and continues on and after 1 July 2000, a claim for childcare assistance in respect of this care is to be determined under the childcare assistance scheme as in force immediately before 1 July 2000 as if the scheme, as so in force, had continued in force.

19 Special rules relating to registered carers under section 49 of the Childcare Rebate Act
Most registered carers to be treated as registered carers under the child care benefits scheme

(1) If:

(a) an individual was a registered carer under section 49 of the Childcare Rebate Act 1993 immediately before 1 July 2000; and

(b) the individual did not do any of the following things immediately before 1 July 2000:

(i) operate a child care service that was the subject of a childcare assistance agreement;

(ii) operate a child care service that was receiving financial assistance from the Commonwealth in connection with its operational costs, where the provision of that assistance is administered by the Commonwealth Department of Family and Community Services;

(iii) provide child care under a contract with a family day care service that was the subject of a childcare assistance agreement;
the individual is to be treated as being approved as a registered carer under section 210 of the Family Assistance Administration Act, as amended by this Act and in force on 1 July 2000, with effect from that date.

Applications for registration as a carer under section 49 of the Childcare Rebate Act that are undetermined as at 1 July 2000

(2) If:

(a) a person or body lodged an application for registration as a carer under section 49 of the *Childcare Rebate Act 1993* before 1 July 2000; and

(b) that application was not determined before that date;

then:

(c) the application is to be determined under the *Childcare Rebate Act 1993* as in force before 1 July 2000 as if that Act, as so in force, had continued in force; and

(d) if the registration (if any) relates to a person who is not an individual, the registration remains in force only in relation to care provided before 1 July 2000, or on or after 1 July 2000 as mentioned in subitems 20(3) and (4); and

(e) for the purposes of subitem (1), if the registration (if any) relates to a person who is an individual, the individual is to be treated as being a registered carer before 1 July 2000.

Applications for registration as a carer under section 49 of the Childcare Rebate Act lodged after 1 July 2000

(3) Despite the repeal of the *Childcare Rebate Act 1993* on 1 July 2000, a person or body may apply, on or after 1 July 2000 and before 1 January 2001, for registration as a carer under section 49 of that Act if the application relates to care provided as mentioned in subitem 20(2), (3) or (4). The application is to be determined under the *Childcare Rebate Act 1993* as in force before 1 July 2000 as if the Act, as so in force, had continued in force.
20 Special rules relating to claims for child care rebate

Claims for child care rebate that are undetermined as at 1 July 2000

(1) If:
   (a) a person lodged a claim for child care rebate before 1 July 2000; and
   (b) that claim was not determined before that date;
the claim is to be determined under the Childcare Rebate Act 1993 as in force before 1 July 2000 as if the Act, as so in force, had continued in force.

Claims for child care rebate made after 1 July 2000 for care provided before 1 July 2000

(2) Despite the repeal of the Childcare Rebate Act 1993 on 1 July 2000, a person may lodge a claim for child care rebate on or after 1 July 2000 and before 1 January 2001 if the claim relates to care provided during a period commencing 2 years before the claim was lodged and ending on 30 June 2000. The claim is to be determined under the Childcare Rebate Act 1993 as in force before 1 July 2000 as if the Act, as so in force, had continued in force.

(3) If a session of care provided by a child care service starts before 1 July 2000 and continues on 1 July 2000, a claim for child care rebate in respect of the session is to be determined under the Childcare Rebate Act 1993 as in force immediately before 1 July 2000 as if the Act, as so in force, had continued in force.

(4) If a period of vacation care provided by an outside school hours care service starts before 1 July 2000 and continues on and after 1 July 2000, a claim for child care rebate in respect of this care is to be determined under the Childcare Rebate Act 1993 as in force immediately before 1 July 2000 as if the Act, as so in force, had continued in force.
21 Special rules relating to registration of families

Applications for registration of a family under section 19 of the Childcare Rebate Act that are undetermined as at 1 July 2000

(1) If:
   (a) an individual lodged an application for registration of a family under section 19 of the Childcare Rebate Act 1993 before 1 July 2000; and
   (b) that application was not determined before that date;

the application is to be determined under the Childcare Rebate Act 1993, as in force before 1 July 2000, as if that Act, as so in force, had continued in force.

Applications for registration of a family under section 19 of the Childcare Rebate Act lodged after 1 July 2000

(2) Despite the repeal of the Childcare Rebate Act 1993 on 1 July 2000, an individual may apply, on or after 1 July 2000 and before 1 January 2001, for a family to be registered under section 19 of that Act if the application relates to care provided as mentioned in subitem 20(2), (3) or (4). The application is to be determined under the Childcare Rebate Act 1993 as in force before 1 July 2000 as if the Act, as so in force, had continued in force.

22 Health Insurance Commission’s functions and powers in relation to child care rebate to continue for certain matters

(1) The Health Insurance Commission must deal with the following matters:

   (a) applications referred to in item 19;
   (b) claims referred to in item 20;
   (c) applications referred to in item 21;
   (d) matters arising in respect of those applications and claims (for example, applications for review);

under the Health Insurance Commission Act 1973 and the Childcare Rebate Act 1993 as if the following amendments to those Acts had not occurred:

   (e) the amendments of the Health Insurance Commission Act 1973 by Schedule 8 to the A New Tax System (Family
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(Consequential and Related Measures) Act (No. 2) 1999;
(f) the repeal of the Childcare Rebate Act 1993.

(2) In respect of the Commission’s powers under subitem (1), the Commission may, under subsection 55(3) of the Childcare Rebate Act 1993 as continued in force, extend the period in which an application may be made for reconsideration of a decision listed in section 53 of that Act, but only until 30 June 2001.

23 Other transitional matters may be provided for in regulations

The Governor-General may make regulations, not inconsistent with this Schedule, the Family Assistance Administration Act and the Family Assistance Act prescribing other transitional matters, apart from transitional matters provided for in this Schedule, that are necessary or convenient for carrying out or giving effect to the introduction of child care benefit under the family assistance law.


Schedule 2

14 Saving provision

Despite the amendments of the Social Security (Administration) Act 1999 made by this Part (other than the amendments made by items 11, 12 and 13), that Act continues to apply, after 20 September 2000, to a decision made before that time under section 1218 of the Social Security Act 1991, as if those amendments had not been made.
Family and Community Services and Veterans’ Affairs Legislation Amendment (Debt Recovery) Act 2001 (No. 47, 2001)

Schedule 2

3 Application

The amendment made by item 2 applies to determinations in force at the commencement of the day on which this Act receives the Royal Assent and determinations made after that time.

Social Security Legislation Amendment (Concession Cards) Act 2001 (No. 80, 2001)

Schedule 1

25 Saving: existing concession cards

(1) Where a pensioner concession card or a health care card has been issued by the Commonwealth before the commencement of this Act and is expressed to expire at a time after that commencement, the card has effect, and the Social Security Act 1991, the Health Insurance Act 1973 and the National Health Act 1953, as amended by this Act, apply in relation to the card, after that commencement as if:

(a) this Act had been in operation when the card was issued; and
(b) the card had been issued under the Social Security Act 1991, as amended by this Act.

(2) A seniors health card issued under the Social Security Act 1991, as in force immediately before the commencement of this Act, has the same effect after that commencement as it would have had if:

(a) this Act had been in operation when the card was issued; and
(b) the card had been issued under the Social Security Act 1991, as amended by this Act.

(3) For the purposes of subitem (2), anything done under, or for the purposes of, the Social Security Act 1991, as in force before the commencement of this Act, in relation to a seniors health card or the holder of such a card continues to have effect, after that commencement, as if:

(a) when it was done, this Act had been in force; and
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(b) it had been done under, or for the purposes of, the Social Security Act 1991, as amended by this Act.


4 Application of amendments

(1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.

(2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Family and Community Services Legislation Amendment (Budget Initiatives and Other Measures) Act 2002 (No. 95, 2002)

Schedule 1

11 Continuation of existing payment directions

In this item:


payment recipient means the person to whose relevant payment a pre-existing direction related.

pre-existing direction means:

(a) a direction in force, under subsection 44(3) of the Administration Act; or

(b) a direction given by virtue of paragraph 45(2)(b) of that Act and in force; or

(c) a direction in force under subsection 47(5) of that Act; immediately before the commencement of this Schedule.

relevant payment has the same meaning as in Part 3A of the Administration Act, as amended by this Schedule.

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representative means the person specified in a pre-existing direction as the person to whom the relevant payment, or part of the relevant payment, to which the direction related was to be paid.

(2) On and after the commencement of this Schedule, a pre-existing direction continues in force as if:

(a) the representative had consented in writing to appointment under section 123B of the Administration Act, as amended by this Schedule, as the payment nominee of the payment recipient; and

(b) as if the direction were:

(i) an appointment under section 123B of the Administration Act, as amended by this Schedule, of the representative as the payment nominee of the payment recipient; and

(ii) a direction under that section that the whole, or the same part, as the case may be, of the relevant payment be paid to the payment nominee of the payment recipient.


Schedule 4

1 Application

The amendments made by this Schedule apply in relation to departures from Australia before, on or after the commencement of this Schedule by persons who are absent from Australia on or after that commencement as a result of those departures.
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Schedule 3

1 Administrative scheme for one-off payments to families and carers

(1) Subject to this item, the Minister may, in writing, determine a scheme under which one-off payments may be made to families and carers in particular circumstances. The Minister may, in writing, vary or revoke the scheme.

(2) The circumstances in which the scheme provides for payments must be circumstances:
   (a) in which the Minister considers that Part 5 of the A New Tax System (Family Assistance) Act 1999, and Parts 2.5A and 2.19A of the Social Security Act 1991, do not produce appropriate results; and
   (b) occurring in the financial year starting on 1 July 2003.

(3) The scheme must not provide for payments to be made at a time that is after 30 June 2007.

(4) Without limiting the generality of subitem (1), the scheme may deal with the following:
   (a) the circumstances in which payments are to be made;
   (b) the amount of the payments;
   (c) what a person has to do to get a payment;
   (d) administrative matters, such as determination of entitlement and how and when payments will be made.

(5) An instrument determining, varying or revoking the scheme is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

(6) Payments under the scheme are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

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### Special payment of seniors concession allowance in December 2004

1. In this item:
   - **1 December test day** means the seniors concession allowance test day that occurs on 1 December 2004.
   - **Administration Act** means the *Social Security (Administration) Act 1999* as amended by this Schedule and Schedule 1 to this Act.
   - **seniors concession allowance** means seniors concession allowance under Part 2.25B of the Act.
   - **seniors concession allowance test day** has the meaning given by subsection 1061UA(3) of the Act.
   - **social security law** means the social security law (within the meaning of subsection 23(17) of the Act) as amended by this Schedule and Schedule 1 to this Act.
   - **the Act** means the *Social Security Act 1991* as amended by this Schedule and Schedule 1 to this Act.
   - **transitional day** means a day in December 2004 (other than 1 December 2004).
   - **Veterans’ Entitlements Act** means the *Veterans’ Entitlements Act 1986* as amended by this Schedule and Schedule 1 to this Act.

2. Transitional seniors concession allowance is payable under this item to a person in relation to the transitional day if:
   - (a) seniors concession allowance would be payable to the person under section 1061UA of the Act in relation to the transitional day if that day were a seniors concession allowance test day; and
   - (b) seniors concession allowance was not payable to the person under section 1061UA of the Act in relation to the 1 December test day.

3. Transitional seniors concession allowance is payable only once in relation to December 2004.
Table A

(4) If transitional seniors concession allowance is payable to a person in relation to the transitional day, the person is to be paid an instalment of the allowance as soon as is reasonably practicable on or after the transitional day. The amount of the instalment is $100.

(5) For the purposes of the social security law, the Veterans’ Entitlements Act and the Income Tax Assessment Act 1997:
   (a) transitional seniors concession allowance payable under this item in relation to the transitional day is to be treated as if it were seniors concession allowance payable under Part 2.25B of the Act in relation to the 1 December test day; and
   (b) an instalment of transitional seniors concession allowance paid under this item in relation to the transitional day is to be treated as if it were a payment of an instalment of seniors concession allowance under section 49B of the Administration Act in relation to the 1 December test day.

(6) The Consolidated Revenue Fund is appropriated for the purposes of this item.

Social Security Legislation Amendment (One-off Payments for Carers) Act 2005 (No. 55, 2005)

The proposed amendment made by Schedule 3 (item 70) of the Social Security and Veterans’ Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008 (No. 19, 2008) was misdescribed and is not incorporated in this compilation.

Schedule 2

1 Administrative scheme for 2005 one-off payments to carers

(1) Subject to this item, the Minister may, by legislative instrument, determine a scheme under which one-off payments may be made to carers in particular circumstances. The Minister may, by legislative instrument, vary or revoke the scheme.
Table A

(2) The circumstances in which the scheme provides for payments must be circumstances:
   (a) in which the Minister considers that Parts 2.5B, 2.5C and 2.19B of the Social Security Act 1991 do not produce appropriate results; and
   (b) occurring in the financial year starting on 1 July 2004.

(3) Without limiting the generality of subitem (1), the scheme may deal with the following:
   (a) the circumstances in which payments are to be made;
   (b) the amount of the payments;
   (c) what a person has to do to get a payment;
   (d) administrative matters, such as determination of entitlement and how and when payments will be made.

(4) Payments under the scheme are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

Family and Community Services Legislation Amendment (Family Assistance and Related Measures) Act 2005 (No. 61, 2005)

Schedule 4

28 Application of item 19

The amendment made by item 19 applies in relation to an adverse determination, made after the commencement of this item, to reduce the rate of, or cancel, a person’s social security payment for a day that occurs after that commencement.


Schedule 22

15 Application and transitional provisions—items 11 and 13

(1) The amendments of the Social Security (Administration) Act 1999 made by items 11 and 13 of this Schedule apply in relation to any claim, and
any payment of pension as a result of such a claim, by a person for a
disability support pension made on or after 1 July 2006.

(2) Subject to subitem (3), the *Social Security (Administration) Act 1999*
applies to any claim by a person for a disability support pension made
before 1 July 2006, and any payment of pension as a result of such a
claim, as if the amendments referred to in subitem (1) had not been
made.

(3) If:

(a) on or after 1 July 2006, a notice under subsection 63(2) or
64(2) of the *Social Security (Administration) Act 1999* is
given to a person who made a claim for a disability support
pension on or after 11 May 2005 and before 1 July 2006; and

(b) under the notice, the person is required to undertake a
specified activity for the purpose of reviewing his or her
capacity to perform work;

then, the amendments of the *Social Security (Administration) Act 1999*
referred to in subitem (1) apply to the person from the date of the
notice.

16 Application provision—item 12

The amendment of the *Social Security (Administration) Act 1999* made
by item 12 of this Schedule apply in relation to determinations under
subsection 96(1) or (3) of that Act whose date of effect is on or after
1 July 2006.

17 Application provision—item 14

The amendment of the *Social Security (Administration) Act 1999* made
by item 14 of this Schedule applies in relation to persons whose
disability support pension is cancelled, with effect on or after 1 July
2006.

25 Saving provision relating to administrative breaches

(1) If:

(a) as a result of an administrative breach committed by the
person before the commencement of this item, an
administrative breach rate reduction period applied to the
person under subsection 63(5) of the *Social Security
(Administration) Act 1999*; and
(b) on that commencement, the administrative breach rate reduction period had not ended;

the administrative breach rate reduction period continues to apply to the person after that commencement as if that subsection had not been repealed by this Act.

(2) In this item:

administrative breach means any non-compliance by the person as a result of which an administrative breach rate reduction period applied to the person, before the commencement of this item, under subsection 63(5) of the Social Security (Administration) Act 1999.

33 Saving provision relating to administrative breaches

(1) If:

(a) as a result of an administrative breach committed by the person before the commencement of this item, an administrative breach rate reduction period applied to the person under subsection 64(4) of the Social Security (Administration) Act 1999; and

(b) on that commencement, the administrative breach rate reduction period had not ended;

the administrative breach rate reduction period continues to apply to the person after that commencement as if that subsection had not been amended by this Act.

(2) In this item:

administrative breach means any non-compliance by the person as a result of which an administrative breach rate reduction period applied to the person, before the commencement of this item, under subsection 64(4) of the Social Security (Administration) Act 1999.

45 Saving provision

A delegation in force under section 234 of the Social Security (Administration) Act 1999 immediately before the commencement of item 45 continues to have effect after that commencement as if it were a delegation under that section as amended by this Act.
Table A

47 Application provision
The amendment made by this Part applies in relation to claims for social security payments made on or after 20 September 2006.


Schedule 13

15 Saving provision
The amendment of section 146 of the Social Security (Administration) Act 1999 by this Act does not affect the validity of any guidelines set under that section before the commencement of this item.


Schedule 4

12 Saving
The repeal of paragraphs 144(a) and (b) of the Social Security (Administration) Act 1999 does not enable the SSAT to review a decision it was prohibited by either of those paragraphs from reviewing.

Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Act 2007 (No. 65, 2007)

Schedule 1

54 Application
The amendment made by item 53 applies to:
(a) a decision under the social security law in relation to which an application is made, on or after the commencement of this item, to the Secretary under section 129 of the Social

482 Social Security (Administration) Act 1999
Table A

Social Security (Administration) Act 1999 for review of the decision; and
(b) a decision under the social security law reviewed by the Secretary, on or after the commencement of this item, under section 126 of the Social Security (Administration) Act 1999 without any application under section 129 of that Act for review of the decision having been made.

Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Act 2007 (No. 82, 2007)

Schedule 12

15 Application of item

The amendment made by item 14 of this Schedule applies to any claim for an AGDRP that is made after that item commences.

Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007 (No. 130, 2007)

4 Racial Discrimination Act—Part 3B of the Social Security (Administration) Act

(1) Subsections (2) and (3) apply to:
(a) the provisions of Part 3B of the Social Security (Administration) Act 1999; and
(b) any acts done under or for the purposes of:
(i) those provisions; or
(ii) the income management regime;
in relation to:
(c) a person who is, or is potentially, subject to the income management regime under section 123UB of that Act (relevant Northern Territory area); or
(d) a person in the Northern Territory who is, or is potentially, subject to the income management regime under
section 123UD or 123UE of that Act (school enrolment and attendance); or
(e) a person who is subject to the income management regime under section 123UF of that Act (Queensland Commission).

(2) To the extent that this subsection applies, the provisions referred to in paragraph (1)(a), and any acts referred to in paragraph (1)(b), are, for the purposes of the *Racial Discrimination Act 1975*, special measures.

(3) To the extent that this subsection applies, the provisions referred to in paragraph (1)(a), and any acts referred to in paragraph (1)(b), are excluded from the operation of Part II of the *Racial Discrimination Act 1975*.

(4) The following are, for the purposes of the *Racial Discrimination Act 1975*, special measures:
   (a) any acts done by the Queensland Commission in relation to the giving of:
      (i) a notice referred to in paragraph 123UF(1)(b) or (2)(c) of the *Social Security (Administration) Act 1999*; or
      (ii) a notice referred to in paragraph 123YM(2)(c) or 123YN(2)(c) of that Act; or
      (iii) a direction referred to in section 123ZK of that Act;
   (b) any provisions of any laws made by, or any acts done by, Queensland in relation to the establishment or operation of the Queensland Commission.

(5) The following are excluded from the operation of Part II of the *Racial Discrimination Act 1975*:
   (a) any acts done by the Queensland Commission in relation to the giving of:
      (i) a notice referred to in paragraph 123UF(1)(b) or (2)(c) of the *Social Security (Administration) Act 1999*; or
      (ii) a notice referred to in paragraph 123YM(2)(c) or 123YN(2)(c) of that Act; or
      (iii) a direction referred to in section 123ZK of that Act;
   (b) any provisions of any laws made by, or any acts done by, Queensland in relation to the establishment or operation of the Queensland Commission.
Definitions etc.

(6) In this section:

Queensland Commission has the meaning given by section 123TC of the Social Security (Administration) Act 1999.

(7) In this section, a reference to any acts done includes a reference to any failure to do an act.

5 Some Queensland and Northern Territory laws excluded—Part 3B of the Social Security (Administration) Act

(1) Subsections (2) and (3) apply to:

(a) the provisions of Part 3B of the Social Security (Administration) Act 1999; and

(b) any acts done under or for the purposes of:

(i) those provisions; or

(ii) the income management regime;

in relation to:

(c) a person who is, or is potentially, subject to the income management regime under section 123UB of that Act (relevant Northern Territory area); or

(d) a person in the Northern Territory who is, or is potentially, subject to the income management regime under section 123UD or 123UE of that Act (school enrolment and attendance); or

(e) a person who is subject to the income management regime under section 123UF of that Act (Queensland Commission).

(2) To the extent that this subsection applies, the provisions referred to in paragraph (1)(a) are intended to apply to the exclusion of a law of Queensland or the Northern Territory that deals with discrimination so far as it would otherwise apply.

(3) To the extent that this subsection applies, any acts referred to in paragraph (1)(b) have effect despite any law of Queensland or the Northern Territory that deals with discrimination.
Table A

*Queensland and Northern Territory laws that are not excluded*

(4) However, subsections (2) and (3) do not apply to a law of Queensland or the Northern Territory so far as the Minister determines, by legislative instrument, that the law is a law to which subsections (2) and (3) do not apply.

*Reference to acts done includes failure to do an act*

(5) In this section, a reference to any acts done includes a reference to any failure to do an act.

6 **Racial Discrimination Act—determining terms of relevant activity agreement for approved programs of work for income support**

(1) Subsections (2) and (3) apply in relation to the implementation of guidelines, or the doing of any other acts, for the purpose of determining the terms of a relevant activity agreement in relation to an approved program of work for income support payment, if the implementation or acts are done in the period:

(a) beginning on 9 July 2007; and

(b) ending 5 years after the commencement of section 1 of the *Northern Territory National Emergency Response Act 2007*.

(2) Any such implementation, or other acts, are, for the purposes of the *Racial Discrimination Act 1975*, special measures.

(3) Any such implementation, or other acts, are excluded from the operation of Part II of the *Racial Discrimination Act 1975*.

*Definitions etc.*

(4) In this section:

*approved program of work for income support payment* has the same meaning as in the *Social Security Act 1991*.

*relevant activity agreement* means:

(a) a Parenting Payment Activity Agreement (within the meaning of the *Social Security Act 1991*); or

(b) a Youth Allowance Activity Agreement (within the meaning of that Act); or
(c) a Newstart Activity Agreement (within the meaning of that Act); or
(d) a Special Benefit Activity Agreement (within the meaning of that Act);
that is in force between the Secretary and a person who is ordinarily resident in a relevant Northern Territory area within the meaning of Part 3B of the Social Security (Administration) Act 1999.

Reference to acts done includes failure to do an act

(5) In this section, a reference to any acts done includes a reference to any failure to do an act.

7 Some Northern Territory laws excluded—determining terms of relevant activity agreement for approved programs of work for income support

(1) Subsection (2) applies in relation to the implementation of guidelines, or the doing of any other acts, for the purpose of determining the terms of a relevant activity agreement in relation to an approved program of work for income support payment, if the implementation or acts are done in the period:
(a) beginning on 9 July 2007; and
(b) ending 5 years after the commencement of section 1 of the Northern Territory National Emergency Response Act 2007.

(2) Any such implementation, or other acts, have effect despite any law of the Northern Territory that deals with discrimination.

Northern Territory laws that are not excluded

(3) However, subsection (2) does not apply to a law of the Northern Territory so far as the Minister determines, by legislative instrument, that the law is a law to which subsection (2) does not apply.

Definitions

(4) In this section:

 approved program of work for income support payment has the same meaning as in the Social Security Act 1991.
relevant activity agreement means:

(a) a Parenting Payment Activity Agreement (within the meaning of the Social Security Act 1991); or
(b) a Youth Allowance Activity Agreement (within the meaning of that Act); or
(c) a Newstart Activity Agreement (within the meaning of that Act); or
(d) a Special Benefit Activity Agreement (within the meaning of that Act);

that is in force between the Secretary and a person who is ordinarily resident in a relevant Northern Territory area within the meaning of Part 3B of the Social Security (Administration) Act 1999.

Reference to acts done includes failure to do an act

(5) In this section, a reference to any acts done includes a reference to any failure to do an act.


Schedule 1

48 Application—amendment of section 12 of the Social Security (Administration) Act 1999

(1) A determination (including a determination on review) made on or after 1 January 2008 under section 12 of the Social Security (Administration) Act 1999 must be made under section 12 as amended, and cannot be made under section 12 as in force before 1 January 2008 (whether or not the determination would relate to a person who became qualified for a payment before that date).

(2) Subitem (1) does not apply in relation to a determination on review if a review of the decision (whether or not the review on which the determination was made) was:

(a) initiated by the Secretary; or
(b) applied for by a person;

before 1 January 2008.

488 Social Security (Administration) Act 1999
(3) In this item:

_ determination on review _ means a determination made on review of a decision in accordance with Part 4 of the Social Security (Administration) Act 1999.


Schedule 1

33 Application of amendments of section 17 of the Social Security (Administration) Act 1999

The amendments of section 17 of the Social Security (Administration) Act 1999 made by this Schedule apply in relation to a claim for pension bonus lodged on or after 1 January 2008.

36 Application of amendments of section 21 of the Social Security (Administration) Act 1999

The amendments of section 21 of the Social Security (Administration) Act 1999 made by this Schedule apply in relation to a claim for pension bonus lodged on or after 1 January 2008.

Social Security and Veterans’ Entitlements Legislation Amendment (One-off Payments and Other Budget Measures) Act 2008 (No. 19, 2008)

Schedule 1

14 Application

To avoid doubt, the amendment made by item 13 does not entitle a person to a payment of 2006 one-off payment to older Australians or 2007 one-off payment to older Australians if such a payment has already been paid to the person under section 47AA or 47AB of the Social Security (Administration) Act 1999 (as in force before the commencement of this item).
Table A

Schedule 3

10 Application
To avoid doubt, the amendment made by item 9 does not entitle a person to a payment mentioned in paragraphs 47B(2)(a) to (o) of the Social Security (Administration) Act 1999 (as inserted by item 9) if such a payment has already been paid to the person under section 47B, 47C, 47D or 47E of that Act (as in force before the commencement of this item).

Schedule 5

25 Application
The amendments made by this Schedule apply in relation to a person who leaves Australia on or after 1 July 2008.

Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Act 2008 (No. 63, 2008)

4 Review of operation of amendments

(1) The Minister must cause an independent review of the operation of the amendments made by this Act to be undertaken and completed by 30 June 2010.

(2) The persons who undertake the review under subsection (1) must give the Minister a written report of the review.

(3) The Minister must cause a copy of the report of the review under subsection (1) to be tabled in each House of the Parliament within 15 sitting days of the day on which the report is given to the Minister.

(4) The review must be conducted by a panel of not less than 5 persons, of which at least:
   (a) 3 persons must be nominated by relevant key stakeholder organisations; and
   (b) 2 persons must be nominated by the Minister.
Schedule 3

11 Application

(1) Paragraph 75(1)(c) of the *Social Security (Administration) Act 1999* (as inserted by this Act) applies in relation to claims for seniors health cards made on or after the commencement of this item.

(2) Paragraph 75(1)(d) of the *Social Security (Administration) Act 1999* (as inserted by this Act) applies in relation to seniors health cards granted before, on or after the commencement of this item.

Schedule 4

13 Application of amendments

The amendments made by this Part apply in relation to a person who died before, or dies at or after, the commencement of this Part.

Social Security and Other Legislation Amendment (Employment Entry Payment) Act 2008 (No. 64, 2008)

Schedule 1

11 Transitional

(3) Despite the repeal of Part 2.13 of the *Social Security Act 1991* made by this Schedule, that Part, and the provisions of that Act and the *Social Security (Administration) Act 1999* that relate to that Part, as in force immediately before the commencement of this item, continue to apply in relation to a person on and after the commencement of this item if the following circumstances exist:

(a) for section 661, 663, 664AAA, 664AA, 664C or 664I of the *Social Security Act 1991*—the commencement of the employment, or the entry into the agreement, was before the commencement of this item;

(b) for section 663B, 663F or 664BA of that Act—the commencement of the employment, or the increase in hours worked, was before the commencement of this item;

(c) for section 663D of that Act—the starting of the earning of income, or the increase in income or the entry into the agreement, was before the commencement of this item;
Table A

(d) for section 664A, 664E, 664G or 664HA of that Act—the rise in income, or the entry into the agreement, was before the commencement of this item.

(5) Despite the repeal of paragraph (d) of the definition of supplementary payment in subsection 15(5) of the Social Security (Administration) Act 1999 made by this Schedule, that paragraph continues to apply on and after the commencement of this item in relation to claims made before, on or after the commencement of this item.

(6) Despite the repeal of paragraph (e) of the definition of lump sum benefit in subsection 47(1) of the Social Security (Administration) Act 1999 made by this Schedule, that paragraph continues to apply on and after the commencement of this item in relation to employment entry payments that are payable before, on or after the commencement of this item.

Tax Laws Amendment (Education Refund) Act 2008 (No. 141, 2008)

Schedule 1

10 Application

The amendments made by this Schedule apply to the 2008-2009 income year and later years.

Social Security and Veterans’ Entitlements Legislation Amendment (Schooling Requirements) Act 2008 (No. 149, 2008)

Schedule 1

34 Payments to which amendments apply

The amendments made by Part 1 of this Schedule apply in relation to a schooling requirement payment (within the meaning of the Social Security (Administration) Act 1999 as amended by this Act) whether it is claimed, or granted, before, on or after the day on which the amendments commence.
Schedule 4

1 Administrative scheme for household stimulus payments

(1) Subject to this item, a Minister administering:
   (a) the *A New Tax System (Family Assistance) Act 1999*; or
   (b) the *Social Security Act 1991*; or
   (c) the *Farm Household Support Act 1992*; or
   (d) the *Veterans’ Entitlements Act 1986*;

may, by legislative instrument, determine a scheme under which household stimulus payments may be made to persons in particular circumstances. The Minister may, by legislative instrument, vary or revoke the scheme.

(2) The circumstances in which the scheme provides for payments must be:
   (a) circumstances:
      (i) in which the Minister considers that Part 7 of the *A New Tax System (Family Assistance) Act 1999* or Part 2.18 of the *Social Security Act 1991* does not produce appropriate results; and
      (ii) that occur in the financial year starting on 1 July 2008; or
   (b) circumstances:
      (i) in which the Minister considers that Division 14 of Part 2.13A of the *Social Security Act 1991* does not produce appropriate results; and
      (ii) that occur in the period starting on 1 July 2008 and ending on the day on which that Division ceases to have effect under section 665ZZE of that Act.

(3) Without limiting the generality of subitem (1), the scheme may deal with the following:
   (a) the circumstances in which payments are to be made;
   (b) the amount of the payments;
   (c) what a person has to do to get a payment;
   (d) debt recovery;
   (e) administrative matters, such as determination of entitlement and how and when payments will be made.
Notes to the  Social Security (Administration) Act 1999

Table A

(4) Without limiting the generality of subparagraph (2)(a)(i), circumstances in which the provisions referred to in that subparagraph do not produce appropriate results may include the circumstance of an FTB child (within the meaning of the A New Tax System (Family Assistance) Act 1999) aged 19 or 20 on 3 February 2009.

(5) Payments under the scheme are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.


The following provisions commence on 1 July 2009:

Schedule 1

56 Application of amendments

(1) The amendments made by this Schedule apply to failures, voluntary acts or misconduct committed after the Schedule commences.

(3) Subject to subitem (4), if, immediately before the commencement of this Schedule, a payment that would be a participation payment is not payable to a person under section 500ZE, 551, 629 or 745 of the Social Security Act 1991, section 42Q of the Social Security (Administration) Act 1999 (as inserted by item 1 of this Schedule) applies, after that commencement, as if the 8 week period referred to in section 500ZE, 551, 629 or 745 were a serious failure period.

(4) Section 42Q of the Social Security (Administration) Act 1999 (as inserted by item 1 of this Schedule) does not apply in relation to a person under subitem (3) if the person’s participation payment is not payable to the person under paragraph 500ZE(1)(b) or (c), 551(1)(b) or (c), 629(1)(b) or (c) or 745(1)(b) or (c) of the Social Security Act 1991.

Schedule 2

208 Saving of activity agreements

(1) This item applies to an activity agreement of a kind referred to in column 1 of the table in subitem (2) that was in force immediately before the commencement of this item.

494  Social Security (Administration) Act 1999
Table A

(2) The activity agreement has effect, after the commencement of this item, as if it were an employment pathway plan of the kind referred to in the corresponding table item in column 2 of the table.

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Parenting Payment Activity Agreement</td>
<td>Parenting Payment Employment Pathway Plan</td>
</tr>
<tr>
<td>2</td>
<td>Youth Allowance Activity Agreement</td>
<td>Youth Allowance Employment Pathway Plan</td>
</tr>
<tr>
<td>3</td>
<td>Newstart Activity Agreement</td>
<td>Newstart Employment Pathway Plan</td>
</tr>
<tr>
<td>4</td>
<td>Special Benefit Activity Agreement</td>
<td>Special Benefit Employment Pathway Plan</td>
</tr>
</tbody>
</table>

Schedule 4

12 Transitional

The amendment made by item 11 of this Schedule does not apply in relation to a notice given to a person under subsection 63(2) or 64(2) of the Social Security (Administration) Act 1999 before the commencement of this item.