



# **Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Act 2010**

**No. 89, 2010**

**An Act to amend the law relating to social security  
and to the Indigenous Land Corporation, and for  
related purposes**

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



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**An Act to amend the law relating to social security  
and to the Indigenous Land Corporation, and for  
related purposes**

*[Assented to 29 June 2010]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Social Security and Indigenous  
Legislation Amendment (Budget and Other Measures) Act 2010*.

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*Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Act 2010*

*No. 89, 2010 1*

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## 2 Commencement

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

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 June 2010
2. Schedule 1	1 July 2010.	1 July 2010
3. Schedule 2, items 1 to 12	The day after this Act receives the Royal Assent.	30 June 2010
4. Schedule 2, item 13	The day after this Act receives the Royal Assent.  However, if item 19 of Schedule 2 to the <i>Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010</i> commences on or before that day, the provision(s) do not commence at all.	30 June 2010
5. Schedule 2, item 14	The day after this Act receives the Royal Assent.	30 June 2010
6. Schedule 2, item 15	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 42 of Schedule 2 to the <i>Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2010

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
7. Schedule 2, item 16	The day after this Act receives the Royal Assent.	30 June 2010
8. Schedule 2, item 17	Immediately after the commencement of item 12 of Schedule 1 to the <i>Carbon Pollution Reduction Scheme Amendment (Household Assistance) Act 2010</i> .	Never commenced
9. Schedule 2, item 18	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 28 of Schedule 2 to the <i>Social Security and Other Legislation Amendment (Income Support for Students) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	30 June 2010
10. Schedule 2, item 19	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 64 of Schedule 2 to the <i>Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2010
11. Schedule 2, items 20 to 37	The day after this Act receives the Royal Assent.	30 June 2010
12. Schedule 2, Parts 2 to 4	The day after this Act receives the Royal Assent.	30 June 2010

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
13. Schedule 2, Part 5	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 28 of Schedule 2 to the <i>Social Security and Other Legislation Amendment (Income Support for Students) Act 2010</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	30 June 2010
14. Schedule 2, Part 6	The day after this Act receives the Royal Assent.	30 June 2010
15. Schedule 3	1 July 2010.	1 July 2010

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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

### 3 Schedule(s)

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



## **Schedule 1—Carer allowance**

### ***Social Security Act 1991***

#### **1 Section 38D**

Repeal the section.

#### **2 At the end of section 38E**

Add:

- (3) The Disability Care Load Assessment (Child) Determination may, in addition, declare that a physical, intellectual or psychiatric disability specified in the determination is a recognised disability for the purposes of section 953.

#### **3 Section 38F**

Omit “or the Child Disability Assessment Tool”.

#### **4 Section 952 (definition of *Child Disability Assessment Tool*)**

Repeal the definition.

#### **5 Section 952**

Insert:

*Disability Care Load Assessment (Child) Determination* has the meaning given by subsection 38E(1).

#### **6 Paragraph 953(1)(c)**

Repeal the paragraph.

#### **7 After paragraph 953(1)(d)**

Insert:

- (e) either of the following applies:
- (i) the disability from which the care receiver is suffering is declared, under subsection 38E(3), to be a recognised disability for the purposes of this section;

- (ii) the person has been given a qualifying rating of intense under the Disability Care Load Assessment (Child) Determination for caring for the care receiver; and

### **8 Paragraphs 953(2)(c) and (ca)**

Repeal the paragraphs.

### **9 After paragraph 953(2)(d)**

Insert:

- (e) the person has been given a qualifying rating of intense under the Disability Care Load Assessment (Child) Determination for caring for the care receivers; and

### **10 After section 953**

Insert:

#### **953A Remaining qualified for carer allowance up to 3 months after child turns 16**

*Single child*

(1) If:

- (a) a person is qualified for carer allowance under subsection 953(1) for a disabled child; and
- (b) the child turns 16; and
- (c) apart from the child turning 16, the person would remain qualified for carer allowance under that subsection for that child;

then the person remains qualified for carer allowance under that subsection for that child until:

- (d) if the child is assessed and rated and given a score under the Adult Disability Assessment Tool before the end of the period of 3 months beginning on the day the child turned 16—the end of the day before the day the child is given that score; or
- (e) otherwise—the end of the period of 3 months beginning on the day the child turned 16.

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*Two children*

- (2) If:
- (a) a person is qualified for carer allowance under subsection 953(2) for 2 disabled children; and
  - (b) on a particular day (the *relevant day*), either or both of those children turn 16; and
  - (c) apart from either or both of those children turning 16, the person would remain qualified for carer allowance under that subsection for those children;
- then the person remains qualified for carer allowance under that subsection for those children until:
- (d) if either or both of those children are assessed and rated and given a score under the Adult Disability Assessment Tool before the end of the period of 3 months beginning on the relevant day—the end of the day before the day the first such score is given to one of those children; or
  - (e) otherwise—the end of the period of 3 months beginning on the relevant day.
- (3) Subsection (2) can apply only once in relation to the same 2 disabled children.

## **11 Application**

The amendments made by items 6 to 9 apply for the purposes of working out a person's qualification for carer allowance in respect of days occurring on or after 1 July 2010.

## **12 Transitional—list of recognised disabilities**

- (1) If, immediately before the commencement of this item, a disability was, under subsection 38D(3) of the *Social Security Act 1991*, a recognised disability for the purposes of section 953 of that Act, then, on and after that commencement, the disability is taken to be declared, under subsection 38E(3) of that Act, to be a recognised disability for the purposes of that section.
- (2) Subitem (1) does not prevent a variation or revocation of an instrument under section 38E of that Act.

## Schedule 2—Income management regime

### Part 1—Income Management Record

#### *Social Security (Administration) Act 1999*

##### **1 Section 123TC (definition of *Finance Minister*)**

Repeal the definition.

##### **2 Section 123TC**

Insert:

*Income Management Record* means the Income Management Record established by section 123VA.

##### **3 Section 123TC (definition of *Special Account*)**

Repeal the definition.

##### **4 Division 3 of Part 3B (heading)**

Repeal the heading, substitute:

#### **Division 3—Establishment of the Income Management Record**

##### **5 Sections 123VA and 123VB**

Repeal the sections, substitute:

##### **123VA Establishment of the Income Management Record**

The Income Management Record is established by this section.

##### **6 Section 123VC**

Omit “Special Account”, substitute “Income Management Record”.

##### **7 Subsection 123WA(1)**

Omit “Special Account”, substitute “Income Management Record”.

##### **8 At the end of section 123WA**

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Add:

*Amounts not held on trust*

- (3) An amount standing to the credit of a person's income management account is not held on trust.

**9 Paragraphs 123WJ(6)(a), (10)(a), (13)(a) and (16)(a)**

Omit "Special Account", substitute "Income Management Record".

**10 Paragraph 123WL(5)(a)**

Omit "Special Account", substitute "Income Management Record".

**11 Section 123WN**

Omit "and the Finance Minister".

**12 Paragraph 123WN(a)**

Omit "Special Account", substitute "Income Management Record".

**13 Paragraphs 123XA(2)(b), 123XB(2)(b), 123XC(2)(b),  
123XD(2)(b), 123XE(2)(b), 123XF(2)(b), 123XG(2)(b) and  
123XH(2)(b)**

Omit "Special Account", substitute "Income Management Record".

**14 Paragraphs 123XI(2)(b) and 123XJ(2)(b)**

Omit "Special Account", substitute "Income Management Record".

**15 Paragraphs 123XJA(2)(b), 123XJB(2)(b), 123XJC(2)(b) and  
123XJD(2)(b)**

Omit "Special Account", substitute "Income Management Record".

**16 Paragraphs 123XK(2)(b), 123XL(2)(b), 123XM(2)(b),  
123XN(2)(b), 123XO(2)(b), 123XP(2)(b), 123XPA(2)(b),  
123XPB(2)(b), 123XPC(3)(b) and 123XPD(2)(b)**

Omit "Special Account", substitute "Income Management Record".

**17 Paragraph 123XPE(2)(b)**

Omit "Special Account", substitute "Income Management Record".

**18 Paragraphs 123XPF(2)(b) and 123XPG(2)(b)**

Omit “Special Account”, substitute “Income Management Record”.

**19 Paragraphs 123XPH(2)(b) and 123XPI(2)(b)**

Omit “Special Account”, substitute “Income Management Record”.

**20 Subsection 123YC(4)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YC(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

**21 Subsection 123YD(4)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YD(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

**22 Subsections 123YE(4) and (5)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YE(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

**23 Subsections 123YF(4) and (5)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YF(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

**24 Subsection 123YG(3)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YG(3) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

**25 Subsection 123YH(3)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YH(3) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

**26 Subsection 123YI(4)**

Omit “Special Account”, substitute “Income Management Record”.

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Note: The heading to subsection 123YI(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

### **27 Subsection 123YJ(4)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YJ(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

### **28 Subsection 123YK(4)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YK(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

### **29 Subsection 123YL(4)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YL(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

### **30 Subsections 123YM(3) and (4)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YM(3) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

### **31 Subsections 123YN(3) and (4)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YN(3) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

### **32 Subsections 123YO(4) and (5)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YO(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

### **33 Subsections 123YP(4) and (5)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123YP(4) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

### **34 Subsection 123YQ(3)**

Omit “Special Account”, substitute “Income Management Record”.

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**Schedule 2** Income management regime  
**Part 1** Income Management Record

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Note: The heading to subsection 123YQ(3) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

**35 Subsection 123ZF(3)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123ZF(3) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

**36 Subsection 123ZL(3)**

Omit “Special Account”, substitute “Income Management Record”.

Note: The heading to subsection 123ZL(3) is altered by omitting “*Special Account*” and substituting “*Income Management Record*”.

**37 Transitional**

- (1) Immediately after the commencement of this item, there is to be credited to the Income Management Record an amount equal to the balance of the Income Management Special Account immediately before the commencement of this item.
- (2) A notional account kept within the Income Management Special Account immediately before the commencement of this item is taken on and after that commencement to be kept within the Income Management Record.
- (3) Rules in force immediately before the commencement of this item under section 123WN of the *Social Security (Administration) Act 1999* in relation to the Income Management Special Account and to a person’s income management account have effect on and after that commencement as if they were rules in force under that section in relation to the Income Management Record and to a person’s income management account.



## **Part 2—Debt recovery**

### ***Social Security Act 1991***

#### **38 After paragraph 1222(1)(b)**

Insert:

(ba) debts owed to the Commonwealth under Part 3B of the Administration Act; and

#### **39 Subsection 1222(2) (at the end of the table)**

Add:

20	Part 3B of the Administration Act	deductions legal proceedings garnishee notice repayment by instalments	1231, 1234A 1232 1233 1234
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#### **40 Paragraph 1230(1)(a)**

After “this Act”, insert “or Part 3B of the Administration Act”.

#### **41 Subsections 1230C(1) and (2)**

After “this Act”, insert “or Part 3B of the Administration Act”.

#### **42 Paragraph 1234A(1)(a)**

After “this Act,”, insert “Part 3B of the Administration Act,”.

#### **43 Subsection 1237AB(1)**

After “this Act”, insert “or Part 3B of the Administration Act”.

#### **44 Application**

- (1) The amendments made by items 38 to 43 apply in relation to:
- (a) debts arising under Part 3B of the *Social Security (Administration) Act 1999* on or after the commencement of those items; and

**Schedule 2** Income management regime  
**Part 2** Debt recovery

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- (b) debts arising under that Part before that commencement, to the extent that the debts were outstanding immediately before that commencement.
- (2) Subitem (1), so far as it relates to the amendment made by item 43, is in addition to subsection 1236A(2) of the *Social Security Act 1991*.

***Social Security (Administration) Act 1999***

**45 After subsection 123WJ(16)**

Insert:

- (16A) Subsection (14) is not limited by Chapter 5 of the 1991 Act also applying in relation to the debt amount.

**46 At the end of subsections 123ZF(2) and 123ZG(2) and (3)**

Add:

Note: For debt recovery, see Chapter 5 of the 1991 Act.

**47 Subsection 123ZH(2)**

After “Commonwealth”, insert “(as a debt due to the Commonwealth)”.

**48 At the end of subsections 123ZH(2), 123ZI(2) and 123ZJ(5)**

Add:

Note: For debt recovery, see Chapter 5 of the 1991 Act.

## **Part 3—Credit of income management accounts in error**

### *Social Security (Administration) Act 1999*

#### **49 At the end of Subdivision D of Division 6 of Part 3B**

Add:

#### **123YR Credit of income management account in error**

- (1) If the Secretary is satisfied that an amount (the *excess amount*) has been credited to a person's income management account in error, the Secretary may determine, in writing, that the person's income management account is to be debited by an amount equal to the excess amount.
- (2) If the Secretary makes a determination under subsection (1):
  - (a) the Income Management Record is debited by an amount equal to the excess amount; and
  - (b) the person's income management account is debited by an amount equal to the excess amount.

#### **50 Application**

The amendment made by item 49 applies in relation to credits occurring on or after the commencement of that item.

## **Part 4—Credit of income management accounts before debt recovery**

### *Social Security (Administration) Act 1999*

#### **51 Subsections 123ZG(4) and (5)**

Repeal the subsections, substitute:

##### *Crediting of amounts*

- (4) In the case of the use of a voucher, the Secretary may determine, in writing, that the first person's income management account is to be credited by an amount equal to the face value of the voucher.
- (5) If the Secretary makes a determination under subsection (4), then an amount equal to the face value of the voucher is:
  - (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.
- (6) In the case of the use of a stored value card, the Secretary may determine, in writing, that the first person's income management account is to be credited by an amount equal to the monetary value involved in the use.
- (7) If the Secretary makes a determination under subsection (6), then an amount equal to the monetary value involved in the use is:
  - (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.

#### **52 Subsections 123ZH(3) and (4)**

Repeal the subsections, substitute:

##### *Crediting of amounts*

- (3) If:
  - (a) the Secretary gives the third person a notice under subsection (2); and

- (b) the Secretary is aware of the amount (the *relevant amount*) that has not been applied by the relevant account holder for the purposes of the acquisition of goods or services; the Secretary may determine, in writing, that the first person's income management account is to be credited by an amount equal to the relevant amount.
- (4) If the Secretary makes a determination under subsection (3), then an amount equal to the relevant amount is:
- (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.

### **53 Subsections 123ZI(3) and (4)**

Repeal the subsections, substitute:

*Crediting of amounts*

- (3) If the Secretary is aware of the amount (the *relevant amount*) that has not been applied by the relevant account holder for the purposes of the acquisition of goods or services, the Secretary may determine, in writing, that the first person's income management account is to be credited by an amount equal to the relevant amount.
- (4) If the Secretary makes a determination under subsection (3), then an amount equal to the relevant amount is:
- (a) credited to the Income Management Record; and
  - (b) credited to the first person's income management account.

### **54 After subsection 123ZJ(2)**

Insert:

- (2A) To avoid doubt, the action to which subparagraph (1)(c)(ii), (iii), (iv) or (v) applies is covered by paragraph 123ZN(1)(e), (f), (g) or (h) (as the case requires).

### **55 Subsection 123ZJ(4)**

Repeal the subsection, substitute:

*Crediting of amounts*

- (4) An amount equal to the relevant excess is:
-

- (a) credited to the Income Management Record; and
- (b) credited to the first person's income management account.

## 56 Subsections 123ZJ(6) and (7)

Repeal the subsections.

## 57 Application

- (1) The amendment made by item 51 applies in relation to:
    - (a) the use of a voucher, or the use of a stored value card, on or after the commencement of that item (whether the voucher or stored value card was given before, on or after that commencement); and
    - (b) the use of a voucher, or the use of a stored value card, before that commencement, unless before that commencement an amount had been received by the Commonwealth under subsection 123ZG(2) or (3) of the *Social Security (Administration) Act 1999* in relation to that use.
  - (2) Paragraph 123ZH(3)(a) of the *Social Security (Administration) Act 1999*, as inserted by item 52, applies in relation to:
    - (a) a notice given on or after the commencement of that item; and
    - (b) a notice given before that commencement, unless before that commencement an amount had been received by the Commonwealth in compliance with the notice.
  - (3) The amendment made by item 53 applies in relation to:
    - (a) an amount paid to a third person on or after the commencement of that item; and
    - (b) an amount paid to a third person before that commencement, unless before that commencement an amount had been received by the Commonwealth under subsection 123ZI(2) of the *Social Security (Administration) Act 1999* in relation to that payment.
  - (4) Paragraph 123ZJ(4)(a) of the *Social Security (Administration) Act 1999*, as inserted by item 55, applies in relation to a relevant excess arising on or after the commencement of that item.
  - (5) Paragraph 123ZJ(4)(b) of the *Social Security (Administration) Act 1999*, as inserted by item 55, applies in relation to:
-

- (a) a relevant excess arising on or after the commencement of that item; and
- (b) a relevant excess arising before that commencement, unless before that commencement an amount had been received by the Commonwealth under subsection 123ZJ(5) of that Act in relation to that excess.

## **Part 5—Student start-up scholarship payments and relocation scholarship payments**

### *Social Security (Administration) Act 1999*

#### **58 Subsection 123XPF(3)**

Repeal the subsection, substitute:

- (3) For the purposes of subsection (2), the *deductible portion* of a student start-up scholarship payment is:
- (a) 100% of the amount of the payment; 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 amount of the payment.

#### **59 Subsection 123XPG(3)**

Repeal the subsection, substitute:

- (3) For the purposes of subsection (2), the *deductible portion* of a relocation scholarship payment is:
- (a) 100% of the amount of the payment; 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 amount of the payment.

#### **60 Application**

The amendments made by items 58 and 59 apply in relation to payments that become payable on or after the commencement of those items.



## **Part 6—Other amendments**

### ***Social Security (Administration) Act 1999***

#### **61 After section 123ZI**

Insert:

#### **123ZIA Balance of income management account falls below value of action taken under Division 6**

##### *Scope*

- (1) This section applies if:
  - (a) the Secretary takes action under Division 6 that requires an amount (the ***initial amount***) to be debited from a person's income management account; and
  - (b) at any time between the taking of the action and the recording of the debit as mentioned in subsection 123ZNA(2), the balance of the person's account falls below an amount equal to the initial amount.

Note: The recording of the debiting of the initial amount may leave the person's income management account having a debit balance, but subsections (2) and (3) allow a credit to that account of an amount equal to the initial amount.

##### *Crediting of amounts*

- (2) The Secretary may determine, in writing, that the person's income management account is to be credited by an amount equal to the initial amount.
- (3) If the Secretary makes a determination under subsection (2), then an amount equal to the initial amount is:
  - (a) credited to the Income Management Record; and
  - (b) credited to the person's income management account.

*Debt*

- (4) If the Secretary makes a determination under subsection (2), then an amount equal to the initial amount is a debt due by the person to the Commonwealth.

Note: For debt recovery, see Chapter 5 of the 1991 Act.

**62 After section 123ZN**

Insert:

**123ZNA Recording of amounts in accounts and records**

- (1) This section applies to:
- (a) the crediting of an amount to the Income Management Record, or to a person's income management account, under this Part; and
  - (b) the debiting of an amount from the Income Management Record, or from a person's income management account, under this Part.
- (2) The crediting or debiting takes effect at the time an entry recording the crediting or debiting is made in the accounts and records of the Department or Centrelink.

**63 Application**

The amendment made by item 61 applies in relation to actions taken on or after the commencement of that item.

## **Schedule 3—Aboriginal and Torres Strait Islander Land Account**

### *Aboriginal and Torres Strait Islander Act 2005*

#### **1 Subsection 4(1) (definition of *category A year*)**

Repeal the definition.

#### **2 Subsection 4(1) (definition of *category B year*)**

Repeal the definition.

#### **3 Subsection 191L(1)**

Omit “(1)”.

#### **4 Subsections 191L(2) to (5)**

Repeal the subsections.

#### **5 Section 191W**

Omit “, subject to any direction from the Minister under subsection 191L(2),”.

#### **6 Sections 192Y to 193E**

Repeal the sections, substitute:

##### **192Y Indexation factor**

- (1) The *indexation factor* for a financial year is worked out using the formula:

$$\frac{\text{Sum of index numbers for quarters in first June year}}{\text{Sum of index numbers for quarters in second June year}}$$

where:

*first June year* means the period of 12 months ending on 30 June immediately before the financial year.

*index number*, for a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital

cities, published by the Australian Statistician in respect of that quarter.

**second June year** means the period of 12 months immediately before the first June year.

- (2) An indexation factor is to be calculated to 3 decimal places, but increased by 0.001 if the fourth decimal place is more than 4.
- (3) If an indexation factor worked out under subsections (1) and (2) would be less than 1, that indexation factor is to be increased to 1.
- (4) Calculations under this section are to be made:
  - (a) using only the index numbers published in terms of the most recently published reference base for the Consumer Price Index; and
  - (b) disregarding index numbers published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the reference base).

### 193 Payments out of Land Account to Indigenous Land Corporation

*Financial year beginning on 1 July 2010*

- (1) On the first business day in October in the financial year beginning on 1 July 2010, there is to be paid to the Indigenous Land Corporation, out of the Land Account, \$45 million.

*Later financial years*

- (2) On the first business day in October in a financial year beginning on or after 1 July 2011, there is to be paid to the Indigenous Land Corporation, out of the Land Account, the amount worked out using the following formula:

Indexation factor × Relevant funding amount

where:

**indexation factor** means the indexation factor for the financial year worked out under section 192Y.

**relevant funding amount** means:

- (a) for the financial year beginning on 1 July 2011—\$45 million; or
- (b) for a later financial year—the amount worked out under this subsection for the previous financial year.

*Additional payments*

- (3) On the first business day in December in a financial year (the **current year**) beginning on or after 1 July 2011, an amount is to be paid to the Indigenous Land Corporation, out of the Land Account, if the actual capital value of the Land Account for the current year exceeds the real capital value of the Land Account for the current year. The amount to be paid is an amount equal to the excess.
- (4) For the purposes of subsection (3), the **real capital value** of the Land Account for the current year is the actual capital value of the Land Account for the financial year (the **base year**) beginning on 1 July 2010 multiplied, in turn, by the indexation factor for each financial year after the base year up to and including the current year.
- (5) For the purposes of subsections (3) and (4), the **actual capital value** of the Land Account for a financial year is the sum of:
  - (a) the amount standing to the credit of the Land Account immediately before the start of that year; and
  - (b) the value, immediately before the start of that year, of current investments made under section 39 of the *Financial Management and Accountability Act 1997* using amounts from the Land Account.

*Rounding*

- (6) If an amount to be paid under subsection (2) or (3) is an amount of dollars and cents, the cents are to be disregarded.

*Definition*

- (7) In this section:

**business day** means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

## **7 Subsection 193G(3)**

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Repeal the subsection.

**8 Subsection 193H(1)**

Omit “(1)”.

**9 Subsections 193H(2) and (3)**

Repeal the subsections.

**10 Paragraph 193I(2)(d)**

Omit “realised real”.

**11 Subsections 193I(2A), (5) and (6)**

Repeal the subsections.

**12 Subsection 193K(3)**

Repeal the subsection.

**13 Subsection 193L(2)**

Omit “For this purpose, the first category A year is taken to be a financial year.”.

**14 Subsection 193L(2) (note)**

Repeal the note.

**15 Subsections 193L(3) to (8)**

Repeal the subsections, substitute:

*Borrowing limit*

- (3) For the purposes of this section, the ***borrowing limit*** for a financial year is the amount worked out using the formula:

Indexation factor  $\times$   $\frac{\text{Borrowing limit}}{\text{for the previous financial year}}$

where:

***indexation factor*** means the indexation factor for the financial year worked out under section 192Y.

**16 Subsection 193M(1)**

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Omit “(1)”.

**17 Subsection 193M(2)**

Repeal the subsection.

**18 Subsection 193N(1)**

Omit “For this purpose, the first category A year is taken to be a financial year.”.

**19 Subsection 193N(1) (note)**

Repeal the note.

**20 Subsections 193N(2) to (7)**

Repeal the subsections, substitute:

*Guarantee limit*

- (2) For the purposes of this section, the *guarantee limit* for a financial year is the amount worked out using the formula:

Indexation factor  $\times$   $\frac{\text{Guarantee limit}}{\text{for the previous financial year}}$

where:

*indexation factor* means the indexation factor for the financial year worked out under section 192Y.

**21 Subsection 193R(1) (paragraph (f) of the definition of exempt matter)**

Repeal the paragraph.

**22 At the end of Part 4A**

Add:

**Division 15—Reviews**

**193U Reviews**

- (1) The regulations must provide for independent reviews of the operation of this Part to be conducted.

- (2) Regulations made for the purposes of this section must provide for:
  - (a) the purpose of reviews; and
  - (b) the timing of reviews; and
  - (c) the content of reviews.
- (3) Subsection (2) does not limit subsection (1).
- (4) The report of each review must be given to the Minister.

**23 Subsection 200C(2)**

Repeal the subsection (not including the notes), substitute:

- (2) Subsection (1) does not apply to the power to give directions to Indigenous Business Australia under section 151.

**24 Transitional**

- (1) Despite the amendments made by items 10 and 11, section 193I of the *Aboriginal and Torres Strait Islander Act 2005*, as in force immediately before the commencement of those items, continues to apply in relation to the financial year ending on 30 June 2010.
- (2) For the purposes of working out the borrowing limit under section 193L, and the guarantee limit under section 193N, of the *Aboriginal and Torres Strait Islander Act 2005* for the financial year beginning on 1 July 2010, the borrowing limit and the guarantee limit for the financial year beginning on 1 July 2009 is \$294,170,517.



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*[Minister's second reading speech made in—  
House of Representatives on 18 March 2010  
Senate on 15 June 2010]*

(58/10)

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*Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Act 2010*  
No. 89, 2010 29