Social Security Legislation Amendment (Family Participation Measures) Act 2011

No. 173, 2011

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

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)
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An Act to amend the social security law, and for related purposes

[Assented to 5 December 2011]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Social Security Legislation Amendment (Family Participation Measures) Act 2011.
2 Commencement

This Act commences on 1 January 2012.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments

Social Security Act 1991

1 Subsection 23(1) (definition of subject to participation requirements)

After “paragraph 500(1)(c)”, insert “or (1)(ca)”.

2 After paragraph 500(1)(c)

Insert:

(ca) in a case where the person is in a class of persons specified by legislative instrument under subsection (2)—the person meets any participation requirements that apply to the person under section 500A; and

3 At the end of section 500

Add:

(2) For the purposes of paragraph (1)(ca), the Minister may, by legislative instrument, specify a class of persons.

4 After subsection 501A(1)

Insert:

(1A) Without limiting the requirements that a Parenting Payment Employment Pathway Plan may contain, a plan relating to a person to whom paragraph 500(1)(ca) applies may contain requirements relating to one or more of the following:

(a) the person’s education;
(b) the health of a PP child of the person;
(c) the education of a PP child of the person.

7 Paragraph 729(2)(bc)

After “paragraph 500(1)(c)”, insert “or (1)(ca)”.

8 After subsection 1223(1C)

Insert:
Some parenting payment overpayments are not debts

(2) If:
   (a) an amount has been paid to a person by way of parenting payment; and
   (b) the person is someone to whom paragraph 500(1)(ca) applies; and
   (c) the amount was paid on the basis that the person was qualified for parenting payment when the person was not qualified only because the person failed to meet one or more participation requirements that applied to the person under section 500A;

the amount is not a debt due to the Commonwealth.

9 After subsection 1223(7)

Insert:

Some parenting payment supplements are not debts

(7A) Despite subsection (7), if:
   (a) an amount has been paid to a person by way of parenting payment; and
   (b) the person is someone to whom paragraph 500(1)(ca) applies; and
   (c) when the amount was calculated, the rate of the person’s parenting payment was increased by an amount (a supplement amount) of any of the following:
      (i) approved program of work supplement;
      (ii) training supplement;
      (iii) National Green Jobs Corps supplement; and
   (d) the amount of parenting payment was paid on the basis that the person was qualified for parenting payment when the person was not qualified only because the person failed to meet one or more participation requirements that applied to the person under section 500A;

the supplement amount is not a debt due to the Commonwealth.

Social Security (Administration) Act 1999

10 After paragraph 42C(4)(b)
Insert:

(ba) the person is someone to whom section 42SB applies; or

11 After paragraph 42E(4)(d)

Insert:

(da) the person is someone to whom section 42SB applies; or

12 Subsection 42H(3)

Repeal the subsection, substitute:

**Limitation on determining reconnection failures**

(3) Despite subsection (1), the Secretary must not determine that a person commits a reconnection failure if:

(a) the person satisfies the Secretary that the person has a reasonable excuse for the failure; or

(b) the person is someone to whom section 42SB applies.

Note: The Secretary must take certain matters into account for the purposes of paragraph (a) (see section 42U). For the purposes of paragraph (a), see also section 42UA (about prior notification of excuses).

13 At the end of subsection 42M(3)

Add:

; or (c) if the person is someone to whom section 42SB applies.

14 Subsection 42N(2)

Repeal the subsection, substitute:

(2) Despite subsection (1), the Secretary must not determine that a person commits a serious failure under that subsection if:

(a) the person satisfies the Secretary that the person has a reasonable excuse for the failure; or

(b) the person is someone to whom section 42SB applies.

Note: The Secretary must take certain matters into account for the purposes of paragraph (a) (see section 42U).

15 Subsection 42S(2)

Repeal the subsection, substitute:
(2) Despite paragraph (1)(a), the Secretary must not make a determination under that paragraph in relation to a person if:
   (a) the Secretary is satisfied that the voluntary act was reasonable; or
   (b) the person is someone to whom section 42SB applies.

16 After subsection 42SA(1)
   Insert:

(1A) Despite subsection (1), the Secretary must not make a determination under that subsection that a participation payment is not payable to a person if the person is someone to whom section 42SB applies.

17 After Subdivision EA of Division 3A of Part 3
   Insert:

Subdivision EB—Failures by certain recipients of parenting payments

42SB Suspension of payments for certain failures

(1) This section applies in relation to a person who:
   (a) is receiving a participation payment that is a parenting payment; and
   (b) is someone to whom paragraph 500(1)(ca) of the 1991 Act applies.

(2) The Secretary may determine that the parenting payment is not payable to the person if:
   (a) the person fails to comply with a requirement that was notified to the person under subsection 63(2) or (4); or
   (b) the person fails to comply with a requirement under section 501 of the 1991 Act to enter into an employment pathway plan; or
   (c) the person fails to participate, on a 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; or

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(d) 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.

(3) The parenting payment is not payable to the person for the period beginning on the day the person first commits the failure and ending at the end of:

(a) the day before the day on which the person notifies the Secretary that the person intends to comply with the requirement; or

(b) if the Secretary determines that an earlier day is more appropriate than the day that would otherwise apply under paragraph (a)—that earlier day.

(4) If a period ends under subsection (3) in relation to the person, then, subject to the social security law, the parenting payment becomes payable to the person for that period.

18 Paragraph 42U(1)(c)
Omit “subsection 42H(3)”, substitute “paragraph 42H(3)(a)”.

19 Paragraph 42U(1)(d)
Omit “subsection 42N(2)”, substitute “paragraph 42N(2)(a)”.

20 Subsection 42UA(2)
Omit “subsection 42H(3)”, substitute “42H(3)(a)”.

21 Application
Paragraph 500(1)(ca) of the Social Security Act 1991, as inserted by this Schedule, applies for the purpose of determining whether a person is qualified for parenting payment for a period beginning on or after 1 January 2012.
Minister’s second reading speech made in—
Senate on 21 September 2011
House of Representatives on 23 November 2011

(203/11)

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